



TWEED
SHIRE COUNCIL

Mayor: Cr K Milne

Councillors: P Allsop
R Byrnes
C Cherry (Deputy Mayor)
R Cooper
J Owen
W Polglase

Agenda

Planning Committee Meeting Thursday 6 July 2017

held at Harvard Room, Tweed Heads Administration Building, Brett Street, Tweed Heads commencing at 5.30pm

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECT 79C

79C Evaluation

(1) Matters for consideration-general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
- (iii) any development control plan, and
- (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),

that apply to the land to which the development application relates,

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

Note: See section 75P (2) (a) for circumstances in which determination of development application to be generally consistent with approved concept plan for a project under Part 3A.

The consent authority is not required to take into consideration the likely impact of the development on biodiversity values if:

- (a) the development is to be carried out on biodiversity certified land (within the meaning of Part 7AA of the Threatened Species Conservation Act 1995), or
- (b) a biobanking statement has been issued in respect of the development under Part 7A of the Threatened Species Conservation Act 1995 .

(2) Compliance with non-discretionary development standards-development other than complying development If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:

- (a) is not entitled to take those standards into further consideration in determining the development application, and
- (b) must not refuse the application on the ground that the development does not comply with those standards, and
- (c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,

and the discretion of the consent authority under this section and section 80 is limited accordingly.

- (3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:
 - (a) subsection (2) does not apply and the discretion of the consent authority under this section and section 80 is not limited as referred to in that subsection, and
 - (b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

Note: The application of non-discretionary development standards to complying development is dealt with in section 85A (3) and (4).

- (4) Consent where an accreditation is in force A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.
- (5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).
- (6) Definitions In this section:
 - (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and
 - (b) "non-discretionary development standards" means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

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Items for Consideration of Council:

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C1 [PR-PC] Class 1 Appeal Development Application DA16/0355 for a 60 Lot Subdivision at Lot 1 DP 779976 No. 26 Tringa Street, Tweed Heads West 188

SCHEDULE OF OUTSTANDING RESOLUTIONS

Nil.

ORDERS OF THE DAY

Nil.

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

- 1 [PR-PC] Development Application DA16/0274 for a 21 Lot Community Title Subdivision, Demolition, Earthworks, Vegetation Clearing and Erection of Dwelling Houses at Lot 2 DP 564549 No. 42 North Arm Road, Murwillumbah

SUBMITTED BY: Development Assessment and Compliance

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- | | |
|-------|---|
| 2 | Making decisions with you |
| 2.1 | Built Environment |
| 2.1.2 | Development assessment - To assist people to understand the development process and assess applications lodged with Council to achieve quality development outcomes and land use decisions. |

ROLE: **Provider**

SUMMARY OF REPORT:

The application seeks approval for the construction of 20 dwellings in the form of Community Title subdivision. The development would result in one community title lot containing a pool, 20 residential lots and 20 dwellings. The development would require the removal of the existing shed, vegetation, earthworks and retaining walls.

The development is proposed over two stages:

- Stage 1 – services and internal road, earthworks and retaining wall along North Arm Road and 21 lot community title subdivision;
- Stage 2 – Construction of a dwelling house on each residential community title lot and the establishment of a recreation area (which includes a swimming pool).

In respect of the latest DA plans and information submitted by the applicant, it is considered that they fail to adequately resolve the previously identified issues. The DA for this proposal has now been in Council's system for over 1 year. Council officers have been attempting to seek an appropriate level of technical assessment and resolution of a number of key outstanding issues. The latest plans and technical justification provided by the applicant are not in a form that could be supported by the officers.

Council has been actively seeking further information from the applicant to address specific concerns, particularly:

- Internal road profile safety impact on pedestrians.
 - Mountable kerbs are proposed, these should be barrier kerb.
 - A 0.5m verge is required on the opposite side of the internal road to the pedestrian path.
- Impact of HRV (Heavy Ridged Vehicle) entering and traversing the site.
 - The Applicant has not provided detail to confirm that a HRV can safely access and circulate within the site without making contact with building or other vehicles parked within designated parking spaces.
- Fails to demonstrate if the internal road can be serviced by a fire fighting vehicle and garbage services.
 - The plans indicate that internal road is designed to only accommodate a MRV (Medium Ridged Vehicle). Council has requested that the Applicant confirm, from applicable service providers (Firefighting and Waste removal) that their vehicles can access and circulate the site.
- Water
 - Plans currently show the bulk water meter located external to Lot 2 DP 564549. Council's standards (D11.07.6,) require an individual service to be tapped from the main and extended 300mm inside of the lot boundary. This needs to be located away from the biofiltration basin where Council can access the meter.
 - The bulk water main service pipeline is to connect to the 150mm AC pipeline within the road verge of Golden Links Drive and not to the connection pipeline as shown on plans.
- Sewer
 - A swale drain is proposed over a sewer which is unacceptable.
 - A sewer is proposed to be built on a suspended slab which is unacceptable.
 - Bio-retention basins proposed adjacent to a sewer pipeline, these should be separated by at least 1 metre.
 - Plans show pressurised system to be connected at maintenance hole which shows a misunderstanding of pressure systems. Boundary kits should be shown at these locations with proposed sewer ejection pumping stations

- located within the lots 11 and 12. The sewer manhole shown in lot 12 shall be removed and replaced with a boundary kit to a sewer rising main.
- Insufficient cover over pipelines provided. Council will expect cover over the gravity sewer mains to be a minimum of 600mm, especially at property boundary's where fences may be constructed over the sewer main.
 - Where the sewer becomes a council asset downstream (of D7), insufficient cover has been provided for the sewer between manholes D7 and D8.
 - The proposed sewer junctions under the road and driveway for lots 18-21 is to be relocated away from vehicular loading areas.
- Stormwater/drainage issues,
 - Proposed swale drain which appears to have the potential to send overflow into the neighbouring properties.
 - Proposed stormwater connection into Council's system in North Arm Road in its current form is not accepted.
 - Retaining walls throughout the site with limited or no detail,
 - The development proposes non-compliance with many controls within Part B of Section A1, which accumulatively creates potential impacts on internal residents and neighbouring properties, the A1 non-compliances relate to:
 - Rear Deep Soil Zones;
 - Control: Rear Deep Soil Zones are to have minimum width of 8m or 30% of the average width of the site whichever is the greater and a minimum depth of 18% of the length of the site up to 8m but not less than 5.5m. Greater than 8m may be provided if desirable.
 - The 14 out of the 20 lots provide setbacks of 3m . Therefore these do not comply.
 - Retaining walls;
 - Control: The maximum level of cut is 1m and fill is 1m except for areas under control j.
 - Control: Retaining walls maximum 1.2m.
 - Control: Cut areas are to be set back from the boundaries at least 900mm; fill areas are to be setback from the boundary a minimum of 1.5m.
 - Retaining walls with a varied height of 1.2 – 1.5m are proposed on the property boundaries.
 - External Living areas;
 - Control: External living areas should be suitably screened to achieve visual privacy if located less than 4m from a side boundary.
 - Control: External living areas are to be no closer to the side boundaries than 900mm.
 - All 20 external living areas are located within 4 m from side boundaries. No screening proposed no compliant.
 - The external living areas for dwellings 20, 17, 15, 14, 13, 12, 11 are setback less than 900mm, therefore seven out of the 20 units do not comply.
 - Communal Open Space (COS)
 - Control: The location and design of communal open space must not compromise achieving the minimum separation distances and minimum areas for external living areas.
 - The (COS) recreation area does not provide a 4m setback as required, a non compliant setback of 1.5m is proposed.

- Front setbacks;
 - Control: In established areas and on infill sites Dual Occupancy Housing and Town Housing are to be consistent with the setback distance of neighbouring buildings and are to be the average of the setbacks of neighbouring dwellings on either side. This setback can be varied up to plus or minus 1m.
 - The development proposes setbacks from North Arm Road of between 2.3m – 4.5m.

- Side setbacks;
 - Control: Single storey Town Housing is to be set back a minimum of 900mm from the boundary line. Guttering, eaves, hoods and other similar structures may be constructed within the 900mm but not closer than 600mm from the boundary.
 - Control: 2 storey Town Housing is to be set back a minimum of 1.5m from the boundary line to the wall of the building. Guttering, eaves, hoods and other similar structures may be constructed within the 1.5m but not closer than 900mm from the boundary.
 - The development proposes side setbacks of between 450mm and 900mm for both single and storey elements. There are side setbacks for two storey elements which are 900mm which should be 1.5m. There are setbacks from singles storey elements which are 450mm which should be 900mm.

- Rear Setbacks;
 - Control: The minimum rear boundary setback is 5m or the deep soil zone whichever is the greater. The minimum building separation distances must be met.
 - The proposed rear setback range between 2.3m to 4.5m (most dwellings have a 3m setback) which is less than the 5.5m requirement (DSZ requires 5.5m), therefore a significant variation is proposed for all of the dwellings.

- Building separation;
 - Control: 8m minimum separation between the wall containing primary windows/doors of living rooms (on any level of the building) to the wall of an adjacent building containing primary window/doors of living rooms.
 - Control: 6m minimum separation distance between primary windows/doors (on any level of the building) of living rooms to windows other than the primary windows of living rooms.
 - Control: 4m min separation between walls containing primary windows/doors of living rooms (on any level of the building) the side boundaries.
 - Control: 4m minimum separation between the primary windows of living rooms (on any level of the building) and walls containing no windows.
 - There are more similar controls too many to list.
 - The development proposes separation distances between each Town house ranging from 900mm to 4m. The minimum separation distances are not complied with; and

- Visual privacy.
 - Control: Living room and kitchen windows, terraces and balconies are avoid a direct view into neighbouring dwellings or neighbouring private open space.
 - Control: Side windows are to be offset by distances sufficient to avoid visual connection between windows of the subject dwelling and those of the neighbouring dwelling.
 - Due to the proposed variations to setback controls, this creates impacts in regards to outlook, views and privacy. The development proposes a 3m rear setback on an elevated site with direct views into neighbouring rear private open space areas. The development would create overlooking into neighbouring dwelling both internally and externally of the site. The internal lots 17 to 20 would have no privacy.

Given the failure by the applicant to satisfactorily address these concerns the application is recommended for refusal.

The application is being reported to Council at the request of Councillor's Pryce Allsop and Warren Polglase.

RECOMMENDATION:

That Development Application DA16/0274 for a 21 lot community title subdivision, demolition, earthworks, vegetation clearing and erection of dwelling houses at Lot 2 DP 564549 No. 42 North Arm Road, Murwillumbah be refused for the following reasons:

- 1. Pursuant to Section 79C (1) (b) the proposal is considered to create an unacceptable impact on the built environment in relation to inadequate provision to water, sewer and stormwater services, non-compliances with Section A1 - Rear Deep Soil Zones; Rear Setbacks; Side setbacks; Front setbacks; Building separation; Retaining walls; and Visual privacy. Insufficient detail has been provided relating to the proposed retaining walls which has the potential to create adverse impacts on adjoining properties.**
- 2. Pursuant to Section 79C (1) (e) the proposed development is considered not to be within the public interest. Due the number of unresolved issues the development is considered not to be within the public interest.**

REPORT:

Applicant: Pensatore Developments Pty Ltd
Owner: Pensatore Developments Pty Ltd
Location: Lot 2 DP 564549; No. 42 North Arm Road, Murwillumbah
Zoning: R2 - Low Density Residential
Cost: \$3,500,000

Background:

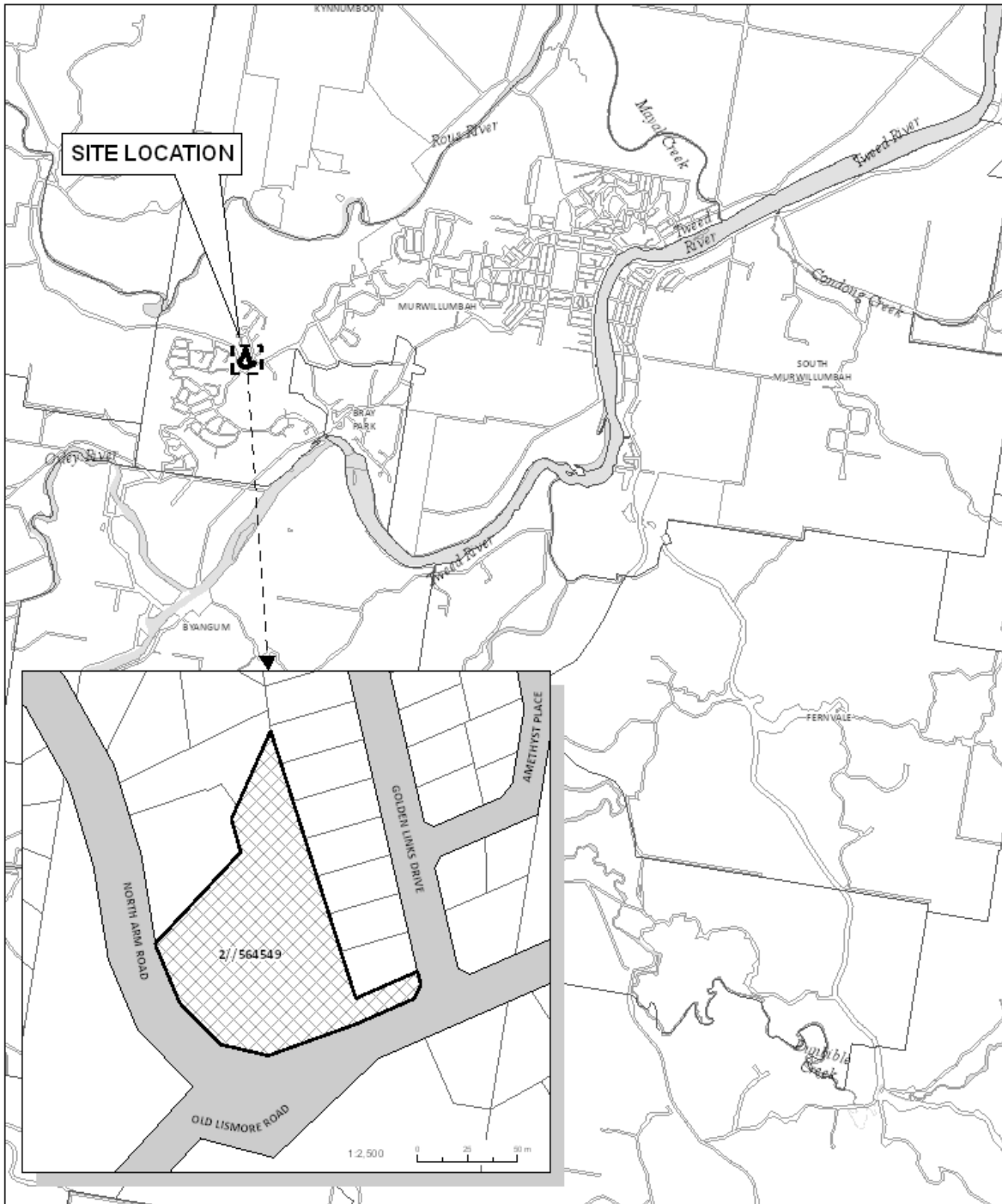
The application seeks approval for the construction of 20 dwellings in the form of Community Title subdivision. The development would result in one community title lot, 20 residential lots and 20 dwellings. The development would require the removal of the existing shed, vegetation, earthworks and retaining walls.

Council has been actively seeking further information from the applicant to address specific concerns, particularly the access to the site, internal road profile safety impact on pedestrians, impact of HRV entering and traversing the site, sewer, water, retaining walls throughout the site with limited or no detail, stormwater/drainage issues, non-compliance with many controls with Part B of Section A1.

In respect of the latest DA plans and information submitted by the applicant, it is considered that they fail to adequately resolve the previously identified issues. The DA for this proposal has now been in Council's system for over 1 year. Council officers have been attempting to seek an appropriate level of technical assessment and resolution of a number of key outstanding issues. The latest plans and technical justification provided by the applicant are not in a form that could be supported by the officers.

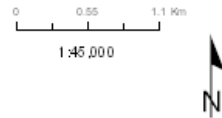
Given the failure by the applicant to satisfactorily address these concerns the application is recommended for refusal.

SITE DIAGRAM:



Site Plan

Lot 2 DP 564549
42 North Arm Road MURWILLUMBAH



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Date Printed: 25 May, 2017

DEVELOPMENT/ELEVATION PLANS:

DA APPLICATION



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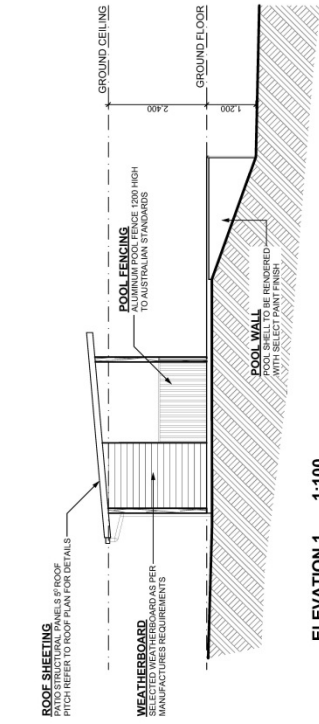
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DA102	15/03/2016
project number	15007
client	Resortone Developments
scope	1:500
drawn	Sam Ray
checked	
scale	SR
drawing name	SITE PLAN 1:500

description	date	rev.	description
PRELIM LAYOUT REFERENCE TYPE A	09/02/16	C	PRELIM LAYOUT TYPE B
LOT LAYOUT REVISIONS	11/02/16	H	PRELIM LAYOUT TYPE A & B
LOT LAYOUT REVISIONS	25/02/16	I	DA COMPLETION
PRELIM LAYOUT TYPE A	03/02/16	F	
PRELIM LAYOUT FIRST FLOOR	10/02/16		

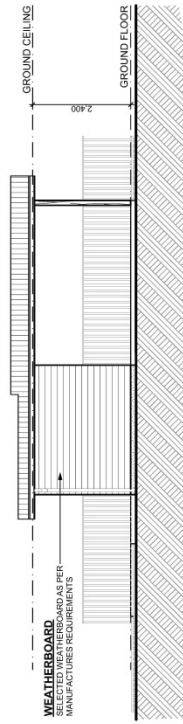
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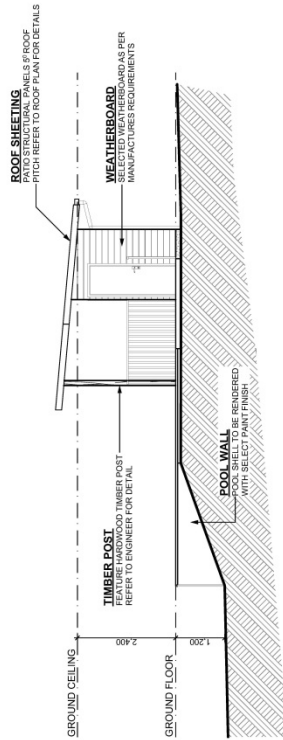
DA APPLICATION



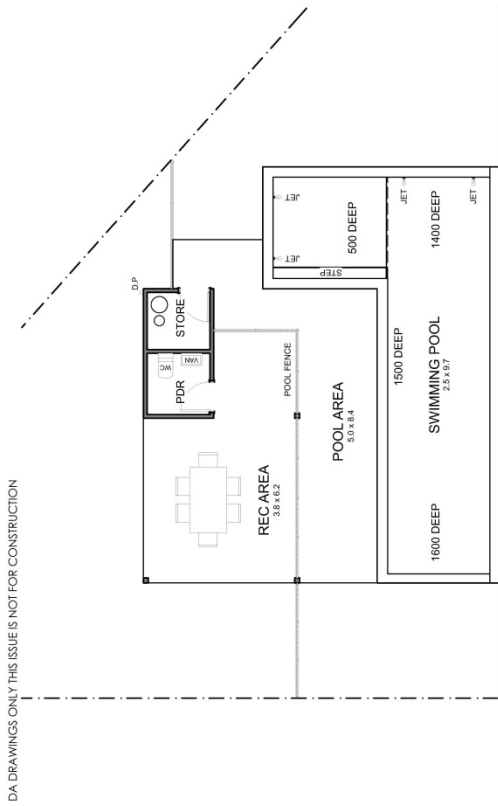
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ELEVATION 2 1:100



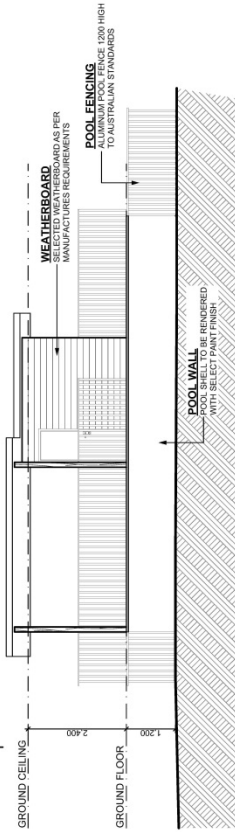
ELEVATION 3 1:100



RECREATION PLAN 1:100



ELEVATION MARKER



ELEVATION 4 1:100

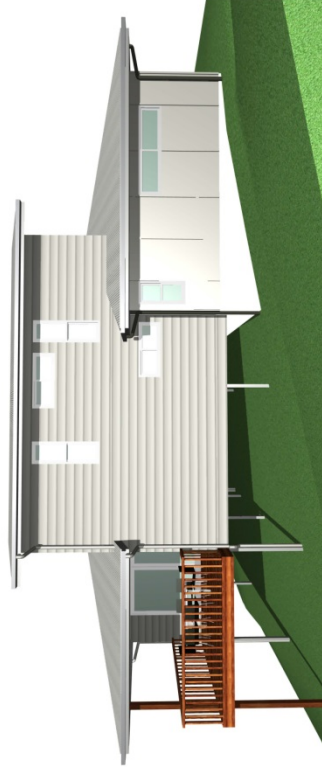
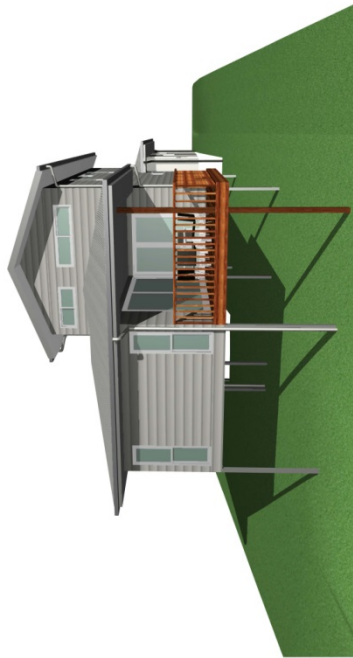
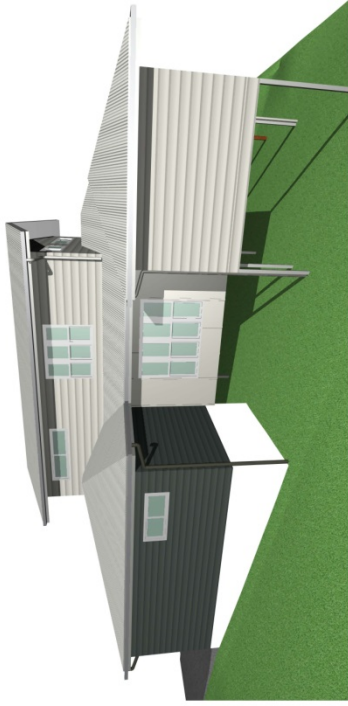


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rev.	date	description	inrl.	rev.	date	description	inrl.	client	project number	drawing number	drawing date
A	14/07/16	PRELIM LAYOUT RESIDENCE TYPE A	G	02/02/16	PRELIM DA TYPE B	RESPONSE TYPE A/B		Pensmore Developments	15007	DA104	25/02/2016
B	14/07/16	LOT LAYOUT REVISIONS	H	20/07/16	DA COMPLETION			Residential Development	SR		
C	20/07/16	PRELIM LAYOUT GROUND FLOOR	I	20/02/16				42 NORTH ARM RD	1:100		
D	20/07/16	PRELIM DA TYPE A						MURWILLUMBAH, NSW	SR	SR	
E	02/02/16	PRELIM DA TYPE A							checked	checked	
F	03/02/16	PRELIM LAYOUTS FIRST FLOOR								Sam Roy	

DA APPLICATION



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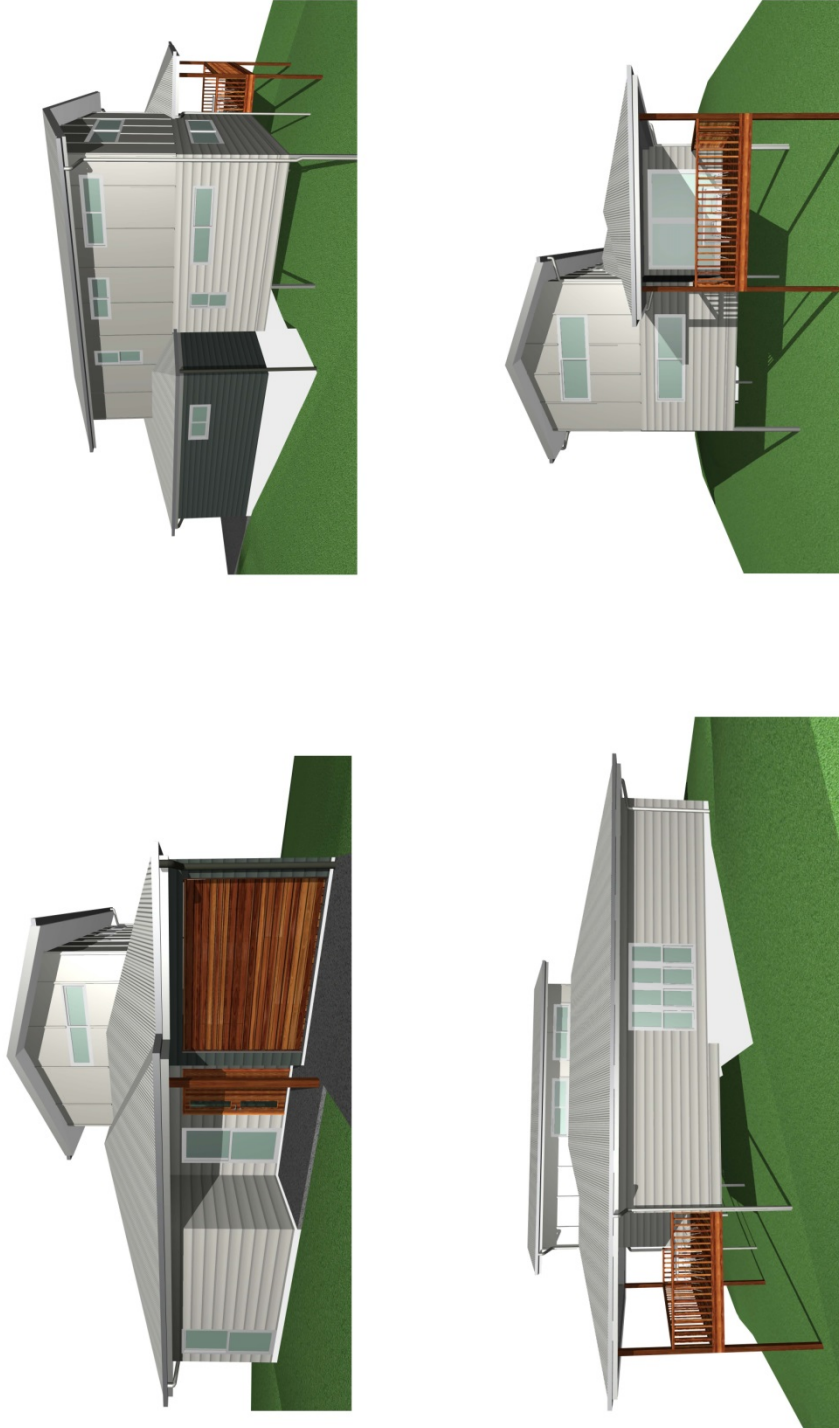


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A	15/07/16	PRELIMINARY SITE PLAN		G	11/02/16	PRELIM DA REVISION TYPE A/B		Pensacore Developments	15007	DA201	28/07/2016
B	19/07/16	LOT LAYOUT REVISION		H	11/02/16	PRELIM DA REVISION TYPE A/B		Residential Development	15007	15007	
C	20/07/16	PRELIM LAYOUT REVISION		I	24/02/16	DA COMPLETION		43 NORTH ARM RD	1:100	DWELLING 1.	
D	20/07/16	PRELIM LAYOUT GROUND FLOOR						MURWILLUMBAH, NSW	SK	PERSPECTIVES	
E	20/07/16	PRELIM LAYOUT 1A							SK	SK	
F	1/02/16	PRELIM LAYOUT 1B FLOOR							SK	SK	

DA APPLICATION



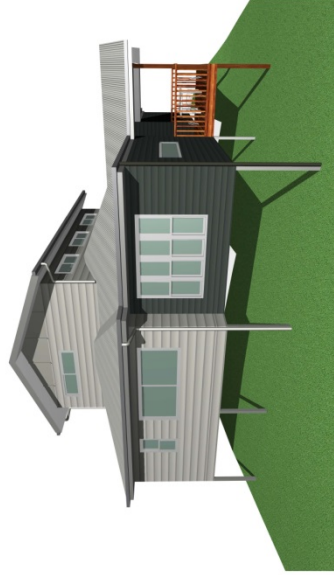
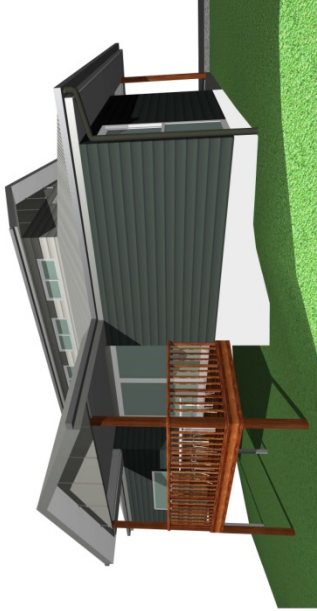
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A	14/07/16	PRESM LAYOUT RESIDENCE TYPE A		G	01/02/16	PRESM DA TYPE B		Pensacore Developments Residential Development 42 NORTH ARM RD MURWILLUMBAH, NSW	15007	DA301	25/02/2016
B	15/07/16	LOT LAYOUT REVISIONS		H	15/07/16	DA COMPLETION					
C	20/07/16	LOT LAYOUT REVISIONS		I	24/02/16				1:100		
D	20/07/16	PRESM LAYOUTS GROUND FLOOR							drawn	checked	
E	02/02/16	PRESM DA TYPE A							SR	Sam Roy	
F	02/02/16	PRESM LAYOUTS FIRST FLOOR									

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DA APPLICATION



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rev.	date	description	init.	rev.	date	description	init.	client	project number	drawing number	drawing date
A	15/07/16	PRELIM LAYOUT	PRELIM LAYOUT	G	11/02/16	PRELIM DA REVISIONS TYPE A/B		Pensacore Developments	15007	D4401	28/07/2016
B	19/07/16	LOT LAYOUT REVISIONS		H	11/02/16	PRELIM DA REVISIONS TYPE A/B			15007	D4401	28/07/2016
C	20/07/16	PRELIM LAYOUT REVISIONS		I	24/02/16	DA COMPLETION		Residential Development	1:100		
D	20/07/16	PRELIM LAYOUT REVISIONS						43 NORTH ARM RD	drawn	checked	
E	02/08/16	PRELIM LAYOUT REVISIONS						MURWILLUMBAH, NSW	SK	Sam Ray	
F	11/02/16	PRELIM LAYOUT REVISIONS									

