



PORT MACQUARIE-HASTINGS  
COUNCIL



# Development Assessment Panel

## Business Paper

date of meeting: Thursday 11 February 2021

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**

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#### **1.0 OBJECTIVES**

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

#### **2.0 KEY FUNCTIONS**

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

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

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

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

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

#### **3.0 MEMBERSHIP**

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

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

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

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

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

- Not applicable

### **3.3 Obligations of members**

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

### **3.4 Member Tenure**

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

### **3.5 Appointment of members**

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

## **4.0 TIMETABLE OF MEETINGS**

- The Development Assessment Panel will generally meet on the 1st and 3rd Wednesday each month at 2.00pm at the Port Macquarie offices of Council.
- Special Meetings of the Panel may be convened by the Director Development & Environment Services with three (3) days notice.

## **5.0 MEETING PRACTICES**

### **5.1 Meeting Format**

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

### **5.2 Decision Making**

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

### **5.3 Quorum**

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

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

- Independent Chair (alternate, second independent member)

### **5.5 Secretariat**

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

### **5.6 Recording of decisions**

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

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

Not applicable.

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

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

## **8.0 LOBBYING**

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

## Development Assessment Panel

### ATTENDANCE REGISTER

Member	14/10/20	28/10/20	11/11/20	25/11/20	02/12/20	16/12/20	21/01/21
Paul Drake	✓	✓	✓	✓	✓	✓	✓
Robert Hussey		✓		✓			
David Crofts (alternate member)	✓		✓		✓	✓	✓
Dan Croft (Group Manager Development Assessment) (alternates) - Development Assessment Planner	✓	✓	✓	✓	✓	✓	A  ✓

**Key:** ✓ = Present

A = Absent With Apology

X = Absent Without Apology

### Meeting Dates for 2021

21/01/2021	Function Room	2:00pm
11/02/2021	Committee Room	2:00pm
25/02/2021	Committee Room	2:00pm
11/03/2021	Committee Room	2:00pm
25/03/2021	Function Room	2:00pm
8/04/2021	Function Room	2:00pm
22/04/2021	Function Room	2:00pm
13/05/2021	Function Room	2:00pm
27/05/2021	Committee Room	2:00pm
10/06/2021	Function Room	2:00pm
24/06/2021	Function Room	2:00pm
15/07/2021	Function Room	2:00pm
29/07/2021	Function Room	2:00pm
12/08/2021	Function Room	2:00pm
26/08/2021	Committee Room	2:00pm
9/09/2021	Function Room	2:00pm
30/09/2021	Function Room	2:00pm
14/10/2021	Function Room	2:00pm
28/10/2021	Function Room	2:00pm
11/11/2021	Committee Room	2:00pm
25/11/2021	Committee Room	2:00pm
9/12/2021	Function Room	2:00pm

# Development Assessment Panel Meeting

Thursday 11 February 2021

## Items of Business

Item	Subject	Page
01	Acknowledgement of Country .....	<u>8</u>
02	Apologies.....	<u>8</u>
03	Confirmation of Minutes .....	<u>8</u>
04	Disclosures of Interest.....	<u>14</u>
05	DA2020 - 1002.1 Secondary Dwelling at Lot 39 DP 851894, 14 Casuarina Drive Lakewood .....	<u>18</u>
06	General Business	

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

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

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

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**RECOMMENDATION**

That the apologies received be accepted.

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

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**RECOMMENDATION**

That the Minutes of the Development Assessment Panel Meeting held on 21 January 2021 be confirmed.



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## **PRESENT**

### **Members:**

Paul Drake (Independent Chair)  
David Crofts (Independent Member)  
Acting Group Manager Development Assessment (Pat Galbraith-Robertson)

### **Other Attendees:**

Development Assessment Planner (Chris Gardiner)  
Development Assessment Planner (Fiona Tierney)  
Development Assessment Planner (Steven Ford)  
Development Assessment Planner (Ben Roberts)  
Building Surveyor (Ross Frazier)  
Acting Development Engineering Coordinator (Kerrod Franklin)

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The meeting opened at 2:00pm.

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## **01 ACKNOWLEDGEMENT OF COUNTRY**

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The Acknowledgement of Country was delivered.

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## **02 APOLOGIES**

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### **CONSENSUS:**

That the apology received from Dan Croft be accepted.

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## **03 CONFIRMATION OF MINUTES**

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### **CONSENSUS:**

That the Minutes of the Development Assessment Panel Meeting held on 16 December 2020 be confirmed.

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#### **04 DISCLOSURES OF INTEREST**

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There were no disclosures of interest presented.

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#### **05 DA2020 - 701.1 PART CHANGE OF USE FROM EDUCATIONAL ESTABLISHMENT TO MULTI DWELLING HOUSING INCLUDING TOURIST AND VISITOR ACCOMMODATION, 11 MISSION TERRACE LAKEWOOD, LOT 2 DP 771931**

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Speakers:  
Tony Blue (applicant)

##### **CONSENSUS:**

That DA2020 - 701 for a part Change of Use from Educational Establishment to Multi Dwelling Housing including Tourist and Visitor Accommodation at Lot 2, DP 771931, No. 11 Mission Terrace, Lakewood, be determined by granting consent subject to the recommended conditions and as amended below:

Amend condition B(13):

- (13) (B046) The buildings identified as Holiday Let dwellings shall be upgraded and constructed so as to comply with the Bushfire Attack Level (BAL) 12.5 requirements of Australian Standard 3959 and the specifications and requirements of Planning for Bush Fire Protection. Details shall be submitted to the Principal Certifying Authority with the application for Occupation Certificate demonstrating compliance with this requirement.

Please note: Compliance with the requirements of the current Planning for Bush Fire Protection Guidelines to prevail in the extent of any inconsistency with the Building Code of Australia.

