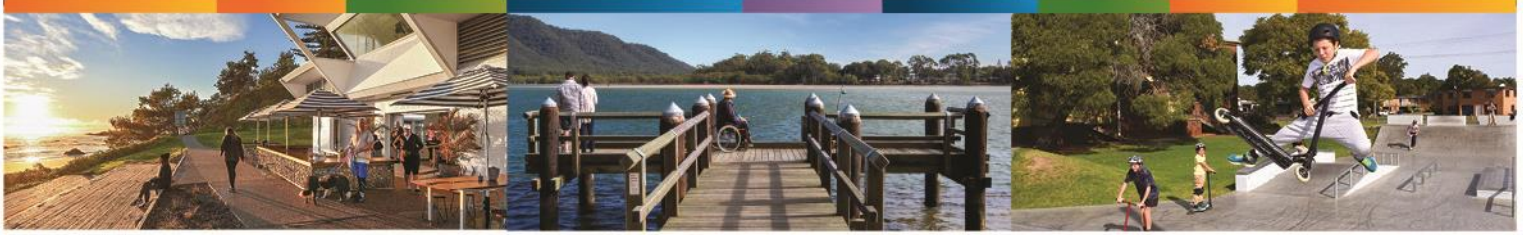




PORT MACQUARIE-HASTINGS
COUNCIL



Development Assessment Panel

Business Paper

date of meeting: Wednesday 27 May 2020

location: Via Skype

time: 2:00pm

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

Development Assessment Panel

CHARTER

1.0 OBJECTIVES

To assist in managing Council's development assessment function by providing independent 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	12/02/20	26/02/20	11/03/20	25/03/20	08/04/20	06/05/20
Paul Drake	✓	✓	✓	✓	✓	✓
Robert Hussey	✓	✓	✓		✓	
David Crofts (alternate member)				✓		✓
Dan Croft (Group Manager Development Assessment) (alternates) - Development Assessment Planner	✓	✓	✓	✓	✓	✓

Key: ✓ = Present

A = Absent With Apology

X = Absent Without Apology

Meeting Dates for 2020

22/01/2020	Function Room	2:00pm
12/02/2020	Function Room	2:00pm
26/02/2020	Function Room	2:00pm
11/03/2020	Function Room	2:00pm
25/03/2020	Function Room	2:00pm
8/04/2020	Function Room	2:00pm
6/05/2020	Function Room	2:00pm
27/05/2020	Function Room	2:00pm
10/06/2020	Function Room	2:00pm
24/06/2020	Function Room	2:00pm
8/07/2020	Function Room	2:00pm
22/07/2020	Function Room	2:00pm
12/08/2020	Function Room	2:00pm
26/08/2020	Function Room	2:00pm
9/09/2020	Function Room	2:00pm
30/09/2020	Function Room	2:00pm
14/10/2020	Function Room	2:00pm
28/10/2020	Function Room	2:00pm
11/11/2020	Function Room	2:00pm
25/11/2020	Function Room	2:00pm
16/12/2020	Function Room	2:00pm

Development Assessment Panel Meeting

Wednesday 27 May 2020

Items of Business

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

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

Item: 02**Subject: APOLOGIES**

RECOMMENDATION

That the apologies received be accepted.

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

RECOMMENDATION

That the Minutes of the Development Assessment Panel Meeting held on 6 May 2020 be confirmed.

PRESENT

Members:

Paul Drake
David Crofts
Dan Croft

Other Attendees:

Grant Burge
Pat Galbraith-Robertson
Ben Roberts
Ross Frazier
Chris Gardiner
Robert Slater
Steven Ford
Michelle McLennan

The meeting opened at 2:00pm on 6 May 2020.

01 ACKNOWLEDGEMENT OF COUNTRY

The Acknowledgement of Country was delivered.

02 APOLOGIES

Nil.

03 CONFIRMATION OF MINUTES

CONSENSUS:

That the Minutes of the Development Assessment Panel Meeting held on 8 April 2020 be confirmed.

04 DISCLOSURES OF INTEREST

There were no disclosures of interest presented.

05 DA2019 - 309.1 RESIDENTIAL SUBDIVISION AT LOT 302 DP 754434 EMILY AVENUE, PORT MACQUARIE

Speakers:
Tony Thorne

CONSENSUS:

That it be recommended to Council that DA2019 - 309 for a residential subdivision at Lot 302, DP 754434, Emily Avenue, Port Macquarie, be determined by granting consent subject to the recommended conditions with the following amendments:

- Amend Condition B(2), Point 1 to read: *'Road works along the frontage of the development including extension of Emily Avenue to 'Access Place' standard (AUSPEC D1.5) joining smoothly with the existing section of road with a minimum carriage way width of six (6) metres ending in a sealed nine (9) metre radii cul-de-sac with reflectorised posts.'*

Amend condition B(10), Point a) to read: The legal point of discharge for the proposed development is defined as the existing downstream informal vegetated stormwater basin. In this regard, a suitably sized piped drainage system (minimum 375mm diameter) shall be extended from the basin to the site. The pipeline must be designed to have capacity to convey flows that would be collected within the development as generated by a 5% AEP storm event.

Furthermore, in difference to the concept pipeline alignment illustrated on the Stormwater Management Plan prepared by King and Campbell, Drawing No, 5328P_ Exhibits Sheet 6 Revision C and dated 27-11-19, the location of the pipeline discharging to the existing 'basin' should be relocated to the north so that is located beneath the invert of the existing swale drain, or other such location with the agreement of Council's stormwater engineer, to assist in draining that area. The change of direction/inlet pit can also then function to capture runoff from the upstream swale to the west.

06 DA2019 - 883.1 DWELLING AT LOT 14 DP 28743, NO. 24 CORAL STREET, NORTH HAVEN

A written submission from Naomi Leo was circulated to panel members prior to the meeting.

Speakers:

Naomi Leo (opposing application)

Robert Smallwood (applicant)

CONSENSUS:

That DA2019 - 883.1 for a dwelling at Lot 14, DP 28743, No. 24 Coral Street, North Haven be determined by granting consent subject to the recommended conditions and as amended below:

- Additional condition in Section B of the consent to read: *Prior to release of the Construction Certificate a landscaping plan is to be submitted providing for a 2m width landscape strip of vegetation along the rear boundary so as to achieve a minimum 2m high vegetation screen at maturity. An additional 1.5 x 1.5m landscape splay (i.e resulting in a 3.5m x 3.5m triangle) of vegetation is to be provided in the north western corner of the rear boundary. This splay area is to include a minimum of 3 mature paperbark plantings (Melaleuca quinquenervia).*
- Additional condition in Section D of the consent to read: *'No excavation, building or storage of materials is to occur within the structural root zones of trees on adjoining properties. Structural root zones of trees on adjoining properties affecting the subject site are to be plotted on the development site and are to be determined in accordance with AS 4970-2009 Protection of trees on Development Sites.'*

07 DA2020 - 122.1 ALTERATIONS AND ADDITIONS TO DWELLING AT LOT 20 DP 262273, NO 11 TIMBER RIDGE PORT MACQUARIE

A written submission from Gary King was circulated to panel members prior to the meeting.

Speakers:

Gary King (opposing application)

Craig Maltman (applicant)

CONSENSUS:

That DA2020 - 122 for dwelling additions and alterations at Lot 20, DP 262273, No. 11 Timber Ridge, Port Macquarie, be determined by granting consent subject to the recommended conditions.

08 DA2020 - 63.1 DWELLING AT LOT 2 DP 1143498, NO. 4A HIBISCUS CRESENT, PORT MACQUARIE

A written submission from Grahame Kennedy was circulated to panel members prior to the meeting.

Speakers:

Jacqui Eller (opposing application)

Grahame Kennedy (opposing application)

CONSENSUS:

That DA2020 - 63.1 for a dwelling at Lot 2, DP 1143498, No. 4A Hibiscus Crescent, Port Macquarie, be determined by granting consent subject to the recommended conditions.

09 DA2019 - 277.1 CAFE AND ASSOCIATED CAR PARKING AT LOT 5 DP 524972, PARKLANDS CLOSE, PORT MACQUARIE

A written submission from Katy and Geoffrey Pollard was circulated to panel members prior to the meeting.

Speakers:

Caron Robinson (opposing application)

Warwick Mason (opposing application)

Mark Robertson (opposing application)

Donna Clark (applicant)

CONSENSUS:

1. That the Koala Plan of Management prepared by Biodiversity Australia (Rev 1.2, dated January 2020) be approved.
2. That DA2019 - 277.1 for a Café and Associated Car Parking at Lot 5, DP 524972, Parklands Close, Port Macquarie, be determined by granting consent subject to the recommended conditions and as amended below:
 - Amend condition A(15) to read: (15) *'Roadworks on Wandella Drive, at the full cost of the proponent, shall include the following in accordance with Aus-Spec:*
 - *A concrete roundabout structure at the intersection of Karalee Parade and Wandella Drive, including painted medians and signage*
 - *A concrete threshold to the west of the roundabout delineating the entry to the development*
 - *Kerb and gutter to the west of the proposed roundabout, and associated pavement and stormwater works.*

Details of the construction are to be provided with the application for approval pursuant to Section 138 of the Roads Act.

-
- Amend condition B(2) to read: *'Submission to the Principal Certifying Authority prior to the issue of a Construction Certificate detailed design plans for the following works associated with the developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DQS:*
 1. *Road works along the frontage of the development.*
 2. *Public parking areas including;*
 - *Driveways and access aisles;*
 - *Parking bays*
 - *Delivery vehicle service bays & turning areas in accordance with AS 2890.*
 3. *Sewerage reticulation.*
 4. *Water supply plans shall include hydraulic plans for internal water supply services and associated works in accordance with AS 3500, Plumbing Code of Australia and Port Macquarie-Hastings Council Policies.*
 5. *Stormwater systems.*
 6. *Erosion & Sedimentation controls.*
 7. *Traffic management control plan.*
 8. *Detailed driveway profile in accordance with Australian Standard 2890, AUSPEC D1, and ASD202, Port Macquarie-Hastings Council current version.*
 9. *Provision of a 1.5m (unless varied in writing by Council) concrete footpath along the northern side of Wandella Drive connecting to the existing footpath/boardwalk including a suitable road crossing to Council satisfaction.*
 10. *A 'Give Way to pedestrians' sign at the driveway exit point on the property.*
 11. *Detailed roundabout layout at the junction of Wandella Drive and Karalee Parade in accordance with the current version of the AUSTROADS guidelines for Intersection design, giving particular attention to sight distance.*
 - Additional condition in Section B of the consent to read: *' Prior to release of the construction certificate plans are to be provided detailing a 1.8m high colourbond fence along the common boundary with 112 Pacific Dr (i.e for the length of the boundary that has an open style fence at present). The fence is not required if both parties provide written agreement to such.'*
 - Amend condition E(3) of the consent to read: *'Driveways, access aisles and parking areas shall be provided with an approved surface. Such a surface shall be on a suitable pavement, constructed and maintained in accordance with Council's Development, Design and Construction Manuals (as amended).'*

The meeting was adjourned at 4:45pm on 6/5/20.

Item 10 was deferred to 4:00pm on 7/5/20.

The meeting resumed at 4:00pm on 7/5/20

10 SECTION 4.55 DA2004 - 526.3 MODIFICATION TO HOURS OF OPERATION AND CONDITIONS OF CONSENT ASSOCIATED WITH PREVIOUS APPROVED INDUSTRIAL BUILDING/WORKSHOP AT 10 GLEN EWAN ROAD, SANCROX

Speakers:

Louise Flemming (opposing application)

Tony Thorne (applicant)

Philip Thornton (applicant)

CONSENSUS:

That DA2004 - 526.3 for a modification to hours of operation and conditions of consent associated with previous approved industrial building/workshop at Lot 17, DP 1191370, No. 10 Glen Ewan Road, Sancrox, be determined by granting consent subject to the recommended modified conditions and as amended below:

- Amend condition F(11) to read: *'Provision is to be made during extended operational hours (6pm to 7am) of an additional car park on the existing hard stand area located on the northern side of the existing western shed as shown on the plan Birdon Marine Extended Hours Carpark (King & Campbell plan 6300P_Site – Revision A dated 25 March 2020). The carparking area shall have capacity for 12 cars and is to be provided and used by all employees working in the existing shed on Lot 17 during the extended hours of operation from 6pm to 7am.'*
- Additional condition in Section F of the consent to read: *'No work is to be carried out on the site between 6pm Saturday to 7am Sunday and from 6pm Sunday to 7am Monday.'*

11 GENERAL BUSINESS

Nil

The meeting closed at 5:15pm on 07 May 2020.

Item: 04
Subject: DISCLOSURES OF INTEREST

RECOMMENDATION

That Disclosures of Interest be presented

DISCLOSURE OF INTEREST DECLARATION

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

(Refer to next page and the Code of Conduct)

Pecuniary Interest

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

Non-Pecuniary

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

Managing non-pecuniary conflicts of interest

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

SPECIAL DISCLOSURE OF PECUNIARY INTEREST DECLARATION

This form must be completed using block letters or typed.

If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

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

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

Councillor's Signature: **Date:**

This form is to be retained by the council's general manager and included in full in the minutes of the meeting

Last Updated: 3 June 2019

Important Information

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

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

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

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

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

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

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

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

Item: 05

Subject: DA2019 - 137.2 MODIFICATION TO ALTERATIONS AND ADDITIONS TO DWELLING AT LOT 33 DP 18138, NO 7 ARNCLIFFE AVENUE, PORT MACQUARIE

Report Author: Development Assessment Planner, Steven Ford

Applicant:	Encompass Drafting
Owner:	J A & K L Looby
Estimated Cost:	\$140,000
Parcel no:	681

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2019 - 137.2 for modification to consent conditions for alterations and additions to dwelling at Lot 33, DP 18138, No. 7 Arncliffe Avenue, Port Macquarie, be determined by granting consent subject to the recommended modified conditions.

Executive Summary

This report considers an application for a modification to consent conditions for previous approved alterations and additions to 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, one (1) submission was received.

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

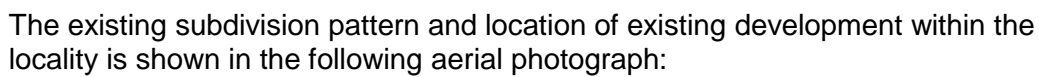
This report recommends that the development consent be modified as detailed in the attached (**Attachment 1**) modified conditions.

1. BACKGROUND

Existing Sites Features and Surrounding Development

The site has an area of 441m².

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:



PORT MACQUARIE
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- Development consent for DA2019 - 137 was originally granted on 26 February 2020, subject to the recommended conditions and as amended below:
 "B(4) Prior to release of the construction certificate amended plans are to be submitted to provide for a minimum 2m building setback to the rear property boundary."
- The modification requests Council consider the deletion of condition B(4) which was imposed by the Development Assessment Panel.

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

Application Chronology

- 25 March 2020 - Application Lodged
- 8 April 2020 to 23 April 2020 - Neighbourhood notification
- 30 April 2020 - Redacted Submission sent to Applicant for consideration

3. STATUTORY ASSESSMENT

Section 4.55(2)(a) Is the proposal substantially the same?

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:

In *Vasic Pty Ltd v Penrith City Council* [1992] NSWLEC 8, Stein J held that "substantially" meant "essentially all material or having the same essence."

In *Moto Projects (No 2) Pty Ltd v North Sydney Council* (1999) 106 LGERA 298 at [56] Bignold J held that the task for determining whether a development as proposed to be modified is substantially the same as the consent granted was as follows:

"The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted)."

In the context of the current application, the proposal can be considered to be substantially the same as the development to which consent was originally granted for the following reasons:

- The modified development is the same proposed plans as the original proposal.
- The modification proposes provide the original 900mm rear setback, seeking similar setbacks as the existing building rear lot alignments and reduced setbacks within the locality at 3 and 11A and 11B Arncliffe avenue and No 30 Pacific Drive.
- The impacts of the modification by deleting condition B(4), including solar access, bulk and scale, and privacy remain similar to the approved development.
- The proposal meets the development provisions of 3.2.2.4 of the DCP, where Council may consider varying rear setback requirements where it is demonstrated that the private open space could achieve better solar access between the building and the side setback.

Section 4.55(2)(b) Are there any condition(s) of consent imposed by a Minister, government or public authority that require modification?

The consent does not include any conditions imposed by a public authority.

Section 4.55(2)(c) Does the application require notification/advertising in accordance with the regulations and/or any Development Control Plan?

Neighbour notification has been undertaken in accordance with the regulations and Council's DCP.

Section 4.55(2)(d) Any submissions made concerning the modification

One (1) written submission was received following public exhibition of the application. A copy of the written submission has been provided separately to members of the DAP.

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

Submission Issue/Summary	Planning Comment/Response
Object to any variation to the minimum setback of 2m previously conditioned by Council which is to provide neighbours space, privacy and most importantly protects from the noise into neighbouring properties.	<p>The objectives and development provisions of section 3.2.2.5 of the DCP 2013, which allows for variations to the minimum rear setbacks have been adequately addressed.</p> <p>The bulk and scale, and privacy impacts of reducing the approved 2m rear setback to 900mm will remain similar. There are no adverse impacts identifiable of reducing the rear setback from 2m to 900mm.</p> <p>It should be noted that there are no windows in the northern elevation on either the ground or first floor levels of the additions.</p>
Concern of increased noise	<p>The area of building encroaching the minimum rear setback is a walk in robe with no windows facing the rear boundary and adjoining a master bedroom. As this is not a primary living area, it is unlikely to create any identifiable adverse noise impacts.</p> <p>Additionally, the existing pool and verandah will remain the same and are compliant with the development provisions of the DCP 2013.</p>
This will affecting future developments of properties along Hill Street which border this property.	The proposed development does not impact solar access to the adjoining Hill Street properties. From the site inspection, many adjoining properties overlook the proposed development site currently. The proposed additions are considered to have been satisfactorily designed to provide privacy to adjoining properties as well as create solutions for privacy impacts from adjoining properties

Submission Issue/Summary	Planning Comment/Response
	towards 7 Arncliffe Ave.

Section 4.55(3) Any matters referred to in section 4.15 (1) relevant to the modification, and the reasons given by the consent authority for the grant of the consent sought to be modified.

In determining the application, Council is required to take into consideration the following matters as are relevant to the modification 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 (Coastal Management) 2018

The site is located within a 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 of the SEPP 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;
- j) any adverse impacts on existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability.

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

- (ii) Any Development Control Plan in force**

Port Macquarie-Hastings Development Control Plan 2013 (as relevant to the modification)

DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development			
	Requirements	Proposed	Complies
3.2.2.1	Ancillary development:	Water tank is appropriately	Yes

DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development			
	Requirements	Proposed	Complies
	<ul style="list-style-type: none"> • 4.8m max. height • Single storey • 60m² max. area • 100m² for lots >900m² • 24 degree max. roof pitch • Not located in front setback 	<p>located.</p> <p>Proposed ground floor storage and laundry area is not greater than 60m²</p>	
3.2.2.4	4m min. rear setback. Variation subject to site analysis and provision of private open space	920mm rear setback proposed. Which is considered a 76% variation. See justification below.	No* Considered to be acceptable
3.2.2.5	<p>Side setbacks:</p> <ul style="list-style-type: none"> • Ground floor = min. 0.9m • First floors & above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min. • Building wall set in and out every 12m by 0.5m 	<p>The minimum side setback requirements are complied with, see justification below.</p> <p>The building wall is a maximum 11.2m long, satisfactorily addressing the objective of this development provision.</p>	Yes
3.2.2.6	35m ² min. private open space area including a useable 4x4m min. area which has 5% max. grade	The dwelling contains 35m ² open space in one area including a useable 4m x 4m space.	Yes
3.2.2.10	<p>Privacy:</p> <ul style="list-style-type: none"> • 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 • Privacy screen required if floor level > 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m • Privacy screens provided to balconies/verandahs etc which have <3m 	The development will not compromise privacy in the area due to a combination of lack of windows overlooking both side and rear boundaries, having high sill windows that face side boundaries, limiting living areas that face adjoining living areas and open space.	Yes

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

	Requirements	Proposed	Complies
	side/rear setback and floor level height >1m		

DCP 2013: General Provisions

	Requirements	Proposed	Complies
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

The proposal seeks to vary Development Provision relating to 3.2.2.4 - 4m minimum rear setback. Variation subject to site analysis and provision of private open space

The relevant objectives are:

- To allow adequate natural light and ventilation between dwellings/buildings and to private open space areas.
- To provide useable yard areas and open space.

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

- Council may consider varying rear setback requirements where it is demonstrated that the private open space could achieve better solar access between the building and the side setback.
- The existing private open space, including both rear verandah and pool area, maintains solar access.
- The proposed rear setback is 900mm which encroaches the standard rear setback provision for 4.65m (30%) of the rear boundary.
- A 4m setback for the eastern side setback for the equivalent length of the rear boundary has been provided to achieve solar access, natural ventilation and separation.
- The proposed rear setback variation does not adversely overshadow neighbouring primary living areas and private open space.
- The proposed additions, at a height of 5.7m, are well under the zone's maximum building height standard of 11.5m.
- There are no windows proposed overlooking the rear boundary, which could result in adverse privacy impacts to the northern neighbouring properties.
- The proposal does not result in any adverse impact on views enjoyed by neighbouring properties.

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

(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 modification 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 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.

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

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

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

Following exhibition of the application in accordance with DCP 2013, 1 submission was received.

(e) The Public Interest

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

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

Development contributions will not be required under S64/S7.11 as no additional residential occupancies are being proposed.

5. CONCLUSION AND STATEMENT OF REASON

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

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

The site is considered suitable for the proposed modified development and the proposal adequately addresses relevant planning controls. The development is not considered to be contrary to the public's interest and will not result a significant adverse social, environmental or economic impact. 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 [↓](#). DA2019 - 137.2 Draft Modified Consent
- 2 [↓](#). DA2019 - 137.2 Plans

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

ABN 11 236 901 601



18 May 2020

Parcel Number: 681

Encompass Drafting
11 Kooloonbung Close
PORT MACQUARIE NSW 2444

Dear Sir/Madam

DA 2019/137.2 - Modification of Consent Pursuant to Section 4.55 (1A) of the Environmental Planning & Assessment Act 1979

I refer to your application dated 25 March 2020 to modify Alterations and Additions to Dwelling under DA 2019/137 at LOT: 33 DP: 18138 7 Arndcliffe Avenue PORT MACQUARIE.

Please be advised that pursuant to Section 4.55 (1A) of the Act, your application to modify the consent has been granted, subject to:

(delete irrelevant sections)

- A. Amend the following conditions as outlined in modified consent:
- B. Add the following conditions as outlined in modified consent:
- C. Delete the following conditions: B(4)
- D. Reimposition of all other previously approved conditions of consent as originally determined 26 February 2020 and as modified ((insert any previous modification dates in order here) and)) with this approval dated .

The applicant is advised that Section 8.9 of the Act confers on an applicant who is dissatisfied with the determination, right of appeal to the Land and Environment Court.

A revised schedule of development consent conditions is attached.

Yours sincerely

Apply electronic signoff

pmhc.nsw.gov.au

PORT MACQUARIE OFFICE
17 Burrawan Street, Port Macquarie NSW 2444

WAUCHOPE OFFICE
49 High Street, Wauchope NSW 2446

LAURIETON OFFICE
9 Laurie Street, Laurieton NSW 2443



SCHEDULE OF CONDITIONS ATTACHED TO THIS CONSENT

The conditions of consent referred to in the Notice of Determination for DA No 2019/137 are as follows:

No.1	Modification No.1	27 May 2020
------	-------------------	-------------

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	Project No: 2010	Encompass Drafting and Design	20/01/2020
BASIX Certificate	A341147_02	Damian Keep	19/02/2019

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

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

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

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

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

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
 - Position and depth of the sewer (including junction)
 - Stormwater drainage termination point
 - Easements
 - Water main
- (2) (B003) Submission to the Principal Certifying Authority prior to the issue of a Construction Certificate detailed design plans for the following works associated with the developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DQS:
 1. Stormwater systems.
- (3) (B038) Footings and/or concrete slabs of buildings adjacent to sewer lines or easements are to be designed so that no loads are imposed on the infrastructure. Detailed drawings and specifications prepared by a practising chartered professional civil and/or structural engineer are to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.
- (4) Delete.¹

C – PRIOR TO ANY WORK COMMENCING ON SITE

nil

D – DURING WORK

- (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) (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.

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 or short-term accommodation.

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

Rights of Appeal

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

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

Yours sincerely



Apply electronic signoff

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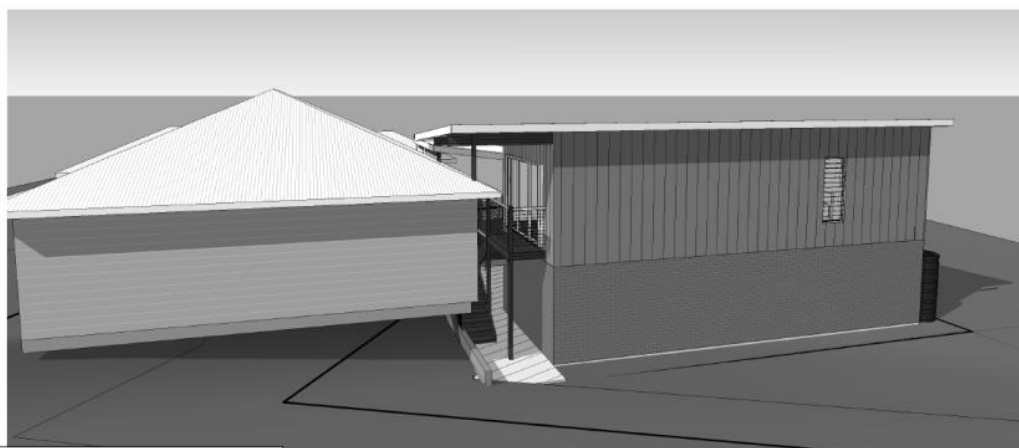
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GROUND FLOOR	A002
UPPER FLOOR LEVEL	A002A
ELEVATIONS	A003
ELEVATIONS	A004
SECTIONS	A005
SITE	A006
SHADOWS 9AM	A006A
SHADOWS 12PM	A006B
SHADOWS 3PM	A006C
DETAILS & NOTES	A007
DETAILS & NOTES	A007A

3 3D View 2



2 3D View 1



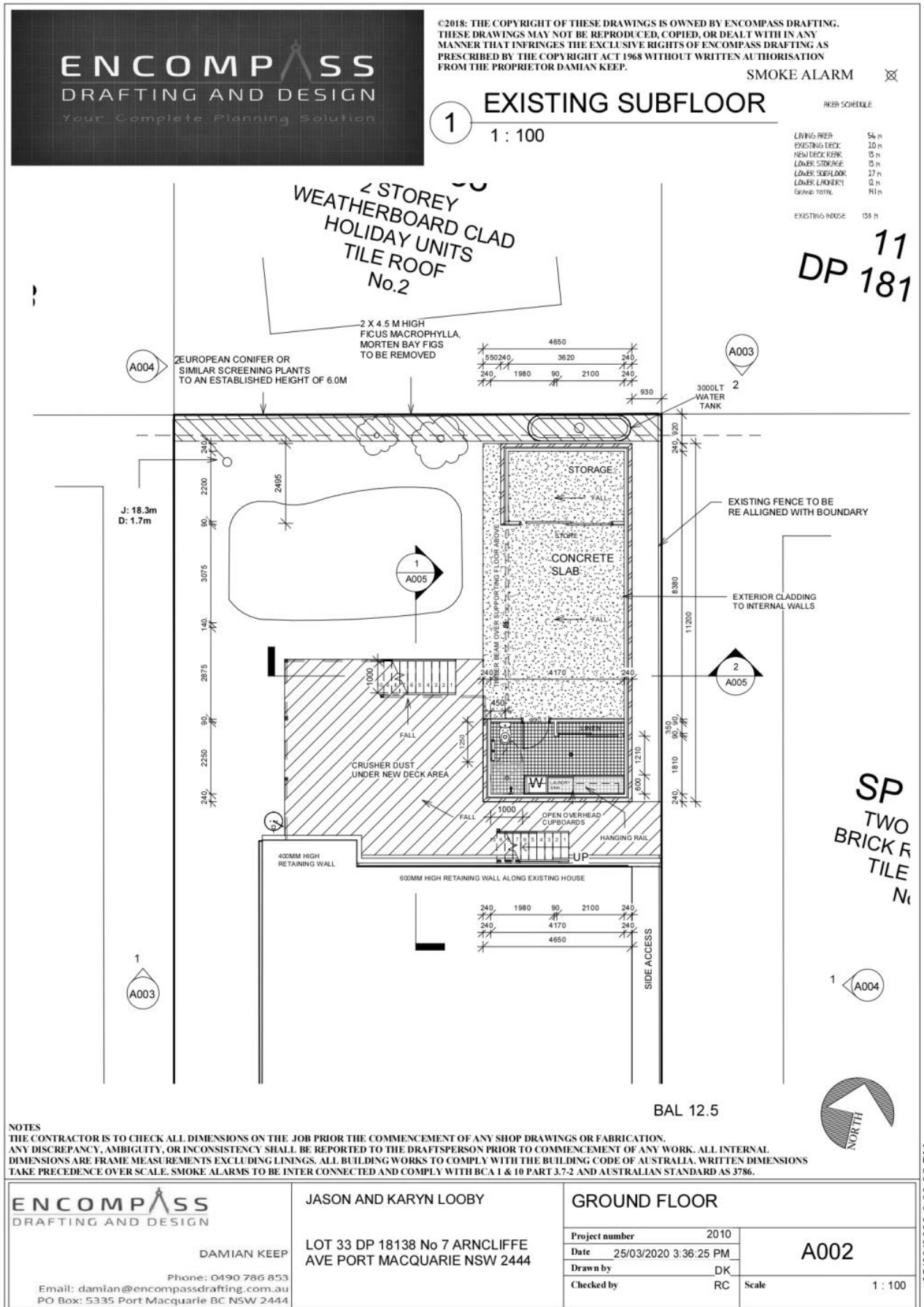
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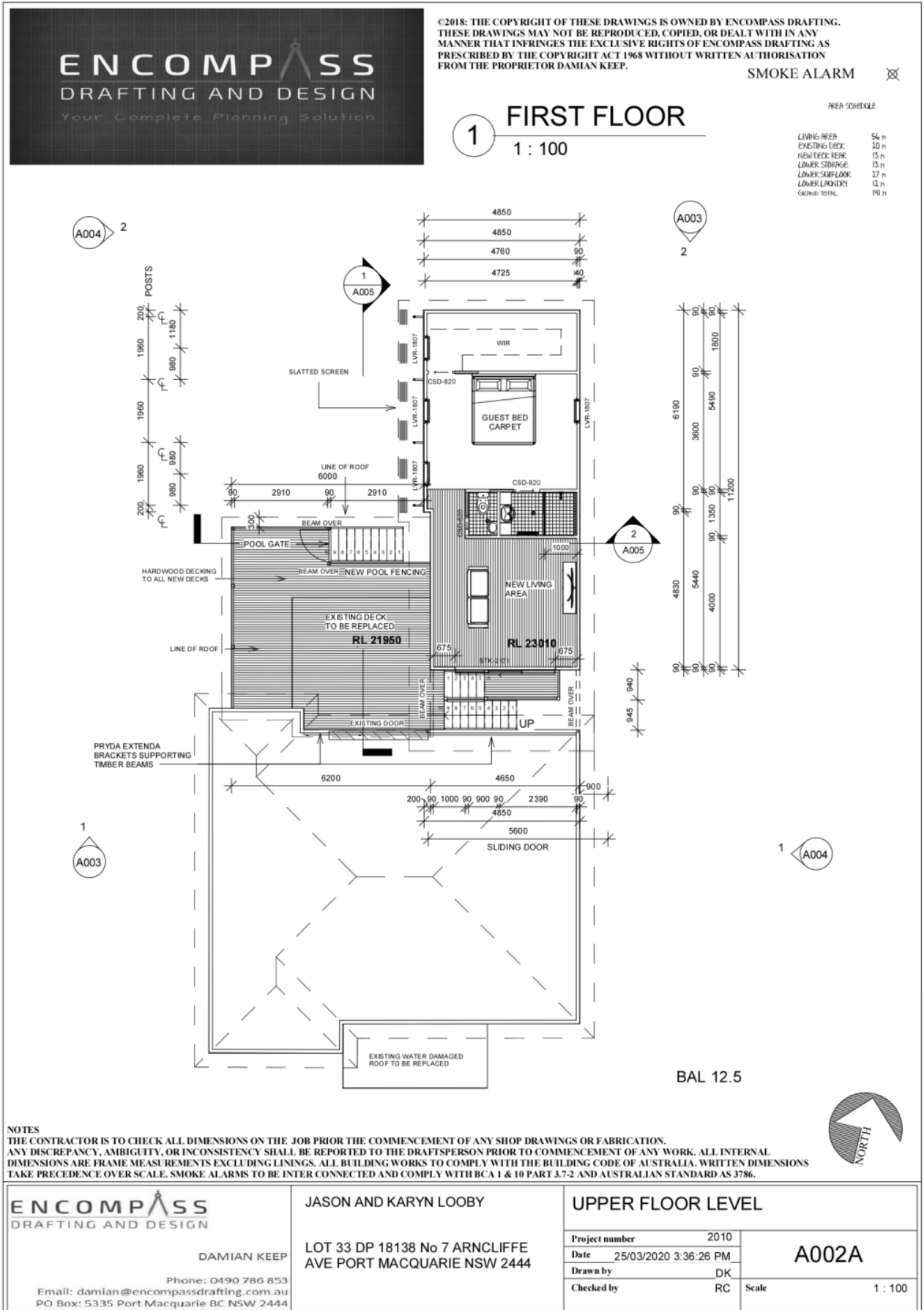
DAMIAN KEEP

Phone: 0490 786 853
Email: damian@encompassdrafting.com.au
PO Box: 5335 Port Macquarie BC NSW 2444

1 COVER SHEET

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JASON AND KARYN LOOBY

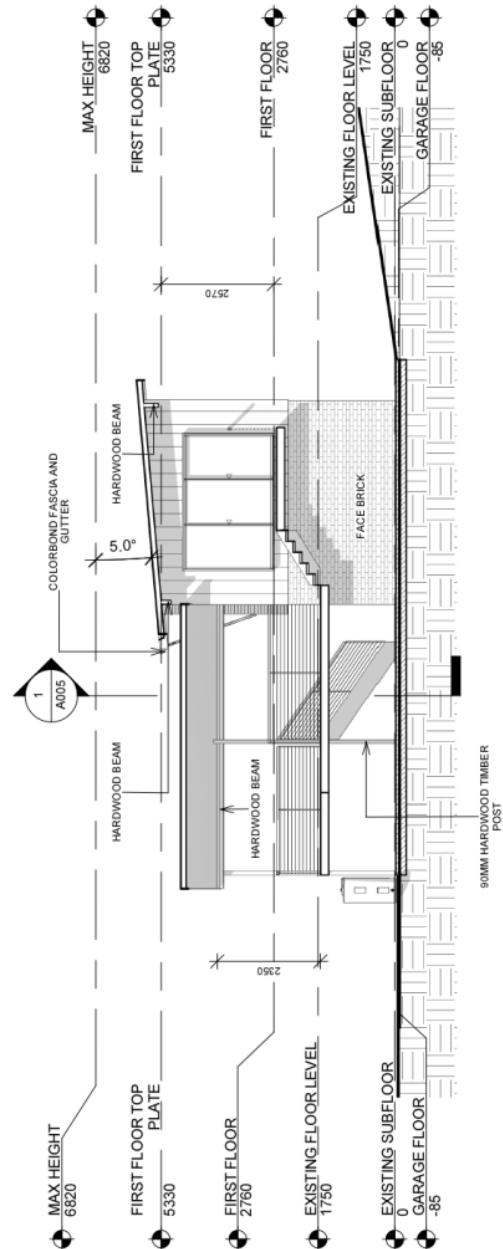
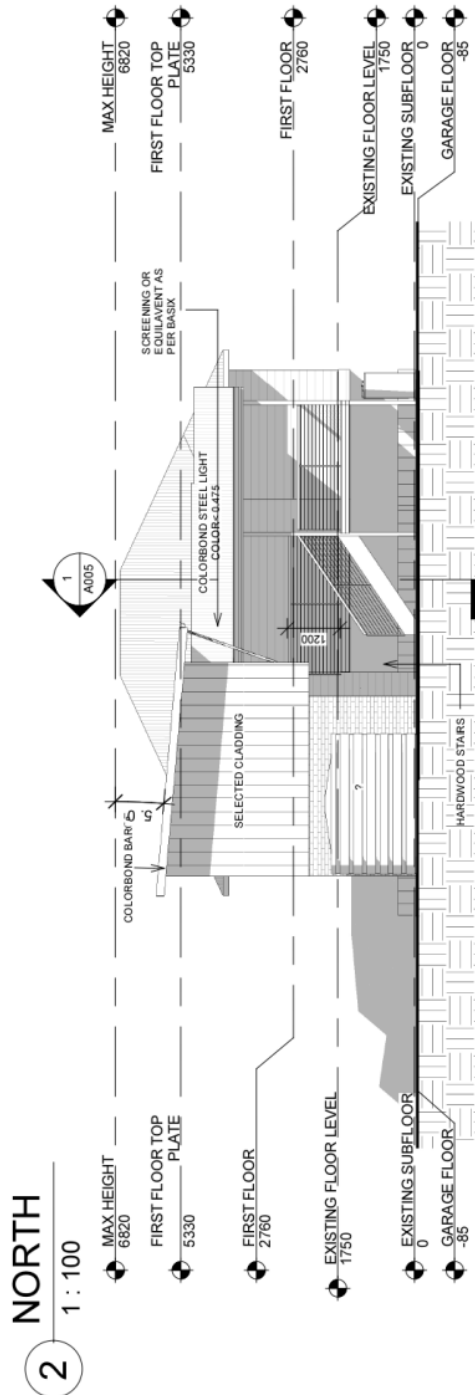
LOT 33 DP 18138 No 7 ARNCLIFFE
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UPPER FLOOR LEVEL

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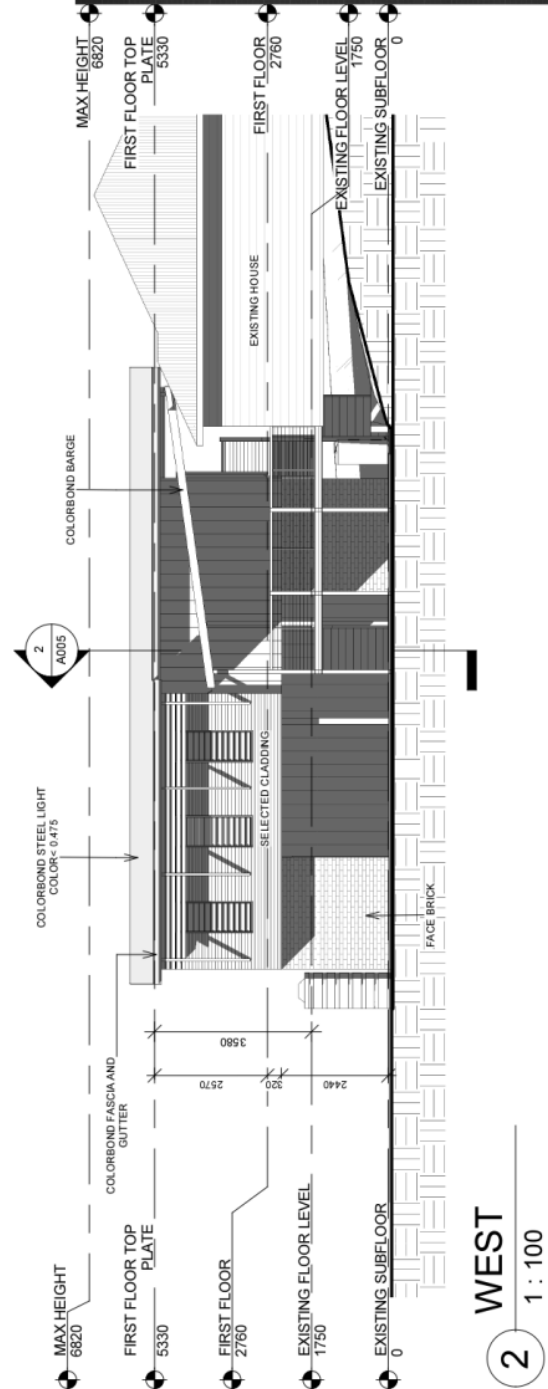
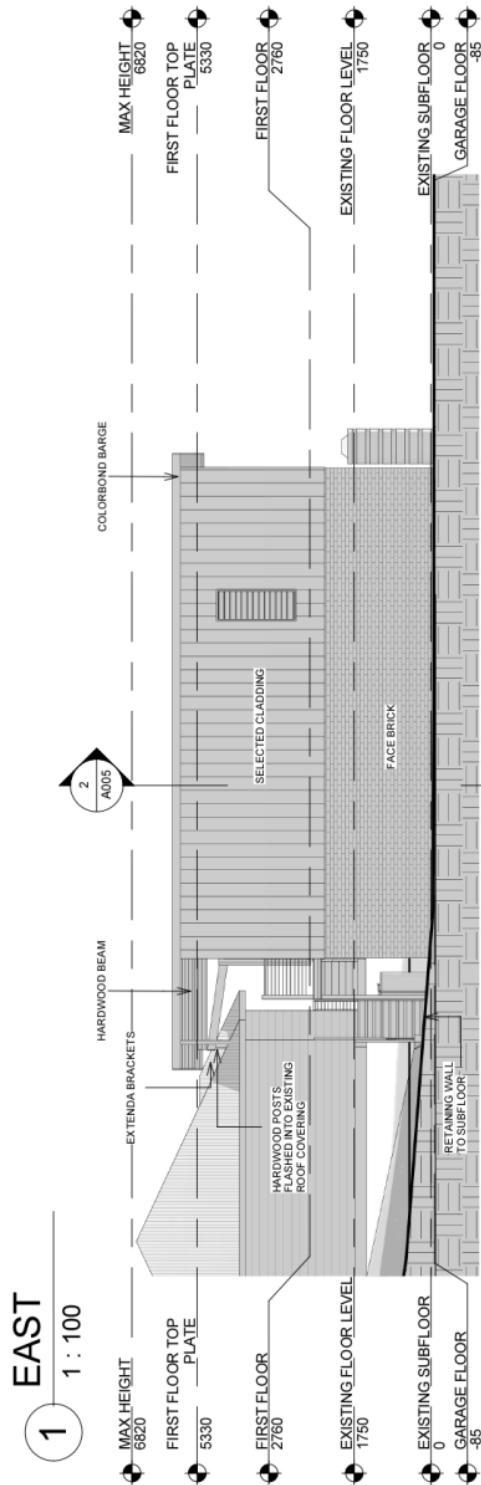
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ELEVATIONS

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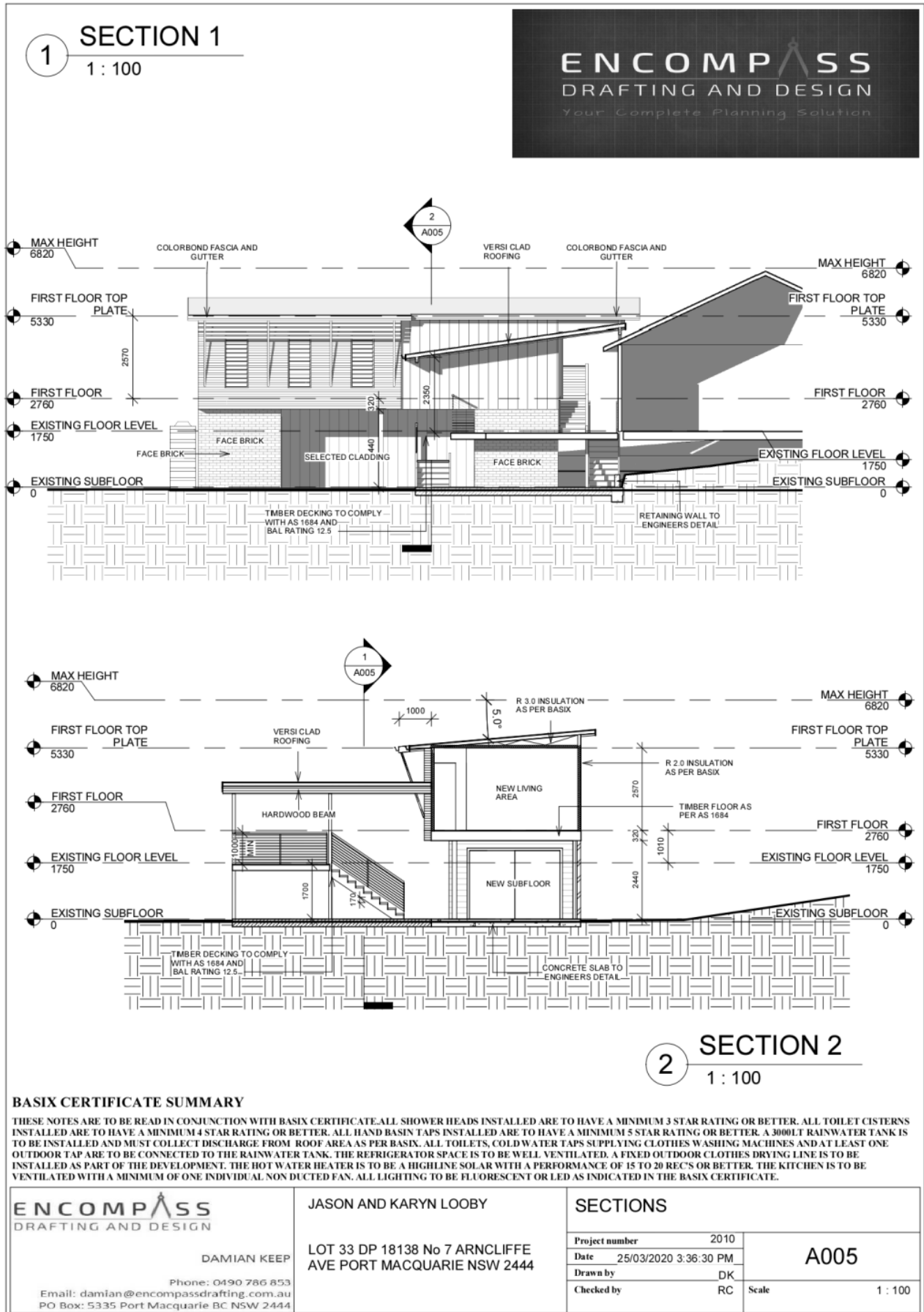
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LOT 33 DP 18138 No 7 ARNCLIFFE
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ELEVATIONS

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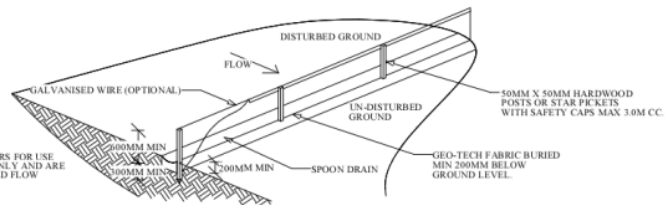
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SEWER ———— S ————
WATER ———— W ————
ELECTRICITY ———— E ————



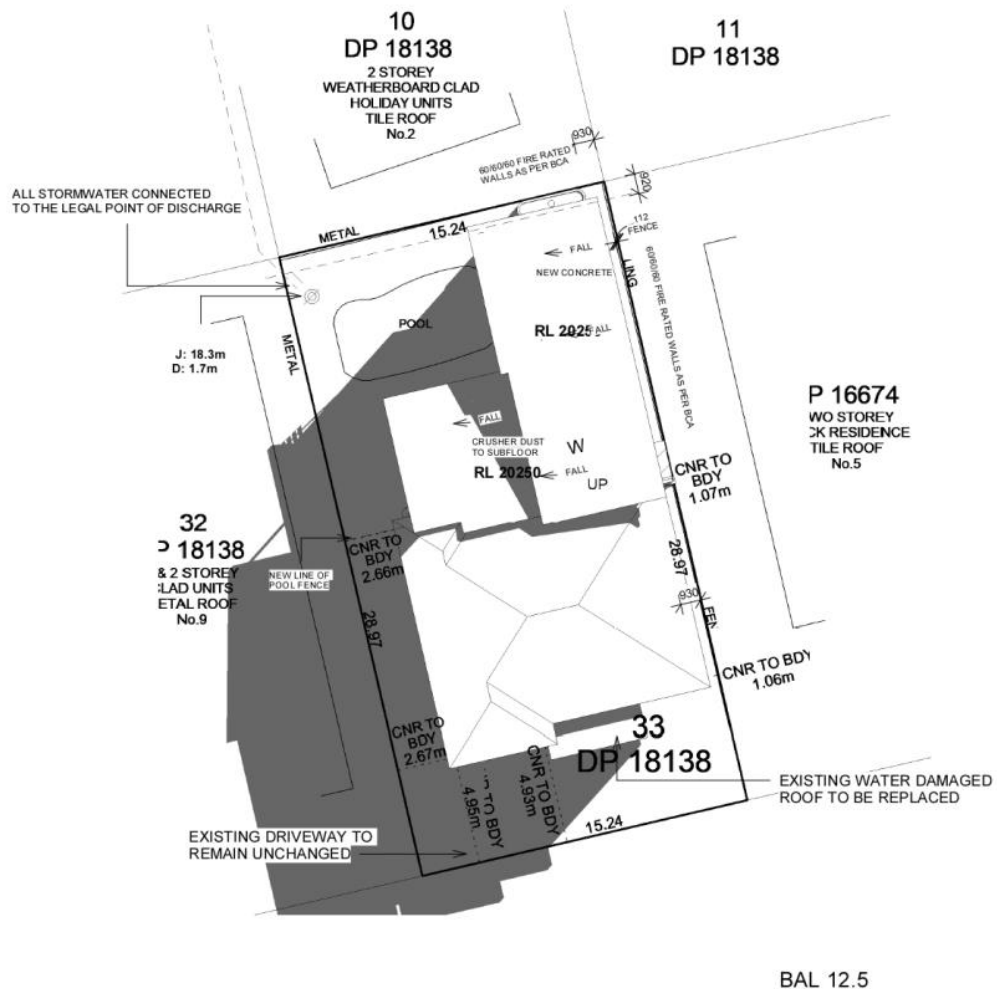
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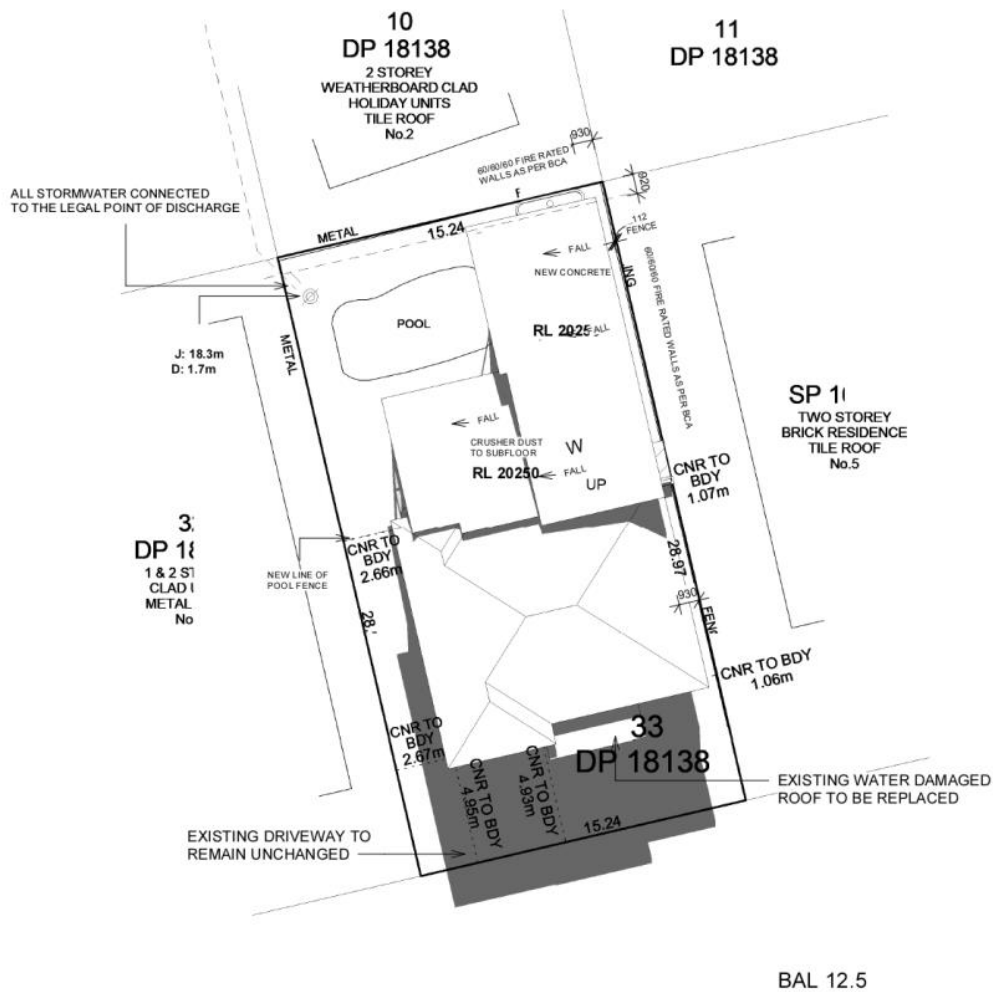
DAMIAN KEEP

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Checked by	RC

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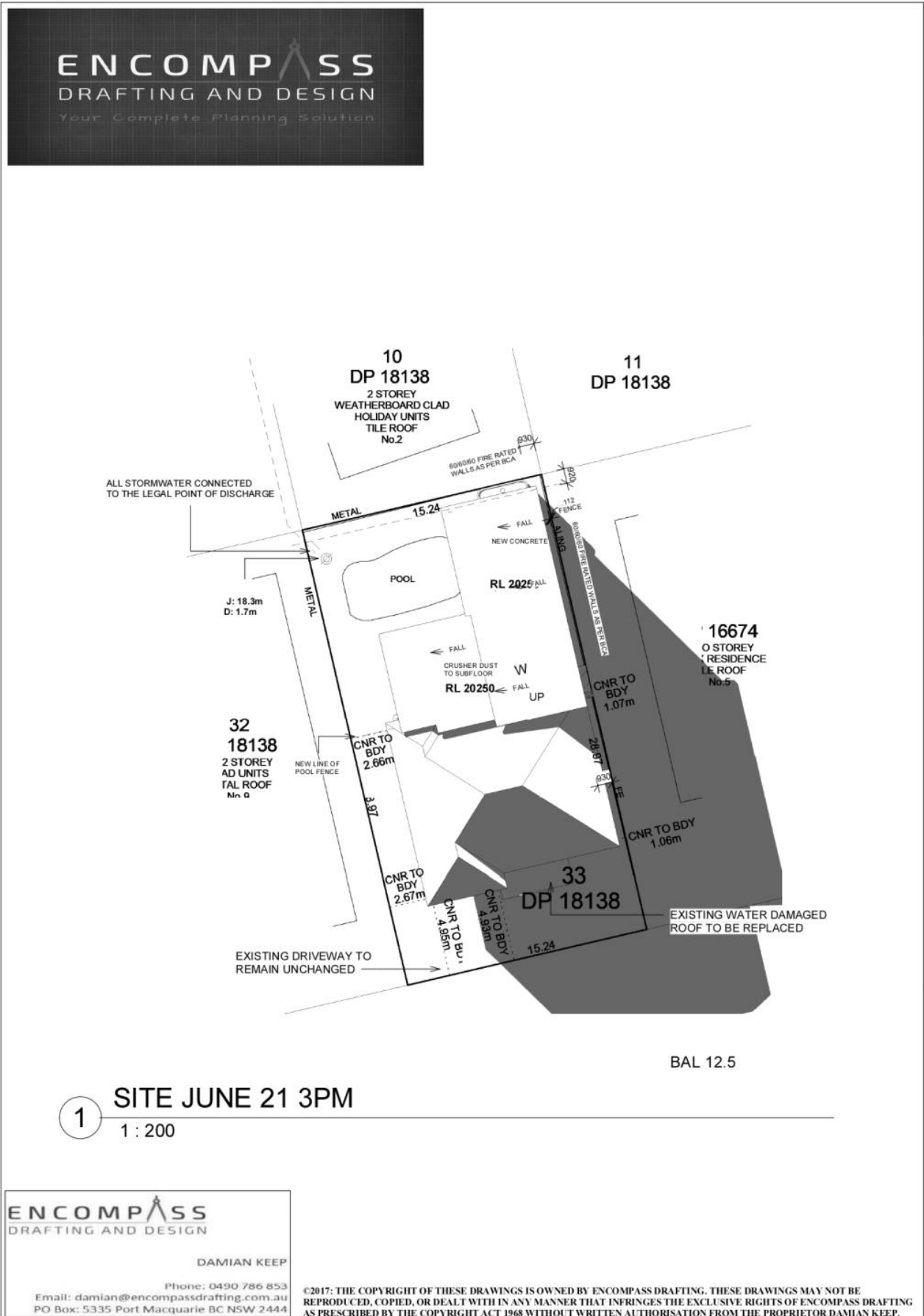
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ENCOMPASS
DRAFTING AND DESIGN

DAMIAN KEEP

Phone: 0490 786 853
Email: damian@encompassdrafting.com.au
PO Box: 5335 Port Macquarie BC NSW 2444

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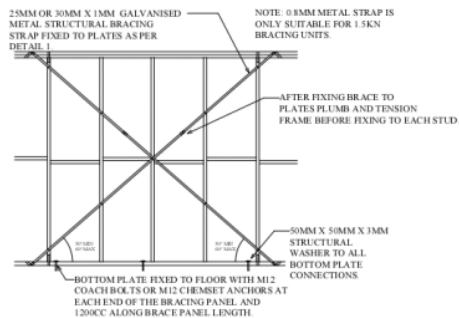


ENCOMPASS

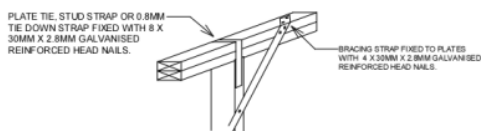
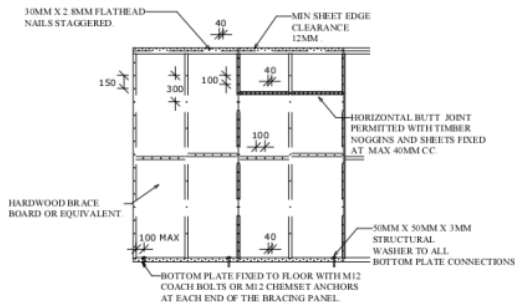
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CROSS BRACING DETAIL 1.5 KN OR 3KN WITH TIES & ANCHORS.



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STUD STRAP FIXING DETAILS

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NOTES

THE CONTRACTOR IS TO CHECK ALL DIMENSIONS ON THE JOB PRIOR TO THE COMMENCEMENT OF ANY SHOP DRAWINGS OR FABRICATION. ANY DISCREPANCY, AMBIGUITY, OR INCONSISTENCY SHALL BE REPORTED TO THE DRAFTSPERSON PRIOR TO COMMENCEMENT OF ANY WORK. ALL INTERNAL DIMENSIONS ARE FRAME MEASUREMENTS EXCLUDING LININGS. ALL BUILDING WORKS TO COMPLY WITH THE BUILDING CODE OF AUSTRALIA. WRITTEN DIMENSIONS TAKE PRECEDENCE OVER SCALE. SMOKE ALARM TO COMPLY WITH BCA 1 & 10 PART 3.7-2 AND AUSTRALIAN STANDARD AS 3786.

SPECIFICATIONS & GENERAL NOTES

THESE ARCHITECTURAL DRAWINGS ARE TO BE READ IN CONJUNCTION WITH THE STRUCTURAL ENGINEER'S DRAWINGS AND ALL OTHER RELEVANT CONSULTANT DRAWINGS.

ALL WORK TO BE CARRIED OUT IN ACCORDANCE WITH THE RELEVANT AND CURRENT AUSTRALIAN STANDARDS AND THE BUILDING CODE OF AUSTRALIA UNLESS OTHERWISE SPECIFIED.

TIMBER FRAMING TO BE IN ACCORDANCE WITH AS 1684 PARTS 1, 2, 3 AND 4.

SARKING MATERIAL USED MUST COMPLY WITH AS/NZ 4290 PARTS 1 AND 2 AND HAVE A FLAMMABILITY INDEX OF NO GREATER THAN 5.

WHERE PRE FABRICATED WALL FRAMES AND ROOF TRUSSES ARE NOMINATED THE DESIGN AND SPECIFICATION (INCLUDING SPECIFIC HOLD DOWN REQUIREMENTS) ARE TO BE SPECIFIED BY THE FRAME AND TRUSS MANUFACTURER.

BALUSTRADING AND HANDRAILS (WHERE APPLICABLE) ARE TO COMPLY WITH B.C.A. CLAUSE 3.9.2 AND AS 1170.

STAIRS (WHERE APPLICABLE) ARE TO COMPLY WITH BCA CLAUSE 3.9.1 AND 3.9.1.4. WITH NON SLIP TREADS AND HANDRAIL AS PER AS 4586

VAPOR BARRIER TO BE INSTALLED IN ACCORDANCE WITH B.C.A CLAUSE 3.2.2.6 AND TO BE 0.2 FORTECON OR EQUIVALENT AND MUST BE MEDIUM IMPACT RESISTANT ON A MINIMUM 50MM BED OF SAND FILL.

WHERE W.C. OR ENSUITE DOORS DO NOT OPEN OUTWARD THEY SHALL BE INSTALLED WITH LIFT OFF HINGES.

PLUMBING AND DRAINAGE SYSTEMS ARE TO COMPLY WITH AS3500 WITH TEMPORARY DOWN PIPES TO BE USED TO DISPERSE WATER DURING CONSTRUCTION.

STORM WATER FROM THE ROOF TO BE DISCHARGED TO WATER TANKS, THE STREET KERB OR ONTO OWN PROPERTY WITHOUT NUISANCE TO NEIGHBOURS.

TERMITE MANAGEMENT SYSTEMS ARE TO COMPLY WITH AS 3660 WITH THE PROPERTY OWNERS NOTIFIED AS TO ANY ON GOING MAINTENANCE REQUIREMENTS / OBLIGATIONS.

BATH, WC AND LAUNDRY ARE TO BE NATURALLY VENTILATED OR HAVE EXHAUST FANS DUCTED DIRECTLY OUTSIDE OR TO ROOF SPACE AS PER BCA 3.8.7

INSTALLATION OF SMOKE DETECTORS TO COMPLY WITH AS 3786. AND BCA PART 3.7.5

CONCRETE CONSTRUCTION TO BE IN ACCORDANCE WITH AS 3600 AND AS 2870.

MASONRY CONSTRUCTION TO BE IN ACCORDANCE WITH AS 3700.

DAMP PROOF COURSES AND FLASHINGS TO BE IN ACCORDANCE WITH AS/NZ 2094.

THERMAL INSULATION OF DWELLINGS TO COMPLY WITH AS4859 AND ANY SPECIFIC BASIX REQUIREMENTS.

UN-PLASTICISED PVC (UPVC) DOWN PIPE AND FITTINGS FOR ANY RAINWATER TO COMPLY WITH AS 1273.

INSTALLATION OF SHEET ROOF AND WALL CLADDING TO COMPLY WITH AS 1562.1.

ALL PEDESTRIAN SURFACES TO COMPLY WITH AS /NZ 3661 SLIP RESISTANCE.

GLAZING, SHOWER SCREENS, BATH ENCLOSURES AND ROBE DOORS ARE TO BE SELECTED AND INSTALLED IN ACCORDANCE WITH AS 1288 & AS 2047 WINDOW RESTRICTORS OR SCREENS TO BE FITTED AS PER THE BCA PART 3.6

WATERPROOFING OF WET AREAS TO COMPLY WITH AS 3740 AND B.C.A. TABLE 3.8.1.1

ELECTRICAL INSTALLATIONS TO COMPLY WITH AS/NZ 3018.

SMOKE ALARMS TO BE INTER CONNECTED AND COMPLY WITH BCA 1 & 10 PART 3.7-5 AND AUSTRALIAN STANDARD AS 3786.

POOL SAFETY FENCES (WHERE APPLICABLE) ARE TO BE INSTALLED TO COMPLY WITH AS 1926. AND THE SWIMMING POOLS ACT 1992 WITH ACCESS AND FITTING.

IF ANY DISCREPANCY, AMBIGUITY, ERROR OR INCONSISTENCY IS FOUND IN THIS SET OF DRAWINGS, REPORT SUCH TO J & E MILLERS DRAFTING DEPT BEFORE PROCEEDING.

SILT FENCES ARE TO BE 600MM HIGH AND ARE TO COMPLY WITH COUNCIL POLICY

ALL DIMENSIONS ARE TO BE VERIFIED BY THE BEFORE WORK OR FABRICATION COMMENCES.

WINDOW SCHEDULE

Type Mark	Level	Head Height	Height	Width	Comments
LVR-1807	FIRST FLOOR	2140	1800	725	ALUMINIUM LOUVRE
LVR-1807	FIRST FLOOR	2140	1800	725	ALUMINIUM LOUVRE
LVR-1807	FIRST FLOOR	2140	1800	725	ALUMINIUM LOUVRE
LVR-1807	FIRST FLOOR	2140	1800	725	ALUMINIUM LOUVRE

DOOR SCHEDULE

Type Mark	Level	Height	Width	Comments
CSD-620	FIRST FLOOR	2160	620	READY COAT INTERNAL
CSD-820	FIRST FLOOR	2160	820	READY COAT INTERNAL
CSD-820	FIRST FLOOR	2160	820	READY COAT INTERNAL
STK-2131	FIRST FLOOR	2095	3120	ALUMINIUM STACKER

SPECIFIC NOTES

BUSHFIRE ATTACK LEVEL 12.5

ENCOMPASS
DRAFTING AND DESIGN

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Email: damian@encompassdrafting.com.au
PO Box: 5335 Port Macquarie BC NSW 2444

JASON AND KARYN LOOBY

LOT 33 DP 18138 No 7 ARNCLIFFE
AVE PORT MACQUARIE NSW 2444

DETAILS & NOTES

Project number	2010
Date	25/03/2020 3:36:32 PM
Drawn by	DK
Checked by	RC

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Item: 06

Subject: DA2019 - 655.1 LAND FILLING AND FARM BUILDINGS AT LOT 16
AND LOT 17 DP 855941 OXLEY HIGHWAY, WAUCHOPE

Report Author: Development Assessment Planner, Benjamin Roberts

Applicant: Land Dynamics Australia
Owner: M A Roche Group Pty Ltd
Estimated Cost: \$150,000
Parcel no: 28672, 28673

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2019 - 655.1 for land filling and farm buildings at Lot 16 and Lot 16, DP 855941, Oxley Highway, Wauchope, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a development application for land filling and farm buildings 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 was received.

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

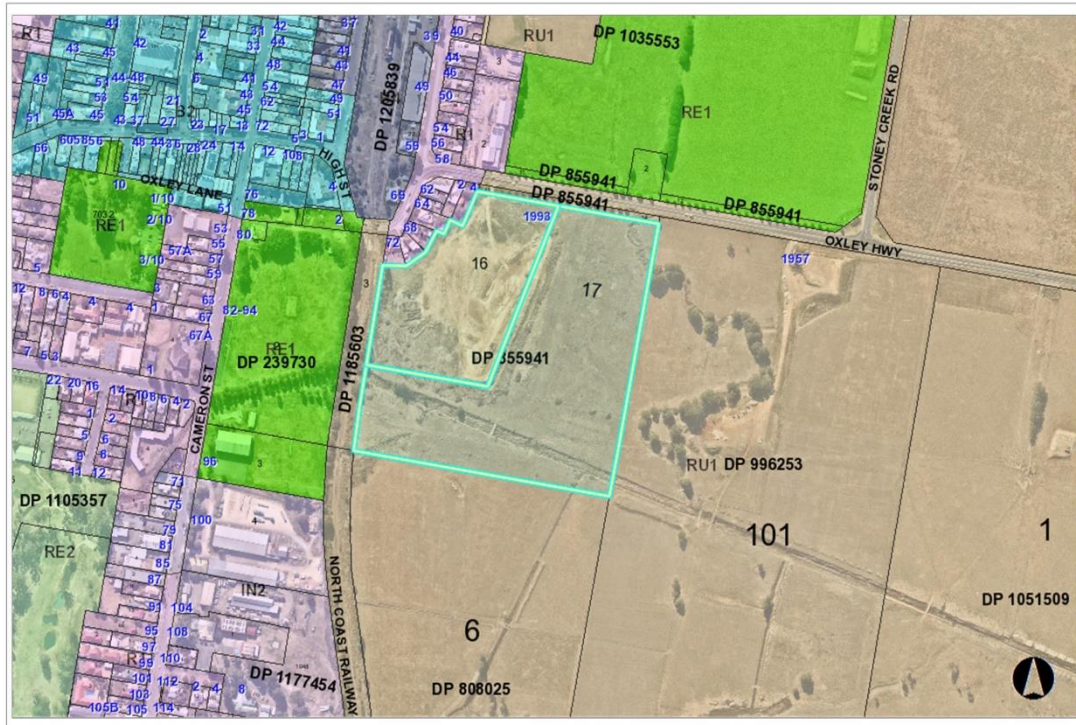
This report recommends that the development application be approved subject to the conditions in **Attachment 1**.

1. BACKGROUND

Existing Sites Features and Surrounding Development

Lot 16 is 3.9 hectares in area and Lot 17 is 8 hectares in area. The combined total area being 11.9 hectares.

The site is zoned RU1 Primary Production 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:

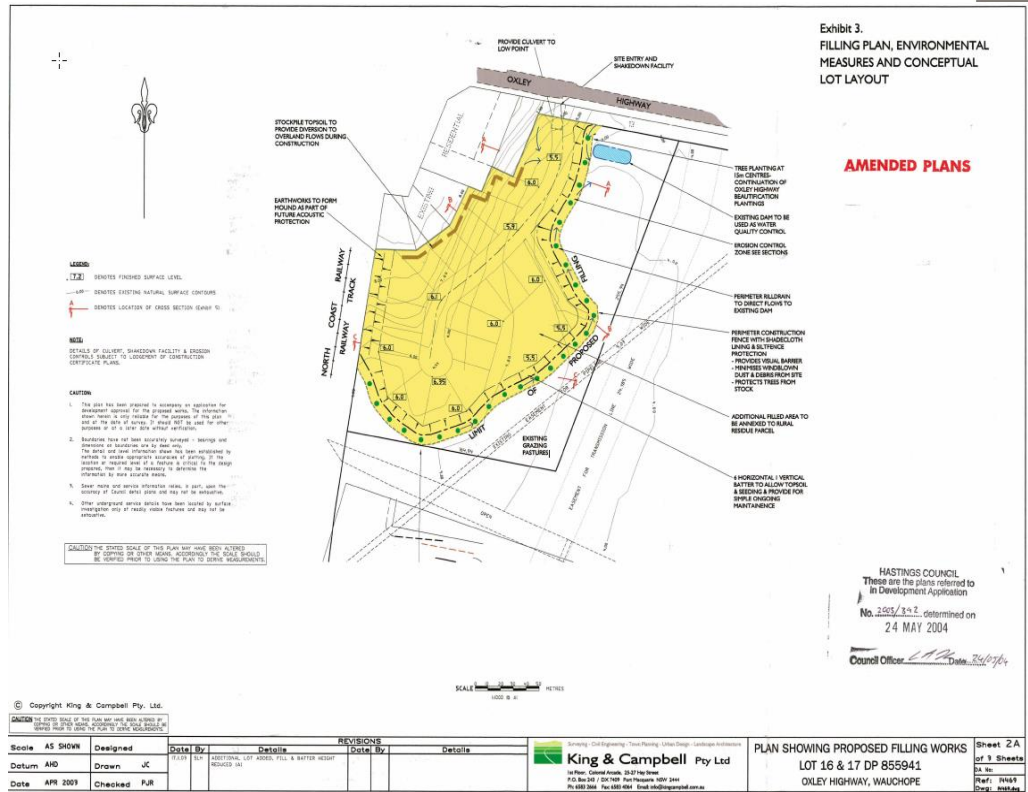


The site already contains a significant amount of fill as illustrated on the above aerial photograph.

Development and Application History

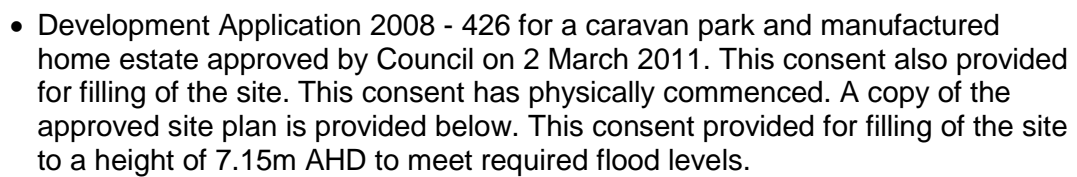
The site has been subject to a number of development applications. A brief description and status of those applications is provided as follows:

- Development Application 2003 - 392 for land filling approved by Council on 24 May 2004. Copy of stamped plan provided below. This approval has physically commenced. The fill was primarily contained to Lot 16 DP 855941 and provided for finished surfaces levels of between 5.5m and 6.35m AHD.



- Development Application 2006 - 669 for a retail nursery and ancillary landscaping supplies approved by Council on 4 June 2007. The proposal was primarily contained to Lot 17 DP 855941 with access via lot 17. Copy of stamped site plan provided below. This consent never commenced and has subsequently lapsed.

27/05/2020



2. DESCRIPTION OF DEVELOPMENT

Key aspects of this development proposal include the following:

- Retrospective approval for land filling beyond existing development consents.
- Spreading of existing unapproved fill material.
- Proposed new land filling.
- Construction of a farm building and stock yard.

The fill as currently exists on the site is illustrated on the site plans and typical cross-section plans supporting this application. The existing fill mound sits at a height of 12m AHD in locations and the proposal is to spread the existing fill out and import additional fill to a height of 7.12 AHD. The spreading and importation of fill is proposed eastward and small section southward of the existing fill mound.

The site plans also illustrate the extent of fill beyond existing development consents and to which retrospective consent is also sought under this application.

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

Application Chronology

- 13 September 2019 - Application lodged.
- 24 September 2019 - Additional information request to applicant - land owners consent, fees and plans of farm building.
- 24 September 2019 - Application referred to Essential Energy.
- 27 September 2019 - Farm building plans provided.
- 1 October 2019 - Land owners consent provided.
- 3 to 17 October 2019 - Public exhibition via neighbour notification.
- 16 October 2019 - Application referred to Roads and Maritime Services.
- 16 October 2019 - Applicant advised not supportive of application in current form and request for additional information and integrated application fees if proceeding.
- 7 November 2019 - Roads and Maritime Services comments received.
- 28 November 2019 - Additional information lodged.
- 10 January 2020 - Integrated referral to Natural Resources Access Regulator.
- 22 January 2020 - Response to submissions received from applicant.
- 11 February 2020 - Applicant advised of concerns surrounding application in current form and likely to be recommended for refusal suggest consider withdrawing application.
- 4 March 2020 - General Terms of Approval (GTAs) received from Natural Resource Access Regulator.
- 5 March 2020 - Meeting with applicant and land owner to discuss key assessment issues to progress the application.
- 1 April 2020 - Revised plans lodged.

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

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

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

State Environmental Planning Policy (Koala Habitat Protection) 2019

Clause 15 - A development application made, but not finally determined, before the commencement of this Policy in relation to land to which this Policy applies must be determined as if this Policy had not commenced. The application was made and not finally determined prior to the commencement of this policy, and the application is therefore required to be assessed under the relevant provisions of State Environmental Policy No 44 - Koala Habitat Protection. See assessment comments below.

State Environmental Planning Policy No. 44 - Koala Habitat Protection

With reference to clauses 6 and 7, the subject land is greater than 1 hectare (including any adjoining land under same ownership) and therefore the provisions of SEPP must be considered.