TYPE C. PERSPECTIVES

DA APPLICATION



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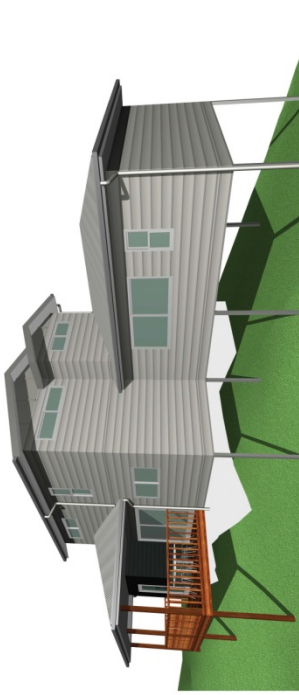


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rev.	date	description	infil.	rev.	date	description	infil.	client	project number	drawing number	drawing name	drawing print date
A.	14/07/16	PRELIM LAYOUT RESIDENCE TYPE A		G.	09/02/16	PRELIM DA TYPE B		Pensmore Developments	15007	DA501		25/02/2016
B.	19/07/16	LOT LAYOUT REVISIONS		H.	11/02/16	PRELIM DA REVISIONS TYPE A,B		Residential Development				
C.	20/07/16	PRELIM LAYOUT REVISIONS		I.	25/07/16	DA COMPLETION		42 NORTH ARM RD	scale 1:100	issue 1		
D.	20/07/16	PRELIM LAYOUT REVISIONS						MURWILLUMBAH, NSW	drawn SR	checked Sam Ray		
E.	02/02/16	PRELIM DA TYPE A									TYPE D. PERSPECTIVES	
F.	02/02/16	PRELIM LAYOUTS FIRST FLOOR										

DA APPLICATION



DA DRAWINGS ONLY THIS ISSUE IS NOT FOR CONSTRUCTION



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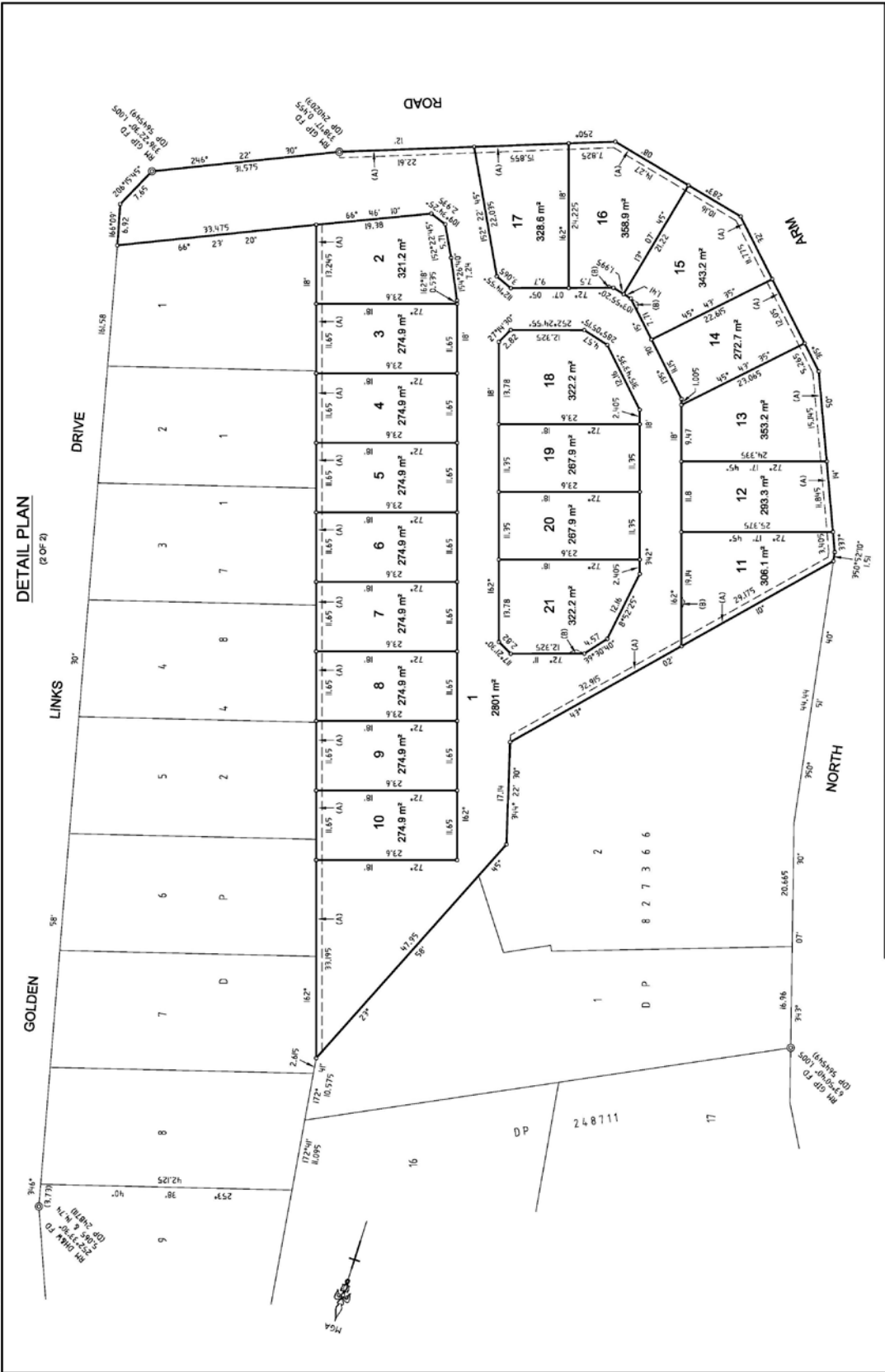
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rev.	date	description	fill	rev.	date	description	fill	client	project number	drawing number	drawing date
A	14/07/16	PREMIA FACILE RESPONSE TYPE A		C	19/07/16	PREMIA DA TYPE A		Peniculare Developments 42 NORTH ARMA RD MURWILLUMBAH, NSW	15007	D4601	25/02/2016
B	19/07/16	LOT LAYOUT REVISIONS		H	11/02/16	PREMIA DA REVISIONS TYPE A/B					
C	20/07/16	LOT LAYOUT REVISIONS		I	25/02/16	DA COMPLETION					
D	20/07/16	PREMIA FACILE GROUND FLOOR									
F	02/02/16	PREMIA FACILE FIRST FLOOR									

drawn: SR
 checked: Sam Ray
 TYPE E - PERSPECTIVES

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

PLAN FORM 2 (A2)



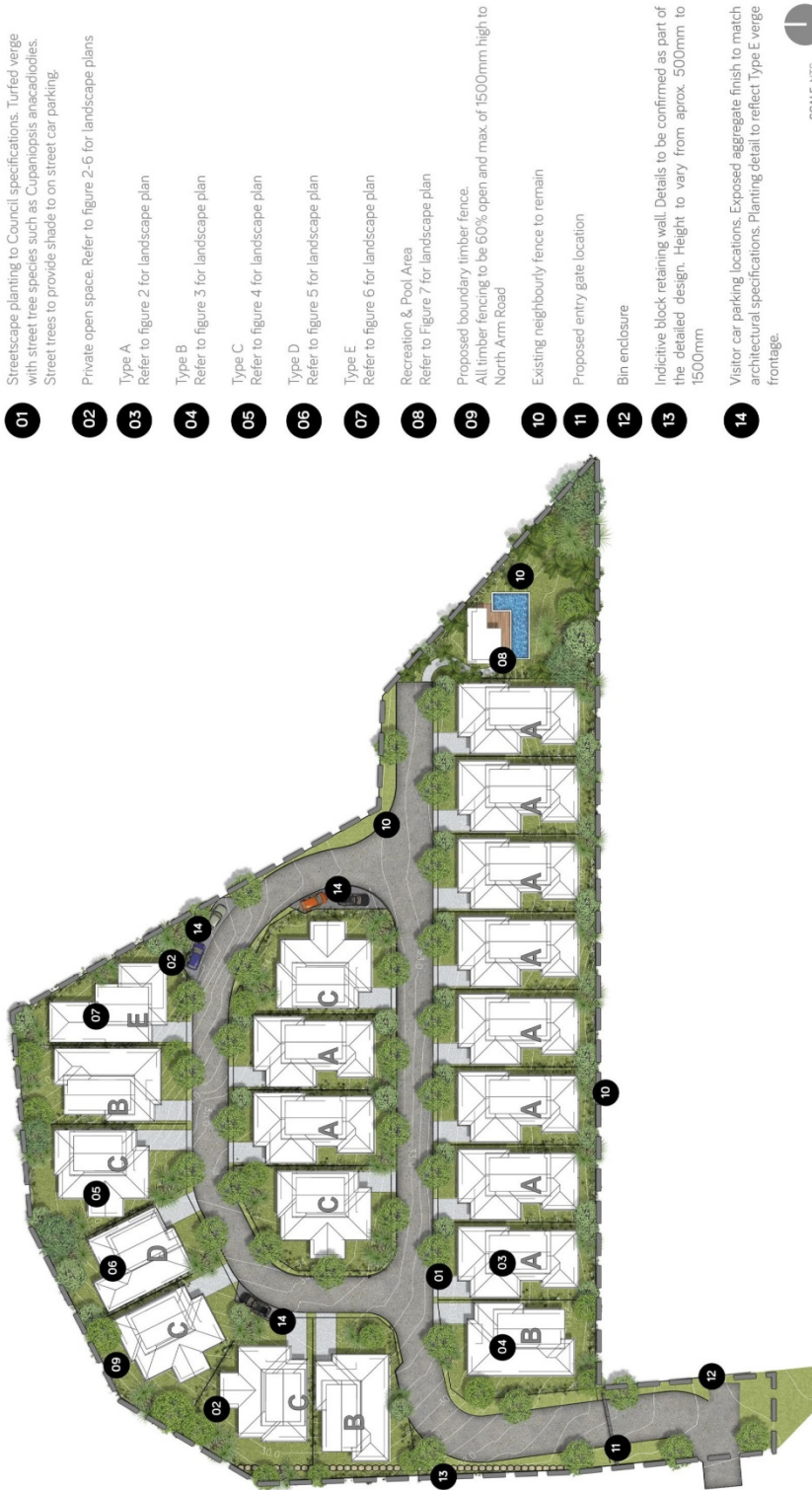
<p>Surveyor: ANDREW FRANK USHER Date of Survey: - Surveyor's Ref: 8318</p>	<p>PLAN OF SUBDIVISION OF LOT 2 IN DP 56459</p>	<p>LGA: TWEED Locality: MURWILLUMBAH Subdivision No: Lengths are in metres. Reduction Ratio: 1:400</p>	<p>Registered</p>
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(A) EASEMENT TO DRAIN WATER 1 WIDE
 (B) EASEMENT FOR PARKING
 NOTE: EASEMENTS SUBJECT TO DRAINAGE DESIGN

10 20 30 40 50 60 70 80 90 100 110 120 130 140 150 160 170 180 190 200 210 220 230 240 250 260 270 280 290 300 310 320 330 340 350 360 370 380 390 400 410 420 430 440 450 460 470 480 490 500 510 520 530 540 550 560 570 580 590 600 610 620 630 640 650 660 670 680 690 700 710 720 730 740 750 760 770 780 790 800 810 820 830 840 850 860 870 880 890 900 910 920 930 940 950 960 970 980 990 1000 1100 1200 1300 1400 1500 1600 1700 1800 1900 2000 2100 2200 2300 2400 2500 2600 2700 2800 2900 3000 3100 3200 3300 3400 3500 3600 3700 3800 3900 4000 4100 4200 4300 4400 4500 4600 4700 4800 4900 5000 5100 5200 5300 5400 5500 5600 5700 5800 5900 6000 6100 6200 6300 6400 6500 6600 6700 6800 6900 7000 7100 7200 7300 7400 7500 7600 7700 7800 7900 8000 8100 8200 8300 8400 8500 8600 8700 8800 8900 9000 9100 9200 9300 9400 9500 9600 9700 9800 9900 10000

42 | NORTH ARM ROAD

OVERALL LANDSCAPE PLAN



Considerations under Section 79C of the Environmental Planning and Assessment Act 1979:

(a) (i) The provisions of any environmental planning instrument

Tweed Local Environmental Plan 2014

Clause 1.2 – Aims of the Plan

The aims of this plan as set out under Section 1.2 of this plan are as follows:

- (1) *This Plan aims to make local environmental planning provisions for land in Tweed in accordance with the relevant standard environmental planning instrument under section 33A of the Act.*
- (2) *The particular aims of this Plan are as follows:*
 - (a) *to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera,*
 - (b) *to encourage a sustainable, local economy, small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed Shire,*
 - (c) *to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, the built environment, and cultural heritage,*
 - (d) *to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,*
 - (e) *to promote building design which considers food security, water conservation, energy efficiency and waste reduction,*
 - (f) *to promote the sustainable use of natural resources and facilitate the transition from fossil fuels to renewable energy,*
 - (g) *to conserve or enhance the biological diversity, scenic quality, geological and ecological integrity of the Tweed,*
 - (h) *to promote the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect or enhance the environmental significance of that land,*

- (i) to conserve or enhance areas of defined high ecological value,
- (j) to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.

The proposed development is considered to be generally in accordance with the aims of this plan having regard to its nature, permissible in the subject zone.

Clause 2.3 – Zone objectives and Land use table

The objectives of this R2 zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

In the R2 zone, the proposed development is permissible with consent, being defined as multi dwelling housing.

The proposed development is considered to be consistent with the objectives of the zone, by virtue of providing additional residential housing which is associated with a low density residential urban community.

Clause 4.1 to 4.2A - Principal Development Standards (Subdivision)

The development relates to strata subdivision and therefore this clause is not applicable. Subclause 4 states:

“This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.”

As the site is zoned R2 Low Density Residential clause 4.1AA does not apply, as this clause only applies to RU1, RU2 and R5 land.

The existing lot will maintain its current size being 8754m². The proposal is considered to be consistent with the clause 4.1 and 4.1AA.

Clause 4.6 - Exception to development standards

Flexibility under this clause is not required as the development.

Clause 5.5 – Development within the Coastal Zone

The site is not located within the coastal zone.

Clause 5.9 – Preservation of Trees or Vegetation

Council’s officers raised no objection to the proposal subject to conditions.

Clause 5.10 - Heritage Conservation

The building is not a heritage item, nor does the site comprise part of a heritage conservation area.

Clause 5.11 - Bush fire hazard reduction

The subject site is mapped as being bushfire prone (vegetation buffer) as per Council's mapping system. The application was referred to the New South Wales Rural Fire Service (NSWRFS). A Bushfire Safety Authority received from the NSWRFS and will be added to the consent.

It is important to note that the current proposed internal road may not cater a fire fighting truck as conditioned by the NSWRFS.

Clause 7.1 – Acid Sulfate Soils

The site is Class 5 Acid Sulfate Soils. The proposed development does not include excavation work within 500m of Class 1, 2, 3 or 4 Acid Sulfate Soils. The proposed development at the site, which is located on the 30m contour, is considered not to impact on Acid Sulfate Soils.

Clause 7.2 - Earthworks

Due to the topography the site, significant earthworks will be necessary. The Applicant has failed to demonstrate the amount of earthworks required. Therefore Council officers are unable to consider the potential impacts the development could have on existing and likely amenity of adjoining properties and likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development.

Clause 7.3 - Flood planning

The site is not identified as being prone to flooding.

Clause 7.5 - Coastal risk planning

The site is not located within the Coastal Hazard Line.

Clause 7.6 - Stormwater Management

The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.

This clause outlines that consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) *is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and*
- (b) *includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*
- (c) *avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

The Applicant has failed to demonstrate the potential impacts of stormwater on adjoining land. The proposed swale drain adjacent to Lot 1 – 9 (and the Communal Lot) must be amended to include a 500mm freeboard and extended to illustrate how the swale ties in with the topography. The design of the swale is to appropriately designed to accommodate rainfall intensity and calculations are to be provided to Council to verify the capacity. The current design and topography indicates that any overflow would possibly discharge into the neighbouring properties which is unacceptable.

The proposed connection to the public stormwater system in North Arm Road, to the west of the site, is not supported in its current format. Council officers may accept an extension of the existing public stormwater infrastructure to the site frontage and install a new gully pit, with the development to connect to the new gully pit.

The proposal is considered unsatisfactory in this regard.

Clause 7.10 - Essential Services

All essential services are available to the site. However the Applicant has failed to demonstrate that adequate arrangements for water, sewer and suitable vehicular access can be provided.

Other Specific Clauses

There are no other clauses considered applicable to the subject site.

State Environmental Planning Policies

SEPP 55 Contaminated Land

A preliminary site investigation was undertaken (dated October 2009). The investigation identified a number of land or partial land uses from 1912 through to the early 1980s (dairy farm). Since the early 1980s the land has been used for residential purposes only and the old dwelling, evident on Council's 1987 aerial photograph, has now been removed but was still in existence at the time of the investigation (2009). The report noted that the now decommissioned Oakbank Dip-site was located 448m to the south of the current property boundary.

The investigation concluded that the site was suitable for residential use. Council officers advise that no further information or investigation into past potentially contaminating activities is required.

(a) (ii) The Provisions of any Draft Environmental Planning Instruments

Draft SEPP (Coastal Management) 2016

The subject site is mapped within the extent of this plan and therefore assessment is required.

The subject site is mapped within the Coastal Use Area, and therefore assessment against Divisions 3, 4 and 5 is required.

Division 4 Coastal use area

15 Development on land within the coastal use area

Development consent must not be granted to development on land that is wholly or partly within the coastal use area unless the consent authority:

- (a) is satisfied that the proposed development:*
 - (i) if near a foreshore, beach, headland or rock platform - maintains or where practicable, improves existing, safe public access to and along the foreshore, beach, headland or rock platform, and*
 - (ii) minimises overshadowing, wind funnelling and the loss of views from public places to foreshores, and*
 - (iii) will not adversely impact on the visual amenity and scenic qualities of the coast, including coastal headlands, and*
 - (iv) will not adversely impact on Aboriginal cultural heritage and places, and*
 - (v) will not adversely impact on use of the surf zone, and*
- (b) has taken into account the type and location of the proposed development, and the bulk, scale and size of the proposed development.*

The subject site is not located adjacent to the coastal foreshore, and so there is no opportunity to improve existing public access.

It is considered that the proposal is consistent with Division 4 of the draft SEPP, in that it will have no significant impacts in relation to overshadowing, wind funnelling or the loss of views, visual amenity and scenic qualities of the coast, Aboriginal cultural heritage and places, and the surf zone.

It is considered that the development type and scale of the proposed operations is suitable to the location.

Division 5 General

16 Development in coastal zone generally—development not to increase risk of coastal hazards

- (1) *Development consent must not be granted to development on land within the coastal zone (other than land to which clause 13 applies) unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.*

Note. *Clause 13 (2) (b) contains a development control provision that substantially mirrors the effect of this provision.*

- (2) *This clause ceases to have effect at the end of 31 December 2021.*

17 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of the following:

- (a) *a coastal management program that applies to the land,*
(b) *a coastal zone management plan (within the meaning of the Coastal Protection Act 1979) that applies to the land that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016.*

It is considered that the proposal will not result in increased risk of coastal hazards on that land or other land.

All relevant coastal management programs (NSW Coastal Policy) have been considered in the assessment of the application.

(a) (iii) Development Control Plan (DCP)

Tweed Development Control Plan

A1-Residential and Tourist Development Code

A complete A1 assessment has been undertaken and is appended to the DA file. The subject application seeks a range of variations to Section A1 of Councils DCP, namely:

1. Rear Deep Soil Zones;
2. Rear Setbacks;
3. Side setbacks;
4. Front setbacks;
5. Building separation;
6. Retaining walls; and

7. Visual privacy.
- Rear Deep Soil Zones;
 - Control: Rear Deep Soil Zones are to have minimum width of 8m or 30% of the average width of the site whichever is the greater and a minimum depth of 18% of the length of the site up to 8m but not less than 5.5m. Greater than 8m may be provided if desirable.
 - The 14 out of the 20 lots provide setbacks of 3m . Therefore these do not comply.
 - Retaining walls;
 - Control: The maximum level of cut is 1m and fill is 1m except for areas under control j.
 - Control: Retaining walls maximum 1.2m.
 - Control: Cut areas are to be set back from the boundaries at least 900mm; fill areas are to be setback from the boundary a minimum of 1.5m.
 - Retaining walls with a varied height of 1.2 – 1.5m are proposed on the property boundaries.
 - External Living areas;
 - Control: External living areas should be suitably screened to achieve visual privacy if located less than 4m from a side boundary.
 - Control: External living areas are to be no closer to the side boundaries than 900mm.
 - All 20 external living areas are located within 4 m from side boundaries. No screening proposed no compliant.
 - The external living areas for dwellings 20, 17, 15, 14, 13, 12, 11 are setback less than 900mm, therefore seven out of the 20 units do not comply.
 - Communal Open Space (COS)
 - Control: The location and design of communal open space must not compromise achieving the minimum separation distances and minimum areas for external living areas.
 - The (COS) recreation area does not provide a 4m setback as required, a non compliant setback of 1.5m is proposed.
 - Front setbacks;
 - Control: In established areas and on infill sites Dual Occupancy Housing and Town Housing are to be consistent with the setback distance of neighbouring buildings and are to be the average of the setbacks of neighbouring dwellings on either side. This setback can be varied up to plus or minus 1m.
 - The development proposes setbacks from North Arm Road of between 2.3m – 4.5m.
 - Side setbacks;
 - Control: Single storey Town Housing is to be set back a minimum of 900mm from the boundary line. Guttering, eaves, hoods and other similar structures may be constructed within the 900mm but not closer than 600mm from the boundary.
 - Control: 2 storey Town Housing is to be set back a minimum of 1.5m from the boundary line to the wall of the building. Guttering, eaves, hoods and other similar structures may be constructed within the 1.5m but not closer than 900mm from the boundary.

- The development proposes side setbacks of between 450mm and 900mm for both single and storey elements. There are side setbacks for two storey elements which are 900mm which should be 1.5m. There are setbacks from singles storey elements which are 450mm which should be 900mm.
- Rear Setbacks;
 - Control: The minimum rear boundary setback is 5m or the deep soil zone whichever is the greater. The minimum building separation distances must be met.
 - The proposed rear setback range between 2.3m to 4.5m (most dwellings have a 3m setback) which is less than the 5.5m requirement (DSZ requires 5.5m), therefore a significant variation is proposed for all of the dwellings.
- Building separation;
 - Control: 8m minimum separation between the wall containing primary windows/doors of living rooms (on any level of the building) to the wall of an adjacent building containing primary window/doors of living rooms.
 - Control: 6m minimum separation distance between primary windows/doors (on any level of the building) of living rooms to windows other than the primary windows of living rooms.
 - Control: 4m min separation between walls containing primary windows/doors of living rooms (on any level of the building) the side boundaries.
 - Control: 4m minimum separation between the primary windows of living rooms (on any level of the building) and walls containing no windows.
 - There are more similar controls too many to list.
 - The development proposes separation distances between each Town house ranging from 900mm to 4m. The minimum separation distances are not complied with; and
- Visual privacy.
 - Control: Living room and kitchen windows, terraces and balconies are avoid a direct view into neighbouring dwellings or neighbouring private open space.
 - Control: Side windows are to be offset by distances sufficient to avoid visual connection between windows of the subject dwelling and those of the neighbouring dwelling.
 - Due to the proposed variations to setback controls, this creates impacts in regards to outlook, views and privacy. The development proposes a 3m rear setback on an elevated site with direct views into neighbouring rear private open space areas. The development would create overlooking into neighbouring dwelling both internally and externally of the site. The internal lots 17 to 20 would have no privacy.

Tweed Development Control Plan

A2-Site Access and Parking Code

The proposed multi dwelling housing development consisting of 20 dwellings is considered to comply with the policy in terms of onsite parking. The development

proposes two parking spaces per dwelling in the form of one single garage and room in within the driveway for another vehicle - this considered to acceptable. The development also proposes five visitor parking spaces, this appears to be at a multi dwelling housing rate of 1 space per 4 units – this is considered to be acceptable.

The development proposes to incorporate changes to the retaining wall along the frontage to North Arm Road in order to maximise sight distance to the west of the proposed site access. This results in sight distance (SSD) exceeding that required under AS2890.1 for driveways crossovers 'to all other developments excluding domestic' at a desirable gap acceptance of 5 seconds. As this criterion is the crucial requirement to avoid crash incidences, the sight distance is accepted for the proposed driveway.

Another issue to be addressed was the distance of the proposed driveway crossover from the intersection of Golden Links Drive. The consultant (Bitzios), whilst acknowledging that the driveway is within the 6.0m of the tangent point, provides that the radius of the curve is 14m which when translated into a distance from the kerb in Golden Links Drive, is adequate for the safe operation of the access and the intersection.

Accordingly, the proposed driveway access location is accepted and no further information is required.

A11-Public Notification of Development Proposals

The development application was notified for a period of 14 days from Tuesday 26 April 2016 to Tuesday 10 May 2016. Council received three submissions, which are addressed later within this report.

A15- Waste Minimisation and Management

The Waste Management Plan fails to comply with Council's practices. Additional information would be required to demonstrate that storage of all waste can be accommodated on site and the \ waste can be serviced safely from the site.

There are some concerns with the proposed waste management practices for this development.

In particular:

- (a) The application does not demonstrate that waste management practices will comply with council's waste DCP chapter.
- (b) There is not sufficient storage space for waste and recycling for 20 houses.
- (c) The Statement of Environmental Effects proposes that waste will be collected from inside the development – however the internal road network does not appear to cater for this proposal.

It is recommended that the following information be provided prior to issuing of development consent:

A16-Preservation of Trees or Vegetation

Council's officers raised no objection to the proposal subject to conditions.

(a) (iv) Any Matters Prescribed by the Regulations

Clause 92(1)(a)(ii) Government Coastal Policy

The subject site is not nominated as Coastal Land and therefore this clause does not apply. The development will not restrict access to any foreshore areas or create overshadowing to any foreshore and is therefore considered acceptable in this regard.

Clause 92(1)(b) Applications for demolition

The application seeks approval for the demolition of the existing shed and outbuilding, appropriate conditions have been recommended.

Clause 93 Fire Safety Considerations

Not Applicable.

Clause 94 Buildings to be upgraded

Not Applicable.

(a) (v) Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),

Tweed Shire Coastline Management Plan 2005

This Plan applies to the Shire's 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown lands. The subject site is not located in close proximity to Tweed Shire Coastline and as such this management plan does not apply to the subject application.

Tweed Coast Estuaries Management Plan 2004

This Management Plan applies to the estuaries of Cudgen, Cudgera and Mooball Creeks. The subject site is not located in close proximity to any of these creeks and as such this management plan does not apply to the subject application.

Coastal Zone Management Plan for Cobaki and Terranora Broadwater (adopted by Council at the 15 February 2011 meeting)

As the subject site is not located within the Cobaki or Terranorra Broadwater to which this plan relates, this Plan is not considered relevant to the proposed development.

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

Insufficient detail has been provided to Council to determine the likely impacts of the proposal in relation to the built environment.

Context and Setting

The site is located within an established urban environment, surrounded by low density residential development. The proposal is considered not to be consistent with the surrounding residential developments by proposing multi dwelling housing on a constrained site that requires significant variations to Council's residential controls. The proposed variations are considered likely to create impacts to residents within the development and also neighbouring properties.

Access, Transport and Traffic

Sufficient on site residential and visitor parking is proposed. The proposed location of the access to the site and sight distances is considered to be acceptable.

Flora and Fauna

Council's officers raised no objection to the proposal subject to conditions.

During Construction

Adjacent dwellings (Golden Links Drive and North Arm Road) will be affected by demolition and construction activity (e.g. dust, noise, vehicle movements). Standard construction conditions are recommended to protect community amenity.

Amenity from the communal recreation area

The proposed recreational area is located adjacent to shared property boundaries with dwellings along Turquoise Place, Golden Links Drive and North Arm Road. Some of the dwellings are located less than 30m from the proposed pool, and potentially affected by recreational activity from larger groups of users than would normally be expected to gather at a single residential pool / garden area.

The applicant provided a noise assessment report utilised the *NSW Industrial Noise Policy* to establish intrusive and amenity criteria noise, and stated that the following noise source levels would be typical of a residential development:

Activity / Noise Source	Distance (m)	Measured L _{Aeq} Adjusted dB(A)	Duration (mins) per 15 minutes	Noise Level, SPL L _{eq 15 min} dB(A)
Two residents talking	1m	55	15	55
10 people at recreation	1m	64	15	64

* Denotes + 5 dB(A) correction due to tonality as per AS1055 – 1997

** Denotes + 5 dB(A) correction due to impulsiveness as per AS1055 – 1997

The proposed pool location, at the far (northern) end of the development, is set away from the majority of the 20 townhouses within the development but will

share a common boundary to seven adjoining private residential properties, refer to figure below.



The Noise Report referenced five of the private residences in modelling potentially affected *noise sensitive receivers*.

The Noise Report concluded that likely impacts from the communal recreation area, would be *at or below the daytime and evening noise criterion*. The report and assessment did not consider:

- That noise from the recreational area might include children or adults speaking/ shouting / splashing in and around the pool;
- The proposed location of the pool and recreational area would be such that noise during pool use would primarily affect adjoining private residences; and
- Options for the management of the recreational area*.

* *The report recommended that use of the recreational area be limited to the hours 7am to 10pm.*

Council has little authority to regulate noise post-development, under the provisions of POEO Act & Regs, for this type of activity (people speaking, laughing or shouting on private property).

It is recommended by Council officers that any approval be conditioned in accordance with the noise mitigation measures suggested in Section 6 of the Noise Report.

(c) Suitability of the site for the development

The Applicant has failed to demonstrate that the site is suitable for the proposal.

Surrounding Landuses/Development

The site is surrounded by mostly residential development in the form of single detached residential dwellings on residentially zoned land.

Topography

The site is considered to have a steep topography, particularly to the properties boundaries. The site is vegetated covering a portion of the northern corner of the site and western portion of the site. The site is bound by zone R2 Low Density Residential land to the north, east and west, with R1 General Residential zoned land located to the south.

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

Section A11 – Public Notification of Development Proposals

The development application was notified for a period of 14 days from Tuesday 26 April 2016 to Tuesday 10 May 2016. Council received three submissions, which are addressed in the table below.