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#### **06 DA2020 - 917.1 ANCILLARY BUILDING CARPORT AT LOT 44 DP 1078055, NO 12 ST VINCENTS WAY, BONNY HILLS**

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Speakers:  
Perry Minchin (opposing the application)  
Christopher Xerri (applicant)

##### **CONSENSUS:**

That DA2020 - 917.1 for ancillary building - carport at Lot 44 DP 1078055, No. 12 St Vincents Way, Bonny Hills be determined by granting consent subject to the recommended conditions.

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**07     DA2020 - 962.1 DWELLING-HOUSE AT LOT 510 DP 1261705, NO. 130  
CRESTWOOD DRIVE, PORT MACQUARIE**

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Speakers:

Siggy Haveland (opposing the application)  
Kristen Haveland (opposing the application)  
Garth Schmitzer (applicant)

CONSENSUS:

That DA2020 - 962 for a dwelling-house at Lot 510, DP 1261705, No. 130 Crestwood Drive, Port Macquarie, be determined by granting consent subject to the recommended conditions.

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**08     DA2020 - 430.1 ADDITIONAL DWELLING TO CREATE DUAL OCCUPANCY  
WITH TORRENS TITLE SUBDIVISION, LOT 6 DP258215, 5 KIAH PLACE  
BONNY HILLS, 11028**

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Speakers:

Rikki McCudden (opposing the application)  
Liam McCudden (opposing the application)  
Karen Burke (applicant)

CONSENSUS:

That DA2020 - 430.1 for Additional Dwelling to create Dual Occupancy with Torrens Title Subdivision at Lot 6, DP 258215, No. 5 Kiah Place, Bonny Hills, be determined by granting consent subject to the recommended conditions.

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**09 DA2020 - 713.1 DWELLING AND SWIMMING POOL AT LOT 33 DP 31187, NO. 58 WATONGA STREET, PORT MACQUARIE**

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**Speakers:**

Keith Van Klink (opposing the application)  
Brett Hawe (opposing the application)  
Janelle Hawe (opposing the application)  
Craig Teasdell (applicant)  
Mary Anne Friend (applicant)

**CONSENSUS:**

That DA 2020 - 713.1 for a dwelling and swimming pool at Lot 33, DP 31187, No. 58 Watonga Street, Port Macquarie, be determined by granting consent subject to the recommended conditions.

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**10 DA2020 - 606.1 DEMOLITION OF CARAVAN PARK AND CONSTRUCTION OF SERVICE STATION, FOOD AND DRINK PREMISES AND CAR PARK AT LOT 702 DP 1151916, NO 128 HASTINGS RIVER DRIVE, PORT MACQUARIE**

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**Speakers:**

Therese Dunford (opposing the application)  
Margaret Simpson (opposing the application)  
Anthony Green (opposing the application)  
Caroline Willoughby (opposing the application)  
Elizabeth Reed (opposing the application)  
Geoff Brisby (opposing the application)  
Stephen Moore (applicant)

**CONSENSUS:**

That DA2020 - 606.1 for demolition of a caravan park and construction of a service station, food and drink premises and car park at Lot 702, DP 1151916, No. 128 Hastings River Drive, Port Macquarie, be determined by granting consent subject to the recommended conditions and as amended below:

- Amend condition B(14) to add part '(d)':  
B(14)(d) Incorporate Tuckeroo plantings in the landscaped area along the Hastings River Drive frontage between the western boundary of the site and the western side of the exit driveway. Spacing of the plantings shall be consistent with the landscaping on the adjoining Aldi site.
- Add new condition C(6):  
C(6) The acoustic fence shall be constructed within 30 days of the commencement of demolition and prior to any construction work commencing.

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- Add new condition F(25):  
F(25) The car park on the western side of the site shall be closed to prevent vehicle access outside the approved hours of operation for the food and drink premises.

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## **11 GENERAL BUSINESS**

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Nil.

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The meeting closed at 5:25pm.

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Item: 04  
Subject: DISCLOSURES OF INTEREST

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**RECOMMENDATION**

That Disclosures of Interest be presented

**DISCLOSURE OF INTEREST DECLARATION**

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

*(Refer to next page and the Code of Conduct)*

### Pecuniary Interest

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

### Non-Pecuniary

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

#### Managing non-pecuniary conflicts of interest

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

## SPECIAL DISCLOSURE OF PECUNIARY INTEREST DECLARATION

*This form must be completed using block letters or typed.*

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

<b>By</b> <i>[insert full name of councillor]</i>	
<b>In the matter of</b> <i>[insert name of environmental planning instrument]</i>	
<b>Which is to be considered at a meeting of the</b> <i>[insert name of meeting]</i>	
<b>Held on</b> <i>[insert date of meeting]</i>	
<b>PECUNIARY INTEREST</b>	
Address of the affected principal place of residence of the councillor or an associated person, company or body <i>(the <b>identified land</b>)</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.
<b>MATTER GIVING RISE TO PECUNIARY INTEREST<sup>1</sup></b>	
Nature of land that is subject to a change in zone/planning control by proposed LEP <i>(the <b>subject land</b><sup>2</sup>)</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 Chief Executive Officer and included in full in the minutes of the meeting*

Last Updated: 3 June 2019



**Important Information**

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

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

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

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

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

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

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

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

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Item: 05

Subject: DA2020 - 1002.1 SECONDARY DWELLING AT LOT 39 DP 851894, 14 CASUARINA DRIVE LAKEWOOD

Report Author: Development Assessment Planner, Heather Fardy

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Applicant:	K L Sutherland & B J Sutherland
Owner:	K L Sutherland & B J Sutherland
Estimated Cost:	\$34,000
Parcel no:	28058

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#### Alignment with Delivery Program

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

#### RECOMMENDATION

That DA2020 - 1002.1 for a Secondary Dwelling at Lot 39, DP 851894, No. 14 Casuarina Drive, Lakewood, be determined by granting a deferred commencement consent subject to the recommended conditions and the following being satisfied within 3 months of the date of the consent:

1. Submission to and approval by Council of a BASIX Certificate in accordance with State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

#### Executive Summary

This report considers a development application for a Secondary 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 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.