The Department of Planning and Infrastructure's Circular No. B35, Section 1.5 states that "In relation to affected development applications it is the intention of the policy that investigations for 'potential' and 'core' koala habitats be limited to those areas in which it is proposed to disturb habitat".

The application has demonstrated that no Koala habitat will be removed or modified 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.

State Environmental Planning Policy (Infrastructure) 2007

In accordance with clause 45 of this policy written notice is required to the electricity supply authority for any development in proximity to electricity infrastructure. Specifically, for any of the following:

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

It was identified that the proposed development is within and immediately adjacent an easement for electricity purposes.

The electricity supply authority (Essential Energy) was given written notice inviting comments. Before determining a development application, the consent authority

must take into consideration any response to the notice that is received within 21 days after the notice is given.

The comments below were provided by the electricity supply authority:

“Strictly based on the documents submitted, and provided the new ground clearances meet with Essential Energy’s guidelines, then Essential Energy has no comments to make as to potential safety risks arising from the proposed development.

Essential Energy makes the following general comments:

- If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;*
- Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with; and*
- In addition, Essential Energy’s records indicate there is electricity infrastructure located within the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.*
- Prior to carrying out any works, a “Dial Before You Dig” enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).*
- Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.”*

At the time of site inspection, it was evident that no overhead transmission lines existed in the easement. Following receipt of the above comments further verbal discussion with Essential Energy confirmed that overhead lines that once existed in the easement were relocated some time ago. Essential Energy subsequently advised of overhead lines located in the western portion of the site. They are not located within any easement. A plan was subsequently provided showing the location of electricity infrastructure on the property. A screenshot of the plan is provided below:



With reference to clause 101 the site has frontage to the Oxley Highway which is a classified road. The consent authority must not grant consent to development on such land unless it is satisfied that:

- 
- PORT MACQUARIE
HASTINGS
COUNCIL

Comments: While the development is not of a size or capacity triggering referral to Roads and Maritime Services (RMS) under this policy comment was sought to inform Council staff in assessment of the above noting that vehicular access to the classified road would trigger a subsequent concurrence under the Roads Act, 1993. The comments provided by RMS are provided below:

"We understand that council is seeking advice to inform their assessment and any conditions of consent relating to access to the Oxley Highway. It is emphasised that the comments provided below are based on the current proposal and the information provided at this time. They are not to be interpreted as binding upon Roads and Maritime and may change following the receipt of a formal Section 138 Roads Act application:

- 1. The proposed development will need to construct a new access onto the Oxley Highway for Lots 16 and 17. This will require a Section 138 Application to be made to Council and a concurrence from Roads and Maritime. It is recommended that a S138 concurrence should be sought prior to a consent being issued.*
- 2. Access is to be designed and constructed in accordance with the attached Typical Rural Property Access standard to accommodate the largest design vehicle requiring access to the site. It should be sealed, meet the highway at grade and provide for drainage. The gate should be set back sufficiently to accommodate the largest vehicle.*
- 3. It is noted that DA 2008/426 for a Manufactured Home Estate and Caravan Park on Lot 16 has commenced. The proposed development will share access with the approved development and Council should take this into consideration in making their determination. It is recommended access to all developments be consolidated on a single entry/exit point and that any redundant access points be legally and physically closed.*
- 4. Detailed plans of the access should be submitted to Council in accordance with Section 138 of the Roads Act and a copy of the application forwarded to Roads and Maritime for concurrence prior to plans being approved.*
- 5. Construction of the access is to be undertaken in accordance with Roads and Maritimes latest version of Traffic Control at Worksites Manual and a Road Occupancy Licence (ROL) from <https://myrta.com/oplinc2> must be obtained from Roads and Maritime prior to the implementation of any traffic control on this road.*

All works on the classified (State) road will need to be designed and constructed in accordance with the current Austroads Guidelines, Australian Standards and Roads and Maritime Supplements.

The developer will be required to enter into a Works Authorisation Deed (WAD) with Roads and Maritime for any road work deemed necessary on the classified (State) road. The developer will be responsible for all costs associated with the works and administration for the WAD. It is recommended that developers familiarise themselves with the requirements of the WAD process. Further information can be accessed using the following link:

<http://www.rms.nsw.gov.au/projects/planning-principles/index.html>

Further to the assessment comments and advice provided under the access, traffic and parking heading later in this report, Council staff are satisfied that an appropriate vehicular access can be provided that will not adversely impact on safety and operation of the classified road.

With reference to clause 121 development for the purposes of clean fill may be carried out by any person with consent on land to which development for the purpose of industries, extractive industries or mining maybe carried out with consent under any environmental planning instrument. The site is zoned RU1 Primary Production under the Port Macquarie-Hastings Local Environmental Plan 2011 to which extractive industries and mining are permissible with consent.

Port Macquarie-Hastings Local Environmental Plan 2011

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

- Clause 1.9 - For the avoidance of any doubt the provisions of State Environmental Planning Policy (Infrastructure) 2007 prevail over this plan. Specifically, clause 121 of that policy provides that development for the purposes of clean fill may be carried out with consent on the land.
- Clause 2.2 - The subject site is zoned RU1 Primary Production.
- Clause 2.3(1) and the RU1 zone landuse table - Development for the purposes of farm buildings is permitted with consent. The application proposes that the continued and proposed land filling is ancillary to the agricultural land use undertaken on the site and is therefore permissible with consent. The ancillary nature of the fill could potentially be disputed however clean fill alone is permitted via SEPP Infrastructure (2007). Refer to prior comments under clause 1.9 above.

The objectives of the RU1 zone are as follows:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- Clause 2.3(2) - The proposal is consistent with the zone objectives having regard to the following:
 - The proposal will maintain the agricultural viability and productivity of the land.
 - The proposal will provide for farm buildings and stockyards for agricultural use of the land.
- Clause 7.1 - The site is mapped as containing class 4 and 5 acid sulfate soils on the acid sulfate soils map. The proposal does not include any excavation extending below the natural surface level therefore no adverse impacts are expected to occur to any acid sulfate soils that may exist on the site.
- Clause 7.2 - Before granting consent for earthworks the following matters must be considered:

- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,
- (b) the effect of the proposed development on the likely future use or redevelopment of the land,
- (c) the quality of the fill or the soil to be excavated, or both,
- (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.

Comments: The works will not lead to any adverse impact upon existing drainage patterns, soil stability of the site or adjoining/adjacent sites, any nearby water course or known environmental sensitive area within the immediate locality. The works will be unlikely to adversely affect potential additional future land uses on the site. The soil quality and structure will not present a constraint to the construction of the farm shed on the site. The applicant indicates that fill to be imported to the site will be clean virgin fill. A suitable consent condition has been recommended to ensure compliance with this commitment. The likely change in levels associated with the proposed development will not have an adverse effect on the amenity of adjoining/adjacent properties to the site. Specifically, the proposal will result in the levelling out and reduction in height of the current stockpile evident on the site. The site does not contain any known items of aboriginal or other cultural significance. Appropriate conditions of consent are proposed to manage the impact of the filling and spreading works.

- Clause 7.3 - The site is land within a mapped “flood planning area” (land subject to flood discharge of 1:100 annual recurrence interval flood event, plus the applicable climate change allowance and relevant freeboard).

The application was supported by a flood impact and risk assessment report. The report was prepared by Advisian and is dated 19 August 2019, revision B which is provided as an attachment to this report.

The following comments are provided which incorporate consideration of the objectives of Clause 7.3, Council’s Flood Policy 2018, the NSW Government’s *Flood Prone Lands Policy* and the NSW Government’s *Floodplain Development Manual* (2005):

- The proposal and flood report are considered to meet the provisions of the flood policy 2018.
- The flood report demonstrates that the fill will not have any adverse impacts to the floodplain, does not have any measurable impact on flood levels, and only creates a minor velocity increase of 0.02m /s, which is less than the 0.1m/s permitted under the flood policy.
- The fill will provide a level which can be used for stock and cattle (noting there is no specific level for stock refuge mounds), and the shed will be

- above the 1:20 year flood level, which for this site is 5.84m AHD. The shed FFL is approx. 1.3m above this level;
- The application has demonstrated compatibility with the flood hazard of the land taking into account projected changes as a result of climate change;
 - The application has demonstrated that the proposal will not result in a significant adverse effect on flood behaviour that would result in detrimental increases in the potential flood affectation of other development or properties;
 - The proposal incorporates measures to minimise & manage the flood risk to life and property associated with the use of land;
 - The proposal is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses; and
 - The proposal is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.
- Clause 7.13 - Having regard to the nature of the proposed development the provision of water, electricity and sewer are not considered essential services. Stormwater drainage is capable of being managed onsite and suitable road access available to service the development.

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

No draft instruments apply.

(iii) Any Development Control Plan in force

Port Macquarie-Hastings Development Control Plan 2013

The relevant general provisions of the plan considered in the following table:

DCP 2013: General Provisions			
DCP Objective	Development Provisions	Proposed	Complies
1.3.2	Community participation	The application is notifiable local development and was notified consistent with provisions of this plan.	Yes
2.3.3.3	a) Significant land reforming proposals where >10% gross site area or >1.0ha is to have surface levels changed by more than 5m or where earthworks exceed an average of 10,000m ³ per ha shall: <ul style="list-style-type: none"> • identify the impact of the proposed land reforming on the environment, landscape, visual character and amenity, natural watercourses, riparian vegetation, 	The proposal is considered a significant land forming proposal. The proposed filling and spreading of existing fill material to a height of 7.12m and commitment for grass establishment within 12 months will actually improve the visual amenity and landscape across the	Yes

	<p>topographical features of the environment and public infrastructure;</p> <ul style="list-style-type: none"> • demonstrate compliance with the provisions of Council's Aus-Spec design specification; • assess the impacts and benefits of the proposal to all impacted persons and the general public; • provide measures to compensate for and minimise any net adverse impacts. <p>(b) The use of high earthworks batters should be avoided.</p> <p>(c) Preliminary plans indicating the final landform are required to be submitted with any master plan or subdivision application.</p> <p>(d) The subdivision should be designed to fit the topography rather than altering the topography to fit the subdivision.</p>	<p>site form that to which currently exists.</p> <p>No subdivision associated civil work is proposed.</p> <p>The application has identified the potential flood impacts from the filling of the site and demonstrated that no adverse impact will result consistent with Council's flood policy.</p> <p>The batters proposed are not considered significant in height.</p> <p>The plans provided illustrate final landform levels.</p> <p>No subdivision proposed.</p>	<p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
2.4.3.5	Development must comply with Council's Floodplain Management Plan and Flood Policies.	The proposal was supported by a flood impact assessment and has demonstrated compliance with Council's flood policy.	Yes
2.5.3.2	<p>a) New direct accesses from a development to arterial and distributor roads is not permitted. Routes should differ in alignment and design standard according to the volume and type of traffic they are intended to carry, the desirable traffic speed, and other factors.</p> <p>b) Existing direct accesses from a development to arterial and distributor roads are rationalised or removed where practical.</p>	<p>The proposal is to use approved vehicular access (under DA2008/426) onto the Oxley Highway. Details shall be provided as part of a Roads Act (Section 138) application to Council.</p> <p>No additional access points to the Oxley Highway are proposed or required.</p>	<p>Yes</p> <p>Yes</p>

	c) Vehicle driveway crossings are minimal in number and width (while being adequate for the nature of the development), and positioned: <ul style="list-style-type: none"> • to avoid driveways near intersections and road bends, and • to minimise streetscapes dominated by driveways and garage doors, and • to maximise on-street parking. 	Single access point proposed.	Yes
2.6.3.2	Tree removal (3m or higher with 100mm diameter trunk and 3m outside dwelling footprint	No tree removal is proposed.	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

No matters prescribed by the regulations apply.

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

Context and setting

The site is located on the southern side of the Oxley Highway road entry to the township of Wauchope. Adjoining the site to the east is agricultural farmland. Adjoining the site to the south is agricultural farmland. Adjoining the site to the west is the railway and cluster of residential dwellings in the north-western corner.

Subject to the imposition of the recommended site management conditions the proposal will not have any significant adverse impacts to existing adjoining properties.

The proposal is considered to satisfactorily address the public domain. Specifically, the levelling out of the current fill stockpile and commitment for grass establishment within 12 months will improve the visual amenity across the site from the public domain (i.e. the Oxley Highway).

The proposal will still allow for agricultural use of the land consistent with other rural development in the locality. The proposal adequately addresses planning controls for the area.

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

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

Roads

The site has road frontage to the Oxley Highway. Oxley Highway is a sealed public road under the care and control of Roads and Maritime Services. Oxley Highway is a state highway with a 7m Road Formation within a 20m road reserve.

Traffic and Transport

The addition in traffic associated with the development is unlikely to have any adverse impacts to the existing road network within the immediate locality.

The development proposes substantial fill material to be imported to the site. To protect existing road facilities, the existing road conditions shall be evaluated and bond securities held prior to any earthworks commencing. Details shall be provided as part of a Roads Act (Section 138) application. Suitable consent conditions have been recommended.

Site Frontage and Access

Vehicle access to the site is proposed through the approved driveway entrance provided under DA2008/426. This is also noted in Roads and Maritime Services comments. Oxley Highway is a Roads and Maritime Services (RMS) state highway and will require concurrence and a Works Authorisation Deed (WAD) from the RMS prior to works on this road. Details shall be provided as part of a Roads Act (Section 138) application to Council. Suitable consent conditions are recommended.

Water Supply Connection

Council records indicate that Lot 17 DP 855941 currently has a 20mm metered water service. No fixture or fittings are proposed in the farm building and no change to the existing water supply service arrangements are proposed or required.

Council has water supply easements and water mains running across the site. There is a 300mm cast iron water main running diagonally across the site and part of the fill is proposed over this water main and easement. A 525mm asbestos cement water main and a 750mm steel water main run across the rear of the site. These are not impacted by the proposal.

Buildings and structures are not permitted over water main easements or within 2.5 metres of the water main centreline. The farm building is proposed well clear of the water supply easements. The stockyards are proposed over the water supply easement that diagonally traverses the site. A consent condition has been recommended requiring the stockyards to be relocated south clear of this easement.

There is to be no vehicular or plant and machinery activity over the 525mm AC or the 750mm steel water mains across the rear of the lot. A consent condition is recommended advising of this requirement.

Filling and spreading work over the 300mm water main running diagonally across the site (within the easement) shall only be carried out under the supervision of Port Macquarie-Hastings Council. The costs of this supervision will be borne by the proponent. An appropriate consent condition is recommended.

Sewer Connection

The site is not currently connected to Council's sewer network and no facilities are proposed in the farm building.

Stormwater

The site naturally grades towards the south and is currently serviced via an existing open drainage system.

The legal point of discharge for the proposed development is defined as overland flow. It is not considered that the proposed fill will have any adverse effect on the existing stormwater.

The proposed access should provide appropriate drainage to ensure safe access and appropriate conditions have been recommended.

Other Utilities

Telecommunication and electricity services are capable of being provided to the site.

Heritage

No known items of Aboriginal or European heritage significance exist on the property. No excavation is proposed beyond natural ground level. No adverse impacts anticipated.

Other land resources

The site is within an established rural context and the proposal 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

Subject to appropriate erosion and sediment controls being in place prior to and during filling works the proposed development will be unlikely to have any adverse impacts on soils in terms of quality, erosion, stability and/or productivity. Standard precautionary site management condition is recommended. The condition requires appropriate erosion and sediment controls to be in place until the site is stabilised with vegetation.

Air and microclimate

Standard precautionary site management condition is recommended which requires appropriate dust control measures. Subject to the implementation of such measures the fill and spreading work is unlikely to result in any adverse impacts on the existing air quality or result in any pollution.

Flora and fauna

The site comprises non-native grassland and contains no significant vegetation. The proposed development does not include any removal/clearing of any significant native vegetation and therefore does not trigger the biodiversity offsets scheme. Part 7 of the Biodiversity Conservation Act 2016 is considered to be satisfied.

Under the NSW Biosecurity Act 2015 all landowners have a duty to prevent, eliminate or minimise any biosecurity risk, which includes weed management. There is a risk with the proposed development that weeds could be imported to or exported from the site from heavy vehicular movements.

A consent condition has been recommended reminding the landowner of weed management responsibilities under this legislation and specifically advising that adequate decontamination of vehicles and equipment need to be undertaken for any vehicles entering and leaving the site as part of the development.

Waste

No waste will be generated from the proposed development. No adverse impacts are anticipated.

Energy

No adverse impacts anticipated.

Noise and vibration

The landfill and spreading work will involve heavy machinery and given the proximity of the site and vehicular access to adjoining residential receivers it is considered important that any fill or spreading work be limited to what would otherwise be normal construction work hours. Those being 7am to 6pm Monday to Saturday with no work on Sundays or Public Holidays. An appropriate consent condition has been recommended. Subject to work being confined to these hours the proposal will not result in any significant adverse noise impacts.

The proposed farm shed and holding yards are located over 150m from the existing residential receivers. This setback is considered more than adequate in minimising any potential land use conflict with any agricultural use of these structures.

Bushfire

The site is identified as being bushfire prone. However, no form of residential development is proposed. An assessment of bushfire risk having regard to Planning for Bushfire Protection guidelines concludes that no bushfire measures are required for the proposed structures.

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 not considered to have any significant adverse social impacts.

Economic impact in the locality

The proposal is not considered to have any significant adverse economic impacts on the locality.

Site design and internal design

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

Construction

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

Cumulative impacts

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

(c) The suitability of the site for the development

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

Site constraints of 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 was received following public exhibition of the application. Copies of the written submission have been provided separately to members of the DAP.

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

Submission Issue/Summary	Planning Comment/Response
Application is incorrect and does not detail the owners "full intentions". The application is a false statement of the owners ultimate intention and use of the land.	Noted. Council can only assess the application at hand and the proposed use. Irrespective of land use, clean fill alone is permissible with consent under State Environmental Planning Policy (Infrastructure) 2007.
The fill currently onsite is significant. It equates to approximately 50,000m ³ and extends to the western boundary with the railway line.	Noted. Refer to development and application history heading of this report regarding extent of already approved fill.
The fill height to 7.12m is overkill and no 100 year flood will ever reach that height.	Refer to flood assessment comments provided under clause 7.3 of Port Macquarie-Hastings 2011 of this report.
The proposal will impact the farming ability of the adjoining property to the south being 2A Guy Street (Lot 6 DP 808025). In flood the water will be diverted and spread onto neighbouring properties.	Refer to flood assessment comments provided under clause 7.3 of Port Macquarie-Hastings 2011 of this report.
The area proposed for the shed, cattle yards and stock refuge only takes up a very small percentage of the proposal fill area. If the proposal is genuinely for agricultural purposes then why fill good pasture land and to this extent? A lot smaller area would be just as effective.	Noted. Irrespective of land use clean fill alone is permissible with consent under State Environmental Planning Policy (Infrastructure) 2007.
The mitigation drain running through the rear of the site is not being maintained. This prevents flows to King Creek and effective stormwater dispersion from Wauchope township. It should be cleaned out whether this be Council or the land	This matter is not considered relevant to the application. However, the maintenance of this drain is the land owners responsibility.

Submission Issue/Summary	Planning Comment/Response
owners responsibility.	
There is no genuine agricultural need for more fill. The 12 steers on the property would only have 4 hectares left to graze of the 8-hectare property.	Noted. Irrespective of land use clean fill alone is permissible with consent under State Environmental Planning Policy (Infrastructure) 2007.
Is the fill that has already been placed on site clean and free from contamination? Where is the bio security documentation confirming trucks and machinery entering the site where contaminate and weed free?	A consent condition has been recommended requiring a validation certificate be provided from an appropriately qualified person for the existing fill. The certificate amongst other things will need to demonstrate the fill is free of contamination. A condition has also been recommended reminding the landowner of biosecurity obligations and weed management.
Wind-blown dust has already been a problem on the site especially in dry times.	Noted. A site management consent condition is recommended which includes the requirement for appropriate dust control measures.

(e) The Public Interest

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

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

A fixed development consent levy will apply under s7.12 of the Act. Consistent with Council's S94A (now s7.12) plan the development is not for residential purposes and the cost of the development exceeds \$100,000 in value. A consent condition has been recommended requiring payment of the levy prior to issue of the construction certificate for the farm shed. An estimate of the amount payable is provided as **Attachment 3** to this report.

Development contributions will not be required under S64 for the following reasons:

- The development will not propose or require augmentation of the water or sewer network.
-

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 [!\[\]\(5ee6b016b6ef4e9937ca775bada91b2c_img.jpg\) DA2020 - 655.1 Recommend Conditions](#)
- 2 [!\[\]\(a6aedfc9fed84941a36d999d14f98d26_img.jpg\) DA2019 - 655.1 Plans](#)
- 3 [!\[\]\(3a3a02a2e5a561900cb618283376807b_img.jpg\) DA2019 - 655.1 Contributions Quote](#)
- 4 [!\[\]\(59aa7e3979100918669ed7ec05a3ce8f_img.jpg\) DA2019 - 655.1 NRAR General Terms of Approval](#)
- 5 [!\[\]\(0f749c5268d45b8fdf3300ba7551e0b2_img.jpg\) DA2019 - 655.1 RMS response letter](#)
- 6 [!\[\]\(8684e718686eb08a551d11db8f0d267c_img.jpg\) DA2019 - 655.1 SOEE](#)
- 7 [!\[\]\(feaffc52c8d6afbc4b580fcdf04ac32f_img.jpg\) DA2019 - 655.1 Flood Assessment](#)

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2019/655****DATE: 4/05/2020****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
Existing extent of fill Plan	Job No: 5183 Drawing No: 1000 Revision A	Land Dynamics Australia	28 May 2019
Site Layout and Fill Plan	Job No: 5183 Drawing No: 1001 Revision B	Land Dynamics Australia	31 March 2020
Typical Cross Section Plan	Job No: 5183 Drawing No: 1002 Revision A	Land Dynamics Australia	31 March 2020
Statement of Environmental Effects	Proposed Farm Buildings and Associated Fill Job No: 5183	Land Dynamics Australia	4 September 2019
Flood Impact and Risk Assessment	Rp301015-04111rg190819_F IA_Lot 16 and 17 Oxley Hwy, Wauchope Revision B	Advisian	19 August 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 building 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) (A008) Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to council and in accordance with the requirements of the relevant authority including the supervision of any work over existing public infrastructure (i.e. water supply main within easement).
- (4) (A009) The development site is to be managed for the entirety of work in the following manner:
1. Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 2. Appropriate dust control measures;
 3. Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained. Where work adjoins the public domain, fencing is to be in place so as to prevent public access to the site;
 4. Building waste is to be managed via appropriate receptacles into separate waste streams;
 5. Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
 6. Building work being limited to the following hours, unless otherwise permitted by Council;
 - Monday to Saturday from 7.00am to 6.00pm
 - No work to be carried out on Sunday or public holidaysThe builder to be responsible to instruct and control his sub-contractors regarding the hours of work.
- (5) (A011) The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.
- (6) (A013) The general terms of approval from the following authorities, as referred to in section 4.50 of the Environmental Planning and Assessment Act 1979, and referenced below, are attached and form part of the consent conditions for this approval.
- **NSW Natural Resources Access Regulator** - The General Terms of Approval, Reference IDAS1122120 GTA113104 and dated 2 March 2020, are attached and form part of this consent.
- (7) (A031) Approval pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be obtained from Port Macquarie-Hastings Council.

Such works include, but not be limited to:

- Civil works
- Traffic management
- Work zone areas
- Hoardings
- Functional vehicular access. Access is to be designed and constructed in accordance with the RMS "Typical Rural Property Access" standard to accommodate the largest design vehicle requiring access to the site. It

should be sealed, meet the highway at grade and provide for drainage. The gate should be set back sufficiently to accommodate the largest vehicle.

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

- (8) The application for the Section 138 Roads Act approval is to be accompanied by an execution of a Works Authorisation Deed (WAD) with The Roads and Maritime Services (RMS) or evidence of agreement from the RMS that no WAD is required.
- (9) (A032) The developer is responsible for any costs relating to minor alterations and extensions to ensure satisfactory transitions of existing roads and drainage and Council services for the purposes of the development.
- (10) (A033) The applicant shall provide security to the Council for the payment of the cost of the following:
 - a. making good any damage caused to any property of the Council as a consequence of doing anything to which the consent relates,
 - b. completing any public work (such as road work, kerbing and guttering, footway construction, utility services, stormwater drainage and environmental controls) required in connection with the consent,
 - c. remedying any defects in any such public work that arise within twelve (12) months after the work is completed.

Such security is to be provided to Council prior to the issue of the Section 138 approval under the Roads Act, 1993.

The security is to be for such a reasonable amount as is determined by the consent authority, by way of:

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

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

- (11) Only virgin excavated natural material (within the meaning of the Protection of the Environment Operations Act 1997) shall be received at the development site.

B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE OR UNDERTAKING ANY SPREADING OR FILLING WORK

- (1) (B003) Submission to the Principal Certifying Authority prior to the issue of a Construction Certificate or undertaking spreading or filling work (whichever occurs first) detailed design plans for the following works associated with the developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DQS:
 - 1. Road works along the frontage of the development.
 - 2. Earthworks, including filling of the land for flood protection.

3. Traffic management control plan.

- (2) (B010) Payment to Council, prior to the issue of the Construction Certificate or undertaking spreading or filling work (whichever occurs first), of the Section 7.12 contributions set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied, pursuant to the Environmental Planning and Assessment Act 1979 as amended, and in accordance with the provisions of the following plans:

- Port Macquarie-Hastings Council Section 94A Levy Contributions Plan 2007

The plans may be viewed during office hours at the Council Chambers located on the corner of Burrawan and Lord Streets, Port Macquarie, 9 Laurie Street, Laurieton, and High Street, Wauchope.

The attached "Notice of Payment" is valid for the period specified on the Notice only. The contribution amounts shown on the Notice are subject to adjustment in accordance with CPI increases adjusted quarterly and the provisions of the relevant plans. Payments can only be made using a current "Notice of Payment" form. Where a new Notice of Payment form is required, an application in writing together with the current Notice of Payment application fee is to be submitted to Council.

- (3) (B034) Prior to issue of a Construction Certificate or undertaking spreading or filling work (whichever occurs first) the submission of details to Council of the source of fill and proposed routes to and from the site, including, but not limited to:
- The pavement condition of the route/s proposed (excluding collector, sub-arterial and arterial roads) for the haulage of fill material to the site. The condition report shall include photographs of the existing pavement and pavement deflection test results taken in the travel lanes;
 - Recommended load limits for haulage vehicles and;
 - A procedure for monitoring the condition of the pavement during the haulage;
 - Bond to guarantee public infrastructure is not damaged as a result of construction activity,

and;

Council shall determine the need for and extent of any rectification work on the haulage route/s considered attributable by the haulage of materials to the site.

- (4) (B073) Prior to issue of a Construction Certificate or undertaking spreading or filling work (whichever occurs first) A dilapidation report on the visible and structural condition of the road network along the identified haulage route shall be provided to Port Macquarie-Hastings Council. The dilapidation report is to be prepared by a practising Structural/Civil Engineer agreed to by both the applicant and Council.
- (5) Prior to issue of a Construction Certificate the stockyards shall be relocated further south clear of the water supply easement. The construction certificate plans shall incorporate a revised site plan demonstrating such to the satisfaction of the certifying authority.

- (6) Prior to issue of a Construction Certificate or undertaking spreading or filling work (whichever occurs first) the new access shall be completed and provision to the Principal Certifying Authority or Council of documentation from the Roads and Maritime Services (RMS) being the roads authority certifying that all matters required by approval issued by Section 61 and/or Section 138 of the Roads Act have been satisfactorily completed. A copy of this shall be provided to Council prior to the release of any engineering security bond.
- (7) Prior to issue of a Construction Certificate, or undertaking spreading or filling work, or within 3 months of the date of this consent, whichever occurs first, a Validation Certificate (with a copy of any report forming the basis for the validation) shall be provided for the existing fill material to Port Macquarie-Hastings Council. The Validation Certificate shall:
- state the legal property description of the existing fill material source site;
 - be prepared by an appropriately qualified person;
 - demonstrate the existing fill material is free from contaminants and weeds;
 - provide details of the volume of the existing fill material imported;
 - demonstrate the existing fill material is suitable for its intended purpose and land use, and that it will not pose an unacceptable risk to human health or the environment.
- An appropriately qualified person is considered to be "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance.
- (8) Prior to accepting any new fill onto the site a Validation Certificate (with a copy of any report forming the basis for the validation) shall be submitted to Port Macquarie-Hastings Council. The Validation Certificate shall:
- state the legal property description of the new fill material source site;
 - be prepared by an appropriately qualified person;
 - demonstrate the new fill material is free from contaminants and weeds;
 - provide details of the volume of the new fill material to be imported;
 - demonstrate the new fill material is suitable for its intended purpose and land use, and that it will not pose an unacceptable risk to human health or the environment.
- An appropriately qualified person is considered to be "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance.
- (9) Prior to undertaking spreading or filling work in the water supply easement adequate arrangements shall be made with the water supply authority for direct supervision of such work.

C – DURING WORK

- (1) (D001) Development works on public property or works to be accepted by Council as an infrastructure asset are not to proceed past the following hold points without inspection and approval by Council. Notice of required

inspection must be given 24 hours prior to inspection, by contacting Council's Customer Service Centre on (02) 6581 8111. You must quote your Construction Certificate number and property description to ensure your inspection is confirmed:

- a. at completion of installation of erosion control measures
- b. at completion of installation of traffic management works
- c. before commencement of any filling works;
- d. when the sub-grade is exposed and prior to placing of pavement materials;
- e. at the completion of each pavement (sub base/base) layer;
- f. on completion of road gravelling or pavement;
- g. prior to sealing and laying of pavement surface course.

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

- (2) (D006) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- (3) An appropriately qualified person shall:
 - Supervise new filling and spreading work,
 - Certify by way of a Compliance Certificate or other written documentation that filling and/or spreading work has been undertaken on the site in accordance with all conditions of this consent and approved plans. A copy of the Compliance Certificate or other documentation shall be submitted to Council within 14 days of undertaking the filling and/or spreading work.
 - The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

An appropriately qualified person is considered to be "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance.

- (4) The access and fill working areas shall be maintained in a condition that prevents wind blown or traffic generated dust.
- (5) 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.
- (6) The proponent is reminded that under the NSW Biosecurity Act 2015 all landowners have a duty to prevent, eliminate or minimise any biosecurity risk surrounding weeds on their land. Specifically this includes ensuring weeds are not imported or exported to or from the site. Adequate decontamination of vehicles and equipment shall be undertaken for any vehicles entering and leaving the site as part of this development.

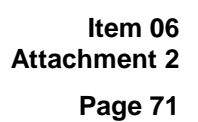
D – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

- (1) (E001) The farm buildings shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E004) Consolidation of the allotments comprising the site of the proposed development prior to issue of the Occupation Certificate.

E - UPON COMPLETION OF FILLING WORK

- (1) Upon completion of filling work Port Macquarie-Hastings Council shall be formally notified within seven (7) days. The notice shall specify the date the last heavy vehicle entered the site.
- (2) A final dilapidation report including a photographic survey must be submitted to Port Macquarie-Hastings Council. The report shall be submitted to Council within one (1) month of Council being formally notified of filling work being completed.

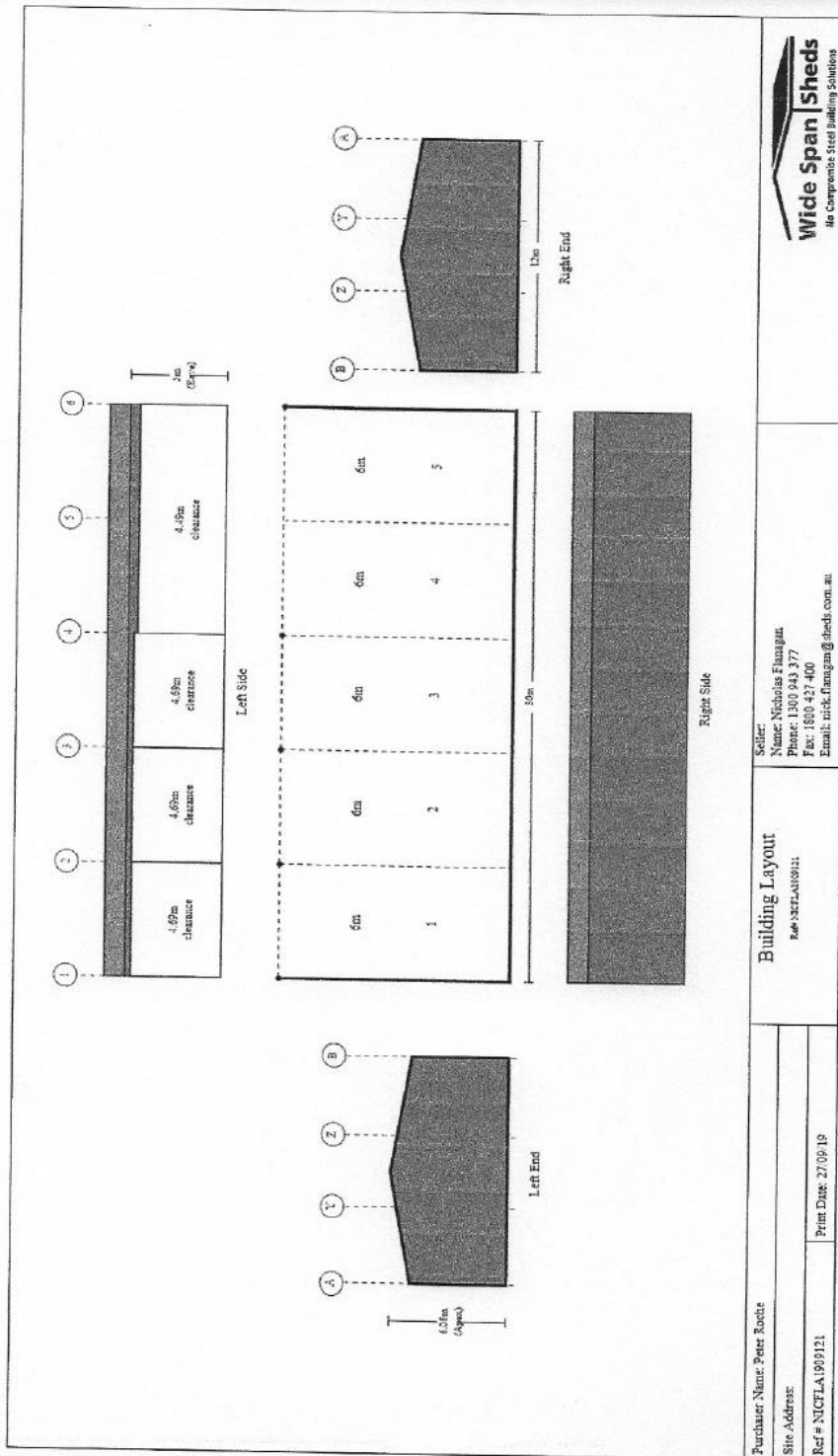
Any damage identified in the dilapidation report must be fully rectified at no cost to the Council within six (6) months of Council receiving the dilapidation report.
- (3) Upon completion of filling work and prior to the release of any bond securities held by Council associated with the development, a formal written application is to be submitted to Council specifying detail of works and bond amount.
- (4) Upon completion of the filling and spreading works a survey certificate from a registered surveyor must be obtained and submitted to Council verifying the finished surface levels are in accordance with the approved plans. The survey certificate shall be received by Port Macquarie-Hastings Council within fourteen (14) days of the filling work being completed.
- (5) Immediately following completion of spreading and filling work the site is to be re-established with ground cover and fully re-established with grass within 12 months of completion.







Building Layout

Peace of mind
GuaranteesSHED
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WARRANTY
GUARANTEESTEEL
STRUCTURES
LIMITEDWIDE SPAN
SHEDS

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Details of your Wide Span Sheds Building

Weight	Approximately: 8,600 kg
Span	12 metres
Length	30 metres (5 Bays of 6 metres each)
Height	5 metres
Roof Type	Gable, 10 degree pitch
Roof	ZINCALUME® steel TRIMCLAD® steel 0.42 BMT (0.47TCT) sheeting, BlueScope
Walls & Trims	COLORBOND® steel TRIMCLAD® steel 0.42 BMT (0.47TCT) sheeting, BlueScope
Open Bays	Three (3) 6m open bays and Two (2) 12m open bays with the column removed - along the sides of the steel building. Refer to Layout (attached) for location & height clearances.
Bracing	The building will have Knee and Apex braces. Minimum internal knee clearances are: Main Building 3.228m.
Roof Purlins & Wall Girts	Z sections bolted to rafters & columns with a minimum overlap of 10% of the bay width. The roof purlins are Z 150, the side girts are Z 150 and the end girts are Z 100.
Fixing to Concrete	Screw-Bolts fitted after concrete is cured.

Specific Inclusions

- Determination of the design criteria by the engineer. This includes assessment in 8 cardinal directions to determine the site design wind speed based on the building orientation.
- A comprehensive step by step Construction Kit. This kit is specific to your building and gives step by step, simple to follow instructions on how to build your building.
- Engineering certification of the steel building to the appropriate Australian Standards.
- Slab or Pier designs for soil classes A, S, M, H1 and H2.
- Materials as nominated above supplied as per the attached "General Specification".
- BlueScope - product warranties of up to 15 years apply.

Specific Exclusions

- Drawings other than detailed above.
- Consent authority including any building, development or construction certificate application(s).
- Construction of the steel building and any foundations (building is supplied as a kit).
- Insurance of the steel building once delivered to site or collected from depot.

*Peace of mind
Guarantees*

**SHED
SAFE**

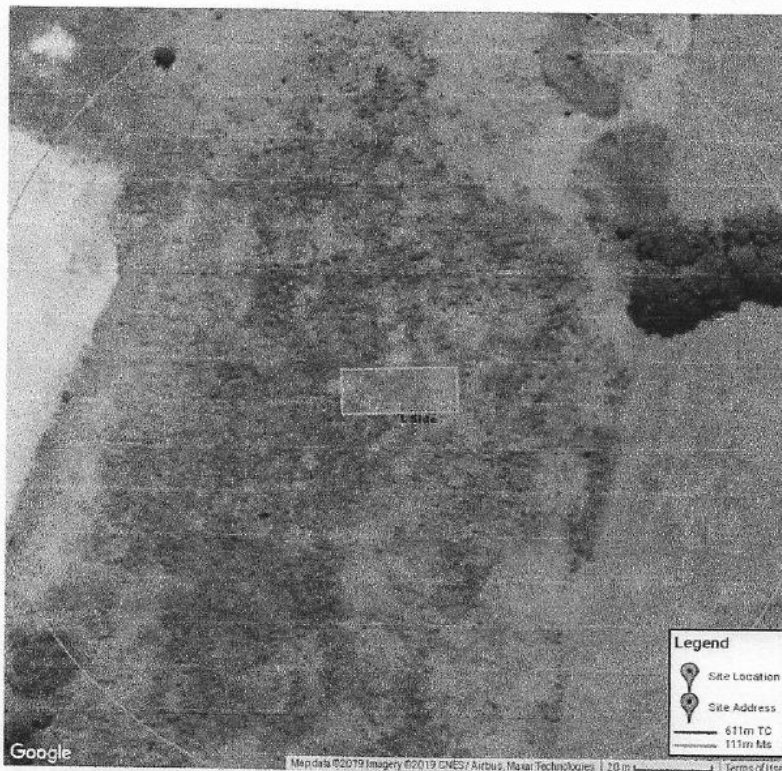


...we've got you covered!

www.sheds.com.au

Site Location

Site Address	1993 Oxley Highway Wauchope NSW 2446 Australia
Building Orientation	Left Side of building orientated to 178° (southerly direction)
Building Class	10
Importance Level	2 with a Vr of 45 m/s
Design Wind Criteria	Region A2; TC = 2.37; Mt = 1; Ms = 1.0; giving a Vdes of 40 m/s.
Other Design Factors	No Snow Loading allowed. No Earthquake Loading allowed.

**Building Information**

Your building is designed based on the Left Side of the building (as shown on Layout) having an orientation of 178° (southerly direction).

The design criteria nominated has been assessed by your trained sales consultant. This assessment is subject to the certifying engineers confirmation. Changes by the engineer may result in a change to the materials and price.

Your site has been assessed as being Terrain Category 2.37 (TC 2.37).

From the site location and the usage information we have at hand, it is unlikely that the building is subject to a Marine or Industrial Influence. This should be confirmed, by the purchaser, by referencing the BlueScope Technical Bulletins (In particular TB 1A) and where necessary contacting BlueScope on 1800 800 789.

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Guarantees*

**SHED
SAFE**



...we've got you covered!

www.sheds.com.au

Developer Charges - Estimate

Applicants Name: Land Dynamics Australia
 Property Address: Oxley Highway, Wauchope
 Lot & Dp: Lot(s):16 and 17,DP(s):855941
 Development: Land Filling and Farm Buildings



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

Levy Area	Units	Cost	Estimate
1 N/A			
2 N/A			
3 N/A			
4 N/A			
5 N/A			
6 N/A			
7 N/A			
8 N/A			
9 N/A			
10 N/A			
11 N/A			
12 N/A			
13 N/A			
14 S94A Levy - Applicable to Consents approved after 2/12/07	0.50%	\$ 151,941	\$759.00
15			
16			
17			
18			
Total Amount of Estimate (Not for Payment Purposes)			\$759.00

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

DATE OF ESTIMATE:

4-May-2020

Estimate Prepared By Ben Roberts

This is an ESTIMATE ONLY - NOT for Payment Purposes

Dynamics Australia, Oxley Highway, Wauchope, 4-May-2020.xls

PORT MACQUARIE-HASTINGS COUNCIL

Natural Resources
Access Regulator

Contact: Natural Resources Access Regulator
Phone: 1800 633 362
Email: nrar.enquiries@nrar.nsw.gov.au

Our ref: IDAS1122120
GTA113104
Your ref: DA2019/655
CNR: CNR-3678

2/3/2020

Port Macquarie-Hastings Council
Sent via email

Attention: Development Assessment

Dear Sir/Madam

Re: Integrated Development Referral – General Terms of Approval
Dev Ref: DA2019/655
Description: Controlled Activity - Works on Waterfront land
Location: 1993 OXLEY HIGHWAY WAUCHOPE 2446

I refer to your recent letter regarding an integrated Development Application (DA) proposed for the above location. Attached, please find Natural Resources Access Regulator's General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 4.46 of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, NRAR requests these GTA be included (in their entirety) in Council's development consent. Please also note NRAR requests notification:

- if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities (i) in the bed of any river, lake or estuary; (ii) on the banks of any river lake or estuary, (iii) on land within 40 metres of the highest bank of a river lake or estuary; or (iv) any excavation which interferes with an aquifer.

NRAR will ascertain from the notification if the amended plans require review of or variation/s to the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.

- if Council receives an application under s4.46 of the EPA Act to modify the development consent and the modifications change the proposed work or activities described in the original DA.

- of any legal challenge to the consent.

As the proposed work or activity cannot commence before the applicant applies for and obtains an approval, NRAR recommends the following condition be included in the development consent:

The attached GTA issued by NRAR do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to NRAR for a Controlled Activity approval **after consent** has been issued by Council **and before** the commencement of any work or activity.

A completed application form must be submitted to NRAR together with any required plans, documents, application fee and proof of Council's development consent. Finalisation of an approval can take up to eight (8) weeks from the date the application and all required supporting documentation is received.

Application forms are available from the NRAR website at:

<https://www.industry.nsw.gov.au/water/licensing-trade/approvals/controlled-activities>

NRAR requests that Council provide a copy of this letter to the development consent holder.

NRAR also requests a copy of the determination for this development application be provided by Council as required under section 4.47(6) the EPA Act.

Yours Sincerely



Alison Collaros
Manager Licensing & Approvals
Water Regulatory Operations
Natural Resources Access Regulator

Reference Number:	GTA113104
Issue date of GTA:	2/3/2020
Type of Approval:	Controlled Activity
Location of work/activity:	1993 OXLEY HIGHWAY WAUCHOPE 2446
DA Number:	DA2019/655
LGA:	Port Macquarie-Hastings Council
<p>The GTA issued by NRAR do not constitute an approval under the <i>Water Management Act 2000</i>. The development consent holder must apply to NRAR for the relevant approval after development consent has been issued by Council and before the commencement of any work or activity.</p>	
Condition Number	Details
Design of works and structures	
GT0009	Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Natural Resources Access Regulator, and obtained, for a controlled activity approval under the Water Management Act 2000.
Erosion and sediment controls	
GT0006	The following plan(s): - Erosion and Sediment Controls Plan must be: A. prepared in accordance with Managing Urban Stormwater: Soils and Construction, Volume 1 (Landcom, 2004), as amended or replaced from time to time, and B. submitted with an application for a controlled activity approval.
GT0014	A. The consent holder must ensure that any proposed materials or cleared vegetation, which may: i. obstruct water flow, or ii. wash into the water body, or iii. cause damage to river banks, are not stored on waterfront land, unless in accordance with a plan held by Natural Resources Access Regulator as part of a controlled activity approval. B. When the carrying out of the controlled activity has been completed, surplus materials must be removed from waterfront land.
GT0021	The proposed erosion and sediment control works must be inspected and maintained throughout the construction period of the controlled activity and must not be removed until the site is fully stabilised.
Plans, standards and guidelines	
GT0002	A. This General Terms of Approval (GTA) only applies to the proposed controlled activity(s) described in the plans and associated documents relating to Development Application as provided by Council to Natural Resources Access Regulator. B. Any amendments or modifications to the proposed controlled activity(s) may render the GTA invalid. If the proposed controlled activity is amended or modified, Natural Resources Access Regulator, Parramatta Office, must be notified in writing to determine if any variations to the GTA will be required.
GT0023	<p>Rehabilitation and maintenance</p> <p><i>Vegetation clearance associated with the proposed controlled activity must be limited to where the controlled activity is to be carried out, as shown on the approved plan(s).</i></p>



File no. NTH19/00256

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

Attention: Ben Roberts

Dear Sir/Madam

**Re: Development Application 2019/655. Farm Shed and Filling Works.
Lot 17 DP: 855941, Oxley Highway Wauchope.**

I refer to your letter of 16 October 2019 regarding the abovementioned development proposal referred to Roads and Maritime Services for consideration.

Roles and responsibilities

The key interests for Roads and Maritime are the safety and efficiency of the road network, traffic management, the integrity of infrastructure assets and the integration of land use and transport.

Oxley Highway (HW11) is a classified (State) road under the *Roads Act 1993* (Roads Act). Port Macquarie Hastings Council is the roads authority for all public roads (other than freeways or Crown roads) in the local government area pursuant to Section 7 of the Roads Act. Roads and Maritime is the roads authority for freeways and can exercise roads authority functions for classified roads in accordance with the Roads Act. Any proposed works on a classified (State) road will require the consent of Roads and Maritime and consent is provided under the terms of a Works Authorisation Deed (WAD).

In accordance with Clause 101 of the *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) the Consent Authority is to have consideration for the safety, efficiency and ongoing operation of the classified road as the development has frontage to a classified road.

Roads and Maritime response

We understand that council is seeking advice to inform their assessment and any conditions of consent relating to access to the Oxley Highway. It is emphasised that the comments provided below are based on the current proposal and the information provided at this time. They are not to be interpreted as binding upon Roads and Maritime and may change following the receipt of a formal Section 138 Roads Act application:

1. The proposed development will need to construct a new access onto the Oxley Highway for Lots 16 and 17. This will require a Section 138 Application to be made to Council and a concurrence from Roads and Maritime. It is recommended that a S138 concurrence should be sought prior to a consent being issued.
2. Access is to be designed and constructed in accordance with the attached Typical Rural Property Access standard to accommodate the largest design vehicle requiring access to the site. It should be sealed, meet the highway at grade and provide for drainage. The gate should be set back sufficiently to accommodate the largest vehicle.
3. It is noted that DA 2008/426 for a Manufactured Home Estate and Caravan Park on Lot 16 has commenced. The proposed development will share access with the approved development and Council should take this into consideration in making their determination. It is recommended access to all developments be consolidated on a single entry/exit point and that any redundant access points be legally and physically closed.

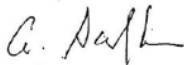
4. Detailed plans of the access should be submitted to Council in accordance with Section 138 of the Roads Act and a copy of the application forwarded to Roads and Maritime for concurrence prior to plans being approved.
5. Construction of the access is to be undertaken in accordance with Roads and Maritimes latest version of *Traffic Control at Worksites Manual* and a Road Occupancy Licence (ROL) from <https://myrta.com/oplinc2> must be obtained from Roads and Maritime prior to the implementation of any traffic control on this road.

All works on the classified (State) road will need to be designed and constructed in accordance with the current Austroads Guidelines, Australian Standards and [Roads and Maritime Supplements](#).

The developer will be required to enter into a Works Authorisation Deed (WAD) with Roads and Maritime for any road work deemed necessary on the classified (State) road. The developer will be responsible for all costs associated with the works and administration for the WAD. It is recommended that developers familiarise themselves with the requirements of the WAD process. Further information can be accessed using the following link:
<http://www.rms.nsw.gov.au/projects/planning-principles/index.html>

Upon determination of the application it would be appreciated if Council could forward a copy of the approval for our records. If you have any further enquiries regarding the above comments please do not hesitate to contact Greg Sciffer, Development Assessment Officer on (02) 6640 1362 or email development.northern@rms.nsw.gov.au.

Yours faithfully



for Matt Adams
Manager Development Assessment

7 November 2019



LandDynamics
AUSTRALIA

STATEMENT OF ENVIRONMENTAL EFFECTS

DEVELOPMENT APPLICATION (DA)

Proposed Farm Buildings and Associated Fill

Lot 17 DP855941
1993 Oxley Highway, Wauchope

On behalf of
Mark & Peter Roche

September 2019

LandDynamics
AUSTRALIADevelopment Application for Farm Buildings & Associated Fill
Lot 17 DP855941, 1993 Oxley Highway, Wauchope

Prepared for:
Mark and Peter Roche

Prepared By:
Land Dynamics Australia

77 Lord Street Port Macquarie NSW 2444 – PO Box 2459 Port Macquarie NSW 2444

T: 02 6583 2677 E: reception@ldynamics.com.au

www.ldynamics.com.au

	Name	Date
Prepared By	Nicole Gillan	04/09/19
Checked By	Donna Clarke	04/09/19

Disclaimer

This report was prepared in accordance with the scope of works set out in correspondence between the client and Land Dynamics Australia. To the best of Land Dynamics Australia's knowledge, the report presented herein accurately reflects the Client's intentions when the report was printed. However, it is recognised that conditions of approval at time of consent, post development application modification of the proposals design, and the influence of unanticipated future events may modify the outcomes described in this report.

Land Dynamics Australia used information and documentation provided by external persons, companies and authority. Whilst checks were completed by Land Dynamics Australia to ensure that this information and/or documentation was accurate, it has been taken on good faith and has not been independently verified. It is therefore advised that all information and conclusions presented in this report apply to the subject land at the time of assessment, and the subject proposal only.

LandDynamics
AUSTRALIA

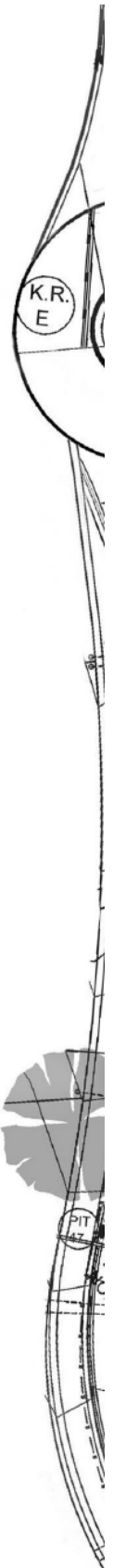


Development Application for Farm Buildings & Associated Fill

Lot 17 DP855941, 1993 Oxley Highway, Wauchope

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Development Application for Farm Buildings & Associated Fill
Lot 17 DP855941, 1993 Oxley Highway, Wauchope

1. EXECUTIVE SUMMARY

This Statement of Environmental Effects is to accompany a development application (DA) lodged with Port Macquarie Hastings Council (Council) for the proposed Rural Shed (Farm Building) and associated Fill.

The development site is identified as Lot 17 DP855941 and currently comprises rural land. The site is approximately 8 hectare (ha) in size and is located on the eastern edge of Wauchope township.

The site is predominately surrounded by rural properties to the north, south and east. An unnamed drainage channel is located midway through the property which drains runoff to Kings Creek from the catchment upstream of the North Coast Railway line to the west. A small unnamed creek is additionally located in the north eastern portion of the Site, which drains runoff from the northern side of the Oxley Highway to the drainage channel and hence into Kings Creek.

This Statement of Environmental Effects has been prepared to accompany the Development Application. The following report contains a description of the subject site and the proposed development. It addresses the relevant provisions of all applicable environmental planning instruments and development controls.

The site is zoned RU1 under the Port Macquarie Hastings Local Environmental Plan 2011. The proposed Farm Building and associated Fill is a permissible land use and aligns with the objectives of the zone in that it assists with the primary production use of the land and is in keeping with the surrounding rural uses.

This report represents a Statement of Environmental Effects (SEE) as required by the NSW Environmental Planning and Assessment Act 1979 (EP&A Act) and NSW Environmental Planning and Assessment Regulation 2000 (EP&A Reg). This SEE describes the site and its context, the nature of the proposal, the relevant planning framework and assesses the proposal against the matters for consideration pursuant to Section 4.15 of the EP&A Act.

This SEE concludes that there is no material planning or statutory impediment to the approval of the proposed use.

This report provides the following:

- A description of the site and surrounding area;
- A description of the proposal; and
- An outline of the relevant statutory and strategic planning policy framework;
- An assessment of the proposal against the relevant provisions of the Port Macquarie Hasting LEP 2011.

This report should be read in conjunction with the Appendices accompanying this application including site plans, Flood Impact & Risk Assessment and Port Macquarie Hastings Council Development Control Plan 2013 Compliance Table.



Development Application for Farm Buildings & Associated Fill
Lot 17 DP855941, 1993 Oxley Highway, Wauchope

2. SITE & CONTEXT

The Site

The subject site is located at 1993 Oxley Highway in Wauchope. The land is identified as Lot 17 DP 855941, and has an area of approximately 8ha. The site location is approximately 500m south east of the Wauchope Town Centre and Wauchope Railway Station and situated on the southern side of the Oxley Highway.

The site is shown in the locality map and aerial photograph below, as shown in Figures 1 to 3 below.

The site is relatively flat, with a slight slope towards the south east boundary with the highest points primarily towards the western boundary. The property is irregular in shape with a 136m frontage to Oxley Highway. The site is currently vacant rural land and predominately cleared of vegetation. With the exception of some scattered trees the site is predominately covered by exotic pasture grass.

The north western boundary of the site has been partially filled which is to be retained and the authorisation of such forms the subject of this application. Figure 3 describes a recent aerial view of the site.

The site has two man made drainage channels as identified below. The aerial photograph clearly shows the channel across the southern portion of the site in particular.

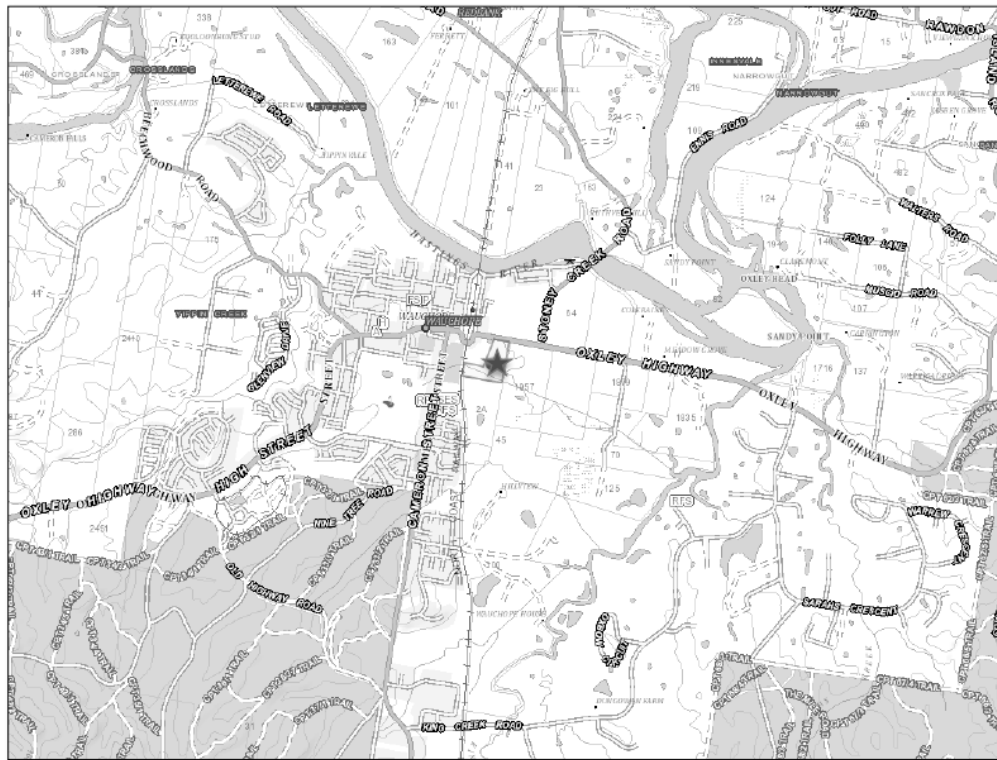


Figure 1 – Locality Map, site identified by red star (source: www.sixmaps.nsw.gov.au)



Development Application for Farm Buildings & Associated Fill
Lot 17 DP855941, 1993 Oxley Highway, Wauchope



Figure 2 – Locality Map Close Up, site identified by red star (source: www.sixmaps.nsw.gov.au)



Figure 3 – Aerial Image of the Subject Site (source: www.nearmap.com dated July 2018)



Development Application for Farm Buildings & Associated Fill
Lot 17 DP855941, 1993 Oxley Highway, Wauchope

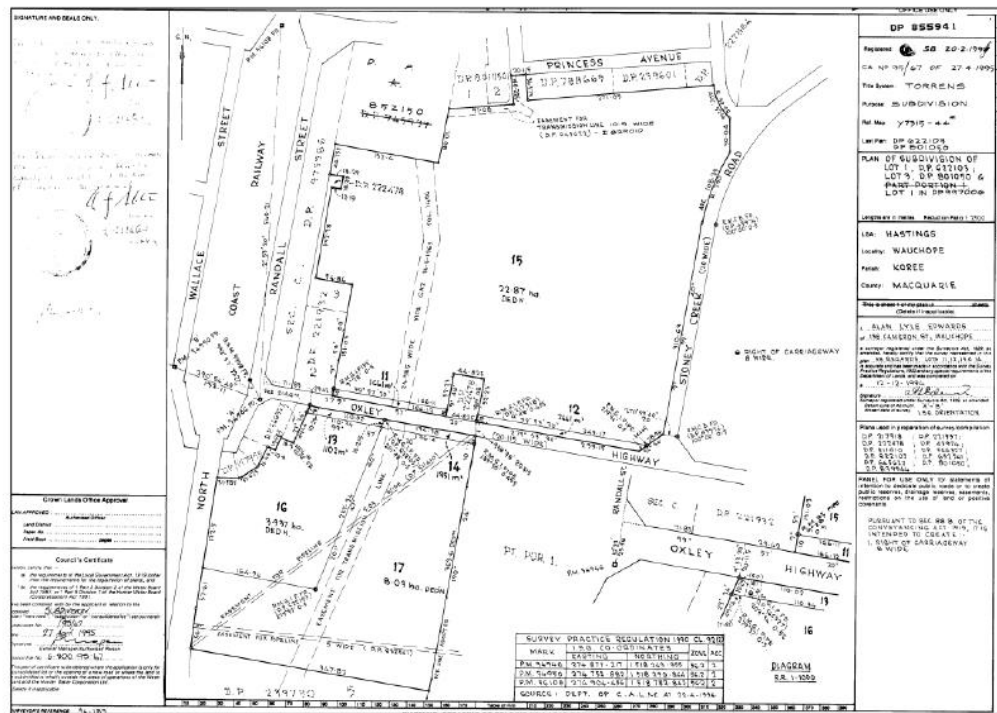


Figure 4 – Extract of Deposited Plan for Lots 16 and 17

As is evidenced by the aerial imagery above (Figure 3), the general locality has been subject of a range of Earthworks activities over the years, including adjoining property immediately west of the site (Lot 16 DP 855941), which is in the same ownership and immediately to the east. Figure 5 illustrates the existing conditions on site.

The proposed works for Lot 17, which is the subject of this Development Application, are consistent with the activities which have occurred over the neighbouring parcel of land.

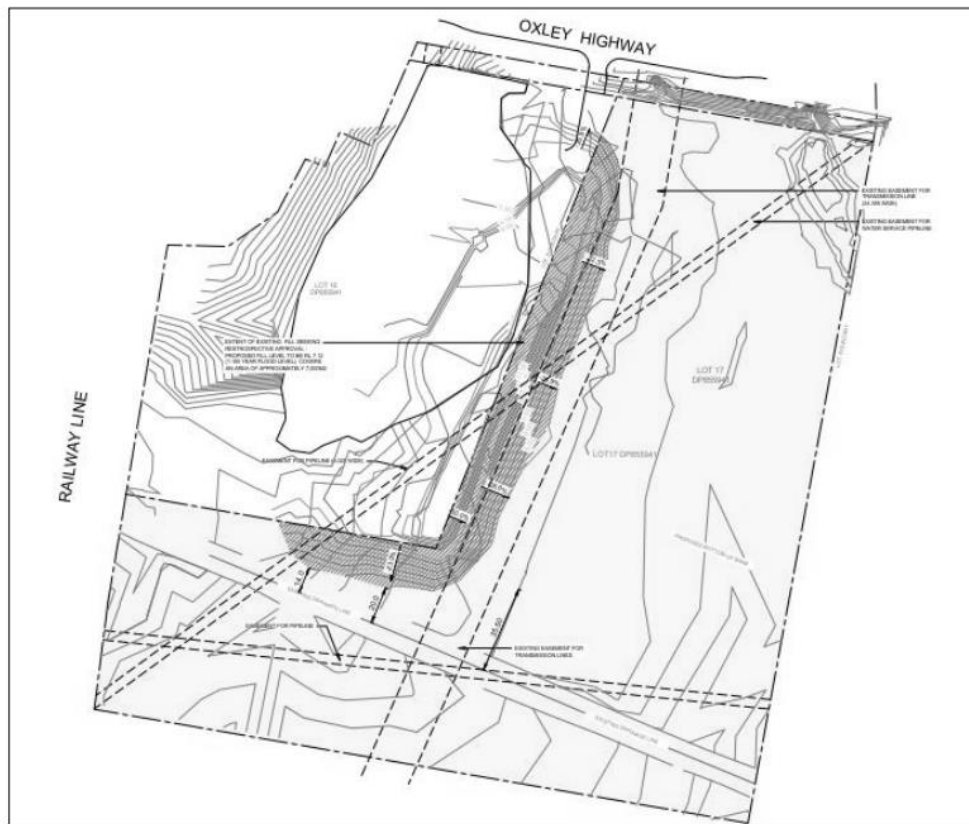


Figure 5 – Existing Site Conditions

Previous Consents

The site and adjoining site have the following consents in place:

- DA 2003/392 for Approved Earthworks to Lot 16.
- DA 2006/669 for a Retail Nursery and Ancillary Landscape Supplies Yard on Lot 17. Extract of the approved plan in Figure 6.
- DA 2008/426 for a Manufactured Home Estate, Caravan Park and Additional Fill at Lot 16 (see **Error! Reference source not found.**). Consent was granted on 4 March 2011.
- DA 2018/808 for Earthworks (Fill) on Lot 17 was lodged and subsequently withdrawn on 22 October 2018.



Development Application for Farm Buildings & Associated Fill
Lot 17 DP855941, 1993 Oxley Highway, Wauchope

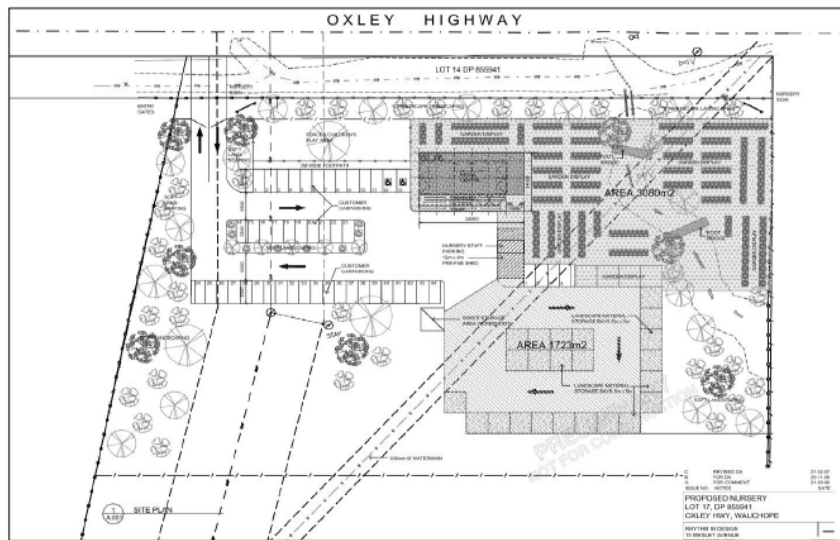


Figure 6 – Approved 2006/669 plan

Following the withdrawal of DA 2018/808, a new application for a farm shed and associated fill has been prepared and is the subject of this report. Land Dynamics has reviewed the application and the issues identified by Council during the previous DA assessment in preparing this application.

It was identified by Council that the following is required for a Development Application on the site:

- If works are proposed within 40m of defined water courses. The proposal would be integrated development under the Water Management Act. Additional referral fees of \$140 will be payable to Council and a cheque for the amount of \$320 made payable to Department of Industry – Water.
- A detailed flood impact assessment prepared in accordance with Councils adopted flood policy specific to the proposal.
- Details as to the source of the fill and the volume proposed.
- Details as to the route and means of cartage to the site.
- Confirm location of vehicular access to the site. A Right of Carriageway (ROC) currently exists over Lot 13 which only benefits Lot 16 in DP 855941 and not Lot 17.
- Statement of Environmental Effects
- Earthworks plans

The discussion resulted in the client wishing to undertake a Pre-lodgement meeting to discuss the ultimate plans for the site, as well as an interim modification to the existing MHE consent.

Compatibility of the Proposal

The proposed Earthworks (Fill) has been shown to have no effect on localised flooding behaviour. There is no vegetation or areas of natural habitat impacted by the proposal. The Earthworks have no appreciable social or economic impact on the community and no detrimental impact to the natural environment.

Pre-lodgement Discussions

On 11 December 2018, a Pre-lodgement meeting was held for the purpose of discussing an extension to Manufactured Housing Estate. This development has not been progressed.



Development Application for Farm Buildings & Associated Fill
Lot 17 DP855941, 1993 Oxley Highway, Wauchope

Whilst a formal Pre-lodgement meeting was not held in particular to this Application, preliminary discussions were held with Council's Town Planner as part of the assessment and the comments have been considered in preparation of this application.

3. THE PROPOSAL

This development application seeks approval for construction of a Farm Building (storage shed) and associated retrospective Earthworks (Fill) activities which have occurred in the north western portion of this land and proposed future Earthworks (Fill). The proposed shed will be providing storage of machinery, equipment, feed stock and similar items. The location of the proposed farm building is shown in Figure 7.

The Fill is an extension onto Lot 17 from Lot 16 (within same ownership). The Fill is to be tested and compacted prior to any future development. Essentially, the proposed works are for retention of the area of the site which has been previously filled. Detailed above illustrates the extent of the existing Fill and is additionally attached. The site's current Earthworks is to be retained at levels of approximately RL7.12m AHD.

Additional Fill is proposed as shown to be raised above the 1 in 100 flood level. Fill will be finished to approximately RL 7.12m AHD. The Fill is to occupy an area of approximately 10,500m² with dispersal towards the eastern and southern boundaries to the open unnamed drain/channel. The development will finish approximately between 14m to 35.5m away from the open channel and will therefore not impede flood waters with the existing channel and prevent the accumulation of flood debris.

Fill details are as follows:

- Acquired from recent development of the new Port Macquarie Bunnings Warehouse site located at 18 John Oxley Dr, Port Macquarie. This site was originally a caravan park which was later cleared and left vacant for a number of years.
- Fill is considered clean imported virgin fill with the cartage route directly along Oxley Highway. venim report supplied. The fill was excavated from an area that was not contaminated with manufactured chemicals, or with process residues, as a result of industrial, commercial, mining or agricultural activities and that does not contain any sulfidic ores or soils or any other waste.

Erosion and sedimentary control measures are proposed, these include sediment fences at the base of the fill embankments. A maximum batter of 1:4 slopes will ensure stability to the fill area to meet the natural ground level. The site regrade will have a minimum 1% grade towards the south and east to ensure adequate drainage and as contingency in the event of flooding and returned to pastoral grazing land.

The proposed Farm Building (Shed) will be constructed of Colorbond steel or Zincalume material (see Figure 8). Dimensions include 12m span, 30m in length, and 5m in height. The farm building consists of four (4) to five (5) open bays. Various sheeting profiles are available for wall cladding and roofing including metroclad, trimclas or corodek. The farm building design by Wide Span Sheds are pre-engineered to meet Australia's National Construction Code and manufactured from robust BlueScope Steel.

The proposed fill pad to build the 12m x 30m shed is proposed to be 50m x 70m (3500m²). This size would also cater as a stock mound for cattle in a flood situation. The proposed shed will be located east of the existing easements for water and transmissions line.



Development Application for Farm Buildings & Associated Fill

Lot 17 DP855941, 1993 Oxley Highway, Wauchope

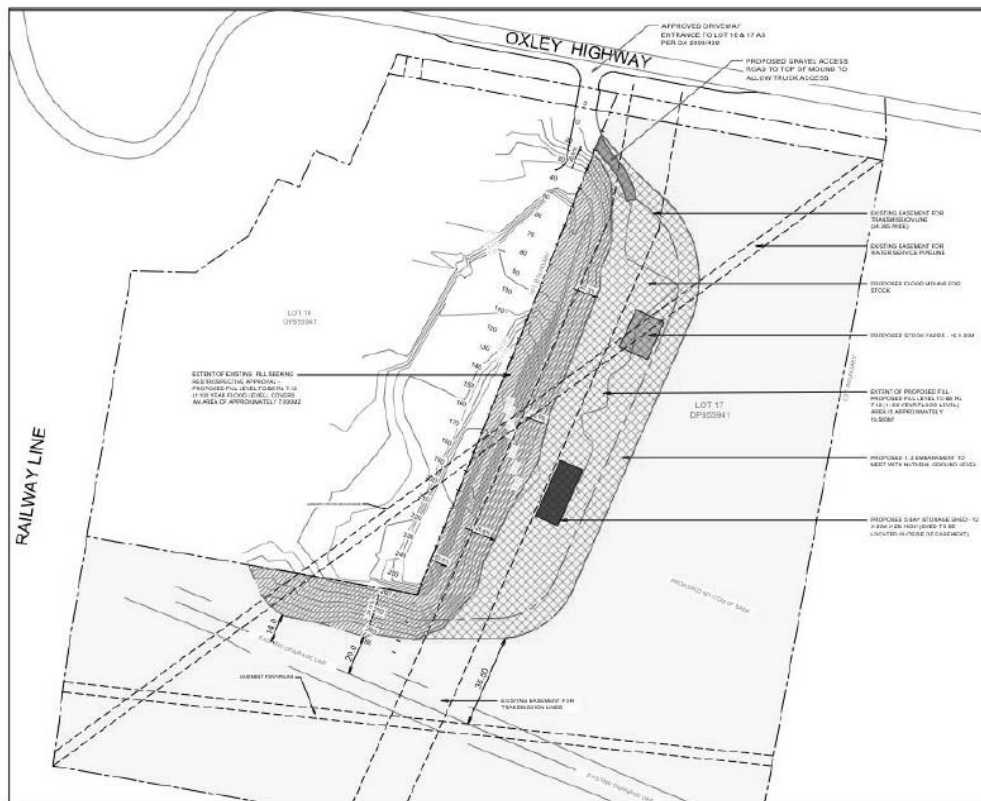


Figure 7 - Proposed Site Plan

Vehicular access to the proposed development is via the Approved Driveway entrance to Lot 16 & Lot 17 as per DA 2008/426.

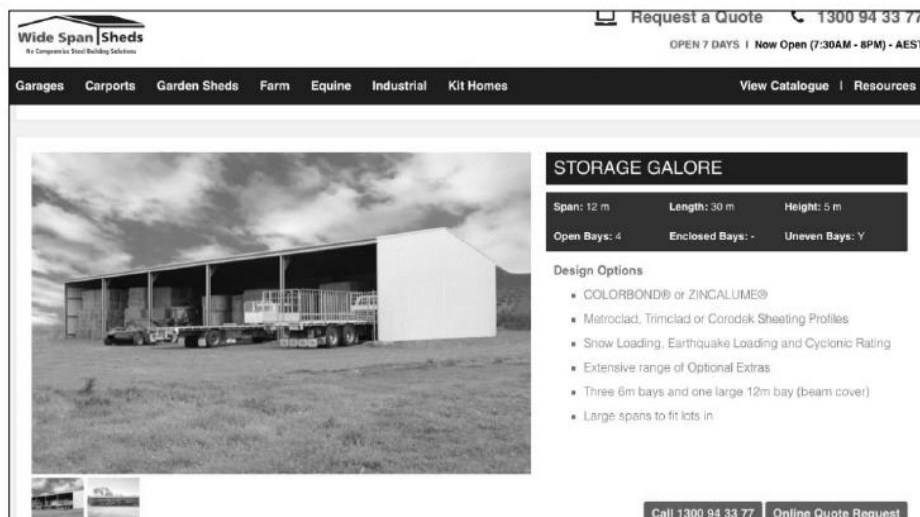


Figure 8 – Sample of Proposed Shed



Development Application for Farm Buildings & Associated Fill
Lot 17 DP855941, 1993 Oxley Highway, Wauchope

The farm building (shed) is proposed to be utilised as a storage/machinery shed for machinery associated with the maintenance of the property and potential agricultural use. This would include items such as a tractor/slasher, mowers and other agricultural machinery intended for personal agricultural use. There are no commercial activities occurring or proposed to occur on site.

No change to vehicular access to the rural allotment is proposed. The access road is proposed to be raised and filled above the 1 in 100 flood level. As the site is cleared, no removal of vegetation is proposed.

The plan also indicates stock yards, which are agricultural uses which do not need development consent.

In the previous DA for the landscape yard it was a condition that the easement for the transmission line was not filled unless approved by the authority. In discussion with the provider it has been confirmed that it is now decommissioned with no future use required and the transmission line placed elsewhere. This consideration was dealt with during the application for DA2006/669, with the client having numerous discussions with the relevant infrastructure provider at that time. Hence filling within this easement is permissible.

4. PLANNING FRAMEWORK

Planning and Approvals Framework- Section 4.15 (1)(a)

The EP&A Act and EP&A Regulation establishes the framework for the assessment and approval of development in NSW. The proposal represents 'local development' under the EP&A Act which requires development consent. The EP&A Regulation sets out the processes and procedures for the assessment and approval of local development and specifies that a DA must be lodged with the consent authority in line with certain specific requirements.

This SEE accompanies a DA prepared to address the requirements of the EP&A Act and Regulation. Port Macquarie Hastings Council is the consent authority. Pursuant to the provisions of the EP&A Act and EP&A Regulation, the proposed development must be assessed against relevant State and Local planning instruments, as described below, as well as the overarching Federal legislation relating to ecology.

The proposed development has been assessed against the planning controls and principles within the following applicable planning instruments:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- State Environmental Planning Policy No 44 — Koala Habitat Protection
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy No. 55 Remediation of Land
- State Environmental Planning Policy (Rural Lands) 2008
- Port Macquarie - Hastings Local Environmental Plan 2011; and
- Port Macquarie Hastings Development Control Plan 2013.