Issue raised in submission	Applicant and Council officer comment
Access to the site is in a dangerous location especially with a high number of vehicles entering and existing the site.	Council officers have reviewed the Traffic Report and raise no objection to the sightline and distance to the intersection with Golden Links Drive. However, access has not been demonstrated with regards to Fire fighting vehicles and waste collection vehicles.
Impact on pedestrians	Council officers raise no objection to the potential impact on pedestrians.
Visitor parking – where are all the visitors to park.	The development provides five visitor spaces, which is in accordance with Council parking policy.
Rear setback of lot 4 and 5 of 3m is unacceptable and creates such issues of excessive overshadowing, overlooking, invade privacy. Reducing their ability to use their back yard in a comfortable way.	Council officers agree. The development proposes rear setbacks that do not comply with Council’s requirements. These variations are not supported, due to the potential impacts these variations could create.
The shadowing model appears to be inaccurate, as in winter shadowing is created on our site at 3pm, without a two storey dwelling, which is what is proposed.	The Applicant states: <i>“Confusion in interpreting the shadow diagrams was provided within the duplicate submissions. The revised plans clearly indicate the proposal does not overshadow the neighbouring properties by more than 50% and does not reduce the availability of sunlight to less than three hours during the winter</i>

Issue raised in submission	Applicant and Council officer comment
	<p style="text-align: center;"><i>solstice of 21st June each year."</i></p> <p>Council officer comment</p> <p>The submitted shadowing plans appear to be correct. The site is oriented in a north south direction with the neighbouring properties located on Golden Links Drive being orientated to the east north east of the site therefore overshadowing is of these properties is likely to be minimal and compliant with the requirement of 50% of private open space for 2 hours per day between 9am and 3pm – June 21, refer to the image below.</p> <div data-bbox="807 898 1378 1659" style="text-align: center;"> </div>
<p>The proposed location of the ingress and egress and traffic generation would create an impact on the intersection of Golden Links Drive and North Arm Road. This is likely to create an increase in motor vehicle incidents.</p>	<p>Council officers have reviewed the Traffic Report and raise no objection to the sightline and distance to the intersection with Golden Links Drive.</p>
<p>The development is a community title subdivision with lot sizes varying from 260m² to 350m² this is</p>	<p>The development does propose lot sizes 267m² to 353m². Section A1 Part B - Town Houses, requires <i>in 2(a) zone lot</i></p>

Issue raised in submission	Applicant and Council officer comment
<p>clearly a form of medium density development and does not meet the objectives of the zone.</p>	<p><i>size minimum of 1350m²:</i></p> <p><i>i. With dwellings at a density of no greater than 1 dwelling per 450m² with a development lot area of 220m² each.</i></p> <p>The development proposes density of 1 dwelling per 437.7m². Therefore the development does not comply with this control and represents an overdevelopment of the site.</p> <p>The zone objection of the R2 zone are:</p> <ul style="list-style-type: none"> • <i>To provide for the housing needs of the community within a low density residential environment.</i> • <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> <p>Based on the variation above, it could be considered that the development is not 'low density' and therefore inconsistent with the objectives of the R2 Low Density zone.</p>
<p>The development is a form of small lot housing under Section A Part A and fails to comply with the specific planning and design principles.</p>	<p>The Applicant has incorrectly used Part A of Section A1. It is in Council's opinion that the development should be more appropriately characterised as Townhouse development and therefore an assessment should be made against Part B of Section A1.</p> <p>Regardless, of which Part of Section A1 to is used, it is considered that the development creates the same issues and impacts and is an overdevelopment of the site.</p>
<p>The development fails to provide a Site Analysis as required by section 7.3 of Section A1. Therefore the does not conform to the requirements of the DCP A1.</p> <p>The site is subject to a number of significant constraints including ridgeline, steep slopes, overlooks adjoining properties, site access is</p>	<p>Council officer agrees that the Application did not provide a Site Analysis Plan that complies with the requirements of Section A1.</p>

Issue raised in submission	Applicant and Council officer comment
<p>restricted, stormwater drainage onto adjoining properties, local rainforest trees, seepages.</p> <p>This makes it difficult to gauge the overall impact of the development.</p>	
<p>The analysis of vegetation on the site has omitted the vegetation in the northern portion of the site.</p>	<p>Council officers agree. However Council officers have assessed the vegetation located in the northern portion of the site in conjunction with the Landscape Intent Plan and have raised no issues subject to conditions.</p>
<p>The Geotechnical Report Appendix L, states that <i>'No detailed investigation into geotechnical conditions has been carried out at this stage. As per section 1.2 of this report, it is recommended that a full geotechnical investigation including determination of the presence of sulphatic soils is conducted during the detailed design phase prior to commencement of construction.'</i></p>	<p>Council officer have raised no issue with regards to geotechnical information provided with the DA, subject to conditions requiring detail design at CC stage of the development process.</p>
<p>Site analysis.</p> <p>The application dismisses urban design objectives stating that it can because the site is severely constrained.</p>	<p>Council officers agree. The Applicant has seemingly dismissed potential impacts using site constraints to support variations.</p>
<p>Layout.</p> <p>The cul de sac should have a maximum length of 100m and serve no more than 12 dwellings. The development does not comply.</p>	<p>Council officers have not raised an objection to the internal roads length or number of dwellings that the internal road services.</p> <p>The proposal is for a Community Title subdivision therefore standard provisions such as this one can be varied, subject to assessment. In this case, Council officers are more concerned with ensuring that the development complies with firefighting requirements and waste services, than length of road and number of lots.</p>
<p>Earthworks – limited to no detail.</p> <p>The SEE states that earthworks are required for the internal ring road and retaining walls within the building footprint. Therefore it is</p>	<p>Council officers agree. The DA provided limited detail with regards to earthworks and retaining walls. Therefore it is difficult to determine the potential impacts of such works. Council officer have asked for this information which has not</p>

Issue raised in submission	Applicant and Council officer comment
<p>assumed that no further earthworks are proposed on the site and will remain unchanged including the northern corner of the site where the pool is located.</p>	<p>been provided.</p>
<p>Stormwater issues.</p> <p>The proponents have stated that rainwater tanks have to be used to store roof water to meet stormwater detention requirements in the form of 'Leaky Tanks' and stormwater treatment is achieved inter alia through lot based bio-retention gardens for lots 10-16 (not lots 17-20 as detailed in Appendix E (Engineering Assessment)), and a larger Bio-retention garden to treat the remaining site located at the junction with North Arm Road.</p> <p>There is little by way of justification for the proposed arrangements. Research has identified significant limitations to bio-retention gardens:</p> <ul style="list-style-type: none"> • Requires relatively flat site and sufficient hydraulic head for filtration. • operation and maintenance is critical to proper performance (eg vegetation requires maintenance and can look overgrown or weedy) • Need to know if soils are rapidly permeable, or slowly permeable • Too much foot traffic in the cells can cause soil compaction which reduces water infiltration <p>No details have been provided for the bio retention gardens or if this will cope with storm events.</p>	<p>Council officers agree. Due to the limited detail provided by the Applicant the application is not supported in terms of Stormwater.</p>
<p>Access.</p> <p>The Traffic Report only focus on sightlines.</p>	<p>Council officers have not raised an objection to the proposal in regards to sight access and distance between the proposed access and the intersection of</p>

Issue raised in submission	Applicant and Council officer comment
<p>There are 3 significant elements that need to be considered:</p> <ul style="list-style-type: none"> • the proposed junction with North Arm Road, • the relationship with other existing junctions and driveways • the additional traffic on North Arm Road/Byangum Road 	<p>Golden Links Drive.</p>
<p>Waste management.</p> <p>As the proposed internal road is unable to accommodate a garbage truck the DA argues that 2x2m³ bins are sufficient to cater for this development and the drawings indicate a small bin enclosure (what are the dimensions, elevations etc.). The SEE states that <i>'Waste refuse collection will be collected from the kerb at North Arm Road as per Appendix H – Waste Management Plan'</i>. However, Appendix H includes contradictory advice, namely:</p> <ul style="list-style-type: none"> • <i>'The bin transfer to the kerb will be the responsibility of the contracted waste employees'</i>. • <i>'The bulk bin storage area shall be located in an accessible position so Council's Garbage Contractor is able to drive onto the site and collect the required bin(s)'</i>. <p>What exactly is proposed? Whatever the arrangements it is unclear from the plans exactly how the garbage truck will access the site/bins. Without such details we</p>	<p>Council officers have reviewed the Waste Management Plan and have raised concerns that the size of the waste collection area is not compliant with Council's DCP and also the ability or lack thereof for the waste to be collected safely.</p> <p>There are some concerns with the proposed waste management practices for this development.</p> <p>In particular:</p> <ul style="list-style-type: none"> (a) The application does not demonstrate that waste management practices will comply with Council's waste DCP chapter. (b) There is not sufficient storage space for waste and recycling for 20 houses. (c) The Statement of Environmental Effects proposes that waste will be collected from inside the development – however the internal road network does not appear to cater for this proposal. <p>It is recommended that the following information be provided prior to issuing of development consent.</p>

Issue raised in submission	Applicant and Council officer comment
<p>can only surmise that access cannot be achieved without creating significant traffic issues, which have not been included in the Traffic Assessment.</p> <p>The DA argues that 2x2m³ bins are sufficient to cater for this development and the drawings indicate a small bin enclosure– is this sufficient for a development of this size?</p> <p>Alternatively will the development result in up to 40 garbage bins (about 23m) lining North Arm Road - not a pretty sight let alone unsafe as it would interfere with the sight lines so carefully designed by the proponents.</p> <p>Appendix H states that <i>‘the proposed bin store area is located adequately clear of the buildings so as not to create a nuisance to the occupants’</i>. No regard has been given to the amenities of the existing adjoining residents to the garbage enclosure.</p>	
<p>Geotechnical. The previously prepared geotechnical engineering assessment for the site for Development Application DA09/0827 the SEE concludes that the site is not considered at risk from landslip or subsidence. However, the accompanying geotechnical review (Appendix E) also states that <i>‘these reports however are dated and should not be relied upon for detailed design and construction purposes’</i>. A DA should be a stand-alone application with sufficient material to support it. The development is significantly different to that already approved and therefore should have its own geotechnical support.</p>	<p>Council officers were accepting of the Geotechnical Engineering Assessment prepared for the previous application DA09/0827 being re-submitted for this DA, as the same issues are applicable.</p> <p>The Report outlined:</p> <ul style="list-style-type: none"> o Geotechnical constraints for the proposed development. o Site Classifications for the building envelopes in accordance with AS 2870-1996. o Foundation recommendations for proposed future structures. o Excavation conditions. o Geotechnical design parameters for temporary and permanent excavations and batter slopes. o Slope stability assessment.

Issue raised in submission	Applicant and Council officer comment
	<p>o The site is not considered at risk from landslip or subsidence.</p> <p>The submitting of the previous Geotechnical report with the current DA was considered to be acceptable for DA purposes. If the DA was recommended for approval appropriate conditions could be recommended to ensure updated geotechnical assessment was undertaken to finalise detailed design/CC submission.</p>
<p>Three inter-related issues arise from the pool and recreation area in the northern corner of the site, which adjoins our property.</p> <ol style="list-style-type: none"> 1. The land here slope significantly but as no finished floor level for the structure is included in the submitted drawings it is not possible to assess the impact of this structure on our property and amenity. We are concerned at the potential for noise, overlooking and loss of privacy and amenity. Details of floor levels must be provided to ourselves for comment before this DA is determined. 2. The use of this element of the proposed development will be communal by all of the residents of the proposed development. In view of the limited lot size this is likely to be a significant amount of usage. (The development is supposed to be located close to open space etc., which it is not). It is inappropriate to justify this facility in the proposed location on the grounds that, <i>'a number of pools on adjoining sites back on to the subject property.'</i> Apart from being incorrect (as far as we are concerned), the 	<p>Council officers agree that there is limited detail with regards to finished ground level or heights of the proposed recreation area.</p>

Issue raised in submission	Applicant and Council officer comment
<p>noise from one backyard pool can be considerable and this facility will be more than that as it is a communal pool. This noise could be compounded by the raising of the level of the pool deck which will channel all noise into the rear of our property.</p> <p>3. We also need full details of the landscape plan for this facility not concepts before making final comments, such detail to include the impact on existing vegetation on our property and the subject property.</p> <p>Any communal recreation facilities must be located within the centre of the site not on the periphery of the development.</p>	
<p>Plans no details.</p> <p>There is a reliance on further design plans and details in respect of a number of matters, including stormwater management, and height of retaining walls. Given the constraints of the site without complete details it is not possible to respond fully to the proposal.</p>	<p>Council officers agree with this statement as the Applicant has failed to provide detailed plans addressing Council's request for further information and also stating that further detailed design to be provided at CC stage.</p>
<p>Sewer.</p> <p>We note that Appendix F states that <i>'Alternatively, a sewer main is present on the blocks towards the north of the site. Because of the grade of the site, it is proposed to connect into the sewer along Golden Links Drive.'</i></p> <p>The sewer main on the northern boundary of the site is within our property. If any consideration is to be given to the use of this sewer main rather than Golden Links Drive we would require consultation before any final decision is made.</p>	<p>Council officers have concerns regarding sewerage with poor or limited information provided by the Applicant.</p>

Issue raised in submission	Applicant and Council officer comment
<p>Streetscape.</p> <p>The dwellings have minimal setback from North Arm Road and would overshadow/dominate etc. Any development of the subject site should be set back 6m like other development to respect the established streetscape.</p>	<p>The development proposes non-compliant 'rear' setbacks fronting North Arm Road. Due to the topography with the site being higher than the North Arm Road, the proposal is unlikely to create a significant impact on the streetscape.</p>
<p>The proponents argue that a new development consent is sought for Small Lot Housing as the current consent DA09/0827 is not considered to be the 'highest and best use' of the site. The proponents have made no attempt either to articulate what they mean by 'highest and best use' or justify the proposed development in those terms. The achievement of 'highest and best use' most certainly should not be at expense of the residents and environment of the locality.</p> <p>The form of the proposed development is contrary to Council policy which requires small lot housing to be in proximity to centres. The proponents have neither demonstrated that the development is in proximity to a centre nor demonstrated that there are any sound reasons for approving small lot housing on this site in the absence of appropriate services and facilities in the locality.</p> <p>The site has a number of significant constraints which dictate that the development of the site for small lot housing is not appropriate. It is not capable of accommodating the amount of development and associated infrastructure without significant adverse impact. As a consequence the development is a significant over-development of the property, totally out of character with the existing development</p>	<p>Council officer agree as the Applicant continues to makes statements such as 'highest and best use' 'the current consent is considered not to be feasible', 'better functioning site along with an enhanced overall design consistent with the local character'.</p> <p>Council officers generally agree with the objectors comments which is why the DA is recommended for refusal.</p>

Issue raised in submission	Applicant and Council officer comment
<p>surrounding the subject property, which is low density detached residential.</p> <p>The proposed access will result in conditions of traffic danger. In view of the large amount of school traffic to Wollumbin High School (vehicular and pedestrian) this situation must be avoided.</p> <p>The design and siting of the proposed dwellings has no regard for the significant ridge line that runs through the property and the impact of the development in the locality. The resultant development would be out of keeping with the character and amenity of the area.</p> <p>The development would result in overlooking into adjoining properties with a resultant loss of privacy and residential amenity for residents.</p> <p>In respect of our property (Lot 1 DP 827366), which adjoins the northern boundary of the subject site, the proposed communal pool and recreation area would result in overlooking, loss of privacy and noise with resultant significant loss of amenity for ourselves.</p>	

New South Wales Rural Fire Service

The site is identified as being within bushfire prone area and is therefore integrated development with the New South Wales Rural Fire Service (NSWRFS) in accordance with Section 91 of the Environmental Planning and Assessment Act 1979. The NSWRFS provided their General Terms of Approval.

(e) Public interest

The proposal is considered to have the potential to create a significant impact on the internal properties and the residents and adjoining properties, therefore the proposal is considered not to be within the public interest.

OPTIONS:

1. Refuse the Development Application.
2. Give in-principle approval, and the officers bring back recommend conditions of consent to the next Planning Committee meeting.

Council officers recommend Option 1.

CONCLUSION:

The proposed development is recommended for refusal due to insufficient information to address issues raised by Council officers. The potential impacts are considered likely to be significant and are therefore the proposal is not supported.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

The applicant has the right to appeal Council's determination in the Land and Environment Court.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

2 [PR-PC] Development Application DA16/0724 for a Dwelling and Secondary Dwelling at Lot 83 DP 1030322 No. 8 Eclipse Lane, Casuarina

SUBMITTED BY: Development Assessment and Compliance

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Making decisions with you
2.1	Built Environment
2.1.2	Development assessment - To assist people to understand the development process and assess applications lodged with Council to achieve quality development outcomes and land use decisions.

ROLE: Provider

SUMMARY OF REPORT:

Council is in receipt of an application for a new two storey dwelling house that includes a secondary dwelling upon a vacant allotment in Casuarina.

The building will include a double garage and a central spine with rooms on either side. The secondary dwelling is located within the ground floor only of the building at the rear of the lot on the northern side of the building with the primary dwelling containing 5 bedrooms over two storeys. Both dwellings have access to a deck at the rear that faces east towards the reserve and ocean.

The site is located within the Casuarina Estate and is surrounded by low density residential dwellings. The site is flat and is bordered by reserve to the east and the South Pacific Ocean.

The site is partially impacted by sensitive coastal lands and is partially subject to zoning under the previous Tweed Local Environmental Plan 2000. No sensitive vegetation is present where the dwelling and secondary dwellings footprint is proposed.

Following an initial internal assessment and notification period that resulted in 6 submissions living in Eclipse Lane or Casuarina Way, the applicant was sent a significant request for further information (RFI) specifying a number of issues be addressed.

In summary these issues were identified as:

1. Dwelling design in response to solar access;

2. The relationship with the dwelling and adjoining properties, specifically, privacy, window positioning, overshadowing;
3. Articulation of the building given its bulk and scale;
4. The design of the dwelling lending its self to a dual occupancy development rather than a secondary dwelling; and
5. Lack of compliance with B5 – Casuarina Beach in regards to eave setbacks.

In response to Council's requests for additional information and amendments, changes were made to the proposed plans. The issues raised within this request are now considered duly satisfied as follows:

- The existing dwelling to the south will be impacted by the new dwelling. However, the proposal is compliant in regards to setbacks, heights and eaves (deferred commencement, see below) and articulation. The proposal is also compliant in regards to the number of hours of sunlight during winter reaching areas of private open space and living areas of the southern dwelling. Therefore the proposal is considered acceptable in this regard.
- The building does demonstrate features that would enable the building to be used as a dual occupancy, despite the application featuring a secondary dwelling. However, the approval will be for the purposes of a primary dwelling and a secondary dwelling and any changes to the internal walls of the building would be contrary to the development consent. This potential compliance issue is not a reason for refusal.
- Council's urban designer has examined the additional information and amended plans provided by the applicant and is now satisfied that the side elevations of the new dwelling and secondary dwelling have sufficient articulation due to different treatment materials and colours.
- The privacy of the adjoining dwellings was a concern with the original application due to lack of information provided by the applicant. The additional information provided and amendments to the plans have provided assurances that the adjoining properties, while impacted, will be minimised as follows:
 - Ground floor windows at the rear will now be highlight windows to avoid occupants looking directly into neighbouring properties;
 - Side entries will not be directly opposite high traffic areas. However, the southern entry to the dwelling will be required to provide screening as it is opposite a porch for 6 Eclipse Lane;
 - Both outdoor areas at the rear will have screening on the side elevations to protect the privacy of the occupants and adjoining properties; and
 - The applicant has agreed to a deferred commencement condition requiring the eaves to be a minimum of 675mm from the side boundary, not 450mm, as the current plans indicate. This will ensure the dwelling is compliant with the Tweed DCP Section B5 in regards to site boundary setbacks.

Despite compliance, due to the number of submissions received, all Councillors were provided a summary of the application, changes and submissions to determine if the application should be presented to a Council meeting or determined under delegated

authority. Two Councillors (Cr Cherry and Cr Cooper) have requested that the application be presented to this meeting for consideration and determination.

The recommendation is for conditional approval.

RECOMMENDATION:

That Development Application DA16/0724 for a dwelling and secondary dwelling at Lot 83 DP 1030322 No. 8 Eclipse Lane, Casuarina be approved subject to the following conditions:

"DEFERRED COMMENCEMENT"

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within three months of the date of notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 95 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

SCHEDULE "A"

Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 95 of the Regulations as amended.

- A. The approved plans must be amended to ensure the eaves of the first floor are setback a minimum of 675mm from the side boundary. Details to the satisfaction of the General Manager or delegate prior to the provisions of deferred commencement being satisfied.

SCHEDULE B

NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE 'A' ARE SATISFIED.

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos:
 - Site Plan, DA-001, Issue 009, dated 28/02/17
 - Ground Floor Plan, DA-002, Issue 001, dated 28/02/17
 - First Floor Plan, DA-003, Issue 001, dated 28/02/17
 - Roof Plan, DA-004, Issue 001, dated 28/02/17
 - Ground Floor Plan (neighbouring house analysis) DA-005, Issue 001, dated 28/02/17
 - First Floor Plan, (neighbouring house analysis) DA-006, Issue 001, dated 28/02/17

- North-West Elevation, DA-007, Issue 001, dated 28/02/17
- South-West Elevation, DA-008, Issue 001, dated 28/02/17
- South-East Elevation, DA-009, Issue 001, dated 28/02/17
- North-East Elevation, DA-010, Issue 001, dated 28/02/17
- Section Thru-A, DA-011, Issue 001, dated 28/02/17
- Section Thru-B, DA-012, Issue 001, dated 28/02/17
- Section Thru-C, DA-013, Issue 001, dated 28/02/17
- Bin Enclosure Details, DA-017, Issue 001, dated 28/02/17

prepared by Real Space Creative, except where varied by the conditions of this consent.

[GEN0005]

2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0115]

3. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property.

[GEN0135]

4. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.

[GEN0300]

5. **Bushfire Design and Construction**

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

(a) Construction shall comply with Australian Standard AS3959-2009 'Construction of buildings in Bush Fire-prone areas', Bushfire attack Level (BAL) 12.5 for dwelling.

(b) Prior to issue of an Occupation Certificate the development is to be completed in accordance with the Bushfire Risk Management Plan prepared by Planit Consulting dated September 2016.

[GEN0335]

6. The development approval is for a dwelling and secondary dwelling. Any alterations to the building that result in an attached dual occupancy would require separate development consent.

[GENNS01]

7. Where easements in favour of Council are provided through private property no structures or part thereof may encroach into the easement.

8. As the approved plans propose to use the double garage for the secondary dwelling and principle dwelling, the garage shall be divided and fire rated both

individually and to the main building in accordance with the Building Code of Australia.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

9. Stormwater

- (a) Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.**
- (b) All roof water shall be discharged to infiltration pits located wholly within the subject allotment.**
- (c) The infiltration rate for sizing infiltration devices shall be 3m per day:**
 - * As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.**
- (d) Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.**
- (e) Runoff other than roof water must be treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).**
- (f) If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).**
- (g) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.**
- (h) All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.**
- (i) All infiltration devices are to be designed to withstand loading from vehicles during construction and operation of the development.**
- (j) All infiltration devices are to be located clear of stormwater or sewer easements.**

[PCC1135]

10. If the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.

The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.

[PCC1325]

11. Appropriate screening shall be provided for the entry porch along the southern side boundary to the satisfaction of the General Manager or delegate.
12. Front boundary fencing shall maintain an openness of 60% above 600mm from ground level to the satisfaction of the General Manager of delegate.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

13. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

14. The erection of a building in accordance with a development consent must not be commenced until:
- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
 - (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:

- (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
- (ii) notified the principal certifying authority of any such appointment, and
- (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

15. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0225]

16. Residential building work:

- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:

- * in the name and licence number of the principal contractor, and
- * the name of the insurer by which the work is insured under Part 6 of that Act,

- (ii) in the case of work to be done by an owner-builder:

- * the name of the owner-builder, and
- * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

17. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one closet for every 15 persons or part of 15 persons employed at the site. Each toilet provided must be:

- (a) a standard flushing toilet connected to a public sewer, or
- (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

18. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

19. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

DURING CONSTRUCTION

20. Construction and/or demolition site work including the entering and leaving of vehicles is 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 Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

21. The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of buildings with direct line of sight to the proposed building.

[DUR0245]

22. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

23. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

24. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2011.

[DUR0415]

25. The finished floor level of the building should finish not less than 225mm above finished ground level.
[DUR0445]
26. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.
[DUR0905]
27. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from:
- Noise, water or air pollution.
 - Dust during filling operations and also from construction vehicles.
 - Material removed from the site by wind.
- [DUR1005]
28. Zone Boundary
- (a) No construction work other than 1.2m high fencing is to be carried out in the 7(f) zone.
 - (b) The 7(f) and 2(e) zone boundary is to be clearly identified on site by Registered Surveyor marks prior to start of work.
 - (c) No overflow from an infiltration pit shall be discharged over the eastern boundary.
- [DUR1035]
29. Landscaping of the site shall be carried out in accordance with the submitted/approved landscaping plans.
[DUR1045]
30. All landscaping is to comply with the 88B Instrument pertaining to the site.
[DUR1055]
31. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
[DUR1875]
32. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blown from the site.
[DUR2185]
33. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;
 - (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;

- (c) external drainage prior to backfilling.
- (d) completion of work and prior to occupation of the building.

[DUR2485]

34. Plumbing

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the Plumbing Code of Australia and AS/NZS 3500.

[DUR2495]

- 35. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.**

[DUR2505]

- 36. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.**

[DUR2545]

- 37. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:**

- * 45°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- * 50°C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR2555]

- 38. Sewer connections within the 7(f) zone are to comply with the following:**

- (a) Two inspection shafts shall be provided to each lot. The first shall be provided immediately adjacent to the connection point provided by the developer. The second inspection shaft at 0.5 metres inside the 2(e) zone boundary on each property. Inspection shafts are to be finished at surface level with a standard bolted trap screw cap and concrete surround.

- (b) Pipe work size for all lots under this approval are to have a 100mm diameter sewer.

[DUR2695]

- 39. Works in the vicinity of public infrastructure must comply with the following requirements:**

- a) Deep soil planting zones are not permitted in the sewer easement to ensure adequate protection of council's public sewer infrastructure.
- b) Trees and other landscaping that will grow to over one meter in height at maturity are not permitted within the sewer easement to prevent the tree roots intruding into sewer mains and internal sewer pipes. Landscaping

within sewer easements shall be of a minor nature designed to ensure they do not damage or interfere with any part of the pipeline.

- c) Surface treatment over the sewer pipe shall be limited to soft landscaping, non-interlocking paving, asphalt or similar treatments as specified by Council officers, to allow ready access to the pipe for excavation. Council will not be responsible for the reinstatement of plantings, unauthorised structures or decorative surfacing in the vicinity of the pipe in the event of pipe excavation or other maintenance works.

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

40. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

41. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property.

The street number is to be on a white reflective background professionally painted in black numbers 75-100mm high.

On rural properties or where street guttering is not provided the street number is to be readily identifiable on or near the front entrance to the site.

For multiple allotments having single access points, or other difficult to identify properties, specific arrangements should first be made with Council and emergency services before street number identification is provided.

The above requirement is to assist in property identification by emergency services and the like. Any variations to the above are to be approved by Council prior to the carrying out of the work.

[POC0265]

42. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.

[POC0435]

43. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

USE

44. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.

[USE0125]

45. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise.

[USE0175]

46. Subdivision of the development, including strata subdivision, is not permitted.

[USE1255]

REPORT:

Applicant: Mr AL Szabo
Owner: Mr Andrew L Szabo & Mr Tyler J Mattiazzi
Location: Lot 83 DP 1030322 No. 8 Eclipse Lane, Casuarina
Zoning: 7(f) Environmental Protection (Coastal Lands); R2 - Low Density Residential
Cost: \$500,000

Background:

Council is in receipt of an application for a new two storey dwelling house and secondary dwelling upon a vacant allotment in Casuarina. It is proposed to construct a two storey dwelling that also contains a secondary dwelling within the building footprint. The secondary dwelling is restricted to a portion of the ground floor at the rear of the building in the north eastern corner. The remainder of the building contains the principle dwelling.

Following an initial internal assessment and notification period that resulted in 6 submissions living in Eclipse Lane or Casuarina Way, the applicant was sent a significant RFI requesting a number of issues be addressed.

In summary these issues were identified as:

1. Dwelling design in response to solar access
2. The relationship with the dwelling and adjoining properties, specifically, privacy, window positioning, overshadowing and lack of information in this regard
3. Articulation of the building given its bulk and scale
4. The design of the dwelling lending its self to a dual occupancy development rather than a secondary dwelling.
5. Lack of compliance with B5 – Casuarina Beach in regards to eave setbacks

In response to Council's requests for additional information and amendments, changes were made to the proposed plans. The issues raised within this request are now considered duly satisfied as follows:

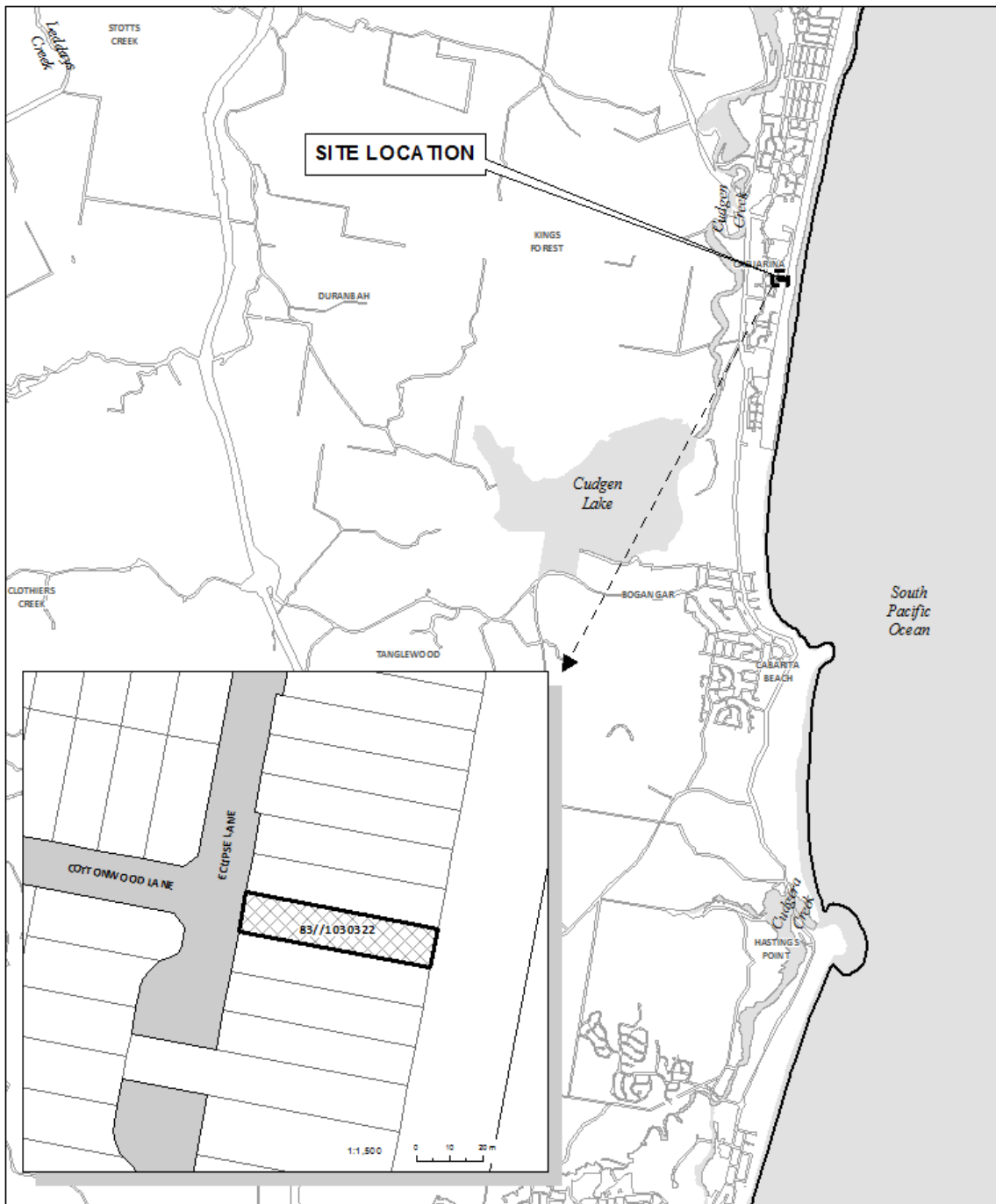
- The existing dwelling to the south will be impacted by the new dwelling. However, the proposal is compliant in regards to setbacks, heights and eaves (deferred commencement, see below) and articulation. The proposal is also compliant in regards to the number of hours of sunlight during winter reaching areas of private open space and living areas of the southern dwelling. Therefore the proposal is considered acceptable in this regard.
- The building does demonstrate features that would enable the building to be used as a dual occupancy, despite the application featuring a secondary dwelling. However, the approval will be for the purposes of a primary dwelling and a secondary dwelling and any changes to the internal walls of the building would be contrary to the development consent. This potential compliance issue is not a reason for refusal.
- Council's urban designer has examined the additional information and amended plans provided by the applicant and is now satisfied that the side elevations of the

new dwelling and secondary dwelling have sufficient articulation due to different treatment materials and colours.