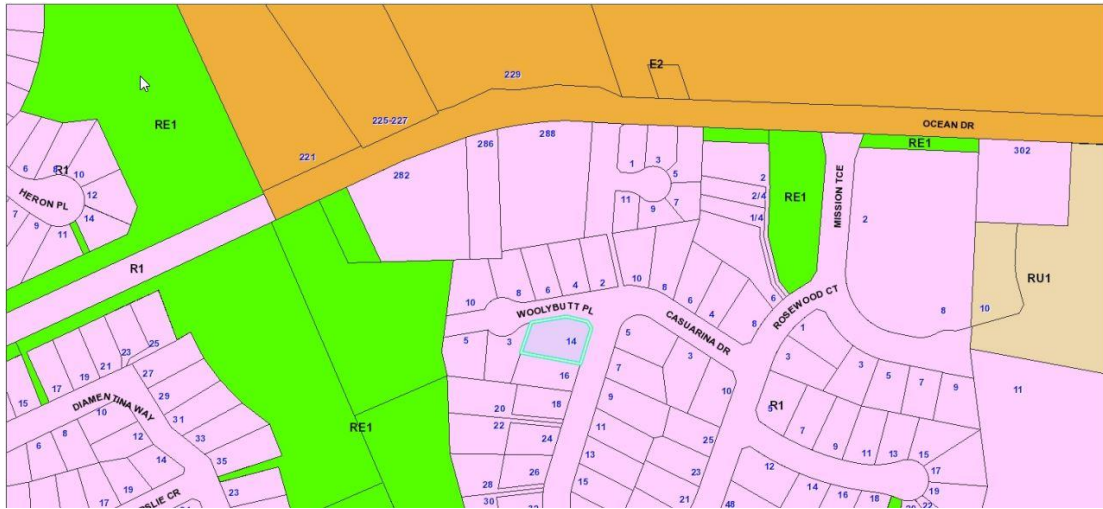
This report recommends that the development application be approved subject to the attached conditions (**Attachment 1**).

#### 1. BACKGROUND

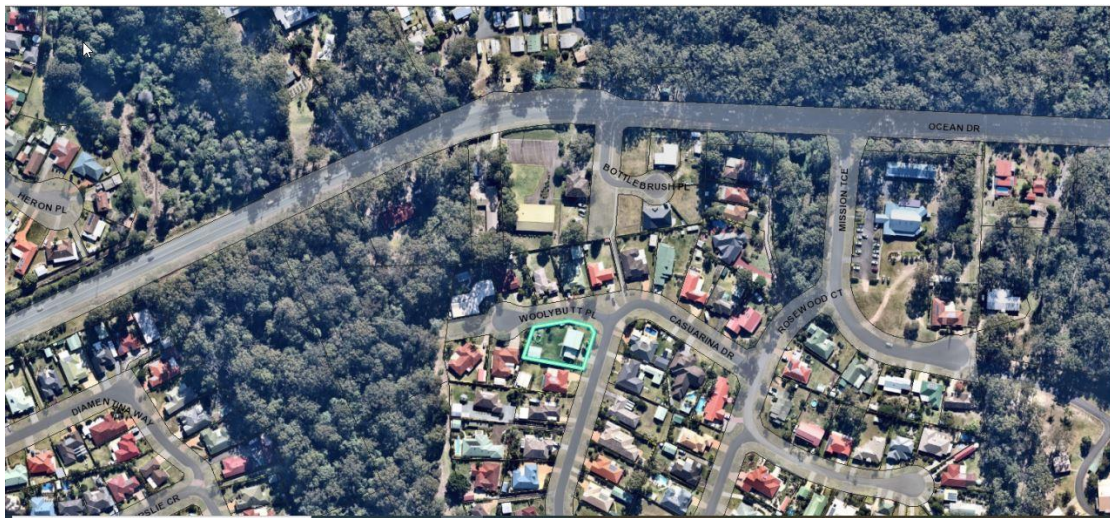
##### Existing Sites Features and Surrounding Development

The site has an area of 1259.5 square metres.

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



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



## 2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- Demolition of existing pool and
- Construction of a new single storey Secondary Dwelling.

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

### Application Chronology

- 17 November 2020 - Application lodged.

- 19 November 2020 - Email sent to the applicant seeking missing information (Completed Application form and Owner's Consent).
- 25 November 2020 - Outstanding information received by Council.
- 8 December 2020 - Application placed on notification.
- 18 December 2020 - Submission received.
- 15 January 2021 - Site inspection and clearer more detailed plans requested from applicant.
- 21 January 2021 - Updated plans received by Council.

### **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) 2020**

Clause 5 - This SEPP applies to the Port Macquarie-Hastings Local Government Area.

Clause 7 - The property is less than 1ha in size and there is no Koala Plan of Management in place. No further consideration of the SEPP is required.

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

A BASIX certificate was not submitted with the application to demonstrate that the proposal will comply with the requirements of the SEPP. However, it is anticipated that this can be achieved and it is recommended that the consent be issued, but deferred until the required BASIX certificate is submitted to Council. A 3 month timeframe is considered appropriate to require the certificate to be lodged with and approved by Council. A condition will also be imposed to ensure that the commitments are incorporated into the development and certified at Occupation Certificate stage.

#### **State Environmental Planning Policy No. 55 - Remediation of Land**

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

#### **State Environmental Planning Policy (Coastal Management) 2018**

Clause 7, this SEPP prevails over the Port Macquarie-Hastings LEP 2011 in the event of any inconsistency.

The site is located within a coastal environment area.



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 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.

Clause 15 - The proposal is not likely to cause increased risk of coastal hazards on that 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 residential purposes.

### **State Environmental Planning Policy (Affordable Rental Housing) 2009**

Clause 20 - The site is in a prescribed zone and secondary dwellings are permissible with consent pursuant to the SEPP.