In Section 4 of this report, an assessment of the proposal against each of these instruments is undertaken and demonstrates the proposal is generally consistent with the aims, objectives and controls of each applicable planning instrument, in accordance with Section 4.15 (1)(a) of the EP&A Act. Section 5 of this report addresses Section 4.15 (1)(b), (c), (d) and (e) of the EP&A Act.

State Environmental Planning Policies (SEPP's)

The following SEPP's are of relevance to the proposal:



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State Environmental Planning Policy No 44 — Koala Habitat Protection

As the area of the subject land is greater than 1ha and is located within the Port Macquarie Hastings Local Government Area, SEPP 44 –Koala Habitat Protection is applicable. Therefore, SEPP 44 has been considered in this development proposal. However, no vegetation is to be removed as part of this application. Thus, no further consideration of SEPP 44 is required.

State Environmental Planning Policy (Infrastructure) 2007

The application has been assessed against the requirements of State Environmental Planning Policy (Infrastructure) 2007. This Policy contains State-wide planning controls for developments adjoining rail corridors and busy roads. The development is located immediately adjacent to a classified road and within 40 metres of a Railway corridor. However, the development does not trigger the requirements of Schedule 3 and is not classified as a Traffic Generating Development in accordance with Clause 104 and Schedule 3 of SEPP.

State Environmental Planning Policy No. 55 Remediation of Land

The subject site has previously been utilised for general pastoral and agricultural land uses. The subject site is not indented as contaminated land under the *Contaminated Lands Management Act 1997* and is not understood to have contained any cattle dips or other features which are considered likely to have potential contaminated land.

The Fill has been acquired from 18 John Oxley Drive during the excavation of the new Bunnings Warehouse site. The Fill is considered virgin excavated natural material (VENIM).

State Environmental Planning Policy (Rural Lands) 2008

The Rural Lands SEPP sets out matters Council is to take into consideration including the Rural Planning Principles. The Rural Planning Principles are as follows:

- (a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*
- (b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*
- (c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*
- (d) in planning for rural lands, to balance the social, economic and environmental interests of the community,*
- (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*
- (f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*
- (g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*
- (h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

The proposed development provides for the ongoing storage and management of agricultural land. The proposal is consistent with the Rural Planning Principles.



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Local Planning Policies

Port Macquarie Local Environmental Plan 2011

Zoning & Objectives

Pursuant to the Port Macquarie Hastings LEP 2011 (LEP 2011) the subject land is zoned RU1 *Primary Production*. All proposed works are wholly contained in the RU1 zone. An extract of the zoning map for the subject site is illustrated below.

The objectives of the RU1 Primary Production zone are as follows:

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



Figure 9 - Zoning Map Extract Port Macquarie LEP 2011 (subject site identified by red star)

The proposal is for a Farm Building (storage shed) and associated Fill, which are permitted with consent on the subject land under the provisions of the Port Macquarie Hastings LEP 2011.

Storage sheds are defined as *Farm Building* under the LEP. Farm Buildings are defined as:

“farm building means a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.”

The rural shed (farm building) is proposed to be utilised as a machinery shed for machinery associated with the maintenance of the property and future agricultural uses. This would include tractor/slasher, mowers, and other agricultural machinery intended for personal agricultural uses.

Farm Buildings are permissible with consent in the RU1 Primary Production zone.

Fill is defined as:

“fill means the depositing of soil, rock or other similar extractive material obtained from the same or another site, but does not include:



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(a) the depositing of topsoil or feature rock imported to the site that is intended for use in garden landscaping, turf or garden bed establishment or top dressing of lawns and that does not significantly alter the shape, natural form or drainage of the land, or

(b) the use of land as a waste disposal facility."

The proposed development provides orderly and economic use of the land, in accordance with the general aims of the LEP. The provision of fill before construction of the farm building allows for the secure storage of agricultural / rural items on the site, without the fear of flooding.

The fill is proposed to be imported from 18 John Oxley Drive, Port Macquarie, the excavation of the new Bunnings Warehouse Site.

The proposed development is in keeping with the objectives of the zone.

Clause 5.9 - Preservation of trees or vegetation

No vegetation is proposed to be removed.

Clause 5.10 - Heritage

The site is not mapped as containing a heritage item, archaeological site or aboriginal place of heritage significance.

Clause 7.1 – Acid Sulfate Soils

The acid sulfate soils mapping roughly accords with the area of flood-prone land. It is proposed for the land to be filled as part this application to above the flood planning level, which mitigate acid sulfate soils.

As no works are proposed below the natural ground surface we do not anticipate any impacts related to acid sulfate soils. Notwithstanding, we will be directed by Council's conditions of consent in relation to the management of potential acid sulfate soils during site activities.



Figure 10 – LEP 2011 Acid Sulfate Soils Mapping (source: www.legislation.nsw.gov.au) (subject site identified by red star)

Clause 7.2 – Earthworks

The LEP contains provisions relating to the need for consent for extensive Earthworks activities.

Clause 7.2(2) of the LEP states:

"(2) Development consent is required for earthworks unless:



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- (a) the work is exempt development under this Plan or another applicable environmental planning instrument, or*
- (b) the work is ancillary to other development for which development consent has been given."*

Clause 7.2(3) of the LEP states:

"(3) Before granting development consent for earthworks, the consent authority must consider the following matters:

- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*
- (b) the effect of the proposed development on the likely future use or redevelopment of the land,*
- (c) the quality of the fill or the soil to be excavated, or both,*
- (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area."*

The Fill is located approximately 35m north of the third order stream identified as a watercourse/open drain bisecting the site. Therefore, no adverse impacts on any watercourse is expected.

As these works have been undertaken previously, it is evident that the present levels of the land (post-filling) has had no detrimental effect on existing drainage patterns or soil stability in the locality. The land is zoned for rural purposes, and the current levels of the land will have no impact, either positively or negatively on the possible future use of this land for rural purposes.

The filled land is comparable to and consistent with the actions of neighbouring properties to the west and east, whereby there is no detrimental effect of the past Earthworks on the amenity of adjoining properties.

Refer to discussion below regarding flooding and attached specialist report.

Clause 7.3 - Flood Planning

The flood planning area and PMF relevant to the site are mapped under the LEP as follows.

The site is located approximately 650m south of the Hastings River and approximately 2.5km west from Kings Creek. The drainage channels that runs through the site are identified in **Error! Reference source not found.** The channel drains runoff from upstream of the North Coast Railway to Kings Creek. A small creek is also located in the north-west portion of the site, which drains runoff from the northern side of the Oxley Highway to the open channel and into Kings Creek.

The site is mapped within the *Hasting River Floodplain Risk Management Study 2012*. The Land is classified very high in the provisional hazard mapping in the vicinity of Wauchope for the 100 year recurrence flood. For the purpose of this development, the 1 in 100 year flood level may be assumed to be RL7.12m AHD.



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Figure 11 – LEP 2011 Flood Mapping (source: www.legislation.nsw.gov.au) (subject site identified by red star)

The *Hastings River Flood Study* (2006) indicates that the site is predicted to be partially inundated during the 100 year recurrent flood event associated with the Hastings River and Kings Creek, which is located some 500m north of the site. As a result, there is potential for floodwaters to overtop the banks of the Hastings River and/or Kings Creek and inundate parts of the Site.

a) Previous Investigations for the Site

Below is a summary of the previous investigations for the site:

2004: Oxley Highway Residential Development Wauchope – Flood Impact Assessment dated January 2004, identified that Lot 16 could be filled to an elevation above the peak 1% AEP flood level without having any measurable impact on existing flood characteristics; that is, peak flood levels and flow velocities.

2010: In addition, a Flood Impact Study prepared by Worley Parsons dated February 2010 was compiled for the adjoining property to the west (Lot 17 in same ownership) which is similar in geographical layout. The client has advised in previous discussions with Council it was suggested that this Flood Impact Study be amended to incorporate the existing and future fill area rather than a new study.

The 2010 study concluded:

The assessment has been based on the results of computer modelling undertaken using the RMA-2 hydrodynamic model that was originally developed for the Hastings River Flood Study. The model has been modified and used to assess flood characteristics for both existing and post-development conditions (*i.e., incorporating the fill proposal*), and the results have been compared to establish whether any change in peak flood level or flow velocity can be expected at any location across the floodplain of the Hastings River.

The following conclusions can be drawn from the results of the modelling:

- The peak 100 year recurrence flood level in the vicinity of the site is predicted to be 7.2 mAHF.
- Under existing topographic conditions, the entire development site is predicted to be inundated during the 100 year recurrence flood. Peak floodwater depths are predicted to be up to 6.3 metres but typically less than 4.0 metres (*refer Figure 5*).
- Peak 100 year recurrence flow velocities across the site are low, with a maximum of 0.22 m/s which occurs within the unnamed creek channel. Velocities are typically less than 0.15 m/s elsewhere throughout the site (*refer Figure 5*).



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- Based on the preliminary flood hazard mapping documented in the Hastings River Floodplain Risk Management Study (2012) the majority of the site is classified as Very High hazard (refer Figure 6).
- The proposed filling of the land is not predicted to have any adverse impact on flood levels on the site or across adjacent properties.
- The proposed filling will result in localised increases in peak flow velocity of up to 0.04 m/s (refer Figure 10). This occurs within the unnamed creek channel and is completely contained within the site. Therefore, it is not expected to have a significant impact.

The proposed development meets the flood risk requirements of Port-Macquarie-Hastings Council in that at least 7.5 hours warning time is provided for the site based on Bureau of Meteorology telemetry at Kindee Bridge and the associated moderate flood warning from the State Emergency Services.

The proposed development meets the flood risk requirements of Port-Macquarie-Hastings Council in that at least 7.5 hours warning time is provided for the Site based on upstream Bureau of Meteorology telemetry and State Emergency Services Flood Warnings. Notwithstanding, it is recommended that the proposed Flood Evacuation Plan is updated to the findings of this report, which reflects the latest modelling as part of the Hastings River Flood Study (2006) and to the satisfaction of Council, particularly in light of the seasonal occupation of the tourist style accommodation.

2012: The Hastings River Floodplain Risk Management Study prepared by Worley Parsons dated February 2012, Appendix F19 indicates:

APPENDIX F19

Flood Management Community
Flood Management Sector
At Risk Population
Community Classification

Oxley Highway
 Wauchope
 100
 Overland Refuge on Low Flood Island

Table A Flood Warning Times

Critical location along evacuation route	Ground level (mAHD)	Access cut-off flood level (mAHD)	Equivalent or similar design flood event at which access is cut	Kindee Bridge Gauge (207004)	
				Gauge flood level to trigger evacuation warning (metres relative to gauge zero)	Effective warning time (hours)
Oxley Highway	5.0	5.3	20 year ARI flood	11	8 (100 year ARI flood) to 9 (20 year ARI flood)

FLOOD MANAGEMENT COMMUNITY SUMMARY

Oxley Highway community is classified as an *Overland Refuge on Low Flood Island*, as roads are affected by flooding prior to private property becoming inundated.

The Oxley Highway community comprises an area located roughly between Wauchope Railway Station and Kings Creek. Central areas adjacent to Kings Creek are low-lying and the area is bisected centrally by a drainage channel running south-west from the North Coast Railway Line.

Evacuation should take place to the west along the Oxley Highway to Wauchope Primary School or Wauchope Showground. The Oxley Highway is the only main road in the area and when this is affected by flooding there are no alternative overland routes.

The critical location for this community is near the junction of the Oxley Highway and Little Port Lane as this is the area affected earliest by flooding.

This community will be at significant risk should inundation of the Oxley Highway take place before evacuation. Consideration should be given to developing flood awareness education for this community.

LEGEND

- Community Boundary
- Critical Area
- Evacuation Route

2013: A Flood Impact Study prepared by Worley Parsons dated 4 February 2013 was compiled for the adjoining property to the east which is Flood effected in a similar way.

The study concludes:



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The following conclusions can be drawn from the results of the modelling:

- The peak 100 year recurrence flood level in the vicinity of the site is predicted to be 7.12 mAHD.
- Under existing topographic conditions, the majority of the development site is predicted to be inundated during the 100 year recurrence flood. Peak floodwater depths are predicted to be up to 3.9 metres (refer Figure 4).
- Peak 100 year recurrence flow velocities across the site are very low, with a maximum of 0.05 m/s.
- Based on velocity and depth values determined from the modelling (refer Figure 4), it can be concluded that a majority of the development footprint is considered to be within a High to Very High hazard area under existing conditions. Notwithstanding, this classification is largely attributable to the significant depth of flooding and the Site is not considered to be within a Floodway.
- The proposed filling of the land is not predicted to have any adverse impact on flood levels on the Site or across adjacent properties.
- The proposed filling will result in localised increases in peak flow velocity of up to 0.2 m/s (refer Figure 9). This occurs on land to the immediate east of the site, which is also owned by Roche Group, and is predominantly contained within an existing drainage channel. Therefore, it is not expected to have a significant impact.

b) New Investigations for the site

Council advised for the purposes of this Development Application a new Flood Impact & Risk Assessment would be required. A Flood Impact and Risk Assessment has been prepared by Advisian dated 19 August 2019. The assessment concluded:

The following conclusions can be drawn from the results of the modelling:

- The existing fill that has been placed on Lot 16 and Lot 17 is not predicted to cause any increase to peak 1% AEP flood levels within or outside of the subject site (refer Figure 8). Minor increases in peak 1% AEP flow velocities of up to 0.01 m/sec are predicted to occur outside of the site and within the Oxley Highway Road reserve (refer Figure 9). The magnitude of predicted flood level and flow velocity increases associated with the existing fill mound are within the allowances of the *Port Macquarie-Hastings Council Flood Policy (2018)*.
- The proposed fill mound is not predicted to cause any increase to peak 1% AEP flood levels within or outside of the subject site (refer Figure 11). Minor increases in peak 1% AEP flow velocities of up to 0.02 m/sec are predicted to occur outside of the site and within the Oxley Highway Road reserve over a length of up to 5 metres (refer Figure 12). The magnitude of predicted flood level and flow velocity increases associated with the proposed fill mound are within the allowances of the *Port Macquarie-Hastings Council Flood Policy (2018)*.
- The proposed development is categorised as 'Minor' development according to the *Flood Policy (2018)*. The flood policy does not require minor development to meet any evacuation criteria. Notwithstanding, an assessment has been completed to determine whether the site could be evacuated in a safe and reliable manner in accordance with the flood policy criteria for residential or commercial and industrial development. The findings are:
 - 10.5 hours warning time would be available for evacuation from the site once the minor gauge level is reached at the Wauchope Railway Bridge gauge or following a minor flood warning being issued by the SES (refer Figure 14 and Table 4). The warning time is based on the predicted flood level hydrographs for the 1% AEP flood and the time until there is predicted to be a maximum depth of inundation of 0.3 metres over the evacuation route.

This complies with the criteria that 'a minimum of 8 hours warning time must be available'.



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- The evacuation route grades upwards from the site to a localised high point near Randall Street. The evacuation route rises above the peak 1% AEP flood level within a distance of 95 metres from the site and remains above the peak 1% AEP flood level as evacuation continues to the SES nominated evacuation centre at the Wauchope RSL and onwards to land that is flood free; i.e., above the PMF (refer **Figure 13 and 14**).
This complies with the criteria that a 'safe reliable evacuation route' must grade upwards towards land above the PMF, preferably to an approved Flood Evacuation Centre'.
- The criteria that the evacuation route must be no lower than FPL1 (the 5% AEP flood level) is not achieved for the proposed evacuation route with the Oxley Highway sitting at a lower elevation (refer **Figure 14**). Given the distance to travel to reach a point along the Oxley Highway that is above the required level of immunity is relatively short (80 metres), and because the low-point commences at the site boundary thus reducing the risk of isolation mid evacuation, this criteria is not considered to be critical for this site.

Clause 7.13 - Essential Services

Clause 7.13 requires Council to be satisfied that essential services are capable of being provided to the site. This application does not warrant any change to the services to the site.

Development Control Plans**Port Macquarie Hastings DCP 2013**

Port Macquarie-Hastings Development Control Plan 2013 is applicable to the site and the current proposal. There are no specific provisions with the DCP 2013 which apply to the proposed Farm Building (shed). It is however, considered that the proposal is compliant with the provisions of Section 2.3 Environmental Management, 2.4 Hazards Management and 2.6 Tree Management.

Our assessment against the controls set out in the Port Macquarie Hastings DCP 2013 is provided in the DCP Compliance Table below.

Port Macquarie Hastings Development Control Plan 2013			
Objectives	Development Provisions	Complies Yes/No	Comment
CHAPTER 2.3 ENVIRONMENTAL MANAGEMENT			
2.3.3.1 Cut and fill			
<p>To ensure that design of any building or structure integrates with the topography of the land to:</p> <ul style="list-style-type: none"> • Minimise the extent of site disturbance caused by excessive cut and fill to the site. • Ensure there is no damage or instability to adjoining properties caused by excavation or filling. • Ensure that there is no adverse alteration to the drainage of adjoining properties. • Ensure the privacy of adjoining dwellings and private open space are protected. • Ensure that adequate stormwater drainage is provided around the perimeter of buildings and that overflow paths are provided. 	<p>a) Development shall not exceed a maximum cut of 1.0m and fill of 1.0m measured vertically above the ground level (existing) at a distance of 1.0m outside the perimeter of the external walls of the building (This does not apply to buildings where such cut and fill is fully retained within or by the external walls of the building).</p>	Yes	<p>Height of proposed fill RL 7.12 (1:100 year flood level)</p> <p>The flood assessment undertaken and accompanying this application indicates that there will be no adverse impact on flooding. The existing drainage channel on the site will remain unaffected.</p> <p>Given the rural nature of the site and the distance to dwellings, no impact upon privacy is expected.</p>



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2.3.3.3 Cut and fill			
<p>To minimise the extent of landform change to render a site suitable for subdivision.</p> <p>To minimise adverse impact on other land, persons or public infrastructure from landform change.</p> <p>To preserve levels at site boundaries.</p> <p>To preserve significant natural watercourses, riparian vegetation, environmental and topographical features.</p> <p>To preserve the visual character of the landform as viewed from within and outside the land site.</p> <p>To preserve cross boundary drainage conditions.</p> <p>To ensure runoff from upstream or upslope land is not adversely impeded.</p> <p>To ensure there are no adverse geotechnical consequences to the site or to other land.</p> <p>To ensure there are no adverse consequences to public infrastructure</p>	<p>a) Significant land reforming proposals where >10% gross site area or >1.0ha is to have surface levels changed by more than 5m or where earthworks exceed an average of 10,000m³ per ha shall:</p> <ul style="list-style-type: none"> • identify the impact of the proposed land reforming on the environment, landscape, visual character and amenity, natural watercourses, riparian vegetation, topographical features of the environment and public infrastructure; • demonstrate compliance with the provisions of Council's Aus-Spec design specification; • assess the impacts and benefits of the proposal to all impacted persons and the general public; • provide measures to compensate for and minimise any net adverse impacts. <p>b) The use of high earthworks batters should be avoided.</p> <p>c) Preliminary plans indicating the final landform are required to be submitted with any master plan or subdivision application</p> <p>d) The subdivision should be designed to fit the topography rather than altering the topography to fit the subdivision.</p>	Yes	<p>a) Extent of existing fill seeking retrospective approval – proposed fill level to be RL 7.12 (1:100 year flood level). Covers an area of approximately 7,000m².</p> <p>Extent of proposed overall fill – proposed fill level to be RL 7.12 (1:100 year flood level) area approximately 10,500m². See flood report for further details.</p> <p>The proposed Farm Building and Fill:</p> <p>does not adversely impact on other land, persons or public infrastructure from landform change;</p> <p>is not located within near the natural watercourse;</p> <p>does not impact on cross boundary drainage conditions;</p> <p>does not adversely impeded runoff from upstream or upslope land;</p> <p>does not adversely impact geotechnical consequences to the site or to other land.</p> <p>does not impact public infrastructure.</p> <p>b) Not earthworks batters are proposed.</p> <p>c) See attachment B</p>
2.3.3.7 Koala Habitat			
<p>To encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free living population over their present range and reverse the current trend of koala population decline.</p>	<p>a) For koala habitat refer to clause 7.5 of the Port Macquarie Hastings LEP 2011.</p>	N/A	<p>Site is cleared and not considered a Koala Habitat. No vegetation removal is necessary.</p>
CHAPTER 2.4 HAZARDS MANAGEMENT			
2.4.3.5 Flooding			
<p>To maintain the existing flood regime and flow conveyance capacity.</p> <p>To enable evacuation of land subject to flooding.</p>	<p>a) Development must comply with Council's Floodplain Management Plan and Flood Policies.</p>	Yes	<p>Please refer to the assessment provided under <i>Clause 7.3 - Flood Planning</i>, of the PMH LEP 2011 earlier in this report, and to</p>



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<p>To avoid significant adverse impacts on flood behaviour.</p> <p>To avoid significant adverse effects on the environment that would cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of the river banks or watercourses.</p> <p>To limit uses to those compatible with flow conveyance function and flood hazard.</p>			the Flood Impact & Assessment Report dated August 2019.
CHAPTER 2.5 TRANSPORT, TRAFFIC MANAGEMENT, ACCESS AND CARPARKING			
2.5.3.3 Parking Provision			
<p>Adequate provision is made for off-street parking commensurate with volume and turnover of traffic likely to be generated by the development.</p> <p>To ensure no adverse impacts on traffic and road function.</p>	Off-street Parking is provided	Yes	There is ample room for on site parking. There is no requirement for car parking generated by the proposed farm building.

5. PLANNING ASSESSMENT

This section will consider the likely impacts of the development; site suitability and public interest in accordance with Section 4.15 (1)(b), (c), (d) and (e).

Assessment of Natural Environmental Impact – Section 4.15 (1)(b)

Topography and Scenic Impacts

The building process will be managed so to minimise the disruption to the adjoining properties and the environment. The design of the proposal incorporates durable materials with low maintenance requirements. During construction, some noise and vibration is likely to be created however construction activities will be short term and will only occur during those hours permitted by the Council and as represented in the development permit.

The operational noise levels from the proposal will not be out character with the future intent of the precinct. The development has been designed (materials, setbacks etc) to minimise any impacts on existing residents of the area.

Micro-Climate Impacts

The site does not contain any native vegetation and the proposed Earthworks will not therefore have any adverse impact on micro climates in the area. During the completion of Farm Building assembly and associated earthworks, appropriate noise & dust management controls will be implemented.

Water & Air Quality Impact

It is considered there will be no ongoing air or noise issues pertaining to the proposed development. Construction noise may be effectively mitigated against by conditioning permitted hours of construction.

The completed works would not have any adverse impact upon air quality and microclimatic conditions in the locality.



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Soils

Disturbance to *in situ* soils on site will be minimised by undertaking all erosion and sediment control practices during construction in accordance with "NSW Department of Housing - Managing Urban Stormwater, Soils & Construction" 2004 (Blue Book).

Assessment of Built Environment Impacts – 4.15 (1)(b)

Impact on the Area's Character

Appropriate mitigation will be undertaken during construction and operation to preserve the amenity of surrounding land uses. The site does not exhibit any characteristics which would preclude the development from proceeding.

Aural & Visual Privacy Impact

The proposed development will not impact on aural and visual privacy. The site is existing rural land with areas of fill, rural fencing and man made drainage channels. The height of the proposed fill is RL 7.12m² and the proposed shed is 5m in height. The appearance of the shed, fill and stock yards is not uncommon for the area and is not expected to be out of place or adversely impact upon the visual appearance of the site from the road or adjoining land.

Impact on Sunlight Access

The proposed development will not impact on sunlight access.

View Impacts

The proposed development will not impact on views.

Waste Management

Minimal waste is expected from the importation of fill and construction of a pre-fabricated farm building. All waste will be disposed of to a local waste facility.

Heritage

A search of the Port Macquarie Hastings LEP (2011) Map series did not identify any European or Aboriginal heritage items. Due to the disturbed nature of the site, no further searches pertaining to heritage items were conducted at this time.

Assessment of the Site Suitability – Section 4.15 (1)(c)

Proximity to Services & Infrastructure

No change to services is required to accommodate the farm building.

Traffic, Parking & Access

Vehicular access to the subject land will continue to be via Oxley Highway which is an existing sealed, public road. A formed driveway provides access to the farm building. The local road network has capacity to cater for the limited vehicular movements associated with the rural use of the subject land, and vehicular access to the farm building.

Hazards

The site is mapped within the flood planning area, but the proposed filling has been shown to have a negligible impact on the local flooding behaviour. Given that the far building is not habitable, bushfire is not considered to be a hazard.



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Overall Suitability

The proposed Earthworks (Fill) has been shown to have no effect on localised flooding behaviour. There is no vegetation or areas of natural habitat impacted by the proposal. The Earthworks have no appreciable social or economic impact on the community and no detrimental impact to the natural environment.

Submissions made in accordance with the Act or Regulations - Section 4.15 (1)(d)

Port Macquarie Hastings Council as the Consent authority will consider any submissions received in response to the public exhibition of the proposed development after lodgement of the Development Application. Following the notification period, any issues of public interest will be known and can be considered and addressed.

The Public Interest - Section 4.15 (1)(e)

It is considered there are no matters of public interest pertaining to the proposal.

6. CONCLUSION

The proposed Farm Building and associated Earthworks are minor activities which are consistent with the rural zone objectives and comparable in scale and extent to works undertaken on neighbouring rural properties in the immediate locality. The works are compliant with Council's flood policy and have been shown to have no appreciable impact on neighbouring properties or the Hastings River floodplain as a whole.

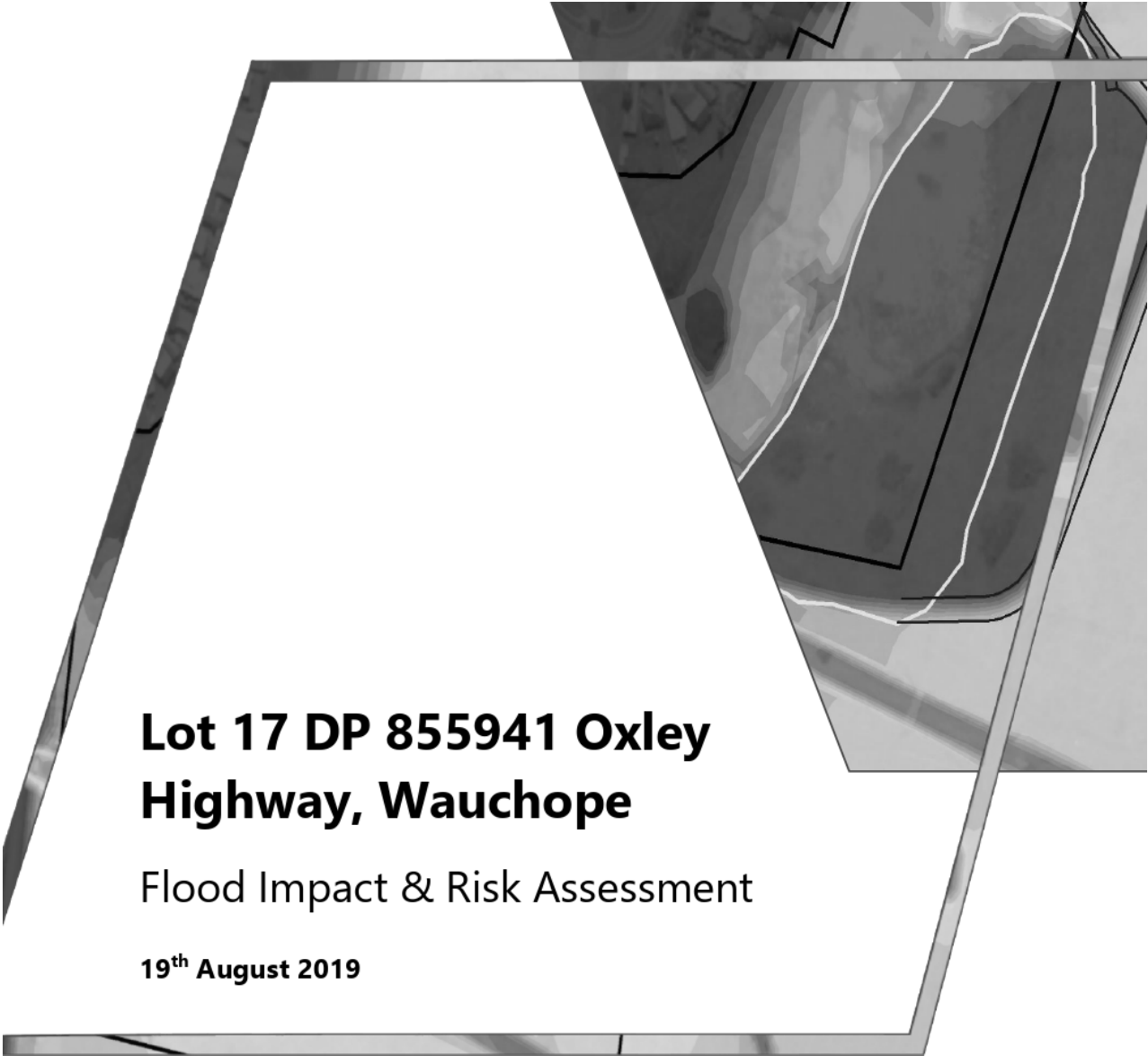
The proposed development will not have any negative impact on the locality, nor generate any other detrimental impacts to the natural environment.

The application has been considered against the relevant provisions of Port Macquarie-Hastings Local Environmental Plan 2011 and Port Macquarie-Hastings Development Control Plan 2013 and the proposed development is consistent with Council's controls.

It is respectfully requested the development proposal be favourably considered by Council at its earliest opportunity.

7. APPENDICIES

- A. Existing Extent of Fill Site Plan**
- B. Proposed Site Plan**
- C. Flood Impact & Risk Assessment**



Lot 17 DP 855941 Oxley Highway, Wauchope

Flood Impact & Risk Assessment

19th August 2019

Level 17, 141 Walker St
North Sydney NSW 2060
Australia

rp301015-04111rg190819_FIA_Lot 16 & 17 Oxley HWY, Wauchope.docx

Revision B

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Lot 17 DP 855941 Oxley Highway, Wauchope

Flood Impact Assessment Report



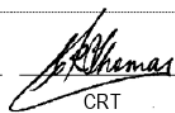
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Project: LOT 17 DP 855941 OXLEY DRIVE, WAUCHOPE
FLOOD IMPACT AND RISK ASSESSMENT

Rev	Description	Author	Review	Advisian Approval	Date
A	Draft Report (Issued for Client Review)	RG	CRT		26/07/2019
B	Final Report	 RG	 CRT	 CRT	19/08/2019

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Lot 17 DP 855941 Oxley Highway, Wauchope
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Flood Impact Assessment Report

1 INTRODUCTION

Advisian Pty Ltd (*Advisian*) has been engaged by Roche Group Pty Ltd (*Roche Group*) to undertake a Flood Impact Assessment (*FIA*) and Flood Risk Assessment (*FRA*) for a retrospective and future Development Application (*DA*) for Lot 17 DP 855941 Oxley Highway, Wauchope.

The site, which is approximately four hectares (*Ha*) in size, is located south-east of Wauchope Railway Station, bounded to the west by the North Coast Railway, to the north by Oxley Highway, residential properties adjoining Carrington Road to the north-west and undeveloped rural land to the east and south. The location of the site relative to the Hastings River is shown in **Figure 1**. A recent aerial photograph of the site taken on the 29th December 2018 is shown below in **Plate 1**.

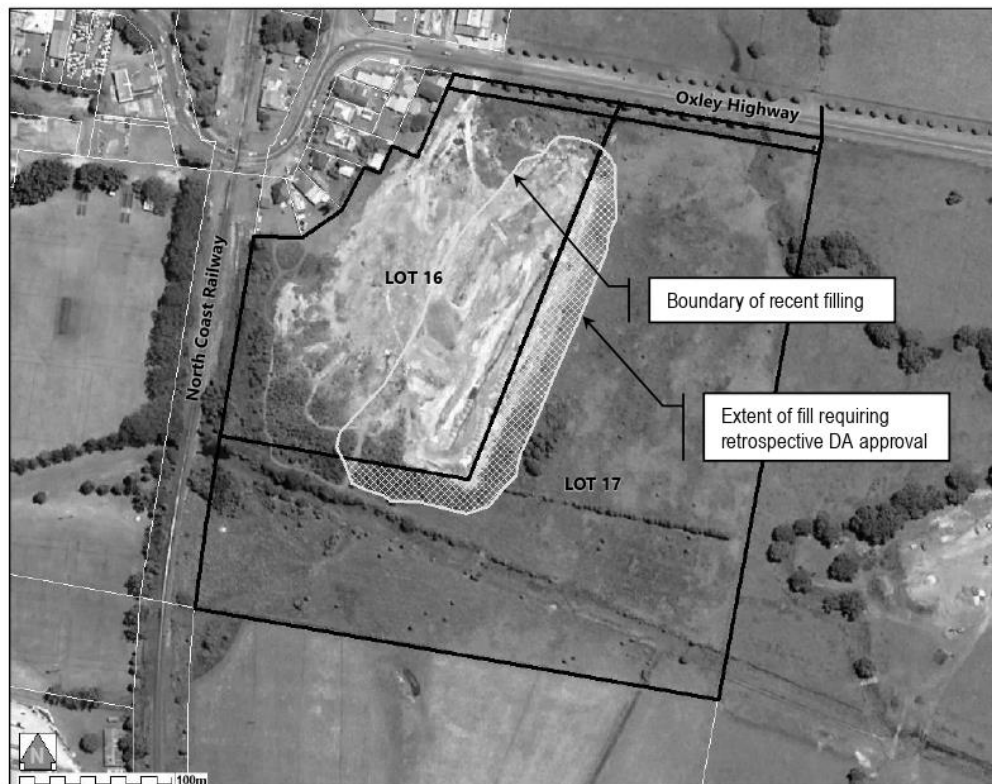


Plate 1 Recent aerial photograph showing the site and extent of fill placed and requiring retrospective approval

Source: Google Earth Pro

The retrospective DA is associated with earthworks and land fill that has been placed along the shared border of Lot 16 and Lot 17 DP 855941 across an area spanning approximately 23,500 m² (refer **Plate 1**). The extent of fill crossing into Lot 17 (refer yellow cross-hatching), covering an area of approximately 7,800 m², is not subject to any existing and approved DA and as such requires retrospective approval.

FIGURE 1

LOCATION OF THE
SUBJECT SITE

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Flood Impact Assessment Report

Following the retrospective DA, the Roche Group have plans to submit a DA for a modified and increased fill extent within Lot 17 that will utilise the existing fill available within the site. The final landform is to be used as stock yards and is to include a 5-bay storage shed. Development plans showing the extent and proposed earthworks are included as **Appendix A**.

The '*Updated Hastings River Flood Study*' (*Exhibition Draft, 2018*) undertaken by Advisian indicates that both Lot 16 and 17 are almost entirely inundated during the design 1% Annual Exceedance Probability (AEP) flood. As a result, there is potential for floodwaters to overtop the banks of the Hastings River and/or Kings Creek and inundate the site for existing and proposed site conditions.

This report outlines the findings from investigations of flooding at the site that has been undertaken by Advisian, and which includes an assessment of the potential impact that the existing fill (*refer Plate 1*) and proposed development may have on local flood characteristics. The report also documents potential mechanisms for evacuating the site during major floods, including details of available warning times and preferred evacuation routes. This includes a comparison against the requirements of the '*Port Macquarie-Hastings Council Flood Policy*' (2018) and the '*Port Macquarie-Hastings Local Flood Plan*' (2015) prepared by the NSW State Emergency Services (SES).

This report documents the findings of the investigations and serves as a combined Flood Impact and Flood Risk Assessment Report for the existing fill and proposed development. Accordingly, this report could be used as supporting documentation for a retrospective and proposed DA for the site.

2 ASSESSMENT OF LOCAL FLOOD BEHAVIOUR

2.1 Background

Port Macquarie-Hastings Council commissioned WorleyParsons (*incorporating the former Patterson Britton & Partners*) to develop a two-dimensional flood model for the Hastings River floodplain as part of work that was undertaken to prepare the *'Hastings River Flood Study' (Issue No.3, August 2006)* and the *'Hastings River Floodplain Risk Management Study' (2012)*.

As part of the Floodplain Risk Management Study (FRMS), WorleyParsons undertook investigations for Council to assess the impact of sea level rise and increased rainfall intensities associated with climate change on design 1% Annual Exceedance Probability (AEP) flood (levels). The findings from these investigations are documented in Chapter 12 of the FRMS and were used by Council to define Year 2050 and Year 2100 design 1% AEP flood levels for the lower Hastings River.

Both the Flood Study and Floodplain Risk Management Study describe the flood characteristics of the river system for existing topographic and development conditions. Both studies were based on the results of simulations undertaken using a detailed two-dimensional hydrodynamic model. The model was developed from hydrographic survey data and detailed topographic data.

The computer model was used to simulate a range of historical and design floods such as the 1% AEP flood. The results from the modelling were used to define flood characteristics along the Hastings River and specifically to establish peak flood levels and flow velocities.

The computer model was created using the RMA suite of software. RMA is a finite element modelling software package that employs a variable grid geometry in which elements with irregular and curved boundaries can be modified as required without the need for regeneration of the entire grid.

Therefore, any proposed development on the floodplain can be incorporated into the existing model and the associated impacts can be quantified by comparing model results from simulations of "pre-development" and "post-development" scenarios.

The RMA-2 model of the Hastings and Maria Rivers was recently upgraded as part of work completed by Advisian for Council as part of a detailed climate change impact assessment for the lower Hastings Valley. The climate change assessment updated the preliminary climate change assessment that had been completed in 2012 as part of the FRMS. The study also re-modelled the 1% AEP flood so that extensive updates to the model network, to reflect both recent development, improved topographic data and modelling advancements, were reflected in the modelling results available to Council. The findings of these investigations are documented in a report titled *'Hastings River Flood Study Updated' (Exhibition Draft, 2018)* prepared by Advisian.

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Flood Impact Assessment Report

2.1.1 Previous Investigations for the Site

A Flood Impact and Flood Risk Assessment report has been prepared for Lot 16 and Lot 17 on two previous occasions by Advisian (*then WorleyParsons*). The reports titles and dates are outlined below:

- *Oxley Highway Residential Development Wauchope – Flood Impact Assessment (Issue No. 2, January 2004)*, and
- *Manufactured Housing Estate, Wauchope – Flood Impact and Risk Assessment (Issue No. 1, February 2010)*.

The 2004 FIA Report found that Lot 16 could be filled to an elevation above the peak 1% AEP flood level without having any measurable impact on existing flood characteristics; that is, peak flood levels and flow velocities. A similar finding was made in 2010 for a modified development and fill extent with the modelling concluding that the proposed works would not cause any measurable increase to peak 1% AEP flood levels and a maximum increase in peak flow velocities occurring locally and against the fill platform of 0.2 m/sec.

2.2 Description of the Development Site

Figure 1 shows that the site is located approximately 500 m south of the Hastings River, which flows in an easterly direction towards the Pacific Ocean, some 27 km away at Port Macquarie. Kings Creek, which flows north to its confluence with Hastings River east of Wauchope, is located some 2.5 km to the west.

An open channel that drains runoff from upstream of the North Coast Railway to Kings Creek flows west-to-east through Lot 17 (*refer Figure 1*). A small creek is also located in the north-eastern corner of the Site, which drains runoff from the northern side of the Oxley Highway to the open channel and into Kings Creek.

The recent aerial photograph of the site shown in **Plate 1** in **Section 1** shows Lot 17 to be undeveloped and largely covered by grass and scattered trees. Only a small portion of Lot 17 along the shared boundary with Lot 16 appears to be disturbed by the placement of fill. The fill appears to have been predominantly placed on Lot 16 which has existing approval for development.

2.2.1 Analysis of Existing and Pre-Fill Site Topography

The available data sources for defining the existing topography and pre-fill topography across the site are:

- Light Detection and Ranging (*LiDAR*) survey flown in 2012 and available via the ELVIS Geoscience of Australia online portal, and
- Spot elevations of the recently placed fill surveyed by Land Dynamics, refer **Appendix B**.

The topography across the site for existing and pre-fill conditions are shown side-by-side in **Figure 2**. To define the existing topography across the site a combined data set

FIGURE 2



TOPOGRAPHY ACROSS THE SITE
WITH AND WITHOUT THE
EXISTING FILL MOUND



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was created that 'drapes' the surveyed spot elevations defining the fill mound onto the 2012 LiDAR.

A terrain difference map comparing the topography across the site for existing and pre-fill conditions is shown in **Figure 3**. The difference map indicates that fill has been placed near the border of Lot 16 and 17 to depths of up to 7.2 metres, but typically less than 3.6 metres. The fill is shown to extend up to 25 metres into Lot 17 along the shared boundaries.

Based on an analysis of fill volumes it is estimated that 59,000 m³ of total fill has been placed on Lot 16 and Lot 17, of which 21,000 m³ is below the peak 1 AEP flood level predicted at the site.

Elsewhere across Lot 17 and away from the recently placed fill, topographic elevations typically vary between 3.7 and 6.2 mAHD. The lowest elevations occur within the open drainage channel that runs through the site (*refer Figure 2*). Elevations across Lot 16 are generally higher ranging between 4.1 and 10.6 mAHD.

2.3 Pre-Fill Flood Characteristics at the Development Site

Before investigating the impacts predicted as a result of the recent fill placed on the site, it is critical to reliably define flood behaviour for pre-fill. Pre-fill flood behaviour is to be adopted as the base case against which the filling already placed on the site, and the proposed fill mound are to be assessed against.

As discussed in **Section 2.2.1**, pre-fill topography is defined by the 2012 LiDAR obtained from the ELVIS Geoscience of Australia online portal.

2.3.1 Hydraulic Model Refinement

The two-dimensional RMA-2 flood model that was developed as part of the '*Hastings River Flood Study*' (2006) and recently updated as part of the '*Hastings River Flood Study Update*' (2018) was used to define flood characteristics at the development site.

In order to assess flooding on a "local scale" (*i.e., in the vicinity of Lot 16 and Lot 17*), the RMA-2 model that was developed for Council was modified and refined to incorporate additional network detail in the vicinity of the site. This involved modifying the network to incorporate additional elements and nodes to better represent the local topography to a scale not typically possible when focusing on large scale and regional flood behaviour.

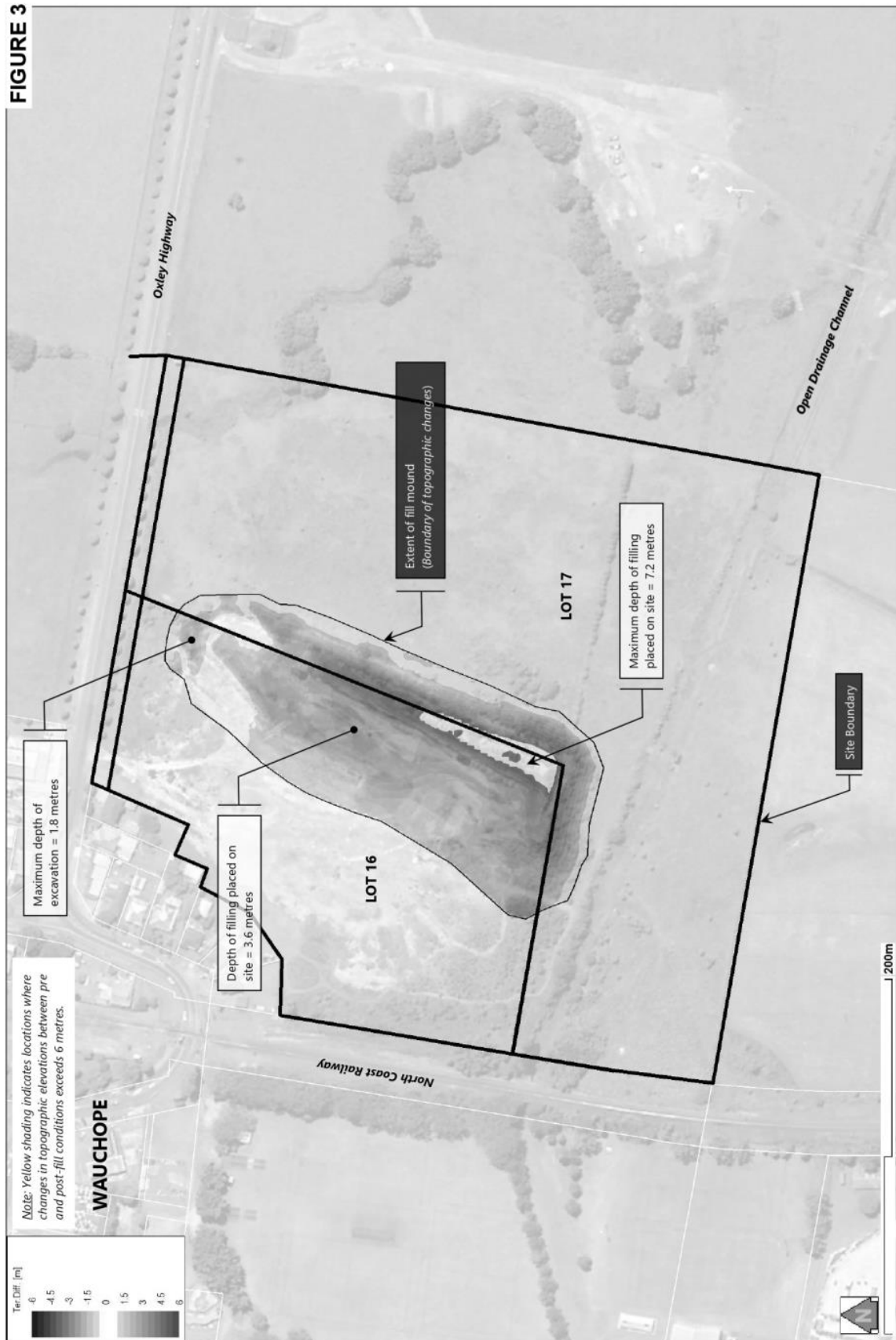
2.3.2 Flood Modelling Results

The refined RMA-2 hydrodynamic model was used to simulate the 1% AEP flood for existing topographic conditions. The results of the modelling are presented in the following.

Peak Flood Levels and Depths

The results of the hydrodynamic modelling indicate that the peak 1% AEP flood level across Lot 16 and Lot 17 is predicted to be 7.13 mAHD for pre-fill conditions (*refer*

FIGURE 3

DEPTHS OF CUT AND FILL ASSOCIATED
WITH THE EXISTING FILL MOUND

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Figure 4). As shown in **Figure 2**, the topography across Lot 16 and Lot 17 generally varies between 4.1 to 10.6 mAHD and 1.9 to 8.3 mAHD, respectively. Accordingly, both lots are predicted to be almost entirely inundated at the peak of the 1% AEP flood.

Peak floodwater depths and velocity vectors were extracted from the results of the modelling for the design 1% AEP flood and are presented in **Figure 5**.

Figure 5 shows floodwater depths across the site are predicted to be highest within Lot 17 along the open drainage channel. Within the channel 1% AEP depths are predicted to be reach up to 5.2 metres, compared to typical depths of up to 3.0 and 3.4 metres across Lot 16 and Lot 17, respectively.

Peak Flow Velocities

Peak flow velocities for the design 1% AEP flood event were also extracted from the results of the modelling and are presented as velocity vectors in **Figure 5**. The velocity vectors give an indication of the magnitude and direction of flow at the peak of the flood.

The velocity vectors show there to be slow moving floodwaters across both lots reflecting the area acting as a large flood storage to the Hastings River. 1% AEP flow velocities are predicted to vary between 0.01 and 0.03 m/sec across both lots (*refer Figure 5*).

Although the velocity vectors shown floodwaters moving in a north-to-south direction across the lots, the water is considered to be ponding rather than flowing based on the low velocity and peak flood levels being a function of backwater flooding from the Hastings River.

Provisional Flood Hazard

The flood hazard effectively describes the potential impact that flooding would have on development and people in a particular area and reflects the risks to which people in that area could be exposed.

Flood hazard mapping for the Hastings River floodplain was prepared as part of the 'Hastings River Floodplain Risk Management Study' (2012) and subsequently updated as part of the 'Hastings River Flood Study Update' (Exhibition Draft, 2018). The criteria used to define the various hazard categories for the Flood Study are reproduced in **Table 1**.

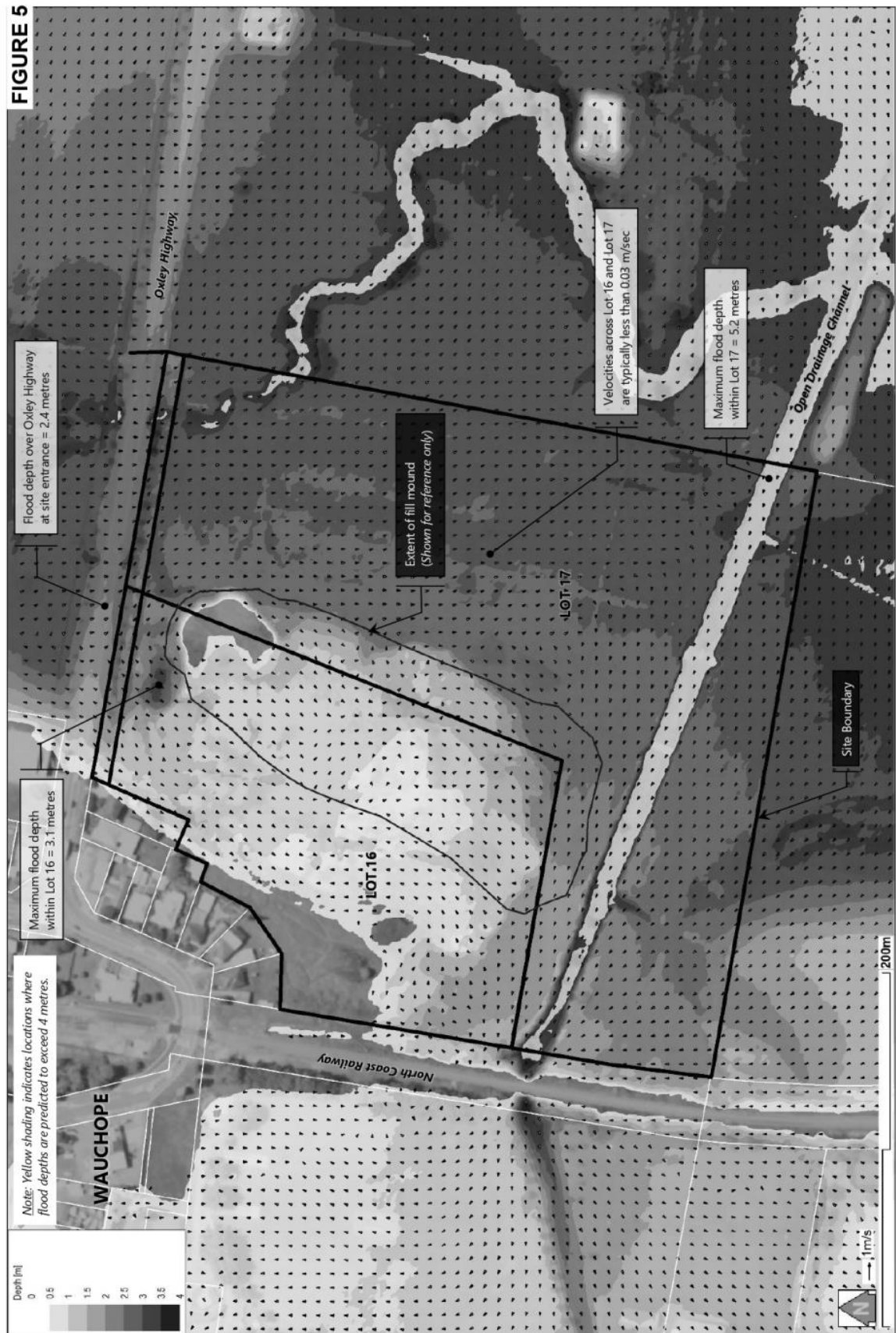
As shown in **Table 1**, flood hazards are effectively divided into five categories ranging from Low to Extreme. The hazard category relevant to a particular location within the floodplain is determined based the predicted magnitude of flood depths and flow velocities and a combination of both; referred to as the velocity-depth product.

As discussed, peak floodwater depths across Lot 16 and 17 are predicted to vary between 5.2 metres at the deepest (*occurring within the open drainage channel*) to areas that are dry. Typically flood depths are predicted to range between 1.0 and 3.0 metres (*refer Figure 5*).

FIGURE 4



PREDICTED FLOOD LEVELS AT THE
PEAK OF THE 1% AEP FLOOD FOR
BASE CASE (PRE-FILL) CONDITIONS



**PREDICTED DEPTHS AND VELOCITIES AT THE
PEAK OF THE 1% AEP FLOOD FOR
BASE CASE (PRE-FILL) CONDITIONS**

Table 1 Definitions for Flood Hazard Categories

HAZARD CATEGORY	CRITERIA	PRACTICAL APPLICATION
Low	<ul style="list-style-type: none"> Depth (d) < 0.4m & Velocity (v) < 0.5m/s 	<ul style="list-style-type: none"> Suitable for cars
Medium	<ul style="list-style-type: none"> exceeding Low criteria, and $d \leq 0.8$m, $v \leq 2.0$m/s, and $vxd \leq 0.5$ 	<ul style="list-style-type: none"> Suitable for heavy vehicles and wading by able bodied adults
High	<ul style="list-style-type: none"> exceeding Medium criteria, and $d \leq 1.8$m, $v \leq 2.0$m/s, and $vxd \leq 1.5$ 	<ul style="list-style-type: none"> Suitable for light construction, timber frame, brick veneer etc
Very High	<ul style="list-style-type: none"> exceeding High criteria, and 0.5m/s < velocity < 4m/s and $vxd \leq 2.5$ 	<ul style="list-style-type: none"> Suitable for heavy construction, steel frame, concrete etc
Extreme	<ul style="list-style-type: none"> exceeding Very High criteria and $v > 5$m/s 	<ul style="list-style-type: none"> Unsuitable for development - indicates significant conveyance of flow or floodway

Peak flow velocities across the both lots are predicted to be low and typically less than 0.03 m/s (refer **Figure 5**).

Figure 6 shows that even though velocities are low, hazards across Lot 17 are predicted be 'Very High' with small areas of lesser flood hazard. This reflects the high flood depths across Lot 17.

Hazards are predicted to be lower across Lot 16 and mostly within the 'High' to 'Low' categories (refer **Figure 6**). This reflects the higher terrain elevations across Lot 16 when compared to Lot 17.

According to the criteria adopted in the NSW Floodplain Development Manual (2005), the site would be classified as High Hazard.

Hydraulic Categories

The hydraulic category for a site identifies the potential for development to impact on existing flood behaviour. The 'Floodplain Development Manual' (2005) divides flood prone land into three hydraulic categories; namely Floodway, Flood Storage and Flood Fringe.

As part of the *Hastings River Floodplain Risk Management Study (2012) (the FRMS)*, Advisian (then WorleyParsons) prepared a detailed assessment of floodway, flood storage and flood fringe areas for the Lower Hastings River Floodplain. This involved a detailed encroachment assessment to identify the extent of areas of floodway.

The relevant hydraulic category map for the site has been extracted from the FRMS (2012) and is included within **Figure 7**. The figure indicates that Lot 16 and 17 would be classified as mostly flood storage with small areas along the peripheries as flood fringe.

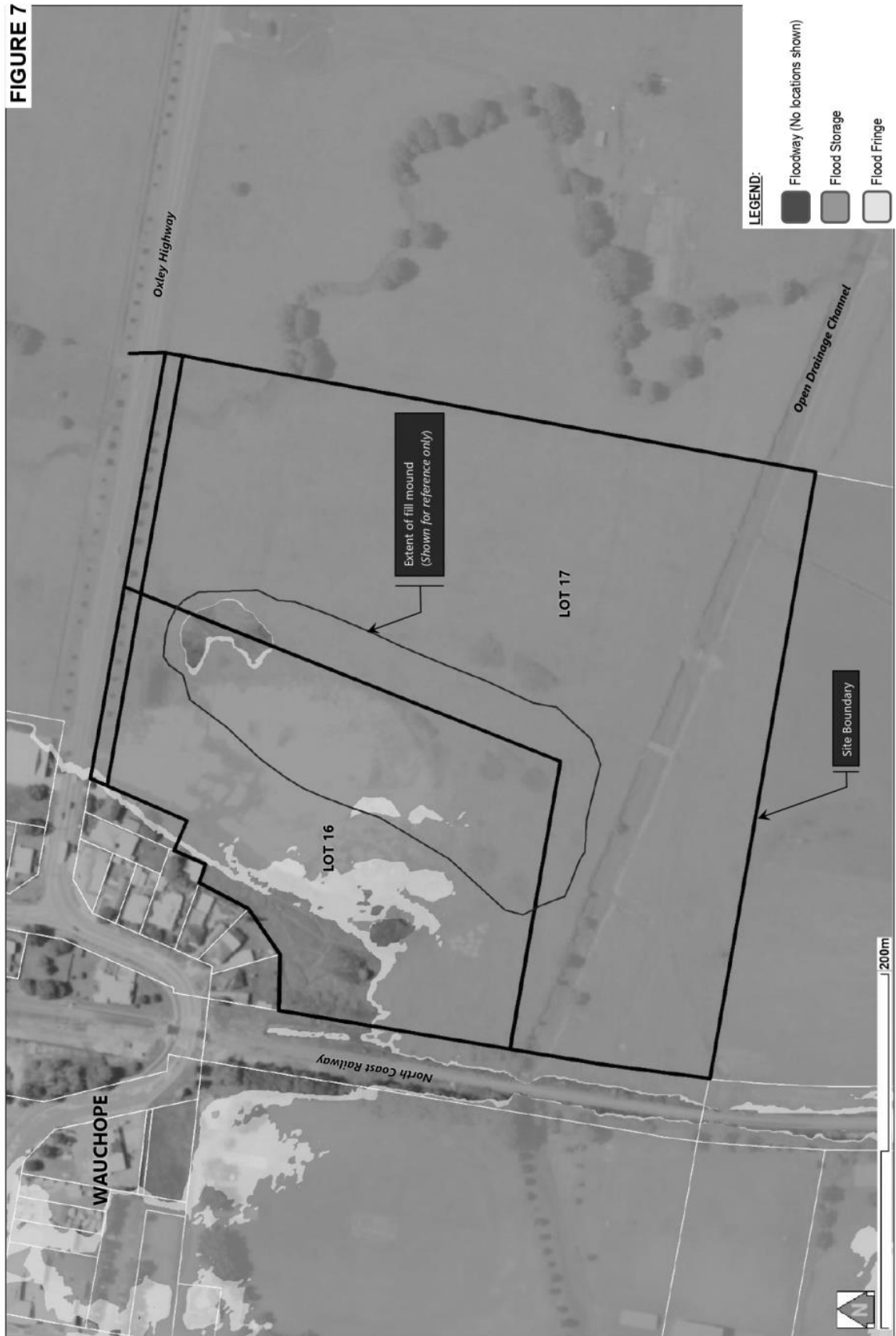
Based on the hazard mapping and hydraulic category mapping the site is therefore classified as high hazard flood storage.

FIGURE 6



PREDICTED 1% AEP FLOOD HAZARDS FOR
BASE CASE (PRE-FILL) CONDITIONS

FIGURE 7



Advisian
Water Engineers Group
 30/01/15-04/11 - Lot 17 Oxley Highway, Wauchope
 19301015-0411119190626_Fig 7 - 1% AEP Hydraulic Categories (Pre-Fill).docx

3 IMPACT OF THE EXISTING AND PROPOSED FILL ON LOCAL FLOOD BEHAVIOUR

3.1 Impacts of the Existing Fill on Flooding – Retrospective FIA

3.1.1 Model Modifications to Incorporate Existing Fill

The existing fill mound shown as Inset 2 on **Figure 2** and on the survey plans included as **Appendix B**, was incorporated to the hydraulic flood model that was used to assess flood behaviour for pre-fill conditions. This required further refinement to the RMA-2 model network to ensure sufficient nodes and elements were available to define elevations across and along the base of the fill mound.

3.1.2 Hydraulic Modelling Results

The modified model was used to simulate the 1% AEP flood in order to assess retrospectively whether the fill already placed on the would have any impacts on peak flood levels, extents and velocities compared to pre-fill conditions. The magnitude and location of any changes arising from the existing filling is established by comparing model results from the pre and post-fill model simulations.

Impact on Peak Flood Levels

Flood level difference mapping was prepared from the modelling results to quantify any off-site impacts that could be caused by the fill already placed on the site. Difference maps are created by comparing peak flood level estimates at each node in the flood model from the results of simulations undertaken for both existing and post-development scenarios. This effectively creates a contour map of predicted changes in peak flood levels (*i.e.*, *increases and decreases*) and allows visual assessment of the impact of the filling on existing peak flood levels.

Flood level difference mapping was developed and is presented in **Figure 8**. As shown by the legend in the top-left hand corner, increases in peak flood level are represented as different shades of red and decreases in peak flood level are represented as shades of blue. The white shading indicates changes in peak flood level that are between +/- 0.01 metres.

As shown in **Figure 8**, the existing fill mound is not predicted to cause any increase to flood levels within or outside of the site boundaries. This reflects the fill being placed within a significant flood storage area and causing a reduction in storage volumes up to the peak 1% AEP flood level of less than 0.1%.

The green shading shows locations where the existing fill mound has reduced peak 1% AEP flood extents; *i.e.*, areas that were previously wet but dry with the fill mound included. by more than 0.01 metres (*refer Figure 8*). Yellow shading has also been used to shown locations where the fill mound has cause new inundation to occur. Given that the fill mound does not cause any increase to flood levels, no increases to the peak 1% AEP flood extent are predicted to occur.



**PREDICTED CHANGES TO PEAK 1% AEP
FLOOD LEVELS DUE TO THE
EXISTING FILL PLACED ON THE SITE**

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Lot 17 DP 855941 Oxley Highway, Wauchope

Flood Impact Assessment Report

Impact on Peak Flow Velocities

A difference map was also created to quantify any changes in peak flow velocities associated with the existing fill mound. The velocity difference mapping that was developed for the 1% AEP flood is presented in **Figure 9**.

Figure 9 shows that the existing fill mound is predicted to generate localised areas of increased peak flow velocities of up to 0.02 m/sec. The maximum increase in velocity is predicted to occur to the north-west of the fill mound reducing to 0.01 m/sec at the site boundary.

1% AEP flow velocities at the location of maximum increase is predicted to be 0.02 m/sec for pre-fill or base case conditions. Accordingly, the 0.01 m/sec increase occurring outside of the site and within the Oxley Highway road reserve will still result in flow velocities increase to 0.03 m/sec which remain low and within the Low Hazard criteria adopted (refer **Table 1**).

3.2 Impacts of the Proposed Development on Flooding

3.2.1 Details of the Proposed Development

The existing fill available onsite, located largely within Lot 16, is proposed to be flattened and moved across to Lot 17 to create a fill mound for the storage of stock and cattle. As shown in **Figure 10**, the fill mound is proposed to have a finished surface elevation of 7.13 mAHD and is proposed to cover an area of approximately 3 hectares; 1.5 hectares of which is located within Lot 17.

A five (5) bay storage shed measuring 12 x 30 metres and stock yards measuring 15 x 20 metres are proposed on the fill mound to the east of the existing transmission line easement (refer **Appendix A**). A gravel access road is proposed between the fill mound and Oxley Highway to provide access to trucks. A minimum elevation along the access road of 4.7 mAHD is proposed to match the elevation of the Oxley Highway at the site entrance (refer **Figure 10**).

3.2.2 Flood Planning Levels

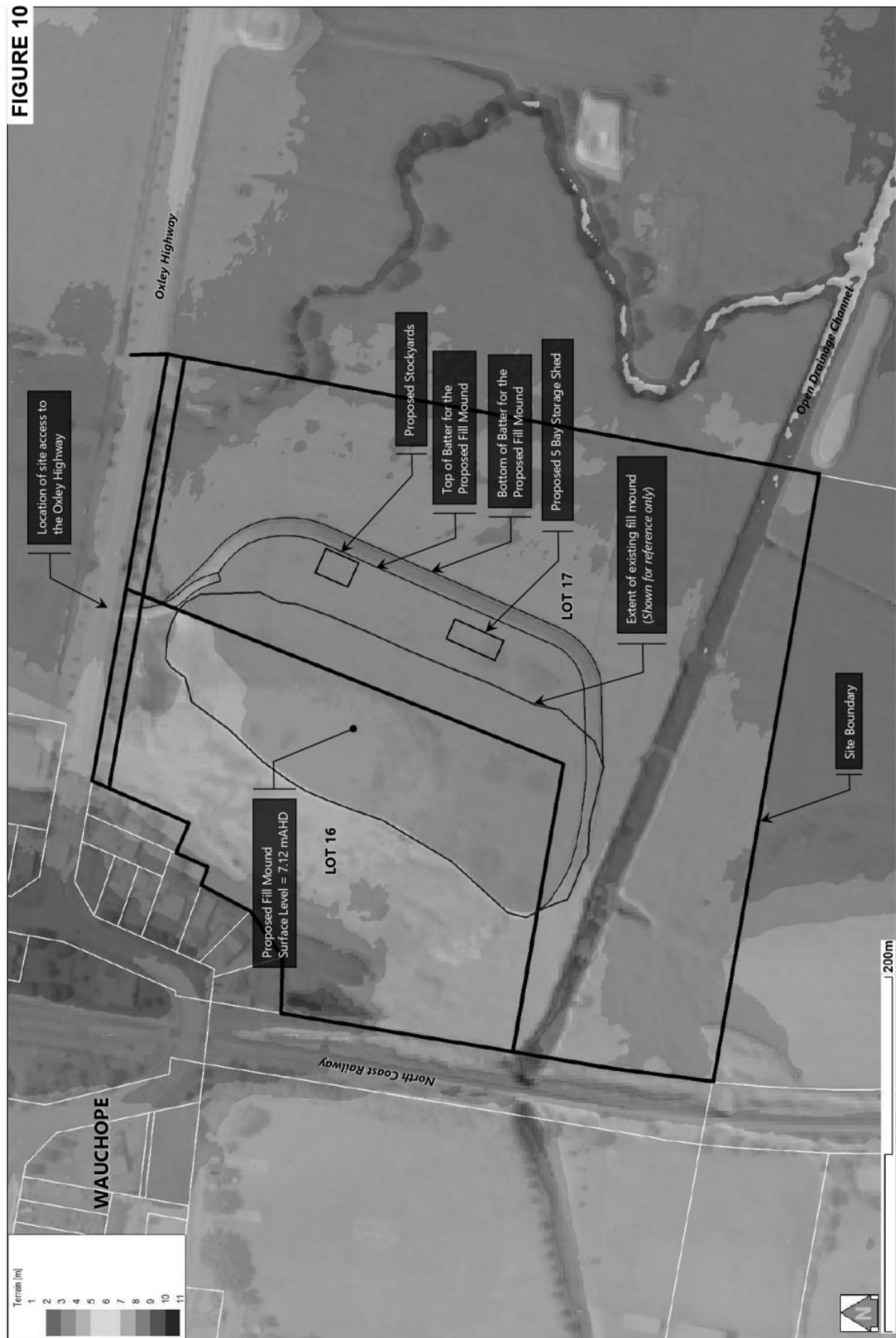
The *Port Macquarie-Hastings Flood Policy (2018)* outlines requirements for minimum fill and floor levels for a range of development types and land uses. For the proposed development, the category of 'Minor Development – Garden Sheds' is understood to apply which requires has a Flood Planning Level (FPL) of FPL1 that is at or above the peak flood level predicted for the design 5% AEP flood; also referred to as a 20 year average recurrence interval flood.

By constructing the fill mound with surface elevations at 7.13 mAHD the mound will achieve the minimum surface levels required based on the latest flood modelling undertaken as part of the *Updated Hastings River Flood Study (Exhibition Draft, 2018)*.

FIGURE 9



PREDICTED CHANGES TO PEAK 1% AEP
FLOW VELOCITIES DUE TO THE
EXISTING FILL PLACED ON THE SITE

PROPOSED FILL MOUND
AND DEVELOPMENT LAYOUT

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3.2.3 Model Modifications to Incorporate Existing Fill

The proposed fill mound shown on **Figure 10**, was incorporated to the hydraulic flood model that was used to assess flood behaviour for pre-fill and existing fill conditions. This required further refinement to the RMA-2 model network to ensure sufficient nodes and elements were available to define elevations across and along the base of the proposed fill mound.

The model was also updated to incorporate minor filling along the proposed gravel access road to raise elevations to 4.7 mAHD to match the Oxley Highway (*refer Figure 10*).

3.2.4 Hydraulic Modelling Results

The modified model was used to simulate the 1% AEP flood to assess whether the proposed development would have any impacts on peak flood levels, extents and velocities compared to pre-fill conditions (*refer Inset 1 on Figure 2*). The magnitude and location of any changes arising from the proposed development is established by comparing model results from the pre and post-development model simulations.

Impact on Peak Flood Levels

Flood level difference mapping was prepared from the modelling results to quantify any off-site impacts that could be caused by the proposed development. As shown in **Figure 11**, the existing fill mound is not predicted to cause any increase to flood levels within or outside of the site boundaries. This reflects the fill being placed within a significant flood storage area, causing a reduction in storage volumes up to the peak 1% AEP flood level of approximately 0.2%.

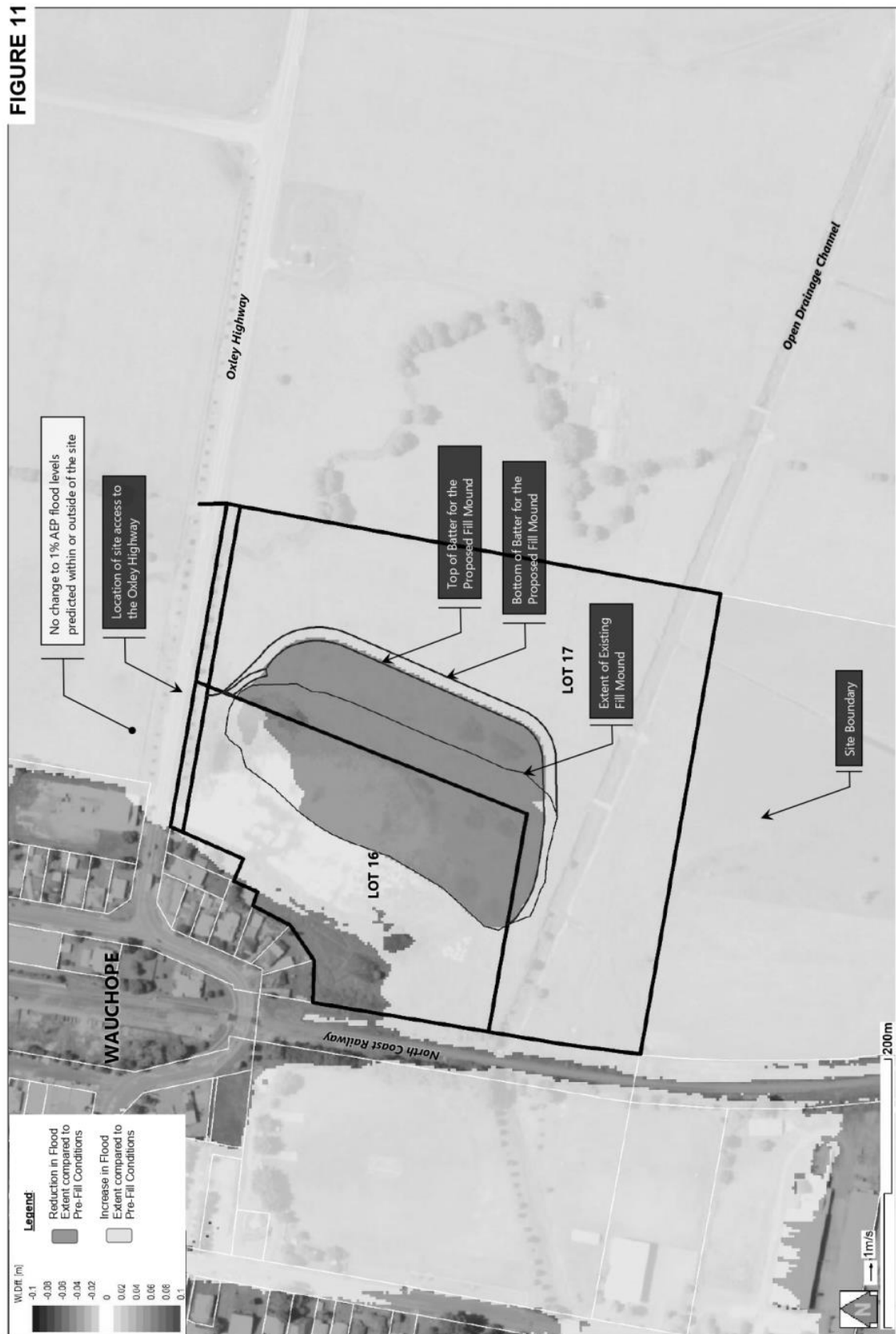
The green shading shows locations where the proposed fill mound has reduced peak 1% AEP flood extents; i.e., areas that were previously wet but dry with the fill mound included. Yellow shading has been used to show locations where the fill mound has caused new inundation to occur. Given that the fill mound does not cause any increase to flood levels, no increases to the peak 1% AEP flood extent are predicted to occur (*refer Figure 11*).

Impact on Peak Flow Velocities

A difference map was also created to quantify any changes in peak flow velocities associated with the proposed development. The velocity difference mapping that was developed for the 1% AEP flood is presented in **Figure 12**.

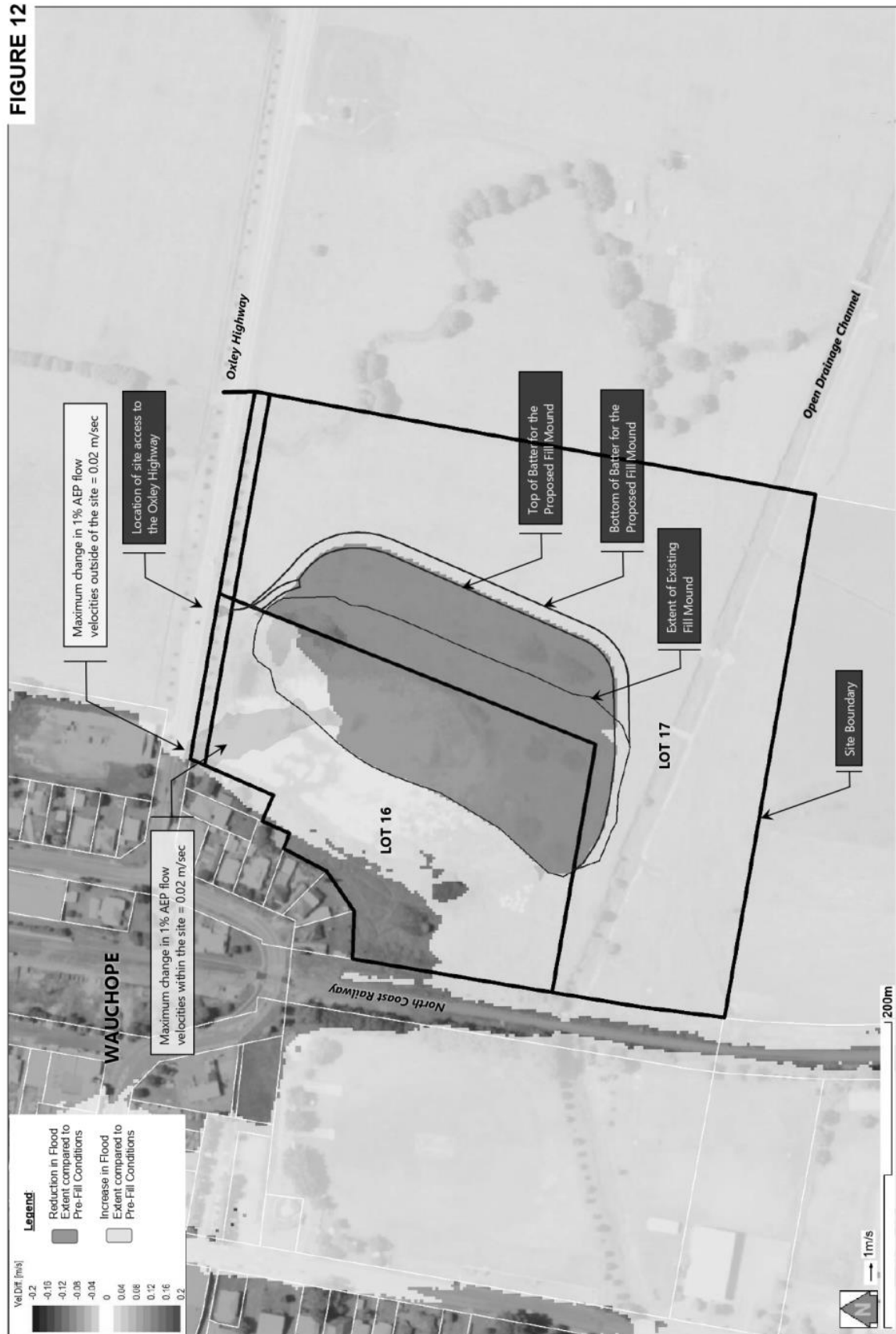
Figure 12 shows that the proposed fill mound is predicted to generate localised areas of increased peak flow velocities of up to 0.02 m/sec. The maximum increase in velocity is predicted to occur to the north-west of the fill mound extending outside of the site into the Oxley Highway road reserve by a maximum distance of 5 metres.