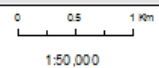
- The privacy of the adjoining dwellings was a concern with the original application due to lack of information provided by the applicant. The additional information provided and amendments to the plans have provided assurances that the adjoining properties, while impacted will be minimised as follows:
 - Ground floor windows at the rear will now be highlight windows to avoid occupants looking directly into neighbouring properties;
 - Side entries will not be directly opposite high traffic areas. However, the southern entry to the dwelling will be required to provide screening as it is opposite a porch for 6 Eclipse Lane;
 - Both outdoor areas at the rear will have screening on the side elevations to protect the privacy of the occupants and adjoining properties; and
 - The applicant has agreed to a deferred commencement condition requiring the eaves to be a minimum of 675mm from the side boundary, not 450mm, as the current plans indicate. This will ensure the dwelling is compliant with the Tweed DCP Section B5 in regards to site boundary setbacks.

The development is now considered satisfactory and worthy of conditional approval.

SITE DIAGRAM:



LOCALITY PLAN



Lot 83 DP 1030322,
No. 8 Eclipse Lane CASUARINA

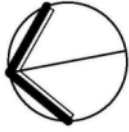
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GDA Cadastral: 30 June, 2010
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Coordinate System - MGA Zone 56
Datum - GDA 94
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Murrumbidgee NSW 2454
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F: (02) 6670 2452
W: www.tweed.nsw.gov.au
E: planning@tweed.nsw.gov.au



DEVELOPMENT/ELEVATION PLANS:



LOT 83
DP-1030322

NOTE:
BUILDING CONSTRUCTION SYSTEM
& MATERIALS SPECIFICATION TO
MEET BUSHFIRE ATTACK
LEVEL 1.2.1.2.1.2 PER AS 1563-2009

NOTE:
ALL ROOF WATER IS TO BE
DRAINED TO RAINWATER TANK
BELOW OUTDOOR LIVING DECK WITH
OVERFLOW CONNECTED TO COUNCIL
STORMWATER SYSTEM

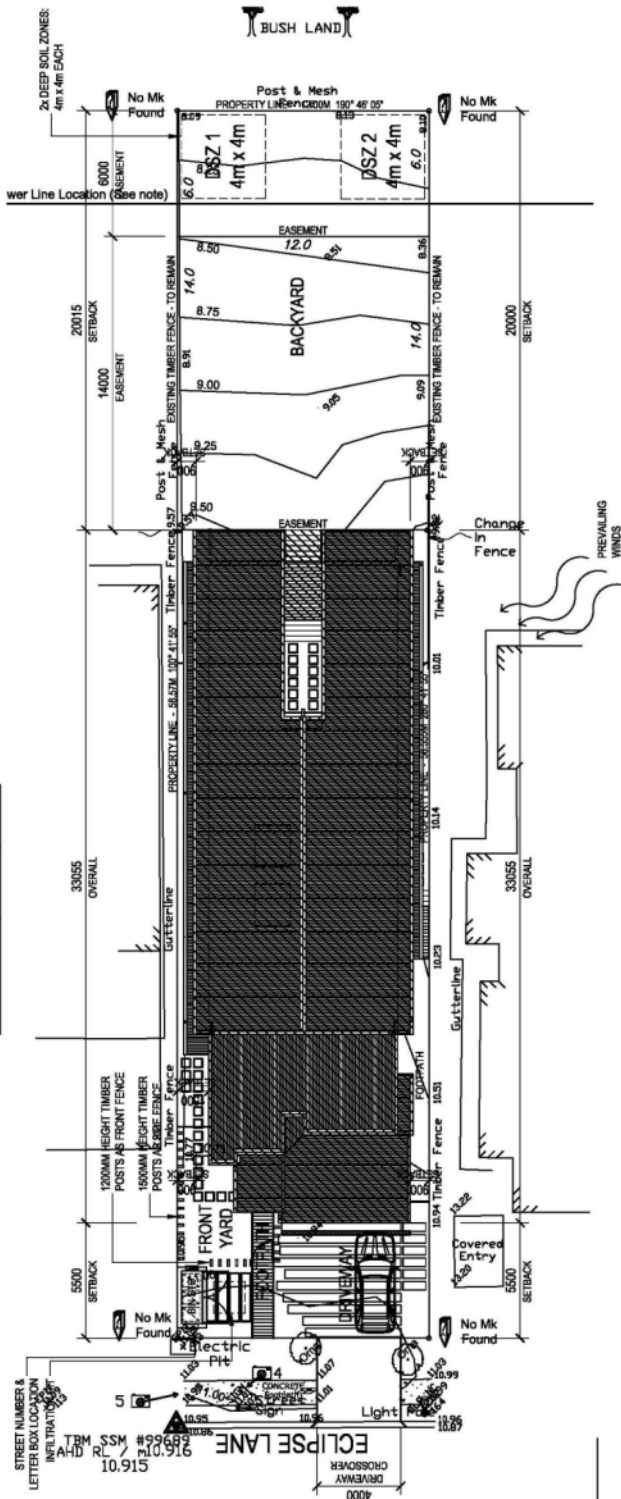
FIRST FLOOR	BY LAW	ACTUAL
PRIMARY DWELLING	207.29 SQ.M	44.46 %
BALCONY	10.03 SQ.M	
ACTUAL FSR	408.38 SQ.M	
TOTAL AREA (UNDER ROOF)	308.84 SQ.M	
SECONDARY DWELLING FSR	(19.94 %)	

CODE COMPLIANCE	
Site Coverage	50 %
Maximum FSR	15.8
Landscape	270.17 SQ.M / 38.46 %

AREA COMPUTATION	
LOT AREA	702.07 SQ.M
GROUND FLOOR	
PRIMARY DWELLING	136.78 SQ.M
OUTDOOR LIVING	47.20 SQ.M
PORCH	2.87 SQ.M
GARAGE	40.33 SQ.M
SECONDARY DWELLING	88.83 SQ.M

NOTES:
PROVIDE LIFT OFF HINGES TO W.C DOORS
SMOKE ALARMS TO BE HARD WIRED IN
ACCORDANCE WITH E.C.A. 3.1.2.
FLOOR WASTE PORTINGS ARE INDICATIVE
ONLY. ALL WASTE PORTINGS TO BE VERIFIED
BY LOCAL AUTHORITY PLUMBING REGULATIONS
ALL PIPING AND FLASHING TO BE IN STRICT
ACCORDANCE WITH E.C.A. 3.1.2.
MANUFACTURER'S DETAILS WINDOW SIZES
SHOWN ARE NOMINAL ONLY AND ARE TO BE
VERIFIED BY THE BUILDER ON SITE.
HEIGHTS INDICATED ARE CLEAR HEIGHTS
ABOVE FINISHED FLOOR LEVELS.
NET AREA FLOORS
COVERED BY THE FLOOR ARE TO BE LAD
TO A MAX. FALL OF 1 IN 60 TO FLOOR
WASTES
DIMENSIONS
DIMENSIONS ARE TO STRUCTURE
AND NOT FINISHED SURFACE APART
FROM WINDOWS (REFER TO WINDOW
SCHEDULE)

STRUCTURE
REFER TO STRUCTURAL ENGINEERS
DETAILS FOR STRUCTURAL INFORMATION
TERMINATE PROTECTION TO AS 3602:2000
SERIES
CARPENTRY
ALL WORK SHALL BE IN ACCORDANCE WITH
AS 1604:2006 AND AS 1608
AND OR THE ENGINEERS DETAILS
PROVIDED



SITE PLAN
SCALE 1:200

AMENDMENTS REGISTER	ISSUE DESCRIPTION	DATE	INITIALS
007	AMENDED BUILDING APPLICATION ISSUE	18/06/15	MW
008	AMENDED BUILDING APPLICATION ISSUE	07/07/15	MW
009	AMENDED BUILDING APPLICATION ISSUE	27/07/15	MW

VERIFICATION
VERIFY ALL DIMENSIONS, LEVELS, WINDOW SIZES
AND MATERIALS SPECIFICATIONS AGAINST THE
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HUMANITY MATTER

DATE
25 FEBRUARY 2017

PROJECT NO.
ECL - 16001

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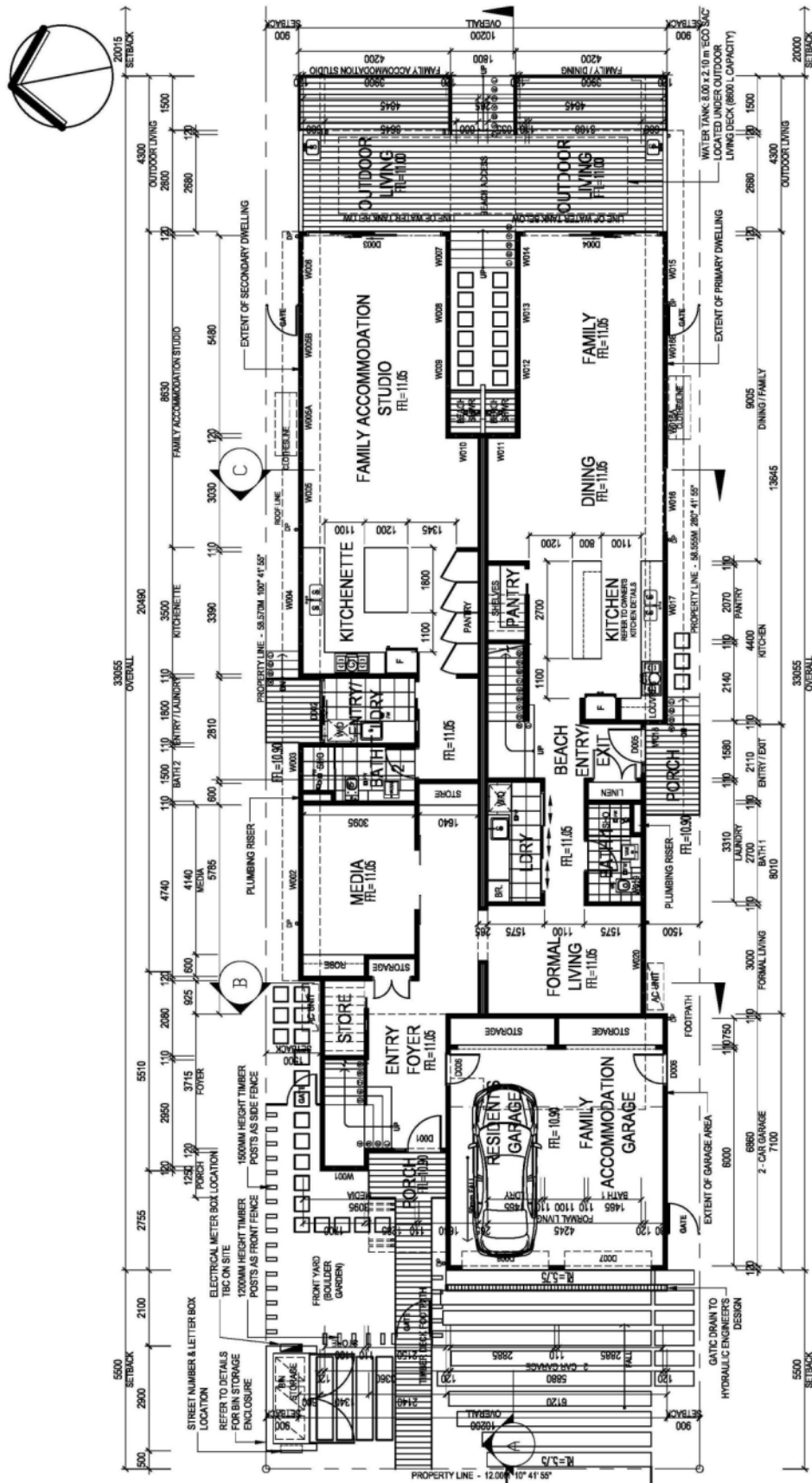
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DA-001

ISSUE NO.
01

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ISSUE
BUILDING APPLICATION ISSUE

DRAWING TITLE
SITE PLAN



GROUND FLOOR PLAN
SCALE 1:100

AMENDMENTS REGISTER	DATE	INITIALS
ISSUE DESCRIPTION	20/02/2017	TJ
001 RFI RESPONSE		

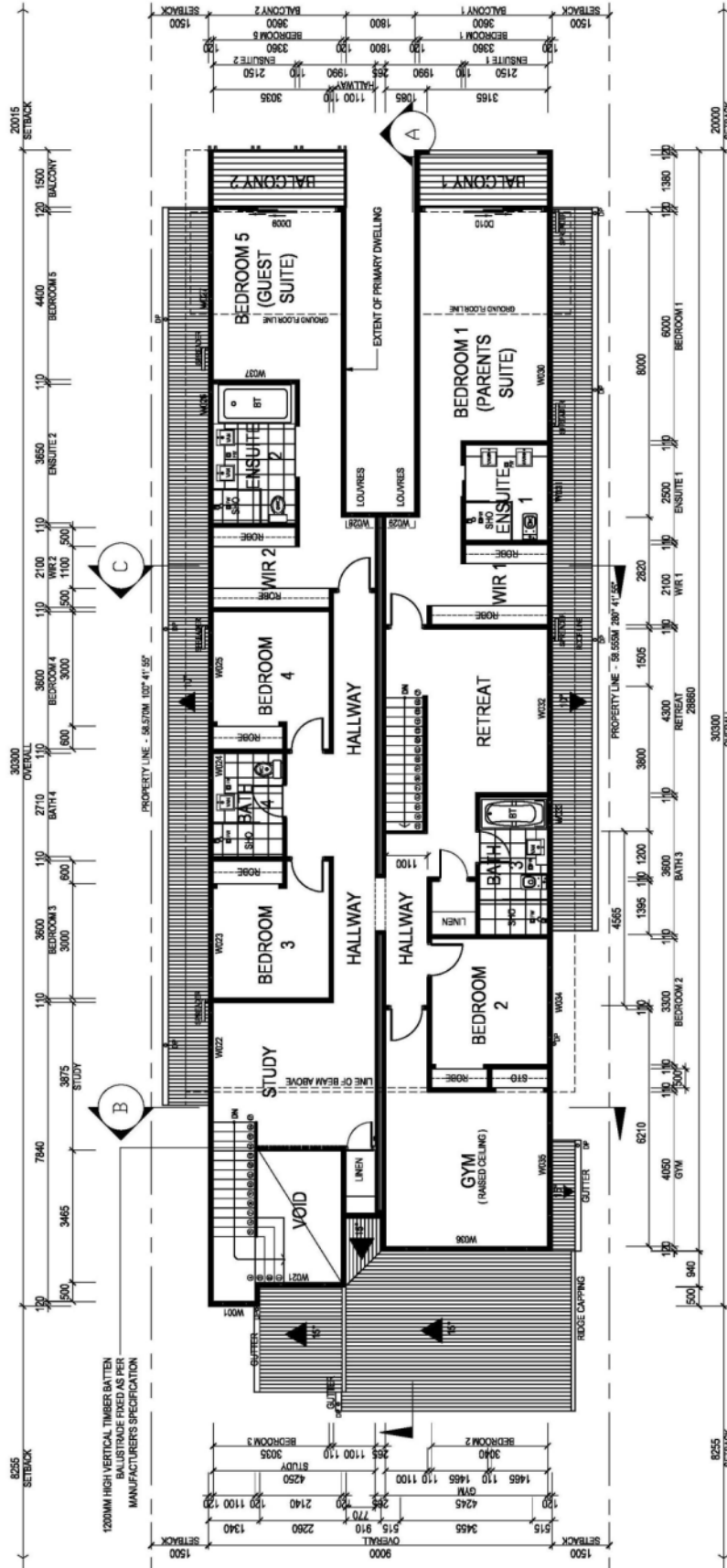
CLIENT	MR. ANDREW SZABO
PROJECT ADDRESS	8 ECLIPSE LANE, CASUARINA
PROJECT NO.	ECL - 16001
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SCALE (AS SHOWN)	AS SHOWN
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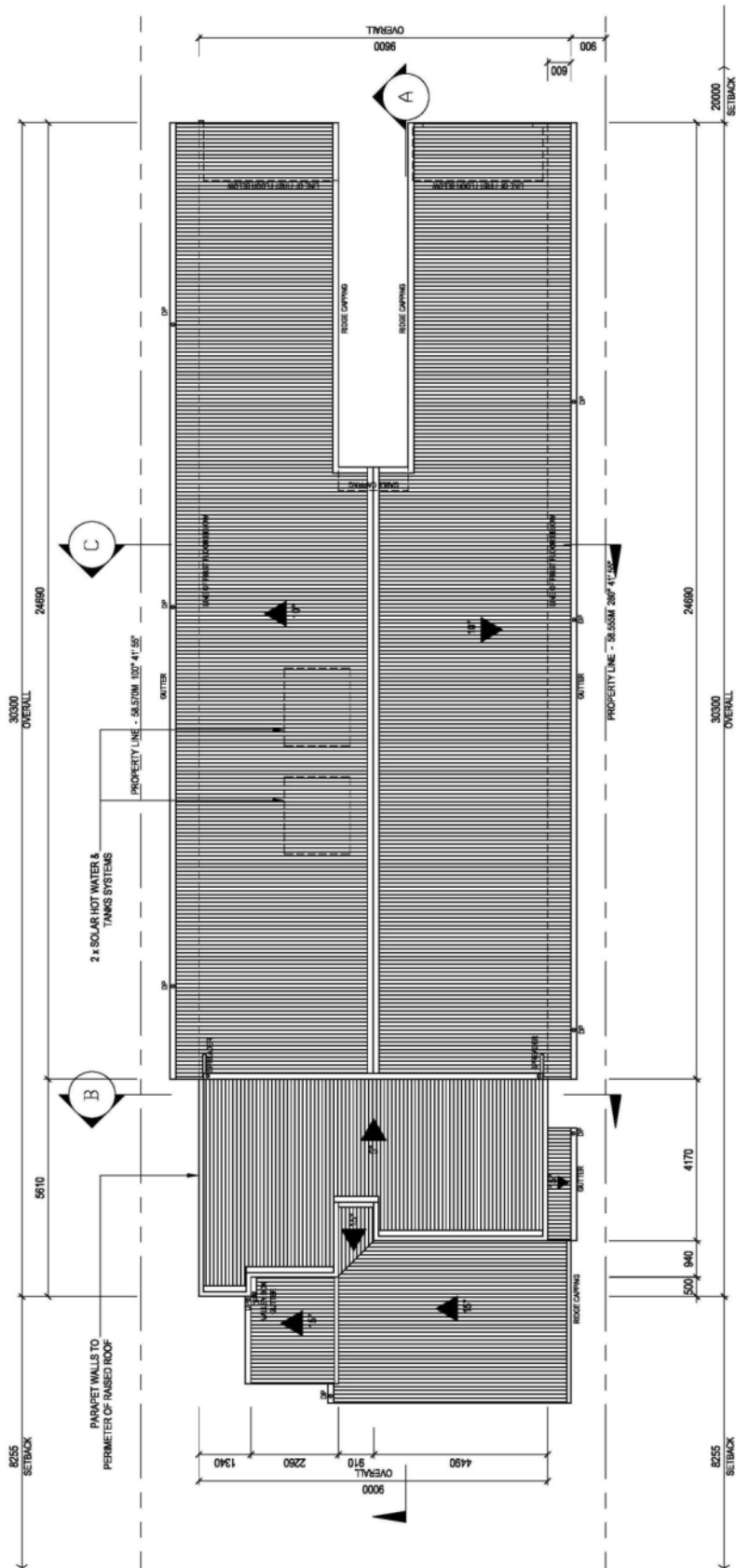
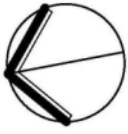
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SCALE 1:100

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CLIENT MR. ANDREW SZABO PROJECT ADDRESS 8 ECLIPSE LANE, CASUARINA		SCALE (AS SHOWN) AS SHOWN
STAGE BUILDING APPLICATION ISSUE DRAWING TITLE FIRST FLOOR PLAN		DRAWING NO. DA-003
		ISSUE NO. 01
		DRAWN TJ



ROOF PLAN
SCALE 1:100

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PROJECT NO.
 ECL - 16001

DATE
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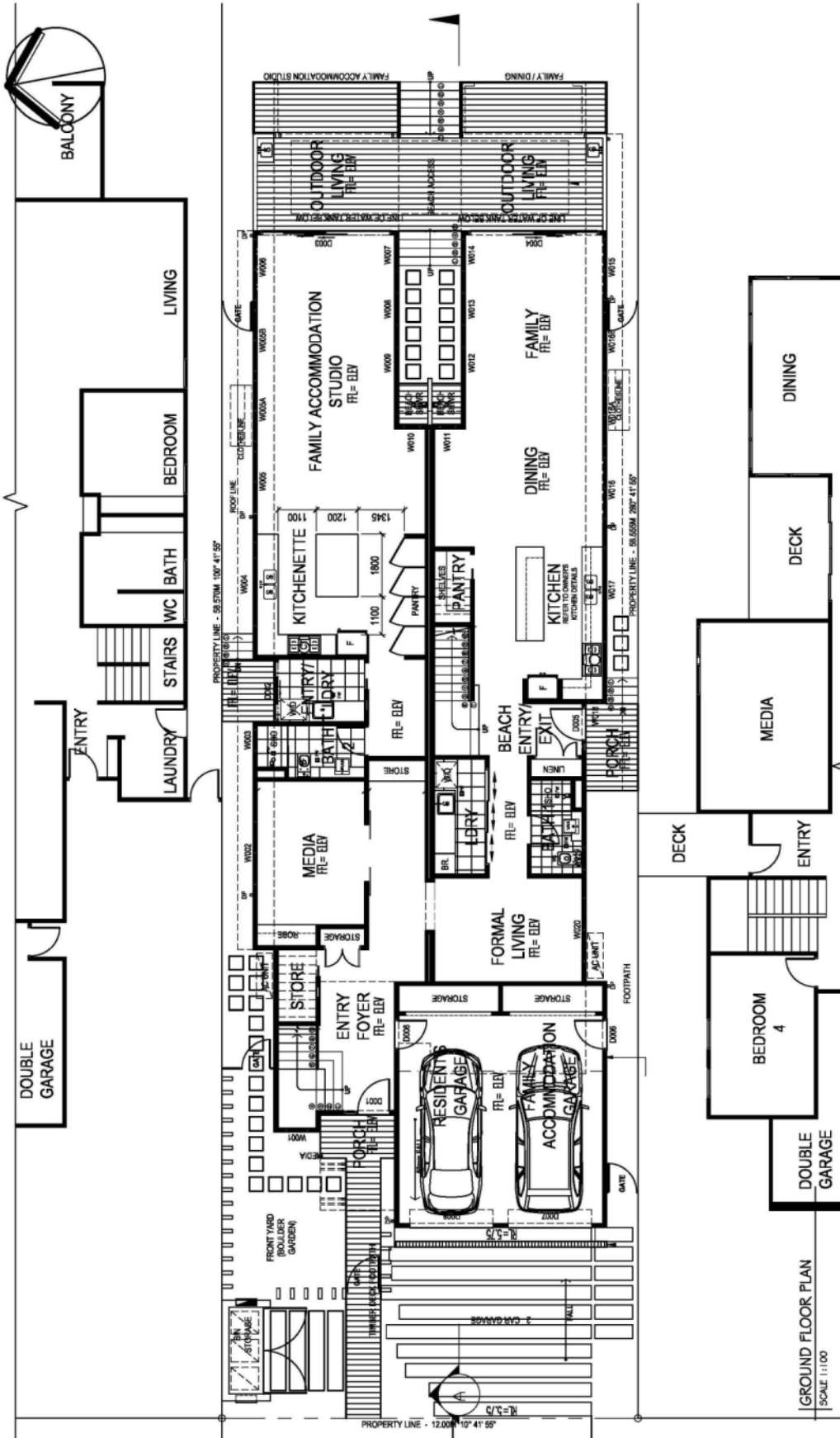
STAGE
 BUILDING APPLICATION ISSUE

DRAWING TITLE
 ROOF PLAN

DRAWING NO.
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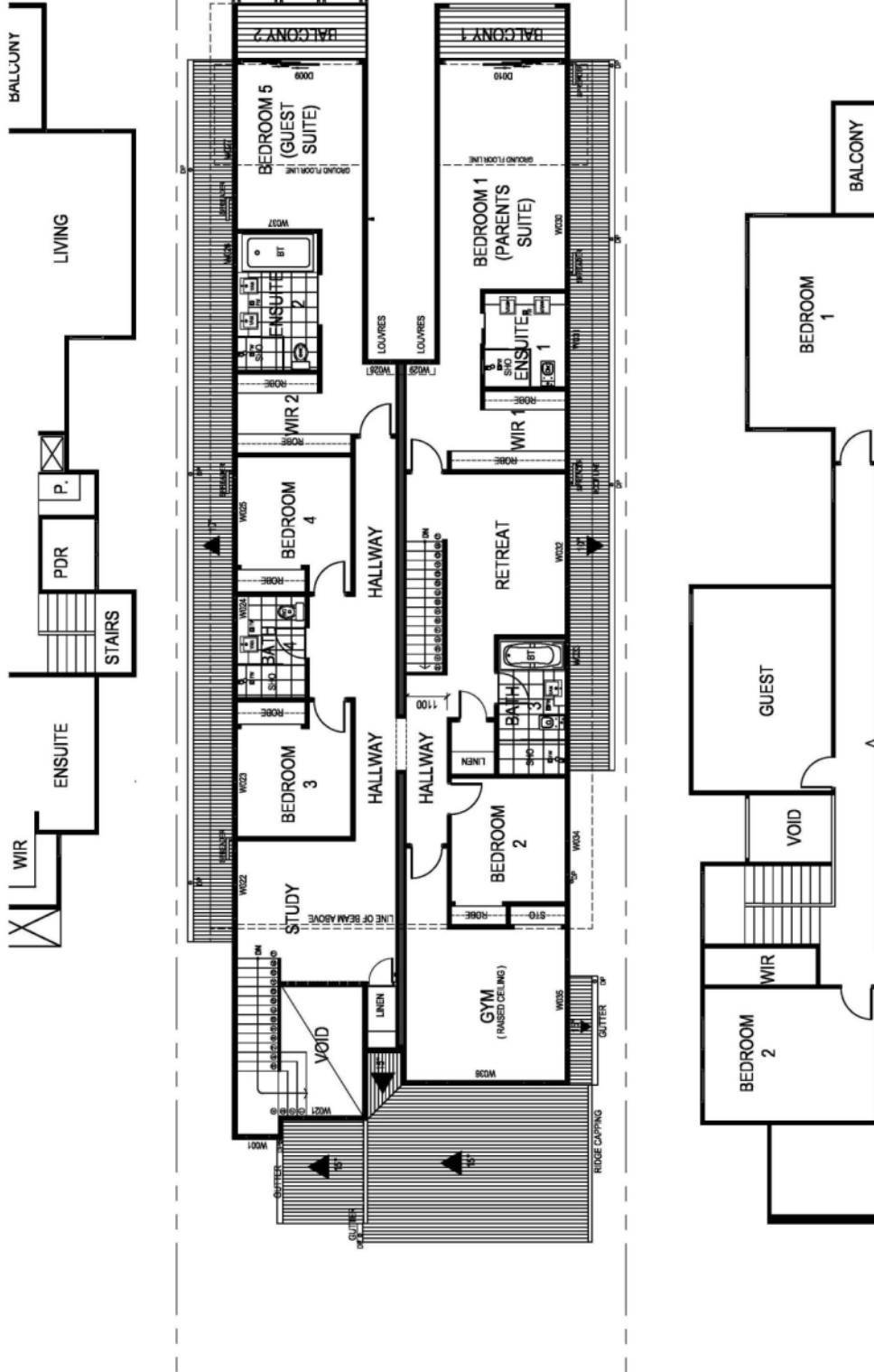
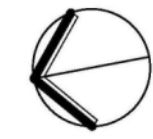
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PROJECT NO.
ECL - 16001
DATE
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SCALE (AS SHEET)
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STAGE
DEVELOPMENT APPLICATION
DRAWING TITLE
GROUND FLOOR PLAN
(NEIGHBOURING HOUSE ANALYSIS)
DRAWING NO.
DA-005
ISSUE NO.
01
DRAWN
TJ



FIRST FLOOR PLAN
SCALE 1:100

AMENDMENTS REGISTER	DATE	INITIALS
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001		

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STAGE
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DRAWING TITLE
 FIRST FLOOR PLAN
 (NEIGHBOURING HOUSE ANALYSIS)

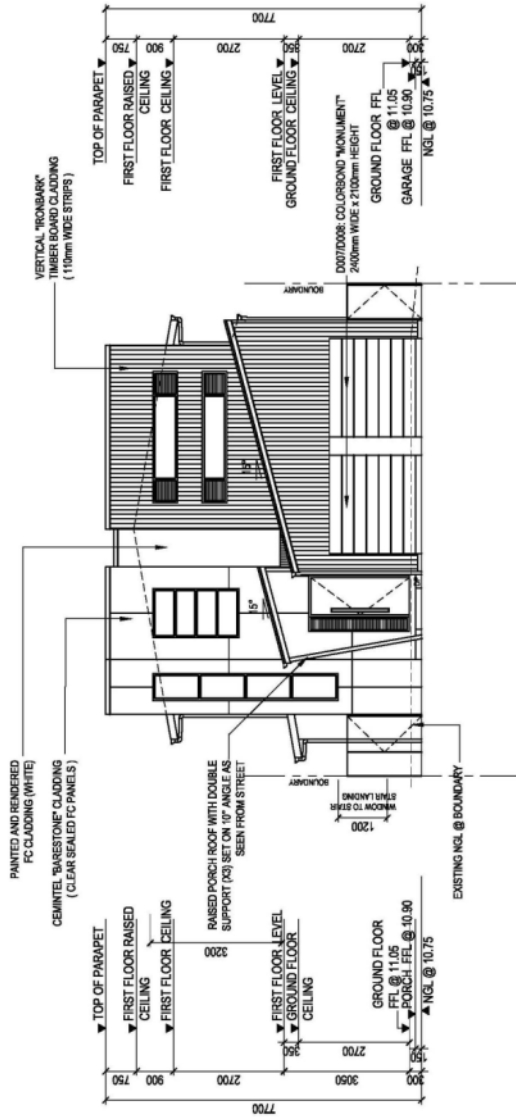
PROJECT NO.
 ECL - 16001

DATE
 26 FEBRUARY 2017

SCALE (AS SHOWN)
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ISSUE NO.
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NORTH -WEST ELEVATION (FACING ECLIPSE LANE)
SCALE 1:100