Clause 22(2) - The development would not result in there being a dwelling other than the primary dwelling and the secondary dwelling.

Clause 22(3) - The proposed secondary dwelling would not have a floor area exceeding 60m<sup>2</sup> and the combined floor area of the primary and secondary dwelling would not exceed the maximum permitted under the Port Macquarie-Hastings Local Environmental Plan 2011 (see comments below under LEP).

Clause 22(4) - It is noted that consent cannot be refused on the grounds of site area or parking.

Clause 24 - It is noted that the consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out.

The requirements of this SEPP are therefore satisfied.

### **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.
- Clause 2.3(1) and the R1 zone landuse table - The secondary dwelling is a permissible landuse with consent.

The objectives of the R1 zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- Clause 2.3(2) - The proposal is consistent with the zone objectives as it is a permissible landuse and consistent with the established residential locality.
- Clause 4.3 - The maximum overall height of the building above ground level (existing) is 2.9m which complies with the standard height limit of 8.5m applying to the site.
- Clause 4.4 - The floor space ratio of the proposal is 0.21:1 which complies with the maximum 0.65:1 floor space ratio applying to the site. The primary dwelling has a gross floor area of 225 square metres. The proposed secondary dwelling has a gross floor area of 37.4 square metres.
- Clause 5.4 - The total floor area of the secondary dwelling does not exceed 60 square metres or 33% of the total floor area of the principle dwelling.
- Clause 7.13 - Satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, sewer infrastructure, stormwater drainage and suitable road access to service the development.

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

No draft instruments apply to the site.

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

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

<b>DCP 2013: Part B - General Provisions - B2: Environmental Management</b>			
<b>DCP Objective</b>	<b>Development Provisions</b>	<b>Proposed</b>	<b>Complies</b>
3	a) Development must comply with Council's Developments, Public Place & Events - Waste Minimisation and Management Policy.	Satisfactory arrangements can be put in place for storage and collection of waste. Standard condition recommended for construction waste management.	Yes
<b>Cut and Fill Regrading</b>			
4	a) Development shall not exceed a maximum cut of 1.0m and fill of 1.0m measured vertically above the ground level (existing) at a distance of 1.0m outside the perimeter of the external walls of the building (This does not apply to buildings where such cut and fill is fully retained within or by the external walls of the building).	As per the SOEE, the development will not require excavation or filling in excess of 1 metre.	Yes

5	a) A certified practicing structural engineer must certify any retaining wall greater than 1.0m.		N/A
	b) Where a combination of a fence and a wall is proposed to be greater than 1.2m high: <ul style="list-style-type: none"> <li>– be a maximum combined height of 1.8m above existing property boundary level;</li> <li>– be constructed up to the front boundary for a maximum length of 6.0m or 30% of the street frontage, whichever is less;</li> <li>– the fence component has openings which make it not less than 25% transparent; and</li> <li>– provide a 3m x 3m splay for corner sites, and</li> <li>– provide a 900mm x 900mm splay for vehicle driveway entrances.</li> </ul>		N/A

**DCP 2013: Part B - General Provision - B3: Hazards Management****Bushfire Hazard Management**

18	a) APZs are to be located outside of environmental protection zones and wholly provided within private land. Note perimeter roads provided as part of a residential subdivision are classified as being part of the subdivision and not a separate permissible land use within environment protection zones.	There are no additional APZs proposed/required off site for the proposal.	Yes
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**DCP 2013: Part B- General Provisions- B4: Transport, Traffic Management, Access and Car Parking**

DCP Objective	Development Provisions	Proposed	Complies
<b>Road Hierarchy</b> The site has frontage to both Casuarina Drive and Woollybutt Place, neither of which are classified roads.			
<b>Parking Provision</b>			

24	a) Off-street Parking is provided in accordance with Table 3: - 1 parking space per each dwelling for dwelling-house.	Existing double garage for the principal dwelling. Note the Affordable rental SEPP does not require additional parking.	Yes - under SEPP
<b>Parking Layout</b>			
28	c) Parking spaces shall generally be behind the building line but may be located between the building line and the street when: - it is stacked parking in the driveway; or - it can be demonstrated that improvements to the open space provided will result; and - the spaces are screened (densely landscaped or similar) from the street by a landscaping with a minimum width of 3.0m for the entire length of the parking area.	No change to existing parking arrangements.	Yes
	d) Parking design and layout is provided in accordance with AS/NZS 2890.1 - Parking facilities - Off-street car parking.		N/A
34	a) All parking and manoeuvring spaces must be designed to avoid concentrations of water runoff on the surface.		N/A
	b) Council will not permit the discharge of stormwater directly into kerbing and guttering or table drains for any development other than that of a minor nature.	Development considered to be of a minor nature. Section 68 application details to resolve disposal point.	Yes

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

DCP Objective	Development Provisions	Proposed	Complies
<b>Crime Prevention</b>			
43	a) The development addresses the generic principles of crime prevention: - Casual surveillance and sightlines;	No concealment or entrapment areas proposed. Adequate casual surveillance available.	Yes



	<ul style="list-style-type: none"> <li>- Land use mix and activity generators;</li> <li>- Definition of use and ownership;</li> <li>- Basic exterior building design;</li> <li>- Lighting;</li> <li>- Way-finding; and</li> <li>- Predictable routes and entrapment locations;</li> <li>- as described in the Crime Prevention Through Environmental Design (CPTED) principles.</li> </ul>		
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**DCP 2013: Part C - Development Specific Provisions - C1: Low Density Residential Development**