1% AEP flow velocities at the location of maximum increase is predicted to be up to 0.02 m/sec for pre-fill or base case conditions. Accordingly, the 0.02 m/sec increase will lead to flow velocities of up to 0.04 m/sec which remain low and within the Low Hazard criteria adopted (*refer Table 1*).



**PREDICTED CHANGES TO PEAK 1% AEP
FLOOD LEVELS DUE TO THE
PROPOSED FILL MOUND ON THE SITE**

FIGURE 12



PREDICTED CHANGES TO PEAK 1% AEP
FLOW VELOCITIES DUE TO THE
PROPOSED FILL MOUND ON THE SITE

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3.3 Flood Policy Compliance

3.3.1 Assessment Criteria

Section 5.6 of Council's Flood Policy (2018) states where filling will take place in a Flood Storage Area, the applicant is required to demonstrate that:

- Flood level increases are to be less than 10 mm (0.01 metres) for the 1% AEP flood; and,
- Flow velocity increases are to be less than 0.1 m/s for the 1% AEP event.

Both of the above criteria apply to areas outside of the development site, i.e., across adjoining properties.

3.3.2 Findings

The flood modelling results discussed in **Section 3.1** for the existing fill mound and **Section 3.2** for the proposed development have shown that all changes that are predicted to occur to peak 1% AEP flood levels and flow velocities outside of the site will be within the allowance outlined in **Section 5.6** of Council's Flood Policy (2018). The maximum increases for both fill scenarios and policy criteria are shown in **Table 2** below.

Table 2 Predicted Level and Velocity Changes Outside of the Site Compared to Policy Criteria

Policy Criteria	Fill Scenario 1 (Existing Fill Mound)	Fill Scenario 2 (Proposed Fill Mound)
1% AEP flood level increases of up to 10mm at site boundary	No Change (Meets Criteria)	No Change (Meets Criteria)
1% AEP flow velocity increases of up to 0.1 m/s at site boundary	0.01 m/sec (Meets Criteria)	0.02 m/sec (Meets Criteria)

4 FLOOD RISK ASSESSMENT

The flood risk assessment for the proposed development is based on consideration of the relevant guideline documents and flood characteristics at the site and its surrounds for the full range of design events. The risk assessment also considers potential evacuation routes and any constraints such as low-points in roadways and whether there is adequate warning time available to safely effect evacuation.

4.1 Guideline Documents

4.1.1 Port Macquarie-Hastings Flood Policy (2015)

Section 5.8 of the *Port Macquarie-Hastings Flood Policy (2018)* specifies that no specific criteria or requirements apply to the development based on it falling within the category of 'Minor Development – Garden Sheds' within a flood storage area. This recognises that people are not expected to visit the site frequently and stay for extended periods unlike other development types.

Most other development types, such as residential or commercial and industrial, specify the following set of requirements for Site Access and Flood Evacuation:

- A minimum of 8 hours warning time must be available.
- The flood immunity level for a 'safe reliable evacuation route' must be no lower than FPL1 (5% Annual Exceedance Probability AEP flood level).
- The 'safe reliable evacuation route' must grade upwards towards land above the peak level of the PMF, and preferably to an approved Flood Evacuation Centre.

The Flood Policy (2015) defines safe reliable access as 'the safe velocity and depth relationships for pedestrians and vehicles as shown in Figure L1 of the NSW Government's *Floodplain Management Manual (2005)* and *Australian Rainfall and Runoff (AR&R) Book 9, Chapter 6 – Safety Design Criteria 2013*.

4.1.2 Port Macquarie-Hastings Flood Emergency Sub-Plan (2015)

The Port Macquarie-Hastings Local Flood Plan (2015) was reviewed as part of investigations completed for the development of this FRA. The sub plan outlines the preparedness measures and the conduct of response and recovery operations from flooding within the Port Macquarie-Hastings Area.

The proposed development site falls within the Wauchope Sub-Sector, which sits within the greater Wauchope Sector (Sector 9). The Wauchope Sub-Sector is classified as having 'Rising Road Access to a High Flood Island', meaning lower lying areas can evacuate up and out of the floodplain onto an area that can be surrounded by floodwaters whilst remaining flood free. Land in Wauchope where evacuation is directed is above the peak PMF level.

The extents of the Wauchope Sub-Sector and Sector are shown in **Appendix C**.

The Wauchope Railway Bridge Gauge (ARWC 207041) is monitored by the SES and relied upon for issuing flood warnings and managing evacuation and road closures in the

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lower Hastings Valley. The following gauge heights and related comments on road closures are provided by the SES within the Sub Plan:

- Gauge Height of 2.5 mAHD – Minor Flood Warning
- Gauge Height of 4.3 mAHD – Moderate Flood Warning
- Gauge Height of 5.0 mAHD – Inundation of the Oxley Highway at Stoney Creek Road
- Gauge Height of 5.5 mAHD – Major Flood Warning
- Gauge Height of 6.9 mAHD – 5% AEP flood level
- Gauge Height of 9.85 mAHD – 1% AEP flood level
- Gauge Height of 12.3 mAHD – Probable Maximum Flood level

Although the SES relies primarily on the Wauchope Railway Bridge Gauge to manage and co-ordinate flood evacuation in the Wauchope Sector, the sub-plan also references the Kindee Bridge Gauge (ARWC 207004) as an option for advanced warning.

The Wauchope RSL is flagged as a potential evacuation centre that is located less than 700 metres away from the site. Alternative evacuation centres are located in Port Macquarie at Westport High School on Finlay Avenue and Port Macquarie High School on Owen Street. Due to the long distance to travel to reach the alternate evacuation centres at Port Macquarie these are not considered to be viable.

4.2 Predicted Flood Behaviour

Section 2 and **Section 3** of this report discuss the flood behaviour across the site and surrounds during a 1% AEP flood for pre and post-development site conditions, respectively. The modelling shows that the Oxley Highway and the site entrance will be inundated in advance of the peak of a 1% AEP flood. The depth mapping in **Figure 5** for the 1% AEP flood indicates peak flood depths of up to 2.4 metres along the Oxley Highway at the site entrance. This is based on a peak 1% AEP flood level at the site of 7.12 mAHD and an elevation along the Oxley Highway at the site entrance of 4.7 mAHD.

In order to understand the potential flood risks for the site and proposed development it is necessary to consider the full range of flood events and not just the 1% AEP flood. Detailed flood modelling of the full range of design flood events has been undertaken for the lower Hastings River as part of the '*Hastings River Flood Study*' (Patterson Britton & Partners, 2006), '*Hastings River Floodplain Risk Management Study*' (WorleyParsons, 2012), '*Hastings River Flood Study Update (2018)*', and most recently as part of the '*Hibbard Flood Study*' (in draft, 2018). The modelling for each of these studies has been based on the use of the RMA-2 two-dimensional flood model discussed in **Section 2**.

Predicted peak flood levels in the vicinity of the site as generated from the modelling, are listed overleaf in **Table 3**. Only the latest estimate of the peak flood level is provided for each event in order to avoid confusion associated with comparing levels generated using versions of the RMA-2 model that are now superseded.

Flood extents at the peak of the 5% and 1% AEP floods and the Extreme flood are shown in **Figure 13**.

FIGURE 13



**1% AEP HYDRAULIC CATEGORIES FOR
BASE CASE (PRE-FILL) CONDITIONS**

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Table 3 Design Flood Levels in the vicinity at the Subject Site and Site Entrance/Exit

DESIGN EVENT (AEP)	PEAK FLOOD LEVEL (mAHD)
20%	4.55
5%	5.87
2%	6.47
1%	7.12
0.5%	7.53
1% With Provision for Climate Change (Year 2100)	7.63
Probable Maximum Flood	13.57

4.3 Evacuation Route

The proposed evacuation route from the site to flood free land in Wauchope and to the nominated evacuation centre at the Wauchope RSL is shown in **Figure 13**. Topographic elevations along the proposed evacuation route have been extracted from the LiDAR and are shown in **Figure 14**.

The profile shows that the evacuation route rises from the site entrance/exit to a high-point near the Randall Street turn-off 190 metres to the west. Elevations near Randall Street exceed 9.0 mAHD which is almost 2 metres above the peak flood level for the 1% AEP flood (refer **Figure 14**). As the evacuation route continues further west the topography dips down to a low-point near the intersection with Wallace Street. The elevation at this low-point is 7.4 mAHD.

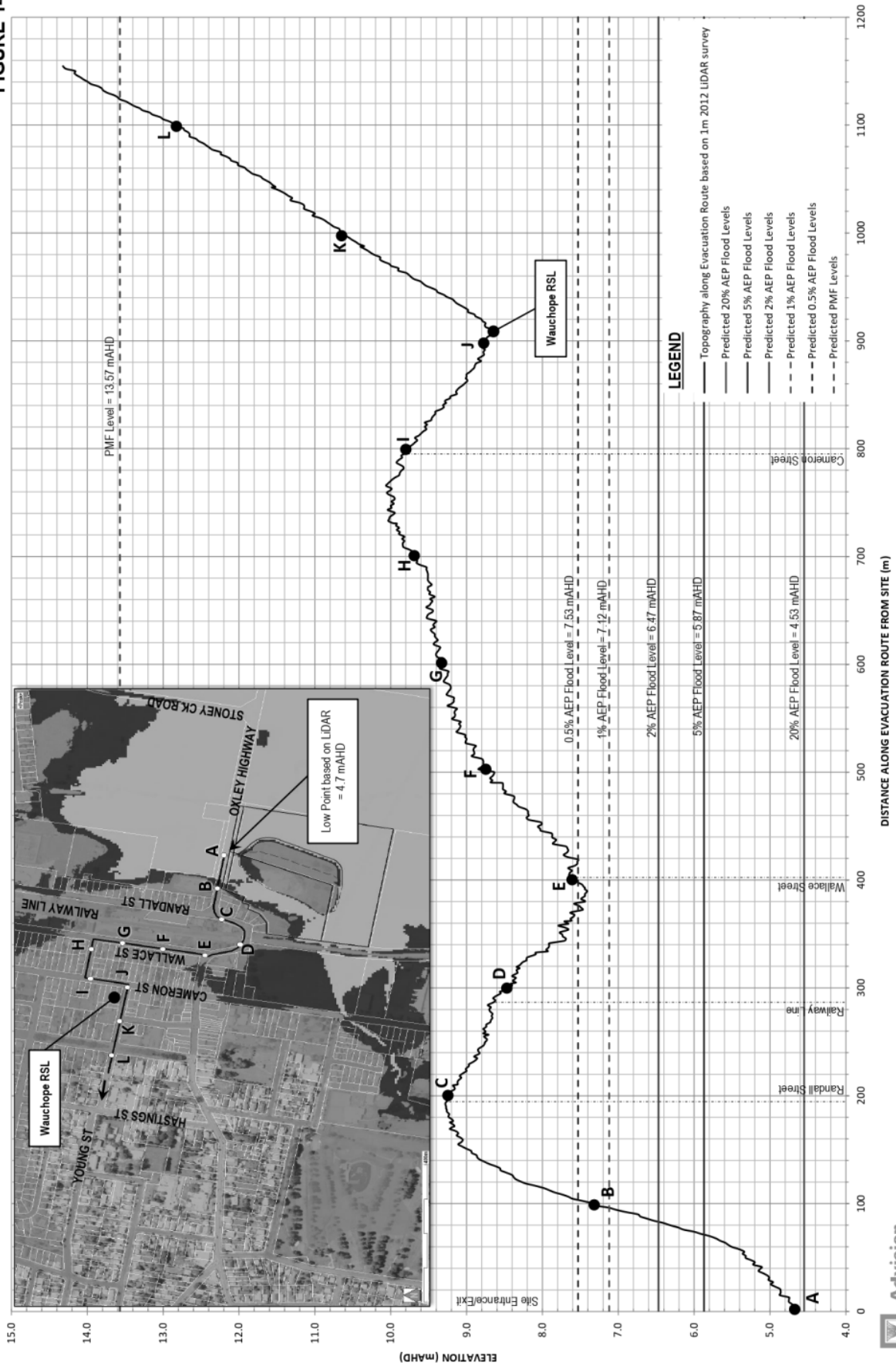
As evacuation continues further towards the Wauchope RSL (*nominated SES evacuation centre*) elevations rise and remain above 8.7 mAHD (refer **Figure 14**). Accordingly, beyond the low-point near the Wallace Street intersection the evacuation route is approximately 1.6 metres above the peak 1% AEP flood level of 7.12 mAHD. Beyond the Wauchope RSL, the evacuation route rises steeply reaching elevations above the predicted PMF flood level of 13.57 mAHD.

The risk of floodwaters inundating the low-point near the Wallace Street intersection during evacuation is considered minimal given evacuation of areas to the east and from the subject site are to be completed well before flood levels reach 4.7 mAHD across Wauchope. Accordingly, evacuation would be completed whilst flood levels are approximately 2.7 metres lower than the elevation of the low-point.

4.4 Available Flood Warning

The available flood warning has been determined for the evacuation route based on the elevation of the low-point of 4.70 mAHD (*along the Oxley Highway at the site entrance*) and the rate-of-rise of floodwaters at the site and at the Wauchope Railway Bridge Gauge. As discussed in **Section 4.1.2**, the Wauchope Railway Bridge Gauge is identified as a key warning gauge by the SES for the issuing of flood warnings and the monitoring of road closures in the Wauchope Sector.

FIGURE 14



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The SES Sub Plan also identified the Kindee Bridge gauge as having potential to provide advanced warning for the Wauchope Sector. Although Kindee Bridge could provide longer warning times than would be attainable from reliance on the Wauchope Gauge alone, it introduces additional risk of false warnings due to the greater potential of variation in rainfall patterns and intensities in the upper and lower catchments. There is also the potential to miss rising water levels associated with flooding originating from rainfall falling on the catchment downstream of the gauge.

Flood level hydrographs at the site and the Wauchope Railway Bridge Gauge are plotted in **Figures 15** and **16** for the 1% AEP flood and the PMF respectively. The PMF hydrograph is usually considered for evacuation purposes as it ensures that a conservative assessment is applied. This is because the rate-of-rise in the PMF is substantially faster than for the lower and more frequent floods such as the 1% AEP flood. Accordingly, the flood warning times presented for the PMF are considered to represent a "worst-case" assessment; i.e., they would typically be longer for smaller or more frequent events.

Table 4 provides a summary of the predicted warning times for the 1% AEP event and the PMF before the evacuation route is inundated and when it is first predicted to be cut.

Table 4 Flood Warning Assessment Based on Monitoring Gauge Levels at the Wauchope Railway Bridge for the 1% AEP Flood and the PMF (ARWC 207401)

Event (AEP)	Elevation of Low- Point (mAHD)	Available Warning Time Based (hrs) ^A					
		Minor Flood Level Reached (2.5mAHD)		Moderate Flood Level Reached (4.3mAHD)		Major Flood Level Reached (5.5mAHD)	
		Before Inundation	Evacuation Route Cut ^{AA}	Before Inundation	Evacuation Route Cut ^{AA}	Before Inundation	Evacuation Route Cut ^{AA}
1%	4.70	10.0	10.5	8.0	8.5	6.0	6.5
PMF		4.0	4.5	2.5	3.0	2.0	2.5

^A Warning times have been determined based on a comparison of the predicted rate-of-rise of floodwaters along each evacuation route to those at the Wauchope Railway Bridge Gauge (ARWC 207401).

^{AA} The evacuation route is considered to be 'cut' once floodwaters reach 0.3 metres at the low-point in accordance with Book 6 Chapter 7 of Australian Rainfall & Runoff 2019.

The Flood Policy (2018) defines safe access with reference to the NSW Floodplain Development Manual (2005) and Australian Rainfall & Runoff (2013). Since the Flood Policy was adopted in 2015, Australian Rainfall and Runoff has been progressed toward publication and was released to industry in 2016 and subsequently updated and re-released in 2019.

According to Book 6 Chapter 7 of ARR19, laboratory testing by Shand et al (2011) has shown vehicles to be stable in floodwaters up to depths of 0.3 metres for velocities of up to 1.0 m/s. For increased velocities the depth for vehicle stability reduces. For example, at a velocity of 3.0 m/s vehicles have been tested to be stable only in depths of less than 0.1 metres.

For the purposes of defining when the evacuation route would no longer meet the 'safe reliable access' criteria (when the route would be cut) a maximum flood depth across the evacuation route of 0.3 metres has been adopted. The results from the flood modelling indicate that

FIGURE 15

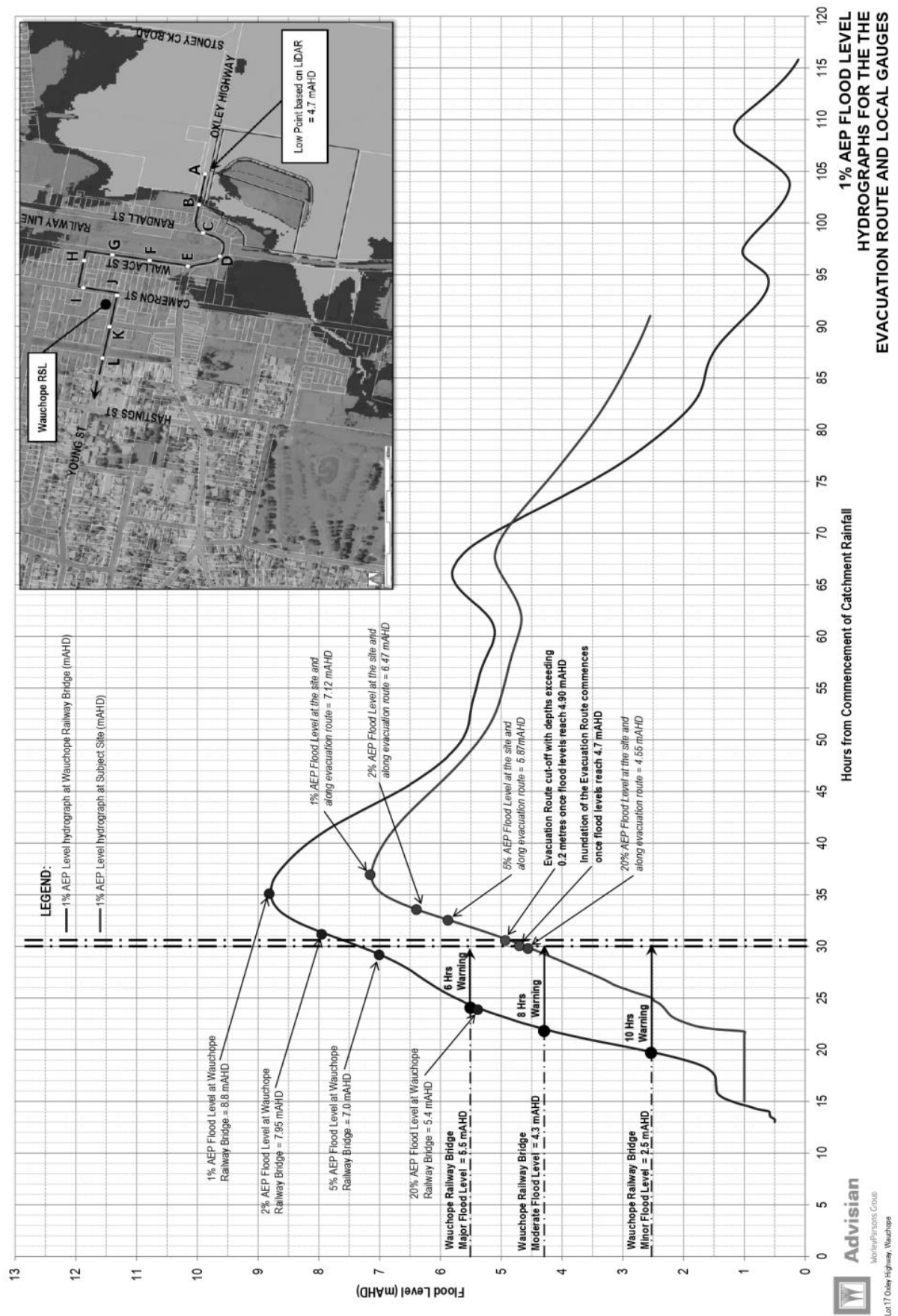
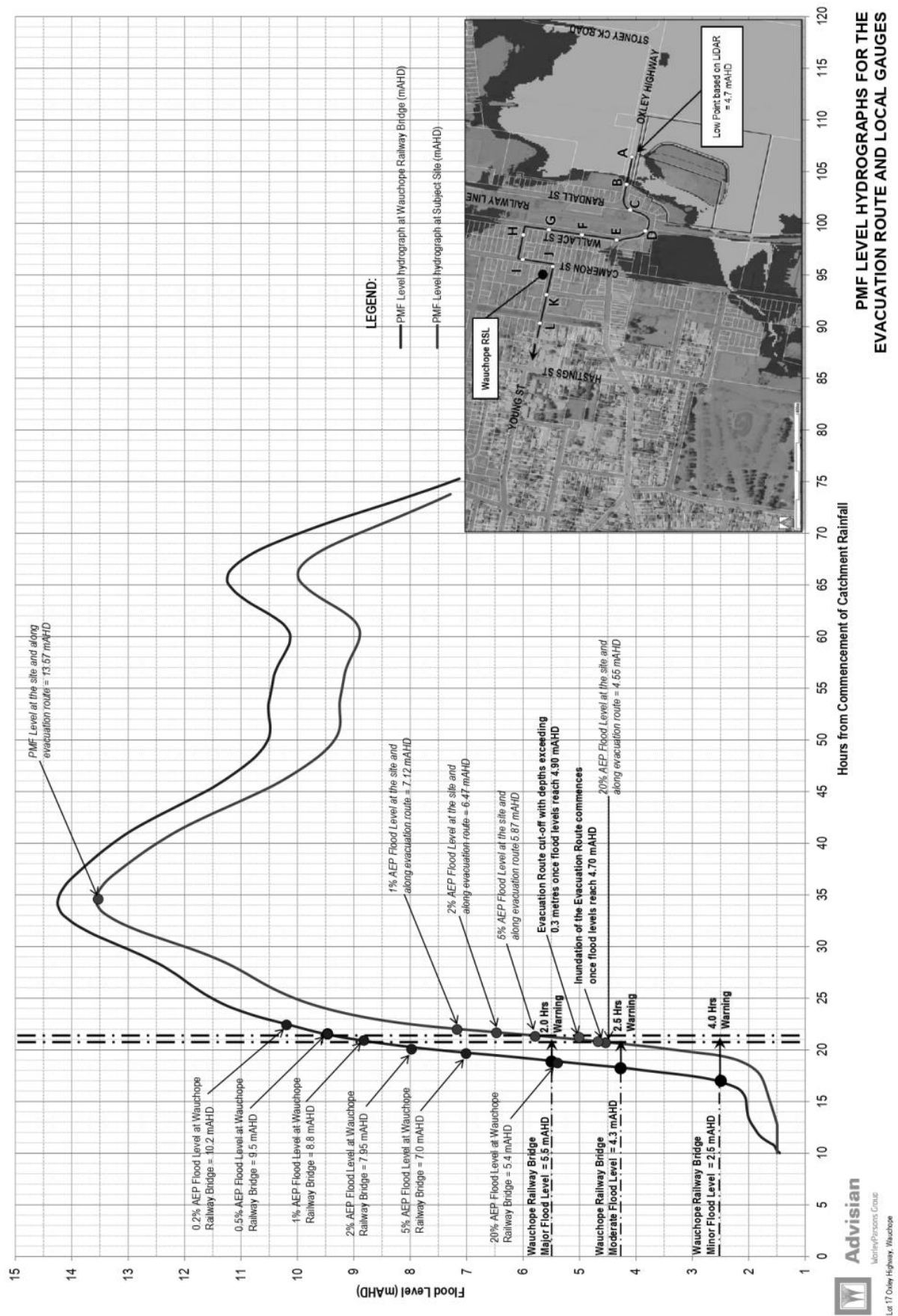


FIGURE 16



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velocities across the evacuation route would not exceed 0.1 m/s in events up to and including the 1% AEP flood.

The warning times in **Table 4** are based on recorded flood level data for the Wauchope Railway Bridge Gauge and at the site. SES issues warning times when the minor, moderate and major flood warning levels are reached at this gauge.

Table 4 indicates that during a PMF event 4 hours warning time would be available from the Minor flood level notification at the Wauchope Gauge to when floodwaters would begin to inundate Oxley Highway at the site entrance/exit. The warning time increases to 4½ hours until a depth of 0.3 metres is predicted over the low-point and the evacuation route would no longer meet the safe and reliable criteria outlined in ARR19. Evacuation would need to be completed before this time.

The data also indicates that evacuation would still be possible once the Moderate and Major flood levels are reached at Wauchope. However, the available warning times are much less and would typically be no more than 2 to 3 hours (refer **Table 4**). Based on this it is recommended that site preparation commence once the Minor flood level is reached at the Wauchope Gauge and a Minor flood warning is issued by the SES. Evacuation of the site should be completed prior to receipt of the Moderate flood warning.

As discussed above, the flood warning assessment presented in **Figure 15** and **Table 4** is based on assessment of warning times derived from flood level hydrographs for the PMF event; that is, for the worst-case flood scenario. The rate-of-rise of floodwaters is at its steepest and the resulting flood warning time at its shortest for this event. Given the short distance (105 metres) required to travel before those evacuating will reach land above the 1% AEP flood level, it seems unnecessarily conservative to adopt the PMF hydrograph as the basis for assessing warning times for this site.

The warning times for the 1% AEP flood are also presented in **Table 4** as well as in **Figure 14**. As shown, the 1% AEP flood hydrograph has a more gradual rate-of-rise and provides for longer travel times between gauges leading to longer warning times for effecting evacuation.

Comparison of the warning times for the 1% AEP event and the PMF indicates that 6 hours of additional warning time would be available if the stage hydrographs for a 1% AEP flood were adopted and evacuation was commenced following the Minor flood level being reached at Wauchope. The additional warning time reduces to 5½ hours and 4 hours if evacuation is delayed until notification of Moderate and Major flood levels at Wauchope, respectively (refer **Table 4** and **Figure 14**).

Figure 14 shows that for a 1% AEP flood, if evacuation procedures were commenced once the Minor flood level is reached and a Minor flood warning is issued by the SES then 10½ hours of warning time will be available until the evacuation route no longer meets the criteria for a safe and reliable evacuation route; i.e. once flood depths exceed 0.3 metres.

4.5 Flood Policy Compliance

As outlined in **Section 4.1**, Council's Flood Policy (2019) outlines a set of criteria that is required to be met for all new developments located on land designated as flood storage. Although no requirements are set for "Minor" developments as is proposed, it is considered good practice to

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assess the development against the criteria required for residential and commercial, industrial developments. This recognises that although it is unlikely for people to be on the site during an oncoming flood, it is still important to understand the flood risks and warning times that are available. This will ensure that people do not become trapped on the fill mound once the Oxley Highway is inundated.

This criteria for residential and commercial/industrial development is reviewed below with specific reference to the analysis documented in the preceding sections.

Criteria 1 A minimum of 8 hours warning time must be available

Based on the flood warning assessment presented in **Section 4.4**, it is recommended that the site be evacuated once the minor gauge level is reached at the Wauchope Railway Bridge; i.e., once a minor flood warning is issued. On this basis the analysis has identified that following receipt of a minor flood warning there would be:

- 4 hours warning time available before the low-point along the proposed evacuation route begins to be inundated during a PMF sized event, and
- 10 hours warning time available before the low-point along the proposed evacuation route begins to be inundated during a 1% AEP sized event.

The above warning times increase to 4½ hours and 10½ hours for the PMF and 1% AEP flood respectively, until there is predicted to be 0.3 metres depth of floodwaters over the low-points in the evacuation route. ARR 2019 defines depths of 0.3 metres as the upper limit for which laboratory testing has shown vehicles to be stable where velocities are less than 1.0 m/s; a peak flow velocity of 0.1 m/sec is predicted across the evacuation route for events up to and including the 1% AEP flood.

Given the short distances required to travel (*approximately 105 metres*) for the evacuation route to be above the peak 1% AEP flood level, it is considered appropriate for the assessment of warning times to be based on the 1% AEP flood shown (*refer Figure 14*).

The analysis therefore shows that the minimum 8 hours warning criteria is met based on evacuation commencing following the Minor flood level being reached at Wauchope and the criteria for safe and reliable evacuation being exceeded along the designated evacuation route.

Criteria 2 The flood immunity level for a 'safe reliable evacuation route' must be no lower than FPL1 (5% AEP flood level).

The terrain and flood level profile plot presented as **Figure 13** for the proposed evacuation route indicates that a 70 metre section of the route is below the peak 5% AEP flood level. While this does not strictly comply with Council's Flood Policy, the short distance required to travel to reach land above the peak 1% AEP flood level should be taken into consideration.

Furthermore, the close proximity of the low-point, which occurs at the site boundary and along the Oxley Highway, is also of importance as it decreases the potential for those evacuating to be isolated mid-evacuation.

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Criteria 3 *The 'safe reliable evacuation route' must grade upwards towards land above the PMF, preferably to an approved Flood Evacuation Centre.*

The terrain and flood level profile plot presented as **Figure 14** for the proposed evacuation route shows that the route grades upwards towards flood free land at Wauchope and to the Wauchope RSL (*nominated evacuation centre*). Although there is a dip in the evacuation route near the Wallace Street intersection, elevations along the evacuation route remain well above the peak 1% AEP flood level and 2,7 metres above the minimum elevation at the site entrance/exit.

5 CONCLUSIONS

Results extracted from the *Hastings River Flood Study (2006)* indicate that the development site lies within the 1% AEP flood extent of the Hastings River. Therefore, there is potential for the site to be inundated during large flood events. Accordingly, the effects on local flood characteristics caused by the existing fill that has been placed on the site and the proposed development has been assessed. The evacuation potential of the site has also been assessed based on a review of elevations along evacuation routes and the availability of warning times linked to SES flood warnings.

The assessment has been based on the results of computer modelling undertaken using the RMA-2 hydrodynamic model that was originally developed for the Hastings River Flood Study. The model has been modified to better represent the topography local to the site and used to assess flood characteristics for pre-fill, existing fill and proposed conditions. The results have been compared to establish whether any change in peak flood level or flow velocity can be expected at any location across the floodplain of the Hastings River.

The following conclusions can be drawn from the results of the modelling:

- The existing fill that has been placed on Lot 16 and Lot 17 is not predicted to cause any increase to peak 1% AEP flood levels within or outside of the subject site (refer **Figure 8**). Minor increases in peak 1% AEP flow velocities of up to 0.01 m/sec are predicted to occur outside of the site and within the Oxley Highway Road reserve (refer **Figure 9**). The magnitude of predicted flood level and flow velocity increases associated with the existing fill mound are within the allowances of the *Port Macquarie-Hastings Council Flood Policy (2018)*.
- The proposed fill mound is not predicted to cause any increase to peak 1% AEP flood levels within or outside of the subject site (refer **Figure 11**). Minor increases in peak 1% AEP flow velocities of up to 0.02 m/sec are predicted to occur outside of the site and within the Oxley Highway Road reserve over a length of up to 5 metres (refer **Figure 12**). The magnitude of predicted flood level and flow velocity increases associated with the proposed fill mound are within the allowances of the *Port Macquarie-Hastings Council Flood Policy (2018)*.
- The proposed development is categorised as 'Minor' development according to the *Flood Policy (2018)*. The flood policy does not require minor development to meet any evacuation criteria. Notwithstanding, an assessment has been completed to determine whether the site could be evacuated in a safe and reliable manner in accordance with the flood policy criteria for residential or commercial and industrial development. The findings are:
 - 10.5 hours warning time would be available for evacuation from the site once the minor gauge level is reached at the Wauchope Railway Bridge gauge or following a minor flood warning being issued by the SES (refer **Figure 14 and Table 4**). The warning time is based on the predicted flood level hydrographs for the 1% AEP flood and the time until there is predicted to be a maximum depth of inundation of 0.3 metres over the evacuation route.

This complies with the criteria that 'a minimum of 8 hours warning time must be available'.

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- The evacuation route grades upwards from the site to a localised high point near Randall Street. The evacuation route rises above the peak 1% AEP flood level within a distance of 95 metres from the site and remains above the peak 1% AEP flood level as evacuation continues to the SES nominated evacuation centre at the Wauchope RSL and onwards to land that is flood free; i.e., above the PMF (refer **Figure 13 and 14**).

This complies with the criteria that a 'safe reliable evacuation route' must grade upwards towards land above the PMF, preferably to an approved Flood Evacuation Centre'.

- The criteria that the evacuation route must be no lower than FPL1 (*the 5% AEP flood level*) is not achieved for the proposed evacuation route with the Oxley Highway sitting at a lower elevation (refer **Figure 14**). Given the distance to travel to reach a point along the Oxley Highway that is above the required level of immunity is relatively short (80 metres), and because the low-point commences at the site boundary thus reducing the risk of isolation mid evacuation, this criteria is not considered to be critical for this site.

6 REFERENCES

- Institution of Engineers (1987), *'Australian Rainfall and Runoff – A Guide to Flood Estimation'*, edited by DH Pilgrim.
- New South Wales Government (2005), *'Floodplain Development Manual: the management of flood liable land'*; ISBN 0 7347 5476 0.
- *'Manufactured Housing Estate, Wauchope – Flood Impact Assessment'* (2010) M. A. Roche Group Pty Ltd; prepared by WorleyParsons.
- *'Hastings River Flood Study'* (2006) Port Macquarie-Hastings Council (August, 2006); prepared by Patterson Britton & Partners Pty Ltd.
- The *'Hastings River Floodplain Risk Management Study'* Port Macquarie-Hastings Council (2012), prepared by WorleyParsons.
- Port Macquarie – Hastings Council (2007), *'Interim Port Macquarie-Hastings LGA Flood Policy'* (adopted April 2007)
- Port Macquarie – Hastings Council (2015), *'Port Macquarie-Hastings LGA Flood Policy'* (adopted December 2018)
- NSW State Emergency Service *'Port Macquarie-Hastings Local Flood Plan'* (2015).
- The *'Hastings River Flood Study Update'* Port Macquarie-Hastings Council (Exhibition Draft, 2018), prepared by Advisian.
- The *'Hibbard Precinct Flood Study'* Port Macquarie-Hastings Council (Final Draft, 2019), prepared by Advisian.

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Appendix A

Proposed Development Plans

Source: Land Dynamics



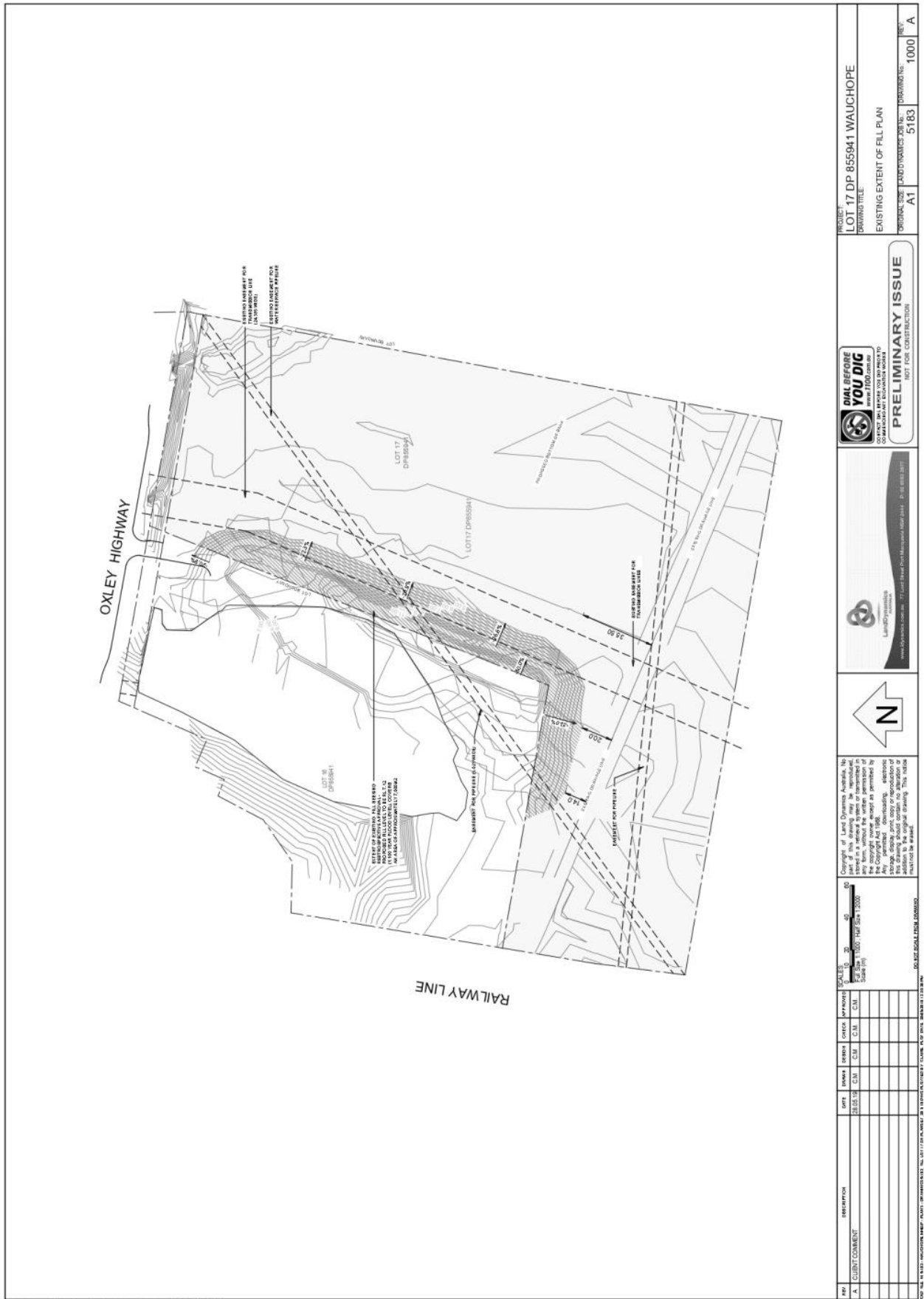
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Appendix B

Survey of the Existing Fill Mound



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Appendix C

Wauchope Sub-Sector

Source: SES Sub-plan (2015)



Item: 07

Subject: DA2019 - 740.1 DEVELOPMENT ANCILLARY TO AGRICULTURE (FROST FANS) AT LOT 13, DP 754420, 293 INNES VIEW ROAD, INNES VIEW

Report Author: Development Assessment Planner, Benjamin Roberts

Applicant: I H and A L Tolson
Owner: I H and A L Tolson
Estimated Cost: \$140,000
Parcel no: 17667

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2019 - 740 for development ancillary to agriculture (frost fans) at Lot 13, DP 754420, No. 293 Innes View Road, Innes View, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a development application for development ancillary to agriculture (frost fans) 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 was received.

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

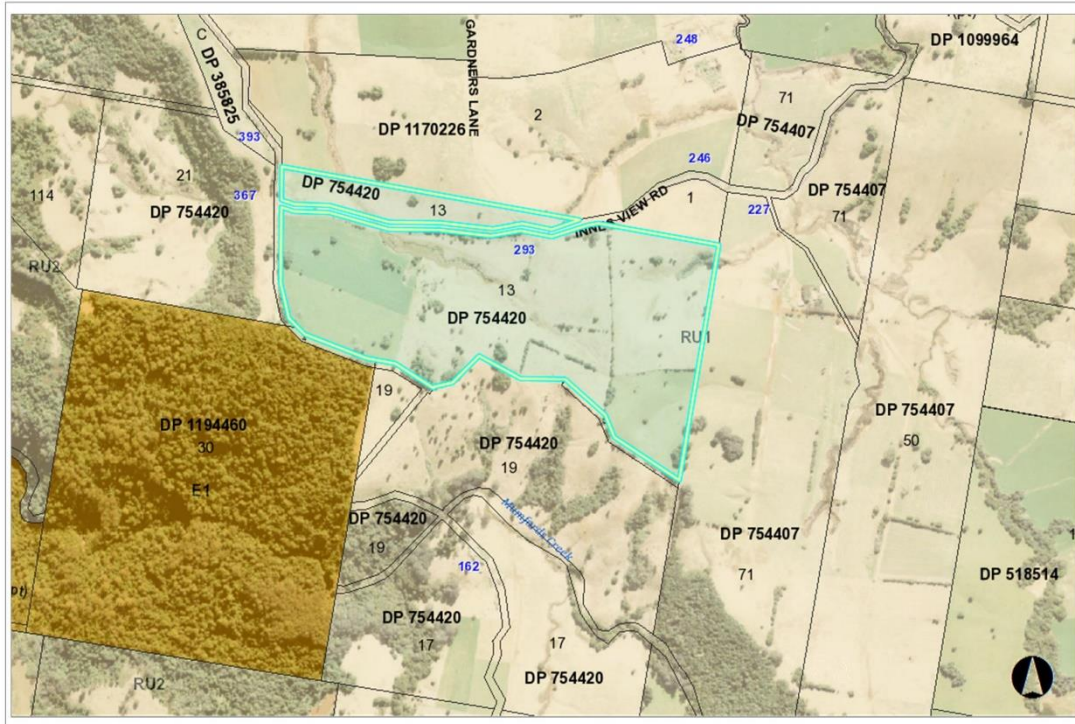
This report recommends that the development application be approved subject to the conditions in **Attachment 1**.

1. BACKGROUND

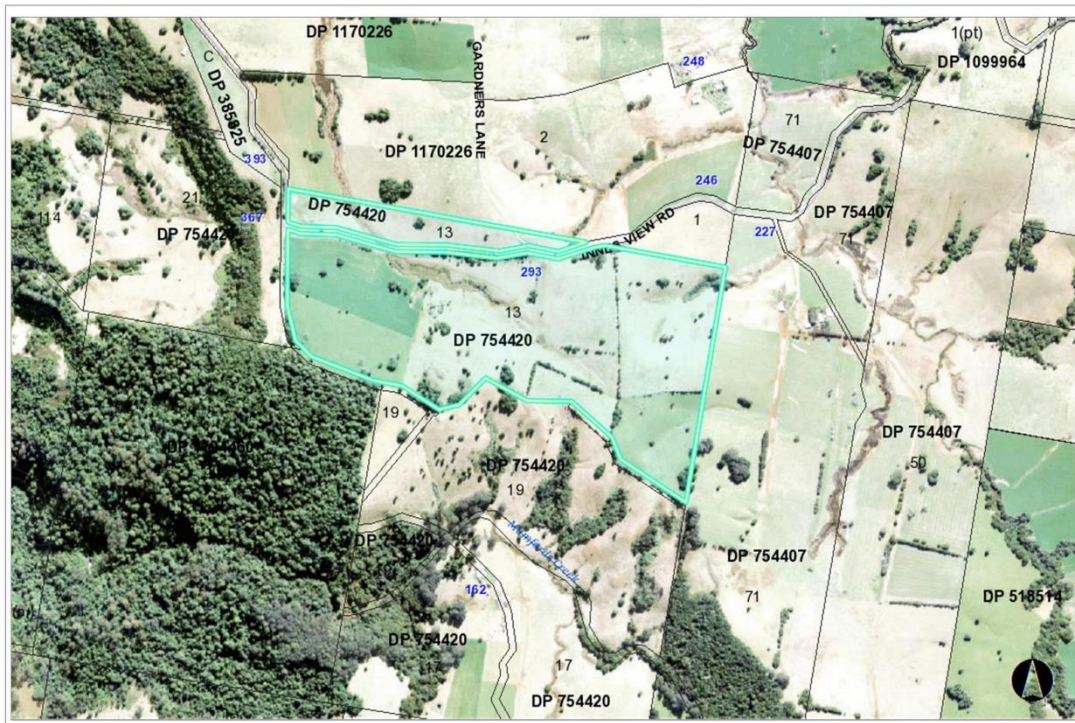
Existing Sites Features and Surrounding Development

The site has an area of 51.09 hectares.

The site is zoned RU1 Primary Production 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:

- Erection of two frost fans each with a tower height of 10.5m and 5.5m fan diameter.

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

Application Chronology

- 14 October 2019 - Application lodged.
- 25 October 2019 - Additional information requested.
- 28 October 2019 - Additional information lodged.
- 30 October 2019 - Additional information requested.
- 1 to 14 November 2019 - Public exhibition via neighbour notification.
- 17 January 2020 - Additional information lodged.
- 13 February 2020 - Additional information requested.
- 14 April 2020 - Additional information lodged.

3. STATUTORY ASSESSMENT

Section 4.15(1) Matters for Consideration

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

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

State Environmental Planning Policy (Koala Habitat Protection) 2019

Clause 15 - A development application made, but not finally determined, before the commencement of this Policy in relation to land to which this Policy applies must be determined as if this Policy had not commenced. The application was made and not finally determined prior to the commencement of this policy, and the application is therefore required to be assessed under the relevant provisions of State Environmental Policy No 44 - Koala Habitat Protection. See assessment comments below.

State Environmental Planning Policy No. 44 - Koala Habitat Protection

With reference to clauses 6 and 7, the subject land is greater than 1 hectare (including any adjoining land under same ownership) and therefore the provisions of SEPP must be considered.

The Department of Planning and Infrastructure's Circular No. B35, Section 1.5 states that "In relation to affected development applications it is the intention of the policy that investigations for 'potential' and 'core' koala habitats be limited to those areas in which it is proposed to disturb habitat".

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

State Environmental Planning Policy No. 55 – Remediation of Land

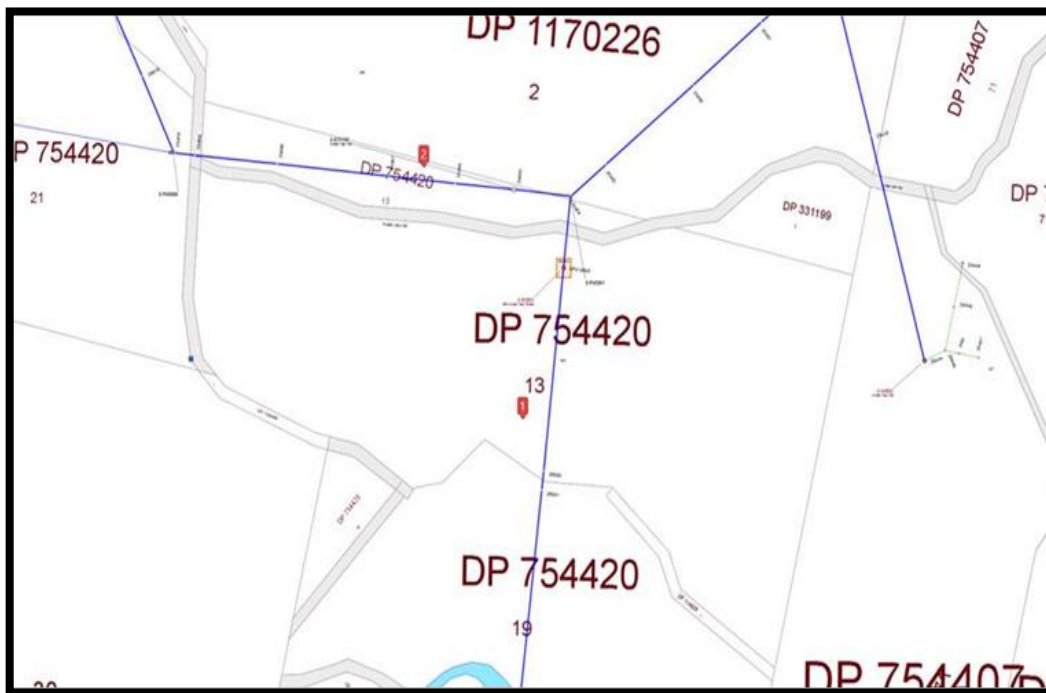
Following an inspection of the site and a search of Council records, the subject land is not identified as being potentially contaminated and is suitable for the intended use.

State Environmental Planning Policy (Infrastructure) 2007

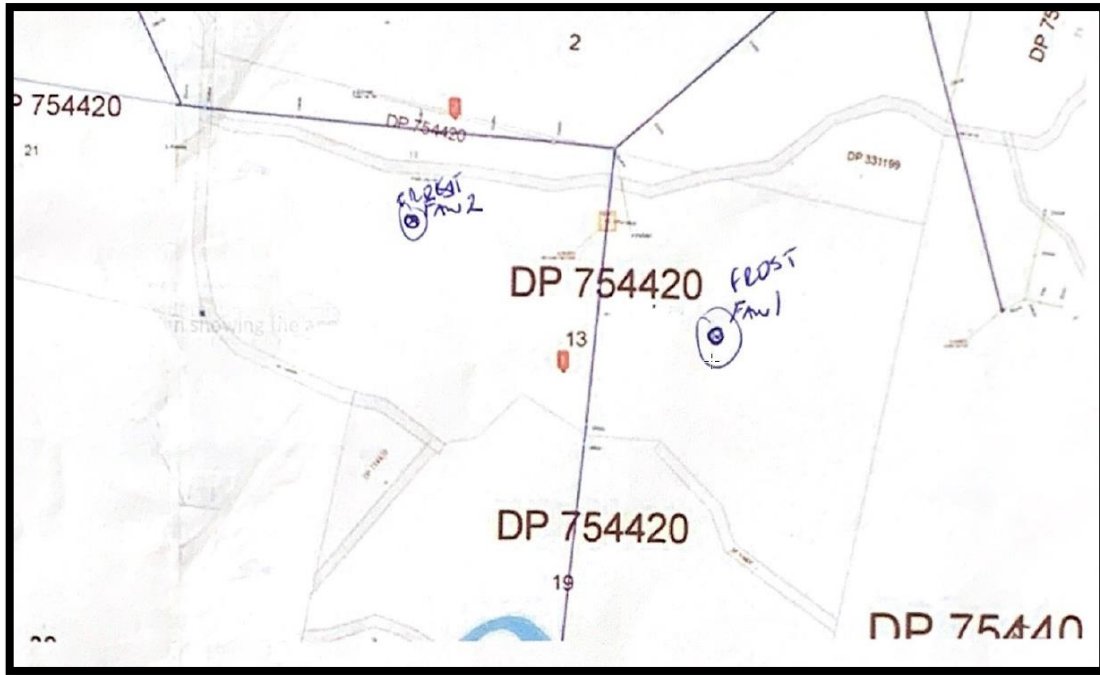
In accordance with clause 45 of this policy written notice is required to the electricity supply authority for any development in proximity to electricity infrastructure. Specifically, for any of the following:

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

Following a site inspection, it was evident that overhead electricity lines exist on the property. They are not located within any easement. Subsequent advice was sought from Essential Energy as to the location of overhead electricity power lines on the property. A plan was provided by Essential Energy showing the location of electricity infrastructure on the property. A screenshot of the plan is provided below:



The proponent was requested to illustrate the location of the fans in relation to the power line infrastructure. The marked up plan was provided below which illustrates the fans are proposed to be located well in excess of 5m from the power lines and therefore no formal written notice to the supply authority is required.



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 RU1 Primary Production. I
- Clause 2.3(1) and the RU1 zone landuse table - The proposed development is considered to be ancillary to the agricultural use of the land. Specifically, the site is currently operating as an avocado farm and the fans would be used as a means of keeping frost from settling on the avocado plants. Agriculture is permitted with consent in the RU1 zone.

The objectives of the RU1 zone are as follows:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- Clause 2.3(2) - The proposal is consistent with the zone objectives having regard to the following:
 - the proposal is a permissible landuse;
 - the proposal will encourage sustainable primary industry;
 - the proposal will encourage a diverse primary industry enterprise;
 - the proposal will not fragment or alienate resource lands; and
 - the proposal will not result in any zone interface land use conflicts.
- Clause 5.10 – The site does not contain or adjoin any known heritage items or sites of significance.

- Clause 7.13 - Water, sewer, electricity and stormwater are not considered essential services for the proposed development. Existing suitable road access currently serves the site.

(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

The plan does not contain specific provisions for this form of development. The relevant general provisions of the plan considered in the following table:

DCP 2013: General Provisions			
DCP Objective	Development Provisions	Proposed	Complies
1.3.2	Community participation	The application is notifiable local development and was notified consistent with provisions of this plan.	Yes
2.6.3	Tree removal (3m or higher with 100mm diameter trunk and 3m outside dwelling footprint)	No tree removal is 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

No matters prescribed by the regulations apply.

(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 property is located approximately 4km west of the village of Comboyne. The property is traversed by Innes View Road along its northern portion and adjoining the site to the north, east and south are rural properties. Adjoining the site to the southwest is National Park, known as the Boorgana Nature Reserve.

The proposal has demonstrated that it will not have any significant adverse impacts to existing adjoining properties.

The proposal is considered to be consistent with rural 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.

There are no adverse overshadowing impacts.

Roads, Traffic and Transport

The installation of the two frost fans will not result in any increase to traffic generation from the property.

Site Frontage and Access

The site has road frontage to and existing access from Innes View Road. There is no change proposed or required to the existing property access arrangement.

Parking and Manoeuvring

The installation of the two frost fans will not result in any increased parking demand.

Stormwater

Stormwater generated from the structures will be minimal and not considered to require any specific capture or treatment measures.

Other Utilities

Electricity services are available to the site. It is not clear whether telecommunication service is provided however is not considered necessary for the proposed development.

Heritage

No known items of Aboriginal or European heritage significance exist on the property. No adverse impacts anticipated. The site is considered to be disturbed land.

Other land resources

The proposal will not sterilise any significant mineral or agricultural resource.

Water cycle

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

Soils

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

Air and microclimate

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

Flora and fauna

Construction of the proposed development will not require any removal/clearing of any native vegetation 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

No adverse impacts anticipated.

Noise and vibration

The operations of the proposed development have the potential to generate noise impacts. Specifically, as the frost fans will be operational within the early hours of the morning.

The application was supported by an environmental noise assessment. The assessment was prepared by Sonus and is dated January 2020 and is provided as an attachment to this report.

The noise assessment provides the following conclusion:

“The noise from two new Frost Boss “C49” frost control fans has been predicted at the closest non-associated dwellings. The predictions have used the CONCAWE noise propagation model under weather conditions which correspond to a frost.

Appropriate noise criteria have been established with reference to the Griffith and Leeton Shire Councils policies for frost control fans.

Based on the predictions, the adopted criterion of 55 dB(A) will be easily achieved at all non-associated dwellings in the vicinity of the installation where the new frost control fans are operated in the “normal” operating mode.”

Following a review of the noise assessment additional information was requested from the applicant which sought advice clarification on expected internal noise levels at the residential receivers. Additional information was provided by the author of the noise assessment in an email dated 14 April 2020. A copy of this email is provided as an attachment to this report.

The following assessment comments are provided with regard to the environmental noise assessment and additional information received:

- The noise assessment is based on frost fan noise levels measured by Heggies for another development. It is understood that Sonus has previous experience in noise modelling predictions for frost fans in the Leeton area.
- The noise assessment has used the noise criteria set out under the Griffith Policy for Frost Control Fans and Leeton Shire Council Policy for Frost Control Fans. The policies “recognise the special circumstances associated with frost control fans and have specific criteria for the noise that they produce”.
- The Noise Guide for Local Government cites the Griffith City Council’s Frost Fans Policy and the Victorian Governments publication: “Guidelines on Noise from Frost Fans”. That being the case, the 55dB(A) external criterion adopted is considered appropriate to determine potential noise impacts on surrounding residents.
- Based on the 55dB(A) external criterion for a dwelling in a ‘Non-noise sensitive zone’, i.e. in an agricultural area, the modelled noise levels from the two frost fans will comply at all the potentially noise-affected dwellings. The potentially noise-affected dwellings are illustrated in appendix A of the noise

assessment. The predicted outdoor noise levels at the dwellings range from between 42dB(A) to 48dB(A).

-
- The modelled internal noise levels for each of the surrounding residences was when both of the frost fans would be in operation i.e. the cumulative worst-case scenario. The appropriate internal noise level criterion for a bedroom during the night is 35dB(A).
-
- The consultant's assumption that standard dwelling construction reduces noise from outside to inside by between 20 to 25 decibels is not justified. The general rule is a reduction of 10 decibels. This being the case the expected internal noise levels within the residential receivers would actually range from 32 to 38dB(A) and not 22 to 28dB(A) as claimed. Noting that an increase in noise of 3dB(A) is generally inaudible to most people the expected internal noise levels will not adversely impact on the surrounding residents.
-
- The applicant anticipates the expected number of frost days and subsequent days the fans would be in operation as being between 10 to 15 days and the anticipated maximum number of days each year being 30 days.

The application has adequately demonstrated that the proposed development will not result in any significant adverse noise impacts. A consent condition has been recommended advising of further acoustic reporting requirements should Council receive justified noise complaints during operation.

Bushfire

The site is identified as being bushfire prone. However, no form of residential development is proposed. An assessment of bushfire risk having regard to Planning for Bushfire Protection guidelines concludes that no bushfire measures are required for the proposed structures.

Safety, security and crime prevention

The proposed development will be unlikely to create any 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 not considered to have any significant adverse social impacts.

Economic impact in the locality

The proposal is not considered to have any significant adverse economic impacts on the locality. The proposal will enhance the agricultural use of the land.

Site design and internal design

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

Construction

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

Cumulative impacts

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

(c) The suitability of the site for the development

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

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

One (1) written submission was received following public exhibition of the application. Copies of the written submission have been provided separately to members of the DAP.

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

Submission Issue/Summary	Planning Comment/Response
Noise impacts to the residence at 162 Colling Road.	Refer to detailed assessment comments under noise and vibration heading of this report. In summary the application has adequately demonstrated that the proposal will not result in any significant adverse noise impacts that would warrant refusal of this application. A consent condition has also been recommended advising of further acoustic reporting requirements should Council receive justified noise complaints during operation.
The application is supported by a noise report for a property in Hastings, New Zealand and not this site.	Following a request for additional information the applicant subsequently provided a site-specific noise assessment report. Upon receipt a copy of the site-specific noise assessment was provided to the objector. The site-specific noise assessment is provided as an attachment to this report.
Can further information be provided on how loud the fans will be and whether they will be audible during quiet nights?	The site-specific noise assessment provides details of the fans noise output levels and anticipated noise levels at the dwelling of 162 Colling Road.

(e) The Public Interest

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

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

A fixed development consent levy will apply under s7.12 of the Act. Consistent with Council's S94A (now s7.12) plan the development is not for residential purposes and the cost of the development exceeds \$100,000 in value. A consent condition has been recommended requiring payment of the levy prior to issue of the construction certificate. An estimate of the amount payable is provided as **Attachment 3** to this report.

Development contributions will not be required under s64 for the following reasons:

- There is no reticulated water or sewer supply network available.

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 [↓](#). DA2019 - 740.1 Recommended Conditions
- 2 [↓](#). DA2019 - 740.1 Plans & SOEE
- 3 [↓](#). DA2019 - 740.1 Contributions Quote
- 4 [↓](#). DA2019 - 740.1 Additional Information from Accoustic Consultant
- 5 [↓](#). DA2019 - 740.1 Noise Impact Assessment Report.

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2019/740****DATE: 6/05/2020****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 plan as stamped	Page 7 - Appendix B of Environmental Noise Assessment	Sonus - Jason Turner	January 2020
Environmental Noise Assessment	S4390C151	Sonus - Jason Turner	January 2020
Additional information email	DA2019/740 - Frost Fans	Sonus - Jason Turner	14 April 2020
FrostBoss C49 product brochure	aussiefrostfans.com.au	New Zealand Frost Fans Limited	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 building 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;

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

B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

- (1) (B010) Payment to Council, prior to the issue of the Construction Certificate of the Section 7.12 contributions set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied, pursuant to the Environmental Planning and Assessment Act 1979 as amended, and in accordance with the provisions of the following plans:

- Port Macquarie-Hastings Council Section 94A Levy Contributions Plan 2007

The plans may be viewed during office hours at the Council Chambers located on the corner of Burrawan and Lord Streets, Port Macquarie, 9 Laurie Street, Laurieton, and High Street, Wauchope.

The attached "Notice of Payment" is valid for the period specified on the Notice only. The contribution amounts shown on the Notice are subject to adjustment in accordance with CPI increases adjusted quarterly and the provisions of the relevant plans. Payments can only be made using a current "Notice of Payment" form. Where a new Notice of Payment form is required, an application in writing together with the current Notice of Payment application fee is to be submitted to Council.

- (2) (B042) A certificate from an approved practising chartered professional civil and/or structural engineer certifying the structural adequacy of the proposed frost fan footings is to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

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.

F – OCCUPATION OF THE SITE

- (1) (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.
- (2) (F195) The development must not cause a noise nuisance to any other person. Following occupation, should complaints of a noise nuisance be justified, further acoustic assessments may be requested to be undertaken by a qualified consultant and a Noise Impact Assessment Report provided to Port Macquarie-Hastings Council. The applicant shall then implement all recommendations provided under the assessment within a timeframe set by Council, to the satisfaction of Council and shall comply with any additional direction given by Council.

DRAFT

293 Innes View Rd - Google Maps

Google



- FARM BOUNDARY.
x FROST FANS
↑ HILL

O - House

DA 2019-740



DA 2019-740

X Frost FANS

Draft Contours

DA 2019-740



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. 13 Section No. DP/SP No. 754420 Street No. 293
 Street Name INNES VIEW RD - INNES VIEW
 Suburb/Town COMBOYNE Postcode 2429

2. PROPOSAL DESCRIPTION

Provide a description of the proposed development. 2x FROST FANS

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?

D1 20.1.1.1

Comments:

3. PLANNING INFORMATIONWhat is the zoning of the subject land? RURALWhat is the current use of the land/building? FARMING

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)? N/A 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:

DA 2017-170

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 & 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? N/A

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? N/A

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)

.....

DA 2019-740

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

.....

.....

How and where will the wastes be stored?

.....

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:

.....

.....

Adrian Isha
APPLICANT'S SIGNATURE

28.10.19
DATE

Developer Charges - Estimate

Applicants Name: I H & A L Tolson
 Property Address: 293 Innes View Road, Innes View
 Lot & Dp: Lot(s):13, DP(s):754420
 Development: Development ancillary to horticulture (frost fans)



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

Levy Area	Units	Cost	Estimate
1 N/A			
2 N/A			
3 N/A			
4 N/A			
5 N/A			
6 N/A			
7 N/A			
8 N/A			
9 N/A			
10 N/A			
11 N/A			
12 N/A			
13 N/A			
14 S94A Levy - Applicable to Consents approved after 2/12/07	0.50%	\$ 141,811	\$709.00
15			
16			
17			
18			
Total Amount of Estimate (Not for Payment Purposes)			\$709.00

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

DATE OF ESTIMATE:

6-May-2020

Estimate Prepared By Ben Roberts

This is an ESTIMATE ONLY - NOT for Payment Purposes

S A L Tolson, 293 Innes View Road, Innes View, 6-May-2020.xls

PORT MACQUARIE-HASTINGS COUNCIL

Ben Roberts

From: Jason Turner <jturner@sonus.com.au>
Sent: Tuesday, 14 April 2020 8:41 AM
To: Ben Roberts
Cc: iatolson@bigpond.com; 'Ben Daking'; ct@sonus.com.au; bpoland@sonus.com.au
Subject: DA 2019/740 - Frost Fans

Hi Ben,

We have contacted Michelle to discuss the required information and provide the following in response:

- *The modelled internal noise levels for each of the surrounding residences when both of the frost fans are in operation, ie the cumulative worst-case scenario.*

Frost fan policies are established with an emphasis on meeting external noise levels; but with the ability to achieve internal noise levels in the circumstance where the fans are to be located in very close proximity (which is not the case for this application).

Therefore, any installation which achieves the external noise level requirements will inherently meet the internal noise level requirements (but not vice versa to enable the fans to be located closer subject to agreement and dwelling upgrades).

In this circumstance, the frost fans are well separated from the nearest dwellings and so easily achieve the external noise level requirements (and therefore easily achieve the internal noise level requirements).

The predicted external noise levels are based on the *cumulative operation of both frost fans at normal speed*.

The internal noise levels within a dwelling depends on the construction of the dwelling. Based on a range of previous noise transfer tests at various rural dwellings, a façade without any upgrades (that is, normal domestic construction) achieves a *minimum* reduction from outside to inside of 20 dB(A), and more likely in the order of 25 dB(A).

Therefore the highest expected internal noise levels within the nearby dwellings for the *cumulative operation of both frost fans at normal speed* are as follows:

Dwelling	Criteria	Predicted Internal Noise Level
NAD 1	35 dB(A)	23 dB(A)
NAD 2	35 dB(A)	22 dB(A)
NAD 3	35 dB(A)	28 dB(A)
NAD 4	35 dB(A)	25 dB(A)
NAD 5	35 dB(A)	25 dB(A)

Based on the above, the installation will easily achieve the indoor noise criteria of the adopted frost fan policies.

- *If the operating noise proved to be too loud, are there any noise attenuation measures available that could be installed etc post installation to reduce noise from the operation of the fans, engine and fan/blades?*

The noise from frost fans has been measured on a number of occasions in different locations and arrangements and there has not been an installation where the measured noise level is higher than the

predicted noise level. That is, the predictions are made with a high level of accuracy as they are made under precise and known conditions.

In this circumstance, the predictions indicate that the criteria will be easily achieved by many orders of magnitude. Indeed, the number of proposed fans could be tripled without issue.

Notwithstanding this, potential mitigation measures which could be implemented post installation comprise:

- Reducing the operating speeds of specific fans near the most affected residences (which reduces the noise levels produced by the fans but also the coverage and so this solution is not ideal in practice); or
- Implementation of dwelling treatment packages, at the agreement of the land owners, in order to achieve the internal noise criteria. These packages would involve upgrading the dwelling facades to achieve greater noise attenuation from outside to inside. This would require noise transfer testing to be conducted at non-complying dwellings to determine the extent of upgrades which is required.

As noted above, based on the predicted noise levels the above measures will not be necessary.

We have also received further information from the applicant:

- The type of crop(s) to be protected by the fans Avocados
- The stages of growth when the crop(s) is/are subject to frost damage and requires protection by the frost fans Primarily the first 5 years after planting, but ongoing during extreme events. For the first 5 years it's recommended that the fans be started at +1.0 deg C and stopped at +3.0 deg C. once the trees have reached significant size, the start temperature may be reduced to +0.5 deg C and the stop +2.5 deg C
- The expected number of frost days in Comboyne in a year when the fans will be in operation: 10-15
- The maximum number of days each year the fans are likely to operate, if different from the above: 30

We trust the above is satisfactory for your immediate purposes.

We would be happy to discuss further with you and Michelle as required. The installations are common in the various wine and fruit regions in South Australia and so we have developed a good understanding of the noise characteristics of frost fans (both in prediction and in practice).

Regards,

Jason

Jason Turner

Associate

0410 920 122

jturner@sonus.com.au

Sonus Pty Ltd

www.sonus.com.au

17 Ruthven Avenue

ADELAIDE SA 5000

Phone: +61 8 8231 2100



From: Ben Roberts <Ben.Roberts@pmhc.nsw.gov.au>
Sent: Thursday, 13 February 2020 10:22 AM
To: Alison Tolson <iatolson@bigpond.com>
Subject: FW: DA 2019/740 - Frost fans.....

Hi Alison,

In chasing up our EHO, the following further information detailed below is requested to enable complete assessment. It may be best to have your acoustic person give Michelle our EHO a ring to discuss direct to ensure it is made clear on what is expected.

Regards

Ben Roberts
Development Assessment Planner
Development and Environment



p (02) 6581 8031



From: Michelle McLennan <Michelle.McLennan@pmhc.nsw.gov.au>
Sent: Wednesday, 12 February 2020 12:42 PM
To: Ben Roberts <Ben.Roberts@pmhc.nsw.gov.au>
Subject: RE: DA 2019/740 - Frost fans.....

Hi Ben,

Unfortunately I haven't completed the review of the NIA Report for the two frost fans.

The NSW EPA in its "Noise Guide for Local Government" cites the **Griffith City Council Frost Fan Noise Policy**[^] and the Victorian Government's publication: "**Guidelines on Noise from Frost Fans**" as guidance materials for councils assessing frost fan DA's and noise from frost fans.

To assist with the assessment it would be appreciated if the applicant could be asked to provide the following information:

- The type of crop(s) to be protected by the fans
- The stages of growth when the crop(s) is/are subject to frost damage and requires protection by the frost fans
- The expected number of frost days in Comboyne in a year when the fans will be in operation
- The maximum number of days each year the fans are likely to operate, if different from the above

- The modelled **internal** noise levels for each of the surrounding residences when **both** of the frost fans are in operation, ie the cumulative worst-case scenario
- If the operating noise proved to be too loud, are there any noise attenuation measures available that could be installed etc post installation to reduce noise from the operation of the fans, engine and fan/blades?

It's believed that Mr Jason Turner from 'Sonus' has undertaken noise modelling for frost fan applications to Leeton Shire Council.

^ It appears the Griffith City Council frost fan noise policy is no longer in operation. Both Griffith City Council & Leeton Shire Council worked on the existing frost fan noise policy adopted by Leeton Shire Council.

Regards,

Michelle McLennan
Environmental Health Officer
Development and Environment



p (02) 6581 8516

Available: Mondays to Thursdays, 8.30am - 3.30pm



From: Ben Roberts <Ben.Roberts@pmhc.nsw.gov.au>
Sent: Wednesday, 12 February 2020 9:17 AM
To: Michelle McLennan <Michelle.McLennan@pmhc.nsw.gov.au>
Subject: FW: DA 2019/740

Hey Michelle,

Have you had a chance to review this noise report yet? Just have the applicant chasing me for an update. Thanks

Regards

Ben Roberts
Development Assessment Planner

Development and Environment



p (02) 6581 8031



From: Alison Tolson <iatolson@bigpond.com>
Sent: Tuesday, 11 February 2020 11:15 AM
To: Ben Roberts <Ben.Roberts@pmhc.nsw.gov.au>
Subject: RE: DA 2019/740

Morning Ben,

Could you please give an update on the above DA.
I forwarded an acoustic report on the 17/1/2020.

Many thanks
Alison Tolson

From: Ben Roberts <Ben.Roberts@pmhc.nsw.gov.au>
Sent: Monday, 28 October 2019 2:10 PM
To: Alison Tolson <iatolson@bigpond.com>
Subject: RE: DA 2019/740

Thanks Alison

Regards

Ben Roberts
Development Assessment Planner
Development and Environment



p (02) 6581 8031





From: Alison Tolson <iatolson@bigpond.com>
Sent: Monday, 28 October 2019 1:53 PM
To: Ben Roberts <Ben.Roberts@pmhc.nsw.gov.au>
Subject: DA 2019/740

Afternoon Ben,

Please find attached the following

- Statement of Environmental Effects (4 pages)
- Noise Report (12 pages)
 - Page 5 has information on the dimensions etc
- Frost Boss C49 Brochure (4 pages)
 - Page 3 has the technical specifications
- Design Phase (9 pages)
- Farm maps x 2

Kind Regards
Alison Tolson

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Proposed Frost Control Fans

Innes View Road, Comboyne

Environmental Noise Assessment

S4390C151

January 2020

sonus.

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Proposed Frost Control Fans – Innes View Road
Environmental Noise Assessment
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INTRODUCTION

Two new Frost Boss “C49” frost control fans are proposed to be installed at Innes View Road, Comboyne.

The frost control fan installation is intended to automatically engage during meteorological conditions under which frost is likely to occur¹. These conditions are negligible wind or cloud and generally occur in the early morning hours.

This assessment predicts the noise level at the closest non-associated dwellings from the frost control fan installation. In the absence of relevant guidelines for noise from the operation of frost control fans within the Port Macquarie-Hastings Council, reference has been made to established policies within the Leeton Shire and Griffith Councils to develop appropriate objective noise criteria.

The location of the proposed frost control fans and the closest non-associated dwellings are indicated on the figure in Appendix B. It is understood that there are no existing frost control fans operating at the premises.

¹ Appendix A provides additional information on the operation of the Frost Boss frost control fan.

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CRITERIA

The proposed frost control fan installation and the closest dwellings are located within a Primary Production Zone of The Port Macquarie-Hastings Local Environmental Plan 2011 (the LEP).

The LEP does include any specific provisions in relation to the noise from frost control fans, so reference has been made to the established frost control fan policies frequently used in the Griffith and Leeton Shire Council areas for similar frost control fans installations.

These policies have been developed to *find an equitable balance between the use of frost control fans and the amenity of surrounding residents, and to address the interface issues regarding the installation and operation of frost control fans.*

Both the *Griffith Policy for Frost Control Fans* and *Leeton Shire Council Policy for Frost Control Fans* recognise the special circumstances associated with frost control fans and have specific criteria for the noise that they produce. The criteria apply at the nearest affected dwellings located on a separate property to that which the fans will be located upon are as follows:

<i>Location of affected residence</i>	<i>Outdoor Criteria (L_{Aeq})</i>	<i>Indoor Criteria (L_{Aeq})</i>
<i>Noise Sensitive Zone</i>	<i>45 dB(A) (max)</i>	<i>25 dB(A) (max)</i>
<i>Non-noise sensitive Zone</i>	<i>55 dB(A) (max)</i>	<i>35 dB(A) (max)</i>

Note:

- 1. A noise sensitive zone (noise receiver's zone) is a zone primarily meant for noise sensitive land uses such as residential or rural residential.*
- 2. A non-noise sensitive zone is a zone primarily used for agricultural pursuits.*

Based on the above, for non-associated dwellings in a Primary Production Zone, an adopted outdoor criterion is 55 dB(A) for all frost control fans operating concurrently at the site is considered appropriate.

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ASSESSMENT

Noise from the operation of the proposed Frost Boss "C49" frost control fans has been predicted to the closest non-associated dwellings based on the following:

- sound power levels (refer Appendix A) derived from noise level measurements conducted by Hegley Acoustic Consultants (HAC) for the Frost Boss "C49" at a motor speed of 1800rpm². The motor speed of 1800rpm is the "normal" operating mode and corresponds to a fan speed of approximately 418rpm; and
- CONCAWE³ noise propagation which takes into account the specific temperature inversion characteristics of a frost condition on noise propagation (i.e., CONCAWE Weather Category 5 conditions).

The predicted noise level at the closest dwellings for the operation of two new "C49" frost control fans operating in normal mode are summarised in the table below:

Dwelling	Criteria	Predicted Noise Level
NAD 1	55 dB(A)	43 dB(A)
NAD 2	55 dB(A)	42 dB(A)
NAD 3	55 dB(A)	48 dB(A)
NAD 4	55 dB(A)	45 dB(A)
NAD 5	55 dB(A)	45 dB(A)

The predicted noise levels in the table indicate that the noise from the frost control fan installation will easily achieve the criterion at all non-associated dwellings.

² Frost Boss C49 Frost Fan Field Testing Noise Report, dated September 2010.

³ CONCAWE Conservation of clean air and water in Europe – Report 4/81 *The propagation of noise from petroleum and petrochemical complexes to neighbouring communities*, Manning, C.J. et al.