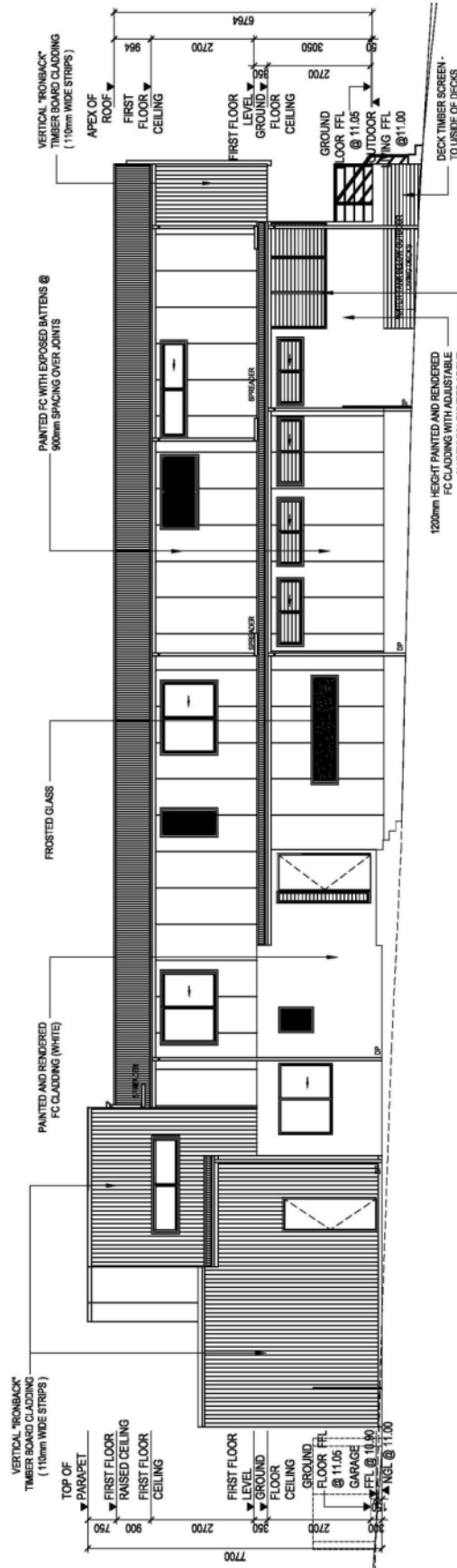
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ISSUE DESCRIPTION	28/02/2017	TJ
001 FC RESPONSE		

<p>VERIFICATION</p> <p>ISSUE NO. 01</p> <p>DATE 28 FEBRUARY 2016</p> <p>SCALE (AS SHOWN) AS SHOWN</p> <p>PROJECT NO. ECL - 16001</p> <p>DATE 28 FEBRUARY 2016</p> <p>SCALE (AS SHEET) AS SHOWN</p> <p>ISSUE NO. 01</p> <p>DRAWING NO. DA-007</p> <p>DRAWN TJ</p>	<p>CLIENT</p> <p>MR. ANDREW SZABO</p> <p>PROJECT ADDRESS</p> <p>8 ECLIPSE LANE, CASUARINA</p> <p>PROJECT NO. ECL - 16001</p> <p>DATE 28 FEBRUARY 2016</p> <p>SCALE (AS SHEET) AS SHOWN</p> <p>ISSUE NO. 01</p> <p>DRAWING NO. DA-007</p> <p>DRAWN TJ</p>	<p>STAGE</p> <p>DEVELOPMENT APPLICATION</p> <p>DRAWING TITLE</p> <p>NORTH - WEST ELEVATION</p> <p>PROJECT ADDRESS</p> <p>8 ECLIPSE LANE, CASUARINA</p> <p>PROJECT NO. ECL - 16001</p> <p>DATE 28 FEBRUARY 2016</p> <p>SCALE (AS SHEET) AS SHOWN</p> <p>ISSUE NO. 01</p> <p>DRAWING NO. DA-007</p> <p>DRAWN TJ</p>
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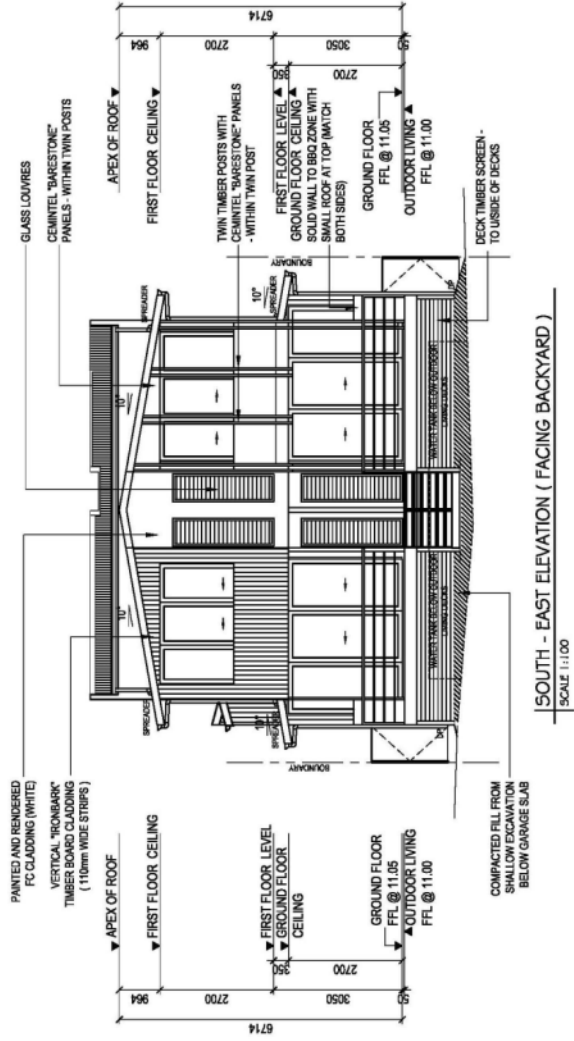
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SOUTH - WEST ELEVATION
SCALE 1:100

AMENDMENTS REGISTER	DATE	INITIALS
ISSUE	28/02/2017	TJ
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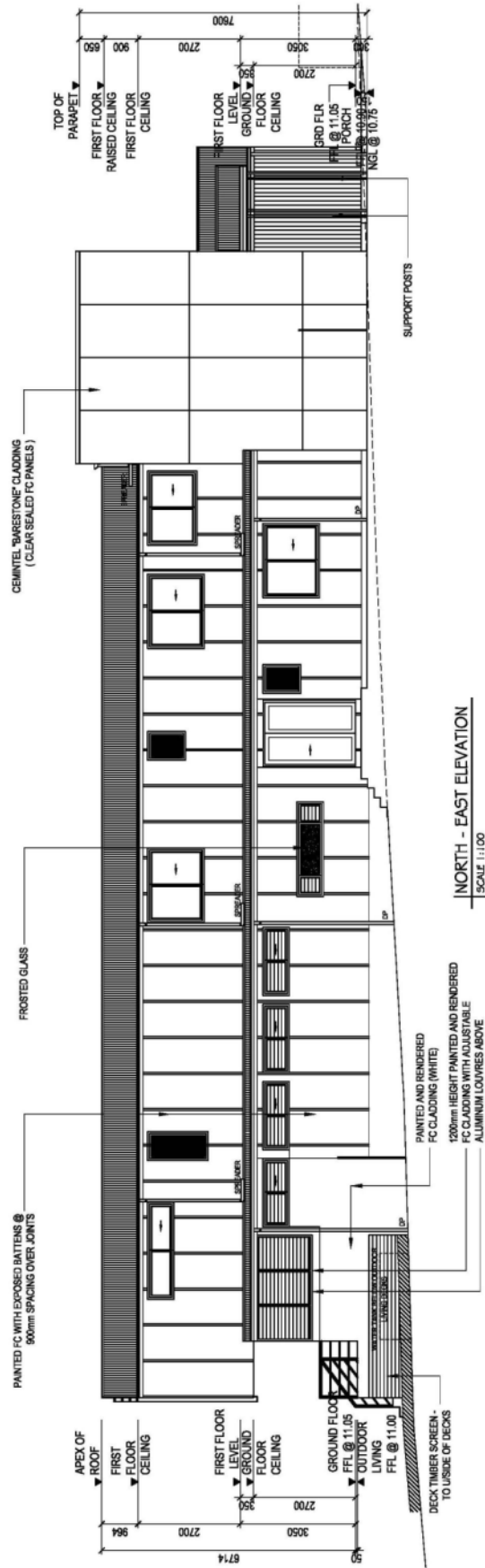
<p>REALSPACE CREATIVE PTY. LTD. 10 SPUR CENTRE, QLD 4218 (0) 48 128 860 ABRN 20 201 201 141 www.real-space.com.au HUMAN CAPITAL</p>	<p>MR. ANDREW SZABO PROJECT ADDRESS 8 ECLIPSE LANE, CASUARINA</p>	<p>STAGE DEVELOPMENT APPLICATION DRAWING TITLE SOUTH - WEST ELEVATION</p>
<p>REALSPACE CREATIVE PTY. LTD. 10 SPUR CENTRE, QLD 4218 (0) 48 128 860 ABRN 20 201 201 141 www.real-space.com.au HUMAN CAPITAL</p>	<p>DATE 28 FEBRUARY 2017</p>	<p>SCALE (AS SHEET) AS SHOWN</p>
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<p>AUTHORISATION</p>	<p>DATE 28 FEBRUARY 2017</p>	<p>DRAWN TJ</p>



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	<p>CLIENT MR. ANDREW SZABO</p> <p>PROJECT ADDRESS 8 ECLIPSE LANE, CASUARINA</p> <p>PROJECT NO. ECL - 16001 DATE 28 FEBRUARY 2017</p>	<p>STAGE DEVELOPMENT APPLICATION</p> <p>DRAWING TITLE SOUTH - EAST ELEVATION</p> <p>DRAWING NO. DA-009 SCALE (AS SHOWN) AS SHOWN</p> <p>ISSUE NO. 01 DRAWN TJ</p>
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NORTH - EAST ELEVATION
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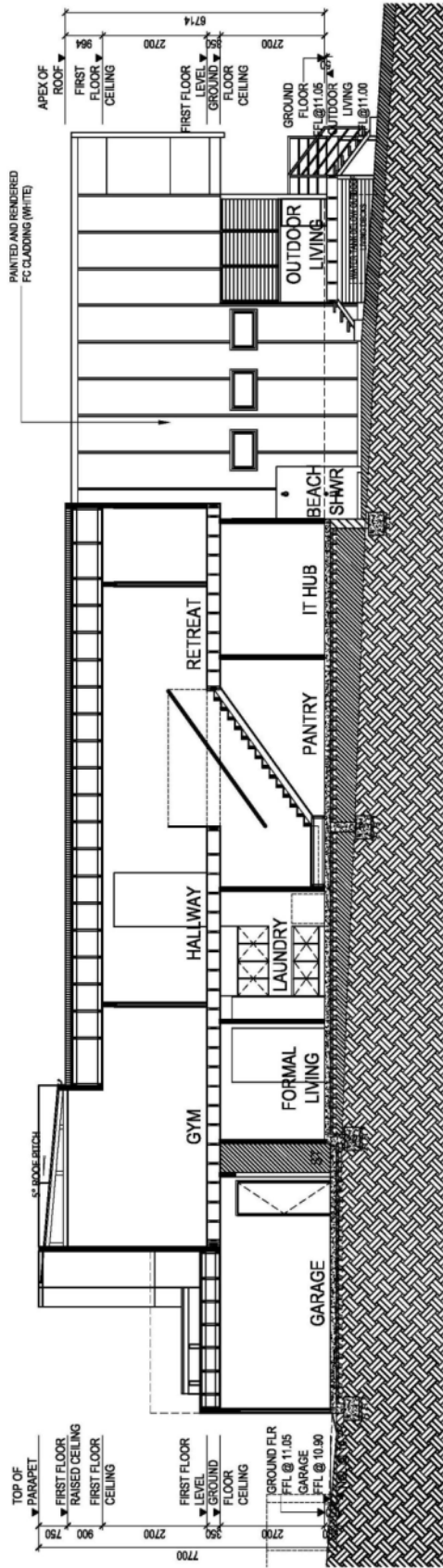
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PROJECT NO. ECL - 16001	DATE 28 FEBRUARY 2017	SCALE (AS SHOWN) AS SHOWN
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STAGE DEVELOPMENT APPLICATION	DRAWING TITLE NORTH - EAST ELEVATION
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DRAWING NO. DA-010	ISSUE NO. 01	DRAWN TJ
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SECTION THRU - A
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AMENDMENTS REGISTER	DATE	INITIALS
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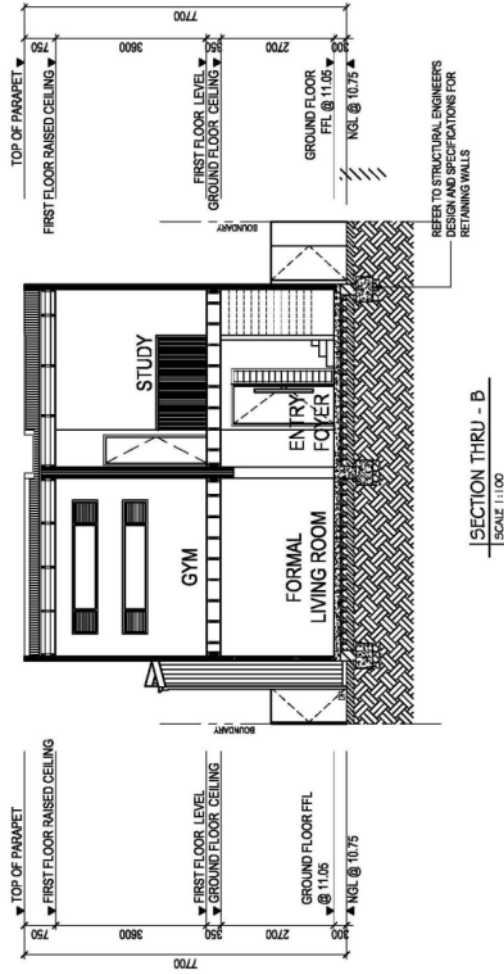
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CLIENT	PROJECT NO.	DATE	SCALE (AS SHOWN)
MR. ANDREW SZABO	ECL - 16001	29 FEBRUARY 2017	AS SHOWN

STAGE	DRAWING NO.	ISSUE NO.	DRAWN
DEVELOPMENT APPLICATION	DK-011	01	TJ

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I HEREBY CERTIFY THAT THE INFORMATION CONTAINED IN THIS DOCUMENT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT I AM A REGISTERED ARCHITECT IN THE STATE OF QUEENSLAND.

AUTHORISATION
REGISTERED ARCHITECT NO. 4138 (QLD)
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CLIENT
MR. ANDREW SZABO
PROJECT ADDRESS
8 ECLIPSE LANE, CASUARINA

PROJECT NO.
ECL - 16001

DATE
28 FEBRUARY 2017

SCALE (AS SHOWN)
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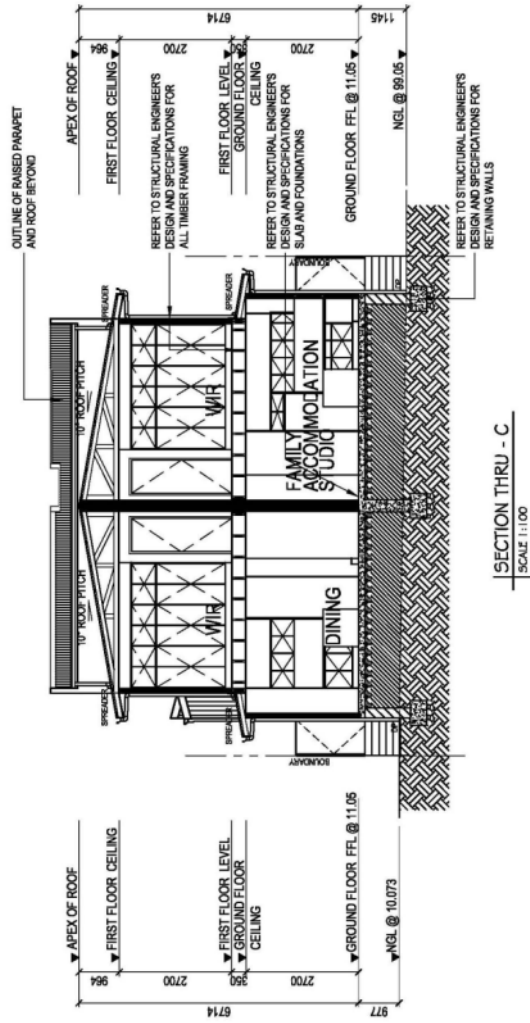
STAGE
DEVELOPMENT APPLICATION

DRAWING TITLE
SECTION THRU - B

DRAWING NO.
DA-012

ISSUE NO.
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DRAWN
TJ



SECTION THRU - C
SCALE 1:100

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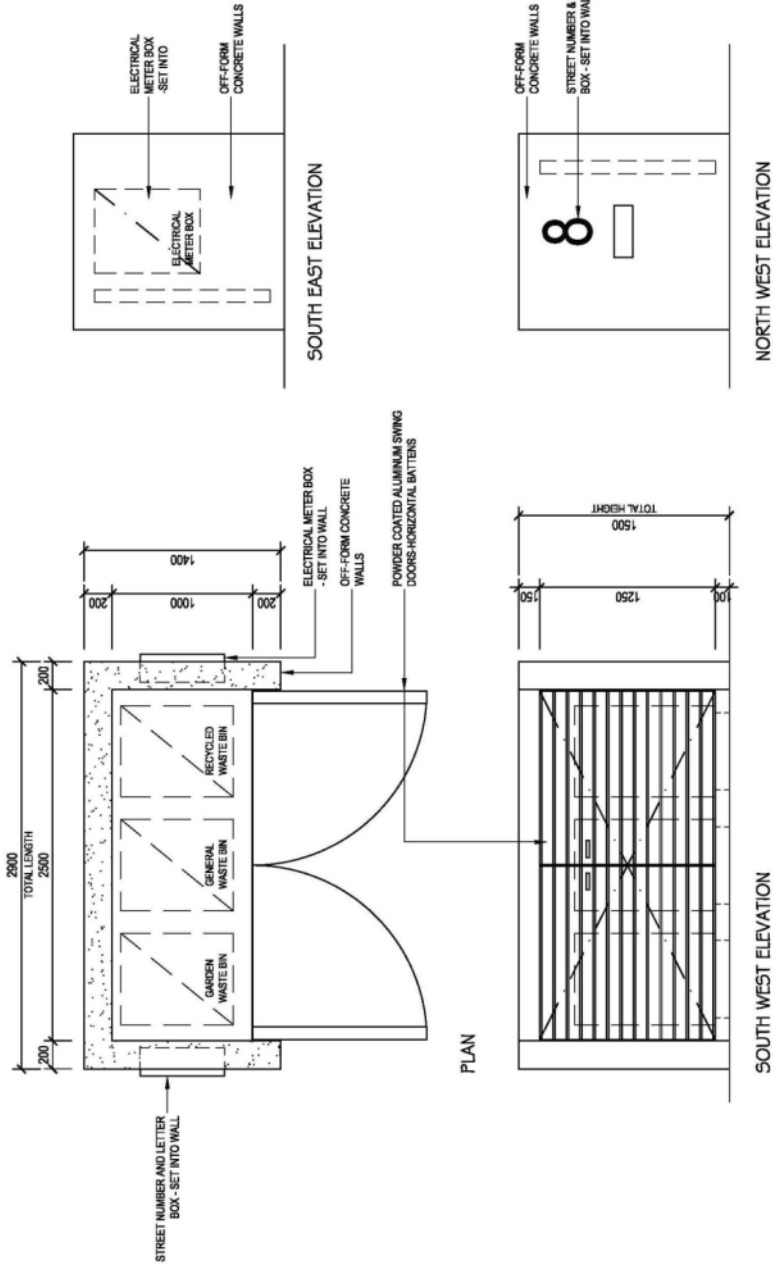
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PROJECT NO: ECL - 16001

DATE: 28 FEBRUARY 2017

SCALE: AS SHOWN



BIN ENCLOSURE DETAILS
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AMENDMENTS REGISTER	DATE	INITIALS

STAGE	BUILDING APPLICATION ISSUE
DRAWING TITLE	BIN ENCLOSURE DETAILS
DRAWING NO.	DA-017
ISSUE NO.	01
DRAWN	TJ

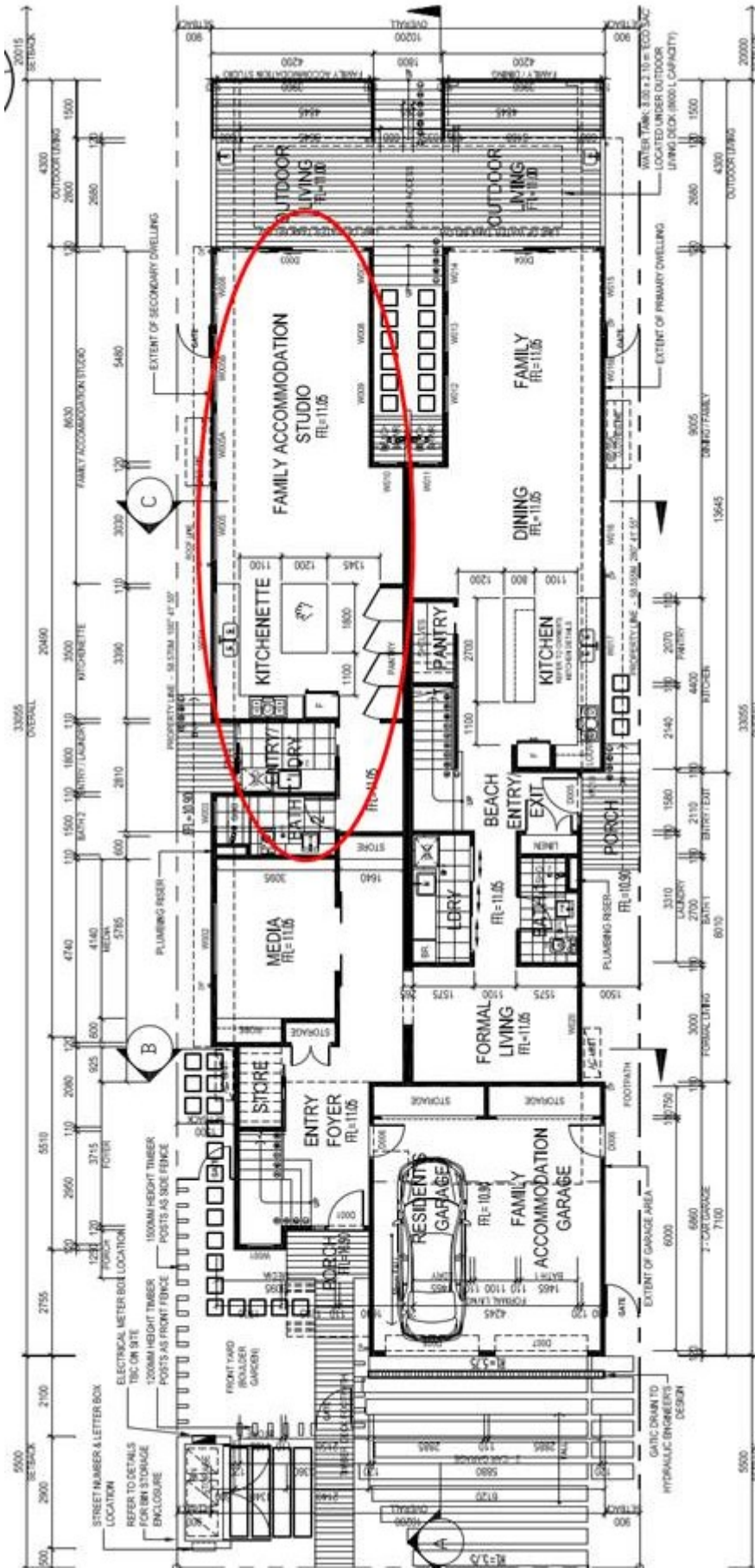
CLIENT	MR. ANDREW SZABO
PROJECT ADDRESS	8 ECLIPSE LANE, CASUARINA
PROJECT NO.	ECL - 1600
DATE	28 FEBRUARY 2017
SCALE (AS SHOWN)	AS SHOWN

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Considerations under Section 79C of the Environmental Planning and Assessment Act 1979:

(a) (i) The provisions of any environmental planning instrument

Tweed Local Environmental Plan 2014

Clause 1.2 – Aims of the Plan

This Plan aims to make local environmental planning provisions for land in Tweed in accordance with the relevant standard environmental planning instrument under section 33A of the Act.

The particular aims of this Plan are as follows:

- (a) to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera,
- (b) to encourage a sustainable local economy and small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed,
- (c) to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, built environment, and cultural heritage,
- (d) to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,
- (e) to promote building design which considers food security, water conservation, energy efficiency and waste reduction,
- (f) to promote the sustainable use of natural resources and facilitate the transition from fossil fuels to renewable energy,
- (g) to conserve or enhance the biological diversity, scenic quality and geological and ecological integrity of Tweed,
- (h) to promote the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect or enhance the environmental significance of that land,
- (i) to conserve or enhance areas of defined high ecological value,
- (j) to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.

The proposed development is for a secondary dwelling within the R2 Low Density zoning. The proposed development is permissible and consistent with the objectives of the R2 zoning and the aims of the plan.

Accordingly, the proposed secondary dwelling is considered consistent with the aims of the plan.

Clause 2.3 – Zone objectives and Land use table

The objectives of the R2 zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development will provide residential housing with a minimal environmental impact, within the R2 Low Density Residential zoning. The proposal is considered to be in accordance with the zones objectives, by providing low density residential housing and is permissible with consent.

Clause 4.1 to 4.2A - Principal Development Standards (Subdivision)

These clauses are not relevant as the application does not propose a subdivision. Strata title subdivision is not permitted for secondary dwellings.

Clause 4.3 - Height of Buildings

The subject site is mapped as having a maximum height limit of 9m. The proposed development comprises a new two storey separate building at the rear of the site with a maximum height of 7.7m to the highest point of the roof line. Therefore, the proposed building will not exceed the maximum height permissible of 9m.

Clause 4.4 – Floor Space Ratio

The site area is 702.7m². The primary dwelling has a combined floor area of 344.07m². The secondary dwelling has a floor area of 68.63m². The total floor area of the combined dwellings is therefore 412.7m².

The development results in an FSR of 0.59:1 which complies with the prescribed maximum (0.8:1) for the site.

Clause 4.6 - Exception to development standards

The application does not contain any exceptions to development standards.

Clause 5.4 - Controls relating to miscellaneous permissible uses

The development exceeds the prescribed maximum floor area controls for secondary dwelling with an internal area of 60m². However, the total floor area of the principal dwelling is approximately 344.07m² and 20% of that is 68.814m². Therefore the maximum floor area permitted for the secondary dwelling is 68.814m².

The secondary dwelling has a maximum floor area of 68.63m² and is therefore compliant.

Clause 5.5 – Development within the Coastal Zone

The development site is on land which is subject to SEPP 71 however the site is spatially separated from the coastal foreshore, despite being identified as a sensitive coastal location.

In this regard, it is not considered that the development would compromise the NSW Coastal Policy or the scenic or environmental qualities of the NSW Coast, due to the scale and siting of the dwelling at the rear of an existing lot.

Clause 5.9 – Preservation of Trees or Vegetation

The proposal will not require the removal of any trees.

Clause 5.10 - Heritage Conservation

The development does not relate to a heritage item or heritage conservation area.

Clause 5.11 - Bush fire hazard reduction

This site is identified as bushfire prone however no tree vegetation removal will be required for bushfire hazard reduction. A 79BA field assessment was undertaken for the development. The building will require a construction standard of BAL 12.5 due to the site being located within the buffer zone for adjoining bushfire prone land. A condition will be applied to the development consent.

Clause 7.1 – Acid Sulfate Soils

The land is identified as Class 4 ASS. Having regard to the works proposed and the extent of excavation unlikely to be further than the stated 2m below the ground surface, the risk of exposure of ASS is considered negligible.

Clause 7.2 - Earthworks

Very limited works will be required for the construction of the secondary dwelling. Due to the topography of the site, any earthworks for footings will have little effect on drainage patterns and soil stability. The proposal is considered compliant in this regard.

Clause 7.3 – Flood Planning

The site is not flood prone.

Clause 7.4 - Floodplain risk management

Not applicable – the proposed dwelling and secondary dwelling are not development with particular evacuation or emergency response issues.

Clause 7.5 - Coastal risk planning

Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) *is not likely to cause detrimental increases in coastal risks to other development or properties, and*
- (b) *is not likely to alter coastal processes and the impacts of coastal hazards to the detriment of the environment, and*
- (c) *incorporates appropriate measures to manage risk to life from coastal risks, and*
- (d) *is likely to avoid or minimise adverse effects from the impact of coastal processes and the exposure to coastal hazards, particularly if the development is located seaward of the immediate hazard line, and*
- (e) *provides for the relocation, modification or removal of the development to adapt to the impact of coastal processes and coastal hazards, and*
- (f) *has regard to the impacts of sea level rise*

The proposed dwelling and secondary dwelling will remain outside the line of coastal risk as identified by the above extract. While the lot is identified as being within the area of coastal risk, all structures will be excluded from this area. This portion of the land is identified as a 7(f) zone under the TLEP 2000.

The subject lot is within the maximum 2100 hazard line as identified within Council's coastal mapping. No structures are proposed within this line.

It is considered that the development will not cause any increase in coastal risk through its construction given the location of works.

Clause 7.6 - Stormwater Management

The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties.

Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and
- (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and
- (c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.

It is considered that the development maintains ample permeable area suitable for the infiltration of water and will connect to Council's stormwater system and therefore will not impact adjoining properties.

Clause 7.8 – Airspace operations

The proposed development will not impact on airspace operations.

Clause 7.9 - Development in areas subject to aircraft noise

The land is not subject to aircraft noise.

Clause 7.10 - Essential Services

Essential services are available to the site.

Other Specific Clauses

There are no other specific clauses which are relevant.

Tweed Local Environmental Plan 2000

Clause 4 – Aims of the Plan

Clause 4 illustrates that the aims of the TLEP 2000 are to give effect to the desired outcomes, strategic principles, policies and actions of the Tweed Shire 2000+ Strategic Plan. The vision of the plan is *“the management of growth so that the unique natural and developed character of the Tweed Shire is retained, and its economic vitality, ecological integrity and cultural fabric is enhanced”*. Clause 4 further aims to provide a legal basis for the making of a DCP to provide guidance for future development and land management, to give effect to the Tweed Heads 2000+ Strategy and Pottsville Village Strategy and to encourage sustainable economic development of the area which is compatible with the Shire’s environmental and residential amenity qualities.

The development proposes the construction of a dwelling upon a vacant parcel of land that is partially zoned 7(f). The 7(f) portion of the land will not be impacted by the dwelling or ancillary structures. The proposed works are well separated from the zone boundary.

Clause 5 – ESD Principles

Clause 5 of the LEP relates to ecologically sustainable development. The TLEP aims to promote development that is consistent with the four principles of ecologically sustainable development, being *the precautionary principle, intergenerational equity, conservation of biological diversity and ecological integrity and improved valuation, pricing and incentive mechanisms*.

The subject site is an existing infill site located within an established residential area. It is considered that the proposed development is considered to be in keeping with the ESD principles, given the works will be undertaken outside the 7(f) zone.

Clause 8 – Consent considerations

The subject site is partially zoned 7(f) Environmental Protection (Coastal Lands) Zone. It is generally considered that the proposal is consistent with the objectives of the zone as well as the other aims and objectives relevant to this development.

The proposal would also be unlikely to cause an unacceptable cumulative impact on the community or locality, given the particular circumstances of the subject site (that is all works will be retained to the R2 portion of the land).

Clause 11 – Zone objectives

The subject site is zoned 7(f) – Environmental Protection (Coastal Lands) under the provisions of the Tweed LEP 2000.

The objectives for the zone are as follows:

Primary objectives

- *to identify land susceptible to coastal erosion and protect it from inappropriate development.*
- *to protect and enhance the scenic and environmental values of the land.*

Secondary objective

- *to allow for other development that is compatible with the primary function of the zone.*

The proposed dwelling and secondary dwelling have been positioned upon the lot to ensure that are contained within the residential portion of the site rather than the coastal protection zone. This will ensure the objectives of the 7(f) zone are not compromised.