DCP Objective	Development Provisions	Proposed	Complies
<b>Front Setbacks</b>			
44	<p>a) Dwellings may incorporate an articulation zone to a street frontage at no less than 3m from property boundary. The following building elements are permitted within the articulation zone:</p> <ul style="list-style-type: none"> <li>- an entry feature or portico;</li> <li>- a balcony, deck, patio, pergola, terrace or verandah;</li> <li>- a window box treatment;</li> <li>- a bay window or similar feature;</li> <li>- an awning or other feature over a window;</li> <li>- a sun shading feature.</li> </ul> <p>b) These building elements should not extend above the eave gutter line, other than a pitched roof to an entry feature or portico that has the same pitch as the roof on the dwelling house.</p>		N/A
	<p>c) The primary road front setback shall be:            Classified road = any frontage 6.0m            Primary frontage = 4.5m            Secondary frontage = 3.0m</p>	<p>4.3m setback to Woollybutt Place which is secondary frontage.            34.7m setback to Casuarina Drive.</p>	Yes

	Ancillary Lane = 2.0m Large lot residential and rural zones = 10.0m		
45	a) A garage, carport or car parking space should: <ul style="list-style-type: none"> <li>– be at least 1m behind the building line, where the dwelling(s) has a setback from a front boundary of 4.5m or more, or</li> <li>– be at least 5.5m from a front boundary, where the dwelling(s) has a setback of less than 4.5m.</li> </ul>	No change to existing parking arrangements.	N/A
	b) The total width of the garage/carport openings should not be more than 6m and not more than 50 per cent of the width of the building.	No change to existing parking arrangements.	N/A
	c) Driveway crossovers are no greater than 5.0m in width.	No new driveway crossover proposed.	N/A
	d) Where a dual occupancy or attached dwelling is proposed on a corner lot a garage and driveway is provided on each road frontage.		N/A
<b>Side and Rear Setbacks</b>			
46	a) A minimum rear boundary setback of 4m is to be provided to dwellings (including verandahs, patios and decks).	The site is a corner lot with no rear boundary as per the DCP provisions.	N/A
	b) A minimum rear boundary setback of 900mm applies to sheds and swimming pools subject to achieving minimum required private open space area.	N/A	N/A
	c) Council may consider varying rear setback requirements where it is demonstrated that the private open space could achieve better solar access between the building and the side setback. In that instance, one side setback should be a minimum 4m in	N/A	N/A

	width (for an equivalent length of rear boundary, behind building line) and the rear setback may be reduced to 900mm.		
47	a) Ground floors (being <1m above existing ground level) should be setback a minimum of 900mm from side boundaries.	Min. 2.7m west side setback >10m south side setback	Yes
	b) First floors and above (including single storey with floor level >1m) should be setback a minimum of 3m from the side boundary, or reduced down to 900mm where it can be demonstrated that the adjoining property's primary living rooms and principal private open space areas are not adversely overshadowed for more than 3hrs between 9am - 3pm on 21 June.		N/A
	c) First floors and above should have building walls that step in and out at least every 12m by a minimum of 500mm articulation. Where first floors and above are setback >3m, wall articulation is not required.		N/A
<b>Private Open Space</b>			
48.	a) All dwellings should have a minimum area of private open space of 35m <sup>2</sup> , which includes a principal private open space area with: <ul style="list-style-type: none"> <li>– a minimum dimension of 4m x 4m, and</li> <li>– a maximum grade of 5% for minimum 4m x 4m of the total open space requirement, and</li> <li>– direct accessibility from a ground floor living area and orientated to maximise use.</li> </ul>	The site will have approximately 410 square metres of private open space dimensions exceeding 13m and a grade of approximately 4%, which are oriented for maximum use. It is accessed via the family room in the primary dwelling, and from the lounge room in the proposed secondary dwelling.	Yes
<b>Public Domain and Fencing</b>			
49	a) Front fences built forward of the building line for the	Existing colorbond fence on the Woollybutt Place	N/A

	primary road frontage should be detailed on the development application plans.	boundary, and behind the building line on the Casuarina Drive frontage.	
	b) Solid Front fences up to 1.2m high should be: <ul style="list-style-type: none"> <li>– Setback 1.0m from the front boundary, and</li> <li>– Suitably landscaped to reduce visual impact, and</li> <li>– Provide a 3m x 3m splay for corner sites.</li> </ul>		N/A
	b) Front fences proposed to be more than 1.2m high should be a maximum of 1.8m in height, above existing front property boundary level, and either: <ul style="list-style-type: none"> <li>– Include landscaped recesses having minimum dimensions of 1.8m long x 900mm deep which occupy no less than 50% of the total length of the fence, or</li> <li>– be erected up to the front boundary for a maximum length of 6.0m or 50% of the street frontage,</li> </ul>	See 49 a)	N/A
	c) have openings which make it not less than 25% transparent (no individual opening more than 30mm wide);		N/A
	d) provide a 3m x 3m splay for corner sites, and		N/A
	e) provide a 900mm x 900mm splay for vehicle driveway entrances.		N/A
50	a) For tennis courts or other similar areas, chain wire fences should be black or dark green plastic coated mesh.		N/A
	b) Solid fences enclosing these facilities should not be permitted over 1.8m.		N/A
<b>Bulk and Scale</b>			
51	a) Direct views between indoor living rooms and principal private open space	No direct views between the proposed secondary dwelling and neighbouring	Yes

	<p>of adjacent dwellings, including proposed dwellings approved on adjoining lots, including possible dwellings on future lots, should be obscured or screened where:</p> <ul style="list-style-type: none"> <li>– Ground and first floor (and above) indoor living room windows are within a 9m radius.</li> <li>– Direct views between principal private open space areas where within a 12m radius.</li> <li>– Direct views between indoor living rooms of dwellings into the principal area of private open space of other dwellings within a 12m radius.</li> </ul>	dwelling within 9m and 12m.	
	<p>b) A balcony, deck, patio, pergola, terrace or verandah should have a privacy screen where there are direct views of:</p> <ul style="list-style-type: none"> <li>– Indoor living room windows of adjacent dwellings, including proposed dwellings approved on adjoining lots within 9m radius; or</li> <li>– Principal areas of private open space of adjacent dwellings, including proposed dwellings approved on adjoining lots within a 12m radius.</li> </ul>		N/A
	<p>c) Privacy protection is not required for:</p> <ul style="list-style-type: none"> <li>– Any Indoor living room windows with a sill height of greater than 1.5m above the finished floor level of that room or where fixed non-openable translucent glass is installed to the same height.</li> </ul>		N/A
	<p>d) Direct views described above may be reduced or obscured by one of the following measures (details</p>		N/A

	to be submitted with the development application): <ul style="list-style-type: none"> <li>- 1.8m high fence or wall between ground-floor level windows or between a dwelling and principal private open space</li> <li>- Screening of minimum 1.7m height, that has 25% openings (max), with no individual opening more than 30mm wide, is permanently fixed and is made of durable materials.</li> <li>- A window, the whole of which has translucent glass and is not able to be opened.</li> </ul>		
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**(iiia) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4**