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CONCLUSION

The noise from two new Frost Boss "C49" frost control fans has been predicted at the closest non-associated dwellings. The predictions have used the CONCAWE noise propagation model under weather conditions which correspond to a frost.

Appropriate noise criteria have been established with reference to the Griffith and Leeton Shire Councils policies for frost control fans.

Based on the predictions, the adopted criterion of 55 dB(A) will be easily achieved at all non-associated dwellings in the vicinity of the installation where the new frost control fans are operated in the "normal" operating mode.

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APPENDIX A: Operation of the Frost Boss Frost Control Fan

During frost conditions, the ground temperature and the temperature of air adjacent to the ground reduces to a temperature, which is lower than the temperature at a higher level. Frost control fans work by moving the warmer air at the higher level down to ground level.

The Frost Boss “C49” frost control fans are powered by an engine that rotates four blades via a gear box. The gearbox and blades also rotate slowly to change the direction of the air movement. When the blades rotate, large volumes of the warmer air are moved to ground level. The blades are aerofoil in cross section to provide the most efficient operation and the ends of the blade are rectangular. The frost control fans are required to operate when the temperature reduces to below 0.5°C to protect the crop. This generally occurs in the early morning hours on a limited number of occasions.

The Frost Boss “C49” frost control fan can be operated at different fan speeds resulting in different noise emission levels. When operated at a higher fan speed, a higher noise level is produced. The fan speed associated with the “normal” mode has been considered in this assessment. Details of the fan speed, associated motor speed and the resultant sound power level are summarised in the table below.

Mode	Fan Speed (rpm)	Motor Speed (rpm)	Sound Power Level (dB(A))*
Normal	418	1800	111

* Derived from the HAC noise level measurements.

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APPENDIX B: Frost Fan Locations and Non-Associated Residences



Item: 08**Subject: DA2019 - 568.1 DEMOLITION OF MULTI DWELLING HOUSING AND CONSTRUCTION OF RESIDENTIAL FLAT BUILDING INCLUDING CLAUSE 4.6 VARIATION TO CLAUSE 4.3 (HEIGHT OF BUILDINGS) OF THE PORT MACQUARIE-HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 AT LOT 101 DP 1122606, NO 3 CLARENCE STREET, PORT MACQUARIE****Report Author: Development Assessment Planner, Chris Gardiner**

**Applicant: Wayne Ellis Architect
Owner: Swadling Developments Pty Ltd
Estimated Cost: \$4,373,700
Parcel no: 55244**

Alignment with Delivery Program

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

RECOMMENDATION

That DA2019 - 568.1 for demolition of Multi Dwelling Housing and construction of a Residential Flat Building Including Clause 4.6 Variation to Clause 4.3 (Height of Buildings) of the Port Macquarie-Hastings Local Environmental Plan 2011 at Lot 101 DP 1122606 No. 3 Clarence Street, Port Macquarie, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a development application for demolition of multi dwelling housing and construction of a residential flat building at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

The proposal includes a Clause 4.6 variation to the height of buildings development standard in Clause 4.3 of the Port Macquarie-Hastings Local Environmental Plan 2011. The maximum extent of the variation is 0.9m (6.2%) and the Development Assessment Panel has delegation to determine the application.

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

The proposal has been amended during the assessment including improvements to privacy screening on balconies and internal reconfiguration of some apartments to address the Apartment Design Guide

The site is considered suitable for the proposed development and the proposal adequately addresses relevant planning controls. The development is not considered

to be contrary to the public's interest and will not result a significant adverse social, environmental or economic impact.

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

1. BACKGROUND

Existing Sites Features and Surrounding Development

The site has an area of 751.25m².

The site is zoned R4 High Density Residential in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:



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



Previous Development Consent

Council has previously granted consent to DA2016 - 661.1 on the subject site. The approved development includes similar variations to the building height (15.81m building height with 1.31m or 9% height variation) and DCP provisions as are being sought in the current application. An image of the approved development is included below:



A condition has been recommended requiring DA2016 - 661.1 to be surrendered if the current proposal is granted consent and proceeds to a Construction Certificate.

2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- Demolition of existing buildings on the site comprising 3 x 1 bedroom units and 1 x 3 bedroom unit.
- Construction of a residential flat building containing 7 x 3 bedroom apartments and 1 x 2 bedroom apartment.

The Applicant is seeking for construction of the building to be carried out in 2 stages, as follows:

- Stage 1 - Demolition of existing buildings, piling, bulk excavation, and construction of basement levels (including ground floor slab);
- Stage 2 - Completion of building above ground floor slab.

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

Application Chronology

- 6 August 2019 - Application lodged.
- 19 August 2019 to 2 September 2019 - Neighbour notification.
- 26 August 2019 - Additional information requested.
- 26 August 2019 - Comments received from Heritage Council of NSW.
- 4 November 2019 - Further additional information requested.
- 10 November 2019 - Additional information submitted by Applicant.
- 4 December 2019 - Additional information submitted by Applicant.
- 5 February 2020 - Additional information submitted by Applicant.
- 28 February 2020 - Additional information submitted by 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. 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. 65 – Design Quality of Residential Apartment Development

This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

- (a) the development consists of any of the following:
 - (i) the erection of a new building,
 - (ii) the substantial redevelopment or the substantial refurbishment of an existing building,
 - (iii) the conversion of an existing building, and
- (b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and
- (c) the building concerned contains at least 4 or more dwellings.

Based on the above, the SEPP must be considered.

Clause 6A - This clause applies in respect of the objectives, design criteria and design guidance set out in Parts 3 and 4 of the Apartment Design Guide for the following:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

If a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect.

This clause applies regardless of when the development control plan was made.

Clause 28(2)(b) - The proposal has adequately addressed the design principles contained in the Apartment Design Guide. The following table provides an assessment against the design quality principles:

Requirement	Architect's Response	Comment
Principle 1: Context and neighbourhood character Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create	The proposal is for a 5 – 6 storey residential flat building including part basement car parking. The area is characterised by a mixture of low rise and for tourist and permanent residential accommodation. A number of larger flat	The Applicant's comments are considered to adequately address the context and neighbourhood character.

<p>when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>buildings exist in the immediate area, with some including ground floor commercial activities. Encouraging higher density in proximity to the CBD is desirable for the area.</p> <p>The design responds to the site's slope and steps down in height to the north of the site. The design also provides for all apartments to benefit from significant water views to the north.</p> <p>The proposed building design is compatible with existing development and the desired future character of the area as stated in the relevant planning and design policies.</p> <p>It is considered the building will contribute positively to the quality and identity of the area.</p>	
<p>Principle 2: Built form and scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their</p>	<p>The scale is determined by the height and bulk parameters.</p> <p>The proposal is compliant with the relevant height and floor space ratio requirements for the subject site and locality and sits comfortably as an infill development between 2 existing Residential Flat Buildings being 'Headlands' to the east (built in the 1970's) and 'Flightdeck' to the west (completed in 2004).</p> <p>The roof form is designed to visually cap the verticality and relate the building back to the sloping site that falls moderately to the north.</p>	<p>It is noted that the comment regarding the building having a compliant height is technically not correct. However, it is noted that the proposal for the majority of the building is compliant. The proposal includes a variation to the height controls, which is discussed under Clause 4.6 of the LEP.</p> <p>The height and scale of the building is considered to be appropriate having regard to the desired future character of the area and existing buildings in the locality.</p> <p>The building</p>

<p>views and vistas, and provides internal amenity and outlook.</p>		<p>incorporates a ground floor 3m front setback to Clarence Street, which is consistent with the desired character for the area. Satisfactory articulation and variation in building colours and materials are proposed.</p> <p>The site is visible from public space on the Hastings River foreshore and would provide a satisfactory contribution to the existing vista from this location.</p> <p>Impacts on existing views from nearby properties are considered in detail later in this report under 'View Sharing'.</p>
<p>Principle 3: Density Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>The design has adopted an appropriate density that is sustainable and consistent with surrounding densities.</p> <p>Having regard to existing densities in the locality, the adjoining 'Flightdeck' apartments at 5 Clarence Street have a FSR of 1.8:1, and the adjacent 'Focus' apartments at 2 Clarence Street have an FSR of 2.3:1. The proposed development is considered to be consistent with these densities.</p> <p>The proposed density is also considered to be sustainable having regard to availability of infrastructure, and public transport, proximity to services and community facilities and the environmental quality of the area.</p>	<p>The Applicant's comments are considered to adequately address density.</p>

<p>Principle 4: Sustainability Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p>The north – south orientation of the block has been utilised.</p> <p>All units contain north facing balconies and opportunities for natural ventilation.</p> <p>BASIX certificates have been provided demonstrating that the design satisfies acceptable energy and water efficiency measures.</p> <p>Suitable waste management arrangements, including, recycling and reuse facilities have been integrated into the construction and occupation of the proposed development.</p> <p>Ground floor landscaping and a deep soil zone are proposed.</p>	<p>The Applicant's comments are considered to adequately address sustainability.</p>
<p>Principle 5: Landscape Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil</p>	<p>This site provides for a 6-metre-wide deep soil zone (approx. 89.5m²) along the northern boundary that will support landscaping as well as the communal active recreation space.</p> <p>Other opportunities for landscaping on the site are maximised by the use of planters and significant open space areas which will support various landscape elements and treatments. This approach assists in softening of the building together with acting as privacy screening.</p> <p>The communal open space provides for equitable access and social interaction.</p>	<p>A concept landscaping plan has been submitted with the application, including landscaping of the rear deep soil zone, ground floor area, planter boxes, roof top garden, and green walls.</p> <p>The communal open space provides for equitable access and social interaction.</p> <p>Further comments on the extent of landscaping are provided later in this report in the Apartment Design Guide and Development Control Plan sections.</p>

<p>management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>		
<p>Principle 6: Amenity Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>The design incorporates generous unit layouts which optimise the northern orientation. Adequate storage and outdoor space are proposed.</p> <p>The layout of the units has taken advantage of the northern orientation with an emphasis on natural sunlight and ventilation via extensive north facing glazing and balconies.</p> <p>The design and layout will provide a high level of resident amenity.</p> <p>All units are accessible from the ground floor via lifts.</p> <p>Building depth is satisfactory.</p> <p>All units include a sufficient amount of private open space. Communal space is available at ground level at the rear of the site.</p>	<p>The Applicant's comments are considered to adequately address amenity.</p>
<p>Principle 7: Safety Good design optimises safety and security within the development and the public domain. It provides for quality public and</p>	<p>This is achieved by maximising overlooking of communal space on the site whilst internal privacy is maintained. Lighting will be strategically located to</p>	<p>The Applicant's comments are considered to adequately address safety.</p>

<p>private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>avoid dark areas.</p> <p>Access to the site is controlled to a common entry point from Clarence Street and electronic access control is proposed for the building.</p> <p>The interface between public and private/communal space is clearly defined at the site frontage.</p> <p>The proposal adequately addresses the principles of Crime Prevention Through Environmental Design.</p>	
<p>Principle 8: Housing diversity and social interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>The site and design provide for the maximization of ocean and river views in an area of Port Macquarie that promotes a contemporary lifestyle that itself provides for a high level of social interaction.</p> <p>The proposed development includes a mix of 2- and 3-bedroom apartments to suit a variety of budgets and housing needs.</p> <p>The proposal adequately addresses social dimensions and housing affordability.</p> <p>The proposal provides opportunity for social interaction in the communal open space area.</p>	<p>The Applicant's comments are considered to adequately address housing diversity and social interaction.</p>
<p>Principle 9: Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design</p>	<p>As indicated on the Colour Materials/ Finishes Sample Sheet prepared by Wayne Ellis Architects, (included in the development proposal plans), the proposed development will be</p>	<p>The plans provide examples of the colours, textures and finishes.</p> <p>It is considered that the aesthetics of the building will respond appropriately to the</p>

uses a variety of materials, colours and textures. The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.	finished in contemporary tone colours. The variety of textures apparent on the elevations are designed with a horizontal emphasis to limit any perceived verticality of the built form. The aesthetics of the building will respond appropriately to the surrounding environment and context of the existing and desired character of the locality.	surrounding environment and context of the existing and desired future character of the locality.
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Clause 28(2)(c) - The proposal has adequately addressed the Apartment Design Guide. The following table provides an assessment against the Apartment Design Guide with assessment comments considering the design criteria and design objectives where applicable:

Apartment Design Guide (ADG) Objective	Design Guidance/Design Criteria (Italics)	Proposed	Complies
3A Site analysis			
3A - 1 Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.	Each element in the Site Analysis Checklist should be addressed (Appendix 1 of ADG).	Satisfactory site analysis submitted.	Yes
3B Orientation			
3B - 1 Building types and layouts respond to the streetscape and site while optimising solar access within the	Buildings along the street frontage define the street, by facing it and incorporating direct access from the street (see figure 3B.1). Where the street frontage is to the east or west, rear buildings should be	The proposed building faces the street and incorporates direct access from the street. The site has street frontage to the south and overshadowing to	Yes

development.	<p>orientated to the north.</p> <p>Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west (see figure 3B.2).</p>	<p>the south is minimised by the width of Clarence Street.</p> <p>The narrow lot width makes the rear part of the building difficult to orient east-west, but the building design with two towers connected by terraces is consistent with the principle of maximising northern solar orientation.</p>	
<p>3B - 2</p> <p>Overshadowing of neighbouring properties is minimised during mid-winter.</p>	<p>Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access.</p> <p>Solar access to living rooms, balconies and private open spaces of neighbours should be considered.</p> <p>Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%.</p> <p>If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy.</p> <p>Overshadowing should be minimised to the south or downhill by increased upper level setbacks.</p> <p>It is optimal to orientate buildings at 90 degrees to</p>	<p>See comments under sections 3D and 4A regarding solar access to living rooms and open space.</p> <p>The submitted shadow diagrams demonstrate that the proposal would retain solar access to private open space and living areas of adjoining properties in accordance with the provisions of 4A of the ADG.</p> <p>Overshadowing to the south is contained within Clarence Street and would not affect adjacent properties.</p> <p>The proposal would not affect solar collectors on adjoining/adjacent buildings.</p>	Yes

	<p>the boundary with neighbouring properties to minimise overshadowing and privacy impacts, particularly where minimum setbacks are used and where buildings are higher than the adjoining development.</p> <p>A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings.</p>		
3C Public domain interface			
3C - 1 Transition between private and public domain is achieved without compromising safety and security	<p>Terraces, balconies and courtyard apartments should have direct street entry, where appropriate.</p> <p>Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy for ground level dwellings (see figure 3C.1).</p> <p>Upper level balconies and windows should overlook the public domain.</p> <p>Front fences and walls along street frontages should use visually permeable materials and treatments. The height of solid fences or walls should be limited to 1m.</p> <p>Length of solid walls should be limited along street frontages.</p> <p>Opportunities should be provided for casual interaction between residents and the public domain. Design solutions may include seating at building entries, near letter boxes and in private courtyards adjacent to streets.</p> <p>In developments with</p>	<p>No direct ground level access to individual units is proposed given the narrow lot width and the need to provide vehicular and pedestrian access.</p> <p>Upper level (bedroom) windows and balconies on the southern elevation of the building overlook the public domain.</p> <p>The main balcony/terrace areas and living area windows are oriented to the north (rear).</p> <p>No fencing is proposed in the street frontage.</p> <p>The design provides opportunities for seating in the entry passage.</p> <p>The building has a single pedestrian access.</p> <p>Opportunities for concealment are minimised.</p>	Yes

	<p>multiple buildings and/or entries, pedestrian entries and spaces associated with individual buildings/entries should be differentiated to improve legibility for residents, using a number of the following design solutions:</p> <ul style="list-style-type: none"> - architectural detailing - changes in materials - plant species - colours <p>Opportunities for people to be concealed should be minimised</p>		
3C - 2 Amenity of the public domain is retained and enhanced.	<p>Planting softens the edges of any raised terraces to the street, for example above sub-basement car parking.</p> <p>Mail boxes should be located in lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided.</p> <p>The visual prominence of underground car park vents should be minimised and located at a low level where possible.</p> <p>Substations, pump rooms, garbage storage areas and other service requirements should be located in basement car parks or out of view.</p> <p>Ramping for accessibility should be minimised by building entry location and setting ground floor levels in relation to footpath levels.</p> <p>Durable, graffiti resistant and easily cleanable materials should be used.</p> <p>Where development</p>	<p>Planting proposed forward of Unit 2 southern courtyard.</p> <p>Mailboxes located in wall adjacent to entry ramp.</p> <p>Underground car park vents are not located at the street frontage and would not be visually prominent.</p> <p>Plant room and waste storage proposed to be located in basement car park.</p> <p>Hydrant booster is located in the Clarence Street frontage in a screened enclosure.</p> <p>The entry floor level would not require access ramps in the site frontage.</p> <p>The building materials are durable.</p> <p>The site slopes towards the rear (north) and part of the underground parking protrudes above ground level at the</p>	Yes

	<p>adjoins public parks, open space or bushland, the design positively addresses this interface and uses a number of the following design solutions:</p> <ul style="list-style-type: none"> - street access, pedestrian paths and building entries which are clearly defined - paths, low fences and planting that clearly delineate between communal/private open space and the adjoining public open space - minimal use of blank walls, fences and ground level parking. <p>On sloping sites protrusion of car parking above ground level should be minimised by using split levels to step underground car parking</p>	northern end. The building has been designed with a gym and BBQ area to reduce the impact at the interface of the basement parking.	
3D Communal and public open space			
3D - 1 An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping	<p><u><i>Design Criteria</i></u></p> <p><i>1. Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)</i></p> <p><i>2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).</i></p> <p>Communal open space should be consolidated into a well-designed, easily identified and usable area.</p> <p>Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions.</p>	<p>Communal open space proposed at the rear of the site with an area of approximately 121m² (16% of site area).</p> <p>At least 50% of useable part of the communal open space could achieve 2 hours of solar access.</p> <p>The communal open space has equitable access from the basement car park, and is proposed to include a BBQ area, gym, swimming pool and spa. The space has a minimum dimension of approximately 8m.</p> <p>All apartments within</p>	No, but acceptable

	<p>Communal open space should be co-located with deep soil areas.</p> <p>Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies.</p> <p>Where communal open space cannot be provided at ground level, it should be provided on a podium or roof.</p> <p>Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:</p> <ul style="list-style-type: none"> - provide communal spaces elsewhere such as a landscaped roof top terrace or a common room - provide larger balconies or increased private open space for apartments - demonstrate good proximity to public open space and facilities and/or provide contributions to public open space 	<p>the proposed development provide larger balconies and private open space areas than the minimum requirements.</p> <p>The site also has good proximity to public open space and facilities, and the developer would be required to make a Section 94 development contribution towards public open space.</p>	
<p>3D - 2</p> <p>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</p>	<p>Facilities are provided within communal open spaces and common spaces for a range of age groups (see also 4F Common circulation and spaces), incorporating some of the following elements:</p> <ul style="list-style-type: none"> - seating for individuals or groups - barbecue areas - play equipment or play 	<p>Communal open space includes a BBQ area, gym, swimming pool and spa.</p> <p>The communal open space is well located at ground level on the northern side of the site.</p> <p>Ventilation outlets from the basement car park can be screened with</p>	Yes

	<p>areas</p> <ul style="list-style-type: none"> - swimming pools, gyms, tennis courts or common rooms. <p>The location of facilities responds to microclimate and site conditions with access to sun in winter, shade in summer and shelter from strong winds and down drafts.</p> <p>Visual impacts of services should be minimised, including location of ventilation duct outlets from basement car parks, electrical substations and detention tanks</p>	appropriate landscaping.	
3D - 3 Communal open space is designed to maximise safety	<p>Communal open space and the public domain should be readily visible from habitable rooms and private open space areas while maintaining visual privacy. Design solutions may include:</p> <ul style="list-style-type: none"> - bay windows - corner windows - balconies. <p>Communal open space should be well lit.</p> <p>Where communal open space/facilities are provided for children and young people they are safe and contained.</p>	<p>Communal open space area visible from north-facing balconies of the rear 'tower'. The area would be contained and only accessible from the basement car park.</p> <p>The Statement of Environmental Effects indicates that appropriate lighting is proposed to be provided.</p>	Yes
3D - 4 Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood	<p>The public open space should be well connected with public streets along at least one edge.</p> <p>The public open space should be connected with nearby parks and other landscape elements.</p> <p>Public open space should be linked through view lines, pedestrian desire paths, termination points and the wider street grid.</p>	No public open space proposed.	n/a

	<p>Solar access should be provided year round along with protection from strong winds.</p> <p>Opportunities for a range of recreational activities should be provided for people of all ages.</p> <p>A positive address and active frontages should be provided adjacent to public open space.</p> <p>Boundaries should be clearly defined between public open space and private areas</p>		
3E Deep soil zones			
<p>3E - 1 Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality</p>	<p><u><i>Design Criteria</i></u></p> <p><i>1. Deep soil zones are to meet the following minimum requirements:</i></p> <p>a) <i>< 650m², no min dimension, 7% site area deep soil zone.</i></p> <p>b) <i>650-1500m², 3m dimension, 7% site area deep soil zone.</i></p> <p>c) <i>>1500m², 6m dimension, 7% site area deep soil zone.</i></p> <p>On some sites it may be possible to provide larger deep soil zones, depending on the site area and context:</p> <ul style="list-style-type: none"> - 10% of the site as deep soil on sites with an area of 650m² - 1,500m² - 15% of the site as deep soil on sites greater than 1,500m². <p>Deep soil zones should be located to retain existing significant trees and to allow for the development of healthy root systems, providing anchorage and</p>	<p>The site has an area of 750.8m² and requires deep soil zone 7% of site area and with minimum dimension of 3m. Proposal includes an area consistent with these requirements. There are no existing significant trees that need to be retained in the deep soil zone.</p>	<p>Yes</p>

	<p>stability for mature trees. Design solutions may include:</p> <ul style="list-style-type: none"> - basement and sub-basement car park design that is consolidated beneath building footprints - use of increased front and side setbacks - adequate clearance around trees to ensure long term health - co-location with other deep soil areas on adjacent sites to create larger contiguous areas of deep soil. <p>Achieving the design criteria may not be possible on some sites including where:</p> <ul style="list-style-type: none"> - the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres) - there is 100% site coverage or non-residential uses at ground floor level. <p>Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure.</p>		
3F Visual privacy			
3F - 1 Adequate building separation distances are shared equitably between	<p><u>Design Criteria</u></p> <p><i>1. Separation between windows and balconies is provided to ensure visual privacy is achieved.</i></p>	The proposal is technically in the 5-8 storey category, but in general only contains 4 storeys above the basement	No, but acceptable .

<p>neighbouring sites, to achieve reasonable levels of external and internal visual privacy</p>	<p><i>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</i></p> <p>a) <i>Building height up to 12m (4 storey) need 6m setback to habitable and 3m to non-habitable.</i></p> <p>b) <i>Buildings up to 25m (5-8 storeys) need 9m to habitable and 4.5m to non-habitable.</i></p> <p>c) <i>Buildings over 25m (9+ storeys) need 12m to habitable and 6m to non-habitable.</i></p> <p><i>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2).</i></p> <p><i>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties</i></p> <p>Generally, one step in the built form as the height increases due to building separations is desirable. Additional steps should be careful not to cause a 'ziggurat' appearance.</p> <p>For residential buildings next to commercial buildings, separation distances should be measured as follows:</p> <ul style="list-style-type: none"> - for retail, office spaces and commercial balconies use the habitable room distances 	<p>parking (with the exception of part of the building above the gym at the northern end).</p> <p>The proposal includes variations to the minimum separation distances for balconies, habitable and non-habitable room windows due to the narrow lot width. Compliant separation distances would essentially sterilise the site.</p> <p>As an alternative to separation distances, the Applicant has proposed to provide privacy screening in all locations with a reduced separation distance.</p> <p>No unscreened habitable or non-habitable room windows are located within the relevant separation distances. It is noted that the Apartment Design Guide does not require any separation for blank walls.</p> <p>It is considered that reasonable levels of external and internal visual privacy would be achieved in accordance with the objectives of these controls.</p>	
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	<ul style="list-style-type: none"> - for service and plant areas use the non-habitable room distances. <p>New development should be located and oriented to maximise visual privacy between buildings on site and for neighbouring buildings. Design solutions include:</p> <ul style="list-style-type: none"> - site layout and building orientation to minimise privacy impacts (see also section 3B Orientation) - on sloping sites, apartments on different levels have appropriate visual separation distances (see figure 3F.4). <p>Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping (figure 3F.5).</p> <p>Direct lines of sight should be avoided for windows and balconies across corners.</p> <p>No separation is required between blank walls</p>		
3F - 2 Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from	Communal open space, common areas and access paths should be separated from private open space and windows to apartments, particularly habitable room windows. Design solutions may include:	<p>All private open space areas are separated from communal areas.</p> <p>The rear communal open space is set well below the level of the balconies of the floors above.</p>	Yes

<p>habitable rooms and private open space</p>	<ul style="list-style-type: none"> - setbacks - solid or partially solid balustrades to balconies at lower levels - fencing and/or trees and vegetation to separate spaces - screening devices - bay windows or pop out windows to provide privacy in one direction and outlook in another - raising apartments/private open space above the public domain or communal open space - planter boxes incorporated into walls and balustrades to increase visual separation - pergolas or shading devices to limit overlooking of lower apartments or private open space - on constrained sites where it can be demonstrated that building layout opportunities are limited, fixed louvers or screen panels to windows and/or balconies. <p>Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.</p> <p>Balconies and private terraces should be located in front of living rooms to increase internal privacy.</p> <p>Windows should be offset</p>	<p>Windows are offset from those of adjoining development as far as practical.</p> <p>No bedroom windows are located adjacent to common circulation areas.</p>	
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	<p>from the windows of adjacent buildings.</p> <p>Recessed balconies and/or vertical fins should be used between adjacent balconies</p>		
3G Pedestrian access and entries			
3G - 1 Building entries and pedestrian access connects to and addresses the public domain	<p>Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge.</p> <p>Entry locations relate to the street and subdivision pattern and the existing pedestrian network.</p> <p>Building entries should be clearly identifiable and communal entries should be clearly distinguishable from private entries.</p> <p>Where street frontage is limited and multiple buildings are located on the site, a primary street address should be provided with clear sight lines and pathways to secondary building entries.</p>	<p>Communal entry from the street frontage. The communal entry is identifiable from the street.</p> <p>No individual unit entries from the street are proposed.</p>	Yes
3G - 2 Access, entries and pathways are accessible and easy to identify	<p>Building access areas including lift lobbies, stairwells and hallways should be clearly visible from the public domain and communal spaces.</p> <p>The design of ground floors and underground car parks minimise level changes along pathways and entries.</p> <p>Steps and ramps should be integrated into the overall building and landscape design.</p> <p>For large developments 'way finding' maps should be provided to assist visitors and residents (see figure 4T.3).</p>	<p>Building entry is visible from the public domain. The lift lobby in the basement car park is visible from communal areas in the basement. Lift lobbies on the upper floors are essentially private space for access to individual units.</p> <p>Ramps and steps have been satisfactorily incorporated into the building design.</p> <p>The Applicant has indicated that the building will have</p>	Yes

	For large developments electronic access and audio/video intercom should be provided to manage access	electronic access control.	
3G - 3 Large sites provide pedestrian links for access to streets and connection to destinations	<p>Pedestrian links through sites facilitate direct connections to open space, main streets, centres and public transport.</p> <p>Pedestrian links should be direct, have clear sight lines, be overlooked by habitable rooms or private open spaces of dwellings, be well lit and contain active uses, where appropriate</p>	The site is not a large site with pedestrian links through the property.	n/a
3H Vehicle access			
3H - 1 Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	<p>Car park access should be integrated with the building's overall facade. Design solutions may include:</p> <ul style="list-style-type: none"> - the materials and colour palette to minimise visibility from the street - security doors or gates at entries that minimise voids in the facade - where doors are not provided, the visible interior reflects the facade design and the building services, pipes and ducts are concealed. <p>Car park entries should be located behind the building line.</p> <p>Vehicle entries should be located at the lowest point of the site minimising ramp lengths, excavation and impacts on the building form and layout.</p> <p>Car park entry and access</p>	<p>The car park entry is located well behind the building facade.</p> <p>The vehicle entry is located at the lowest point of the site frontage.</p> <p>The site does not have dual frontage and access from a secondary street is not possible.</p> <p>The access location would not create unacceptable headlight glare for habitable rooms.</p> <p>The driveway crossover is located a satisfactory distance from street intersections and is the minimum width possible to facilitate safe passing of vehicles at the site access.</p> <p>Sight lines are available where the vehicular access</p>	Yes

	<p>should be located on secondary streets or lanes where available.</p> <p>Vehicle standing areas that increase driveway width and encroach into setbacks should be avoided.</p> <p>Access point locations should avoid headlight glare to habitable rooms.</p> <p>Adequate separation distances should be provided between vehicle entries and street intersections.</p> <p>The width and number of vehicle access points should be limited to the minimum.</p> <p>Visual impact of long driveways should be minimised through changing alignments and screen planting.</p> <p>The need for large vehicles to enter or turn around within the site should be avoided.</p> <p>Garbage collection, loading and servicing areas are screened.</p> <p>Clear sight lines should be provided at pedestrian and vehicle crossings.</p> <p>Traffic calming devices such as changes in paving material or textures should be used where appropriate.</p> <p>Pedestrian and vehicle access should be separated and distinguishable. Design solutions may include:</p> <ul style="list-style-type: none"> - changes in surface materials - level changes 	<p>crosses pedestrian areas. Pedestrian and vehicular accesses are separated.</p>	
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	- the use of landscaping for separation		
3J Bicycle and car parking			
<p>3J - 1 Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas</p> <p><u>Notes</u></p> <p>Port Macquarie is a nominated regional centre.</p> <p>In terms of using Guide to Traffic Generating Developments, Port Macquarie is a "sub-regional centre" as by definition it does not have access to rail.</p> <p>Medium density is 2 - <20 dwellings.</p> <p>High Density is 20 or more dwellings</p>	<p><u>Design Criteria</u></p> <p>1. <i>For development in the following locations:</i></p> <p>a) <i>on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or</i></p> <p>b) <i>on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</i></p> <p><i>the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less</i></p> <p><i>The car parking needs for a development must be provided off street.</i></p> <p>Where a car share scheme operates locally, provide car share parking spaces within the development. Car share spaces, when provided, should be on site.</p> <p>Where less car parking is provided in a development, council should not provide on street resident parking permits</p> <p><u>Guide to Traffic Generating Developments</u></p> <p>Medium density residential flat buildings require:</p> <p>- 1 space per unit +</p>	<p>The subject site is within 400m of a B3 zone in a nominated regional centre and parking can be provided in accordance with the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant Council, whichever is less.</p> <p>The Guide requires a minimum of 1 space for each unit, plus an additional 1 space per each 5 x 2 bedroom unit or part thereof, plus an additional 1 space per each 2 x 3 or more bedroom unit or part thereof.</p> <p>An additional one space per each five units for visitor parking or part thereof is also required.</p> <p>The development includes 1 x 2 bed units, and 7 x 3 bed unit.</p> <p>A total of 15 spaces (13 resident spaces and 2 visitor spaces) would be required under the Guide.</p> <p>Council's DCP requires 1 space per 1 or 2 bedroom unit, plus 1.5 spaces per 3 or 4 bedroom unit, plus 1 visitor space per 4 units.</p>	Yes

	<ul style="list-style-type: none"> - 1 space for every 5 x 2 bedroom unit + - 1 space for every 2 x 3 bedroom unit + - 1 space for 5 units (visitor parking). <p>High density residential flat buildings for metropolitan sub-regional centres require:</p> <ul style="list-style-type: none"> - 0.6 spaces per 1 bedroom unit - 0.9 spaces per 2 bedroom unit - 1.40 spaces per 3 bedroom unit + - 1 space per 5 units (visitor parking) 	<p>A total of 14 spaces (12 resident spaces and 2 visitor spaces) is required under Council's DCP and is therefore the lesser of the two rates.</p> <p>The development proposes 14 off street parking spaces including 2 nominated visitor spaces and therefore satisfies this requirement.</p>	
3J - 2 Parking and facilities are provided for other modes of transport	<p>Conveniently located and sufficient numbers of parking spaces should be provided for motorbikes and scooters.</p> <p>Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas.</p> <p>Conveniently located charging stations are provided for electric vehicles, where desirable</p>	<p>There is not considered to be a particular demand for motorbikes, scooters, or electric vehicles in the locality.</p> <p>The basement carpark includes storage space for each resident that would be suitable for bicycles, as well as a common bicycle parking area in the basement car park.</p>	Yes
3J - 3 Car park design and access is safe and secure	<p>Supporting facilities within car parks, including garbage, plant and switch rooms, storage areas and car wash bays can be accessed without crossing car parking spaces.</p> <p>Direct, clearly visible and well lit access should be provided into common circulation areas.</p> <p>A clearly defined and visible lobby or waiting area should be provided to lifts and stairs.</p>	<p>Access to plant room/bin storage does not conflict with vehicles using the parking area.</p> <p>Lift lobbies are visible from within the basement car park and do not provide any opportunities for concealment.</p>	Yes

	For larger car parks, safe pedestrian access should be clearly defined and circulation areas have good lighting, colour, line marking and/or bollards		
3J - 4 Visual and environmental impacts of underground car parking are minimised	<p>Excavation should be minimised through efficient car park layouts and ramp design.</p> <p>Car parking layout should be well organised, using a logical, efficient structural grid and double loaded aisles.</p> <p>Protrusion of car parks should not exceed 1m above ground level. Design solutions may include stepping car park levels or using split levels on sloping sites.</p> <p>Natural ventilation should be provided to basement and sub-basement car parking areas.</p> <p>Ventilation grills or screening devices for car parking openings should be integrated into the facade and landscape design</p>	<p>Excavation is proposed to be minimised to the extent possible. The site has a steep slope and a split level parking area that steps down with the slope.</p> <p>The rear of the B3 car park protrudes up to approximately 3m above existing ground level. Lowering the level of the basement car park would cause the access ramp to exceed the maximum permitted grade and also potentially impact on significant archaeology. Appropriate building detailing and landscaping has been proposed to reduce the impact of these parts of the building.</p>	Yes
3J - 5 Visual and environmental impacts of on-grade car parking are minimised	<p>On-grade car parking should be avoided.</p> <p>Where on-grade car parking is unavoidable, the following design solutions are used:</p> <ul style="list-style-type: none"> - parking is located on the side or rear of the lot away from the primary street frontage - cars are screened from view of streets, buildings, communal and private open space areas - safe and direct access to building entry points 	No on grade parking proposed.	n/a

	<p>is provided</p> <ul style="list-style-type: none"> - parking is incorporated into the landscape design of the site, by extending planting and materials into the car park space - stormwater run-off is managed appropriately from car parking surfaces • bio-swales, rain gardens or on site detention tanks are provided, where appropriate - light coloured paving materials or permeable paving systems are used and shade trees are planted between every 4-5 parking spaces to reduce increased surface temperatures from large areas of paving 		
3J - 6 Visual and environmental impacts of above ground enclosed car parking are minimised	<p>Exposed parking should not be located along primary street frontages</p> <p>Screening, landscaping and other design elements including public art should be used to integrate the above ground car parking with the facade. Design solutions may include:</p> <ul style="list-style-type: none"> - car parking that is concealed behind the facade, with windows integrated into the overall facade design (approach should be limited to developments where a larger floor plate podium is suitable at lower levels) - car parking that is 'wrapped' with other uses, such as retail, commercial or two storey Small Office/Home Office 	No on grade parking proposed.	n/a

	(SOHO) units along the street frontage (see figure 3J.9).		
	Positive street address and active frontages should be provided at ground level		
4A Solar and daylight access			
4A - 1 To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space	<p><u><i>Design Criteria</i></u></p> <p><i>1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.</i></p> <p><i>2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter.</i></p> <p><i>3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</i></p> <p>The design maximises north aspect and the number of single aspect south facing apartments is minimised.</p> <p>Single aspect, single storey apartments should have a northerly or easterly aspect.</p> <p>Living areas are best located to the north and service areas to the south and west of apartments.</p> <p>To optimise the direct sunlight to habitable rooms and balconies a number of the following design</p>	<p>All apartments receive a minimum of 3 hours direct sunlight between 9am and 3pm at mid-winter.</p> <p>All apartments receive a minimum of 1m² of direct sunlight, measured at 1m above floor level, for at least 15 minutes.</p> <p>The design maximises the number of north facing apartments, with all apartments having at least one north facing living room and balcony.</p> <p>No single aspect south-facing apartments are proposed.</p> <p>All apartments have been designed with minimal building depth and multiple aspects.</p> <p>The site has a north facing slope oriented towards the views and there is not considered to be any site constraints that should prevent the development from being able to achieve the minimum requirements for solar access.</p>	Yes

	<p>features are used:</p> <ul style="list-style-type: none"> - dual aspect apartments - shallow apartment layouts - two storey and mezzanine level apartments - bay windows <p>To maximise the benefit to residents of direct sunlight within living rooms and private open spaces, a minimum of 1m² of direct sunlight, measured at 1m above floor level, is achieved for at least 15 minutes.</p> <p>Achieving the design criteria may not be possible on some sites. This includes:</p> <ul style="list-style-type: none"> - where greater residential amenity can be achieved along a busy road or rail line by orientating the living rooms away from the noise source - on south facing sloping sites - where significant views are oriented away from the desired aspect for direct sunlight <p>Design drawings need to demonstrate how site constraints and orientation preclude meeting the design criteria and how the development meets the objective.</p>		
4A - 2 Daylight access is maximised where sunlight is limited	<p>Courtyards, skylights and high level windows (with sills of 1,500mm or greater) are used only as a secondary light source in habitable rooms.</p> <p>Where courtyards are used:</p>	The proposal includes some secondary lighting through courtyards and high level windows.	Yes

	<ul style="list-style-type: none"> - use is restricted to kitchens, bathrooms and service areas - building services are concealed with appropriate detailing and materials to visible walls - courtyards are fully open to the sky - access is provided to the light well from a communal area for cleaning and maintenance - acoustic privacy, fire safety and minimum privacy separation distances (see section 3F Visual privacy) are achieved. <p>Opportunities for reflected light into apartments are optimised through:</p> <ul style="list-style-type: none"> - reflective exterior surfaces on buildings opposite south facing windows - positioning windows to face other buildings or surfaces (on neighbouring sites or within the site) that will reflect light - integrating light shelves into the design - light coloured internal finishes 		
4A - 3 Design incorporates shading and glare control, particularly for warmer months	<p>A number of the following design features are used:</p> <ul style="list-style-type: none"> - balconies or sun shading that extend far enough to shade summer sun, but allow winter sun to penetrate living areas - shading devices such as eaves, awnings, 	Shading devices for northern windows/glass doors proposed in the form of balconies and wide eaves. Vertical screens are also proposed for east and west facing windows.	Yes

	<p>balconies, pergolas, external louvers and planting</p> <ul style="list-style-type: none"> - horizontal shading to north facing windows - vertical shading to east and particularly west facing windows - operable shading to allow adjustment and choice - high performance glass that minimises external glare off windows, with consideration given to reduced tint glass or glass with a reflectance level below 20% (reflective films are avoided) 		
4B Natural ventilation			
4B - 1 All habitable rooms are naturally ventilated	<p>The building's orientation maximises capture and use of prevailing breezes for natural ventilation in habitable rooms.</p> <p>Depths of habitable rooms support natural ventilation.</p> <p>The area of unobstructed window openings should be equal to at least 5% of the floor area served.</p> <p>Light wells are not the primary air source for habitable rooms.</p> <p>Doors and openable windows maximise natural ventilation opportunities by using the following design solutions:</p> <ul style="list-style-type: none"> - adjustable windows with large effective openable areas - a variety of window types that provide safety and flexibility such as awnings and louvers 	<p>The orientation of the building and its openings would capture prevailing breezes, particularly cooling summer sea breezes from the north-east.</p> <p>The depth of habitable rooms would support natural ventilation.</p> <p>The minimum area of window openings complies.</p>	Yes

	<ul style="list-style-type: none"> - windows which the occupants can reconfigure to funnel breezes into the apartment such as vertical louvers, casement windows and externally opening doors 		
4B - 3 The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents	<p><u>Design Criteria</u></p> <p><i>1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</i></p> <p><i>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</i></p> <p>The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths.</p> <p>In cross-through apartments external window and door opening sizes/areas on one side of an apartment (inlet side) are approximately equal to the external window and door opening sizes/areas on the other side of the apartment (outlet side) (see figure 4B.4).</p> <p>Apartments are designed to minimise the number of corners, doors and rooms that might obstruct airflow.</p> <p>Apartment depths, combined with appropriate</p>	<p>All apartments are naturally cross ventilated.</p> <p>The depth of apartments does not exceed 18m from glass line to glass line.</p> <p>All proposed apartments have multiple aspects.</p> <p>The proposal includes acceptable internal configuration to minimise the number of corners, doors and rooms that might obstruct airflow.</p>	Yes

	ceiling heights, maximise cross ventilation and airflow		
4C Ceiling heights			
4C - 1 Ceiling height achieves sufficient natural ventilation and daylight access	<p><u>Design Criteria</u></p> <p><i>1. Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</i></p> <p><i>Minimum ceiling height for apartment and mixed use buildings</i></p> <p><i>Habitable rooms = 2.7m</i></p> <p><i>Non-habitable = 2.4m</i></p> <p><i>For 2 storey apartments = 2.7m for main living area floor and 2.4m for second floor, where its area does not exceed 50% of the apartment area</i></p> <p><i>Attic spaces = 1.8m at edge of room with a 30 degree minimum ceiling slope</i></p> <p><i>If located in mixed use areas = 3.3m for ground and first floor to promote future flexibility of use</i></p> <p><i>These minimums do not preclude higher ceilings if desired.</i></p> <p>Ceiling height can accommodate use of ceiling fans for cooling and heat distribution.</p>	<p>Ceiling heights for habitable and non-habitable rooms proposed to be 2.7m.</p> <p>The ceiling height would accommodate the use of ceiling fans.</p> <p>The site is not located in a mixed use zone.</p>	Yes
4C - 2 Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms	<p>A number of the following design solutions can be used:</p> <ul style="list-style-type: none"> - the hierarchy of rooms in an apartment is defined using changes in ceiling heights and alternatives such as raked or curved ceilings, or double height spaces - well-proportioned rooms are provided, for 	Ceiling heights proposed to be 2.7m throughout the apartments, including non-habitable rooms.	Yes

	<p>example, smaller rooms feel larger and more spacious with higher ceilings</p> <ul style="list-style-type: none"> - ceiling heights are maximised in habitable rooms by ensuring that bulkheads do not intrude. The stacking of service rooms from floor to floor and coordination of bulkhead location above non-habitable areas, such as robes or storage, can assist 		
4D Apartment size and layout			
4D - 1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity	<p><u><i>Design Criteria</i></u></p> <p><i>1. Apartments are required to have the following minimum internal areas:</i></p> <p><i>Studio = 35m²</i></p> <p><i>1 bedroom = 50m²</i></p> <p><i>2 bedroom = 70m²</i></p> <p><i>3 bedroom = 90m²</i></p> <p><i>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</i></p> <p><i>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</i></p> <p><i>2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</i></p> <p>Kitchens should not be located as part of the main circulation space in larger apartments (such as</p>	<p>All proposed apartments have floor areas significantly larger than the minimum permitted. Apartment sizes have been considered including the additional internal area required for a second bathroom.</p> <p>All habitable rooms have a minimum glass area of 10% of the floor area of the room.</p> <p>A window is visible from any point in all habitable rooms in the development.</p>	Yes

	<p>hallway or entry space).</p> <p>A window should be visible from any point in a habitable room.</p> <p>Where minimum areas or room dimensions are not met apartments need to demonstrate that they are well designed and demonstrate the usability and functionality of the space with realistically scaled furniture layouts and circulation areas. These circumstances would be assessed on their merits</p>		
<p>4D - 2</p> <p>Environmental performance of the apartment is maximised</p>	<p><u><i>Design Criteria</i></u></p> <p><i>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</i></p> <p><i>2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</i></p> <p>Greater than minimum ceiling heights can allow for proportional increases in room depth up to the permitted maximum depths.</p> <p>All living areas and bedrooms should be located on the external face of the building.</p> <p>Where possible:</p> <ul style="list-style-type: none"> - bathrooms and laundries should have an external openable window. - main living spaces should be oriented toward the primary outlook and aspect and away from noise sources 	<p>Habitable room depths of all rooms in the development comply with the design criteria.</p> <p>All living areas and bedrooms are located on the external face of the building.</p> <p>All bathroom/laundry windows are openable.</p> <p>Main living spaces are oriented north towards the water views and away from noise in Clarence Street.</p>	Yes
4D - 3	<u><i>Design Criteria</i></u>	Bed 3 in Unit 5 and	Yes and

<p>Apartment layouts are designed to accommodate a variety of household activities and needs</p>	<p>1. Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space).</p> <p>2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p> <p>3. Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments <p>4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</p> <p>Access to bedrooms, bathrooms and laundries is separated from living areas minimising direct openings between living and service areas.</p> <p>All bedrooms allow a minimum length of 1.5m for robes.</p> <p>The main bedroom of an apartment or a studio apartment should be provided with a wardrobe of a minimum 1.8m long, 0.6m deep and 2.1m high.</p> <p>Apartment layouts allow flexibility over time, design solutions may include:</p> <ul style="list-style-type: none"> - dimensions that facilitate a variety of furniture arrangements and removal - spaces for a range of activities and privacy levels between different spaces within the apartment 	<p>Bed 2 in Unit 7 have a minimum dimension slightly less than 3m. However, these are the third bedroom in 3 bedroom apartments and the plans demonstrate that the room is capable of comfortably accommodating a single bed and appropriate amount of wardrobe space. The minor variation is considered acceptable. All other bedrooms satisfy the minimum dimensions.</p> <p>Living room and combined living/dining room widths comply with the minimum requirements for all apartments.</p> <p>Service areas are appropriately separated from living areas.</p> <p>Wardrobe dimensions comply with the minimum requirements.</p> <p>Unit 2 provides flexibility in conversion to dual master bedrooms.</p>	<p>No, but acceptable</p>
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	<ul style="list-style-type: none"> - dual master apartments - dual key apartments Note: dual key apartments which are separate but on the same title are regarded as two sole occupancy units for the purposes of the Building Code of Australia and for calculating the mix of apartments - room sizes and proportions or open plans (rectangular spaces (2:3) are more easily furnished than square spaces (1:1)) - efficient planning of circulation by stairs, corridors and through rooms to maximise the amount of usable floor space in rooms 		
4E Private open space and balconies			
4E - 1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity	<p><u><i>Design Criteria</i></u></p> <p><i>1. All apartments are required to have primary balconies as follows:</i></p> <p>a) <i>Studio apartments = 4m²</i></p> <p>b) <i>1 bedroom apartments = 8m² and 2m min depth.</i></p> <p>c) <i>2 bedroom apartments = 10m² and 2m min depth.</i></p> <p>d) <i>3+ bedroom apartments = 12m² and 2.4m min depth.</i></p> <p><i>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</i></p> <p><i>2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.</i></p>	Minimum balcony and private open space areas and dimensions satisfied for all apartments.	Yes

	<p>Increased communal open space should be provided where the number or size of balconies are reduced.</p> <p>Storage areas on balconies is additional to the minimum balcony size.</p> <p>Balcony use may be limited in some proposals by:</p> <ul style="list-style-type: none"> - consistently high wind speeds at 10 storeys and above - close proximity to road, rail or other noise sources - exposure to significant levels of aircraft noise - heritage and adaptive reuse of existing buildings <p>In these situations, juliet balconies, operable walls, enclosed wintergardens or bay windows may be appropriate, and other amenity benefits for occupants should also be provided in the apartments or in the development or both. Natural ventilation also needs to be demonstrated</p>		
4E - 2 Primary private open space and balconies are appropriately located to enhance liveability for residents	<p>Primary open space and balconies should be located adjacent to the living room, dining room or kitchen to extend the living space.</p> <p>Private open spaces and balconies predominantly face north, east or west.</p> <p>Primary open space and balconies should be orientated with the longer side facing outwards or be open to the sky to optimise daylight access into adjacent rooms.</p>	<p>Primary open spaces areas are located adjacent to living areas and face predominantly to the north and east.</p> <p>Smaller balconies off bedrooms are proposed on the southern elevation of Unit 4, 6, & 8.</p> <p>Balconies have been designed with the longer side facing outwards, although the eastern side of</p>	Yes

		the balconies of Units 1, 3, 5, & 7 include vertical louvres for privacy reasons.	
4E - 3 Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building	<p>Solid, partially solid or transparent fences and balustrades are selected to respond to the location. They are designed to allow views and passive surveillance of the street while maintaining visual privacy and allowing for a range of uses on the balcony. Solid and partially solid balustrades are preferred.</p> <p>Full width full height glass balustrades alone are generally not desirable.</p> <p>Projecting balconies should be integrated into the building design and the design of soffits considered.</p> <p>Operable screens, shutters, hoods and pergolas are used to control sunlight and wind.</p> <p>Balustrades are set back from the building or balcony edge where overlooking or safety is an issue.</p> <p>Downpipes and balcony drainage are integrated with the overall facade and building design.</p> <p>Air-conditioning units should be located on roofs, in basements, or fully integrated into the building design.</p> <p>Where clothes drying, storage or air conditioning units are located on balconies, they should be screened and integrated in the building design.</p> <p>Ceilings of apartments</p>	<p>Full height glass balustrades are limited to the northern end of the balconies of Units 1, 3, 5, & 7 where significant water views are available. Other balconies generally include solid balustrades and/or vertical louvre privacy screens.</p> <p>Individual air conditioning systems can be provided in screened location on service balconies. Central systems can be accommodated within the basement plant room.</p> <p>Clothes drying area on service balcony off bathrooms will be screened.</p> <p>Impacts on thermal comfort associated with the proposed roof terraces has been considered in the BASIX Certificate.</p>	Yes

	<p>below terraces should be insulated to avoid heat loss.</p> <p>Water and gas outlets should be provided for primary balconies and private open space</p>		
4E - 4 Private open space and balcony design maximises safety.	<p>Changes in ground levels or landscaping are minimised.</p> <p>Design and detailing of balconies avoids opportunities for climbing and falls.</p>	No climbing hazards identified. Where landscaping is proposed, it is located on the outside of the balustrade.	Yes
4F Common circulation and spaces			
4F - 1 Common circulation spaces achieve good amenity and properly service the number of apartments	<p><u><i>Design Criteria</i></u></p> <p><i>1. The maximum number of apartments off a circulation core on a single level is eight.</i></p> <p><i>2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</i></p> <p>Greater than minimum requirements for corridor widths and/ or ceiling heights allow comfortable movement and access particularly in entry lobbies, outside lifts and at apartment entry doors.</p> <p>Daylight and natural ventilation should be provided to all common circulation spaces that are above ground.</p> <p>Windows should be provided in common circulation spaces and should be adjacent to the stair or lift core or at the ends of corridors.</p> <p>Longer corridors greater than 12m in length from the lift core should be articulated. Design solutions may include:</p>	<p>Each apartment has access off a single access core.</p> <p>The entry corridor at ground floor level is greater than 12m long to the rear lift. The corridor has been widened to accommodate furniture, and includes articulation and landscaping.</p> <p>No apartment windows open directly onto a lift lobby.</p>	Yes

	<ul style="list-style-type: none"> - a series of foyer areas with windows and spaces for seating - wider areas at apartment entry doors and varied ceiling heights <p>Design common circulation spaces to maximise opportunities for dual aspect apartments, including multiple core apartment buildings and cross over apartments.</p> <p>Achieving the design criteria for the number of apartments off a circulation core may not be possible. Where a development is unable to achieve the design criteria, a high level of amenity for common lobbies, corridors and apartments should be demonstrated, including:</p> <ul style="list-style-type: none"> - sunlight and natural cross ventilation in apartments - access to ample daylight and natural ventilation in common circulation spaces - common areas for seating and gathering - generous corridors with greater than minimum ceiling heights - other innovative design solutions that provide high levels of amenity <p>Where design criteria 1 is not achieved, no more than 12 apartments should be provided off a circulation core on a single level.</p> <p>Primary living room or bedroom windows should not open directly onto</p>		
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	common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled		
4F - 2 Common circulation spaces promote safety and provide for social interaction between residents	<p>Direct and legible access should be provided between vertical circulation points and apartment entries by minimising corridor or gallery length to give short, straight, clear sight lines.</p> <p>Tight corners and spaces are avoided.</p> <p>Circulation spaces should be well lit at night.</p> <p>Legible signage should be provided for apartment numbers, common areas and general wayfinding.</p> <p>Incidental spaces, for example space for seating in a corridor, at a stair landing, or near a window are provided.</p> <p>In larger developments, community rooms for activities such as owners corporation meetings or resident use should be provided and are ideally co-located with communal open space.</p> <p>Where external galleries are provided, they are more open than closed above the balustrade along their length.</p>	<p>Lifts provide direct access to the entrance of the individual apartments.</p> <p>There are no narrow spaces or tight corners in the circulation areas.</p>	Yes
4G Storage			
4G - 1 Adequate, well designed storage is provided in each apartment	<p><u>Design Criteria</u></p> <p><i>1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</i></p> <p>a) <i>Studio apartments =</i></p>	All apartments provide more than the minimum storage requirements, with at least 50% located within the apartment.	Yes

	<p>4m³.</p> <p>b) 1 bedroom apartments = 6m³.</p> <p>c) 2 bedroom apartments 8m³.</p> <p>d) 3+ bedroom apartments = 10m³.</p> <p>At least 50% of the required storage is to be located within the apartment.</p> <p>Storage is accessible from either circulation or living areas.</p> <p>Storage provided on balconies (in addition to the minimum balcony size) is integrated into the balcony design, weather proof and screened from view from the street.</p> <p>Left over space such as under stairs is used for storage</p>		
<p>4G - 2 Additional storage is conveniently located, accessible and nominated for individual apartments</p>	<p>Storage not located in apartments is secure and clearly allocated to specific apartments.</p> <p>Storage is provided for larger and less frequently accessed items.</p> <p>Storage space in internal or basement car parks is provided at the rear or side of car spaces or in cages so that allocated car parking remains accessible.</p> <p>If communal storage rooms are provided they should be accessible from common circulation areas of the building.</p> <p>Storage not located in an apartment is integrated into the overall building design and is not visible from the public domain.</p>	<p>Storage areas in basement carpark are clear of parking spaces. The plans do not specifically allocate the storage areas in the basement to individual apartments, but there is a sufficient number to allow for this to occur and the allocation could be confirmed in any future strata subdivision.</p> <p>No storage areas are visible from the public domain.</p>	Yes

4H Acoustic privacy			
4H - 1 Noise transfer is minimised through the siting of buildings and building layout	<p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses (see also section 2F Building separation and section 3F Visual privacy).</p> <p>Window and door openings are generally orientated away from noise sources.</p> <p>Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas.</p> <p>Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources.</p> <p>The number of party walls (walls shared with other apartments) are limited and are appropriately insulated.</p> <p>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.</p>	<p>Acoustic privacy considered acceptable. Access cores and circulation spaces are not located above or below apartments.</p> <p>Bedrooms in Units 3 to 8 inclusive are located adjoining a lift. However, given the small number of apartments in the building and the fact that each lift lobby provides access to only a single apartment, it is not expected that there would be adverse acoustic impacts on these bedrooms.</p> <p>No party walls are shared between apartments.</p> <p>The northern balcony balustrade of Unit 1 is partially solid and would improve visual and acoustic privacy between the balcony and the communal space below.</p>	No, but acceptable
4H - 2 Noise impacts are mitigated within apartments through layout and acoustic treatments	<p>Internal apartment layout separates noisy spaces from quiet spaces, using a number of the following design solutions:</p> <ul style="list-style-type: none"> - rooms with similar noise requirements are grouped together - doors separate different use zones 	Internal grouping of activities and use of doors considered satisfactory.	Yes

	<ul style="list-style-type: none"> - wardrobes in bedrooms are co-located to act as sound buffers <p>Where physical separation cannot be achieved noise conflicts are resolved using the following design solutions:</p> <ul style="list-style-type: none"> - double or acoustic glazing - acoustic seals • use of materials with low noise penetration properties - continuous walls to ground level courtyards where they do not conflict with streetscape or other amenity requirements 		
4J Noise and pollution			
4J - 1 In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings	<p>To minimise impacts the following design solutions may be used:</p> <ul style="list-style-type: none"> - physical separation between buildings and the noise or pollution source - residential uses are located perpendicular to the noise source and where possible buffered by other uses - non-residential buildings are sited to be parallel with the noise source to provide a continuous building that shields residential uses and communal open spaces - non-residential uses are located at lower levels vertically separating the residential component from the noise or pollution source. Setbacks to the 	No significant noise or pollution sources adjacent to the site.	n/a

	<p>underside of residential floor levels should increase relative to traffic volumes and other noise sources</p> <ul style="list-style-type: none"> - buildings should respond to both solar access and noise. Where solar access is away from the noise source, nonhabitable rooms can provide a buffer - where solar access is in the same direction as the noise source, dual aspect apartments with shallow building depths are preferable (see figure 4J.4) - landscape design reduces the perception of noise and acts as a filter for air pollution generated by traffic and industry. <p>Achieving the design criteria in this Apartment Design Guide may not be possible in some situations due to noise and pollution. Where developments are unable to achieve the design criteria, alternatives may be considered in the following areas:</p> <ul style="list-style-type: none"> - solar and daylight access - private open space and balconies - natural cross ventilation 		
4J - 2 Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are	<p>Design solutions to mitigate noise include:</p> <ul style="list-style-type: none"> - limiting the number and size of openings facing noise sources - providing seals to prevent noise transfer through gaps 	No significant noise sources adjacent to the site.	n/a

used to mitigate noise transmission	<ul style="list-style-type: none"> - using double or acoustic glazing, acoustic louvers or enclosed balconies (wintergardens) - using materials with mass and/or sound insulation or absorption properties e.g. solid balcony balustrades, external screens and soffits 		
4K Apartment mix			
4K - 1 A range of apartment types and sizes is provided to cater for different household types now and into the future	<p>A variety of apartment types is provided The apartment mix is appropriate, taking into consideration:</p> <ul style="list-style-type: none"> - the distance to public transport, employment and education centres - the current market demands and projected future demographic trends - the demand for social and affordable housing - different cultural and socioeconomic groups <p>Flexible apartment configurations are provided to support diverse household types and stages of life including single person households, families, multi-generational families and group households.</p>	The proposal includes a mix of 2 and 3 bedroom apartments.	Yes
4K - 2 The apartment mix is distributed to suitable locations within the building	<p>Different apartment types are located to achieve successful facade composition and to optimise solar access (see figure 4K.3).</p> <p>Larger apartment types are located on the ground or roof level where there is potential for more open space and on corners</p>	Distribution of apartment types is considered acceptable. The larger 3 bedroom apartments have multiple aspects and generous private open space areas.	Yes

	where more building frontage is available.		
4L Ground floor apartments			
4L - 1 Street frontage activity is maximised where ground floor apartments are located	<p>Direct street access should be provided to ground floor apartments.</p> <p>Activity is achieved through front gardens, terraces and the facade of the building. Design solutions may include:</p> <ul style="list-style-type: none"> - both street, foyer and other common internal circulation entrances to ground floor apartments - private open space is next to the street - doors and windows face the street <p>Retail or home office spaces should be located along street frontages.</p> <p>Ground floor apartment layouts support small office home office (SOHO) use to provide future opportunities for conversion into commercial or retail areas. In these cases provide higher floor to ceiling heights and ground floor amenities for easy conversion.</p>	The proposal does not include any apartments with direct street frontage due to the narrow lot frontage and requirements for pedestrian and vehicular access. The exit from the basement car park in front of Unit 2 has been designed to present to the street as an individual apartment access.	No, but acceptable
4L - 2 Design of ground floor apartments delivers amenity and safety for residents	<p>Privacy and safety should be provided without obstructing casual surveillance. Design solutions may include:</p> <ul style="list-style-type: none"> - elevation of private gardens and terraces above the street level by 1-1.5m (see figure 4L.4) - landscaping and private courtyards - window sill heights that minimise sight lines into apartments 	No ground level units proposed fronting Clarence Street.	n/a

	<ul style="list-style-type: none"> - integrating balustrades, safety bars or screens with the exterior design <p>Solar access should be maximised through:</p> <ul style="list-style-type: none"> - high ceilings and tall windows - trees and shrubs that allow solar access in winter and shade in summer 		
4M Facades			
<p>4M - 1 Building facades provide visual interest along the street while respecting the character of the local area</p>	<p>Design solutions for front building facades may include:</p> <ul style="list-style-type: none"> - a composition of varied building elements - a defined base, middle and top of buildings - revealing and concealing certain elements - changes in texture, material, detail and colour to modify the prominence of elements <p>Building services should be integrated within the overall façade.</p> <p>Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale. Design solutions may include:</p> <ul style="list-style-type: none"> - well composed horizontal and vertical elements - variation in floor heights to enhance the human scale - elements that are proportional and arranged in patterns - public artwork or 	<p>The building façade consists of horizontal and vertical elements. The form and building materials will give the building some individuality whilst it provides a building of similar function.</p> <p>Horizontal louvres will contrast to development on adjoining land but in a more delicate understated way. The form of the north façade is less articulated, but still incorporates massing that defines the base middle and top of the building. The vertical louvres are primarily to provide control over privacy and determine view access.</p> <p>Windows and openings are proposed to be generally full height to maximise ventilation and sun access.</p> <p>The front building facade includes varied building materials and colours.</p> <p>Shadows would be</p>	Yes

	<p>treatments to exterior blank walls</p> <ul style="list-style-type: none"> - grouping of floors or elements such as balconies and windows on taller buildings <p>Building facades relate to key datum lines of adjacent buildings through upper level setbacks, parapets, cornices, awnings or colonnade heights.</p> <p>Shadow is created on the facade throughout the day with building articulation, balconies and deeper window reveals.</p>	created on the building facade by balconies and building articulation.	
4M - 2 Building functions are expressed by the facade	<p>Building entries should be clearly defined.</p> <p>Important corners are given visual prominence through a change in articulation, materials or colour, roof expression or changes in height.</p> <p>The apartment layout should be expressed externally through facade features such as party walls and floor slabs</p>	Building entry is clearly defined and the apartment layout is able to be read by the façade features.	Yes
4N Roof design			
4N - 1 Roof treatments are integrated into the building design and positively respond to the street	<p>Roof design relates to the street. Design solutions may include:</p> <ul style="list-style-type: none"> - special roof features and strong corners - use of skillion or very low pitch hipped roofs - breaking down the massing of the roof by using smaller elements to avoid bulk - using materials or a pitched form complementary to adjacent buildings <p>Roof treatments should be</p>	Roof design is flat. The lift overruns project slightly above the main roof line, but their location would not make them prominent in the streetscape. Roof terraces and landscaping would also serve to conceal the lift overruns.	Yes

	<p>integrated with the building design. Design solutions may include:</p> <ul style="list-style-type: none"> - roof design proportionate to the overall building size, scale and form - roof materials compliment the building - service elements are integrated 		
4N - 3 Roof design incorporates sustainability features	<p>Roof design maximises solar access to apartments during winter and provides shade during summer. Design solutions may include:</p> <ul style="list-style-type: none"> - the roof lifts to the north - eaves and overhangs shade walls and windows from summer sun. <p>Skylights and ventilation systems should be integrated into the roof design</p>	Satisfactory shading and weather protection would be provided to balconies and living room windows.	Yes
4O Landscape design			
4O - 1 Landscape design is viable and sustainable	<p>Landscape design should be environmentally sustainable and can enhance environmental performance by incorporating:</p> <ul style="list-style-type: none"> - diverse and appropriate planting - bio-filtration gardens - appropriately planted shading trees - areas for residents to plant vegetables and herbs - composting - green roofs or walls <p>Ongoing maintenance plans should be prepared.</p> <p>Microclimate is enhanced</p>	A landscape plan has been submitted with the application and includes green walls and landscaping on the roof top and terrace areas. The species selection is considered suitable for the context and the landscape plan includes appropriate consideration of future maintenance.	Yes

	<p>by:</p> <ul style="list-style-type: none"> - appropriately scaled trees near the eastern and western elevations for shade - a balance of evergreen and deciduous trees to provide shading in summer and sunlight access in winter - shade structures such as pergolas for balconies and courtyards <p>Tree and shrub selection considers size at maturity and the potential for roots to compete (see Table 4)</p> <p>Table 4 requires</p> <ul style="list-style-type: none"> - For site area up to 850m² = 1 medium tree per 50m² of deep soil zone - Between 850 - 1,500m² = 1 large tree or 2 medium trees per 90m² of deep soil zone - Greater than 1,500m² = 1 large tree or 2 medium trees per 80m² of deep soil zone 		
4O - 2 Landscape design contributes to the streetscape and amenity	<p>Landscape design responds to the existing site conditions including:</p> <ul style="list-style-type: none"> - changes of levels - views - significant landscape features including trees and rock outcrops <p>Significant landscape features should be protected by:</p> <ul style="list-style-type: none"> - tree protection zones (see figure 4O.5) - appropriate signage and fencing during construction 	<p>The proposal does not include retention of existing trees that require consideration of construction impacts.</p> <p>Given that significant views exist across the top of the building; it is recommended that the landscaping in the proposed roof garden be maintained to a maximum height of 0.5m above the roof level. A condition has been recommended in this regard.</p>	Yes

	Plants selected should be endemic to the region and reflect the local ecology		
4P Planting on structures			
4P - 1 Appropriate soil profiles are provided	<p>Structures are reinforced for additional saturated soil weight.</p> <p>Soil volume is appropriate for plant growth; considerations include:</p> <ul style="list-style-type: none"> - modifying depths and widths according to the planting mix and irrigation frequency - free draining and long soil life span - tree anchorage <p>Minimum soil standards for plant sizes should be provided in accordance with Table 5.</p> <p>Table 5 requires</p> <ul style="list-style-type: none"> - Large trees 12-18m high, up to 16m crown spread at maturity = need 150m³ of soil at a depth of 1,200mm and area of 10m x 10m or equivalent. - Medium trees 8-12m high, up to 8m crown spread at maturity = need 35m³ of soil at a depth of 1,000mm and area of 6m x 6m or equivalent. - Small trees 6-8m high, up to 4m crown spread at maturity = need 9m³ of soil at a depth of 800mm and area of 3.5m x 3.5m or equivalent. - Shrubs need soil depth of 500-600mm - Ground cover needs soil depth of 300-450mm 	<p>The structure will be required to be engineered to accommodate the proposed terrace and roof top landscaping.</p> <p>Appropriate soil volumes for different planting types are capable of being provided.</p>	Yes

	<ul style="list-style-type: none"> - Turf needs soil depth of 200mm 		
<p>4P - 2 Plant growth is optimised with appropriate selection and maintenance</p>	<p>Plants are suited to site conditions; considerations include:</p> <ul style="list-style-type: none"> - drought and wind tolerance - seasonal changes in solar access - modified substrate depths for a diverse range of plants - plant longevity <p>A landscape maintenance plan is prepared.</p> <p>Irrigation and drainage systems respond to:</p> <ul style="list-style-type: none"> - changing site conditions - soil profile and the planting regime - whether rainwater, stormwater or recycled grey water is used 	<p>The submitted landscape plan has appropriately considered species selection and irrigation.</p>	<p>Yes</p>
<p>4P - 3 Planting on structures contributes to the quality and amenity of communal and public open spaces</p>	<p>Building design incorporates opportunities for planting on structures. Design solutions may include:</p> <ul style="list-style-type: none"> - green walls with specialised lighting for indoor green walls - wall design that incorporates planting - green roofs, particularly where roofs are visible from the public domain - planter boxes <p>Note: structures designed to accommodate green walls should be integrated into the building facade and consider the ability of the facade to change over time</p>	<p>Landscape plan includes green walls, green roof, and planter boxes.</p>	<p>Yes</p>
4Q Universal design			

4Q - 1 Universal design features are included in apartment design to promote flexible housing for all community members	Developments achieve a benchmark of 20% of the total apartments incorporating the Liveable Housing Guideline's silver level universal design features	The submitted proposal demonstrates equitable access to the parking areas and all apartments in the development. A condition is recommended requiring the Construction Certificate documentation to demonstrate that 20% of the apartments will incorporate the Liveable Housing Guideline's silver level universal design features.	Acceptable subject to condition
4Q - 2 A variety of apartments with adaptable designs are provided	<p>Adaptable housing should be provided in accordance with the relevant council policy Design solutions for adaptable apartments include:</p> <ul style="list-style-type: none"> - convenient access to communal and public areas - high level of solar access - minimal structural change and residential amenity loss when adapted - larger car parking spaces for accessibility - parking titled separately from apartments or shared car parking arrangements 	<p>Council's DCP requires barrier free access to at least 20% of apartments. The proposal complies with this requirement.</p> <p>Council's DCP does not include any provisions regarding a minimum proportion of adaptable housing.</p>	Yes
4Q - 3 Apartment layouts are flexible and accommodate a range of lifestyle needs	<p>Apartment design incorporates flexible design solutions which may include:</p> <ul style="list-style-type: none"> - rooms with multiple functions - dual master bedroom apartments with separate bathrooms 	<p>Proposal includes larger apartments with various living space options.</p> <p>Unit 2 includes dual master bedrooms with separate bathroom options.</p>	Yes

	<ul style="list-style-type: none"> - larger apartments with various living space options - open plan 'loft' style apartments with only a fixed kitchen, laundry and bathroom 		
4R Adaptive reuse			
4R - 1 New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	<p>Design solutions may include:</p> <ul style="list-style-type: none"> - new elements to align with the existing building - additions that complement the existing character, siting, scale, proportion, pattern, form and detailing - use of contemporary and complementary materials, finishes, textures and colours <p>Additions to heritage items should be clearly identifiable from the original building.</p> <p>New additions allow for the interpretation and future evolution of the building.</p>	Proposal is for a new building.	n/a
4R - 2 Adapted buildings provide residential amenity while not precluding future adaptive reuse	<p>Design features should be incorporated sensitively into adapted buildings to make up for any physical limitations, to ensure residential amenity is achieved. Design solutions may include:</p> <ul style="list-style-type: none"> - generously sized voids in deeper buildings - alternative apartment types when orientation is poor - using additions to expand the existing building envelope <p>Some proposals that adapt existing buildings may not</p>	Proposal is for a new building.	n/a

	<p>be able to achieve all of the design criteria in this Apartment Design Guide. Where developments are unable to achieve the design criteria, alternatives could be considered in the following areas:</p> <ul style="list-style-type: none"> - where there are existing higher ceilings, depths of habitable rooms could increase subject to demonstrating access to natural ventilation, cross ventilation (when applicable) and solar and daylight access (see also sections 4A Solar and daylight access and 4B Natural ventilation) - alternatives to providing deep soil where less than the minimum requirement is currently available on the site - building and visual separation – subject to demonstrating alternative design approaches to achieving privacy - common circulation - car parking - alternative approaches to private open space and balconies 		
4U Energy efficiency			
4U - 1 Development incorporates passive environmental design	<p>Adequate natural light is provided to habitable rooms (see 4A Solar and daylight access).</p> <p>Well located, screened outdoor areas should be provided for clothes drying</p>	<p>Adequate natural light is provided to habitable rooms. See comments under 4A.</p> <p>All apartments have screened balconies and/or courtyards that are suitable for clothes drying.</p>	Yes
4U - 2 Development	A number of the following design solutions are used:	Proposal meets BASIX requirements	Yes

incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	<ul style="list-style-type: none"> - the use of smart glass or other technologies on north and west elevations - thermal mass in the floors and walls of north facing rooms is maximised - polished concrete floors, tiles or timber rather than carpet - insulated roofs, walls and floors and seals on window and door openings - overhangs and shading devices such as awnings, blinds and screens <p>Provision of consolidated heating and cooling infrastructure should be located in a centralised location (e.g. the basement)</p>	for thermal performance.	
4U - 3 Adequate natural ventilation minimises the need for mechanical ventilation	<p>A number of the following design solutions are used:</p> <ul style="list-style-type: none"> - rooms with similar usage are grouped together - natural cross ventilation for apartments is optimised - natural ventilation is provided to all habitable rooms and as many non-habitable rooms, common areas and circulation spaces as possible 	Satisfactory grouping of like uses and natural cross ventilation.	Yes
4V Water management and conservation			
4V - 1 Potable water use is minimised	<p>Water efficient fittings, appliances and wastewater reuse should be incorporated.</p> <p>Apartments should be individually metered.</p> <p>Rainwater should be</p>	<p>The development includes a BASIX Certificate with adequate water efficiency commitments.</p> <p>Apartments will be</p>	Yes

	collected, stored and reused on site. Drought tolerant, low water use plants should be used within landscaped areas	required to be individually metered.	
4W Waste management			
4W - 1 Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	<p>Adequately sized storage areas for rubbish bins should be located discreetly away from the front of the development or in the basement car park.</p> <p>Waste and recycling storage areas should be well ventilated.</p> <p>Circulation design allows bins to be easily manoeuvred between storage and collection points.</p> <p>Temporary storage should be provided for large bulk items such as mattresses.</p> <p>A waste management plan should be prepared</p>	<p>Bin storage room located in the basement car park with adequate ventilation and circulation areas. The capacity of the bin storage room is sufficient based on a weekly private waste collection service.</p> <p>The Applicant has consulted with a waste contractor and has been advised that a private waste collection service could be provided for the development.</p>	Yes
4W - 2 Domestic waste is minimised by providing safe and convenient source separation and recycling	<p>All dwellings should have a waste and recycling cupboard or temporary storage area of sufficient size to hold two days worth of waste and recycling.</p> <p>Communal waste and recycling rooms are in convenient and accessible locations related to each vertical core.</p> <p>For mixed use developments, residential waste and recycling storage areas and access should be separate and secure from other uses.</p> <p>Alternative waste disposal methods such as composting should be provided</p>	<p>Temporary waste storage for individual apartments capable of being accommodated.</p> <p>Waste recycling provided for in bin storage area in basement car park.</p> <p>Location of bin storage area near front lift would be conveniently accessible to residents.</p>	Yes
4X Building maintenance			
4X - 1 Building	A number of the following	Building design	Yes

design detail provides protection from weathering	<p>design solutions are used:</p> <ul style="list-style-type: none"> - roof overhangs to protect walls - hoods over windows and doors to protect openings - detailing horizontal edges with drip lines to avoid staining of surfaces - methods to eliminate or reduce planter box leaching - appropriate design and material selection for hostile locations 	<p>includes roof overhangs and apartments have been designed to provide balcony access for ongoing maintenance of windows and part of the external walls of the building.</p> <p>The building materials noted in the schedule on the plans are considered to be durable and suitable for the conditions.</p>	
4X - 2 Systems and access enable ease of maintenance	<p>Window design enables cleaning from the inside of the building.</p> <p>Building maintenance systems should be incorporated and integrated into the design of the building form, roof and façade.</p> <p>Design solutions do not require external scaffolding for maintenance access.</p> <p>Manually operated systems such as blinds, sunshades and curtains are used in preference to mechanical systems.</p> <p>Centralised maintenance, services and storage should be provided for communal open space areas within the building.</p>	<p>Building design allows for cleaning of windows from balconies and within the building.</p> <p>Services are located in central locations that can be accessed from within the building.</p> <p>No mechanically operated blinds or sunshades are proposed.</p>	Yes
4X - 3 Material selection reduces ongoing maintenance costs	<p>A number of the following design solutions are used:</p> <ul style="list-style-type: none"> - sensors to control artificial lighting in common circulation and spaces - natural materials that weather well and improve with time such as face brickwork 	<p>Materials noted on the plans are robust and durable and are expected not to require significant maintenance to the exterior of the building in the future.</p>	Yes

	<ul style="list-style-type: none"> - easily cleaned surfaces that are graffiti resistant - robust and durable materials and finishes are used in locations which receive heavy wear and tear, such as common circulation areas and lift interiors 		
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Clause 30(1) - Consent cannot be refused on the following grounds if the development satisfies the relevant design criteria:

- if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,
- if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,
- if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

Clause 30(2) - Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:

- the design quality principles, and
- the objectives specified in the Apartment Design Guide for the relevant design criteria.