Clause 13 – Development of uncoloured land on the zone map

Not applicable.

Clause 15 - Essential Services

All essential services are made available to the subject site within the residential zoned portion of the land. The proposed development will not impact on those services.

Clause 16 - Height of Building

Not applicable.

Clause 17 - Social Impact Assessment

The minor nature of the proposal is not considered to warrant a social impact statement.

Clause 35 - Acid Sulfate Soils

The subject site is mapped as being Class 4 ASS. The proposal would be unlikely to require significant earthworks and would therefore be unlikely to impact on matters relating to ASS.

Other Specific Clauses

Clause 34 – Flooding - Not applicable

Clause 21A – Subdivision in Zone 7(f) – no subdivision of the land proposed. Strata Subdivision not permitted

Clause 27 – Development in 7(f) Environmental Protection - Coastal Lands – no works proposed within the 7(f) zone.

State Environmental Planning Policies

SEPP No 71 – Coastal Protection

The subject site is within the coastal zone (as per the NSW Government Coastal Policy 1997) and as a result is subject to the provisions of State Environmental Planning Policy No.71.

Council is required to consider the matters under Clause 8 and the following comments are made for Council's consideration.

Clause 8 – Matters for consideration

(a) the aims of this Policy set out in clause 2,

The proposal is generally in accordance with the aims of this policy.

(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,

It is noted that the subject site is not located in close proximity to any public access to or along the public foreshore.

(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,

It is not considered that this application offers any opportunities to provide new public access to the foreshore.

(d) the suitability of development given its type, location and design and its relationship with the surrounding area,

The proposal is considered suitable, having regard to its permissibility in this area.

- (e) *any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,*

The proposal will not result in any detrimental impact on the coastal foreshore, given its spatial separation and location on land zoned for residential purposes.

- (f) *the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*

This proposal is not considered to have any negative impact on the scenic qualities of the NSW coast.

- (g) *measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,*

The proposal would not impact negatively any animals or their habitats.

- (h) *measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats*

The proposal is not considered to have an adverse impact upon marine environments or habitats.

- (i) *existing wildlife corridors and the impact of development on these corridors,*

The proposed development is not considered to impact negatively on wildlife corridors.

- (j) *the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,*

The proposed development is not considered to have any significant impact of development on coastal processes and coastal hazards.

- (k) *measures to reduce the potential for conflict between land-based and water-based coastal activities,*

The proposal is not considered to cause any conflict between land-based and water-based activities.

- (l) *measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,*

The subject development is not considered to impact on any traditional Aboriginal cultural values.

(m) likely impacts of development on the water quality of coastal water bodies,

The subject application is not considered to have any significant impact upon the water quality of coastal waterbodies.

(n) the conservation and preservation of items of heritage, archaeological or historic significance,

It is not considered that the proposal impacts upon the conservation or preservation of any of the above items

(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,

Not applicable to the subject application.

(p) only in cases in which a development application in relation to proposed development is determined:

(i) the cumulative impacts of the proposed development on the environment, and

This development is not considered to have a negative cumulative impact on the environment.

(ii) measures to ensure that water and energy usage by the proposed development is efficient.

The submitted development application includes Basix Certification (Certificate No. 759069M) which includes provision for NSW Government standards/requirements in relation to sustainability. In this regard, the proposal is considered to be generally acceptable with respect to water and energy usage, which is assessed through the Basix Certificate.

Conclusion

It is considered the proposed development does not compromise the intent or specific provisions of State Environmental Planning Policy No. 71 – Coastal Protection

North Coast REP

The Plan resets regional planning priorities to align with NSW Government priorities and provides guidance and direction for local planning decisions. It sets in place strategic, line-of-sight land use planning objectives for the region as a whole as well as for and each local government area, and will guide the NSW Government's planning priorities and decisions to 2036.

The erection of a dwelling that incorporates a secondary dwelling within a R2 zone is not considered to be contrary to the priorities and goals of the REP.

(a) (ii) The Provisions of any Draft Environmental Planning Instruments

One Planning Proposal has recently been exhibited:

PP15/0005 – Short term Rental Accommodation

This draft LEP may be of relevance to the subject application however any changes to the status of the property would be identical to those surrounding and would not prejudice the locality in anyway.

(a) (iii) Development Control Plan (DCP)

Tweed Development Control Plan

A1-Residential and Tourist Development Code

A detailed Tweed DCP Section A1 assessment (with which the proposed development complies) is provided on file.

A2-Site Access and Parking Code

It is proposed to allocate one space for the dwelling and one space for the secondary dwelling within the double garage. Both the dwelling and secondary dwelling will have a second space for will be located in a stacked arrangement behind these two spaces within the garage. It is noted that these two garages will be required to be fire rated from one another and from the primary building under BCA provisions. The consent will be conditioned. Compliant

A11-Public Notification of Development Proposals

During the notification period from 17 October to the 31 October 2016, submissions were received from adjoining owners.

Six submissions were received during this period. These submissions were from multiple persons however neighbours did choose to provide more than one submission.

In total 16 persons raised objection to the proposal, or 8 couples, all of whom reside in Eclipse Lane with the exception of one property owner in Casuarina Way.

The reasons for these objections are outlined in the public submissions section in a latter part of this report.

B5-Casuarina Beach

B5.2.2 Urban Design Principles

Minimum Setback- 6m – Complies

Double Garage – 5m from front boundary - Complies

Special Design Elements to be setback 3m from front boundary- Complies

Minimum side boundary 900mm to wall and 675 to outermost projection of the eave – Does not comply- The applicant has agreed to amend the plans as part of a deferred commencement to ensure the building is compliant with the minimum eave setback of 675mm. The walls are compliant with the 900mm setback from

Corner Lots:- N/A

All fencing east of the 7(f) and R2 zone shall be a maximum height of 1.2m-
Conditioned

B9-Tweed Coast Strategy

This document is a strategic planning tool to assist with the growth of the Kingscliff district of the Tweed Coast.

The proposal is compliant with the DCP Sections B5 and A1. Given the permissible uses on the site and compliance with relevant provisions outlined within the Tweed DCP, the proposal is considered to meet the objectives and aims of this document.

B25-Coastal Hazards

The site is partially impacted by the Maximum 2100 Hazard Line. No works are proposed within the hazard line therefore no special engineering requirements for the building will be required in conjunction with this application.

(a) (iv) Any Matters Prescribed by the Regulations

Clause 92(1)(a)(ii) Government Coastal Policy

The subject site is nominated as Coastal Land and therefore this clause applies. The proposal is not inconsistent with the Coastal Policy as previously detailed within this report as it comprises a residential development on an appropriately zoned site. The development will not restrict access any existing access points to any foreshore areas and is considered acceptable in this regard.

Clause 92(1)(b) Applications for demolition

Not applicable

Clause 93 Fire Safety Considerations

No

Clause 94 Buildings to be upgraded

No

(a) (v) **Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),**

This Plan applies to the Shire's 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown lands. While the residential lot is located within close proximity of the coastline, it is considered that the development will not impact upon that coastline with regard to demands and issues identified within the Plan for the whole of the Tweed coastline (Clause 2.4.1) including: recreation; water quality; heritage; land use and development potential; coastal ecology; and, social and economic demand. The Management Plan objectives at Clause 3.1.1 are therefore satisfied.

Tweed Shire Coastline Management Plan 2005

This Management Plan applies to the estuaries of Cudgen, Cudgera and Mooball Creeks. The subject site is over 350m from Cudgen Creek. The proposal is unlikely to have any impact on the Creek, given the scale and location of development proposed.

Tweed Coast Estuaries Management Plan 2004

The development is not located on land to which this management plan applies.

Coastal Zone Management Plan for Cobaki and Terranora Broadwater (adopted by Council at the 15 February 2011 meeting)

The development is not located on land to which the coastal zone management plan applies.

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

Context and Setting

The proposed development meets the definition and controls for a new dwelling and secondary dwelling. It is appropriately sited and minor in the context of development on the overall site and in the locality.

Despite the concerns of the neighbours, the proposal meets the controls of the relevant LEP and DCP provisions.

Accordingly, the proposed dwelling and secondary dwelling are considered to be consistent with the surrounding low density context and setting of the subject locality.

(c) Suitability of the site for the development

Surrounding Landuses/Development

This assessment has determined that the development's impact upon adjoining properties has been addressed by amended plans to ensure the amenity of existing dwellings is satisfactory. While the dwelling to the south will be impacted by the construction of a dwelling upon an existing vacant lot to the north, the development is now compliant with the relevant sections of the DCP to ensure an acceptable level of amenity is maintained.

Flora and Fauna

Deep soil zones are proposed at the rear of the site adjoining an existing sewer line and within the 7(f) zone. Any approval granted will ensure any plantings are compatible with the sewer line and consistent with the sensitive nature of this deferred zoning.

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

As previously mentioned the development was publicly notified for a 14 day period. During this time six submissions were received from a total of 16 people or 8 couples living in Eclipse Lane or the nearby Casuarina Way.

The reasons for objection are as follows:

1. The design of the building appears to be intended as a dual occupancy rather than a secondary dwelling due to the mirror design and multiple entries and stairs on either side of the dwelling

Comment: It is concurred that the dwelling does have characteristics of a dual occupancy. However, the development will be approved as a secondary dwelling and Council will condition the consent as such. It is the responsibility of the certifier to ensure the development is constructed in accordance with the approved plans. If the development was to be converted to a dual occupancy without the necessary approvals, compliance action can be taken against the land owner. Compliance concerns are not considered a reason to reject the proposal. It is noted that a dual occupancy would not be consistent with Section A1 of the DCP being below the minimum Lot area for dual occupancy within the R2 residential zone.

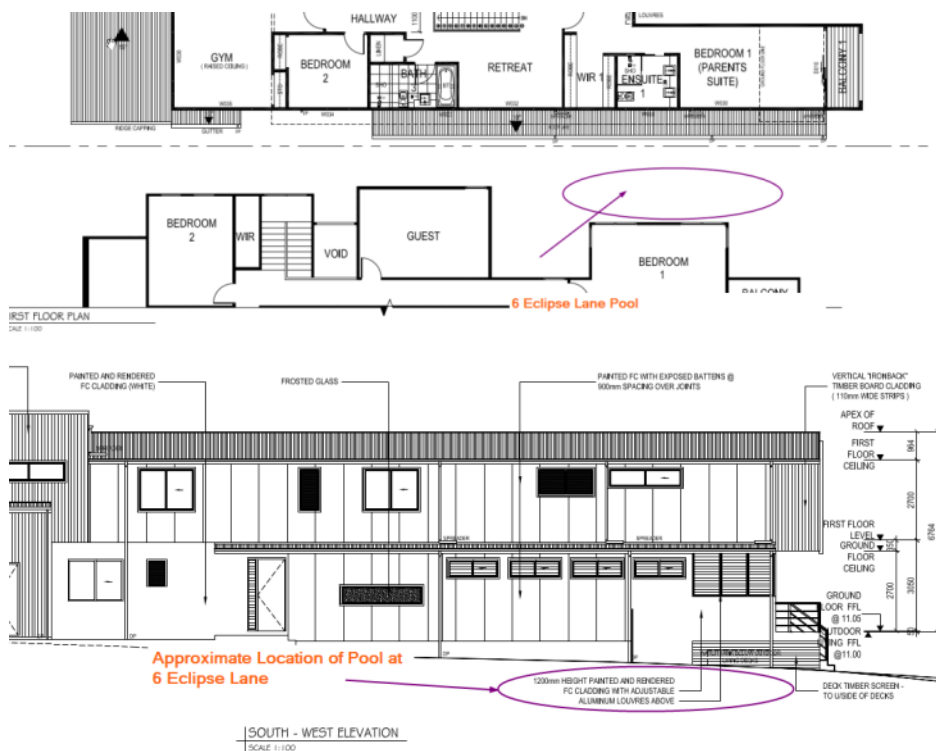
2. The second level bedroom windows will look directly over the pool of 6 Eclipse Lane and the building will block the northern sun to this southern side dwelling. The dwelling is being constructed right to the boundary on both sides.

Comment: The dwelling is compliant with side boundary setbacks to the walls. The plans will be amended to be compliant with 675mm eave setbacks as a deferred commencement condition will be imposed on the consent requiring amended plans to increase the eave setbacks from 450mm to 675mm. The proposal originally did not give sufficient consideration to privacy for adjoining dwellings. The application plans have been amended to improve the relationship between the existing

dwellings to the north and south. The windows on the southern elevation of the dwelling have been altered and will be either highlight windows or frosted glass on both levels to ensure overlooking of the pool does not occur. Screening of the balconies will also provide privacy between the dwellings.

The southern side of 6 Eclipse Lane will be impacted by this dwelling in regards to overshadowing. However, the main living area of this adjoining dwelling is on the southern side of the house and this area will have access to natural light during the day from the north east which is not impacted by the proposed dwelling.

The amended plans have satisfactorily addressed the issues raised by this reason for objection.



3. The application does not comply with covenants and planning codes in regards to the following matters:

- eaves of 675mm and 900mm eave setback from boundary.

Comment: The development is compliant with the setbacks prescribed within B5 – Casuarina Beach being 900mm from the side boundary to the wall. The proposal is not compliant with the minimum 675mm setback from any side boundary to the eaves. Any consent shall be deferred commencement to ensure eaves are a minimum of 675mm from the side boundary. This will ensure the development is compliant in this regard.

- The porches at ground floor level on both the northern and southern sides are elevated resulting in a distance of 1m and 700mm to the top of the side fence.

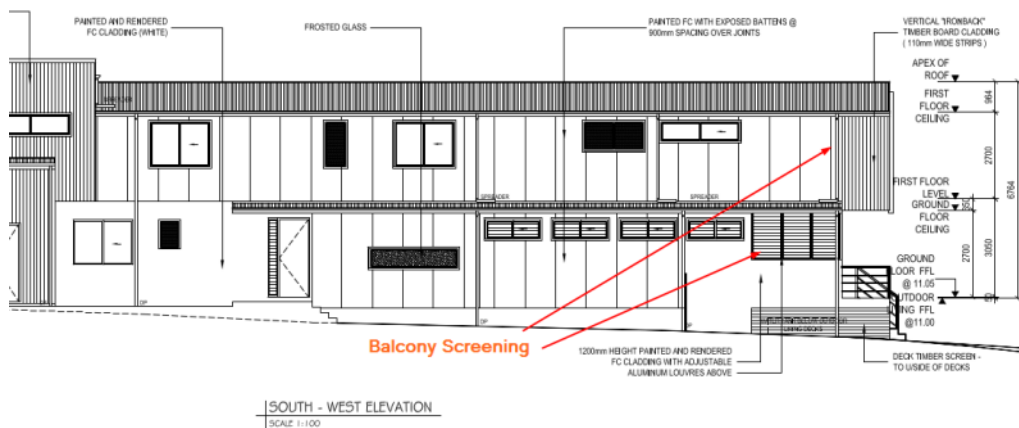
Comment: The porch on the southern boundary will enable persons to look over the fence. A condition has been included to require additional screening to shield the adjoining properties, given the location of a deck on the southern side.



The porch on the northern side adjoins a stairwell and laundry. Privacy issues are not considered an issue with this entry. Landowners are able to erect privacy screens despite any approval conditions.

- The rear deck will be only 250mm below the top of side boundary fence

Comment: The rear decks of the secondary and primary dwelling will be screened on the side boundaries to ensure the privacy of residents onsite and adjoining is maintained.



- The building structure is well beyond the extremities of the building envelope covenant

Comment: Council does not enforce covenant imposed by developers of subdivision

- Level 1 windows are non-compliant

Comment: No explanation provided

- Ground floor windows have overlooking issues

Comment: Windows have been altered on the ground floor to highlight windows. These windows will provide adequate levels of privacy to adjoin landowners

4. Sustainability and Passive Design; no rooms on the southern side have north facing windows and cross ventilation has not been considered.

Comment: The development has considered passive design guidelines despite the central spine of the development.

The applicant responded to Council's request for additional information about cross ventilation and passive design guidelines as follows:

- Multiple points of stacked ventilation
- Central light and ventilation well
- Central spine of thermal mass
- Multiple small windows to allow manipulation of cross ventilation.

Council's Urban designer concurs with this assessment.

The development considered acceptable in this regard.

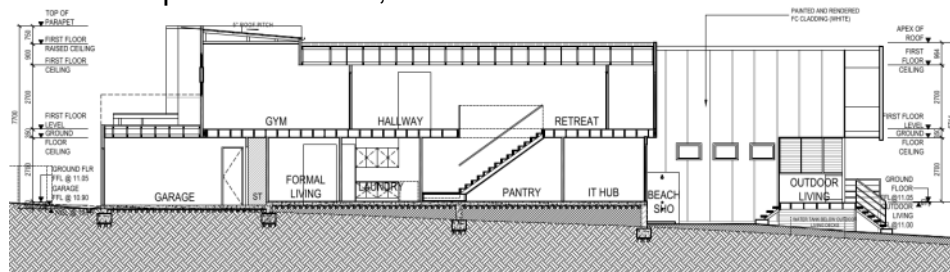
5. Parking is not sufficient for two dwellings onsite.

Comment: The parking for the development is complaint for a dwelling and secondary dwelling per Councils A2 – Site Parking and Access Code.

6. The dwelling does not follow the slope of the land resulting in adverse overlooking of adjoining properties and creating a dwelling that has excessive bulk and mass.

Comment: Minor fill will occur within the building footprint as is illustrated below. This fill will be less than 1m (0.85m) Some thoughtful use of side boundary fencing will be required on the southern side to protect the privacy of the residents of this building and those adjoining. Rear windows of living areas are highlight windows to maintain privacy and screening will be installed on balconies.

Floor areas have been adjusted to meet this slope as demonstrated by the elevations provided below;



7. The shade diagrams are inaccurate.

Comment: The shade diagrams have been prepared by a registered architect. These diagrams appear satisfactory and of a standard to enable an assessment to be undertaken.

It is noted that a second notification period was not necessary due to amendments being made to address the issues raised by the submissions discussed above.

(e) Public interest

The proposal is permissible with consent, consistent with relevant environmental planning instruments, and Council policy requirements. The proposal is considered suitable and appropriate for the subject site, following amendments to the development and deferred commencement consent to further amend minor aspects of the building for full compliance. The proposal being located upon a vacant lot will have an impact upon adjoining properties. However, the building is compliant with the relevant development control plan to retain a satisfactory level of amenity for adjoining. The development will not have an impact on the environment and is not considered contrary to the public interest.

OPTIONS:

1. Resolve to approve the application subject to conditions, including deferred commencement.
2. Refuse the application, and provide reasons for this decision.

Council officers recommend Option 1.

CONCLUSION:

The proposal is now considered acceptable and while a deferred commencement is recommended the revised plans as amended are considered acceptable and consistent with Council's relevant planning provisions. The development will be inspected following completion to ensure compliance with the approved plans. Any amendment to these plans to facilitate the building to be used as a dual occupancy will result in the appropriate compliance action.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

If the application was to be refused the applicant has the right of Appeal to the NSW Land and Environment Court where Council would incur costs to defend such an Appeal, including consultants as staff have recommended conditional approval.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

3 [PR-PC] Development Applications T4/2794.06, D94/0015.09 and PN1074.09 for an amendment to Development Consents T4/2794, D94/0015 and PN1074 for Extensions to an Existing Caravan Park to Accommodate a Total of 107 Movable Dwelling Sites at Lot 11 DP 1206666 No. 2 Barneys Point Road, Banora Point

SUBMITTED BY: Development Assessment and Compliance



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Making decisions with you
2.1	Built Environment
2.1.2	Development assessment - To assist people to understand the development process and assess applications lodged with Council to achieve quality development outcomes and land use decisions.

ROLE: **Provider**

SUMMARY OF REPORT:

A report relating to these Section 96 Modification Applications was submitted to the Planning Committee Meeting of 1 June 2017. The report recommended refusal of the subject applications due to issues associated with bushfire, characterisation of the approved development and asset protection zones. Following a request from the applicant, Council resolved to defer the matter, subject to additional information being submitted, and the matter being reported back to Council for determination.

The applicant has sought to address the outstanding issues with the submission of the following additional information:

- An amended site plan that provides the required Bushfire Asset Protection Zone entirely within the subject site;
- Additional details on the proposed homes to be provided within the 10 sites. These details and plans indicated that these homes can be defined as a 'caravan' pursuant to the definition within the Local Government (Manufactured Home Estate, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulations 2005; and
- Advice regarding the ability of these homes upon the 10 sites to meet the BAL29 construction standard as required by the General Terms of Approval stipulated by the Rural Fire Service.

This additional information and amended plans have been reviewed by Councils technical staff and forwarded to the Rural Fire Service (RFS).

The RFS have advised that no objection is raised to the development, subject to the homes being constructed to the appropriate Bushfire Attack Level (BAL29).

The application is now considered to be satisfactory for the following reasons:

- The additional sites will contain caravans consistent with the definition within the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005;
- The required Asset Protection Zones will now be contained within the subject land and will not be located upon adjoining property in separate ownership; and
- The caravans can achieve a BAL29 of AS 3959-2009 construction standard.

The amended consent will be conditioned to ensure the additional sites are compliant with these matters listed above. Subject to the imposition of these conditions, the application is now deemed satisfactory and worthy of conditional approval.

It is recommended that Council resolve to provide staff with the necessary delegation to approve the modification of the three existing development approvals for the site, subject to the appropriate modification of approved site plans and imposition of additional conditions as described above.

RECOMMENDATION:

That Council grants delegated authority to the General Manager to determine modification of the three Development Consents T4/2794, D94/0015 and PN1074 for Extensions to an Existing Caravan Park to Accommodate a Total of 107 Movable Dwelling Sites at Lot 11 DP 1206666 No. 2 Barneys Point Road, Banora Point subject to appropriate conditions.

REPORT:

Applicant: Palm Lake Works Pty Ltd
Owner: Walter Elliott Holdings Pty Ltd
Location: Lot 11 DP 1206666; No. 2 Barneys Point Road, Banora Point
Zoning: RE2 – Private Recreation
Cost: Not Specified

A report relating to these Section 96 Modification Applications was submitted to the Planning Committee Meeting of 1 June 2017. The report recommended refusal of the subject applications due to issues associated with bushfire, characterisation of the approved development and asset protection zones. Following a request from the applicant, Council resolved to defer the matter, subject to additional information being submitted, and the matter being reported back to Council for determination.

The previous report (see Attachment) provided a full assessment of the applications, including submissions received during the notification period and response from the RFS. The assessment concluded that, despite a rezoning for the site to change the zoning to RE2 private recreation to facilitate additional site area for the caravan park, the subject portion of land was not suitable for additional home sites due to bushfire concerns and the location of necessary Asset Protection Zones outside the property boundary.

Council had also sought legal advice on the ability of a caravan park to be characterised as such when the park did not contain any caravans. This legal advice provided Council with sufficient evidence that, despite previous approvals over the site, any future applications should ensure that a 2016 Land and Environment Court Judgement should be given due consideration. Therefore the applicant was requested to provide assurances that any additional sites would be for the purposes of a caravan to ensure the park could be characterised as approved i.e. a caravan park. The applicant has provided a site plan, floor plans and documentation that the additional ten sites will be caravans, as defined within the local government regulations for manufactured homes, caravan parks and camping grounds.

This restriction of the type of homes located on the 10 additional sites was problematic due to the ability of caravans to meet the high level of construction for a habitable structure within a bushfire zone. The RFS were of the opinion that caravans could not be constructed to such a standard. However, the applicant has provided details to indicate that the caravans proposed can meet this standard. The RFS have reviewed these details and have not raised any objection to such. It is proposed that this level of construction would be a condition of consent for all caravans upon the additional 10 sites.

The final matter obstructing support of the application was the use of adjoining land for an Asset Protection Zone. This adjoining land is Roads and Maritime land. No security of tenure or owners consent was provided for the ongoing use of this land for these purposes from this government authority. The proposed site plan has now been amended to provide the 13m wide Asset Protection Zone within the subject site. The development no longer requires the adjoining land for the necessary Asset Protection Zone.

Accordingly, the proposal is now deemed to be appropriate development of the subject site and can be supported subject to conditions.

These conditions would include the sites be restricted to caravans as defined by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005, the caravans be constructed the appropriate standard as required by the RFS (BAL29) and the Asset Protection Zones must be contained within the subject site.

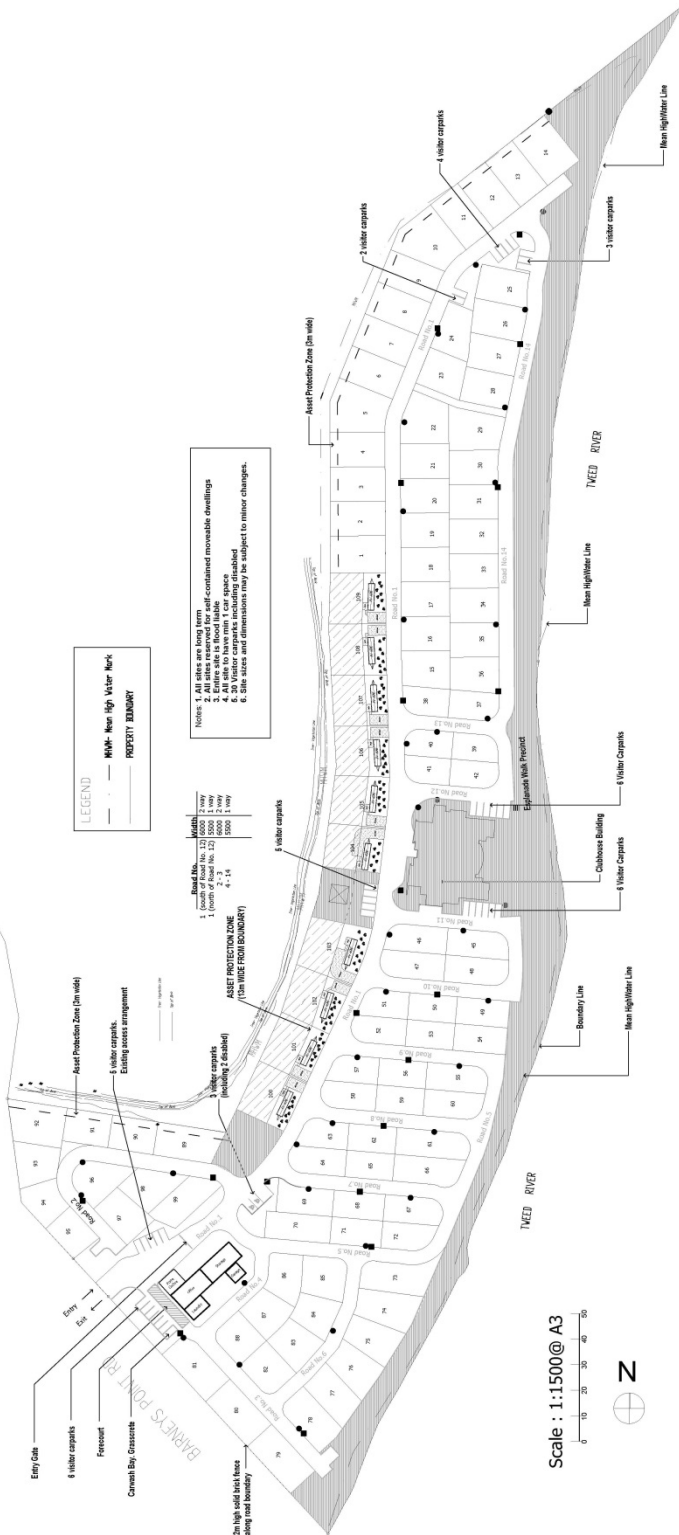
The site plan (Condition 1AAA) would also be amended to reflect the new layout with the additional sites.

Other conditions to be amended are as follows:

- Condition 9- this condition stated that no part of the 7(a) - Environmental Protection land can be used for the approved caravan park. As the 7(a) - Environmental Protection land within the subject site is now zoned RE2- Private Recreation, this condition can be deleted in conjunction with any approval granted.
- Condition 13AA- this condition relates to permissible structures and has a reference to the current approved site plan. This condition will require amendment to reflect the approved layout plan, if this modification is supported; and
- Condition 15A – This condition stated that no works were to proceed upon the unnamed road reserve until a new development consent had been issued. The removal of this condition would correspond with approval of this modification.