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

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

**Demolition of buildings AS 2601 - Clause 92**

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

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

**Context and Setting**

The proposal will not have any significant adverse impacts on 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 significant adverse overshadowing impacts. The proposal does not prevent adjoining properties from receiving 3 hours of sunlight to private open space and primary living areas on 21 June.

**Access, Traffic and Transport**

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

**Water Supply Connection**

Service available – details required with Section 68 application.  
An appropriate standard condition is recommended in this regard.

**Sewer Connection**

The proposed works are clear (>600mm) of the existing sewer junction and main traversing the site.

Service available - details required with Section 68 application.  
An appropriate standard condition is recommended in this regard.

**Stormwater**

Service available - details required with Section 68 application.  
An appropriate standard condition is recommended in this regard.

**Other Utilities**

Telecommunication and electricity services are available to the site.

**Heritage**

This site does not contain or adjoin any known heritage item or site of significance. The site is considered to be disturbed land.

**Other Land Resources**

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

**Water Cycle**

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

**Soils**

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

**Flora and Fauna**

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

**Waste**



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

**Energy**

No adverse energy impacts identified. A BASIX certificate can be provided prior to an operational consent being issued.

**Noise and Vibration**

The construction 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 identified as being bushfire prone.

The Applicant has submitted a bushfire report as a self-assessment.

An assessment of bushfire risk having regard to section 4.3.5 of Planning for Bushfire Protection 2006 including vegetation classification and slope concludes that a Bushfire Attack Level 12.5 shall be required.

Management of bushfire risk is acceptable subject to BAL 12.5 construction levels being implemented and APZ being maintained. An appropriate condition is recommended.

**Safety, Security and Crime Prevention**

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

**Social Impacts in the Locality**

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

**Economic Impact in the Locality**

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

**Site Design and Internal Design**

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

**Construction**

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

**Cumulative Impacts**

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

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



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

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

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

One written submission was received following public exhibition of the application. Copies 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
Clarification that the proposal will be single storey.	As indicated on the development plans (as amended and attached to this report), the proposed secondary dwelling is to be single storey.
The side fence of 14 Casuarina Drive which runs down Woollybutt Place already has double gates incorporated into the fence. Proposal would greatly hinder residents' access to Woollybutt Place plus the access of JR Richard Trucks on Bin Pick-Up Day if in the future a car was parked there; in the event of an extra resident owning a car residing at 14 Casuarina or the Granny Flat being used as an "Air BNB".	<p>It is unclear whether concern is raised about residents of the subject site having hindered access to Woollybutt Place, or other residents of the street.</p> <p>The gates referenced will not be obstructed by the proposed secondary dwelling. Parking/vehicular access is not required for the secondary dwelling under State legislation. The primary residence on the site has a double garage with frontage to Casuarina Drive, and there is nothing identifiable to restrict the landowner from hindering this additional vehicular access to the site. The erection of the secondary dwelling will not hinder other residents' access to Woollybutt Place.</p> <p>In relation to the secondary dwelling being used for an "Air BNB", bed and breakfast accommodation is permissible in the R1 zone, however is not proposed in this application. It is recommended that a condition be included that the dwelling is approved for permanent residential use and not for short term tourist and visitor accommodation.</p>

Submission Issue/Summary	Planning Comment/Response
Will the Hastings Blue Bin for waste removal from the proposed site works be within the boundary of the land.	The consent will include a condition for building equipment and materials (which includes the Hastings Blue Bin for waste removal) shall be contained wholly within the site unless approval to use the road reserve has been obtained.

**(e) The Public Interest**

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

**Ecologically Sustainable Development and Precautionary Principle**

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

The four principles of ecologically sustainable development are:

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

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

**Climate Change**

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

**4. DEVELOPMENT CONTRIBUTIONS APPLICABLE**

Development contributions will not be required under S7.11 as the Secondary Dwelling is less than 60 square metres in size.

If a separate water meter is required, this can be resolved separately with payment of section 64 contributions also. An appropriate consent condition is recommended in this regard.

**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   DA2020 - 1002.1 Recommended DA Conditions
- 2   DA2020 - 1002.1 Plans

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2020/1002****DATE: 3/2/2021****SCHEDULE OF DRAFT CONDITIONS****PRESCRIBED CONDITIONS**

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

**A – GENERAL MATTERS**

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

Plan / Supporting Document	Reference	Prepared by	Date
Development Plans	#####	No Fuss Design	20/01/2021
Statement of Environmental Effects	-	-	16/11/2020
Bushfire Assessment Report	-	-	-

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

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

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

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

- (3) (A009) The development site is to be managed for the entirety of work in the following manner:

1. Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;

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

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

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

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:

- Position and depth of the sewer (including junction)
- Stormwater drainage termination point
- Easements
- Water main
- Proposed water meter location

If a separate water meter is required, this can be resolved separately with payment of section 64 contributions.

- (2) (B046) The building shall be designed and constructed so as to comply with the Bushfire Attack Level (BAL) 12.5 requirements of Australian Standard 3959 and the specifications and requirements of Planning for Bush Fire Protection. Details shall be submitted to the Principal Certifying Authority with the application for Construction Certificate demonstrating compliance with this requirement.