As noted in the above assessment table, it is considered that satisfactory regard has been given to the design quality principles and the objectives specified in the Apartment Design Guide.

In accordance with Clause 143A of the Environmental Planning and Assessment Regulation 2000, a certifying authority must not issue a Construction Certificate for the development unless the certifying authority has received the statement by the qualified designer verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles.

In accordance with Clause 154A of the Environmental Planning and Assessment Regulation 2000, a certifying authority must not issue an occupation certificate to authorise a person to commence occupation or use of the development unless the certifying authority has received the statement by the qualified designer verifying that the development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles.

Conditions have been recommended requiring the design verification statements noted above.

State Environmental Planning Policy (Coastal Management) 2018

The site is located within a coastal use area and 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 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 impact on marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms;
- d) any adverse impact on Aboriginal cultural heritage, practices and places;
- e) any adverse impacts on the cultural and built environment heritage;
- f) any adverse impacts the use of the surf zone;
- g) any adverse impact on the visual amenity and scenic qualities of the coast, including coastal headlands;
- h) overshadowing, wind funnelling and the loss of views from public places to foreshores; and
- i) any adverse impacts on existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability.

In accordance with Clause 15 the proposal is not likely to cause increased risk of coastal hazards on the land or other land.

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

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 R4 High Density Residential.
- Clause 2.3(1) and the R4 zone landuse table - The proposed development for a residential flat building is a permissible landuse with consent.

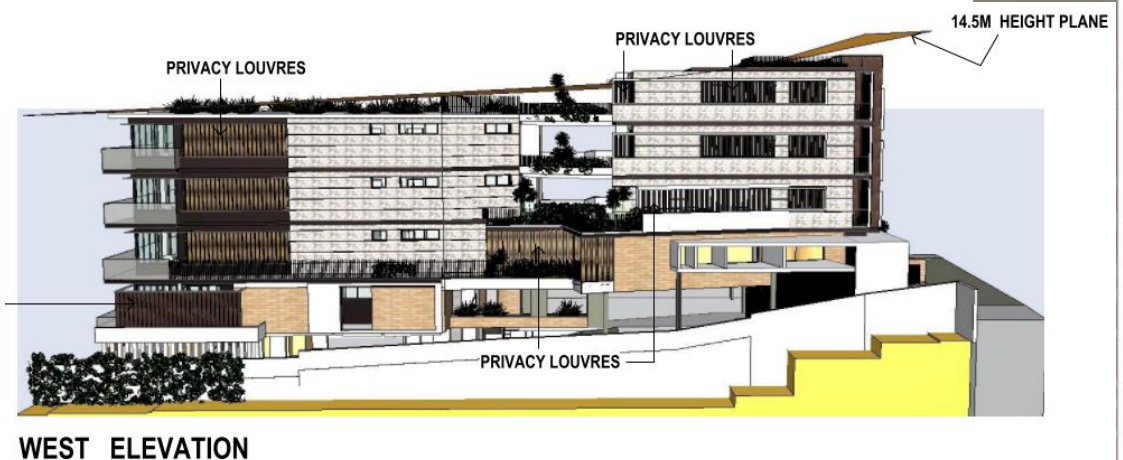
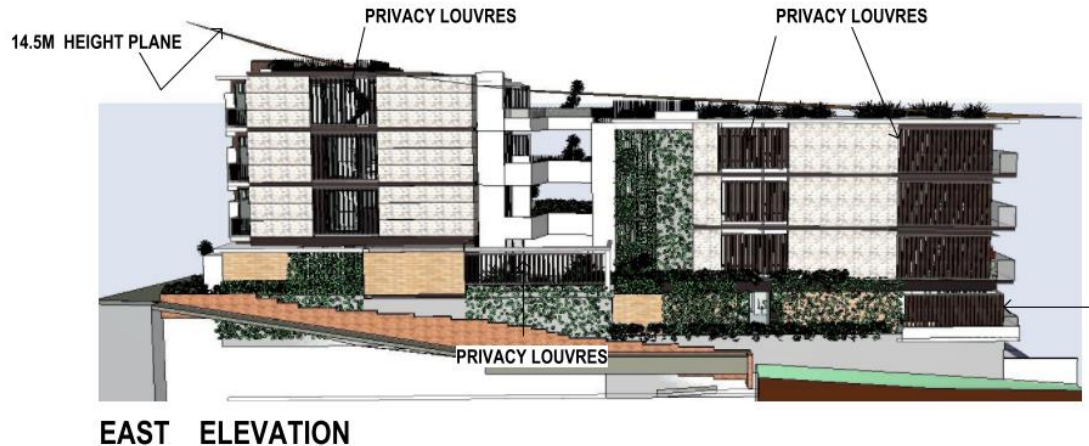
The objectives of the R4 zone are as follows:

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for tourist and visitor accommodation in key tourist precincts of urban areas of the Council area, while also encouraging increased population levels.
- To encourage development that has regard to the desired future character of streets and supports active and safe uses at pedestrian level.
- Clause 2.3(2) - The proposal is consistent with the zone objectives having regard to the following:
 - The proposal is a permissible landuse;
 - The development would provide high density residential apartments to meet the housing needs of the community;
 - The proposal has satisfactory regard to the desired character of the street and supports safe use at the pedestrian level.
- Clause 2.7 - The demolition requires consent as it does not fit within the provisions of SEPP (Exempt and Complying Development Codes) 2008.
- Clause 4.3 - 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”*.
 -
 - In this instance, the maximum overall height of the building above ground level (existing) is 15.40m at its highest, which exceeds the height limit of 14.5m applying to the site by 0.9m (6.2%). The part of the building exceeding the height limit is represented in the below extracts from the plans:
 -



COUNCIL



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-
- The Applicant has requested an exception to the height of building development standard in accordance with Clause 4.6 of the LEP, which is discussed below.
-
- Clause 4.4 - The floor space ratio of the proposal is 1.34:1 which complies with the maximum 1.5:1 floor space ratio applying to the site.
-
- Clause 4.6 – This clause establishes a degree of flexibility for certain development standards in certain circumstances which have demonstrated that a better planning outcome will occur from that flexibility. In this regard, the proposal seeks a variation to the building height standard as identified under clause 4.3 of this report. Assistance on the approach to variation to this standard is also taken from NSW Land and Environment Court and NSW Court of Appeal decisions in:
 -
 - *Wehbe v Pittwater Council (2007) NSW LEC 827 (Wehbe);*
 - *Four2Five Pty Ltd v Ashfield Council (2015) NSWLEC 1009; and*
 - *Al Maha Pty Ltd v Huajun Investments Pty Ltd (2018) NSWCA 245*
 -
 - Having regard to specific requirements of clause 4.6(3) and 4.6(4) the following assessment comments are provided:
 -
 - (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has*

considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

- [REDACTED]

- The Applicant has submitted a request in writing (**Attachment 4**) to justify the contravention of the building height standard for the following reasons (as summarised):

- [REDACTED]

- Compliance with the development standard is unnecessary as the proposal has been demonstrated to be consistent with the objectives of the height of buildings standard.
- Compliance with the development standard is unreasonable as the actions of Council have virtually abandoned the standard. Substantial height variations have been approved for nearby developments at No 2, 4, and 5 Clarence Street, and also the previous consent for the subject site.
- The height variation would not adversely affect internal amenity within the development.
- The height variation would not adversely affect privacy or amenity of adjoining properties.
- The height variation would not result in increased overshadowing of adjoining properties compared with a compliant proposal.
- The height variation does not result in any increase in the number of apartments able to be accommodated on the site.
- The height variation would not result in any additional loss of views across the site compared with a compliant proposal.
- Pedestrian access and amenity will not be adversely impacted by the proposed height variation.
- The part of the building at the site frontage in Clarence Street is substantially lower than the height limit and the building would not appear higher in the streetscape. The height exceedance occurs generally at the rear of the front tower where the site slopes down, and this part of the building will not be highly visible in the streetscape.
- The development is considered to be a good contextual fit for an infill development and is consistent with the streetscape and bulk and scale outcomes envisaged for the area.

- [REDACTED]

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

- (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

- [REDACTED]

- The Applicant's written request is considered to have adequately addressed the matter required to be demonstrated in subclause (3) for the following reasons.

- [REDACTED]

- In *Wehbe* 'five methods' have been developed to test whether a compliance with the standard is unreasonable or unnecessary. Having regard to the 'five methods', the following comments are provided:

- [REDACTED]

- The objectives of the height standard are achieved notwithstanding the non-compliance with the numerical 14.5m height standard, as discussed in more detail below. Compliance with the development standard is therefore considered unnecessary.
- It is not considered that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting a consent to other proposals departing from the standard, as claimed by the Applicant. While it is acknowledged that consent has been granted for other buildings in the precinct that exceeded the height controls at the date of determination, the developments at No 2 & 5 Clarence Street pre-date the current height controls that have been adopted for the precinct. More recent consents relating to the subject site and No 4 Clarence Street, have been appropriately tested on merit in accordance with the provisions of Clause 4.6 and found to be acceptable. It is not considered that these decisions have abandoned or destroyed the integrity of the development standard. The decisions do, however, provide some context for how the development will fit into the locality.

- [REDACTED]

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

- [REDACTED]

- The environmental planning grounds submitted by the Applicant are considered reasonable and adequately justify contravening the development standard.

-

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

- [REDACTED]

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

-

The objectives of the R4 zone are as follows:

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for tourist and visitor accommodation in key tourist precincts of urban areas of the Council area, while also encouraging increased population levels.
- To encourage development that has regard to the desired future character of streets and supports active and safe uses at pedestrian level.

The proposal is considered to be consistent with the zone objectives having regard to the following:

- The development would provide high density residential apartments to meet the housing needs of the community; and
- The proposal has regard to the desired character of the street and supports safe use at the pedestrian level.

- [REDACTED]

- Consideration of the proposal's consistency with the objectives of height of buildings standard in Clause 4.3 of the LEP is provided as follows:
 - *To ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
 - [REDACTED]
 - The proposed building height varies from 13.2m at the site frontage to 15.40m at its highest point at the top of the balustrade for the Unit 8 roof terrace.
 -
 - The locality is characterised by a number of other residential flat buildings ranging in height from three to six storeys above ground level. To the west of Munster Street, a number of other residential flat buildings higher than six storeys also exist. The subject site currently contains single storey units.
 -
 - Directly adjoining the site, the Headlands building has a height 1.34m lower than the proposed development, and the Flightdeck building has a height 3.07m lower than the proposed development.
 -
 - The floor space ratio for the proposal is below the maximum of 1.5:1 permitted for the area.
 -
 - The proposed height, bulk and scale of the development are considered compatible with the character of the locality in this regard.
 - [REDACTED]
 - *To minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*
 - [REDACTED]
 - The visual presentation and design of the building have been considered having regard to the Apartment Design Guide. It is also noted that the part of the building exceeding the 14.5 height limit is located behind the building frontage to Clarence Street and would not be visually dominant, particularly at street level.
 -
 - View impacts and solar access are considered in detail later in this report under 'View Sharing' and 'Overshadowing'.
 -
 - Potential privacy impacts are considered under the relevant Apartment Design Guide and DCP provisions elsewhere in this report and have been satisfactorily addressed in the building design. It is noted that the part of the building above the height standard is roof, lift overruns, and the balustrade of the roof top terrace of Unit 8. Of these items only the roof top terrace has the potential to result in any privacy impacts. As the level of the terrace is above the roof of the two adjoining apartment buildings and the balustrade is set in from the edge of the building, it is considered that the privacy impacts are acceptable.
 - [REDACTED]
 - *To minimise the adverse impact of development on heritage conservation areas and heritage items,*
 -
 - The site does not contain any known heritage items or sites of significance.
 -

- *To nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan.*
- [REDACTED]
- The adopted 14.5m height provides a transition to the lower 8.5m height standard for adjoining property to the north of the site. The height variation is at the southern (Clarence Street) end of the building, and the compliant northern end of the building would still provide for an appropriate transition in built form.
-
- The development is consistent with the zoning and height objectives of the LEP 2011 and is unlikely to have any implications on State related issues or the broader public interest.
- [REDACTED]
- *(b) the concurrence of the Secretary has been obtained.*
-
- In accordance with Planning Circular PS 18-003, Council can assume the Director's Concurrence for variations to the height of buildings development standard. As the variation is less than 10%, the application can be determined by a delegate of Council. The decision must be reported to Council for their information, a public register of variations maintained, and details of the proposal included in quarterly reporting to the Department of Planning, Industry and Environment.
-
- Having regard to the above requirements it is recommended that the height variation using Clause 4.6 be supported.
-
- Clause 5.10 – The site is listed in Schedule 5, Part 3 of the LEP as archaeological item A111 - Archaeology of early European settlement.
 -
 - The site is identified as part of a former lumber yard, prisoner's barracks and asylum belonging to the penal settlement of Port Macquarie between 1821 and 1831.
 -
 - The Applicant has submitted a Historical and Archaeological Assessment prepared by Edward Higginbotham & Associates Pty Ltd dated March 2013. A further Report on Test-Excavation for Proposed Development prepared by Edward Higginbotham & Associates Pty Ltd dated 31 May 2016 has also been provided.
 -
 - The test excavations revealed the presence of a brick barrel drain and headwall in the Clarence Street frontage of the site. The barrel drain is believed by the author to have been constructed c.1830 using convict labour.
 -
 - The report includes the following recommendations aimed at conserving the significant archaeological material on the site:
 -
 - 1. The brick barrel drain and headwall should be conserved in situ, within the proposed development.
 - 2. The brick barrel drain and headwall should be placed on display in the proposed basement area of the car park and should be accessible for inspection by the general public at least on selected dates.
 - 3. The proposed development should be allowed to proceed on the evidence that there are few significant remains of the Convict Barracks and Lumber Yard located on this site. (The test-trenches may not be representative of the archaeological remains on the rest of the site).

- 4. An excavation permit should be obtained for the purpose of an archaeological monitoring programme.
- 5. The bulk excavation of fill layers for the proposed development should be supervised by the archaeologist, so that any archaeological remains can be investigated, recorded, planned and photographed. Some manual archaeological excavation may be required, around the brick barrel drain and if any remains are located.
-
- In accordance with Clause 5.10(7) the proposal was referred to the Heritage Council of NSW for review. The Heritage Council provided comments on the proposal in a letter dated 26 August 2019. The retention of the brick barrel drain is supported by the Heritage Council and archaeological monitoring of the works is considered to be an appropriate precautionary approach to the management of potential additional archaeological relics on the site.
-
- The Heritage Council have recommended that the following conditions be included in any consent:
-
- 1. Prior to commencement of works an exception permit under Section 139(1C) will be obtained from the Heritage Council. This will include a work method statement detailing how the brick barrel drain and bulk fill removal for the site will be subject to on-site monitoring by a suitably qualified archaeologist.
-
- *Reason: While there is minimal potential for archaeological relics as demonstrated by the archaeological test excavation, archaeological monitoring will ensure that unexpected archaeological relics are managed appropriately.*
-
- 2. At the completion of bulk excavation works and during all other construction works on the site, appropriate barriers or coverings will be put in place around the brick barrel drain to ensure it is protected during development and interpretation works.
-
- *Reason: Protection of the brick barrel drain during construction works will ensure it is able to be preserved and clearly interpreted.*
-
- 3. Final design details for on-site interpretation, including information on any display and housing for the brick barrel drain, is to be submitted to Port Macquarie-Hastings Council for approval and is to be completed and implemented within the redevelopment prior to the release of the occupation certificate for the site.
-
- *Reason: As the brick barrel drain is to be preserved and interpreted within the development, details should be provided to Council for approval.*
-
- 4. Information must be provided to Port Macquarie-Hastings Council confirming that the requirements of any endorsed S139(4) of other permit from the Heritage Council of NSW have been satisfied prior to the release of the occupation certificate for the site.
-
- *Reason: To ensure statutory compliance.*
-

- Conditions are recommended to ensure that the development is carried out in accordance with the above requirements.
-
- 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

Clause 6A of SEPP 65 applies in respect of the objectives, design criteria and design guidance set out in Parts 3 and 4 of the Apartment Design Guide for the following:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

If a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect.

This clause applies regardless of when the development control plan was made.

Accordingly, the below assessment table excludes consideration of any matters relating to the above items.

<i>DCP 2013: Residential Flat Development, Tourist and Visitor Accommodation and Mixed Use Development</i>			
DCP Objective	Development Provisions	Proposed	Complies
3.3.2.4	<p>Streetscape and front setback:</p> <ul style="list-style-type: none"> • Within 20% of the average setback of the adjoining buildings. • 3m setback to all frontages if no adjoining development. • 2m setback to secondary frontages. • Max. 9m setback for tourist development 	<p>3m front setback.</p> <p>The average setback of the two adjoining buildings is 13.3m.</p> <p>However, site specific front setback controls have been adopted for this site is Chapter 4.3 of the DCP.</p>	See 4.3.2.4 of DCP

	to allow for swimming pool.		
3.3.2.5	Balconies and building extrusions can encroach up to 600mm into setback.	Marble tile extrusions on front façade project up to 300mm into front setback.	Yes
	Buildings generally aligned to street boundary.	Yes	Yes
	Primary openings aligned to street boundary or rear of site.	Yes	Yes
3.3.2.6	Side setbacks comply with Figure 3.3-1: <ul style="list-style-type: none"> Min. Side setback 1.5m for 75% of building depth. Windows on side walls min. 3m from side boundary. 3m minimum where adjacent to existing strata titled building. 	<p>Zero side setback for part of the basement car park, eastern wall of Unit 2, balconies of Unit 1, entry passage, and landscaped terraces.</p> <p>1.5m setback to side boundaries for less than 75% of the length of the building (with the exception of the reduced setbacks noted above).</p> <p>All windows on side walls are setback a minimum of 3m from side boundaries.</p> <p>Adjoining the site to both the east and west are strata titled buildings.</p>	No*
	Side walls adjacent to existing strata-titled buildings should be articulated and modulated to respond to the existing buildings.	The building has been designed to ensure that openings are offset from those in the adjacent strata-titled buildings.	Yes
	Min. 6m rear setback (including sub basements)	6.3m rear setback to wall of building. Upper floor balconies project to 5.2m from rear boundary.	No*
3.3.2.7	A party wall development may be required if site amalgamation is not possible and higher density development is envisaged by these controls.	Part of the basement car park and the eastern wall of Unit 1 is proposed to be constructed on the boundary. Site amalgamation is not possible in this instance due to existing strata title buildings on adjoining land and higher density development is envisaged by these controls.	Yes
3.3.2.8	Party wall development	Condition recommended	Yes

	can occur only with the agreement and consent of the adjoining property owner. Exposed party walls should be finished in a quality comparable to front facade finishes.	requiring exposed party walls to be finished in a quality comparable to front facade finishes.	
3.3.2.11	<p>Deep soil zones:</p> <ul style="list-style-type: none"> Extend the width of the site and have minimum depth of 6m. Are contiguous across sites and within sites (see Fig 3.3-4). 	<p>Minimum 6m wide deep soil zone for the full width of the site and extends to join with the deep soil zone at the rear of 1 Clarence Street.</p> <p>Additional 3m wide deep soil zone across site frontage.</p>	Yes
3.3.2.12	Deep soil zones accommodate existing advanced trees, and allow for advanced tree planting.	No existing advanced trees. Deep soil zones would allow for advanced tree planting.	Yes
3.3.2.13	Deep soil zones integrated with stormwater management measures.	Details to be provided at Construction Certificate stage.	Yes
3.3.2.15	Internal clothes drying space provided (not mechanical).	Clothes drying area provided on terraces with appropriate screening.	Yes
	Ceiling fans provided in preference to air conditioning.	Air conditioning identified on BASIX Certificate. Proposal satisfies BASIX energy efficiency requirements and is considered acceptable.	No, but acceptable
	Solar hot water systems (or equivalent technology) provided.	Heat pump hot water systems identified on BASIX Certificate. Proposal satisfies BASIX energy efficiency requirements and is considered acceptable.	No, but acceptable
	Photovoltaic arrays installed where practical.	Photovoltaic array (minimum 6.0kW) identified on BASIX Certificate.	Yes
3.3.2.16	<p>Landscape plan provided including:</p> <ul style="list-style-type: none"> 35% soft landscaping with minimum width of 3m. Existing vegetation and proposed treatment. Details of hard 	<p>Greater than 35% soft landscaping proposed, but only 22% soft landscaping with minimum width of 3m.</p> <p>Additional soft landscaping is proposed in the form of green walls, roof garden and planter boxes on terraces.</p>	No, but acceptable

	landscaping. <ul style="list-style-type: none"> • Location of communal recreational facilities. • Species not to obscure doors, paths, etc. • Street trees in accordance with Council's list. 	Overall landscaping provision considered acceptable in the context of a narrow site in a high density residential zone.	
3.3.2.18	Landscape plan to demonstrate how trees and vegetation contribute to energy efficiency and prevent winter shading on neighbouring properties.	Proposed landscaping will not result in winter shading of neighbouring properties.	Yes
3.3.2.23	Solid fences should be: <ul style="list-style-type: none"> • Max. 1.2m high, • Setback 1m, • Suitably landscaped, • Provide 3m x 3m splay. 	Solid front fencing not proposed.	n/a
	Where front fences higher than 1.2m: <ul style="list-style-type: none"> • Max. 1.8m high, • Landscaped recesses for 50% of frontage, or length of fence not more than 6m or 50% of street frontage. • Min. 25% transparent, • 3m x 3m splay for corner sites. • 900mm x 900mm splay at vehicle driveways. 	No front fence proposed.	Yes
3.3.2.24	Fencing materials consistent with or complimentary to existing fencing in the street.	N/A	N/A
3.3.2.26	Building to be designed so that: <ul style="list-style-type: none"> • Busy, noisy areas face the street. • Quiet areas face the side or rear of the lot. • Bedrooms have line of site separation of 	Bedrooms face Clarence Street and living areas are oriented to the rear of the site for better solar access and views. The majority of bedrooms on the southern elevation are located above ground level, where they would be less affected by traffic and	No, but acceptable.

	at least 3m from parking areas, streets and shared driveways.	pedestrian activity in Clarence Street and limited window openings are proposed for the southern facade. Bedrooms have appropriate line of sight separation from the driveway and parking areas.	
	Openings of adjacent dwellings separated by at least 6m.	Yes	Yes
3.3.2.27	Building designed so noise transmission between apartments is minimised.	Each floor contains only a single unit off each access core and the two towers are separated by central terraces. No adverse noise transmission between units expected.	Yes
	Uses are to be coupled internally and between apartments i.e. noisy internal and noisy external spaces should be placed together. (See Figure 3.3-6).	Not applicable. Each floor contains only a single unit off each access core and the two towers are separated by central terraces.	N/A
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>	Details of compliance will be required at Construction Certificate stage.	Yes
3.3.2.29	Impact of noise from key public places to be considered.	Site located in proximity to Town Beach reserve. This space is used for events on an infrequent basis and is unlikely to cause regular disruption to residents of the development.	Yes
3.3.2.31	Developments to be designed in accordance with AS 1428.	Development capable of complying. Details will be required at Construction Certificate stage.	Yes
3.3.2.32	Barrier free access to at least 20% of dwellings provided.	Yes	Yes
3.3.2.33	Developments located close to open space, recreation, entertainment and employment.	Yes	Yes
	Where LEP permits FSR >	Proposed FSR greater	Yes

	1:1, FSR not less than 1:1 should be achieved.	than 1:1.	
3.3.2.34	Variety of types - studio, 1, 2, 3 and 3+ bedroom apartments	The proposal includes a mix of 2 and 3 bedroom apartments.	Yes
	Studio and 1 bedroom apartments not > 20% of total number of apartments.	None proposed.	Yes
	Mix of 1 and 3 bedroom apartments at ground level.	Proposal does not include any apartments with ground level access.	N/A
3.3.2.36	Lift over-runs and plant integrated within roof structures.	Lift over-runs project slightly above the roof structure, but are integrated with the design of the roof terrace and landscaping.	Yes
	Roof design to generate interesting skyline.	Roof design considered acceptable.	Yes
3.3.2.37	<p>Facade composition should:</p> <ul style="list-style-type: none"> • Have balance of horizontal and vertical elements. • Respond to environmental and energy needs. • Incorporate wind mitigation. • Reflect uses within the buildings. • Include combination of building elements. 	Façade composition satisfactory.	Yes
3.3.2.38	Building elements, materials and colours consistent or complimentary to those existing in the street.	Proposed colours and materials considered satisfactory.	Yes
3.3.2.42	<p>Secure open air clothes drying facilities that are:</p> <ul style="list-style-type: none"> • easily accessible, • screened from public domain and communal spaces, • located with high degree of solar access. 	Open air clothes drying facilities available to each apartment on screened terrace/balcony areas.	Yes
3.3.2.43	Mailboxes integrated into building design and sighted to ensure accessibility and security.	Mailboxes integrated into front of building.	Yes
3.3.2.44	Public and private space	Yes	Yes

	clearly defined.		
	<p>Entrances:</p> <ul style="list-style-type: none"> • oriented to public street, • provide direct and well lit access between car parks, lift lobbies and unit entrances, • optimise security by grouping clusters (max. 8) around a common lobby 	Entrance visible from the street. Basement car park provides secure access to the lift lobby. Only one apartment accessed from each lift lobby.	Yes
	<p>Surveillance facilitated by:</p> <ul style="list-style-type: none"> • views over public space from living areas, • casual views of common internal areas, • provision of windows and balconies, • separate entries to ground level apartments. 	Balconies oriented to facilitate views over Clarence Street and communal open space.	Yes
	<p>Concealment avoided by:</p> <ul style="list-style-type: none"> • preventing dark or blind alcoves, • providing lighting in all common areas, • providing graded car parking illumination (greater at entrances). 	No concealment or entrapment locations identified. Adequate lighting is proposed to common areas.	Yes
	Access to all parts of the building to be controlled.	Yes	Yes
3.3.2.46	<p>Communal bulk waste required where:</p> <ul style="list-style-type: none"> • > 6 dwellings, or • Number of bins wouldn't fit in street frontage, or <p>Topography would make street collection difficult.</p>	Waste storage room proposed in basement car park.	Yes
	<p>Communal bulk waste facilities integrated into development and located at ground or sub-basement level.</p> <ul style="list-style-type: none"> • Not visible from street, • Easily accessible, • Can be serviced by 		

	<ul style="list-style-type: none"> collection vehicles, • Not adjoining private or communal space, windows or clothes drying areas, • Has water and drainage facilities for cleaning, • Maintained free of pests. 		
	Evidence provided that site can be serviced by waste collection service.	The Applicant has obtained advice from a waste contractor that collection from the development is achievable. Condition recommended requiring evidence of the waste collection arrangement.	Yes
3.3.2.47	Common trenching of utility services where possible.	Capable of complying.	Yes
	Above ground utility infrastructure integrated with building design.	Hydrant booster cabinet at site frontage integrated with the design of the building.	Yes
	Site and individual units numbered.	Capable of complying.	Yes
	Common aerials and satellite dishes provided.	Condition recommended confirming this requirement.	Yes

DCP 2013: General Provisions

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"> • Casual surveillance and sightlines • Land use mix and activity generators • Definition of use and ownership • Lighting • Way finding • Predictable routes and entrapment locations 	Casual surveillance of communal open space available from apartments. Private and public space appropriately defined. Casual surveillance of street and communal space available from apartments.	Yes
2.3.3.1	Cut and fill 1.0m max. 1m outside the perimeter of	Less than 1m of cut and fill outside building walls.	Yes

	the external building walls		
2.3.3.2	1m max. height retaining walls along road frontages	No retaining walls in frontage greater than 1m high	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 100m 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.	
2.5.3.2	New accesses not permitted from arterial or distributor roads. Existing accesses rationalised or removed where practical	Access from local road.	Yes
	Driveway crossing/s minimal in number and width including maximising street parking	Single driveway of appropriate width for two vehicles to pass at the site frontage. One existing angled parking space in Clarence Street would be lost as a result of the driveway widening. Considered acceptable in the context of the site.	Yes
2.5.3.3	Off-street parking in accordance with Table 2.5.1: <ul style="list-style-type: none"> • 1 space = single dwelling (behind building line) and dual occupancy • Medium density – 1 per 1 or 2 bed dwelling or 1.5 per 3-4 bed dwelling + 1 visitor/4 dwellings 	Table 2.5.1 requires 1 space per 1 or 2 bedroom unit, plus 1.5 spaces per 3 or 4 bedroom unit, plus 1 visitor space per 4 units. The proposal includes 1 x 2 bedroom apartment, and 7 x 3 bedroom apartments. A total of 14 spaces (12 resident spaces and 2 visitor spaces) are required under Council's DCP. The development proposes 14 off street including 2 visitor parking spaces, and therefore satisfies this requirement.	Yes
2.5.3.7	Visitor parking to be easily accessible	Visitor parking located near the access ramp and lift in the upper level of the basement car park.	Yes

	Parking in accordance with AS 2890.1	See comments under Parking and Manoeuvring later in this report.	Yes
2.5.3.11	Section 94 contributions	Refer to main body of report.	
2.5.3.14	Sealed driveway surfaces unless justified	Concrete.	Yes

DCP 2013: Chapter 4.3 - Port Macquarie East

DCP Objective	Development Provisions	Proposed	Complies
4.3.2.1	Development is generally in accordance with the precinct structure plans shown in the previous section.	Yes	Yes
4.3.2.2	<p>The minimum lot width for residential apartment buildings is:</p> <ul style="list-style-type: none"> • 18 metres where - • the proposed building height is not greater than 14.5 metres and minimum side setbacks are satisfied, or • the site has multiple street frontages, or • requirements for on-site parking, setbacks, separation and deep soil can be achieved or • 22 metres. <p>Note: Where minimum lot width cannot be achieved, applicants are encouraged to consider amalgamation with an adjoining lot. Where amalgamation is not possible, the maximum height of building and floor space ratio denoted in the local environmental plan may not be achieved.</p>	14.945m wide.	No*
4.3.2.3	Buildings do not exceed the maximum height of buildings shown in the local environmental plan maps.	Part of the building exceeds the maximum height specified on the LEP Height of Buildings Map. See comments earlier in this report under clauses 4.3 and 4.6 of the LEP.	No
4.3.2.4	Northern side of Clarence Street, east of Munster	3m	Yes

	Street • Setback to Clarence Street is 3 metres.		
4.3.2.5	Party wall development is to be used along the south side of Clarence Street where within the Town Beach Precinct. Party wall development is not appropriate in other areas within the East Port Neighbourhood.	A party wall is proposed for part of the basement car park and ground floor of the building.	No*

The proposal seeks to vary Development Provision 3.3.2.6 in relation to the minimum rear setback of the upper floor balconies.

The relevant objectives are:

- To allow flexibility in the siting of buildings while limiting the extent to which any building overshadows or overlooks adjacent properties;
- To allow adequate natural light and ventilation between dwellings/buildings and to private open space areas;
- To provide acoustic and visual privacy;

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

- The proposal is a minor variation (0.4m) at the upper floor levels and complies with the minimum 6m rear setback at ground floor level.
- Visual and acoustic privacy between buildings would be maintained as the rear balconies provide for views outwards to the water views to the north, rather than downwards into the open space area.
- The proposal would retain solar access to the adjoining development in accordance with the design criteria in 4A-1 of the SEPP 65 Apartment Design Guide, despite the reduced setback.
- The reduced rear setback would not adversely affect natural light or ventilation to adjoining private open space areas.
- Adequate natural light and ventilation would be retained within the building as the rear boundary is oriented to the north.

The proposal seeks to vary Development Provision 3.3.2.6 and 4.3.2.5 in relation to the minimum side setback of the building at the ground floor and basement level.

The relevant objectives are:

- To allow flexibility in the siting of buildings while limiting the extent to which any building overshadows or overlooks adjacent properties;
- To allow adequate natural light and ventilation between dwellings/buildings and to private open space areas;
- To provide acoustic and visual privacy;

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

- Visual and acoustic privacy between buildings would be maintained through the building design. The proposal has no window openings directed towards the eastern boundary and balcony areas adjacent to the eastern boundary will be provided with privacy screening.

- The proposal would retain solar access to the adjoining development in accordance with the design criteria in 4A-1 of the SEPP 65 Apartment Design Guide, despite the reduced setback.
- The reduced side setback would not adversely affect natural light or ventilation to adjoining private open space areas.
- Adequate natural light and ventilation would be retained between the buildings.

The proposal seeks to vary Development Provision 3.3.2.16 in relation to the minimum proportion of soft landscaping for the development.

The relevant objective is to encourage useable and attractive open space that enhances the appearance and amenity of the development when viewed from public open space areas, especially from street frontages.

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

- The site characteristics make it logical to orient the majority of open space areas towards the northern aspect and significant views to the rear of the site. This part of the site is not highly visible from the street frontage and public open space areas. Increasing the proportion of soft landscaping at the rear of the site would do little to enhance the appearance of the development from the public domain.
- Soft landscaping is not a prominent feature of existing development in the locality fronting Clarence Street. The proposed landscaping to the south of the building would be visible in the streetscape and increase the amount of soft landscaping that currently exists in the locality.
- The proposal includes green walls, landscaped terraces, and a roof top garden, which would all contribute to the landscape setting.
- The development would provide useable open space areas that satisfy the requirements of the Apartment Design Guide and DCP.

The proposal seeks to vary Development Provision 4.3.2.2 in relation to the minimum lot width for residential flat buildings in the Port Macquarie East Precinct.

The relevant objectives are:

- To ensure that development is carried out on sites that are of adequate size and dimension;
- To maximise the potential of land to achieve the desired floor space and to deliver greater housing capacity within the neighbourhood;
- To enable design quality and adequate amenity within the site and between neighbours;
- To ensure that on-site parking requirements can be adequately met;
- To avoid isolated sites.

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

- Adequate design quality and amenity within the site and between neighbours has been demonstrated to be achieved, as detailed in the SEPP 65 and DCP sections of this report, despite the narrow lot width.
- The proposal delivers greater housing capacity within the neighbourhood at the density envisaged for the area.
- On-site parking complies with the requirements of the Apartment Design Guide and DCP.
- The site is isolated by the adjoining strata titled developments. There is limited opportunity for site amalgamation to achieve a greater lot width.

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

Demolition of buildings AS 2601 – Clause 92

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

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

Context and Setting

The site has a general southerly street frontage orientation to Clarence Street.

Adjoining the site to the north is the Sundowner Tourist Park, containing single storey tourist accommodation.

Adjoining the site to the east is the Headland apartment building, being four storeys above ground level at the Clarence Street frontage and five storeys at the rear of the site. The top of the building is identified as having a height of 29.86m AHD.

Adjoining the site to the south are Clarence Street and School Street. On the southern side of Clarence Street adjacent to the site is the Focus apartment building, being six to seven storeys above ground level at the site frontage.

Adjoining the site to the west is the Flightdeck apartment building, being five storeys above ground level. The top of the building is identified as having a height of 28.13m AHD.

Other residential apartment buildings and holiday accommodation exist on Clarence Street between Munster Street and Grant Street, with building heights ranging from two storeys to four storeys.

View Sharing

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.

A detailed view sharing assessment was carried out for a previous development proposal for a residential flat building on the site under DA2016 - 661.1. The assessment considered impacts from a number of nearby properties, which are included in the tables below. As part of the notification of the current proposal only

the owners of 12/2 Clarence Street have raised concerns about loss of views. It is noted that the height and scale of the current proposal is similar to the development approved under DA2016 - 661.1.

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: The below table summarises the extent of existing views from the affected properties.

Property	Hastings River	Ocean & North Beach	Point Plomer and Queens Head	Breakwall	Hinterland
15/2 Clarence Street	Yes	Yes	Yes	Yes	Yes
18/2 Clarence Street	Yes	Yes	Yes	Yes	Yes
9/2 Clarence Street	Yes	Yes	Yes	Yes	Yes
12/2 Clarence Street	Yes	Yes	No	Yes	Yes
14/2 Clarence Street	Yes	Yes	Yes	Yes	Yes
13/2 Clarence Street	Yes	Yes	Yes	Yes	Yes
5/2 Clarence Street	Yes	Yes	Yes	Yes	No
11/2 Clarence Street	Yes	Yes	Yes	Yes	Yes
11/1 Clarence Street	Yes	No	No	No	Yes

The above views include the interface between land and water. The affected views are therefore considered to be of high value.

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: The above views are generally obtained from living areas, kitchens and principal areas of private open space across a front property boundary. Views from 5/2 Clarence Street are only available from a balcony. All other views from 2 Clarence Street are obtained from both the sitting and standing position in living areas, kitchens and/or balconies.

Views from 11/1 Clarence Street are obtained from a kitchen window and the view is across a side boundary. The expectation for the view across the side boundary to be retained is unrealistic in this instance.

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 below table summarises the extent of the impact in terms of the views that would wholly or partially be lost as a result of the development and those that would be retained.

Property	Hastings River	Ocean & North Beach	Point Plomer and Queens Head	Breakwall	Hinterland
15/2 Clarence Street	Partially Lost	Retained	Retained	Retained	Retained
18/2 Clarence Street	Retained	Retained	Retained	Retained	Retained
9/2 Clarence Street	Partially Lost	Lost	Lost	Lost	Retained
12/2 Clarence Street	Partially Lost	Partially Lost	n/a	Lost	Retained
14/2 Clarence Street	Partially Lost	Retained	Retained	Partially Lost	Retained
13/2 Clarence Street	Partially Lost	Retained	Retained	Partially Lost	Retained
5/2 Clarence Street	Lost	Partially Lost	Retained	Lost	n/a
11/2 Clarence Street	Partially Lost	Partially Lost (ocean only)	Retained	Lost	Retained
11/1 Clarence Street	Lost	n/a	n/a	n/a	Lost

The impacts on views from the more elevated apartments (top two floors) in the Focus building are considered negligible.

Apartments 11, 13 and 14 of the Focus building would experience moderate impacts including partial loss of views to the Hastings River, breakwall, and some ocean views in the case of apartment 11. In the context of the broader view available from these apartments, the reduction is not substantial.

Lower level apartments 5, 9 and 12 in the Focus building would experience severe to devastating impacts with loss of views to the ocean, Point Plomer, Queens Head, North Beach and the breakwall.

Apartment 12 would retain partial views of the ocean and North Beach, and the existing views to the Hastings River and hinterland to the north-west. Apartment 9

would also retain existing views of the Hastings River and hinterland to the north-west.

Apartment 11 in the Headlands building would also experience severe impacts with loss of views to the Hastings River and hinterland.

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 built form is located within the adopted building height and setback controls for the area.

However, the proposal includes variations to the LEP Height of Buildings standard and the DCP side and rear setback controls, as discussed earlier in this report.

In relation to the non-compliance with building height controls, part of the roof of the front tower, lift over-run, and balustrade of the Unit 8 roof terrace exceeds the LEP height limit by up to 0.9m. The part of the building exceeding the height controls would not be visible from a number of the lower level apartments in the Focus building. Where visible from the more elevated apartments, this part of the building does not have a significant additional impact on views compared to a compliant proposal.



The reduced eastern side setback would have negligible impact on view loss as no development exists on the opposite side of Clarence Street that could take

advantage of a view corridor between the development and the existing Headlands building.

The other DCP variations discussed in this report would not contribute to any view loss.

Overall, the proposed development is considered to be reasonable having regard to the planning controls.

It is acknowledged that the development would have significant impacts on existing views. This is particularly the case for owners/residents in the Focus apartments at 2 Clarence Street where the loss of views would be severe or devastating in the worst affected apartments. However, considering the reasonableness of the development discussed under 'Step 4' above, it is considered that there are not sufficient grounds for refusal of the application on this basis.

Overshadowing

The SEPP 65 Apartment Design Guide (Section 3B-2) requires that living areas, private open space and communal open space of neighbouring properties should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access.

Section 3D of the Guide requires a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (midwinter). The submitted shadow analysis demonstrates that the proposed development would not reduce solar access to neighbouring communal open space below this specification.

Section 4A of the Guide requires that living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9am and 3pm at midwinter.

The adjoining Headlands building contains 16 apartments, of which 4 apartments (5, 8, 11, and 15) currently receive less than 3 hours direct sunlight between 9am and 3pm at midwinter. The adjoining development therefore has 75% of apartments that received the minimum solar access requirements of Section 4A.

The proposed development would reduce direct sunlight to the kitchen windows of Apartment 5 and 8 in the Headlands building at midwinter. The proposal would start overshadowing Apartments 5 and 8 between 1pm and 2pm. While there would be a loss of solar access to these two apartments, 75% of apartments in the building would still receive a minimum of 3 hours direct sunlight between 9am and 3pm at midwinter. The proposal is therefore consistent with the provisions of the Apartment Design Guide.

The proposal would reduce direct sunlight to kitchen windows and balconies of the ground, first and second floor units on the eastern side of the adjoining Flightdeck building at 9am midwinter. The overshadowing is for a short period and none the units are affected by 10am.

Roads

The site has road frontage to Clarence Street, being a sealed public road under the care and control of Council. Clarence Street is a collector road with a 16m road formation width near the frontage of the site, within a 30m road reserve. Near the locality of the subject site, Clarence Street has upright SA type kerb and gutter which

accommodates angled parking towards the west, and parallel kerbside parking to the east. Footpath paving directly east and west of the site is full width footpath paving, the current frontage of the site only has 1.2m wide footpath paving.

Traffic and Transport

The site is currently approved for high density residential use, and the proposed development is considered consistent with this zoning. Assuming an approximate 7 vehicle movements per day per unit, this equates to an additional 28 vehicle movements per day 8. This additional traffic associated with this development is unlikely to have any adverse impacts to the existing road network within the immediate locality.

Site Frontage and Access

Vehicle access to the site is proposed through one access driveway to Clarence Street. All accesses shall comply with Council AUSPEC and Australian Standards, and conditions have been imposed to reflect these requirements. Due to the type and size of development, additional works are required to include full width footpath paving along the full frontage of the site.

Parking and Manoeuvring

A total of 14 parking spaces have been provided on-site within the basement parking. Parking and driveway widths on site are capable of complying with relevant Australian Standards (AS 2890) and conditions have been recommended to reflect these requirements.

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

Water Supply Connection

Council records indicate that the development site has an existing 20mm metered water service from the 150mm PVC water main on the same side of Clarence Street.

Each individual unit shall be individually metered with the meters either located at an easily accessible location or there's the option for utilizing remotely read electronic meters. Details are to be provided on the hydraulic plans.

Final water service sizing will need to be determined by a hydraulic consultant to suit the domestic and commercial components of the development, as well as fire service and backflow protection requirements.

Sewer Connection

Council records indicate that the development site is currently connected to sewer via a junction to the sewer line that runs outside the northern property boundary of the subject lot. The proposed development shall drain all sewage to a new or existing sewer manhole approved by the Water & Sewer Planning Manager. The hydraulic designer is to confer with Council sewer section prior to submitting sewer design plans.

Stormwater

The site naturally grades towards the rear and is currently traversed by an existing Council piped drainage system that is proposed to be removed and diverted around the site as part of the development.

No objections are raised towards this approach in general subject to the submission of detailed stormwater drainage plans for the pipe diversion as part of the future Construction Certificate/Section 68 applications. The stormwater pipeline diversion must be designed to ensure that the diversion does not increase the incidences of downstream flooding or surcharge and must be accompanied by suitable road and footpath restoration works to ensure the negative aesthetic impacts of trenching are mitigated.

The Statement of Environmental Effects and stormwater drainage plans submitted in support of the proposed development demonstrates conceptually how the stormwater management system designed to service the development will achieve compliance with AUSPEC specifications. In this regard:

- On site stormwater detention is not proposed on the basis that the development results in a reduction in site stormwater runoff when compared to the existing site and land use.
- Water quality controls will be provided to achieve the targets of Council's AUSPEC D7 specifications.

A detailed site stormwater management plan will be required to be submitted for assessment with the Section 68 application and prior to the issue of a Construction Certificate. Conditions have been recommended to reflect these requirements.

Other Utilities

Telecommunication and electricity services are available to the site.

Heritage

See comments earlier under Clause 5.10 regarding European heritage.

No known items of Aboriginal cultural heritage significance exist on the property. The site is considered to be disturbed land, and it is unlikely that any relics would remain.

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

Other land resources

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

Water cycle

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

Soils

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

Air and microclimate

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

Flora and fauna

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

A common bin storage area has been identified in the basement car park. In relation to bin collection, the subject site has a narrow frontage to Clarence Street and there is angled street parking in the site frontage. It is not considered that bins for 8 units could be placed in the site frontage for kerb-side collection without causing impacts on amenity and traffic and pedestrian safety. A condition is recommended requiring satisfactory arrangements for a private waste collection service.

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

Energy

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

Noise and vibration

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

Bushfire

The site is not identified as being bushfire prone.

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 not considered to have any significant adverse social impacts.

Economic impact in the locality

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

Site design and internal design

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

Construction

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

The development includes significant excavation for basement car parking adjacent to existing multi storey buildings. Prescribed condition in accordance with clause 98E

of the Environmental Planning and Assessment Regulation requires that the developer protect and support adjoining structures if excavation extends below the footings of the structure, building or work.

A condition is also recommended requiring dilapidation reports to be prepared for adjoining properties, to allow for monitoring and rectification works (if necessary) of any damage caused by construction activities.

Cumulative impacts

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

Natural Hazards

No natural hazards identified that would impact on the proposed development.

(c) The suitability of the site for the development

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

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

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

One (1) written submission was received following public exhibition of the application. A copy of the written submission has been provided separately to members of the DAP.

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

Submission Issue/Summary	Planning Comment/Response
The proposal does not satisfy 4.3.2.2 of Development Control Plan 2013 in relation to minimum site frontage.	The proposal does not comply with the numerical development provision, but has been assessed against the objectives of the provision as discussed earlier in this report in the DCP section.
The building height exceeds the maximum height specified on the LEP maps. The accuracy of the levels shown on the plans should be checked.	<p>The Applicant has submitted an objection to the building height development standard in accordance with Clause 4.6 of the LEP, which is discussed earlier in this report.</p> <p>The height of the building represented in the plans has been checked using the levels on the site survey submitted with the application. The maximum building height has been assessed to be 15.4m (northern side of balustrade for the roof terrace of Unit 8), which is slightly higher than the 15m calculated by the Applicant. It is noted that the balustrade of the Unit 8 roof terrace is shown on the plans to be 700mm high. The balustrade will be required to be 1m high to comply with the BCA, and this additional</p>

Submission Issue/Summary	Planning Comment/Response
	height has been accounted for in the assessment.
The building will be out of character in the streetscape. Existing buildings on the northern side of Clarence Street step down in height from The Heritage apartments. The proposed building is higher than the adjoining Headlands and Flightdeck apartment buildings and will not fit in.	The proposed building is 1.34m higher than the Headlands building and 3.07m higher than the Flightdeck building. The proposed building is consistent with the height controls at the street frontage and is compatible with the desired future character of the area.
The proposed 3m setback and steep driveway would reduce pedestrian safety in an area of high usage near a school.	The proposed driveway will comply with appropriate engineering standards and is not considered likely to significantly impact pedestrian safety. The proposed development will only generate an additional 28 vehicle movements per day, of which half would be entering the site from Clarence Street rather than exiting from the basement parking.
The impact on views from 12/2 Clarence Street will be devastating.	The view sharing assessment earlier in this report has characterised the impact on this property as being severe to devastating, with partial loss of views to the Hastings River and North Beach.
The view corridor that the Applicant has suggested would be retained between the proposed development and the adjoining Flightdeck building would be of no use to the residents of 12/2 Clarence Street due to the location of the existing Norfolk Pine in Clarence Street.	This statement is correct for the majority of the balcony and internal living areas. However, a view corridor between the buildings would be retained from the western end of the deck where the view is not obstructed by the Norfolk Pine. These facts have been given due regard in the view sharing assessment.
Loss of privacy to 12/2 Clarence Street.	The buildings are separated by approximately 35m and the separation is considered sufficient to preserve privacy in a high density residential context. The front elevation of the building contains a bedroom window fitted with a privacy screen, two small balconies (off bedrooms) and high sill height windows for bathrooms and bedrooms. All living rooms are oriented to the north, away from the Focus apartments.
The proposed development is inconsistent with DCP provisions requiring the front setback to be within 20% of adjoining buildings.	Area based setback provisions apply to this site, which prevail over the general provisions in Chapter 3.3 of the DCP. Development provision 4.3.2.4 permits a 3m front setback for the northern side of Clarence Street, east of Munster Street.
The required FSR is 1.5:1 and the proposed FSR is 1.32:1 which is 20% over the allowable.	The proposed FSR is 1.34:1, which is 11% less than the maximum permitted FSR of 1.5:1.
There is potential for roof terrace	A condition has been recommended requiring

Submission Issue/Summary	Planning Comment/Response
plantings to adversely affect views from the Focus apartments.	landscaping to be maintained to a maximum height of 0.5m to prevent adverse impacts on views.
Parking is insufficient for the proposed development, despite complying with the DCP requirements. It is impossible to allocate half parking spaces, and purchasers of 3 bedroom units will be expecting 2 parking spaces.	If the proposal complies with the DCP provisions, the consent authority cannot impose a more onerous requirement. In practical terms the DCP requirement of 1.5 spaces per 3 bedroom apartment would result in half the 3 bedroom apartments having 2 parking spaces, and half having 1 parking space.
The proposal does not comply with the DCP side setback provisions.	The proposed variation to the side setback provisions has been discussed earlier in this report in the DCP section. While the proposal does not comply with the numerical standard, it is still considered to satisfy the objectives of the provision.

(e) The Public Interest

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

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

- Development contributions will be required towards augmentation of town water supply and sewerage system head works under Section 64 of the Local Government Act 1993.
- Development contributions will be required in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979 towards roads, open space, community cultural services, emergency services and administration buildings.
- A copy of the contributions estimate is included as **Attachment 3**.

5. CONCLUSION AND STATEMENT OF REASON

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

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

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

Attachments

- 1 [↓](#). DA2019 - 568.1 Recommended Conditions
- 2 [↓](#). DA2019 - 568.1 Plans
- 3 [↓](#). DA2019 - 568.1 Contribution Estimate
- 4 [↓](#). DA2019 - 568.1 Clause 4.6 Variation Report.

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2019/568****DATE: 18 May 2020****PRESCRIBED CONDITIONS**

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

A – GENERAL MATTERS

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

Plan / Supporting Document	Reference	Prepared by	Date
Plans	1821 D01 - D05, D07, D08, D10, D12, D15, D16	Wayne Ellis Architect	10 November 2019
Floor Plans	1821 D06	Wayne Ellis Architect	5 February 2020
External Finishes Plan	1821 D09	Wayne Ellis Architect	9 August 2019
Car Parking Plan	1821 D11	Wayne Ellis Architect	12 November 2019
Landscape Plans	1821 A01 - A04	Wayne Ellis Architect	4 December 2019
Statement of Environmental Effects	Version 3.0	David Pensini	31 July 2019
BASIX Certificate	1017071M	Concept Designs Australia	9 August 2019
Historical and Archaeological Assessment	-	Edward Higginbotham & Associates Pty Ltd	March 2013

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

- (2) (A002) No building or subdivision 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) (A007) This consent allows for staged Construction Certificates in accordance with the approved stages as set out below:

- Stage 1 - Piling, bulk earthworks, and construction of basement levels (including ground floor slab);
- Stage 2 - Completion of building above ground floor slab.

Unless specified, the conditions of this consent will apply to all stages, with any decision on any discrepancy with conditions and associated staging resting with Council. Any decision to allow a change to staging will rest with Council along with applicable conditions and any contributions payable. An Occupation Certificate shall not be issued until completion of the Stage 2 works.

- (4) (A008) Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.

- (5) (A009) The development site is to be managed for the entirety of work in the following manner:

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

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

- (6) (A011) The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.
- (7) (A030) The restoration of any vehicle access rendered redundant by the development, to standard kerb and footpath formation at no cost to Council, in accordance with Council's current AUSPEC Specifications and Standards. All works must be approved by Council pursuant to Section 138 of the Roads Act.
- (8) (A032) The developer is responsible for any costs relating to minor alterations and extensions to ensure satisfactory transitions of existing roads, drainage and Council services for the purposes of the development.

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

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

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

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

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

- (10) (A195) Common aerials and/or satellite dishes shall be provided for the development.

B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

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

- a. Driveways and access aisles;
 - b. Parking bays
 - c. Delivery vehicle service bays & turning areas in accordance with AS2890.
3. Sewerage reticulation.
 4. Water supply plans shall include hydraulic plans for internal water supply services and associated works in accordance with AS 3500, Plumbing Code of Australia and Port Macquarie-Hastings Council Policies.
 5. Detailed driveway profile in accordance with Australian Standard 2890, AUSPEC D1, and ASD202 & ASD207, Port Macquarie-Hastings Council current version.
 6. Provision of full width footpath paving in accordance with the Town Centre Master Plan or as otherwise agreed to by Council.
- (3) (B006) An application pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate.

Such works include, but not be limited to:

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

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

- (4) (B009) The applicant shall surrender the consent DA2016 - 661 by submitting an application for "Surrender of a Consent" to Council in accordance with the Environmental Planning and Assessment Regulation 2000, prior to release of the Construction Certificate.
- (5) (B010) Payment to Council, prior to the issue of the Construction Certificate of the Section 7.11 contributions set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied, pursuant to the Environmental Planning and Assessment Act 1979 as amended, and in accordance with the provisions of the following plans:
- Port Macquarie-Hastings Administration Building Contributions Plan 2007
 - Hastings S94 Administration Levy Contributions Plan
 - Port Macquarie-Hastings Open Space Contributions Plan 2018
 - Hastings S94 Major Roads Contributions Plan
 - Port Macquarie-Hastings Community Cultural and Emergency Services Contributions Plan 2005

The plans may be viewed during office hours at the Council Chambers located on the corner of Burrawan and Lord Streets, Port Macquarie, 9 Laurie Street, Laurieton, and High Street, Wauchope.

The attached "Notice of Payment" is valid for the period specified on the Notice only. The contribution amounts shown on the Notice are subject to adjustment

in accordance with CPI increases adjusted quarterly and the provisions of the relevant plans. Payments can only be made using a current "Notice of Payment" form. Where a new Notice of Payment form is required, an application in writing together with the current Notice of Payment application fee is to be submitted to Council.

- (6) (B011) As part of Notice of Requirements by Port Macquarie-Hastings Council as the Water Authority under Section 306 of the Water Management Act 2000, the payment of a cash contribution, prior to the issue of a Construction Certificate, of the Section 64 contributions, as set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied in accordance with the provisions of the relevant Section 64 Development Servicing Plan towards the following:
- augmentation of the town water supply headworks
 - augmentation of the town sewerage system headworks
- (7) (B024) Submission to Council of an application for water meter hire, which is to be referred to the Water Supply section so that a quotation for the installation can be prepared and paid for prior to the issue of a Construction Certificate. This application is also to include an application for the disconnection of any existing service not required.
- (8) (B038) Footings and/or concrete slabs of buildings adjacent to sewer lines or stormwater easements are to be designed so that no loads are imposed on the infrastructure. Detailed drawings and specifications prepared by a practising chartered professional civil and/or structural engineer are to be submitted to the Principal Certifying Authority with the application for the Construction Certificate. Certification that the construction of footings and piers has been carried out in accordance with the approved drawings and specifications shall be provided by a practising chartered professional civil and/or structural engineer to the Principal Certifying Authority with the application for the Section 307 - Certificate of Compliance/Occupation Certificate.
- (9) (B041) Prior to the issue of the Construction Certificate a dilapidation report shall be prepared by a suitably qualified person for buildings on adjoining properties. Such report shall be furnished to the Principal Certifying Authority and the owners of the neighbouring properties.
- (10) (B042) A certificate from an approved practising chartered professional civil and/or structural engineer certifying the structural adequacy of the proposed means of supporting adjoining property and the public road is to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.
- (11) (B072) A stormwater drainage design is to be submitted and approved by Council prior to the issue of a Construction Certificate. The design must be prepared in accordance with Council's AUSPEC Specifications and the requirements of Relevant Australian Standards and make provision for the following:
- a) The legal point of discharge for the proposed development is defined as either:
 - i. The existing downstream interallotment drainage system. Subject to the provision of plans / detail demonstrating that the development site has legal rights to utilise this system, OR
 - ii. A direct connection to Council's existing piped drainage system adjacent to the site in Clarence Street.

- b) The development site is currently traversed by an existing council piped drainage system that is proposed to be removed and diverted around the site as part of the proposed works. This pipe diversion must consist of the extension of Council's existing piped stormwater drainage system on the corner of Clarence and Munster Street to the frontage of the site by an appropriately sized pipeline (minimum 375mm diameter), where a kerb inlet pit (minimum 2.4m lintel) must be installed to allow direct piped connection from the development site into the public drainage system.

The pipeline must be designed to have the capacity to convey flows that would be collected at that section of street as generated by a 20 year Average Recurrence Interval storm event.

The stormwater pipeline diversion must be designed to ensure that the diversion does not increase the incidences of downstream flooding or surcharge and must be accompanied by suitable road and footpath restoration works to ensure the negative aesthetic impacts of trenching are mitigated.

- c) The design shall include water quality controls designed to achieve the targets specified within AUSPEC D7.
- d) Where works are staged, a plan is to be provided which demonstrates which treatment measure/s is/are to be constructed with which civil works stage. Separate plans are required for any temporary treatment (where applicable e.g. for building phase when a staged construction methodology is adopted) and ultimate design.
- e) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- f) The design shall provide details of any components of the existing stormwater drainage system servicing the site that are to be retained.
- (12) (B073) A dilapidation report on the visible and structural condition of public infrastructure in the site frontage in Clarence Street must be provided to Council prior to the issue of a Construction Certificate.

The dilapidation report is to be prepared by a practising Structural/Civil Engineer agreed to by both the applicant and Council. All costs incurred in achieving compliance with this condition shall be borne by the applicant.

The applicant shall be responsible for public infrastructure. Any damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition will be borne by the applicant.

- (13) (B053) The design of the carpark and accesses is to be in accordance with Australian Standard 2890. Certification of the design by a suitably qualified consultant is to be provided to the Principal Certifying Authority prior to release of the Construction Certificate.
- (14) (B054) A driveway longitudinal section shall accompany the section 138 application pursuant to section 138 of the *Roads Act, 1993*. The section shall demonstrate compliance with Council's adopted AUSPEC Design and Construction Guidelines.
- (15) (B070) Where augmentation is required on adjoining property, owner's consent shall be provided to Council with any Section 68 application where augmentation is required on adjoining property including:
- Council's sewer infrastructure (i.e. sewer junction, sideline or manhole)

- (16) (B071) Prior to the issue of any Construction Certificate, the provision of water and sewer services to the land are to be approved by the relevant Water Authority and relevant payments received.
- (17) (B085) The location of electricity substations are to be clearly illustrated on the Subdivision Works Certificate or Construction Certificate plans. All substations are to remain on private property unless otherwise agreed to by Port Macquarie-Hastings Council.
- (18) (B195) Each individual unit shall be individually metered for water with the meters either located at easily accessible locations or there's the option for utilizing remotely read electronic meters. Details are to be provided on the hydraulic plans prior to the issue of a Construction Certificate. Final water service sizing will need to be determined by a hydraulic consultant to suit the domestic and commercial components of the development, as well as fire service and backflow protection requirements.
- (19) (B196) Council records indicate that the development site is currently connected to sewer via a junction to the sewer line that runs outside the northern property boundary of the subject lot. The proposed development shall drain all sewage to a new or existing sewer manhole approved by the Water & Sewer Planning Manager. The hydraulic designer is to confer with Council sewer section prior to submitting sewer design plans.
- (20) (B197) The plans submitted with the application for a Construction Certificate are to demonstrate that at least 20% of the total apartments incorporate the Liveable Housing Guideline's silver level universal design features.
- (21) (B198) A certifying authority must not issue a Construction Certificate for the residential flat development unless the certifying authority has received a statement by the qualified designer verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles specified in *State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development*.
- (22) (B199) The units are to comply with *AS/NZS2107:2000 Acoustic – Recommended design sound levels and reverberation times for building interiors for residential development*. Details of compliance will be required prior to the release of the Construction Certificate and Occupation Certificate.
- (23) (B200) Prior to release of the Construction Certificate, all screening shown on the approved plans is to comply with the requirements of a "privacy screen" as defined in *State Environmental Planning Policy (Exempt and Comply Development Codes) 2008*.

C – PRIOR TO ANY WORK COMMENCING ON SITE

- (1) (C001) A minimum of one (1) week's notice in writing of the intention to commence works on public land is required to be given to Council together with the name of the principal contractor and any major sub-contractors engaged to carry out works. Works shall only be carried out by a contractor accredited with Council.
- (2) (C195) Prior to commencement of works an exception permit under Section 139(1C) of the Heritage Act 1977 shall be obtained from the Heritage Council. This will include a work method statement detailing how the brick barrel drain and bulk fill removal for the site will be subject to on-site monitoring by a suitably qualified archaeologist.

- (3) (C003) A controlled activity approval shall be obtained from the airport operator for any crane that may be used during the construction phase that would penetrate the Obstacle Limitation Surface (OLS). To avoid any doubt as to whether an approval is required, applicants should check with the airport operator at the earliest possible stage.

D – DURING WORK

- (1) (D001) Development works on public property or works to be accepted by Council as an infrastructure asset are not to proceed past the following hold points without inspection and approval by Council. Notice of required inspection must be given 24 hours prior to inspection, by contacting Council's Customer Service Centre on (02) 6581 8111. You must quote your Construction Certificate number and property description to ensure your inspection is confirmed:
- at completion of installation of erosion control measures
 - at completion of installation of traffic management works
 - when trenches are open, stormwater/water/sewer pipes and conduits jointed and prior to backfilling;
 - before pouring of kerb and gutter;
 - prior to the pouring of concrete for sewerage works and/or works on public property;
 - on completion of road gravelling or pavement;
 - during construction of sewer infrastructure;
 - prior to sealing and laying of pavement surface course.

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

- (2) (D003) The site is in an area 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.
- (3) (D006) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- (4) (D010) Reduced levels prepared by a registered Surveyor must be submitted to the Principal Certifying Authority at the completion of the roof framework and include certification that building heights comply with the plans approved with the development consent.
- (5) (D011) Provision being made for support of adjoining properties and roadways during construction.
- (6) (D015) The swimming pool shall not to be filled with water until a safety fence/barrier complying with the current Swimming Pools Act and Regulations has been installed and an inspection has been carried out and approval given by the Principal Certifying Authority.
- (7) (D016) Where depth of water in the pool exceeds 300mm during construction a temporary barrier or fence in accordance with the current Swimming Pools Act and Regulations is to be erected or other precaution taken so as to prevent entry of children into the pool.

- (8) (D017) In accordance with the Swimming Pool Regulation a sign is to be erected and maintained that:
- (a) Bears a notice containing the words "This swimming pool is not to be occupied or used", and
 - (b) Is located in a prominent position in the immediate vicinity of that swimming pool, and
 - (c) Continues to be erected and maintained until an Occupation Certificate has been issued for the pool.
- (9) (D022) The proponent is responsible for ensuring that the existing stormwater pipe traversing/adjoining the land is not damaged while performing any works until such time as the street drainage diversion works have been completed. If the existing stormwater pipe is damaged during the course of performing the works, the proponent will:
- a. notify Council immediately when the breakage occurs, and
 - b. repair the damage at no cost to Council
- (10) (D023) During all phases of demolition, excavation and construction, it is the responsibility of the applicant and their contractors to:
- a. Ascertain the exact location of the Council stormwater drainage pipeline and associated pits traversing the site in the vicinity of the works.
 - b. Take measures to protect the in-ground Council stormwater drainage pipeline and associated pits.
 - c. Ensure dedicated overland flow paths are satisfactorily maintained through the site.

Stormwater drainage pipes can be damaged through applying excessive loading (such as construction machinery, material storage and the like). All proposed structures and construction activities must be sited fully clear of Council's stormwater drainage pipes, pits, easements, watercourses and overland flow paths on the site.

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

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

- (11) (D029) The demolition of any existing structure shall be carried out in accordance with Australian Standard AS 2601: *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 GuideAsbestos Awareness

- (12) (D195) At the completion of bulk excavation works and during all other construction works on the site, appropriate barriers or coverings shall be put in place around the brick barrel drain to ensure it is protected during development and interpretation works.

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) (E002) A final report on any archaeological site excavations prepared by the archaeologist shall be submitted to Council and the Heritage Council prior to the occupation of any new development on the land.
- (3) (E005) Prior to the release of any bond securities held by Council for infrastructure works associated with developments, a formal written application is to be submitted to Council specifying detail of works and bond amount.
- (4) (E010) Driveways, access aisles and parking areas shall be provided with a bitumen sealed surface. Such a surface shall be on a suitable pavement, constructed and maintained in accordance with Council's Development, Design and Construction Manuals (as amended).
- (5) (E015) Prior to occupation or issue of the Occupation Certificate, details of compliance with the Historical and Archaeological Assessment shall be provided to the Principal Certifying Authority.
- (6) (E016) Prior to occupation or the issue of the Occupation Certificate (or Part Occupation Certificate) the owner of the building must cause the Principal Certifying Authority to be given a fire safety certificate (or interim fire safety certificate in the case of a building or part of a building occupied before completion) in accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The certificate must only be in the form specified by Clause 174 of the Regulation. A copy of the certificate is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.
- (7) (E021) The swimming pool to be fenced in accordance with the Swimming Pools Act 1992 prior to the issue of an Occupation Certificate.
- (8) (E030) Vehicle ramps, driveways, turning circles and parking spaces being paved, sealed and line marked prior to occupation or the issue of the Occupation Certificate or commencement of the approved land use.
- (9) (E034) Prior to occupation or the issuing of an 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.
- (10) (E036) Certification by a suitably qualified consultant is to be submitted to the Principal Certifying Authority (PCA) confirming that the car park and internal accesses have been constructed in accordance with Port Macquarie-Hastings Development Control Plan 2013 and Australian Standard 2890 (including AS 2890.1, AS 2890.2 and AS 2890.6) prior to occupation or issue of the Occupation Certificate.

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

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

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

- a. The Proprietor of the property shall be responsible for inspecting, maintaining and keeping clear all components of and structures associated with the stormwater quality improvement device (SQID) in accordance with the maintenance plan in order to achieve the design system performance targets.
- b. The Proprietor shall have the SQID inspected annually by a competent person.
- c. The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all components or structures in or upon the said land which comprise the SQID and recover the costs of any such works from the proprietor.
- d. The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the SQID, or failure to clean, maintain and repair the SQID.

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

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

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

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

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

- (14) (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.

- (15) (E053) All works relating to public infrastructure shall be certified by a practicing Civil Engineer or Registered Surveyor as compliant with the

requirements of AUSPEC prior to issue of Occupation/Subdivision Certificate or release of the security bond, whichever is to occur first.

- (16) (E056) A Certificate of Compliance under the provisions of Section 307 of the *Water Management Act* must be obtained prior to the issue of an Occupation Certificate.
- (17) (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.
- (18) (E061) Landscaped areas being completed prior to occupation or issue of the Occupation Certificate.
- (19) (E062) Prior to occupation or the issue of any Occupation Certificate, evidence must be provided to the Principal Certifying Authority that satisfactory arrangements are in place for collection of general waste (rubbish), recycling and food and garden organics from the premises by a private waste contractor. All wastes are to be collected as separate waste streams.
- (20) (E066) Ancillary works shall be undertaken at no cost to Council to make the engineering works required by this consent effective to the satisfaction of Director of Council's Infrastructure Division. Such works shall include, but are not limited to the following:
 - a. The relocation of underground services where required by civil works being carried out.
 - b. The relocation of above ground power and telephone services
 - c. The relocation of street lighting
 - d. The matching of new infrastructure into existing or future design infrastructure
- (21) (E072) Lodgement of a security deposit with Council upon practical completion of the public infrastructure works.
- (22) (E195) Prior to the issue of an Occupation Certificate exposed party walls shall be finished with the same quality finishes as the front facade.
- (23) (E196) A certifying authority must not issue an Occupation Certificate to authorise a person to commence occupation or use of the development unless the certifying authority has received a statement by the qualified designer verifying that the development achieves the design quality of the development as shown in the plans and specifications in respect of which the Construction Certificate was issued.
- (24) (E197) Final design details for on-site interpretation, including information on any display and housing for the brick barrel drain, is to be submitted to Port Macquarie-Hastings Council for approval and is to be completed and implemented within the redevelopment prior to the issue of an Occupation Certificate.
- (25) (E198) Information must be provided to Port Macquarie-Hastings Council confirming that the requirements of any endorsed S139(4) or other permit from the Heritage Council of NSW have been satisfied prior to the issue of an Occupation Certificate.

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 residents and visitors.

- (2) (F004) The dwellings are approved for permanent residential use and not for short term tourist and visitor accommodation.
- (3) (F009) All new and existing essential fire safety measures shall be maintained in working condition at all times.
- (4) (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.
- (5) (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
- The pool filtration motor shall be enclosed with an effective soundproof unit.
- (6) (F195) Landscaping on the roof garden and Unit 8 roof terrace shall be maintained to a maximum height of 0.5m to prevent adverse impacts on views.