REVISED SITE PLAN AND CARAVAN DETAILS:

EXISTING 97
 PROPOSED 10
 TOTAL LONG TERM SITES : 107



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 Email: info@paintlake.com.au
 Website: www.PaintLakeResort.com.au

DRAWING REFERENCE No.		DRAWING TITLE		DEVELOPMENT NAME		DRAWN	
M1202 - D7		SITE PLAN		TWEED RIVER		MR	
REV	COMMENTS	DATE	DRWN	ADDRESS	PROJECT NORTH	SHEET No.	
B	AMENDED SITE PLAN	12/08/15	EJ	LOT: LOT 10 DP1190661 & LOT 1 DP1192599		01 / 01	
C	AMENDED SITE PLAN	09/11/15	SC	STREET 2 BARNEY'S POINT ROAD			
D	AMENDED SITE PLAN	13/12/15	SC	SUBURB BANORA POINT			
E	AMENDED SITE PLAN	09/09/17	SC	P CODE 2486 STATE NSW			

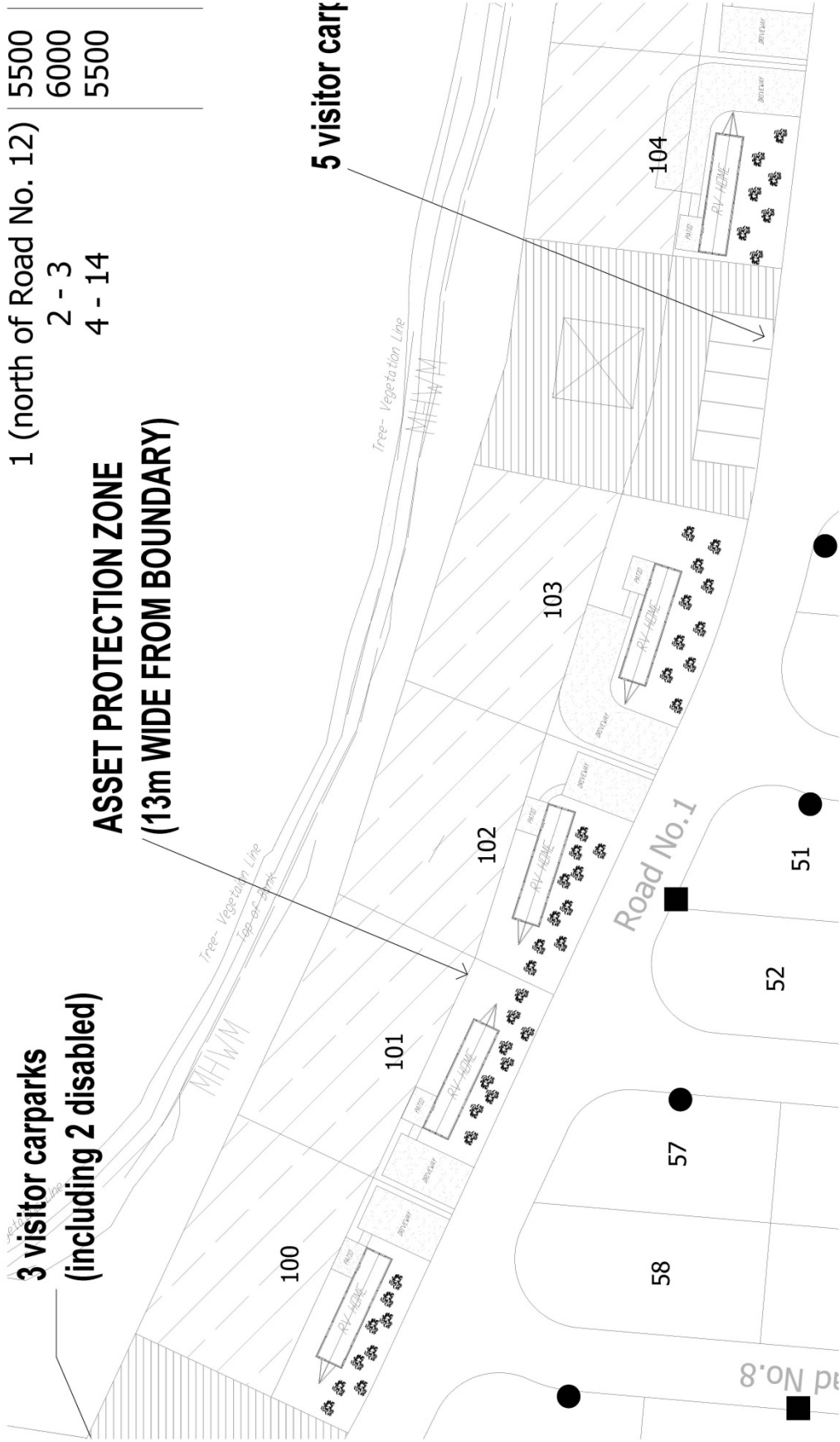
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 Email: info@paintlake.com.au
 Website: www.paintlake.com.au

1 (north of Road No. 12) 5500
 2 - 3 6000
 4 - 14 5500

**ASSET PROTECTION ZONE
 (13m WIDE FROM BOUNDARY)**

**3 visitor carparks
 (including 2 disabled)**

5 visitor carps



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DRAWING REFERENCE No.
M 1202 - D 7

REV	COMMENTS	DATE	DRWN	MIR
A	AMENDED SITE PLAN	01/07/14		
B	AMENDED SITE PLAN	12/06/15	EJ	

DRAWING TITLE
SITE PLAN

DEVELOPMENT NAME
 TWEED RIVER

ADDRESS
 LOT: LOT 10 DP1190061 & LOT 1 DP1192599
 STREET 2 BARNEYS POINT ROAD
 SUBURB BANORA POINT
 P/CODE 2486 STATE NSW

DRAWN
 MR

PROJECT NORTH

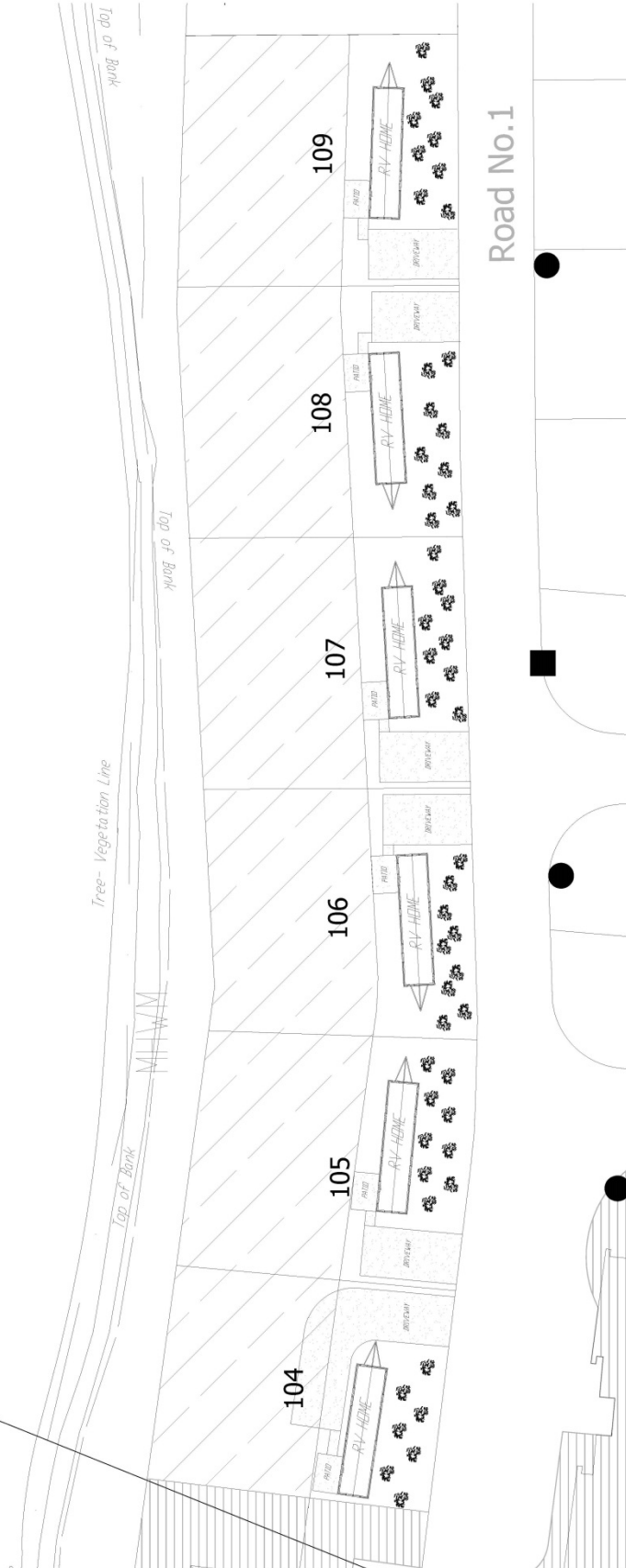
SHEET No.
 01 / 01

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 Email: info@palmlake.com.au
 Website: www.palmlake.com.au

SCALE : 1:300

5. 50 visitor carparks including used
 6. Site sizes and dimensions may be

5 visitor carparks



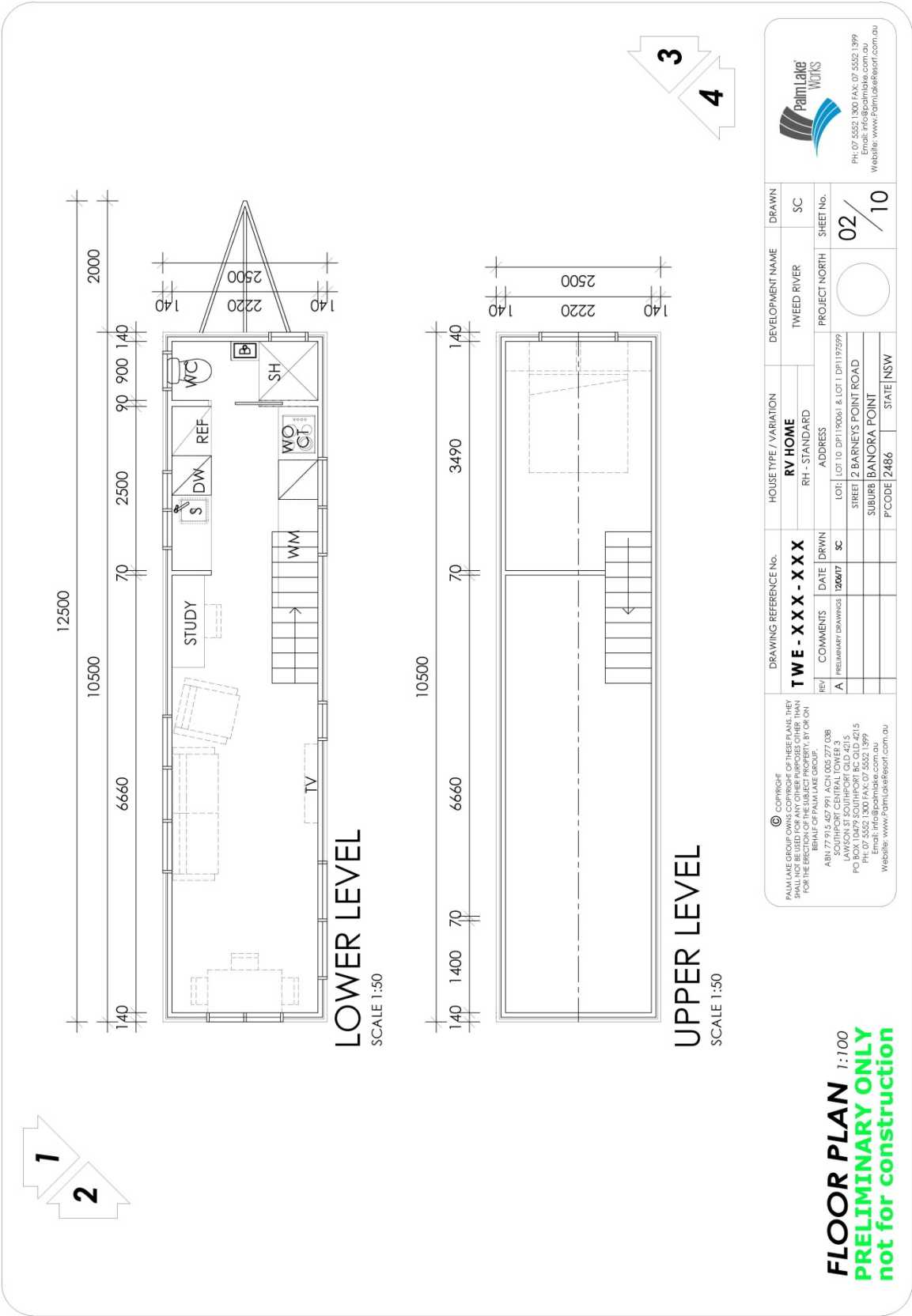
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 PH: 07 5552 1300 FAX: 07 5552 1399
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Logo: Palm Lake Works

PH: 07 5552 1300 FAX: 07 5552 1399
 Email: info@palm-lake.com.au
 Website: www.PalmLakeResort.com.au

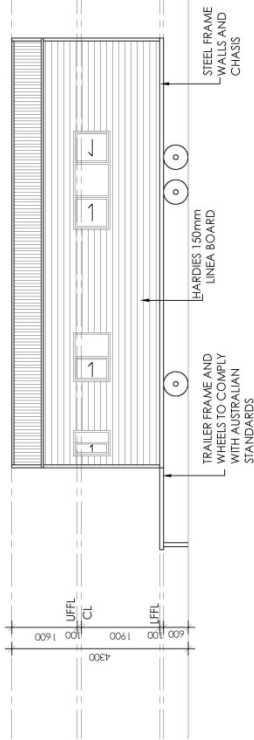
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M 1202 - D 7		SITE PLAN		TWEED RIVER		MR	
REV	COMMENTS	DATE	DRWN	PROJECT NORTH	SHEET No.		
A	AMENDED SITE PLAN	10/09/14	MR		01 / 01		
B	AMENDED SITE PLAN	12/09/15	EJ				
		LOT 10 LOT 10 DP1190661 & LOT 1 DP1197599					
		ADDRESS					
		STREET 2 BARNEYS POINT ROAD					
		SUBURB BANORA POINT					
		P CODE 2486					
		STATE NSW					



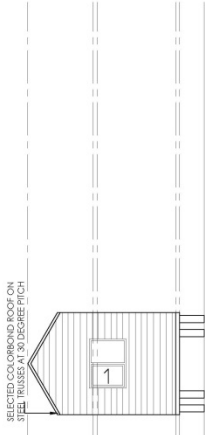
FLOOR PLAN 1:100
PRELIMINARY ONLY
 not for construction



ELEVATION 1
SCALE 1:100

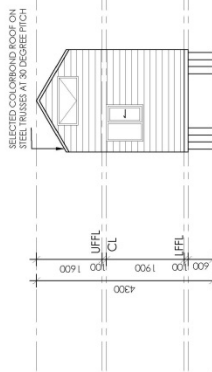


ELEVATION 2
SCALE 1:100

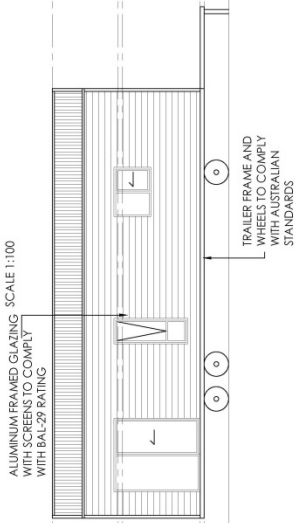


ALL MATERIALS TO COMPLY WITH AS3959-2009, BAL-29 BUSHFIRE RATING

ELEVATION 3
SCALE 1:100



ELEVATION 4
SCALE 1:100



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Website: www.PalmLakeResort.com.au

DRAWING REFERENCE No. **TWE - XXX - XXX**

REV	COMMENTS	DATE	DRAWN	SC
A	PRELIMINARY DRAWING	12/06/17	SC	

HOUSE TYPE / VARIATION: **RV HOME**
RH - STANDARD

ADDRESS: LOT 10, DP1192663 & LOT 1, DP1192599
STREET: 2 BARNEYS POINT ROAD
SUBURB: BANORA POINT
P/CODE: 2486 STATE: NSW

DEVELOPMENT NAME: TWEED RIVER
PROJECT NORTH

DRAWN: SC
SHEET No. 10

ELEVATIONS 1:100
PRELIMINARY ONLY
not for construction

PalmLake
RESORTS
PH: 07 5522 1300 FAX: 07 5522 1999
Email: info@palmlake.com.au
Website: www.PalmLakeResort.com.au

OPTIONS:

That Council:

1. Grants delegated authority the General Manager to approve modification of the three Development Applications T4/2794.06, D94/0015.09 and PN1074.09 for an amendment to Development Consents T4/2794, D94/0015 and PN1074 for Extensions to an Existing Caravan Park to Accommodate a Total of 107 Movable Dwelling Sites at Lot 11 DP 1206666 No. 2 Barneys Point Road, Banora Point subject to appropriate conditions.
2. Provide in-principle support to this modification application and a report be brought back to the August Planning Committee Meeting containing recommended conditions of approval.
3. Refuse the application, providing reasons for this decision.

Option 1 is recommended.

CONCLUSION:

The applicant has satisfied Council issues with the subject application. The three interrelated issues have now been suitably addressed by the applicant and the proposal can now be supported. Accordingly, it is recommended that the application as proposed is granted conditional consent, subject to appropriate conditions.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long term Financial Plan:

Not Applicable.

c. Legal:

The applicant could appeal Councils decision if the application was refused.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Report submitted to the Planning Committee meeting held 1 June 2017 (ECM 4590525)

- 4 [PR-PC] Kings Forest Concept Plan Modification (Council Reference GT1/51 Department's Reference MP06/0318 MOD 7) and Kings Forest Project Application Modification (Council Reference DA11/0565.05 Departments Reference No. MP08/0194 MOD 5) to Accommodate the use of a private water utility licensed under the Water Industry Competition Act 2006 to provide water supply and sewerage services including recycled water reticulation to the Kings Forest Development, No. 86 Melaleuca Road, Kings Forest

SUBMITTED BY: Development Assessment and Compliance

mhm



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We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.1 Built Environment
- 2.1.2 Development assessment - To assist people to understand the development process and assess applications lodged with Council to achieve quality development outcomes and land use decisions.

ROLE: **Provider**

SUMMARY OF REPORT:

Council has received two requests from the NSW Department of Planning to review Modifications associated with both the Concept Plan and Project Applications for Kings Forest that would enable the use of a private water utility licensed under the Water Industry Competition (WIC) Act 2006 to provide water supply and sewerage services including recycled water reticulation to the Kings Forest Development.

The current proposed amendment to the **Project Application** seeks to make changes to the conditions of consent to include the provision for an alternative water and sewerage services and infrastructure so as to allow **either** connection to Council's reticulated water and sewerage services **or** provide a standalone water and sewer services for the development in accordance with the WIC Act 2006.

The current proposed amendment to the **Concept Plan** seeks to nominate a future water & waste water treatment plant site, make changes to the zoning of the site and written provisions under State Significant Precincts SEPP under which this site is zoned. It also seeks to alter conditions of the Concept Plan Approval MP06/0318 to reflect an amended Concept Plan Map and amend the wording of the Kings Forest Development Code to include the provision for an alternative water and sewerage services and infrastructure so as

to allow either connection to Council's reticulated water and sewerage services or provide a standalone water and sewer services for the development in accordance with the WIC Act 2006.

The proponent has indicated that if the standalone option is utilised a company called Northern Water Solutions Pty Ltd would seek the relevant licences (from the Independent Pricing & Regulatory Tribunal – IPART) and approvals to operate under the WIC Act 2006.

Whilst the formal detailed IPART Application (licence) has not been forwarded for Council's review (as yet) this application does seek to nominate the future site for a new water and waste water treatment facility on a site that was never intended to accommodate a separate treatment plant. Therefore Council needs to critically review the proposed location of the treatment facility.

In reviewing the current applications which seek to set up the legal mechanisms for a private system Council has assumed that a similar scheme will be proposed to the Cobaki development site which detailed the use of a pressure sewerage system (as opposed to Council's preferred gravity sewer system) involving over one thousand pressure sewer pump stations with very limited gravity sewer lines and pressure sewer mains to convey sewage to a treatment plant located within the development area.

Treated effluent to a standard suitable for domestic reuse is likely to be reticulated to residential and commercial properties for suitable uses and offered for irrigation on parks and sports fields. It will most likely be proposed that excess effluent will be disposed of by discharge into Council's Kingscliff Wastewater Treatment System (subject to Council agreement). There is no agreement in place for this at this stage.

The proponent also appears likely to propose to seek bulk or wholesale potable drinking water from Council. There is no agreement in place for this at this stage The proponent also appears likely to propose the reticulation of drinking water, using low level reservoirs and pressure boosting pumps to provide adequate pressure throughout the development area.

It would appear that the development of this water supply and sewerage system, whilst satisfying environmental objectives for recycled water and probable water usage reduction does so by use of electrical energy to pump sewage, recycled water and drinking water. It is considered particularly unusual in relation to drinking water because Council's water supply to this development will deliver water at an adequate pressure to service the development, and the probable scheme will dissipate that stored energy before using energy to re-pressurise the reticulation system.

Systems with third pipe recycling will be discouraged from collecting rainwater in private rainwater tanks as the properties will already be receiving recycled water. This system also has the inherent danger of unintentional cross connection of non-potable recycled water and potable drinking water supplies.

It is also understood that there are such third pipe recycled water developments where the community resistance to use of recycled water and the lack of consumption of recycled water has led to the schemes being closed down. The most high profile example of this was the flagship scheme for the Coomera Pimpama area in the Gold Coast. In the case of lack of use of recycled water, it is likely that it will be substituted with drinking water as the properties will not have rainwater tanks as proposed with the Council's conventional system.

In addition there is the amenity issue of having small pump stations in close proximity to around half of the dwellings in the development as well as the maintenance and renewal of a large number of pump stations. There are also amenity issues with the location of the proposed Sewerage Treatment Plant within close proximity to existing and future residential properties.

Consequently, it is considered that these schemes (pressure systems) could have inherit problems that should be considered at this early stage of the process for Kings Forest.

Council Officer's provided preliminary comments to the NSW Department of Planning on the amendments to the Project Application generally stating that the changes can be technically accommodated but Council Officers reserved comments on possible wider implications which would be addressed when the Concept Plan modification was lodged.

Council Officers have not yet provided comments to the NSW Department of Planning on the proposed changes to the Concept Plan as this report seeks endorsement of the Officer's Assessment enclosed in this report. More technical advice will be offered when the detailed IPART licence application is submitted by IPART to Council for review.

RECOMMENDATION:

That Council endorse that a copy of this report be provided to the NSW Department of Planning as Council's Official position on both Kings Forest Concept Plan Modification (Council Reference GT1/51 Department's Reference MP06/0318 MOD 7) and Kings Forest Project Application Modification (Council Reference DA11/0565.05 Departments Reference Number MP08/0194 MOD 5) to accommodate the use of a private water utility licensed under the Water Industry Competition Act 2006 to provide water supply and sewerage services including recycled water reticulation to the Kings Forest Development, No. 86 Melaleuca Road, Kings Forest.

REPORT:

Proponent: Planit Consulting Pty Ltd

Owner: Project 28 Pty Ltd/Narui Gold Coast Pty Ltd

Location: Lot 6 DP 875446 Depot Road, Kings Forest; Lot 2 DP 819015 No. 102 Melaleuca Road, Duranbah; Lot 38A DP 13727 No. 102 Melaleuca Road, Kings Forest; Lot 37A DP 13727 No. 126 Melaleuca Road, Kings Forest; Lot 7 DP 875447 No. 231 Tweed Coast Road, Kings Forest; Lot 1 DP 781633 & Lot 272 DP 755701 & Lot 323 DP 755701 & Lot 326 DP 755701 & Lot 76 DP 755701 & Part Lot 1 DP 129737 & Part Lot 38B DP 13727 & Part Lot 40 DP 7482 No. 86 Duranbah Road, Kings Forest; Part Lot 1 DP 706497 No. 86 Melaleuca Road, Kings Forest

Zoning: State Environmental Planning Policy (State Significant Precincts) 2005 zones the subject site as follows: 2(c) Urban Expansion, 7(a) Env Prot (Wetlands & Littoral Rainforests and 7(l) Environmental Protection (habitat), Agricultural Buffer (150m) and Ecological Buffer (50m)

Proposal

Council has received two requests from the NSW Department of Planning to review Modifications associated with both the Concept Plan and Project Applications for Kings Forest that would enable the use of a private water utility licensed under the Water Industry Competition (WIC) Act 2006 to provide water supply and sewerage services including recycled water reticulation to the Kings Forest Development.

- On 15 March 2017 Council received a request from the NSW Department of Planning to comment on MP08/0194 Mod 5 (DA11/0565.05) which is the first project application to have been approved over the Kings Forest site.

The Project Application as modified approved a subdivision to create new lots for future development, bulk earthworks throughout the site, construction of an entrance road, construction of intersection works on Tweed Coast Road, construction of the proposed Kings Forest Parkway, construction of floor space for service station, access to Precinct 1 service station, construction and infrastructure works within the new residential Precinct 5 and maintenance of the existing east-west agricultural drainage channel within existing SEPP14 wetlands.

The current proposed amendment seeks to make changes to the conditions of consent to include the provision for an alternative water and sewerage services and infrastructure so as to allow **either** connection to Council's reticulated water and sewerage services **or** provide a standalone water and sewer services for the development in accordance with the WIC Act 2006. The proponent has indicated that if the standalone option is utilised a company called Northern Water Solutions Pty Ltd would seek the relevant licences (from the Independent Pricing & Regulatory Tribunal – IPART) and approvals to operate under the WIC Act 2006.

The conditions requiring amendment are:

- Part 1 – Subdivision of Entire Site Condition 2 – Registration of Easements;
- Condition 30 – Water Supply and Sewerage Strategy
- Condition 31 Water & Sewer

- Condition 118 – Registration of Easements
- Condition 142 Registration of easements
- Condition 154 Developer Contributions
- Condition 157 Water Supply & Sewer
- Condition A2 Other Approvals

Council Officer's provided preliminary comments on this application stating that

- the MOD has only been lodged over the Project Application and has not sought to change the Concept Plan which gives power to the Kings Forest Development Code. The Kings Forest Development Code calls up Council's A5 Subdivision Manual which requires connection to Council's system. Therefore Council requested a second Mod to the Concept Plan and corresponding changes to the Kings Forest Development Code.
- The Mod has not been publically exhibited. Council is of the opinion that a MOD of this nature warrants public exhibition to enable the general public to be alerted that an urban land release area accommodating 10,000 people may want to use a private infrastructure supplier. Whilst the application will be placed on The Department's web site, the general public is unlikely to know to look there without public notification.
- Technical commentary was provided on the merits of the proposed changes to the conditions pending lodgement of a future MOD to the Concept Approval and Development Code. Generally the changes can be accommodated but Council Officers reserved comments on possible wider implications.
- On 30 May 2017 Council received a request from the NSW Department of Planning to comment on MP06/0318 Mod 7 (GT1/51) which is the Concept Plan and associated Development Code approved over the Kings Forest development site.

The Kings Forest development site is listed as a State Significant Site within Schedule 3 of State Environmental Planning Policy (State Significant Precincts) 2005 (State Significant Precincts SEPP). This document contains the sites zoning map.

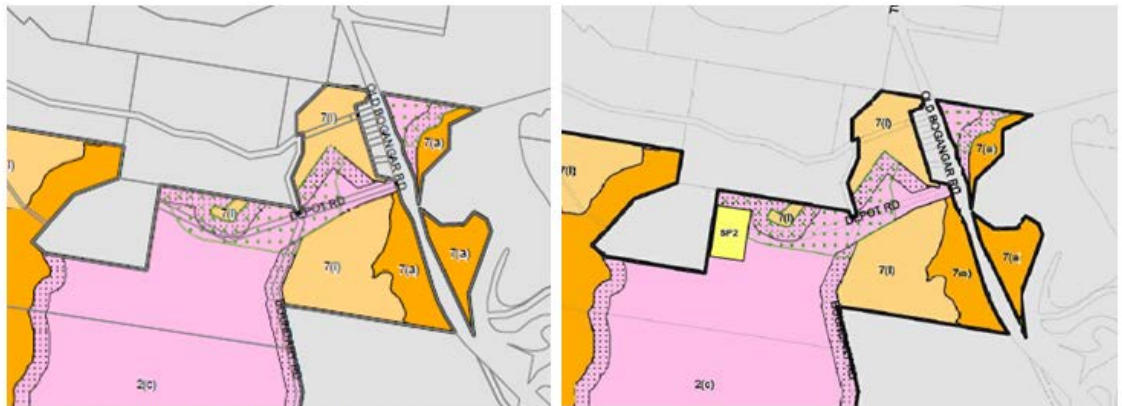
The Concept Plan as modified approved the broad allocation of the site for the following uses:

- residential development for approximately 4,500 dwellings across 24 development precincts;
- the creation of a town and neighbourhood centre with associated employment land, and
- community and education facilities;
- a golf course, open space, wildlife corridors, protection and rehabilitation of environmentally sensitive land;
- water management areas and a lake;
- a conceptual road, bicycle and pedestrian network; and
- conceptual plans for servicing infrastructure.

The Concept Plan also approved the Kings Forest Development Code which will act as the sites Development Control Plan.

The current proposed amendment seeks to make changes to:

- The zoning of the site and written provisions under State Significant Precincts SEPP. The amendments seeks to nominate a piece of land within the previously zoned 2(c) Urban Expansion Zone (Tweed LEP 2000) with Agricultural Buffer (150m) and Ecological Buffer (50m) near the Depot Road Sports field as an SP2 Infrastructure zone (under Tweed LEP 2014) within land that the Concept Plan previously approved Community and Education facility services.



Existing & Proposed Zoning Map

The wording contained within the State Significant Precincts SEPP will need to be amended to reflect the new SP2 zone.

The new SP2 site is proposed to accommodate a new waste water treatment facility on a site which was never intended to accommodate its own waste water treatment facility. The proposed location of this plant needs to be critically reviewed now otherwise the SEPP will be amended and allow this site to be used for such a use subject to the IPART licence approval process.



- Conditions of the Concept Plan Approval MP06/0318 to reflect an amended Concept Plan Map.



Existing & Proposed Concept Plan (note grey 50m ecological buffer no longer showing up on the Concept Plan, purple dot proposed zone substation no longer showing up on the Concept Plan)

- Provisions within the Kings Forest Development Code are needed to accommodate an alternative water and sewerage services and infrastructure so as to allow either connection to Council's reticulated water and sewerage services or provide a standalone water and sewer services for the development in accordance with the WIC Act 2006. The proponent has indicated that if the standalone option is utilised a company called Northern Water Solutions Pty Ltd would seek the relevant licences (from the Independent Pricing & Regulatory Tribunal – IPART) and approvals to operate under the WIC Act 2006.

The sections of the Code that require amendment are:

- Part A Section 2 Exempt and Complying Development (various points) – add reference to the “relevant water and sewer authority” as it may not be Council and could be a standalone privately run system.
- Part 5.1 Precinct Plan
- Part 5.2 Relationship to Tweed DCP Section A5 Subdivision Manual

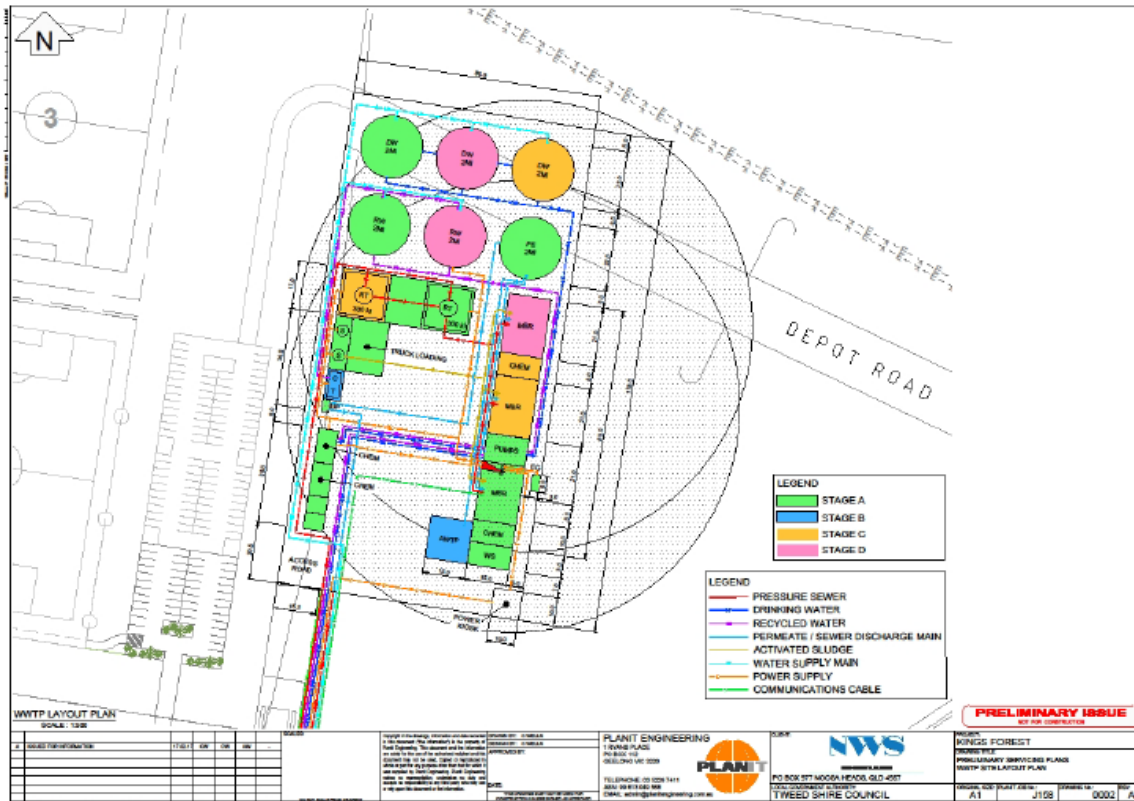
- Add new Part 5.9 – Private Services Infrastructure

The formal IPART Application (licences and Part 5 Approval process) has not yet been forwarded to Council to review, and therefore these applications are just designed to set up the legal mechanism for the relevant consents to accommodate either connection to Council's reticulated water and sewerage services or provide a standalone water and sewer services for the development in accordance with the WIC Act 2006.