Please note: Compliance with the requirements of the current Planning for Bush Fire Protection Guidelines to prevail in the extent of any inconsistency with the Building Code of Australia.

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

Nil

#### **D – DURING CONSTRUCTION**

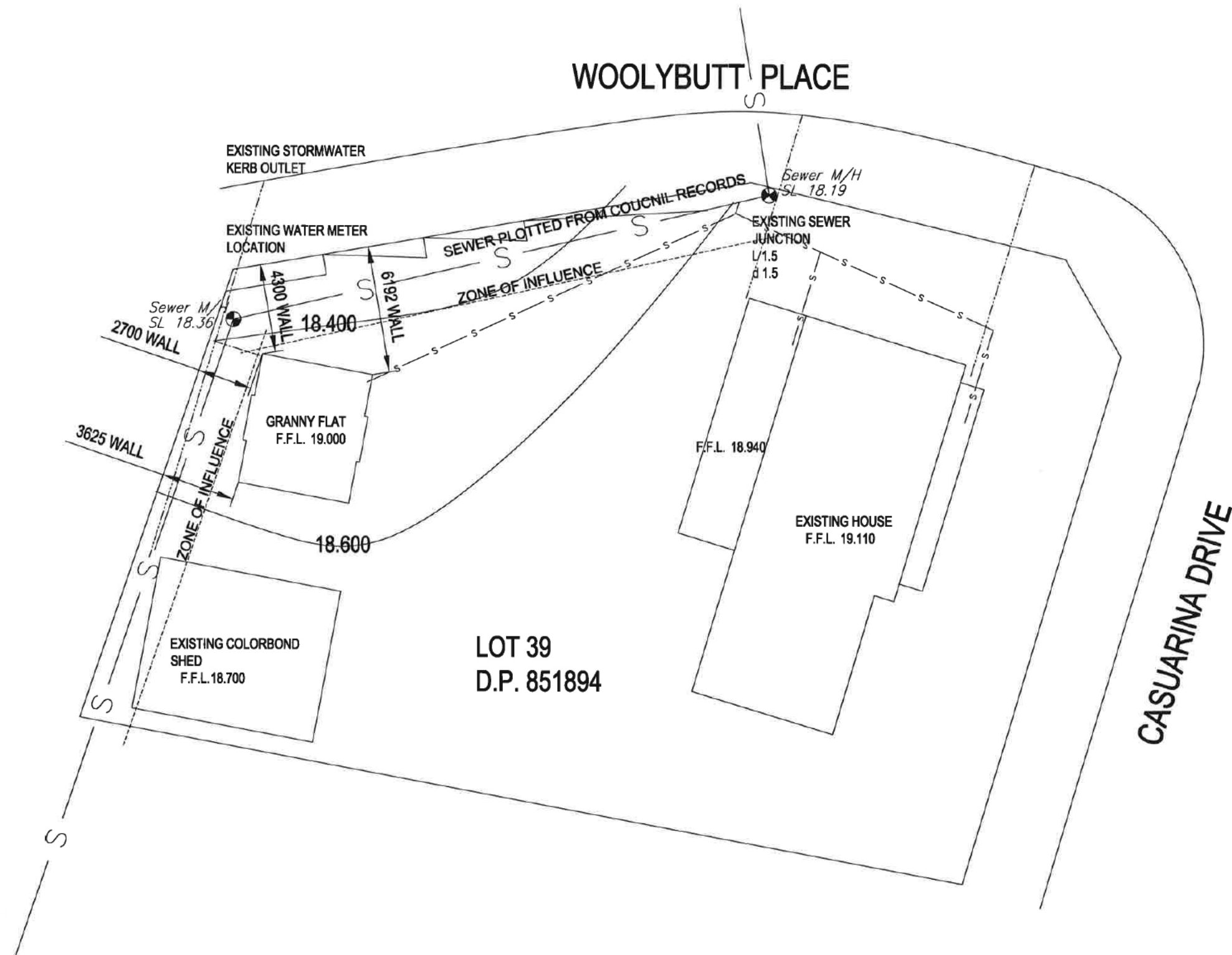
Nil

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

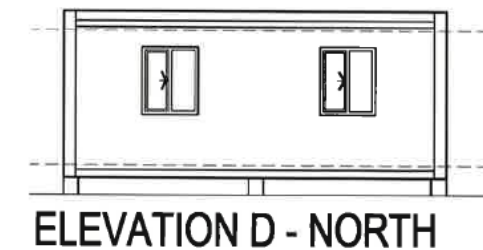
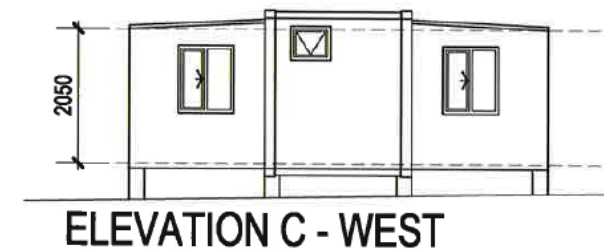
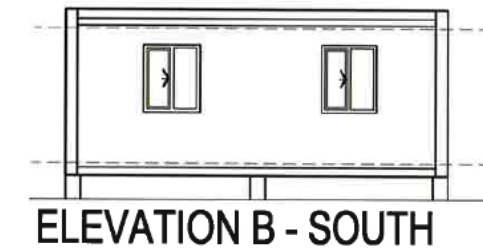
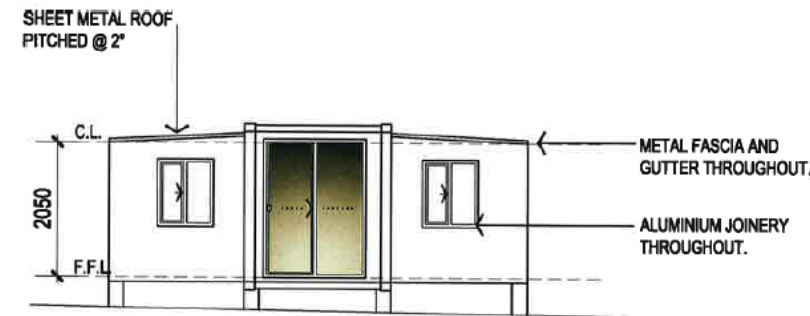
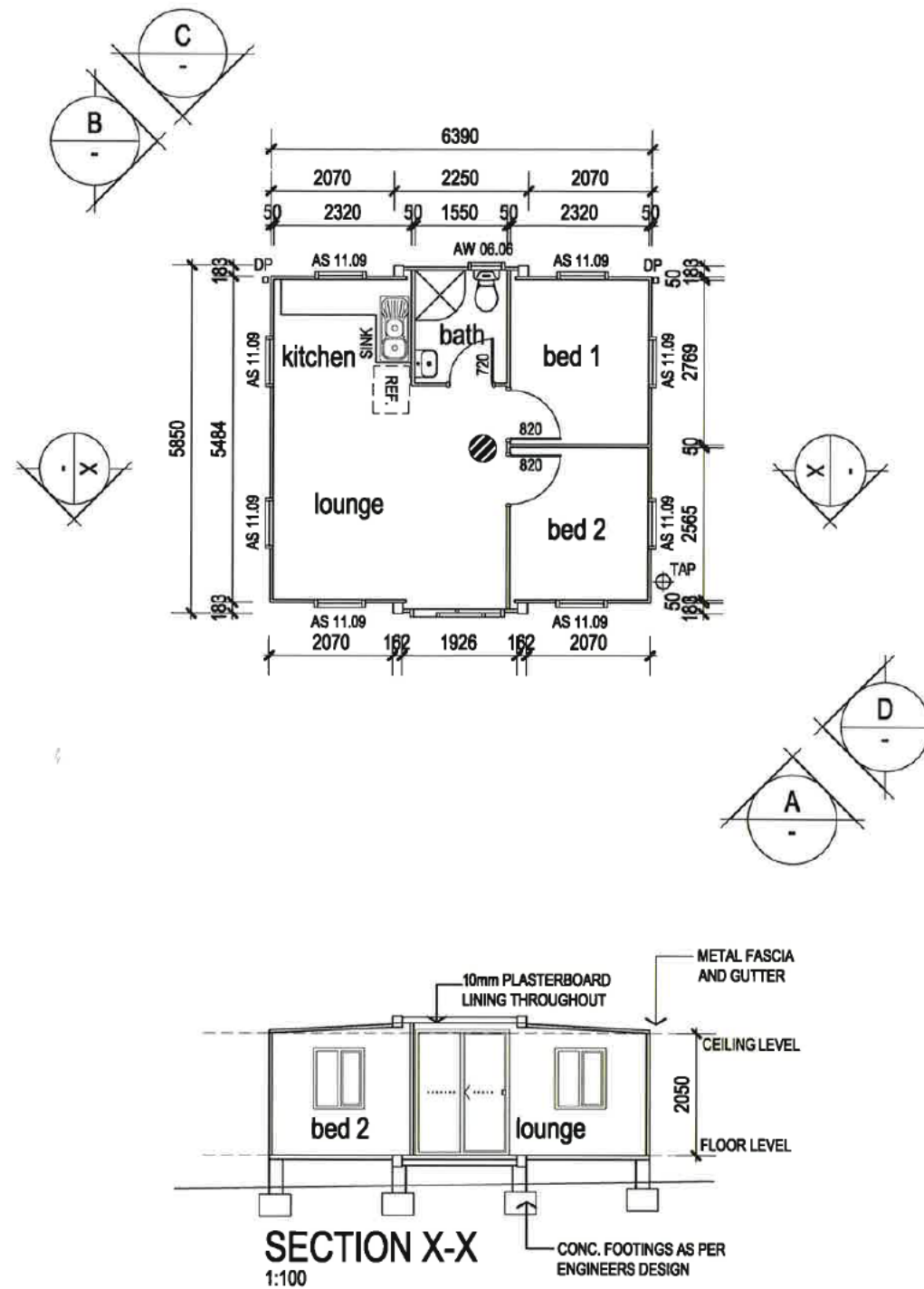
- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any properly qualified person (eg the builder),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

**F – OCCUPATION OF THE SITE**

- (1) (F004) The dwelling is approved for permanent residential use and not for short term tourist and visitor accommodation.
- (2) (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.