ISSUE DEVELOPMENT APPLICATION



PROPOSED DEVELOPMENT

DRAWING SCHEDULE	D01	
ARCHITECTURAL	D02	
COVER SHEET	D03	
SITE PLAN	D04	
DATA COMPARISON	D05	
DA PRIVACY AND VIEW ANALYSIS	D06	
FLOOR PLANS	D07	
FLOOR PLANS	D08	
ROOF PLAN AND ELEVATIONS	D09	
SECTIONS & DRIVEWAY PROFILE	D10	
FINISHES	D11	
WINDOW SCHEDULES	D12	
CARPARKING	D13	
SURVEY	D14	
SHADOW DIAGRAMS	D15	
SHADOW DIAGRAMS	D16	
EAST ELEV-FENCE/WALL	A01	
WEST ELEV-FENCE/WALL	A02	
	A03	
	A04	
LANDSCAPE DETAILS		
LANDSCAPE		
LEVELS 1 AND 2		
LEVELS 3 AND 4		
LEVELS 5 AND 6		



development application 10/11/2019

[illegible]



wayne ellis architect
Architects
10/11/2019

Client: BROADLAND DEVELOPMENT PTY LTD
Project: 3 CLARENCE ST
Drawing: DA-COMPARISON
File No: 1821
Date: 10/11/2019
Scale: 1:2, 1:1, 3/8 @ A1
Comments: See attached

EAST ELEVATION

14.5M HEIGHT PLANE

PRIVACY LOUVERES

WEST ELEVATION

14.5M HEIGHT PLANE

PRIVACY LOUVERES

PROPOSED SOUTH ELEVATION

14.5M HEIGHT PLANE

PRIVACY LOUVERES

WEST ELEVATION

14.5M HEIGHT PLANE

DA APPROVED BUILDING

EAST ELEVATION

14.5M HEIGHT PLANE

DA APPROVED BUILDING

PROPOSED SOUTH ELEVATION

14.5M HEIGHT PLANE

PRIVACY LOUVERES

WEST ELEVATION

14.5M HEIGHT PLANE

PRIVACY LOUVERES

RED WALL DEMONSTRATES THE ADDITIONAL FACADE HEIGHT PERMISSIBLE

14.5M HEIGHT PLANE

PRIVACY LOUVERES

ELEVATED VIEW WITH 14.5M HEIGHT PLAN SHOWN IN ORANGE

14.5M HEIGHT PLANE

PRIVACY LOUVERES

development application 10/11/2019

ELEVATED VIEW WITH 14.5M HEIGHT PLAN SHOWN IN ORANGE

ELEVATED VIEW OF THE PROPOSAL

Item 08
Attachment 2
Page 298



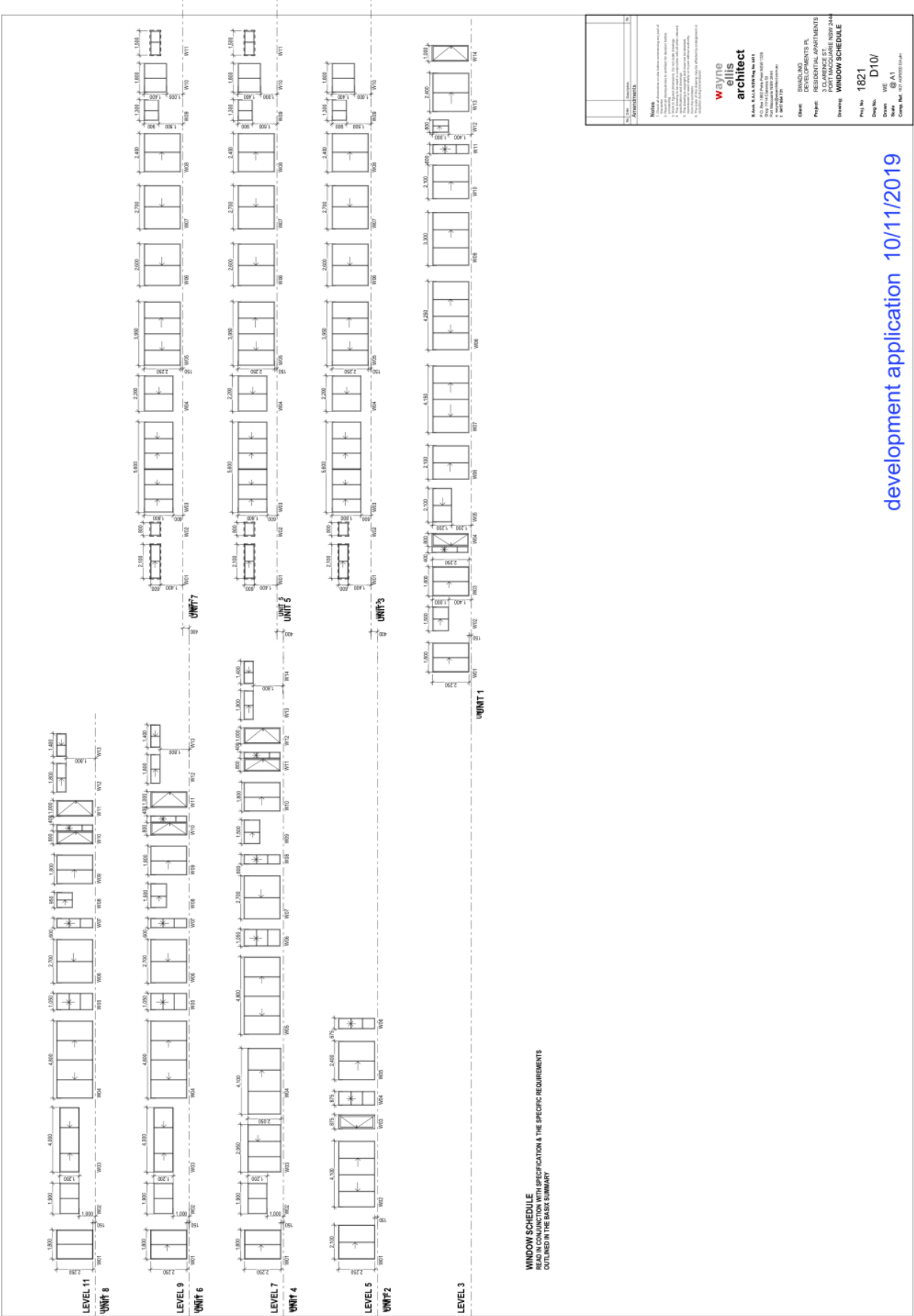




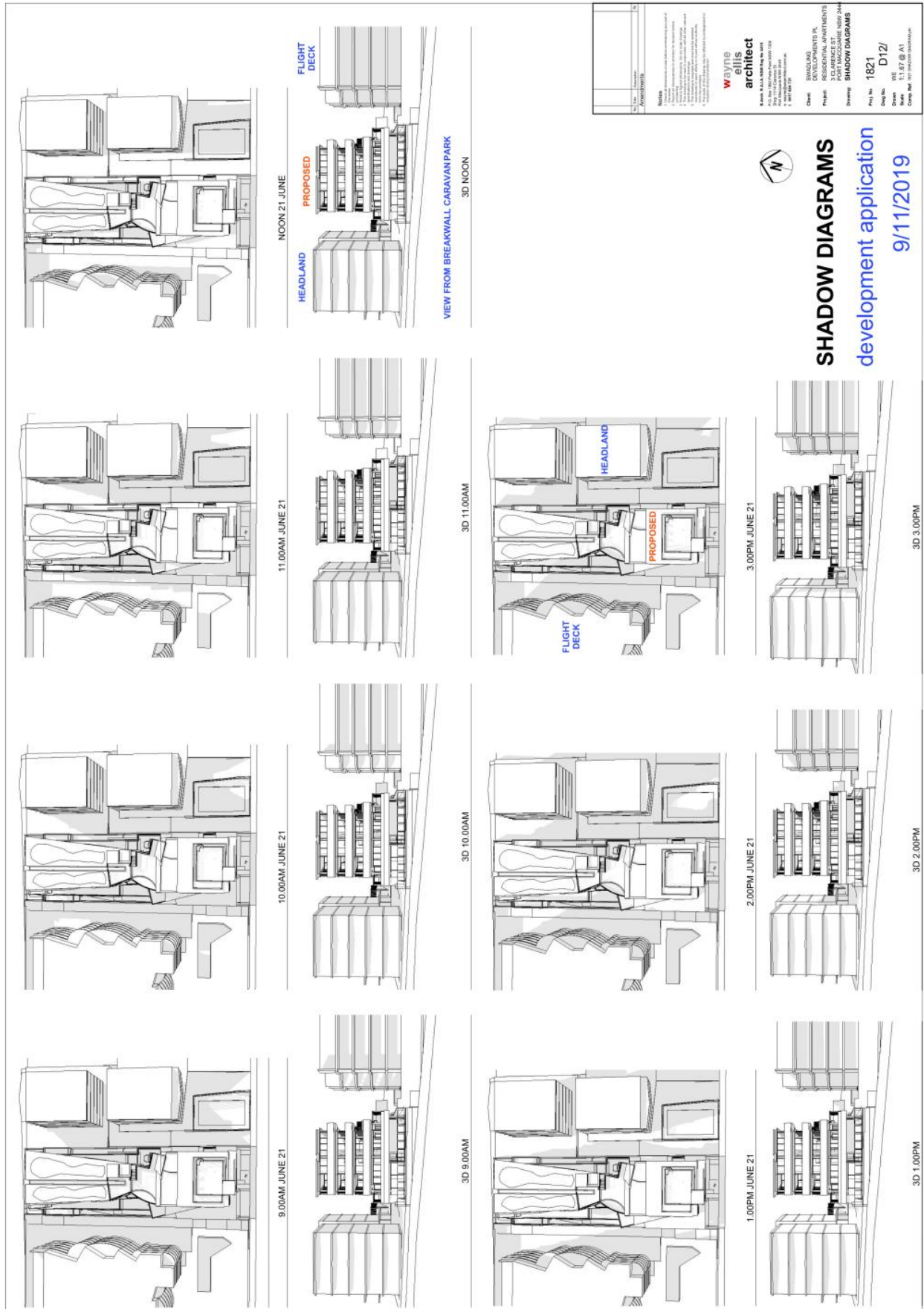








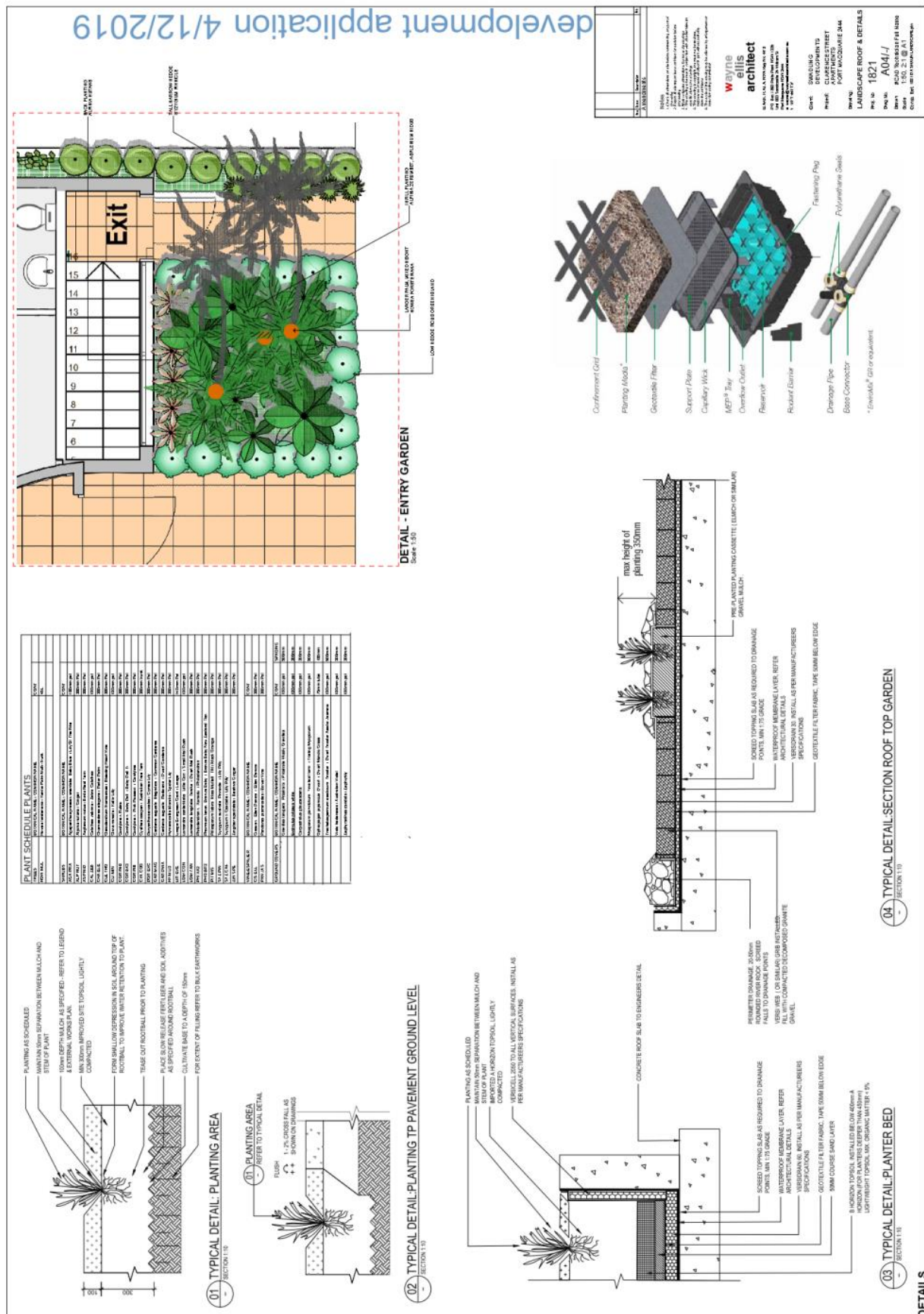












Developer Charges - Estimate

Applicants Name: Wayne Ellis Architect
Property Address: 3 Clarence Street, Port Macquarie
Lot & Dp: Lot(s):101,DP(s):1122606
Development: Residential Flat Building



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

Levy Area	Units	Cost	Estimate
1 Water Supply	4.2	\$10,322.00 Per ET	\$43,352.40
2 Sewerage Scheme Port Macquarie	5.25	\$3,916.00 Per ET	\$20,559.00
3 Since 1.7.04 - Major Roads - Port Macquarie - Per ET	4.57	\$7,737.00 Per ET	\$35,358.00
4 Since 31.7.18 - Open Space - Port Macquarie - Per ET	4.57	\$5,701.00 Per ET	\$26,053.50
5 Commenced 3 April 2006 - Com, Cul and Em Services CP - Port Macquarie	4.57	\$4,681.00 Per ET	\$21,392.10
6 Com 1.3.07 - Administration Building - All areas	4.57	\$921.00 Per ET	\$4,208.90
7 N/A			
8 N/A			
9 N/A			
10 N/A			
11 N/A			
12 N/A			
13 N/A			
14 N/A			
15 Admin General Levy - Applicable to Consents approved after 11/2/03	2.2% S94 Contribution		\$1,914.20
16			
17			
18			
Total Amount of Estimate (Not for Payment Purposes)			\$152,838.10

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

DATE OF ESTIMATE: 19-May-2020

Estimate Prepared By Chris Gardiner

This is an ESTIMATE ONLY - NOT for Payment Purposes

Ellis Architect, 3 Clarence Street, Port Macquarie, 19-May-2020.xls

PORT MACQUARIE-HASTINGS COUNCIL

*Supporting Information
Proposed Residential Development
3 Clarence Street, Port Macquarie*

JULY 2019

Appendix 6

LEP Height Variation Justification

DEVELOPMENT STANDARD VARIATION JUSTIFICATION
3 CLARENCE STREET, PORT MACQUARIE

MAY 2019

**Justification of Variation to
Development Standard
Building Height –
Clause 4.3 of
Port Macquarie–Hastings Local
Environmental Plan (2011)**

**PROPOSED
RESIDENTIAL UNIT DEVELOPMENT
AT
3 CLARENCE STREET,
PORT MACQUARIE NSW**

MAY 2019

Page 1

DEVELOPMENT STANDARD VARIATION JUSTIFICATION
3 CLARENCE STREET, PORT MACQUARIE

MAY 2019

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1. INTRODUCTION

1.1 Purpose of Report

This report has been prepared to accompany a development application which seeks approval for the construction of residential unit development at Lot 101 DP 1122606, 3 Clarence Street, Port Macquarie.

The proposed development encompasses eight (8) residential units and associated carparking, access and recreational infrastructure over a building comprising six (6) levels.

Figure 1 – Site Location



The purpose of this report is to provide justification for a variation to the Building Height provisions of Port Macquarie-Hastings Councils Local Environmental Plan, (LEP) 2011 for the residential unit development which is proposed to be undertaken on the subject site.

1.2 Background

The proposal includes the demolition of the existing residential buildings on the subject site and the construction of a six (6) storey residential flat building with a part basement carparking level in the southern portion of the subject site.

Eight (8) residential units are proposed to be distributed over the four levels of the building with one (1) unit providing for two bedrooms per unit with the remaining seven (7) units each providing for three bedrooms. Each unit is proposed to be provided with lift access with each unit having direct access via a lift.

The floor area of each of the proposed units is variable being;

- Unit 1 - 167m²
- Unit 2 - 88m²
- Unit 3 - 128m²
- Unit 4 - 114.7m²
- Unit 5 - 133.3m²
- Unit 6 - 114.7m²
- Unit 7 - 134m²
- Unit 8 - 113.2m²

The generous size of each unit will provide for a high standard of resident amenity.

The design concept for the proposed development provides for the residential units to be contained within two distinct built forms which are separated by an open space area which is located centrally within the built form.

Fifteen (15) onsite car parking spaces will be located within Levels 1 and 2 of the development with the southern portion of Level 1 having a basement context to the adjacent Clarence Street frontage. Access to the proposed car parking areas will be via Level 2 of the development which has a ground floor context to Clarence Street. An internal driveway and ramp will provide access to the carparking which is provided on Level 1 of the proposed development.

It is also noted that the proposed development contains an outdoor swimming pool and BBQ recreation area and an indoor gymnasium which are located in the northern portion of Level 1 of the development.

The roof of the proposed building is generally at or below the 14.5m height requirement which is relevant to the subject site however a small area (72m²) of the roof area of the building exceeds the 14.5m height plane with the worst-case height of the building being 15m.

This report therefore provides justification as to why Port Macquarie-Hastings Council should support the variation to the building height as proposed.

2. LEP 2011 REQUIREMENTS

2.1 Introduction

Port Macquarie – Hastings LEP 2011 specifies a number of principle development standards that are applicable for the erection of buildings in the Port Macquarie-Hastings Local Government Area.

In this regard Part 4 of the LEP provides for development standards related to;

- Lot size;
- Rural Subdivision;
- Building Height;
- Floor Space Ratio;

Being a “performance based” document the LEP provides for a series of objective together with specific design provisions that are ‘Deemed to Satisfy’ the performance objectives. Adoption of the specified design provisions would therefore provide for a building solution to be approved by Council as this specified solution is deemed to meet the relevant performance objectives.

However, Clause 4.6 of the LEP recognizes the need to allow for exceptions to the specified design provisions. In this regard Clause 4.6 (2) of the LEP provides that;

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

It is noted that issues pertaining to the height of buildings is not expressly excluded from the operation of Clause 4.6.

In addition to establishing a framework for the consideration of exceptions to LEP development standards Clause 4.6 (3) – (5) of the LEP establishes the process by which exceptions to development standards are to be lodged, assessed and determined. The LEP which are applicable are as follows;

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

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

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

(a) the consent authority is satisfied that:

(i) the applicant’s written request has adequately addressed the matters required to be demonstrated by sub clause (3), and

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

(b) the concurrence of the Director-General has been obtained.

(5) In deciding whether to grant concurrence, the Director-General must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

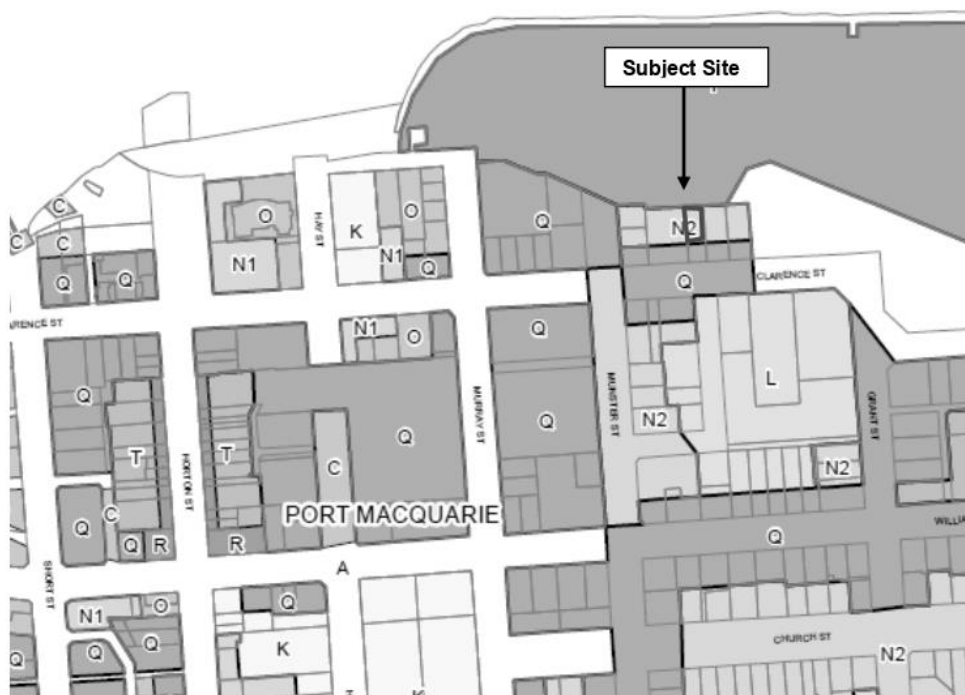
(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

This report will provide justification for the variation of the acceptable design solution for the height of the proposed building having regard to the relevant provisions of the LEP.

2.2 Building Height Development Standard

Clause 4.3 of the LEP provides that the height of a building erected on the subject site is not to exceed 14.5m, refer to **Figure 1** below;

Figure 2 - Building Height 'Deemed to Satisfy' Standard for Subject site.



It is noted that the following definition applies to the determination of the actual height of building;

building height (or height of building) means 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.

2.3 Development Standard Exemption Sought

The development application proposes a maximum building height of 12.3m to the top of façade at the Clarence Street frontage with the top of the lift shaft at the frontage being a maximum of 13.1m. These building heights are consistent with a 4 storey building. Accordingly, the building is at worst approximately 9% below the height limit at the Clarence Street frontage. The rear building is at 14.4m height due to the site slope and the response of the building to the south to north downslopes over the subject site.

The roof of the proposed building is generally at or below the 14.5m height requirement which is relevant to the subject site however a small area, (72m²), of the roof area of the building exceeds the 14.5m height plane with the worst-case height of the building being 15m.

The following table summarizes the development standard together with the actual height of the building together with the quantum of the variation which is sought. The following table has been prepared having regard to the building height definition provided for in Section 2.2 of this report;

Table 1 – Building Height Summary.

BUILDING HEIGHT DEVELOPMENT STANDARD	WORST CASE HEIGHT OF BUILDING	QUANTUM OF VARIATION TO DEEMED TO SATISFY BUILDING HEIGHT STANDARD	% VARIATION OF STANDARD
14.5m	15m	0.5m	3%

3. PERFORMANCE ASSESSMENT

As has already been identified the structure of Port Macquarie Hastings LEP 2011 provides for merit assessment of variations to development standards.

This structure is reflected in;

- The inclusion of Clause 4.6 into the LEP which recognizes the need to allow for exceptions to the specified design provisions.
- The inclusion of performance objectives in relation to development standards. The inclusion of specific performance objectives provides for a design solution to be approved on the basis that its outcomes will be consistent with the nominated performance objectives.

It is however noted that the LEP does not indicate the manner by which a performance assessment is to be carried out.

3.1 Performance Objectives

The performance objectives that are relevant to the requested variation are contained within Clause 4.3(1) of LEP (2011) as follows;

'(1) The objectives of this clause are as follows:

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

It is therefore considered that where a building design solution is consistent with the above objectives it can be assessed as being consistent with the requirements of PMHC LEP (2011) and as such development consent can be issued on the basis that the proposed development is in accordance with the relevant development standards.

3.2 Performance Assessment Method

To ensure that a performance-based solution meets the relevant Performance Objectives it must be assessed using a nominated/accepted Assessment Method. In this regard it is noted that PMHC LEP (2011) does not nominate a process/method of assessment of an alternative design solution. In this regard common assessment methods used for performance-based building design are as follows;

- (a) Evidence to support that a design meets a Performance Requirement or a Deemed-to-Satisfy Provision.*
- (b) Verification Methods.*
- (c) Comparison with the Deemed-to-Satisfy Provisions.*
- (d) Expert Judgement.*

Having regard to the above it is proposed to utilize a combination of (a) and (c) above as the method of assessing the proposed building design and the variation of the buildings height when compared to the 'Deemed to Satisfy' provision.

3.3 Performance Assessment

The following justification is provided in respect of each of the LEP Height Development Standard performance objectives listed in section 3.1 of this report;

Table 2 – Performance Assessment

PERFORMANCE OBJECTIVE	PERFORMANCE ASSESSMENT
<i>(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality.</i>	<p>The existing and future character of the locality is predominately residential development although a mix of residential and commercial development is present to the west of the subject site.</p> <p>The relevance of the proposed building height design solution to the existing and future character of the locality is assessed as follows;</p> <p><u>Existing Character</u></p> <p>The current buildings occupying the site are not consistent with the desired future character of the area and do not provide for high density residential housing, consistent with the R4 zone objectives.</p> <p>It is noted that the existing character of the area, from the perspective of height, bulk and scale, is dominated by existing residential unit developments to the south, east and west. These include the 'Focus', to the southwest (6 storeys), 'Headlands', located immediately to the east of the subject site (6 storeys), and 'Flightdeck' to the west (6 storeys). It is noted that due to topographical and design issues the existing height of the of 'Focus' building to the south of the subject site provides for a height relationship to the subject site which is in excess of an 8 storey envelope.</p> <p>Whilst lower density development is present on adjacent land to the southeast the predominant existing building height back drop when viewed from the north, south, east and west is that of 6 – 8 storey buildings.</p>

DEVELOPMENT STANDARD VARIATION JUSTIFICATION
3 CLARENCE STREET, PORT MACQUARIE

MAY 2019



Southern backdrop (viewed from the north) – Focus Building



Eastern backdrop – Headlands Building



Western backdrop – Flightdeck Building

The building design outcome which is proposed is not only consistent with the historical development in the locality but also in relation to recently constructed buildings, (within the past 10 – 15 years).

Having regard to the above the outcomes provided for by the proposed building height design solution are entirely consistent with the existing character of the locality in relation to height, bulk and scale.

It is also noted that the proposed design provides for a height outcome which is less than the 14.5m height standard particularly along the southern elevation of the proposed development. It is also noted that the height of the building also reduces to approximately 13m in the central portion of the development site which provides for a reduced bulk and scale for the building when viewed from the east and west.

It is also noted that the proposed heights of the building are entirely consistent with building heights already approved for the subject site. In this regard a six (6) storey residential development recently approved for the subject site via DA 661/2016 provided for a worst-case building height of 15.81m (1.31m above the height standard).

In this regard the design outcome now proposed provides for a building height outcome which is less than that previously approved.

	<p><u>Future Character</u></p> <p>The building height development standards provided for by LEP 2011 for the subject site and surrounds provide for a 'Deemed to Satisfy' standard of 14.5m which would typically provide for a 5 - 6 storey building. In this regard it is noted that the proposed development is entirely consistent with this development standard on the Clarence Street frontage with the roof of the building being approximately 13.1m which taking into account the topography of the area provides for a four (4) storey building when viewed from Clarence Street. This approach ensures that the perceived scale of the building is entirely consistent with the desired character of the area. This approach greatly assists in reducing the overall bulk and scale of the building. When viewed from the Clarence Street frontage the height of the building will be less than that contemplated by the LEP development standard with the area of the building which exceeds the 14.5m height standard being indiscernible from Clarence Street and from buildings to the south of Clarence Street.</p> <p>Clarence Street is a main connector road being some 30m wide and can clearly accommodate development of greater densities and heights through site redevelopment within the framework of integrating good urban design principles albeit that from Clarence Street the buildings height will be less than the 14.5m height standard.</p> <p>It is also noted that the majority of the height exceedance associated with the main bulk of the building is associated with the south to north topography of the subject site. In the context of the topography of the subject site and adjoining and adjacent land the bulk and scale of the lower elevated areas of the building will be masked by adjoining development to the east and west.</p> <p>Similarly, when viewed from adjoining and adjacent buildings in the area the portion of the subject building which is in excess of the 14.5m development standard will have a negligible impact in relation to proposed buildings bulk and scale as it;</p> <ul style="list-style-type: none"> • Will be generally indiscernible from the main bulk of the building. • Will have a minimum impact when considered in the context of the height, bulk and scale backdrop which exists by virtue of existing multi storey buildings in
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	<p>the locality which have a height s which are consistent with or beyond that contemplated for the proposed building.</p> <ul style="list-style-type: none"> Will be consistent with the height of buildings which could result through the redevelopment of adjoining land to the east and west of the subject site. <p>Having regards to the above it is considered that the impact on the future character of the locality of the proposed building design solution as it relates to building height will be minimal.</p> <p>Notwithstanding the height development standards provided for in LEP 2011 the future character of the locality has to a large extent been significantly influenced by the height of buildings which have been constructed in the past 10 – 15 years (Focus Building). It is also noted that the proposed heights of the building are entirely consistent with building heights already approved for the subject site. In this regard a six (6) storey residential development recently approved for the subject site via DA 661/2016 provided for a worst-case building height of 15.81m (1.31m above the height standard).</p> <p>In the context of the life cycle of building infrastructure most recent decisions of Council have had a significant impact upon the achievement of the future character envisaged by the LEP development standard.</p>
<p><i>(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development</i></p>	<p>Solar access studies show acceptable results for June 22 as a result of the proposed development in relation to adjoining and adjacent existing development. Accordingly, the proposed building height design solution will have no significant impact on solar access beyond that contemplated by the 'Deemed to Satisfy' development standard.</p> <p>Notwithstanding the variation to the building height development standard acceptable standards of solar access will continue to be provided to adjoining and adjacent buildings.</p> <p>It is considered that the impacts on views from the east and west will not be impacted upon by that portion of the building which exceeds 14.5m due to the design and heights of the buildings on adjoining allotments. In this regard view impacts would remain unchanged from that which would be relevant to a building which complied fully with the 14.5m height standard.</p> <p>The impact upon views particular from the southern elevation</p>

	<p>has been considered in the design of the building which has incorporated the retention of a northerly view path from the southwestern aspect. This is shown in the View and Privacy Analysis Plan which forms part of the development application. In this regard the retention of a view corridor along the western aspect of the subject site acknowledges a view sharing approach to the proposed design concept for the subject site.</p> <p>Additionally, the height of the proposed building at the Clarence Street frontage largely defines the impacts of the proposed building upon view paths from the south to the north. In this regard the height of the building at the Clarence Street frontage is a maximum of 13.1m, (majority of façade is 12.3m), which is significantly less than the 14.5m height standard. Accordingly, as the area of the building which exceeds the height standard is in the southern central portion of the building the impacts on views from the south will be largely indiscernible as it is the height of the building at the Clarence Street frontage which defines the view paths to the north.</p> <p>A more detailed assessment of the impacts of the proposed development upon views has been provided as part of the Statement of Environmental Effects which accompanies the development application.</p> <p>Visual and acoustic privacy between the proposed building and existing buildings to the east and west has been maintained through the design of the proposed building. In this regard;</p> <ul style="list-style-type: none"> • Separation distances between window openings is generally consistent with the relevant development standards; • Where necessary privacy screens have been incorporated into habitable area windows, balconies and terraces. • Adequate natural light and ventilation would be retained between the buildings. <p>Having regard to the above it is clear that quality urban and building design will be achieved as a result of the proposed development and that the proposed building height design solution will have negligible impact in relation to visual impact, views, loss of privacy and loss of solar access issues.</p>
<i>(c) to minimise the adverse impact of development on heritage conservation areas and heritage</i>	The subject site is identified as an archaeological site, (Archaeology of early European Settlement – reference A111).

<p>items,</p>	<p>The site is identified as part of a former lumber yard, prisoner's barracks and asylum belonging to the penal settlement of Port Macquarie between 1821 and 1831.</p> <p>A Historical and Archaeological Assessment Report (March 2013) has been prepared for the site by Edward Higginbotham & Associates Pty Ltd, refer to the Statement of Environmental Effects for the proposed development.</p> <p>A further report on a test-excavation for the already approved (DA 2016/661) residential flat building development has also been prepared by Edward Higginbotham & Associates Pty Ltd, (31 May 2016) and is also provided as part of the Statement of Environmental Effects for the proposed development. The test excavations revealed the presence of a brick barrel drain and headwall in the Clarence Street frontage of the site. The barrel drain is believed to have been constructed c.1830 using convict labour.</p> <p>The test excavation report includes the following recommendations aimed at conserving the significant archaeological material on the site:</p> <ol style="list-style-type: none"> 1. <i>The brick barrel drain and headwall should be conserved in situ, within the proposed development.</i> 2. <i>The brick barrel drain and headwall should be placed on display in the proposed basement area of the car park and should be accessible for inspection by the general public at least on selected dates.</i> 3. <i>The proposed development should be allowed to proceed on the evidence that there are few significant remains of the Convict Barracks and Lumber Yard located on this site. (The test-trenches may not be representative of the archaeological remains on the rest of the site).</i> 4. <i>An excavation permit should be obtained for the purpose of an archaeological monitoring program.</i> 5. <i>The bulk excavation of fill layers for the proposed development should be supervised by the archaeologist, so that any archaeological remains can be investigated, recorded, planned and photographed. Some manual archaeological excavation may be required, around the brick barrel drain and if any remains are located.</i> <p>The proposed development of the subject site incorporates compliance with the above recommendations.</p>
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	Having regards to the above significant archaeological remains have been found to be present on the site. Further excavation to reduce the height of the building would compromise the ability to preserve the archaeological remains.
<i>(d) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan'.</i>	The proposed building height design solution will continue to provide for a transition in built form and land use intensity within the area covered by this Plan.

Having regard to the above it is considered that the design solution of the subject building as it relates to the issue of building height is consistent to the relevant performance objectives of Port Macquarie – Hastings Council LEP 2011.

3.4 Consistency with LEP Exception Requirements

Given that the proposed building height design solution is consistent with the relevant building height development standard performance objectives of the LEP it is considered that the issuing of development approval for the subject development, (as proposed), by Port Macquarie-Hastings Council is consistent with the requirements of Clause 4.3 of the LEP in that;

(i) *Clause 4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.*

The case of *Whebe v Pittwater Council* (2007) outlined five mechanisms or reasons by which a variation to a development standard may be considered unreasonable or unnecessary. These reasons and their applicability to the proposed development are assessed as follows;

- *The objectives of the standard are achieved notwithstanding non-compliance with the standard* – as demonstrated in **Table 2** of this report the height of the proposed building continues to provide for compliance with the relevant objectives of the building height standard. Accordingly, compliance with the prescribed development height standard is unreasonable or unnecessary in the circumstances.
- *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unreasonable* – this is not relevant to the proposed development.
- *The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable* – this is not relevant to the proposed development.
- *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting departures from the standard and hence compliance with the standard is unnecessary and unreasonable* – it is noted that the Council has already approved a development proposal for the site which exceeds the LEP height standard by approximately 1.31m, accordingly compliance with the standard in the context of the proposed development is unnecessary and unreasonable in the circumstances.

- *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary - this is not relevant to the proposed development.*

Having regards to the above as the height of the proposed development meets the objectives of the LEP Building Height standard and as Council has already approved a variation to the height standard as it pertains to the development of the subject site compliance with the LEP 2011 Height Standard for the subject site is considered to be unreasonable or unnecessary.

(ii) Clause 4.6(3)(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Environmental planning grounds which may be relevant when considering a design outcome that contravention of the development standard facilitates include:

- *Internal privacy, amenity & solar access* – the proposed development provides for outcomes which are entirely consistent with the development standards which are relevant to internal privacy, amenity & solar access. Impacts associated with the proposed buildings height standard exceedance upon the internal or external privacy and amenity of the proposed units and/or neighbouring units is negligible as is the impact upon solar access to the buildings to the east and west of the subject site.
- *External privacy & amenity* - the proposed development provides for outcomes which are entirely consistent with the development standards which are relevant to external privacy and amenity. In this regard separation distances between window openings is generally consistent with the relevant development standards and where necessary privacy screens have been incorporated into habitable area windows, balconies and terraces. Adequate natural light and ventilation have been retained between the buildings.
- *Overshadowing & solar access at nearby residential properties* - shadow diagrams for the proposed development demonstrate that the overall roof height has a negligible impact on overshadowing and solar access in relation to neighbouring properties in the context of the nominated development standards and expectations which are relevant to the area.
- *Increased accommodation options* – the proposed development supports and reinforces an increase in accommodation options for the area. It is noted that the proposed height variation has no impact upon the number of units proposed or permitted for the subject site;
- *View sharing* – the proposed development provides for view sharing. The impacts of the proposed development on views has been assessed and found to be acceptable having regards to the characteristics of the subject site, the nature and extent of development on adjoining and adjacent land and the development standards which seek to guide the future character of the area. In this regard the area of the proposed building which exceeds the height standard is in the southern central portion of the building and as such the impacts on views from the south will be largely indiscernible as it is the height of the building at the

Clarence Street frontage which defines the view paths to the north. It is noted that impacts on views associated with the height standard exceedance from adjoining properties to the east and west is negligible.

- *Pedestrian amenity & access* – pedestrian amenity and access will not be impacted by the proposed height standard exceedance;
- *Visual impact of height exceedance* - the height of the proposed building at the Clarence Street frontage largely defines the impacts of the proposed building upon view paths from the south to the north. In this regard the worst-case height of the building at the Clarence Street frontage is 13.1m, (majority of roof height is 12.3m), which is significantly less than the 14.5m height standard. Accordingly, as the area of the building which exceeds the height standard is in the southern central portion of the building the impacts on views from the south will be largely indiscernible as it is the height of the building at the Clarence Street frontage which defines the view paths to the north.
- *Urban design context* - the proposal is considered a good contextual fit on the basis that it is an infill development which supports and reinforces the desire for high density residential development in the locality. The proposed development is consistent with the streetscape and bulk and scale outcomes envisaged for the area.
- *Colours & material* - as indicated on the Colour Materials/ Finishes Sample Sheet prepared by Wayne Ellis Architects, (included in the development proposal plans), the proposed development will be finished in contemporary tone colours.
- *Character of the area* - the outcomes provided for by the proposed building height design solution are entirely consistent with the existing and future character of the locality in relation to height, bulk and scale.

- (iii) ***Clause 4.6(3)(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as the proposed alternative design solution satisfies the specific performance objectives which are relevant to the height of buildings; and***

As demonstrated in **Table 2** of this report the height of the proposed building continues to provide for compliance with the relevant objectives of the building height standard. Accordingly, the proposed development is consistent with the public interest.

It is also noted that the Statement of Environmental Effects clearly demonstrates that the proposed development is consistent with the zone objectives which are relevant to the subject site.

- (iv) ***Clause 4.6(4)(b) & (5) the Concurrence of the Secretary***

Concurrence of the Secretary has already been obtained by delegation to Council.

*DEVELOPMENT STANDARD VARIATION JUSTIFICATION
3 CLARENCE STREET, PORT MACQUARIE*

MAY 2019

4. CONCLUSION

Having regard to the above it is considered that the proposed building design solution is consistent with the relevant building height performance standards as provided for by Clause 4.3 of the LEP and as such the exemption to the development standard is appropriate in the specific circumstances.

Accordingly, the proposed building design solution is able to be supported by Port Macquarie-Hastings Council pursuant to Clause 4.3 of the LEP.

Item: 09**Subject: DA2016 - 88.5 - SECTION 4.55 MODIFICATION TO EXISTING
SUBDIVISION LAYOUT AT LOT 2 DP 1263561 AND LOT 99 DP
1246122, SOUTH ATLANTIC DRIVE, LAKE CATHIE****Report Author: Development Assessment Planner, Clint Tink**

Applicant: Land Dynamics Australia
**Owner: RTS Super Pty Ltd & Stacks Super Pty Ltd & TJS Super Pty
Ltd and Port Macquarie-Hastings Council (by virtue of Lot
99 DP 1246122 having been dedicated to Council as part of
an earlier stage but yet containing existing drainage works
that need to be extended)**
Estimated Cost: N/A
Parcel no: 69634 & 67955

Alignment with Delivery Program

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

RECOMMENDATION

That the Development Assessment Panel recommend to Council that the Section 4.55 modification to DA2016 - 88.5 being a modification to the layout of the previous approved staged subdivision at Lot 2, DP 1263561 and Lot 99, DP 1246122, South Atlantic Drive, Lake Cathie, be determined by granting consent, subject to the recommended modified conditions.

Executive Summary

This report considers a s4.55(1A) modification of consent to amend the layout of an existing approved staged subdivision at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

Being a s4.55 modification, the amended proposal has been assessed against the relevant legislation in place at the time of the original assessment, unless specifically revoked by subsequent legislation.

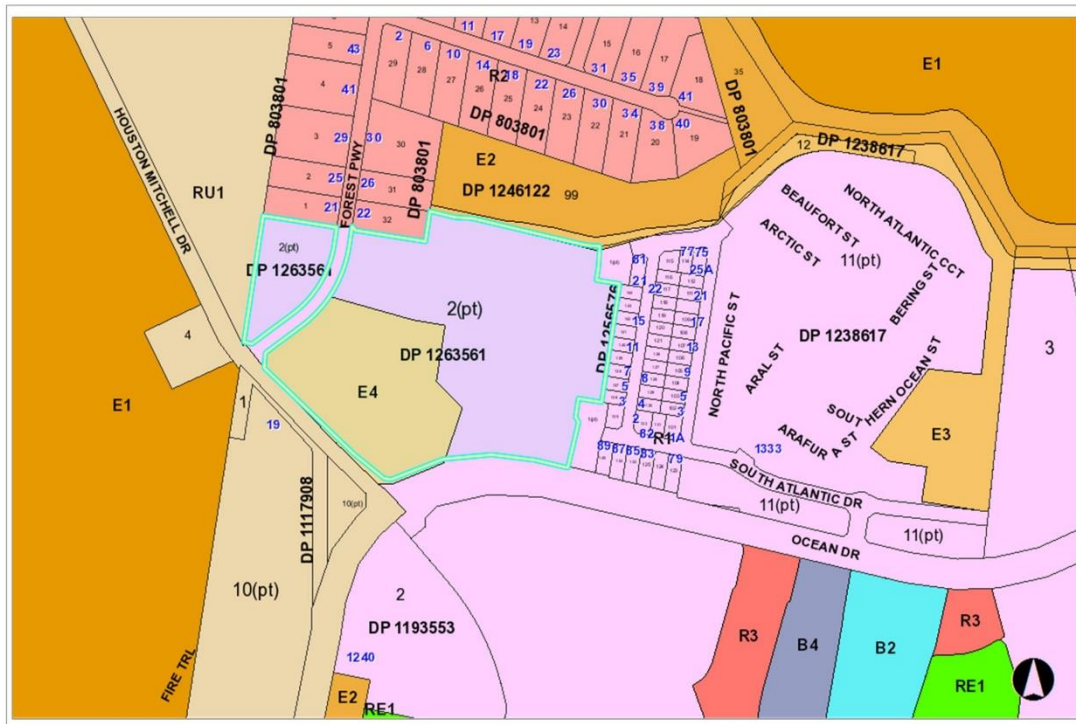
Following exhibition of the application, two (2) submissions were received.

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

The application is required to be determined by full Council in accordance with Council's Development Application - Conflict of Interest Policy as part of the land (Lot 9 DP 1246122) is owned by Council and submissions have been received following exhibition of the application. It should be noted however that Lot 99 only relates to stormwater infrastructure necessary to serve the development.

Existing Sites Features and Surrounding Development

The site is zoned R1 General Residential, E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:



Adjoining the site to the north is an existing large lot residential subdivision with associated housing and section of E(2) Environment Conservation and E(3) Environmental Management zoned land in Council ownership. Further north is the

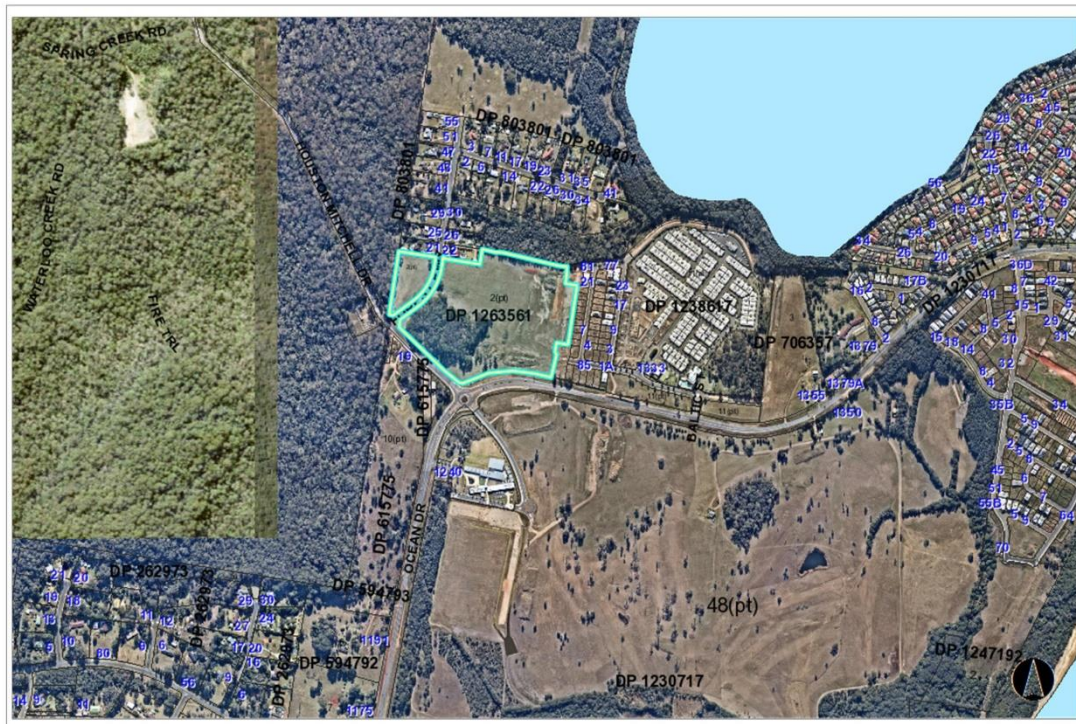
Lake Innes Nature Reserve and land approved under DA2016 - 87 for 68 residential lots.

Adjoining the site to the east are the initial completed stages of DA2016 - 88 with associated housing. Further east is an approved manufactured housing estate that is partially complete with further sites to be created.

Adjoining the site to the west is timbered rural land.

Adjoining the site to the south is the Lake Cathie Primary School and the remaining Area 14 residential area.

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 modification include the following:

- The Northern Joint Regional Planning Panel (JRPP) approved the original 151 residential lot subdivision on 17 August 2016. The JRPP report and recommendation are attached to this report.
- The modification retains the same footprint and perimeter road network. The main changes are occurring to the central layout of roads and lots within Stages 2C and 5, which has resulted in an increase in total lot numbers from 151 to 166 (ie 15 extra lots - 9.9% increase). In addition, the original central north south habitat corridor has been moved from within the road reserve (Road 8) to private land. This minimises the number of road crossings for fauna utilising the link.
- Lots sizes will now range from 450m² to 2384.4m² within the R1 zoned land and 2000.4m² to 2518m² within the E4 zoned land.
- Access to the development will still occur from Forest Parkway to the west and Solomon Drive and South Atlantic Drive to the east (as originally planned).

- A voluntary planning agreement and amended vegetation management plan will continue to direct compensatory plantings throughout the subdivision.
- The development was referred back to the NSW RFS for an amended Bushfire Safety Authority under section 100B of the Rural Fires Act 1997.
- As the modification is being considered under s4.55(1A), the Council is the consent authority under Clause 123BA of the Environmental Planning and Assessment Regulation 2000, rather than the JRPP.
- Two (2) submissions received.

Refer to **Attachments 2 - 5** for plans of the proposed development, original approved subdivision and JRPP documentation.

Application Chronology for the Site

- 17/8/2016 - DA2016 - 88.1 originally determined by the Northern Joint Regional Planning Panel.
- 27/4/2017 - Modification DA2016 - 88.2 approved by Council to clarify conditions pertaining to kerb design.
- 20/11/2017 - Modification DA2016 - 88.3 approved by Council to amend the road reserve width being dedicated to Council along Ocean Drive and the associated road setback/buffer.
- 24/1/2018 - Modification DA2016 - 88.4 withdrawn.
- 4/10/2018 - Modification DA2016 - 88.5 lodged with Council. See chronology specific to this modification later in the report.
- 2/9/2019 - Modification DA2016 - 88.6 approved by Council to amend the Ocean Drive fence design.
- 24/10/2019 - DA2019 - 780.1 for a Manufactured Housing Estate (MHE) lodged over part of the site the subject of DA2016 - 88. DA2019 - 780.1 has not been determined and is subject to separate consideration. DA2019 - 780.1 has been included in the chronology for context only. The assessment and determination of DA2019 - 780.1 will need to have regard to DA2016 - 88 as it sits over the subdivision. If DA2019 - 780.1 were to be approved, the developer/owner would need to decide whether they will proceed with the remaining stages of DA2016 - 88 or opt to replace part of them with the MHE.
- 5/2/2020 - Modification DA2016 - 88.7 approved by Council to amend staging associated with part of the original site/staging not being considered under modification DA2016 - 88.5.
- 1/4/2020 - Modification to DA2016 - 88.9 lodged with Council to essentially amend the access/egress for Stage 6 (E4 zoned lots). In particular, the modification proposes access/egress for the Stage 6 area directly onto Forest Parkway. This modification has not been determined and is subject to separate consideration.
- 20/4/2020 - Modification DA2016 - 88.8 approved by Council to amend a condition pertaining to staging requirements.

Based on the above chronology for the site, there have been a number of minor modifications approved for the site. In more recent times, there are changes that have either been approved or are still being considered that are designed to allow the owner/developer options to develop the remainder of the site being developed under DA2016 - 88.

Application Chronology for DA2016 - 88.5

- 4/10/2018 - Modification DA2016 - 88.5 lodged with Council.

- 11/10/2018 - Modification referred to NSW Rural Fire Service (RFS) and Essential Energy.
- 11/10/2018 - Council staff requested additional information on the modification type, ecology & Vegetation Management Plan (VMP), stormwater design, proposed playground and proposed battle axe lots.
- 12/10/2018 to 25/10/2018 - Notification period.
- 13/10/2018 - Public submission received.
- 18/10/2018 - Response from Essential Energy received raising no objection to the amended design. Standard consent requirements suggested.
- 22/10/2018 - Public submission received.
- 30/10/2018 - Applicant responded to additional information request from 11/10/2018.
- 7/11/2018 - Council staff reviewed additional information and sought clarification on responses ecological impacts, stormwater design, playground and revised plans. Applicant acknowledged the request for additional information.
- 16/11/2018 - Council's Group Manager Recreation & Buildings confirmed that the new proposed park (not part of the original DA2016 - 88) was not supported due to lack of casual surveillance, the non-central location of the park to the area and connectivity issues.
- 21/11/2018 - Applicant acknowledged response from Group Manager Recreation & Buildings and would consider options.
- 3/12/2018 - Applicant responded to additional information request from 7/11/2018. In particular, amended layout received removing the park, updated bushfire report, response to stormwater design and letter from Ecologist.
- 3/12/2018 - Revised information sent to NSW RFS.
- 12/12/2018 - NSW RFS initial acknowledgment letter received.
- 13/12/2018 - Council staff provided clarification to NSW RFS on information to consider.
- 13/12/2018 - Council staff requested clarification on a number of engineering matters such as stormwater design, road design, management of green space within the road reserve and sewer design. Acknowledged by the applicant on 14/12/2018.
- 13/12/2018 - Updated Bushfire Safety Authority received from the NSW RFS. Copy provided to the applicant on 14/12/2018.
- 3/7/2019 - Council staff sent follow up on outstanding information. On 4/7/2019 and 24/7/2019, the applicant provided updates.
- 26/7/2019 - Applicant provided amended plans responding to engineering issues from 13/12/2018.
- 30/8/2019 - Amended information sent to NSW RFS.
- 30/8/2019 - Update on review of additional information provided to the applicant.
- 6/9/2019 - NSW RFS acknowledged additional information.
- 1/10/2019 - Applicant submitted amended staging plan.
- 8/10/2019 - Council staff sent follow up email to NSW RFS on status of amended Bushfire Safety Authority. Preliminary response received 10/10/2019.
- 14/10/2019 - Applicant requested to clarify staging.
- 18/10/2019 - Update on the status of the modification provided to the applicant. Council staff also sought clarification on a number of engineering matters.
- 25/10/2019 - Discussion on engineering matters and amended plan with copy received on 29/10/2019.
- 28/10/2019 - Council staff requested update on stormwater details.
- 28/10/2019 - Council staff emailed the NSW RFS and advised that a further amended plan was to be received. NSW RFS advised to hold off finalising referral until Council staff had accepted the design.

- 31/10/2019 - As a result of works being proposed on Lot 99 DP 1246122, owner's consent and sign off on Conflict of Interest Policy process sought by Council staff.
- 1/11/2019 - Amended stormwater detail provided and acknowledged by Council staff.
- 12/11/2019 - Discussion between Council staff and applicant on status of the modification. Copies of redacted submissions provided to the applicant.
- 18/11/2019 - Discussion between Council staff and the applicant on content of submissions.
- 18/11/2019 - Council staff advised that the proposed public reserve areas on the amended plan were not supported.
- 28/11/2019 to 2/12/2019 - Discussion with the applicant on removing the proposed public reserves with the north south habitat corridor to be located on private land (rather than within the road reserve as originally approved).
- 20/1/2020 - Incorrect plan sent to NSW RFS.
- 11/2/2020 - Council staff followed up discussions from 28/11/2019 to 2/12/2019 and need for amended plans/details. Applicant acknowledged request on 13/2/2020.
- 18/2/2020 to 25/2/2020 - Council staff discussed share way issues with applicant.
- 27/2/2020 - Amended plans received in response to issues raised between 28/11/2019 and 2/12/2019.
- 12/3/2020 - Amended plans agreed in principle by staff. Copy provided to NSW RFS to allow the Bushfire Safety Authority to be updated/finalised.
- 17/3/2020 - NSW RFS acknowledged amended plans.
- 6/4/2020 - Update on status of the modification provided to the applicant and discussion on process of the modification being reported to DAP and Council.
- 17/4/2020 - Council staff follow up with the NSW RFS on status of referral.
- 28/4/2020 - Updated Bushfire Safety Authority received from NSW RFS.

3. STATUTORY ASSESSMENT

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

Section 4.55 of the Environmental Planning and Assessment Act 1979 enables the modification of consents and categorises modifications into Section 4.55(1) for modifications involving minor error, mis-description or miscalculation, Section 4.55(1A) for modifications involving minimal environmental impact and Section 4.55(2) for other modifications. Each type of modification must be considered as being substantially the same to that which was originally consented.

In looking at modifications, the Courts consistently see s4.55 as "beneficial and facultative" and that there are essentially two separate legal tests that apply to a s.4.55 application, before the consent authority can ultimately determine the application on merit.

The first is that the modification cannot result in a radical transformation (Sydney City Council v Ilenace Pty Ltd [1984]). The term "radical transformation" is very broad, leaving significant scope to change a development.

In this case, whilst there are changes proposed to the subdivision layout, they are not considered radical in terms of the overall approved layout. In particular, the key elements of the subdivision (ie the footprint, servicing, key road connections, habitat protection, environmental impact etc) remain relatively unchanged. Furthermore, the increase in the number of lots is less than 10% (Note: it is not uncommon for the Courts to approve modifications that numerically change components, such as the number of storeys, height, floor area etc, by more than 10%).

The second test deals with Council being satisfied that the modification is “substantially the same development” as authorised by the original development consent. The Council must compare the modified development/potential modified consent against the original approval (Note: it is the consent that is being modified, not just the plans, so the consent authority must have regard to the conditional changes as well). Once Council is satisfied that the modification is substantially the same, the remainder of the assessment is dealt with on merit.

It should be noted that some environmental impacts and merit issues can link back to the “substantially the same test”, if significant. In particular, for a modification to have a significant environmental impact, one might question whether it is a result of a significant change to the original approval.

In this case, the modification is considered “substantially the same” and there are no significant environmental or merit issues - refer to comments on s4.55(1A)(b) later in this report.

In summary, Council needs to consider the numerical differences, non-numerical aspects (eg in visual impact, traffic impacts or changed land uses) and any changes relating to a key/essential feature of the approved development. Having considered the above comments and the more detailed review below, it is considered that the modification can be considered and the changes are acceptable.

The specific provisions of Section 4.55 are considered in more detail below.

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

While the proposed subdivision layout is being amended and creating fifteen (15) additional lots, minimal environmental impact is considered to be occurring as a result of the changes. In particular, the proposal is considered to be having minimal environmental impact for the following reasons:

- The modified development occupies the same footprint as the subdivision originally granted consent.
- The development will still present as a low to medium density residential subdivision from outside the site.
- Location of key perimeter roads and through connections remain unchanged.
- The impacts of the modified development, including the extent of vegetation clearing (ie no additional clearing proposed), earthworks, and revegetation remain similar to the original approved development.
- The modified development will not create any adverse demand on public infrastructure or services when compared with the original approved development.
- There will be no material change on amenity as a result of the changes.
- The revised north south habitat corridor retains the original intent of the subdivision, whilst creating added benefits of reduced road crossings for fauna.

- The numerical change represents less than 10% increased change to the original subdivision, whilst still maintaining compliance with minimum lot sizes provisions. It should be noted that a number of the lots (due to their size) are likely to be further developed as medium density housing once the subdivision proceeds. In this regard, the number of lots and density of development is still considered below the future potential for the overall site.

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

Section 4.55 has been described as "beneficial and facultative" in *Houlton v Woollahra Municipal Council* (1997) 95 LGERA 201 at [213] and *North Sydney Council v Michael Standley & Associates Pty Ltd* (1998) 97 LGERA 433 at [440]. Accordingly, the provisions of s4.55 should not be artificially constrained by allowing a narrow construction.

In *Vasic Pty Ltd v Penrith City Council* [1992] NSWLEC 8, Stein J held that "substantially" meant "essentially all material or having the same essence."

In *Moto Projects (No 2) Pty Ltd v North Sydney Council* (1999) 106 LGERA 298 at [56] Bignold J held that the task for determining whether a development as proposed to be modified is substantially the same as the consent granted was as follows:

"The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted)."

In the context of the current application, the proposal can be considered to be substantially the same as the development to which consent was originally granted for the following reasons:

- The modified proposal remains as a subdivision for the purpose of residential uses and is consistent with the essence of the original development.
- The reasons listed above under s4.55(1A)(a) for demonstrating minimal environmental impact are conducive to the development being substantially the same.
- The payment of monetary contributions can still apply to the additional lots created from the modification.

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

Neighbour notification has been undertaken in accordance with the regulations and Council's DCP (as in force at the time).

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

Two (2) written submissions were received following public exhibition of the application. Copies of the written submissions have been provided separately to members of the DAP.

Key issues raised in the submissions received and comment are provided in the table below:

Submission Issue/Summary	Planning Comment/Response
A park has been proposed near No. 22 Forest Parkway. Concern about security as people can hide and loiter, noise and anti-social behaviour. Consider relocating the park.	Park has since been removed from the modification and the area reverted back to residential lots as originally planned/approved.
General opposition to Stage 3 and the small properties backing onto existing property in Springhill Place and intrusive impacts.	The number of lots in Stage 3 (and the modification) backing onto the adjoining property to the north/north east in Springhill Place remains the same (ie 7 lots). No change or impact to that already approved.
Concern with walkway through the nature reserve or at least ensure it is close to the development boundary and not Springhill Place properties. Concerns with environmental Impacts on reserve.	Pathway has been relocated alongside the roadway and no longer goes through the reserve.

Section 4.55(3) Any matters referred to in section 4.15(1) relevant to the modification, and the reasons given by the consent authority for the grant of the consent sought to be modified.

Overall, the modification remains consistent with the original s4.15(1) assessment and a revised summary follows the Section 4.55(4) comment below. It should be noted that the revised s4.15(1) comments focus on compliance with relevant legislation and whether there has been any change or impact to comments provided on the original assessment.

A copy of the original s4.15(1) JRPP assessment is also attached to this report for context.

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

Noted.

Section 4.15(1) Matters for Consideration

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

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

State Environmental Planning Policy (Koala Habitat Protection) 2019

Clause 15 - A modification application made, but not finally determined, before the commencement of this Policy in relation to land to which this Policy applies must be determined as if this Policy had not commenced. The application was made and not

finally determined prior to the commencement of this policy, and the application is therefore required to be assessed under the relevant provisions of State Environmental Policy No 44 - Koala Habitat Protection. See assessment comments below.

State Environmental Planning Policy No. 44 - Koala Habitat Protection

The site is subject to an existing Koala Plan of Management (Area 14 KPOM). Having regard to the original approval and provisions of the KPOM, the modification is considered to remain sufficiently consistent with its requirements. This was reiterated by comments from an ecologist and peer review by Council's Natural Resources Team. In summary, the modification will still comply with the following:

- Use koala food trees throughout the site and be implemented via a Vegetation Management Plan (VMP).
- Separation of key koala areas from busier residential development/roads.
- Retention of koala food trees where possible.
- Buffering of koala habitat areas.
- Revegetation of buffers/habitat linkages that are devoid of vegetation.
- Conditions being imposed to manage fauna/koalas during clearing process.
- Covenants being placed on the title of properties regarding pool design being koala friendly.
- Standard street lighting being conditioned.
- Compensatory plantings in accordance with the KPOM.
- A VPA being in place for the management of environmental land and vegetation management.
- Core koala habitat areas being retained/untouched.
- Creation of habitat linkages consistent with the KPOM. In particular, the north south habitat linkage will be moved from the road reserve to private properties. This change will ensure the linkage is retained but involves less dangerous road crossings for fauna.

State Environmental Planning Policy (Infrastructure) 2007

Clause 45, no objection was raised from the relevant electricity supplier regarding the modification.

No other change from original assessment.

State Environmental Planning Policy (State and Regional Development) 2011

No change from original assessment.

As the modification is being considered under s4.55(1A), the Council is the consent authority under Clause 123BA of the Environmental Planning and Assessment Regulation 2000. Modification is not required to be determined by the JRPP.

Port Macquarie-Hastings Local Environmental Plan 2011

Unless specified below, no change from original assessment.

- Whilst the E2 and E3 zones will still be used primarily for vegetation planting/retention, it is noted that existing stormwater works (ancillary to the road/subdivision) do sit partially within the E3 zone. The modification proposes to continue the existing stormwater works (comprising a vegetated

swale) partially within the E3 zone. No additional vegetation removal is anticipated and conditions have been applied to reinforce this aspect. The ancillary stormwater works are considered permissible and remain consistent with the approved original plan (Note: the original plan envisaged the road and ancillary drainage swale would be located in the subject area).

- Clause 4.1, the proposed R1 zoned residential lots comply with the 450m² minimum lot size standard and the E4 lots comply with the 2000m² minimum lot size.
- Clause 7.13, satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, sewer infrastructure, stormwater drainage and suitable road access to service the development. Provision of electricity and telecommunications will be subject to obtaining satisfactory arrangements certification prior to the issue of a Subdivision Certificate as recommended by the original condition of consent.

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

None relevant.

(iii) Any Development Control Plan in force

Port Macquarie-Hastings Development Control Plan 2013

Unless specified below, no change from original assessment.

DCP 2013: Chapter 3.6 - Subdivision			
DCP Objective	Development Provisions	Proposed	Complies
3.6.3.2	Torrens title lots minimum width of 15m when measured at a distance of 5.5m from front property boundary.	Except for the addition of four (4) battle-axe lots, all lots within the modification remain compliant with the minimum of 15m width requirement. Battle-axe lots are addressed later.	Yes
	Minimum depth of 25m.	All lots generally comply with the minimum 25m depth requirement.	Yes
3.6.3.3	Battleaxe lots discouraged in greenfield development.	There were three (3) battleaxe lots identified with the original approval. Four (4) additional battleaxe lots have been provided, bringing the total to seven (7). This represents 4% of total lots. This is still considered a low and acceptable number. Furthermore, the location of the battleaxe lots will maximize the development potential of the land whilst creating no adverse impact on vegetation, servicing costs	No, but still acceptable

		or impacts on amenity.	
DCP 2013: General Provisions			
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"> • Casual surveillance and sightlines • Land use mix and activity generators • Definition of use and ownership • Lighting • Way finding • Predictable routes and entrapment locations 	The modified layout does not create any crime safety issues. The design allows separation from potential habitat/concealment areas and allows surveillance of the street.	Yes
DCP 2013 - Rainbow Beach			
DCP Objective	Development Provisions	Proposed	Complies
1.1	Development consistent with layout on Figures 62 to 64.	Modification remains consistent with the layout requirements. Some internal roads have been amended to run east west rather than north south. No impact foreseen with the changes with key perimeter roads to be retained.	Yes
5.1	Cycleways, shareways etc requirements	Provided in accordance with DCP.	Yes
5.2	Pedestrian link requirements.	Provided in accordance with DCP.	Yes
6-8	Noise, visual amenity, SEPP 26 buffer and urban design.	Remain unchanged and reinforced through existing conditions.	Yes
12.1	North south streets to be in accordance with Figure 71.	The Stage 2C, 4 and 5 internal roads have been amended to run east west rather than north south. No impact foreseen with the changes. Key perimeter roads to be retained.	Yes
12.2	20m wide habitat link as per Figure 71.	An equivalent habitat link has been provided to the west of Stage 2C and 5 in a location consistent with Figure 71.	Yes
13.1	Development considers existing rural residential areas, KPOM requirements and	Development complies with the Area 14 KPOM and will be installing/protecting key habitat links.	Yes

	linkages.	The development considers the existing rural residential area by providing lots that will have rear boundaries to the existing rural residential area. In most cases, future development will need to provide a 4m rear setback (unless otherwise justified), which will help maintain a suitable level of separation.	
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(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

The proposed modification remains compliant with relevant planning agreements subject to conditions.

iv) Any matters prescribed by the Regulations

No change from original assessment.

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

Roads, Traffic, Transport, Site Frontage & Access

The road layout and hierarchy remains consistent with the Development Control Plan provisions, which connects in with the adjoining properties/roads. Footpaths and street plantings will also be provided throughout the subdivision to improve pedestrian connections and amenity.

Overall, the road layout, traffic impacts, frontages and access associated with the modification were all reviewed by Council's Engineering Section and deemed to create no adverse impact, subject to conditions.

Water Supply Connection

Council records indicate that the modification is still able to be connected to water with details to be shown on the engineering plans at the Subdivision Construction Certificate stage.

Sewer Connection

Council records indicate that the modification is still able to be connected to sewer with details to be shown on the engineering plans at the Subdivision Construction Certificate stage.

Stormwater

Council's Stormwater Engineer has assessed the modification/proposed stormwater design and deemed it acceptable, subject to conditions and detailed design being submitted at the Subdivision Construction Certificate stage. The system will utilise a combination of street drainage, detention and swales to direct the water to the public reserve in a controlled state.

Other Utilities

Telecommunication and electricity services are available to the site and/or can be extended at the applicant's expense.

Flora and fauna

The applicant had a suitably qualified ecologist review the modified design. The ecologist provided the following comment:

As per request, we have reviewed the amended plan, the UIA 14 Koala Plan of Management (Biolink 2012) and the Vegetation Management Plan (King & Campbell 2016), and provide comment in regard to the amendment's consistency with these documents.

The KPoM only identifies Potential Koala Habitat on the land, and the key planning provision relating to the plan is establishment of Habitat Linkage C in Figure 5 of the KPoM. Part B (iii) states:

This minor linkage runs from Houston Mitchell Drive to the Lake Innes Nature Reserve. Integration with existing vegetation patches will be required, presumably via creation of larger lot sizes. Linkage then continues in a north-south direction, again presumably in the form of a suitably aligned streetscape, similar to that proposed above, to link up with the drainage line running east west to the Lake Innes Nature Reserve. This latter area also needs to be buffered by an APZ which could contain a perimeter road, scattered vegetation, pedestrian access and/or cycleway, along with low maintenance, shallow, water management devices.

The larger lot size provision is met in another stage as shown in the plan. The section of this linkage encapsulated within the subdivision stage as a "suitably aligned streetscape" as per the KPoM, has been designated as a planted corridor of Koala food trees on the western side of the new road. In the VMP, it was originally proposed as a median strip (King and Campbell 2016), but is now proposed to be consolidated on one side of the road.

The proposed consolidation of the linkage on one side of the road and directly linking to the adjoining larger lots (latter intended to retained Koala food trees in situ) is clearly a better design than that proposed in the VMP as it reduces Koala exposure to road crossings to reach habitat (it provides a much superior link to retained trees on Lots 135-151); and reduces the risk of trees impacting road stability with root zones.

The management provisions of the VMP for Management Unit 1 (which is Habitat Linkage C) are also readily adaptable to the new concept, and hence amendment to the VMP is unlikely to be needed.

It is thus considered compliant with intent and outcomes of the KPoM and the VMP.

The modification has been reviewed and accepted by Council's Natural Resources Section, subject to conditions on maintenance of the linkage and an amended VMP. In addition to the above, it is considered that the provisions of the more recently adopted Biodiversity Conservation Act 2016 (commenced after DA2016 - 88.1 was approved) are not triggered in this case. In particular, no additional vegetation removal is proposed or new impact on existing/proposed habitat. Overall, the modification relates to the same footprint as the original approval and associated work/impact could occur regardless of the modification.

Noise and vibration

The original application was referred to Council's Environmental Health Officer to consider impacts of road noise from Ocean Drive (classified road). In particular, potential existed for noise from road traffic to adversely affect future dwelling occupants.

To negate noise impacts a 1.8m high fence on top of a 400mm mound was approved along the Ocean Drive frontage, consistent with other estates being developed to the east. Vegetation screening was also included to soften the appearance of the fence from Ocean Drive.

Even with the above, some lots were still identified as being affected by road noise. To address this aspect, an 88B instrument was conditioned, requiring future dwellings on the affected lots to have Category 2 construction with additional internal BCA compliant ventilation.

Given the modification impacts on the number of lots and lot numbers, the condition has been amended to capture the relevant lots.

Bushfire

The site is identified as being bushfire prone.

In accordance with Section 100B - *Rural Fires Act 1997* - the original application proposed subdivision of bush fire prone land that could lawfully be used for residential purposes.

The applicant has submitted an amended bushfire report prepared by a Certified Consultant. The report assumes that the amended subdivision can occur under Section 100B requirements.

The Commissioner has assessed the modification and has issued a revised Bushfire Safety Authority, which will form part of the modified conditions of consent. Furthermore, the applicant has demonstrated that the development can comply with the requirements of the Bushfire Safety Authority as well as implementing the requirements of the VMP, without creating any long term maintenance of vegetation burden on Council.

Social impacts in the locality

Given the strategic planning and development controls that have been put in place governing the development of the Area 14 precinct and the compliance of the subdivision with such controls; the modification 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 maintained employment and expenditure in the area.

(c) The suitability of the site for the development

The modified remaining stages and the overall subdivision will fit into the locality and the site attributes are conducive to the proposed development.

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

Development Applications - Conflict of Interest Policy

The Policy applies to development applications relating to Council land or where Council is the applicant.

In this case, the Policy is triggered by virtue of part of the land (Lot 99 DP 1246122), being in the ownership of Council at the time the modification was lodged. As part of the modification, the applicant wishes to continue the stormwater works (already commenced on Lot 99 DP 1246122 as part of previous stages) to cater for the modification.

It should be noted that Lot 99 DP 1246122 previously formed part of the original parcel of land to which DA2016 - 88.1 was approved and was subsequently dedicated to Council as part of an early stage. Technically, if the applicant had completed all the necessary stormwater works as part of the previous stage(s) and then dedicated the land (Lot 99 DP 1246122), the Conflict of Interest Policy would not have been triggered.

Being a development application on Council land and with submissions having been received, the application was referred to the Director of Development & Environment and General Manager under the policy to determine whether the application should be assessed by Council staff or whether an external consultant should be utilised.

As the submissions were not alleging any conflict of interest, there was no Environmental Impact Statement required and with Council only have a minor interest as the authority for managing future public stormwater assets, it was determined that Council staff continue with the assessment.

The application is also proposed to be reported to Council, via the Development Assessment Panel.

Based on the above, it is considered that the application has been processed in accordance with the Policy.

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

- Development contributions will be required towards augmentation of town water supply and sewerage system head works under Section 64 of the Local Government Act 1993.
- Development contributions will be required in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979 towards roads, open space, community cultural services, emergency services and administration buildings.
 - 1.
- A copy of the modified contributions estimate is included as an **Attachment 6**.
 - 2.

5. CONCLUSION AND STATEMENT OF REASON

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

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

The site is considered suitable for the proposed modified development and the proposal adequately addresses relevant planning controls. The development is not considered to be contrary to the public's interest and will not result a significant adverse social, environmental or economic impact. It is recommended that the application be approved, subject to the recommended conditions of consent provided in **Attachment 1**.

Attachments

- 1 [↓](#). DA2016 - 88.5 Draft Modified Consent
- 2 [↓](#). DA2016 - 88.1 JRPP Assessment Report
- 3 [↓](#). DA2016 - 88.1 JRPP Determination
- 4 [↓](#). DA2016 - 88.1 Original approved Layout
- 5 [↓](#). DA2016 - 88.5 Revised Plans
- 6 [↓](#). DA2016 - 88.5 Contribution Quote

Note: Conditions to be deleted are shown in red text, amended conditions are shown in green text and new conditions are shown in blue text. Where a condition is being amended or deleted, the original condition has been retained to assist show the changes.

Date TBA

Parcel Number: 69634 & 67955

Land Dynamics Pty Ltd
PO Box 2459
PORT MACQUARIE NSW 2444

Dear Sir/Madam

DA 2016/88.5 - Modification of Consent Pursuant to Section 4.55 (1A) of the Environmental Planning & Assessment Act 1979

I refer to your application dated 4 October 2018 to modify the layout of the previous approved staged subdivision under DA 2016/88 at LOT: 2 DP: 1263561 & LOT: 99 DP: 1246122 South Atlantic Drive LAKE CATHIE.

Please be advised that pursuant to Section 4.55 (1A) of the Act, your application to modify the consent has been granted, subject to:

- A. Amend the following conditions as outlined in modified consent:
A1, A3, A7, B18, B23, B27 E15 & E24
- B. Add the following conditions as outlined in modified consent:
A17 & A18
- C. Delete the following conditions as outlined in modified consent:
B24
- D. Reimposition of all other previously approved conditions of consent as originally determined 17 August 2016 and as modified 27 April 2017, 20 November 2017, 2 September 2019, 5 February 2020, 20 April 2020 and with this approval dated TBA.

The applicant is advised that Section 8.9 of the Act confers on an applicant who is dissatisfied with the determination, right of appeal to the Land and Environment Court.

A revised schedule of development consent conditions is attached.

Yours sincerely

SCHEDULE OF CONDITIONS ATTACHED TO THIS CONSENT

The conditions of consent referred to in the Notice of Determination for DA No 2016/88 are as follows:

No.1	Modification No.1	27 April 2017
No.2	Modification No.2	20 November 2017
No.3	Modification 3	Withdrawn
No.4	Modification 4	TBA
No.5	Modification 5	2 September 2019
No.6	Modification 6	5 February 2020
No.7	Modification 7	20 April 2020

PRESCRIBED CONDITIONS

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

A – GENERAL MATTERS

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

Plan / Supporting Document	Reference	Prepared by	Date
Statement of Environmental Effects and Appendices (as amended)	Ref 5158 (Land Dynamics)	King & Campbell Pty Ltd as amended by Land Dynamics (9/6/2017 & 7/9/2017)	February 2016
Subdivision Plans	Project 4539P, Drawing No 4539P_Exhibits, Sheet 5 & 6, Revision F as amended Project Ref No. 5158, Issue B (Land Dynamics)	King & Campbell Pty Ltd as amended by Land Dynamics (7/9/2017)	15/2/2016 (Sheet 5) & 22/4/2016 (Sheet 6)
Landscape Plan, Fence Detail, Gateway Treatment and Significant Corner Treatment	Project 4539P, Drawing No 4539P_Exhibits & Landscape Plan, Sheets 10-13 as amended Project Ref No. 5158, Issue B (Land Dynamics)	King & Campbell Pty Ltd as amended by Land Dynamics (7/9/2017)	12/5/2016 (Sheet 10, Revision G), 24/5/2016 (Sheet 11, Revision C), 23/5/2016 (Sheet 12, Revision C) & 23/5/2016 (Sheet 13, Revision C)

	Dynamics)		
Vegetation Management Plan		King & Campbell Pty Ltd	May 2016
Staging Plan	REF 5158 DWG No. 0002 REV H	Land Dynamics	20/12/2019

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. ⁶

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

Plan / Supporting Document	Reference	Prepared by	Date
Statement of Environmental Effects and Appendices (as amended)	Ref 5158 (Land Dynamics)	King & Campbell Pty Ltd as amended by Land Dynamics (9/6/2017), (7/9/2017) & (7/9/2018)	February 2016
Subdivision Plans	Project 4539P, Drawing No 4539P_Exhibits, Sheet 5 & 6, Revision F as amended Project Ref No. 5158, Issue B (Land Dynamics) and Job Ref No 5158, Drawing 0001 Revision J (Land Dynamics)	King & Campbell Pty Ltd as amended by Land Dynamics (7/9/2017) & (26/2/2020)	15/2/2016 (Sheet 5) & 22/4/2016 (Sheet 6) & 26/2/2020
Landscape Plan, Fence Detail, Gateway Treatment and Significant Corner Treatment	Project 4539P, Drawing No 4539P_Exhibits & Landscape Plan, Sheets 10-13 as amended Project Ref No. 5158, Issue B (Land Dynamics)	King & Campbell Pty Ltd as amended by Land Dynamics (7/9/2017)	12/5/2016 (Sheet 10, Revision G), 24/5/2016 (Sheet 11, Revision C), 23/5/2016 (Sheet 12, Revision C) & 23/5/2016 (Sheet 13, Revision C)
Vegetation Management Plan		King & Campbell Pty Ltd	May 2016
Staging Plan	REF 5158 DWG No. 0002 REV J	Land Dynamics	26/2/2020

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. ⁴

- (2) (A004) An application for a Construction Certificate will be required to be lodged with Council prior to undertaking subdivision works and a Subdivision Certificate is required to be lodged with Council on completion of works.
- (3) (A007) The development must only proceed in accordance with the approved stages as set out below:

- Stage 1 - Road 3 (constructed in conjunction with the adjoining landowner, Ocean Club Resort), Road 5, Part Roads 2 & 4; and Proposed Lots 1 to 32.
- Stage 2 - Road 6, two englobo lots (1 & 2).
- Stage 2A - Creation of Lots 45 to 46
- Stage 2B - creation of lots 56, 57, 59 and 60.
- Stage 2C - Road 7, Part Roads 2 & 4; and Proposed Lots 61 to 87.
- Stage 3 & 4 - Road 1, Road 8, Part Roads 2 & 4 and Proposed Lots 88 to 128.
- Stage 5 - Proposed Lots 129 to 134.
- Stage 6 - Road 9 and Proposed Lots 135 to 151.

Unless specified, the conditions of this consent will apply to all stages, with any decision on any discrepancy with conditions and associated staging resting with Council. Any decision to allow a change to staging will rest with Council along with applicable conditions and any contributions payable.⁶

- (3) (A007) The development must only proceed in accordance with the approved stages as set out below:

- Stage 1 - Road 3 (constructed in conjunction with the adjoining landowner, Ocean Club Resort), Road 5, Part Roads 2 & 4; and Proposed Lots 1 to 32.
- Stage 2 - Road 6, two englobo Lots (1 & 2).
- Stage 2A - Creation of Lots 45 to 46
- Stage 2B - Creation of Lots 56, 57, 59 and 60.
- Stage 2C - Proposed Lots 211 to 237 with associated infrastructure.
- Stage 3 - Proposed Lots 301 to 318 with associated infrastructure.
- Stage 4 - Proposed Lots 401 to 419 with associated infrastructure.
- Stage 5 - Proposed Lots 506 to 524 with associated infrastructure.
- Stage 6 - Proposed Lots 601 to 617 with associated infrastructure.
- Stage 7 - Proposed Lots 701 to 706 with associated infrastructure.

Unless specified, the conditions of this consent will apply to all stages, with any decision on any discrepancy with conditions and associated staging resting with Council. Any decision to allow a change to staging will rest with Council along with applicable conditions and any contributions payable.⁴

- (4) (A008) Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.
- (5) (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 holidaysThe builder to be responsible to instruct and control his sub-contractors regarding the hours of work.
- (6) (A011) The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.
- (7) (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 D16/0586 and dated 4 July 2016 as amended 24 April 2017, are attached and form part of this consent. ¹
- (7) (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 D16/0586 and dated 4 July 2016 as amended 24 April 2017 and 28 April 2020 are attached and form part of this consent. ⁴
- (8) (A029) The provision, at no cost to Council, of concrete foot paving for the full street frontages of the development. Unless varied by Council staff in writing, footpaths shall be provided to all roads in accordance with ASD103, ASD104 as follows:
 - Shareway to Local Road Standards shall require a footpath, 1.2m on one side of the road.
 - Collector Standard shall require at a minimum, footpath 1.2m min on both sides of the road.
 - Collector Standard shall require at a minimum, footpath 1.2m min on one sides of the road and a shareway 2.5m adjoining the future public reserve.
 - A 2.5m shareway shall be provided to Houston Mitchell Drive along the northern side of the existing road
 - A 1.2m footpath shall be provided along Forest Parkway on the eastern side of the road which shall connect with all the internal footpaths of the development.

Details of the footpaths shall be provided with the application for approval pursuant to Construction Certificate Application.

- (9) (A032) The developer is responsible for any costs relating to minor alterations and extensions to ensure satisfactory transitions of existing roads, drainage and Council services for the purposes of the development.
- (10) (A033) The applicant shall provide security to the Council for the payment of the cost of the following:
- a. making good any damage caused to any property of the Council as a consequence of doing anything to which the consent relates,
 - b. completing any public work (such as road work, kerbing and guttering, footway construction, utility services, stormwater drainage and environmental controls) required in connection with the consent,
 - c. remedying any defects in any such public work that arise within twelve (12) months after the work is completed.

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

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

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

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

- (11) (A057) The applicant is to ensure the proposed development will drain to the existing point of connection to Council's sewerage system.
- (12) (A195) The Developer is to comply with the Sydmar Area 14 Stage 1A Planning Agreement under Section 93F of the Environmental Planning and Assessment Act 1979 between Port Macquarie - Hastings Council and Sydmar Pty Limited. The planning agreement, as varied or substituted from time to time, is to be performed in connection with the carrying out of the development the subject of this consent.
- (13) (A196) Unless varied by these conditions of consent, the development is to be carried out in accordance with the approved Vegetation Management Plan and Area 14 Koala Plan of Management.
- (14) (A199) All planting and weed control works, other than the street tree planting detailed in the approved Vegetation Management Plan, are to be carried out by a qualified bush regenerator Cert II CLM equivalent or higher.
- (15) (A200) From the date of development commencement, the developer is to provide a monitoring report every 5 years to Council in accordance with Section 7 of the Area 14 Koala Plan of Management.
- (15) (A197) Eighteen (18) nest boxes are to be erected by a qualified ecologist prior to removal of hollow bearing trees in accordance with the approved Vegetation Management Plan. Location of nest boxes, by way of GPS coordinates, are to be provided to Council within 14 days of erection. Nest boxes to be constructed of ACQ treated pine to a commercial standard.

- (16) (A201) Planting within the Ocean Drive buffer area will be required to meet Essential Energy's policies and ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. ²
- (17) (A202) Compliance with this consent is to have regard to the most recently approved modification. In particular, some of the modifications have been approved out of sequence. ⁴
- (18) (A203) No additional vegetation removal is to occur as a result of modification DA2016 - 88.5 to that allowed under DA2016 - 88.1. ⁴

B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
- Position and depth of the sewer (including junction)
 - Stormwater drainage termination point
 - Easements
 - Water main
 - Proposed water meter location
- (2) (B003) Submission to the Principal Certifying Authority prior to the issue of a Construction Certificate detailed design plans for the following works associated with the developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DQS:
1. New roads within the subdivision.
 2. Sewerage reticulation.
 3. Water supply reticulation.
 4. Water supply plans shall include hydraulic plans for internal water supply services and associated works in accordance with AS 3500, Plumbing Code of Australia and Port Macquarie-Hastings Council Policies.
 5. Stormwater systems.
 6. Erosion & Sedimentation controls.
 7. Landscaping.
 8. Provision of a bus bay in accordance with Council's adopted AUSPEC Design and Construction Guidelines and shelter in accordance with Council standard drawings located along the collector road.
- (3) (B006) An application pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate.
- Such works include, but not be limited to:
- Civil works
 - Traffic management
 - Work zone areas
 - Hoardings
 - Concrete foot paving (width)
 - Footway and gutter crossing
 - Functional vehicular access

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

- (4) (B007) Road names proposed for the subdivision shall be submitted to Council prior to release of the Construction Certificate. A suitable name for any new road(s) shall be in accordance with Council's adopted policy.
- (5) (B017) Submission to Council of an application for water service connections and compliance with Council's requirements for the provision of such connections. Payments of costs to provide for these connections and/or extensions are to be made prior to the issue of the Construction Certificate. This application is also to include an application for the disconnection of any existing service not required.
- (6) (B019) The local water supply reticulation mains are to loop within the subdivision to minimise dead ends and connect to the existing reticulation wherever possible.
- (7) (B030) Prior to issue of Construction Certificate, a pavement design report shall be prepared by a suitably qualified geotechnical or civil engineer and submitted to Council, including soil test results and in-situ CBR values (NATA certified). Council's minimum pavement compaction testing criteria are as follows:
 - a. 98% (modified) base layers - Maximum Modified Dry Density test in accordance with AS1289.5.2.1
 - b. 95% (modified) sub-base layers - Maximum Modified Dry Density test in accordance with AS1289.5.2.1
 - c. 100% (standard) subgrade/select layers - Maximum Standard Dry Density test in accordance with AS1289.5.1.1 (or for in-situ subgrade soils only, wet density testing may be used)
- (8) (B072) A stormwater drainage design is to be submitted and approved by Council prior to the issue of a Construction Certificate. The design must be prepared in accordance with Council's AUSPEC Specifications and the requirements of Relevant Australian Standards and make provision for the following:
 - a) All allotments must be provided with a direct point of connection to the public piped drainage system. Kerb outlets are not permitted.
 - b) The design requires the provision of interallotment drainage in accordance with AUSPEC D5
 - c) The design shall include water quality controls designed to achieve the targets specified within AUSPEC D7.
 - d) Where works are staged, a plan is to be provided which demonstrates which treatment measure/s is/are to be constructed with which civil works stage. Separate plans are required for any temporary treatment (where applicable e.g. for building phase when a staged construction methodology is adopted) and ultimate design.
 - e) The design is to make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
- (9) (B052) The provision of 3m x 3m splay corners or otherwise agreed to by Port Macquarie-Hastings Council. Details must be submitted to and approved by Port Macquarie-Hastings Council prior to release of the Construction Certificate.
- (10) (B071) Prior to the issue of any Construction Certificate, the provision of water and sewer services to the land are to be approved by the relevant Water Authority and relevant payments received.
- (11) (B085) The location of electricity substations are to be clearly illustrated on the Construction Certificate plans. All substations are to remain on private property unless otherwise agreed to by Port Macquarie-Hastings Council.

- (12) (B086) Prior to issue of a Construction Certificate evidence provided to the satisfaction of the Certifying Authority of an application being made to the electricity and telecommunications service providers. Services are required to be underground.
- (13) (B195) Prior to issuing the construction certificate, traffic calming devices and signage is to be approved by Council to ensure road speeds are practically limited to 40km/hr for Road 4 adjacent to koala habitat corridors.
- (14) (B196) Reclaim water is to be provided throughout the subdivision in accordance with Council requirements. Details are to be shown on the engineering plans with the construction certificate. In particular, reclaim water main connections are to be provided on the eastern boundary to the existing 150mm PVC water main and on the southern boundary to the existing 200mm PVC water main. On the north eastern corner, the 100mm reclaimed water main is to extend towards the sewer pump station lot either at a suitable offset to the sewer gravity main or by arrangement with the adjoining land owner. Details are to be shown on the engineering plans.
- (15) (B197) Council records indicate that the development site is able to be connected to sewer with a new junction to be provided at the collection manhole for the sewer pump station on Lot 35 DP 803801. Details are to be shown on the engineering plans.
- (16) (B198) The level of all proposed lots that are zoned to allow a dwelling with consent are to be at or above the 1 in 100 year flood level including the applicable climate change allowance plus 500mm freeboard as per the requirements of DP14.1 of the PMH DCP 2013 - Part 5 and the PMH Flood Policy (2015). For the purpose of this requirement, the 1 in 100 year flood level including climate change plus 500mm freeboard may be assumed to be RL4.0m AHD. Prior to release of the Construction Certificate levels satisfying this requirement shall be clearly illustrated on the plans.
- (17) (B199) The level of all roads are to be at or above the 1 in 100 year flood level including the applicable climate change allowance as per the requirements of DP14.1 of the PMH DCP 2013 - Part 5 and the PMH Flood Policy (2015). For the purpose of this requirement, the 1 in 100 year flood level including climate change may be assumed to be RL3.5m AHD. Prior to release of the Construction Certificate levels satisfying this requirement shall be clearly illustrated on the plans.
- (18) (B200) Prior to the release of the construction certificate, the Vegetation Management Plan is to be amended to acknowledge the following changes to Management Unit 1, unless varied in writing by Council:
- o 20 tallowwoods at 8-10m centres along central spine.
 - o 38 Swamp mahoganies at 8m centres 5m off the kerb and no narrow leaf peppermints in this area.
 - o Mulching of individual trees 2m radius.
 - o Zoysia turf throughout entire area, excluding mulched areas.
 - o 200mm x 1.2m domed treated pine bollards installed with H4 around perimeter of area at 750mm high and 1.8m centres.
 - o Star pickets to be replaced with 50mm x 50mm wooden stakes.
- (18) (B200) Prior to the release of the construction certificate, the Vegetation Management Plan is to be amended to acknowledge the following changes to Management Unit 1, unless varied in writing by Council:
- o 20 tallowwoods at 8-10m centres along central spine.

- o 38 Swamp mahoganies at 8m centres 5m off the kerb and no narrow leaf peppermints in this area.
- o Mulching of individual trees 2m radius.
- o Zoysia turf throughout entire area, excluding mulched areas.
- o 200mm x 1.2m domed treated pine bollards installed with H4 around perimeter of area at 750mm high and 1.8m centres.
- o Star pickets to be replaced with 50mm x 50mm wooden stakes.

In association with modification DA2016 - 88.5, the Vegetation Management Plan is to be amended to acknowledge the changes to the layout approved under the modification. The specific details around the management, fencing requirements and planting details (including replacement plantings) of the north south habitat link and northern stormwater swale will need to be signed off by Council and shown to be consistent with the original linkage, prior to release of the construction certificate or subdivision certificate (whichever occurs first) associated with next Stage of subdivision to occur after the subject modification. ⁴

- (19) (B201) Any vegetated stormwater drainage assets located within Asset Protect Zones as specified within the Bushfire Protection Assessment Report must be landscaped with low maintenance endemic native species that require no regular maintenance for bushfire protection purposes.

Such landscaping shall be planted at sufficient densities to discourage natural regeneration of tree species.

A detailed landscaping plan for all vegetated stormwater assets must be submitted to and approved by Council's Transport and Stormwater Network section prior to the issue of a Construction Certificate.

- (20) (B202) All Asset Protect Zones (APZs) as specified within the Bushfire Protection Assessment Report must be plotted on the construction certificate civil works and landscape plans.
- (21) (B203) The water main from Abel Tasman Drive to Solomon Drive is in place and is 200mm PVC. The remaining work required will be the completion of this water main in 200mm PVC from Solomon Drive to South Atlantic Drive at Baltic Street, after exhaustion of the initial ET allowance. Arrangements are to be made with Council to disconnect a section of 150mm water main at proposed Lot 123 so that it can be removed from affected lots.
- (22) (B204) Potable water main connections are to be provided on the eastern boundary to the existing 200mm PVC water main in South Atlantic Drive; on the southern boundary to the existing 300mm PVC water main in Ocean Drive and on the western boundary to the existing 150mm PVC water main in Forest Parkway. On the north eastern corner, the 100mm potable water main is to extend to the sewer pump station lot either at a suitable offset to the sewer gravity main or by arrangement with the adjoining land owner. Details are to be shown on the engineering plans.
- (23) (B205) A concrete threshold in accordance with ASD202 is required either end of the Shareway (Road 8). Details of the construction of the thresholds are to be provided with the application for approval pursuant to Construction Certificate Application.
- (23) (B205) A concrete threshold in accordance with ASD202 is required either end of the Shareway Roads. Shareways shall be provided to connect Roads 6 and 10 & 6 and 7. Details of the construction of the thresholds are to be provided with the application for approval pursuant to Construction Certificate Application. ⁴

- (24) (B206) The Shareway Standard Road (Road 8) shall be provided one-way crossfall, with layback kerb adjacent to the lots and edge strip (min 300mm wide) to the opposite side of the road, i.e. layback kerb to the high side of the road and edge strip to the low side of the road. Details shall be provided with the application for approval pursuant to Construction Certificate Application.

(24) Delete. ⁴

- (25) (B207) Upright kerb shall be provided to the roads abutting drainage reserve and public reserve areas. Details shall be provided with the application for approval pursuant to Construction Certificate Application.

- (26) (B208) Prior to release of the construction certificate or subdivision certificate (whichever occurs first) associated with the Ocean Drive buffer/fence, the plans are to be amended to show a Colorbond fence. The plans are also to confirm that the height of the fence and any mound is not less in height than the original approved fence/mound combination in DA2016 – 88.1. Having no exposed timber on the residential/housing side of the fence will ensure compliance with deterring Koalas from entering the Ocean Drive road reserve and retaining the same height will ensure consistency with the original noise assessment. ⁵

- (27) (B004) The road network within the subdivision is to be categorised with pavement construction as shown in the following table. Prior to release of the Construction Certificate such details are to be illustrated on the submitted plans. ⁴

Name	Pavement classification - pavement width/reserve
Road 1	Collector Standard 9/19
Road 2	Collector Standard 9/19
Road 4	Collector Standard 9/19
Road 6	Local Standard 5.5/16
Road 7	Local Standard 5.5/13.5-16
Road 8	Collector Standard 9/19
Road 9	Local Standard 5.5/13.5
Road 10	Local Standard 5.5/13.5
Shareways	Local Standard 4/12

C – PRIOR TO ANY WORK COMMENCING ON SITE

- (1) (C001) A minimum of one (1) week's notice in writing of the intention to commence works on public land is required to be given to Council together with the name of the principal contractor and any major sub-contractors engaged to carry out works. Works shall only be carried out by a contractor accredited with Council.
- (2) (C013) Where a sewer manhole exists within a property, access to the manhole shall be made available at all times. Before during and after construction, the sewer manhole must not be buried, damaged or act as a stormwater collection pit. No structures, including retaining walls, shall be erected within 1.0 metre of the sewer manhole or located so as to prevent access to the manhole.

- (3) (C015) Tree protection fencing, compliant with AS 4970/2009 *Protection of trees on development sites* must be provided. The fencing shall be in place prior to the commencement of any works or soil disturbance and maintained for the entirety of the works.

D – DURING WORK

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

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

- (2) (D003) The site is in an area 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.
- (3) (D006) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- (4) (D033) Should any Aboriginal objects be discovered in any areas of the site then all excavation or disturbance to the area is to stop immediately and the National Parks and Wildlife Service, Department of Environment and Conservation is to be informed in accordance with Section 91 of the *National Parks and Wildlife Act 1974*. Subject to an assessment of the extent, integrity and significance of any exposed objects, applications under either Section 87 or Section 90 of the *National Parks and Wildlife Act 1974* may be required before work resumes.
- (5) (D037) Noise from construction activities (measure as the L_{AeqT} noise level) shall not exceed the background noise level (measured as the L_{A90} noise level in the absence of the source), for periods of construction between 4 and 26 weeks by 10 dB(A), and for periods of construction exceeding 26 weeks by 5 dB(A), in any Octave Band Centre Frequency, when measured at any affected residence, or premises.

- (6) (D040) Wastes including felled vegetation shall not be disposed of by burning, unless approved in writing by Council.
- (7) (D042) The washing of equipment and/or the disposal of building materials, including cement slurry, shall not occur within the drip line of any tree that has been nominated for retention on the site or adjacent land.
- (8) (D043) Any damage to a tree nominated for retention/protection during the construction phase shall be treated by an Arborist with a minimum qualification AQF level 5 (diploma level) or an international qualification considered equivalent by Council, or a person deemed suitable by Council at the developer's expense.
- (9) (D044) An Arborist, with a minimum qualification AQF level 5 (diploma level) or an international qualification considered equivalent by Council, or a person deemed suitable by Council shall be engaged to supervise all on site clearing and shall certify in writing clearing has occurred in accordance with the approved plans and conditions of this consent.
- (10) (D045) A suitably qualified ecological consultant shall inspect all native trees that have been approved for removal before they are felled. If there are any koala or other fauna species in the tree, work in the vicinity is to cease until the animal has moved from the area. The removal of hollow bearing trees must be carried out in accordance with the approved Vegetation Management Plan.
- (11) (D050) The capacity and effectiveness of tree protection fencing, compliant with AS 4970/2009 *Protection of trees on development sites* shall be maintained at all times in accordance with the approved management plan until such time as the site is no longer subject to any construction or earth moving works.
- (12) (D051) Prior to commencement of any pavement works a material quality report from the proposed supplier shall be submitted to Council. The pavement materials shall meet Council's current specifications at the time of construction.

E – PRIOR TO OCCUPATION OR THE ISSUE OF SUBDIVISION CERTIFICATE

- (1) (E005) Prior to the release of any bond securities held by Council for infrastructure works associated with developments, a formal written application is to be submitted to Council specifying detail of works and bond amount.
- (2) (E008) Payment to Council, prior to the issue of the Subdivision Certificate of the Section 94 contributions set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied, pursuant to the Environmental Planning and Assessment Act 1979 as amended, and in accordance with the provisions of the following plans:
 - Hastings S94 Administration Building Contributions Plan
 - Hastings Administration Levy Contributions Plan
 - Hastings S94 Major Roads Contributions Plan
 - Hastings S94 Open Space Contributions Plan
 - Community Cultural and Emergency Services Contributions Plan 2005
 - Section 94 Local Roads Contributions Plan Areas 13, 14 and 15

The plans may be viewed during office hours at the Council Chambers located on the corner of Burrawan and Lord Streets, Port Macquarie, 9 Laurie Street, Laurieton, and High Street, Wauchope.

The attached "Notice of Payment" is valid for the period specified on the Notice only. The contribution amounts shown on the Notice are subject to adjustment in accordance with CPI increases adjusted quarterly and the provisions of the relevant plans. Payments can only be made using a current "Notice of Payment" form. Where a new Notice of Payment form is required, an application in writing

together with the current Notice of Payment application fee is to be submitted to Council.

- (2) (E008) Payment to Council, prior to the issue of the Subdivision Certificate of the Section 94 contributions set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied, pursuant to the Environmental Planning and Assessment Act 1979 and/or an executed planning agreement applying to the land, and generally in accordance with the provisions of the following plans:

- Hastings S94 Administration Building Contributions Plan
- Hastings Administration Levy Contributions Plan
- Hastings S94 Major Roads Contributions Plan
- Hastings S94 Open Space Contributions Plan
- Community Cultural and Emergency Services Contributions Plan 2005
- Section 94 Local Roads Contributions Plan Areas 13, 14 and 15

The plans may be viewed during office hours at the Council Chambers located on the corner of Burrawan and Lord Streets, Port Macquarie, 9 Laurie Street, Laurieton, and High Street, Wauchope.

The attached "Notice of Payment" is valid for the period specified on the Notice only. The contribution amounts shown on the Notice are subject to adjustment in accordance with CPI increases adjusted quarterly and the provisions of the relevant plans. Payments can only be made using a current "Notice of Payment" form. Where a new Notice of Payment form is required, an application in writing together with the current Notice of Payment application fee is to be submitted to Council. ⁴

- (3) (E009) As part of Notice of Requirements by Port Macquarie-Hastings Council as the Water Authority under Section 306 of the Water Management Act 2000, the payment of a cash contribution, prior to the issue of a Subdivision Certificate (whichever occurs first), of the Section 64 contributions, as set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied in accordance with the provisions of the relevant Section 64 Development Servicing Plan towards the following:
- augmentation of the town water supply headworks
 - augmentation of the town sewerage system headworks
- (4) (E015) Prior to the issue of the Subdivision Certificate, details of compliance with the Bushfire Safety Authority is to be provided to Council.
- (5) (E034) Prior to the issuing of the Subdivision Certificate, certification by Council (local roads authority) of all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.
- (6) (E039) An appropriately qualified and practising consultant is required to certify the following:
- a. all drainage lines have been located within the respective easements, and
 - b. any other drainage structures are located in accordance with the Construction Certificate.
 - c. all stormwater has been directed to a Council approved drainage system
 - d. all conditions of consent/ construction certificate approval have been complied with.
 - e. Any on site detention system (if applicable) will function hydraulically in accordance with the approved Construction Certificate.

- (7) (E040) Each onsite detention system is to be marked by a plate in a prominent position which states:
- "This is an onsite detention system. It is an offence to reduce the volume of the tank or basin or interfere with any part of the structure that controls the outflow".
- This plate is to be fixed into position prior to occupation or the issue of the Occupation or Subdivision Certificate.
- (8) (E042) Creation of drainage easement between lots (i.e. interallotment)
- Where stormwater pipelines traverse lots other than those which they benefit appropriate drainage easements shall be created and registered on the title of the relevant lot(s) with the Lands and Property Information NSW.
- a. For pipes less than 500mm diameter, the easement width must be a minimum of 1500mm. Easements for larger diameter pipes must be the pipeline diameter plus 1200mm wide, with a minimum width of 2400mm.
- b. Where easements are associated with a subdivision, the easement shall be established with the plan of subdivision and Section 88B instrument. Details to be submitted to Council prior to issue of Subdivision Certificate.
- Where easements are not associated with a subdivision, the easement shall be approved by Council prior to lodgement at Lands and Property Information (LPI) NSW and evidence of registration shall be submitted to the Principal Certifying Authority prior to any Occupation Certificate.
- (10) (E053) All works shall be certified by a practicing Civil Engineer or Registered Surveyor as compliant with the requirements of AUSPEC prior to issue of Subdivision Certificate or release of the security bond, whichever is to occur first.
- (11) (E064) Provision of street lighting to all new roads in accordance with AS1158 and compliance with the requirements of the electricity authority regarding provision of electricity to serve the development. Provision shall be made for placement of conduits for future requirements or upgrades. Evidence by way of letter from the electricity provider, indicating compliance with this condition shall be submitted prior to the issue of the Subdivision Certificate.
- Any proposal to erect non-standard, prestige or Smart Poles (or equivalent) street lighting shall:
- Forward all plans to the service provider for comment;
 - Include instruction for completion of 'Lighting Requirements';
 - Be referred to Council together with details of the difference in annual charges over a twenty five (25) year period in accordance with Policy R5 – Street Lighting on Public Roads;
 - Supply to Council to keep in stock, one (1) extra pole for every six (6) run of poles, for all poles that are non-standard poles.
- (12) (E068) Prior to the issue of a Subdivision or Occupation Certificate, evidence to the satisfaction of the Certifying Authority from the electricity and telecommunications providers that satisfactory services arrangements have been made to the lots and/or dwellings/units (including street lighting and fibre optic cabling where required).
- (13) (E072) Lodgement of a security deposit with Council upon practical completion of the subdivision works.
- (14) (E073) Prior to issue of any Subdivision Certificate, proof that the State Infrastructure Levy (if applicable) has been paid is to be submitted to the certifying authority.

- (15) (E076) The plan of subdivision and Section 88B instrument shall establish the following restrictions, easements and/or covenants; with Council having the benefit and having the sole authority to release, vary or modify each restriction, easement and/or covenant. Wherever possible the extent of the land affected by these covenants shall be defined by bearings and distances shown on the plan of subdivision.
- a. Prohibiting the erection of any building, tree removal or access except as nominated in the approved South Exhibit 04B, Sheet 6.
 - b. Prohibiting direct vehicular access to and from Ocean Drive.
 - c. Requiring swimming pools be designed to be koala friendly in accordance with the Area 14 Koala Plan of Management.
 - d. Prohibiting the removal of any hollow bearing trees proposed to be retained, unless arrangements have been made with Council.
 - e. Requiring Category 2 dwelling construction and additional internal BCA compliant ventilation on those lots affected by road noise in accordance with the approved Traffic Noise Impact Assessment prepared by SLR Global Environmental Solutions and dated 4 November 2015. Refer to Appendix B4 on page 21 of the report. The lots impacted are 29-33, 58-62, 85-88, 111-112, 134-146 & 150-151.
 - f. Requiring those lots affected, to maintain the approved fencing, buffer and landscape detail fronting Ocean Drive, the gateway treatment and/or corner treatment works.
 - g. Prohibiting the erection of any building or structure within the 3m and 5m buffer areas to Ocean Drive, as shown on the approved plan by Land Dynamics dated 7 September 2017.

Details are to be submitted to Council prior to issue of the Subdivision Certificate.

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- (15) (E076) The plan of subdivision and Section 88B instrument shall establish the following restrictions, easements and/or covenants; with Council having the benefit and having the sole authority to release, vary or modify each restriction, easement and/or covenant. Wherever possible the extent of the land affected by these covenants shall be defined by bearings and distances shown on the plan of subdivision.
- a. Prohibiting the erection of any building, tree removal or access except as nominated in the approved South Exhibit 04B, Sheet 6 as amended.
 - b. Prohibiting direct vehicular access to and from Ocean Drive.
 - c. Requiring swimming pools be designed to be koala friendly in accordance with the Area 14 Koala Plan of Management.
 - d. Prohibiting the removal of any hollow bearing trees proposed to be retained, unless arrangements have been made with Council.
 - e. Requiring Category 2 dwelling construction and additional internal BCA compliant ventilation on those lots affected by road noise in accordance with the approved Traffic Noise Impact Assessment prepared by SLR Global Environmental Solutions and dated 4 November 2015. Refer to Appendix B4 on page 21 of the report.
 - f. Requiring those lots affected, to maintain the approved fencing, buffer and landscape detail fronting Ocean Drive, the gateway treatment and/or corner treatment works.
 - g. Prohibiting the erection of any building or structure within the 3m and 5m buffer areas to Ocean Drive, as shown on the approved plan by Land Dynamics dated 7 September 2017.

- h. Requiring Lots 301, 316, 317, 612 and 613 manage the north south habitat link in accordance with the approved Vegetation Management Plan, including any replacement works.
- i. Allow Council access to inspect the north south habitat link on Lots 301, 316, 317, 612 and 613.
- j. Create a right of access over Lot 317 benefitting Lot 318.
- k. Prohibiting Lots 237, 506, 510, 520 & 524, from having direct vehicular access to the shareway.

Details are to be submitted to Council prior to issue of the Subdivision Certificate.

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- (16) (E078) The lot identified as proposed drainage land under Council's control is to be dedicated to Council for open space purposes. Provision for this dedication is to be made in the application for the Subdivision Certificate.
- (17) (E079) Submission to the Principal Certifying Authority of certification by a Registered Surveyor prior to the issue of a Subdivision Certificate that all services and domestic drainage lines are wholly contained within the respective lots and easements.
- (18) (E081) The applicant will be required to submit prior to the issue of the Subdivision Certificate, a geotechnical report confirming construction of all earthworks in accordance with AUSPEC D6 and/or indicating the suitability of all allotments for future home/building sites; such report to provide details of:
 - a) The surface levels of the allotments created and any other area filled or reshaped as part of the development.
 - b) Compaction testing carried out to Level 1 of Appendix B AS 3798.
 - c) Standard penetration tests and calculated N values.
 - d) Bore logs
 - e) Site classification of all allotments in accordance with AS2870.2011 - *Residential Slabs and Footings*.
- (19) (E082) Submission of a compliance certificate accompanying Works as Executed plans with detail included as required by Council's current AUSPEC Specifications. The information is to be submitted in electronic format in accordance with Council's "CADCHECK" requirements detailing all infrastructure for Council to bring in to account its assets under the provisions of AAS27. This information is to be approved by Council prior to issue of the Subdivision or Occupation Certificate. The copyright for all information supplied, shall be assigned to Council.
- (20) (E195) Prior to release of the subdivision certificate, habitat linkages relevant to that stage of the subdivision are to be signposted in accordance with the Area 14 Koala Plan of Management. The design and location of the signage is to be approved by Council.
- (21) (E196) A Certificate of Compliance under the provisions of Section 307 of the Water Management Act must be obtained prior to the issue of a subdivision certificate. The application for the certificate is to include an acceptable Work-As-Executed plan for water and sewer services from a Professional Engineer or Registered Surveyor as well as a copy of the linen plan and a copy of the stamped water and sewer construction layout plan(s).
- (22) (E197) All residue lots created during the staging must ensure the residential zoned land is maintained as an Inner Protection Area. A notation is to be placed on the title of such residue lots advising future owners of the need to maintain the residential zoned land as an inner protection area, until such time as it is developed.

- (23) (E198) The issuing of each subdivision certificate is not to occur until Council is satisfied with the completion of the environmental works in the approved Vegetation Management Plan and compliance with the Area 14 Koala Plan of Management. It should be noted that only the environmental works relevant to the stage of subdivision being completed, will need to be finalised before the release of the subdivision certificate for that stage.
- (24) (E199) Prior to release of the subdivision certificate to create proposed Lots 118-123 & 115, a 1.8m high solid fence is to be installed along the common boundary of the subject lots with Lot 32 DP 803801.
- (24) (E199) Prior to release of the subdivision certificate to create proposed Lots 309-314 & 318, a 1.8m high solid fence is to be installed along the common boundary of the subject lots with Lot 32 DP 803801. ⁴
- (25) (E200) Prior to release of the subdivision certificate, the approved Ocean Drive fence treatment, gateway treatment and corner treatment works are to be installed onsite. The stage when such works are to be completed is to be approved by Council.
- (26) (D052) Prior to laying of Asphaltic Concrete (AC) or wearing surface course, submission to Council of pavement and soil test results prepared by a NATA registered person for all road pavement construction, including:
- a. CBR test results, and
 - b. Subgrade / select fill, sub-base and base pavement compaction reports in accordance with AS1289.5.1.1 & AS1289.5.2.1 as applicable.
- (27) In conjunction with Stage 2 (creating the englobo lots):
- a) A "Right of Access" and an easement for services shall be created over the road reserve for the future collector road benefiting the Residual land and burdening the englobo lot.⁷

F – OCCUPATION OF THE SITE

Nil.

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

Rights of Appeal

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

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

**JOINT REGIONAL PLANNING PANEL
(Northern Region)**

JRPP No	2016NTH006
DA Number	DA2016 - 88.1
Local Government Area	Port Macquarie-Hastings
Proposed Development	Residential Subdivision (151 lots plus public reserve)
Street Address	Lot 34 DP 803801 (now known as Lot 8 DP 1210904) & Lot 1 DP 1185458, Corner of Ocean Drive, Houston Mitchell Drive and Forest Parkway, Lake Cathie
Applicant/Owner	RTS Super Pty Ltd, Stacks Super Pty Ltd & TJS Super Pty Ltd c/- King & Campbell Pty Ltd (Applicant) RTS Super Pty Ltd, Stacks Super Pty Ltd & TJS Super Pty Ltd with Gwynvill Trading Pty Ltd (Owners)
Number of Submissions	One (1)
Regional Development Criteria (Schedule 4A of the Act)	Clause 9(b) - Coastal subdivision Development within the coastal zone for the purposes of subdivision of the following kind: (b) subdivision of land for residential purposes into more than 100 lots, if the land: (i) is not in the metropolitan coastal zone, or (ii) is wholly or partly in a sensitive coastal location,
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No. 44 - Koala Habitat Protection • State Environmental Planning Policy No. 55 - Remediation of Land • State Environmental Planning Policy No. 62 – Sustainable Aquaculture • State Environmental Planning Policy No. 71 – Coastal Protection • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (Rural Lands) 2008 • State Environmental Planning Policy (State and Regional Development) 2011 • Port Macquarie-Hastings Local Environmental Plan 2011 • Development Control Plan 2013 • The Area 14 Stage 1A Sydmar Planning Agreement and Area 13, 14 & 15 Local Roads Contributions Plan • NSW Coastal Policy 1997
List all documents submitted with this report for the panel's	1. Developer contributions estimate 2. Recommended consent conditions 3. Bushfire Safety Authority 4. Plans

consideration	5. Vegetation Management Plan
Recommendation	That DA 2016/0088.1 for Residential Subdivision (151 Lots plus a Public Reserve) at Lot 34 DP 803801 (now known as Lot 8 DP 1210904) & Lot 1 DP 1185458, Corner of Ocean Drive, Houston Mitchell Drive and Forest Parkway, Lake Cathie, be determined by granting consent subject to the recommended conditions.
Report by	Clinton Tink - Development Assessment Planner
Report date	17 August 2016

Executive summary

This report considers a development application for a staged residential subdivision that will create 151 lots and a public reserve. Proposed staging is as follows:

- Stage 1 Road 3 (constructed in conjunction with the adjoining landowner, Ocean Club Resort), Road 5, Part Roads 2 & 4; and Proposed Lots 1 to 32.
- Stage 2 Road 6, Part Roads 2 & 4 and Proposed Lots 33 to 61.
- Stage 3 Road 7, Part Roads 2 & 4; and Proposed Lots 62 to 87.
- Stage 4 Road 1, Road 8, Part Roads 2 & 4 and Proposed Lots 88 to 128.
- Stage 5 Proposed Lots 129 to 134.
- Stage 6 Road 9 and Proposed Lots 135 to 151.

The proposal is integrated development requiring a bushfire safety authority from NSW Rural Fire Service.

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

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

It should be noted that during the assessment the property description of Lot 34 DP 803801 changed to Lot 8 DP 1210904 to deal with road acquisitions/widening. The road acquisitions/widening do not impact on the development footprint, which had factored in the change.

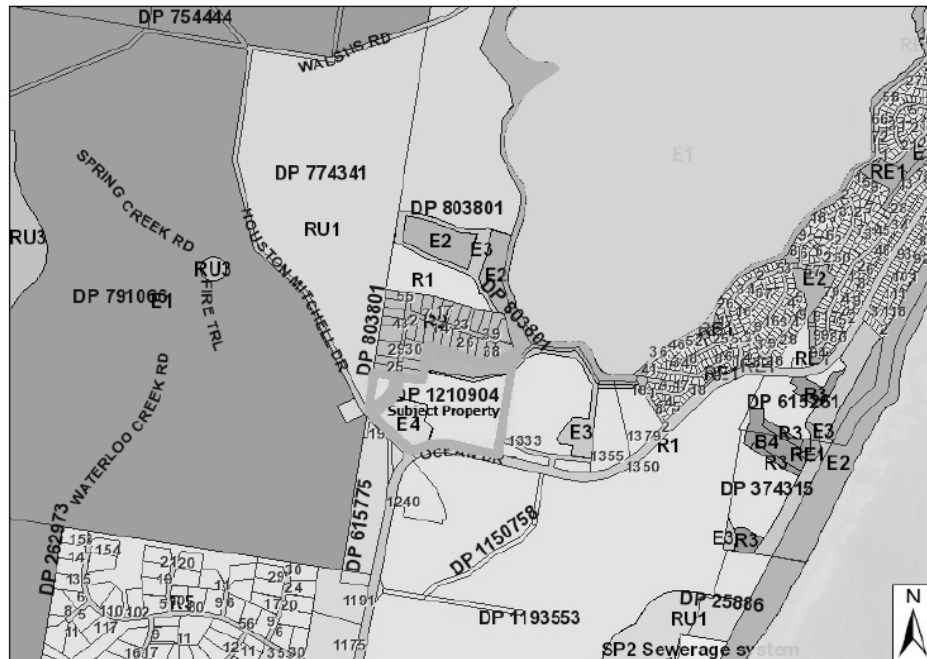
In addition, Lot 1 DP 1185458 is only included in the property description as proposed Road 3 is to be built on the common boundary with Lot 34. Owners consent has been provided and such works (the road) have been factored into the development of each property. In particular, Lot 1 DP 1185458 also relies on the road being built as part of an approval under DA2007/620.

1. BACKGROUND

Existing sites features and surrounding development

The site has an area of 21.16 hectares.

The site is zoned R1 General Residential, E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:



The site is located on the corner of Ocean Drive, Houston Mitchell Drive and Forest Parkway, Lake Cathie. The property is vacant and contains sections of cleared and timbered land. The site gently slopes downwards to the north.

Adjoining the site to the north is an existing large lot residential subdivision with associated housing. Further north is the Lake Innes Nature Reserve and land recently approved under DA2016 - 87 for 68 residential lots. It should be noted that the land involved in DA2016 - 87 & 88 is owned by the same group and that the two applications share the same Vegetation Management Plan (VMP).

Adjoining the site to the east is an approved manufactured housing estate that is partially complete with further sites to be created.

Adjoining the site to the west is timbered rural land.

Adjoining the site to the south is the Lake Cathie Primary School and the remaining Area 14 residential area. There is currently a separate DA2016 - 465 in with Council for approximately 700 lots to be located in the Area 14 land to the south of DA2016 - 88. The application is still being processed but is likely to be presented to the Joint Regional Planning Panel at a later date.

The existing subdivision pattern and location of existing development within the locality is shown in the following aerial photographs. The second aerial photograph below is the more recent, taken in July 2016:



The proposal relates to a staged 151 lot residential subdivision. Lot sizes will range from 535.5m² to 1537.5m² within the R1 zoned land and 2000.4m² to 2518m² within the E4 zoned land. A 3.86ha public reserve is also to be created and will contain the E2 and E3 zoned land.

Access to the development will occur from Forest Parkway and future public road connections to the east that are being created concurrently with the adjoining manufactured housing estate.

A voluntary planning agreement and vegetation management plan will direct compensatory plantings throughout the subdivision and also on a residue property to the north (Lot 33 DP 803801).

The development is also 'integrated development' as it involves subdivision of bushfire prone land that could lawfully be used for residential purposes and requires a Bushfire Safety Authority under section 100B of the Rural Fires Act 1997.

Application Chronology

- 24 September 2015 - Application presented to Council's Pre-lodgement meeting.
- 17 February 2016 - Application lodged with Council.
- 22 February 2016 - Application registered with Joint Regional Planning Panel (JRPP).
- 24 February to 8 March 2016 - Notification period.
- 25 February 2016 - Applicant advised of potential flood conditions. Copy of subdivision plan provided to a neighbour.
- 29 February 2016 - Information on the proposal provided to a neighbour. Furthermore, additional information requested from the applicant regarding a title search to help address Clause 45 of SEPP (Infrastructure) 2007.
- 1 March 2016 - Title searches provided by the applicant, which were forwarded onto the Electricity provider.
- 2 March 2016 - Electricity provider raised no objection to the subdivision.
- 16 & 17 March 2016 - Council's assessing officer provided comment to Department of Planning and Environment regarding SEPP 71 Masterplan waiver.
- 18 March 2016 - Council Bushfire Management Officer raised concerns with the bushfire report and possible conflicts with future replanting and management. Advice was forwarded to the applicant on 23 March 2016. However, matter was subject to NSW RFS input that was not yet known (ie Bushfire Safety Authority had not been received).
- 22 March 2016 - Follow up sent to NSW RFS confirming they had received all the reports.
- 23 March 2016 - SEPP 71 Masterplan waiver received.
- 24 March 2016 - JRPP acknowledged application.
- 31 March 2016 - Meeting was held with Council staff and the applicant regarding potential bushfire issues.
- 5 April 2016 - Applicant sought advice/discussion on proposed street trees.
- 6 April 2016 - Meeting was held between Council Engineers and the applicant regarding the proposed vegetated road median. Council staff also provided JRPP with update on status of the DA.
- 11 April 2016 - NSW RFS requested additional information, which was forwarded to the applicant on 13 April 2016.
- 27/4/2016 - Council staff provided JRPP with an update on the status of the DA.
- 4 to 10 May 2016 - Discussion between Council staff and the applicant on street trees to be used.
- 11 May 2016 - Council staff provided JRPP with an update on the status of the DA.

- 3 June 2016 - Applicant responded to NSW RFS issues and provided revised vegetation management plan addressing changes to street trees.
- 6 June 2016 - Additional information forwarded to NSW RFS. Council's Engineering section requested clarification on detailed design of swales etc.
- 8 June 2016 - Applicant provided amended Engineering detail.
- 14 June 2016 - Council staff provided JRPP with an update on the status of the DA.
- 4 July 2016 - NSW RFS Bushfire Safety Authority received. Copy provided to applicant on 6 July 2016.
- 6 July 2016 to present - Council staff have provided applicant and JRPP updates on status of DA being reported to August meeting.

3. STATUTORY ASSESSMENT

The provisions (where applicable) of:

(a)(i) Any environmental planning instrument

State Environmental Planning Policy No. 44 - Koala Habitat Protection

The site is subject to an existing Koala Plan of Management (Area 14 KPOM). The application has been considered against the provisions of the KPOM and deemed to be consistent, which has been further reiterated by Council's Natural Resources Section. In summary, the development will:

- Use koala food trees throughout the site and be implemented via a Vegetation Management Plan (VMP).
- Separation of key koala areas from busier residential development/roads.
- Retention of koala food trees where possible.
- Buffering of koala habitat areas.
- Revegetation of buffers/habitat linkages that are devoid of vegetation.
- Conditions being imposed to manage fauna/koalas during clearing process.
- Covenants being placed on the title of properties regarding pool design being koala friendly.
- Standard street lighting being conditioned.
- Compensatory plantings in accordance with the KPOM.
- A VPA being in place for the management of environmental land and vegetation management.
- Core koala habitat areas being retained/untouched.
- Creation of habitat linkages consistent with the KPOM.

It should be noted that koala food trees were originally proposed along the Ocean Drive frontage, but these were later removed on the basis that Council did not want to be enticing koalas towards a busy road such as Ocean Drive.

Based on the above, the proposed development is consistent with the requirements of the SEPP.

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 within the Lake Innes Nature Reserve.

State Environmental Planning Policy No. 71 – Coastal Protection and Clause 5.5 of Port Macquarie-Hastings Local Environmental Plan 2011

The site is located within a coastal zone noting clause 4 of the SEPP.

The site is further identified as being within a sensitive coastal location. In accordance with clause 18, subdivision of land within a residential zone containing sensitive coastal land requires one of the following:

- The Minister adopt a Masterplan for the subject land and the proposed subdivision be consistent with the Masterplan.
- The Minister assess the development and waive the need for a Masterplan.

In this case, the Minister has waived the need for a Masterplan.

In accordance with clause 5, this SEPP prevails over the Port Macquarie-Hastings LEP 2011 in the event of any inconsistency.

Having regard for clauses 2, 8 and 12 to 16 of the SEPP and clause 5.5 of the Port Macquarie Hastings Local Environmental Plan 2011, the proposed development will not result in any of the following:

- a) any restricted access (or opportunities for access) to the foreshore
- b) any adverse amenity impacts along the foreshore and on the scenic qualities of the coast;
- c) any adverse impacts on flora and fauna;
- d) the development being subject to any adverse coastal processes or hazards;
- e) any significant conflict between water and land based users of the area;
- f) any adverse impacts on any items of archaeological/heritage;
- g) reduction in the quality of the natural water bodies in the locality (due to effluent & stormwater disposal, construction impacts, landuse conflicts);
- h) adverse cumulative impacts on the environment;
- i) a form of development that is unsustainable in water and energy demands;
- j) development relying on flexible zone provisions.

The site is partially cleared and located within an area zoned for residential purposes. The development protects and enhances key coastal areas via the design and replacement plantings.

State Environmental Planning Policy (Infrastructure) 2007

Clause 45, no objection was raised from the relevant electricity supplier regarding the proposed development.

Clause 101, the development has frontage to a classified road (Ocean Drive). However, the proposed development will not impact on the functioning of the road for the following reasons:

- Access to the site has been provided by an alternative (i.e. no new access direct onto Ocean Drive is proposed).
- Erosion and sediment control measures will be in place during construction to ensure no adverse dust impacts on road users.
- The road layout was considered throughout the rezoning and DCP process and deemed acceptable from a functionality aspect.
- A noise impact assessment was completed and reviewed by Council Environmental Health Officer. The findings of the report were accepted by Council's Environmental Health Officer subject to conditions. It should be noted that some lots closer to Ocean Drive will need Category 2 construction, which can be reinforced in the 88B instrument.
- A vegetated buffer area separates the subdivision from the road to eliminate impacts from emissions.
- Council Engineers have assessed the traffic volumes and impacts and deemed the site suitable.

Clause 102, Ocean Drive does not carry an annual average daily traffic volume of 40,000 vehicles and therefore further consideration is not required in this case. It should be noted that impacts from road noise are still considered later in this report as a site specific constraint outside the SEPP.

Clause 104, the subdivision does not propose 200 or more lots or 50 or more lots where connection to a classified road is within 90m of the access to the subdivision.

State Environmental Planning Policy (State and Regional Development) 2011

Clause 20 regional development is triggered by the development. In particular, Schedule 4A, Clause 9(b) of the *Environmental Planning and Assessment Act 1979* states as follows:

9 Coastal subdivision

Development within the coastal zone for the purposes of subdivision of the following kind:

- (a) subdivision of land for any purpose into more than 100 lots, if more than 100 of the lots will not be connected to an approved sewage treatment work or system,*
- (b) subdivision of land for residential purposes into more than 100 lots, if the land:*
 - (i) is not in the metropolitan coastal zone, or*
 - (ii) is wholly or partly in a sensitive coastal location,*
- (c) subdivision of land for rural-residential purposes into more than 25 lots, if the land:*
 - (i) is not in the metropolitan coastal zone, or*
 - (ii) is wholly or partly in a sensitive coastal location.*

The proposed development meets Clause 9(b) as more than 100 lots are proposed outside the metropolitan coastal zone and the site is partially located within a sensitive coastal location.

Clause 21, the Northern Joint Regional Planning Panel is to exercise the consent authority function.

State Environmental Planning Policy (Rural Lands) 2008

The following assessment table provides an assessment against specific requirements of this SEPP:

SEPP requirement	Comment	Complies
Objectives		
2(a) to facilitate the orderly and economic use and development of rural lands for rural and related purposes,	The proposed development is occurring within an area that has been strategically zoned for urban purposes. Furthermore, rural zoned land to the south west is separated by roads, vegetation and screening. In terms of the rural zoned land to the west, the applicant proposes larger lot sizes to enable greater chance of separation and buffering. The larger lots also continue along a similar setback to the existing estate (ie no new conflict to that existing at present). Based on the above, the proposed development will not impact on the orderly or economic use of adjoining rural land.	Yes
2(b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,	Planning principles noted and not considered to be compromised by the proposal.	Yes
2(c) to implement measures designed to reduce land use conflicts,	Refer to comments on 2(a) above.	Yes
2(d) to identify State significant agricultural land for the purpose of ensuring	State significant agricultural land will not be impacted. Proposal is to develop urban	Yes

the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,	zoned land with measures in place to protect adjoining agricultural land.	
2(e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.	Not relevant.	N/A
Rural Planning Principles		
7(a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,	Use of rural zoned land will not be restricted.	Yes
7(b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,	Importance noted and will not be impacted.	Yes
7(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,	Noted and remain unaffected.	Yes
7(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,	Land has already been zoned accordingly. Design acceptable.	Yes
7(e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,	Key natural areas/habitat have been identified and protected.	Yes
7(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural	Development allows suitable housing/settlement without compromising rural zoned areas.	Yes

communities,		
7(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,	Services etc will not impact on agriculture.	Yes
7(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.	The proposed development is not inconsistent with any strategy.	Yes
Rural Subdivision Principles	No rural subdivision proposed.	N/A
Matters to be considered in determining development applications for rural subdivisions or rural dwellings		
<p>10(1) This clause applies to land in a rural zone, a rural residential zone or an environment protection zone.</p> <p>10(2) A consent authority must take into account the matters specified in subclause (3) when considering whether to grant consent to development on land to which this clause applies for any of the following purposes:</p> <p>(a) subdivision of land proposed to be used for the purposes of a dwelling,</p> <p>(b) erection of a dwelling.</p> <p>10(3) The following matters are to be taken into account:</p> <p>(a) the existing uses and approved uses of land in the vicinity of the development,</p> <p>(b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the</p>	Refer to comments on 2(a) above, which support the proposed development design.	Yes

development, (c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b), (d) if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone, (e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).		
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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, E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living. It should be noted that no works are proposed within the E2 and E3 zones except for some vegetation planting associated with the VMP. For this reason, the report will not focus on the controls relative to these zones as vegetation planting is permissible.

In accordance with clause 2.3(1) and the R1 and E4 zone landuse table, the proposed development for a residential subdivision is a permissible landuse with consent.

The objectives of the R1 and E4 zones are as follows:

R1 zone

- 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.

E4 zone

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.

In accordance with Clause 2.3(2), the proposal is consistent with the zone objectives having regard to the following:

- The proposal is a permissible landuse.

- The development provides land for future housing to meet the needs of the community.
- The development will be low impact within the E4 zone through site controls.
- The development will not create an adverse impact on the ecological values of the E4 zone.
- Clause 4.1, the proposed R1 zoned residential lots comply with the 450m² minimum lot size standard and the E4 lots comply with the 2000m² minimum lot size.
As has been done in previous subdivisions, the undersized E2 and E3 zoned lots to be dedicated to Council for public purposes/drainage (eg proposed Lot 152) are done using Clause 2.75(f) of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- Clause 5.5, development within the coastal zone (relevant objectives of this clause are addressed by SEPP 71 section - see above).
- Clause 5.9 listed trees in Development Control Plan 2013 are proposed to be removed. The tree removal process, value and replacement plantings have been assessed in the application and deemed acceptable. A VMP is to be put in place to manage the tree removal/replacement process.
- Clause 5.10, the site does not contain or adjoin any known heritage items or sites of significance. The applicant also produced a heritage report looking into Aboriginal archaeology. The report found no evidence but did suggest a precautionary condition to cover the possibility of something being found during work (i.e. work to cease if items found). Condition will be incorporated into the recommended consent.
- Clause 6.1, arrangements for designated State public infrastructure on urban release areas has been resolved previously as per the letter from the Department of Planning to Council dated 6 December 2012.
- Clause 6.2, satisfactory arrangements are in place for provision of essential public utility infrastructure including stormwater, water and on-site sewage management/sewer infrastructure to service the development within an urban release area.
- Clause 6.3, a compliant DCP is in place for the Area 14 urban release area and has been considered - see DCP assessment below in this report.
- Clause 7.1, the property is mapped as potentially containing class 5 acid sulfate soils. The actual area to be developed is predominately not mapped and no major excavations proposed that are likely to create an acid sulphate soil issue onsite. Further consideration of this clause is not required in this case.
- Clause 7.2, no major earthworks proposed.
- Clause 7.3, the site contains land within a mapped "flood planning area". The application was referred to Council's Flood Officer who raised no objection, subject to imposition of conditions. In this regard, the following comments are provided which incorporate consideration of the objectives of Clause 7.3, Council's Flood Policy 2015, the NSW Government's Flood Prone Lands Policy and the NSW Government's Floodplain Development Manual (2005):
 - The proposal is compatible with the flood hazard of the land taking into account projected changes as a result of climate change;
 - The proposal will not result in a significant adverse affect on flood behaviour that would result in detrimental increases in the potential flood affectation of other development or properties;

- The proposal incorporates measures to minimise & manage the flood risk to life and property associated with the use of land;
- The proposal is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses;
- The proposal is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.
- Clause 7.4, flood risk management land applies to the site. However, this clause only applies to the following development with particular evacuation or emergency response issues – caravan parks, aged care facilities, correctional facilities, emergency services facilities, group homes, hospitals & tourist & visitor accommodation. The proposal does not constitute such development and no further consideration of this clause is required.
- Clause 7.13, satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, sewer infrastructure, stormwater drainage and suitable road access to service the development. Provision of electricity and telecommunications will be subject to obtaining satisfactory arrangements certification prior to the issue of a Subdivision Certificate as recommended by a condition of consent.

(a)(ii) Any proposed instrument that is or has been placed on exhibition

No draft instruments apply to the site.

(a)(iii) Any DCP in force

Port Macquarie-Hastings Development Control Plan 2013:

DCP 2013: Chapter 3.6 - Subdivision			
DCP Objective	Development Provisions	Proposed	Complies
3.6.3.1	<p>A site analysis is required for all development and shall illustrate:</p> <ul style="list-style-type: none"> ● microclimate; ● lot dimensions; ● north point; ● existing contours and levels to AHD; ● flood affected areas; ● overland flow patterns, drainage and services; ● any contaminated soils or filled areas, or areas of unstable land; ● easements and/or connections for drainage and utility services; 	A suitable site plan addressing key requirements was submitted.	Yes

	<ul style="list-style-type: none"> • identification of any existing trees and other significant vegetation; • any existing buildings and other structures, including their setback distances; • heritage and archaeological features; • fences; • existing and proposed road network, including connectivity and access for all adjoining land parcels; • pedestrian and vehicle access; • views to and from the site; • overshadowing by neighbouring structures; and • any other notable features or characteristics of the site. 		
3.6.3.2	Torrens title lots minimum width of 15m when measured at a distance of 5.5m from front property boundary.	All lots comply with the minimum of 15m width requirement.	Yes
	Minimum width of 7m when boundaries are extended to kerb line.	Standard lot sizes proposed.	Yes
	Minimum depth of 25m.	All lots comply with the minimum 25m depth requirement.	Yes
	For lots where average slope of the site is equal to, or exceeds 16%, indicative road and driveway grades are required demonstrating satisfactory access.	Grades acceptable for future development.	Yes
	Subdivision of dual	Not applicable.	N/A

	<p>occupancy development or multi dwelling housing where permissible in the LEP may create allotments smaller than 450m² if:</p> <ul style="list-style-type: none"> Each lot to be created is part of a community or strata title scheme, or Is part of an integrated Torrens title housing development. 		
3.6.3.3	<p>Battleaxe lots discouraged in greenfield development.</p>	<p>Battleaxe lots have been reserved for the E4 subdivision area. There are only 3 proposed and they are more in response to maximizing the development potential of the land while also aiding in the retention of vegetation, not creating adverse servicing costs or impacts on amenity. The battleaxe lots do not have long handles, which results in the building areas adjoining the standard lots - no privacy issues. In addition, the larger lots sizes also still create a wide frontage (minimum 5m), which will limit impact on streetscape, garbage collection and crossover domination.</p>	<p>No, but acceptable</p>
	<p>Council may consider permitting Torrens Title battleaxe allotments for —infill development where it is demonstrated that;</p> <ul style="list-style-type: none"> a Torrens Title lot, that is <i>not</i> a battleaxe lot, <i>cannot</i> be achieved; and the number of crossovers do not reduce the amenity of the street or on street parking; and the impact of noise, 	<p>Refer to above.</p>	<p>Refer to above.</p>

	<p>dust and headlights on the land owners adjoining the driveway is addressed by the construction of an acoustic fence for the full length of the driveway; and</p> <ul style="list-style-type: none"> addresses privacy between the rear lot and the rear open space of the front lot by the provision of adequate screening, larger lot size and setbacks; and extends utilities to the end of the axe handle; and there is sufficient space for garbage collection on the frontage. 		
3.6.3.4	<p>Lots are to be designed to allow the construction of a dwelling, which does not involve more than 1m cut, or fill, measured from natural ground level, outside the dwellings external walls.</p>	Proposed lots are capable of allowing dwellings with minimal cut and fill.	Yes
	<p>Lot sizes increased for sloping sites in accordance with Table 3.6.1.</p>	Lot sizes are acceptable and comply with LEP 2011.	Yes
	<p>Additional information provided for slope categories in accordance with Table 3.6.2.</p>	Not required. Slope is acceptable.	Yes
3.6.3.5	<p>Wherever possible orientate streets to maximise the number of east, west and south facing lots and to minimise the number of narrow north facing lots. Residential street blocks should preferably be orientated north-south with dimensions generally limited to 60-80m by 120-150m as illustrated</p>	Proposed lot design is acceptable for maximising solar orientation.	Yes

	in Figure 3.6-2.		
	Lot size and shape are to reflect orientation to ensure future dwelling construction has optimal opportunity for passive solar design.	Lot size and shape ensures suitable passive solar design opportunities.	Yes
3.6.3.6	Kerb and guttering, associated street drainage, pavement construction and foot paving across the street frontages should be constructed as part of the subdivision works where these do not exist (may be varied subject to criteria in this clause)	To be conditioned where necessary.	Yes
3.6.3.7	Subdivisions close to urban centres or along arterial roads serviced by public transport achieve yield of >35 dwellings per hectare.	Development allows suitable density, especially considering lots can be further developed.	Yes
3.6.3.20	Water supply to meet Council's design specifications.	Capable of complying.	Yes
3.6.3.21	All lots connected to reclaimed water if available.	Capable of complying.	Yes
3.6.3.24	Separate sewer junction provided for each lot.	Capable of complying.	Yes
3.6.3.27	Erosion and sediment control plan to be provided.	To be conditioned.	Yes
3.6.3.34	All service infrastructure should be underground unless otherwise approved by Council.	To be conditioned.	Yes
	All service infrastructure should be installed in a common trench.	Where applicable, to be conditioned.	Yes
	Conduits for the main technology network system should be provided in all streets.	Where applicable, to be conditioned.	Yes
	Conduits are to be installed in accordance with the National Broadband Network Company Limited's 'Guidelines for Fibre to	Where applicable, to be conditioned.	Yes

	<i>the Premises Underground Deployment</i> .		
	Access pits are to be installed at appropriate intervals along all streets.	Where applicable, to be conditioned.	Yes
3.6.3.51	Street trees should be provided along all road frontages generally at a rate of 1 per 20m interval.	Street trees are covered by the VMP at rates accepted by Council's Parks Section.	Yes
	Street trees should not affect solar access.	Street trees will not create any adverse impact on solar access.	Yes
3.6.3.52	Street trees from Council's list.	Street trees are covered by the VMP at types/rates accepted by Council's Parks Section.	Yes
DCP 2013: General Provisions			
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"> Casual surveillance and sightlines Land use mix and activity generators Definition of use and ownership Lighting Way finding Predictable routes and entrapment locations 	The layout does not create any crime safety issues. The design allows separation from habitat/concealment areas and allows surveillance of the street.	Yes
2.3.3.1	Cut and fill 1.0m max. 1m outside the perimeter of the external building walls	No adverse cut or fill proposed.	Yes
2.3.3.2	1m max. height retaining walls along road frontages	None proposed.	N/A
	Any retaining wall >1.0 in height to be certified by structural engineer	None proposed.	N/A
2.3.3.8 onwards	Removal of hollow bearing trees	Tree removal (including hollow bearing) covered by Ecological Assessment and Vegetation Management Plan.	Yes
2.6.3.1	Tree removal (3m or	Tree removal covered by	Yes

	higher with 100m diameter trunk and 3m outside dwelling footprint	Vegetation Management Plan.	
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	Noted
2.5.3.2	New accesses not permitted from arterial or distributor roads. Existing accesses rationalised or removed where practical	No new access proposed off an arterial or distributor road.	Yes
2.5.3.11	Section 94 contributions	Contributions apply.	Yes
DCP 2013 - Rainbow Beach			
DCP Objective	Development Provisions	Proposed	Complies
1.1	Development consistent with layout on Figures 62 to 64.	Development is consistent with the layout requirements	Yes
1.2	First DA in precinct needs staging plan.	Not the first DA in the precinct. Nonetheless, a suitable staging plan has been provided for the site.	Yes
2.1	Development yields.	Development yields on track. Various lots within the subdivision have re-development potential.	Yes
3.1	Staged developments need an Infrastructure Servicing Plan.	Capable of compliance, especially through conditions and s68/138 process.	Yes
4.1	Signalised and roundabout intersections are provided in accordance with layout figures.	Not relevant to the site.	N/A
4.2	Design requirements for Ocean Drive.	Development complies with design requirements for Ocean Drive.	Yes
5.1	Cycleways, shareways etc requirements	Provided in accordance with DCP.	Yes
5.2	Pedestrian link requirements.	Provided in accordance with DCP.	Yes
6-8	Noise, visual amenity, SEPP 26 buffer and urban design.	The applicant has submitted a noise report, fencing detail, landscaping and gateway treatments in accordance with the DCP. To be reinforced through conditions.	Yes
11	Environmental Living Area	The proposal addresses	Yes

	(E4 zone)	KPOM requirements for the E4 zone and includes building envelopes of sufficient size to accommodate future dwellings. The design has been focused on retaining vegetation, while at the same time allowing suitable areas for dwellings.	
12.1	North south streets to be in accordance with Figure 71.	Streets comply.	Yes
12.2	20m wide habitat link as per Figure 71.	20m habitat link provided as per Figure 71 via Road 8 vegetated median strip.	Yes
12.3	30m wide road reserve habitat link as per Figure 71.	Not relevant to the site.	N/A
13.1	Development considers existing rural residential areas, KPOM requirements and linkages.	Development complies with the Area 14 KPOM and will be installing/protecting key habitat links. The development considers the existing rural residential area by providing lots that will have rear boundaries to the existing rural residential area. In most cases, future development will need to provide a 4m rear setback, which will help maintain a suitable level of separation.	Yes
13.2	Subdivision adjoining R2 and E4 zones is designed to avoid adverse amenity impacts by using landscaping and differing density.	Refer to comments above. In addition, a VMP is in place to ensure significant landscaping/vegetation throughout the subdivision.	Yes
14.1	Development in flood planning area requirements.	Compliance with flooding addressed above in LEP 2011.	Yes
15	Houston Mitchell Drive Treatment	Development provides foot paving, fencing and vegetation along Houston Mitchell Drive in accordance with DCP.	Yes

(a)(iii)(a) Any planning agreement or draft planning agreement

The Area 14 Stage 1A Sydmart Planning Agreement and Area 13, 14 & 15 Local Roads Contributions Plan apply to the site.

The proposed development complies with relevant planning agreements subject to conditions.

(a)(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.

(a)(v) Any Coastal Zone Management Plan

- No Coastal Zone Management Plan applies to the subject site.

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

The site has street access from Forest Parkway, which connects to Houston Mitchell Drive and Ocean Drive. The site also has access via the public road system servicing the manufactured housing estate to the east.

Adjoining the site to the north is an existing large lot residential subdivision with associated housing. Further north is the Lake Innes Nature Reserve and land recently approved under DA2016 - 87 for 68 residential lots.

Adjoining the site to the east is an approved manufactured housing estate that is partially complete with further sites to be created.

Adjoining the site to the west is timbered rural land.

Adjoining the site to the south is the Lake Cathie Primary School and the remaining Area 14 residential area. It should be noted that there is currently a separate DA2016 - 465 in with Council for approximately 700 lots to be located in the Area 14 land to the south of DA2016 - 88. The application is still being processed but is likely to be presented to the Joint Regional Planning Panel at a later date.

The proposal will be unlikely to have any adverse impacts to existing adjoining properties and is considered to satisfactorily address the public domain.

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

Roads, Traffic, Transport, Site Frontage & Access

The road layout and hierarchy has been designed in accordance with the Area 14 Development Control Plan provisions, which connects in with the adjoining properties/roads. Footpaths and street plantings will also be provided throughout the subdivision to improve pedestrian connections and amenity.

Overall, the road layout, traffic impacts, frontages and access associated with the development were all reviewed by Council's Engineering Section and deemed to create no adverse impact, subject to conditions.

Water Supply Connection

Council records indicate that the development site is able to be connected to water with details to be shown on the engineering plans at the Construction Certificate stage.

Sewer Connection

Council records indicate that the development site is able to be connected to sewer with a junction that has been provided in a manhole near the collection manhole for the sewer pump station on Lot 35 DP 803801. Details are to be shown on the engineering plans at the Construction Certificate stage.

Stormwater

Council's Stormwater Engineer has assessed the application/proposed stormwater design and deemed it acceptable, subject to conditions and detailed design being submitted at the Construction Certificate stage. The system will utilise a combination of street drainage, detention and swales to direct the water to the public reserve in a controlled state.

Other Utilities

Telecommunication and electricity services are available to the site and/or can be extended at the applicants expense.

Heritage

Refer to comments on heritage above in the LEP 2011 section of this report.

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

The applicant has submitted a ecological assessment prepared by a suitably qualified person. The assessment was also reviewed and accepted by Council's Natural Resources Section.

While the subdivision will require the removal/clearing of vegetation, the impacts were deemed to create no adverse impact on biodiversity or threatened species of flora and fauna.

Key to this outcome is the extensive replacement plantings that will be incorporated into the design by an approved VMP. The replacement plantings will be better located to improve habitat corridors and linkages throughout the area, while also protecting the more relevant key habitat areas.

As an example, both DA2016 - 87 & 88 require the removal of 70 koala food trees. The Area 14 KPOM and DCP require replacement plantings at 20:1. This would result in the need for 1,400 koala food trees. Over the two development applications, the applicant proposes just over 470 replacement trees throughout the subdivisions and within proposed public reserves. This still leads to a shortfall of over 900 trees.

In relation to the shortfall in compensatory plantings and based on Council requirements of 8m spacing's, 900+ KFTs would require a cleared land area of approximately 5.9ha. The only cleared land suitable for planting is located immediately adjoining the western edge of the Lake Cathie Nature Reserve, within Lot 33 to the north of the subject development site. This area is generally flood prone and would be expected to form part of the buffer to the Nature Reserve as part of the future rezoning of residential investigation areas within Lot 33. This land has been inspected by Council staff and it was noted that although regularly slashed, natural regeneration of native vegetation is currently occurring.

It is proposed in the accompanying VMP that rather than planting over 900 individual KFTs, Management Unit 4 is to be fenced from grazing and managed as a natural regeneration area. Management Unit 4 adjoins the western edge of the Lake Cathie Nature Reserve and has a total land area of 9ha, 4.5ha of which is currently cleared (slashed).

The VMP provides for annual reporting to Council with respect to the implementation of its compensatory measures. The use of natural regeneration within Management Unit 4 to secure an overall offset area of 9ha adjoining the Nature Reserve is on balance, considered to be a suitable response to the compensatory planting requirements. Overall the outcome is supported by Council's staff.

Section 5A of the Act is considered to be satisfied.

Waste

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

Energy

No adverse impacts anticipated.

Noise and vibration

The application was referred to Council's Environmental Health Officer to consider impacts of road noise from Ocean Drive (classified road). In particular, potential exists for noise from road traffic to adversely affect future dwelling occupants.

To negate noise impacts a 1.8m high fence on top of a 400mm mound is proposed along the Ocean Drive frontage, consistent with other estates being developed to the east. Vegetation screening will also be included to soften the appearance of the fence from Ocean Drive.

Even with the above, some lots were still identified as being affected by road noise. The recommendations made in the noise report did not include a reference to Category 2 construction or the additional BCA compliant internal ventilation that is needed for dwellings built on the noise affected lots. Appendix B4 Night LAeq (9 hour) dBA 4.5m Above Ground Level" on page 21 of the Report shows the noise affected lots in yellow. Homes in the yellow section require Category 2 construction and additional ventilation.

Based on the above, the affected lots in Appendix B4 will need to include an 88B Instrument requiring Category 2 construction and additional internal BCA compliant ventilation.

Bushfire

The site is identified as being bushfire prone.

In accordance with Section 100B - *Rural Fires Act 1997* - the application proposes subdivision of bush fire prone land that could lawfully be used for residential purposes.

The applicant has submitted a bushfire report prepared by a Certified Consultant. The report assumes that the proposed subdivision can occur under Section 100B requirements.

The Commissioner has assessed the development and has issued a Bushfire Safety Authority, which will form part of the conditions of consent. Furthermore, the applicant has demonstrated that the development can comply with the requirements of the Bushfire Safety Authority as well as implementing the requirements of the VMP, without creating any long term maintenance of vegetation burden on Council.

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 strategic planning and development controls that have been put in place governing the development of the Area 14 precinct and the compliance of the subdivision with such controls; 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 maintained employment and 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. The design links in with existing and proposed developments for the Area 14 precinct. No adverse impacts likely.

Construction

Short term construction impacts associated with developing the subdivision will be managed by conditions applying to hours of operation, erosion control, dust control etc. No other long term impacts identified to neighboring 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 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 was received following public exhibition of the application.

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

Submission Issue/Summary	Planning Comment/Response
The proposal to have 6 lots backing onto one of the existing lots in Forest Parkway is too invasive and will	The above concern is noted. However, except for proposed lot 123 (corner lot), all the other lots

<p>impact on privacy. Suggested that the 6 lots be replaced with one larger lot.</p> <p>The 6 lots will also create a maintenance issue having to deal with so many properties owners over fence issues, pruning etc.</p> <p>The above scenario will also impact on property values.</p>	<p>share a rear boundary with the adjoining existing larger lot. Furthermore, planning controls require larger rear setbacks. The larger rear setback requirement coupled with standard side/rear fencing will ensure privacy is retained between the new and existing lots.</p> <p>A condition is also recommended to require the boundary fence be put in place prior to the creation of the lots. This will ensure only two neighbours need to negotiate the fence design outcome.</p> <p>Property values is not a matter for consideration under S79C.</p>
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(e) The public interest

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

The proposed development satisfies relevant planning controls and is not expected to impact on the wider public interest.

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

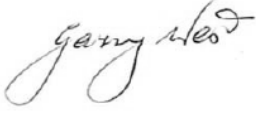




- Development contributions will be required towards augmentation of town water supply and sewerage system head works under Section 64 of the Local Government Act 1993.
- Development contributions will be required under Section 94 of the Environmental Planning and Assessment Act 1979 towards roads, open space, community cultural services, emergency services and administration buildings.

Refer to draft contribution schedule attached to this report and recommended conditions.

5. CONCLUSION

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

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

NORTHERN JOINT REGIONAL PLANNING PANEL		
Meeting held at Port Macquarie-Hastings Council on Wednesday 17 August 2016 at 10:00 am		
Panel Members: Garry West (chair), Stephen Gow, John Griffin, Paul Drake and Matt Rogers		
Apologies: None - Declarations of Interest: None		
Determination and Statement of Reasons		
2016NTH006 Port Macquarie-Hastings Council [at corner of Ocean Drive, Houston Mitchell Drive and Forest Parkway, Lake Cathie] as described in Schedule 1.		
Date of determination: 17 August 2016		
Decision: The panel determined to approve the development application as described in Schedule 1 pursuant to section 80 of the <i>Environmental Planning and Assessment Act 1979</i> .		
Panel consideration: The panel considered: the matters listed at item 6 as addressed in the Council Assessment Report, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.		
Reasons for the panel decision: SEPP 44 – Koala Habit Protection: The site is subject to a Koala Plan of Management and is deemed to be consistent with the plan. SEPP 55 – Remediation of Land: The site is not identified as being potentially contaminated. SEPP 62 – Sustainable Aquaculture: Given the stormwater controls adopted the proposal is unlikely to have any adverse impact on existing aquaculture industries within the Lake Innes Nature Reserve. SEPP 7 – Coastal Protection; The Minister waived the need for a Masterplan. The panel adopted the assessment of those matters in the Council Assessment Report. The principal reason for the panel decision was that the proposed development satisfies relevant planning controls and is not expected to impact on the wider public interest. Other reasons for the panel decision were; the site attributes are conducive to the proposed development; the site has been subject to the strategic planning and development controls governing the development of the area; the development design satisfactorily responds to the site attributes; the Vegetation Management Plan provides for the implementation of appropriate compensatory measures; and the short term construction impacts will be managed by appropriate conditions.		
Conditions: The development application was approved subject to the conditions in the Council Assessment Report as amended at the meeting. Draft condition E9 was deleted as it's requirement is not currently council policy; Condition E24 was amended to require a solid fence be extended to include proposed Lot 115. Approved conditions are in Schedule 2.		
Panel members:		
 Garry West (chair)	 Stephen Gow	 John Griffin
 Paul Drake	 Matt Rogers	

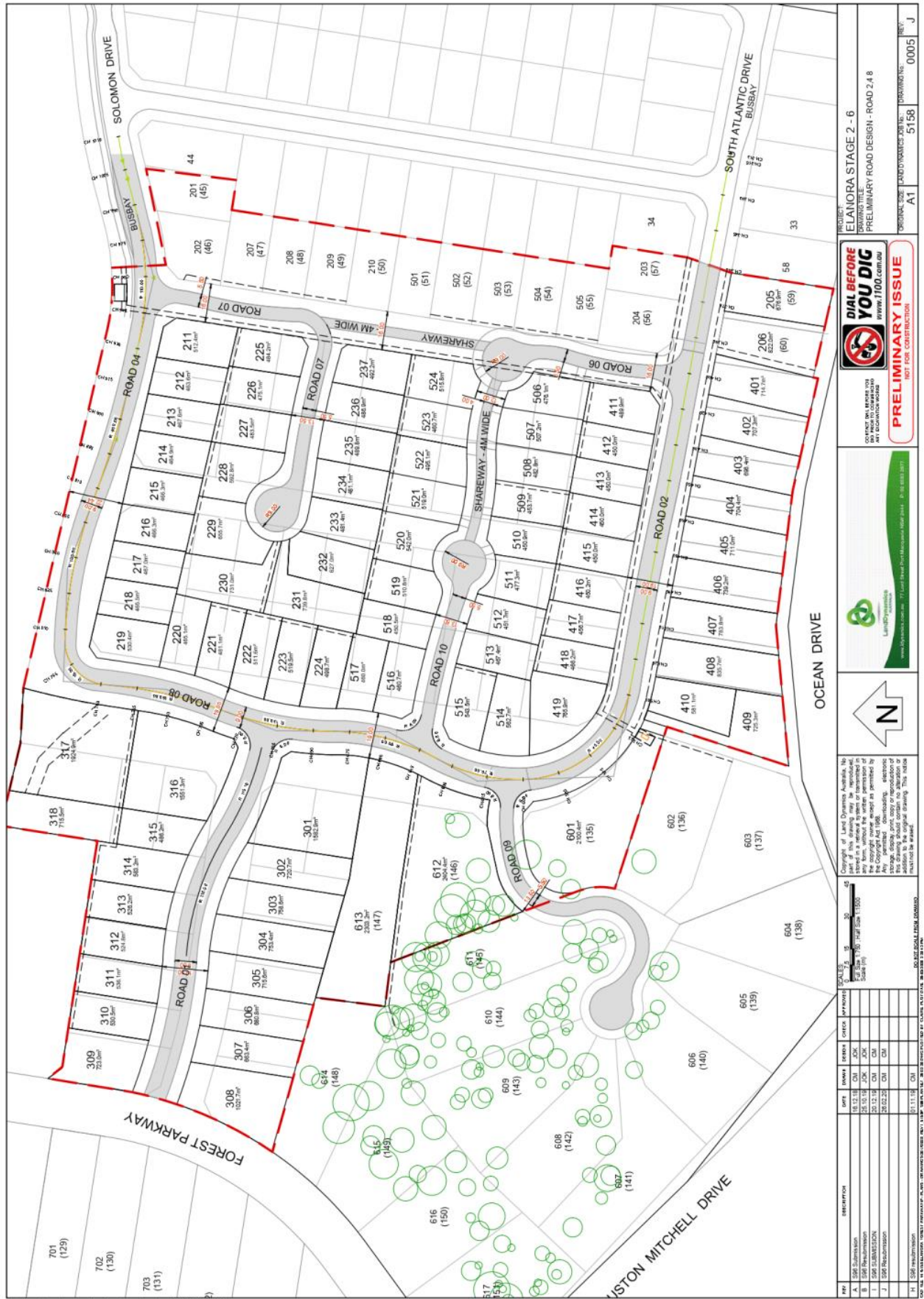












Developer Charges - Estimate

Applicants Name: Land Dynamics
 Property Address: Forest Parkway, Lake Cathie
 Lot & Dp: Lot(s):8 & 1,DP(s):1210904 & 1185458
 Development: Staged Residential Subdivision (166 residential lots and reserve) as modified



Note: This Notice includes contributions amounts referred to in the Sydmar Area 14 Stage 1A Planning Agreement dated 23 December 2011.
 Water and Sewerage Headworks Levies are levied under S64 of the LGA Act & S306 of the Water Management Act 2000.
 Other contributions are levied under Section 94 of the Environmental Planning and Assessment Act and Council's S94 Contribution Plans.

Levy Area	Units	Cost	Estimate
1 Water Supply	169.4	\$10,322.00 Per ET	\$1,748,546.80
2 Sewerage Scheme Lake Cathie/Bonny Hills	165	\$3,916.00 Per ET	\$646,140.00
3 Since 1.7.04 - Major Roads - Lake Cathie/Bonny Hills - Per ET	165	\$5,843.00 Per ET	\$964,095.00
4 Open Space Contribution provided for in the Sydmar Area 14 Stage 1A Planning Agreement	165	\$7,763.00 Per ET	\$1,280,895.00
5 Commenced 3 April 2006 - Com, Cul and Em Services CP - Lake Cathie / Bonny Hills	165	\$5,329.00 Per ET	\$879,285.00
6 Com 1.3.07 - Administration Building - All areas	165	\$921.00 Per ET	\$151,965.00
7 Commenced 3 April 2006 - Com, Cul and Em Services CP - Bushfire	165	\$511.00 Per ET	\$84,315.00
8 Since 13.6.14 - Local Roads Contributions Plan - Area 14 - Per ET	165	\$7,579.00 Per ET	\$1,250,535.00
9 N/A			
10 N/A			
11 N/A			
12 N/A			
13 N/A			
14 N/A			
15 Admin General Levy - Applicable to Consents approved after 11/2/03	2.2%	S94 Contribution	\$101,443.90
16			
17			
18			
Total Amount of Estimate (Not for Payment Purposes)			\$7,107,220.70

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

DATE OF ESTIMATE: 18-May-2020

Estimate Prepared By Clinton Tink

This is an ESTIMATE ONLY - NOT for Payment Purposes

and Dynamics, Forest Parkway, Lake Cathie, 18-May-2020.xls

PORT MACQUARIE-HASTINGS COUNCIL