	DATE	REVISION	INITIAL	No Fuss Design #####	Brad & Kim Sutherland 14 Casuarina Drive LAKEWOOD SIGNATURES: _____ BUILDER	HOUSE: Granny Flat PLAN OPTION: std HOUSE: facade	TITLE: site plan SCALE 1:200 JOB NO: ##### 1/2
	20/01/21	FINAL ISSUE	G.S.				



720 l.o.h. DENOTES DOOR HAS LIFT OFF HINGES TO COMPLY WITH B.C.A REQ.  
 <AW> ARTICULATION JOINT AS SPECIFIED IN THE ENGINEERING DESIGN  
 HARDWIRED SMOKE ALARM WITH BATTERY BACKUP AS PER B.C.A REQ.  
 DP DOWNPIPE CONNECTED TO LPD VIA 90mmØ UPVC PIPE AS PER LOCAL AUTHORITIES REQUIREMENTS  
 MH MAN HOLE TO CEILING ACCESS  
 VENT PIPE LOCATIONS DETERMINED ON SITE. LOCATE IN CORNER OF ROBES

A LIVING 35.8m	<div>A</div>	DATE	REVISION	INITIAL	No Fuss Design #####	Brad & Kim Sutherland 14 Casuarina Drive LAKEWOOD SIGNATURES: <div>BUILDER</div> <div>CLIENT</div>	HOUSE:	Granny Flat facade	TITLE:
		20/01/21	FINAL ISSUE	G.S.			PLAN OPTION: std		SCALE 1:100
									JOB NO: ##### 2/2