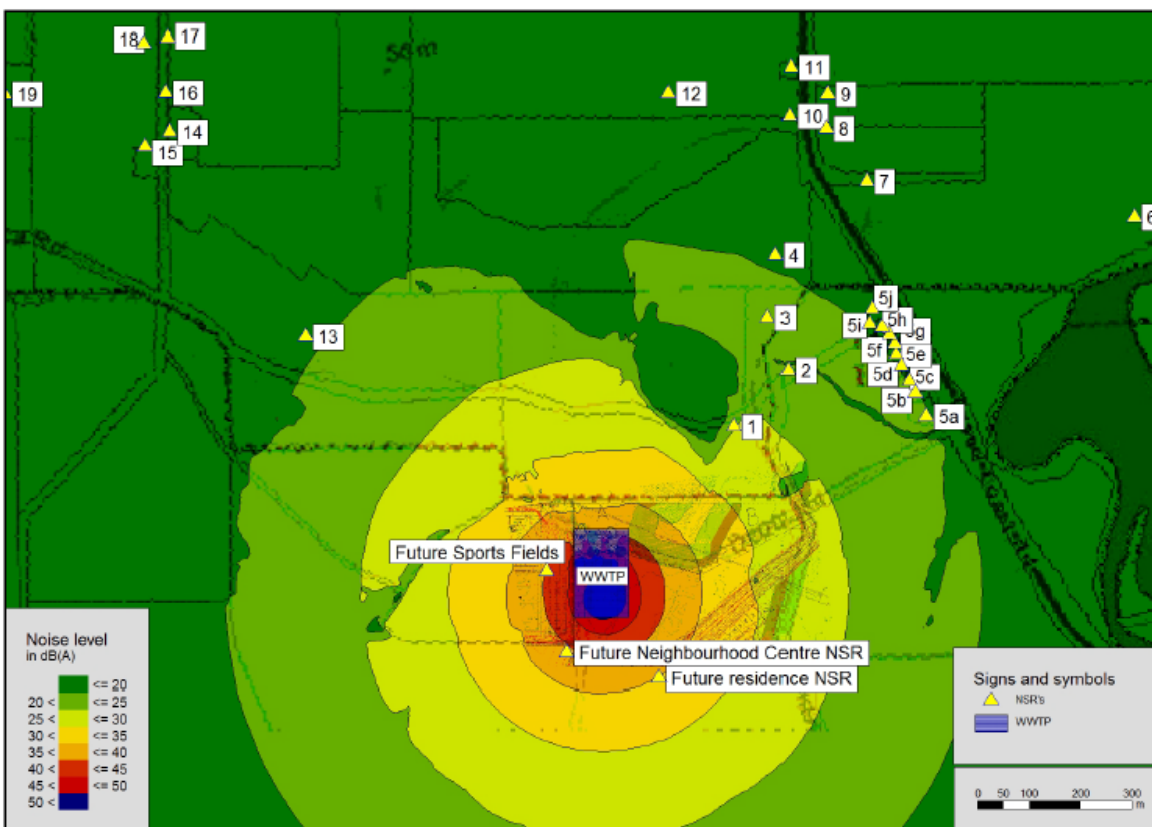
The application has however been accompanied by an Odour Assessment and Noise Assessment reviewing the potential impact of the proposed Waste Water Treatment Plant (WWTP). These documents have the following diagrams to support the proposal:



Proposed WWTP Location



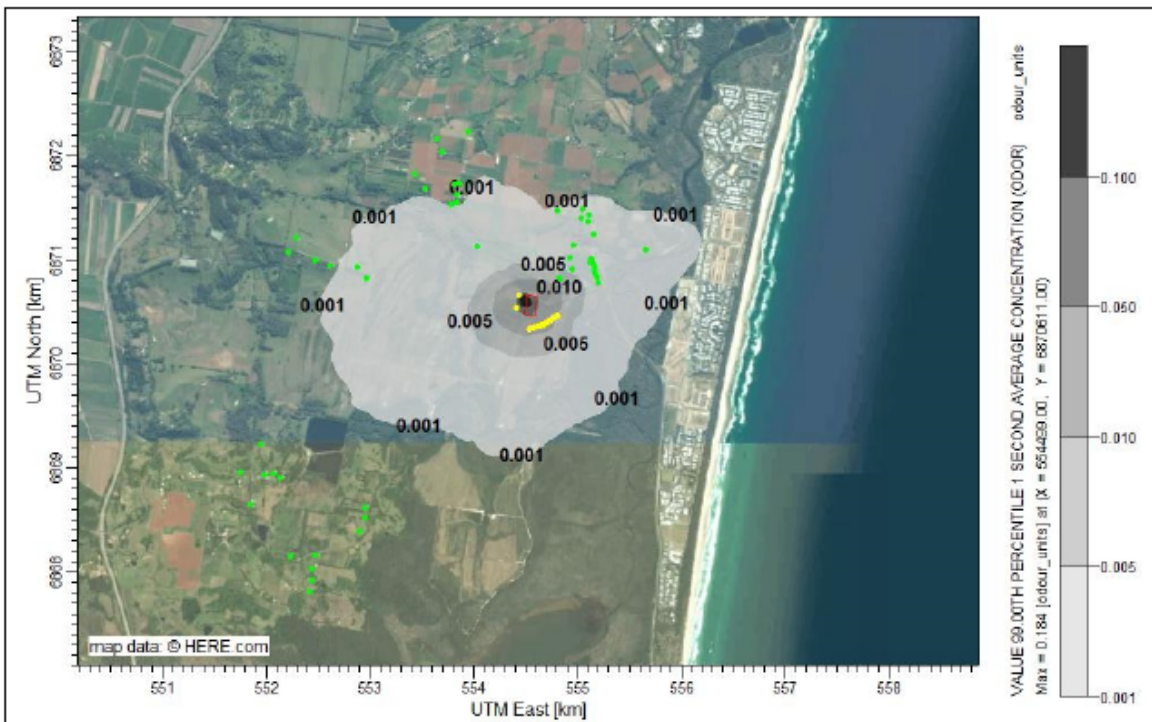
Proposed WWTP Configuration



Noise Map for Evening & Night Time Operational Phase




Sensitive Receptor Locations and the WWTP Boundary (Green existing receptor locations and yellow future receptor locations modelled)



Pollutant: Odour	Averaging Period: 1-Second	Percentile: 99 th	Criteria: Existing receptors - 3 OU Future receptors – 2 OU
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Legend

- Existing sensitive receptor locations modelled as listed in Appendix A
- Nearest future sensitive receptor locations modelled
- Proposed WWTP location



99th Percentile Predicted 1 Second Average Odour Considerations from the WWTP.

As discussed in the summary section of this report, integrated water schemes that rely on the use of treated wastewater have often not been successful due to the lower than estimated usage of recycled water resulting in higher than predicted demand for water and sewerage services. This could be a concern for Council given the anticipated population of 10,000 people within Kings Forest and the likely impact that scheme closure could have on Council as the local Water Authority.

The following report deals with the technical changes to the two consents and concludes that if the Department of Planning wants to approve the proposed Modifications they should have regard to the commentary contained in this report.

LOCALITY PLAN:



Locality Plan
KINGS FOREST

<p>Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagrammatic only. It should not be used for survey or construction purposes and prior to any excavations a "Dig before You Dig" enquiry must be made by calling 1100. The information contained on this document remains valid for 30 days only from the date of supply.</p> <p>Filename: Z:\5849\PROJECTS\STANDARD TEMPLATES\LocalityPlans\LocalityPlan150x_A4.rvt</p>	<p>Cadastre: 28 October, 2015 © Land and Property Information (LPI) & Tweed Shire Council. Boundaries shown should be considered approximate only.</p>	 <p>1:150,000 @ A4 Portrait DGD NOT SCALE COPY ONLY - NOT CERTIFIED</p> <p>Map Projection: Universal Transverse Mercator Horizontal Datum: Geodetic Datum of Australia 1994 Grid: Map Grid of Australia, Zone 56</p>	<p>Civic and Cultural Centre 3 Tumbulgum Road Murwillumbah NSW 2484 PO Box 816 Murwillumbah NSW 2484 T (02) 6670 2400 1300 292 872 F (02) 6670 2425 W www.tweed.nsw.gov.au E planning@tweed.nsw.gov.au</p>	 <p>TWEED SHIRE COUNCIL</p>
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AERIAL 2015:



AERIAL PHOTO - April 2015
KINGS FOREST

SOURCE:
Aerial imagery was captured
April 2015 © AAM Pty Ltd and NSW LPI

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Cadastre: 28 October, 2015
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 Boundaries shown should be considered approximate only.

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 1:40,000 @ A4 Portrait
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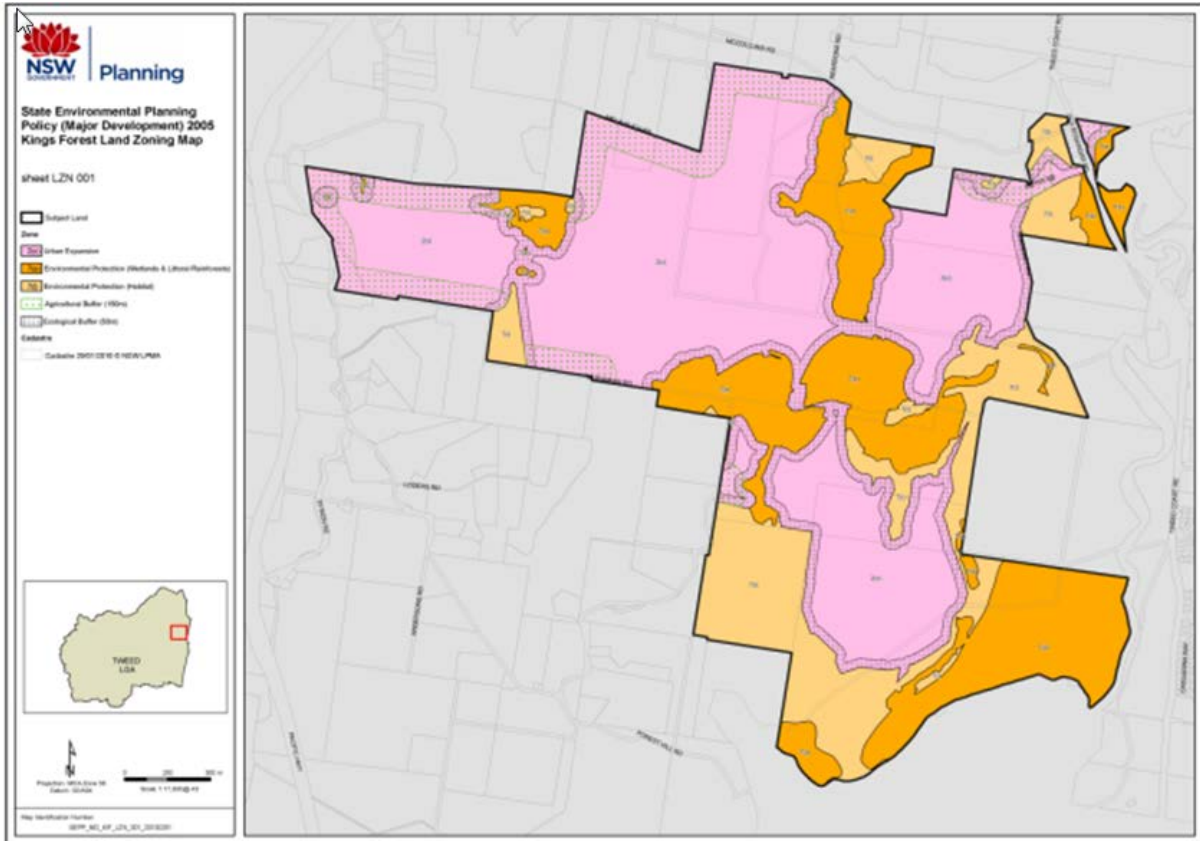
GDA
 Map Projection: Universal Transverse Mercator
 Horizontal Datum: Geodetic Datum of Australia 1994
 Grid: Map Grid of Australia, Zone 56

Civic and Cultural Centre
 3 Tumbulghum Road
 Murwillumbah NSW 2484
 PO Box 816
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 T | (02) 6670 2400 | 1300 292 87;
 F | (02) 6670 2429
 W | www.tweed.nsw.gov.au
 E | planning@tweed.nsw.gov.au

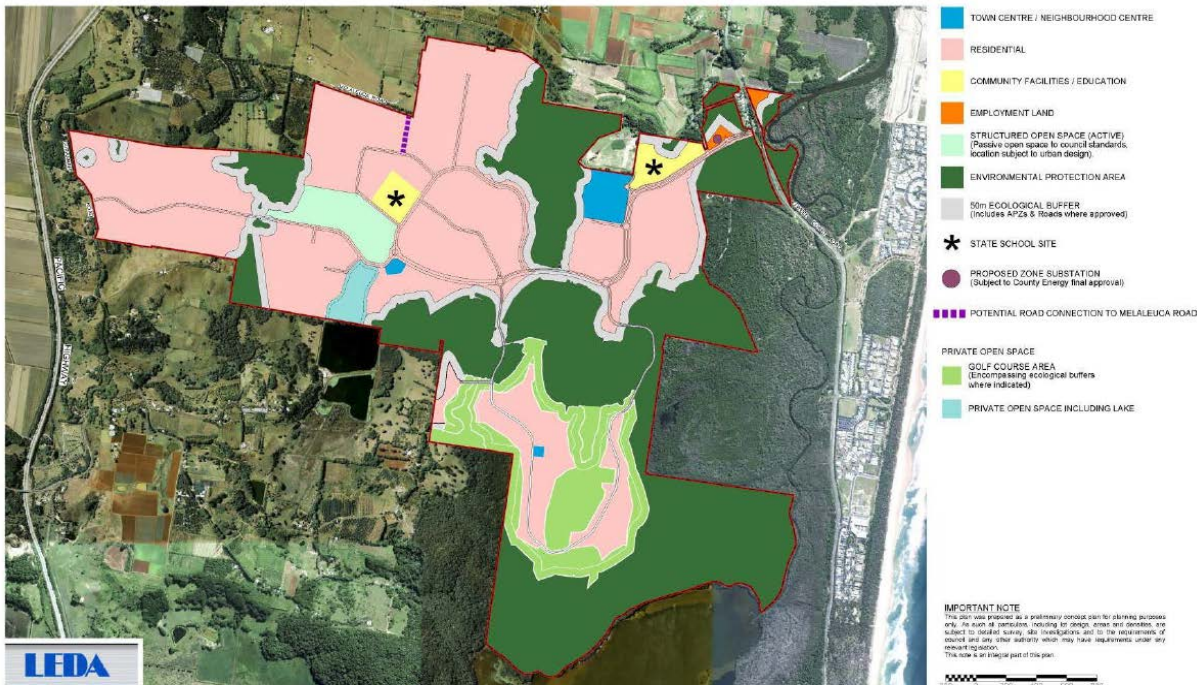
TWEED
SHIRE COUNCIL

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EXISTING ZONING MAP:



EXISTING CONCEPT PLAN:



	CLIENT PROJECT 28 Pty Ltd	PLAN KINGS FOREST STAGE 1 PROJECT APPLICATION REVISED CONCEPT PLAN	REVISIONS No. DETAILS DATE Init. A REVISION 21.8.12 BUB B REVISION 5.12.13 BUB C D E F G I	 RPS Australia East Pty Ltd ACN 140 282 762 4201 441 115 202 762 Suite 4, Rouse Hill Drive, Quarry Creek, NSW PO Box 1041 Rouse Hill, NSW 2155 P: +61 2 555 30500 F: +61 2 555 30500 W: rpsgroup.com.au
	Date: 5 DECEMBER 2013 Surveyed: - Drafted: BJB Plans: CUDGEN County: ROUS		SCALE: 1:2000 (A3)	

Assessment Considerations

1. *Inconsistent documentation*

There is an inconsistency between the text and Figure 1 concerning the dimensions and area of the “landscape screen” and “vegetation screen” which are presumably the same thing by different names.

There is an apparent inconsistency between area shown on the Attachment 2 - Revised Concept Plan and Zoning Plan and the area shown in Figure 1 of Attachment 1.

There is an apparent inconsistency between the plant site in the Noise and Odour studies and the area shown in Figure 1 of Attachment 1.

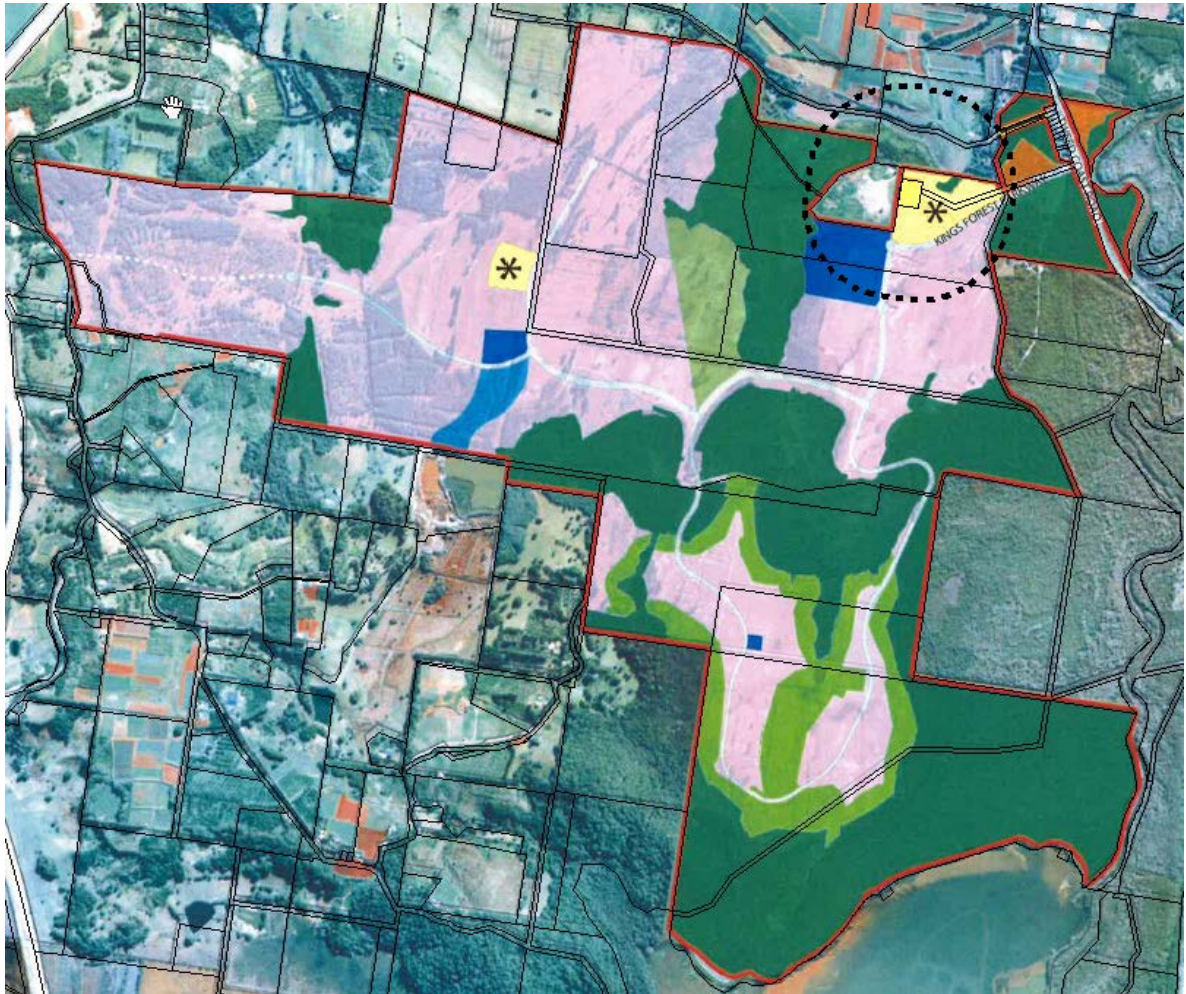
The area shown in the revised Zoning Plan (Drawing Title: Land Zoning Map 2005 Amendments) apparently includes the current alignment of Depot Road which is the current access to the proposed Depot Road Sports Fields. The Odour and Noise Studies drawings indicate that the Water & Waste Water Treatment Plant will be constructed across part of the road reserve. Whether this is an issue will depend upon the timing of the provision of alternate access to the sports field site as part of the Kings Forest development.

2. *Site Suitability & Zoning of the Waste Water Treatment Plant (WWTP)*

The allocation of a specific SP2 Infrastructure Zone to the Concept Plan approved plans would set the future location of a brand new water & waste water facility on a site that has not been assessed for its suitability.

Council’s normal practice in accordance with Tweed DCP Section A5 Subdivision Manual is to ensure there is a 400m buffer from any treatment facility site to any existing or future sensitive receivers to noise or odour (see specific buffer comments below).

If a 400m buffer was applied to the proposed treatment facility site the zone of influence would affect existing houses (and their future amenity), the nominated Community Land on the Concept Plan, the nominated Town Centre Site (which would hopefully contain shop top housing), the future employment land, the already approved Precinct 5 residential allotments, and Council’s proposed Depot Road sports fields (see below diagram showing a 400m buffer).



400m buffer to proposed SP2 Land

Therefore the suitability of the subject site is seriously questioned and needs to be justified by the proponent or amended if sufficient justification cannot be provided.

The proposed SP2 zoning also needs to be reviewed in the context of the SEPP (State Significant Precincts) 2005 as the Kings Forest provisions under this SEPP default back to LEP 2000 which do not have an SP2 zoning. Therefore significant amendments are required to the SEPP to detail how the SP2 LEP 2014 (standard instrument zone) can be applied under the SEPP.

Furthermore, the request to zone an area of land as SP2 Infrastructure (Sewerage System) may be problematic as the proposed location of Water Supply Infrastructure (reservoirs and pressure boosting pump stations) is not available to WIC Act licensees under ISEPP in the same way that Sewerage Infrastructure is (ISEPP 106). Water Supply works would require consent and unless the particular works are deemed incidental or ancillary to the Sewerage works, they would be prohibited in the zone.

3. *Location of proposed Waste Water Treatment Plant (WWTP)*

The proposed Concept Plan amendment proposes to locate the WWTP within the previously identified “community facilities / education” precinct in the north eastern part of the estate. There are conflicting plans which make it difficult to determine the proposed location in relation to Depot Road. Plans submitted with the noise and odour assessment reports show the facility located over the road reserve. This would conflict

with Condition 29 of the Project Approval (MP08_0194) which prevents closure of Depot Road until an alternate road access to the adjacent sports fields is provided.

However if the Modification Request Report is correct and the WWTP is located wholly within Lot 1 DP 781633, this conflict is resolved, although the noise and odour assessments may need to be reviewed with the correct location.

4. *Buffers to WWTP*

Buffers of 200-400m to WWTP components are recommended in DCP-A5 Subdivision Manual. There are likely to be buffer impacts given the proposed location in a constrained part of the site, adjacent to public uses such as playing fields and community facilities, as well as being close to the Town Centre and residential precincts. This needs to be reviewed in detail to determine the appropriate buffer for the design of the WWTP, and the town planning impacts of such a facility at this location taken into account. This will potentially include amendments to the approval for the residential subdivision (DA11/0565) if noise and odour cannot be adequately mitigated to reduce buffers.

While A5 is under review, buffer requirements for WWTPs are unlikely to change significantly. The proponent should address the buffer clauses in A5 in support of the modification.

There is a conflict between DCP A5 Appendix E A5.E.8 Sewerage Treatment Works Recommended Buffer and the Odour Modelling and undertaking that odour emission would be less than 2 Odour Units at the boundary.

DCP A5 recommends a 400m buffer, but does not permit any use within 200m of any current or proposed primary and secondary process units.

Between 200m and 400m there is provision for building associated with industrial, commerce or trade with a “must be designed with” requirement and air conditioning requirement.

There is also a requirement for restriction as to use stipulating the above. The requirements do not indicate any variation should the primary and secondary process units be located within a building and/or have effective odour mitigation facilities in place.

Having the “Town Centre” within the 200 – 400m portion of buffer would require special design and provision of air conditioning leading to potential additional cost for construction and operation of the Neighbourhood Centre.

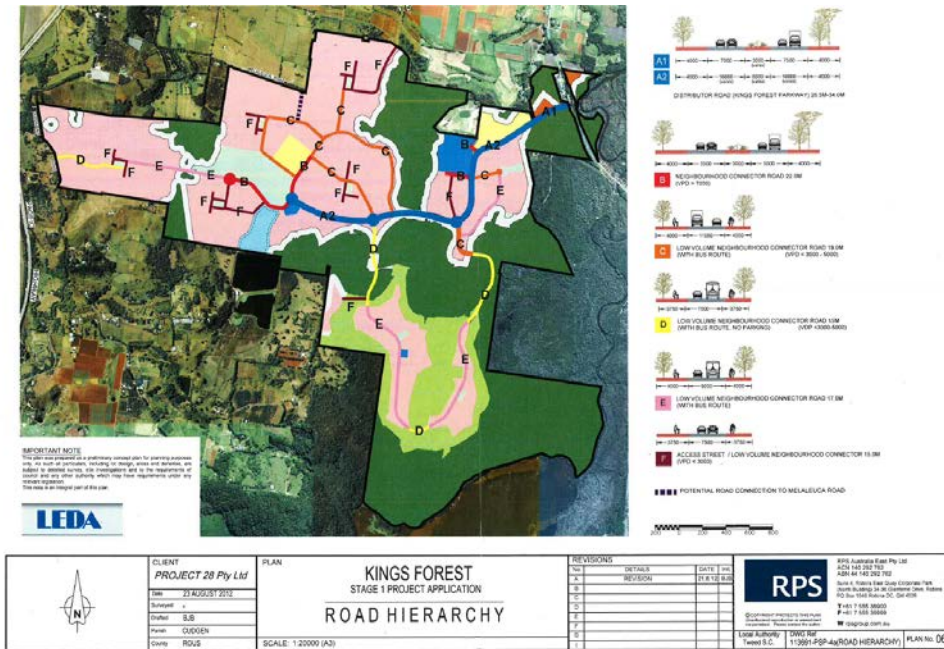
Furthermore the Town Centre will have shop top housing which would be within the 200-400m portion which would be unacceptable.

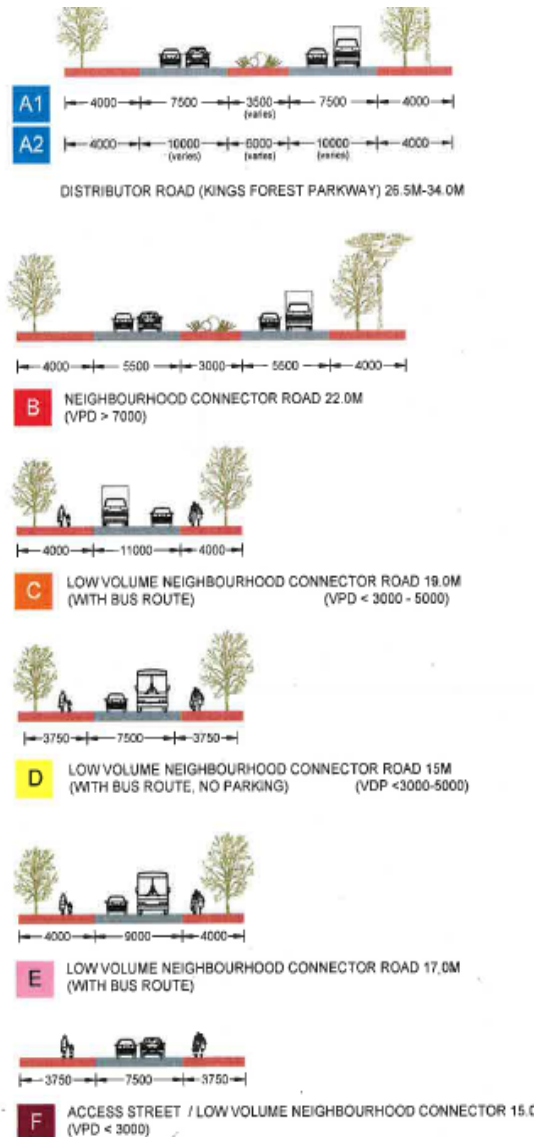
5. *Service Allocation in Subdivision Design*

Subdivision approval is in place for the initial residential stages of Kings Forest, based on compliance with Council's Subdivision Manual and referenced specifications. Assuming that the proposed private water and waste water scheme will be similar in

nature to that being currently discussed at Cobaki, it will provide for private water, sewerage and recycled effluent services (3rd pipe), to be located in the road reserve. As per the advice provided to the Department for Cobaki, the “3rd pipe” proposal cannot fit suitably within the minimum 3.75m wide road verge. If the private system is pursued, wider road reserves will mean modification of the subdivision DA (DA11/0565). Wider verges cannot be offset by narrower road pavements – some of the area will have to come from the allotments.

Some of the approved diagrams showing only 3.75 wide road verges are shown below:





Council's previous advice to the Department of Planning & Environment for recent modifications to incorporate reticulated water in the Concept Plan for the Cobaki subdivision is detailed below in italics (extract from Council's recommendation letter to Planning & Environment dated 8 June 2017' for Cobaki - Section 5.9 Location of easements for services):

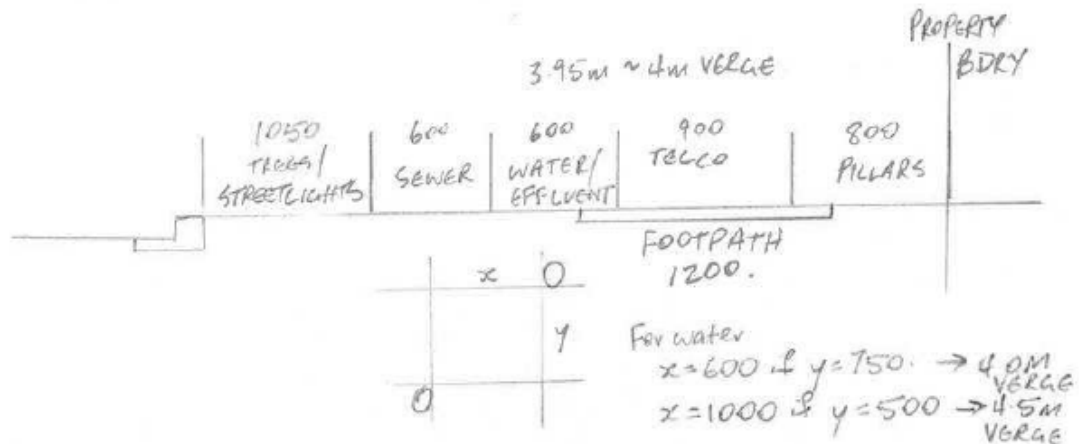
“Flow on effects on lot configuration and yield will result and further modifications to the road widths as approved under the Concept will likely be required.”

It is considered that the minimum width for road verges depend on how well coordinated the other services are to minimise conflicts.

It would seem that under the three pipe proposal, there would be sewer on both sides of the road, water on one, and effluent on one. Wherever possible, effluent and water supply should be on opposite sides of the road to avoid potential cross connections / contamination, which also helps to minimise verge width.

There is no provision under WSA Codes or Council standards to share water / sewer / effluent trenches. The sketch below is based on the assumption that

there are only two of the three pipes within the verge, that the water is 200mm dia or less and the sewer is 300mm or less. Larger services require greater separation distances under WSA Code. Where water and sewer is on the same side, the trench spacing shown requires at least a 750mm vertical clearance between these services. This would only be 300mm if we are dealing with effluent and sewer adjacent.



The above sketch indicates that a 4m wide verge could generally accommodate the proposed system with a 750mm vertical clearance. The required verge width would need to increase to 4.5m if the 750mm vertical clearance between water and sewer cannot be achieved, or if the third pipe is inserted on the same side.

As previously noted, Council will not support a reduction of any minimum road pavement widths to accommodate any increase in road verges widths.”

6. Irrigation on residential areas resulting in high nutrient run-off

Any future IPART application should include analysis as to whether recycled water runoff has been considered a nutrient source in the stormwater quality management plan for the site. Given the high sensitivity of the receiving environment to excess nitrogen it would be important for the MUSIC model developed for the stormwater management plan be checked to make sure it takes account of potential additional load of total Nitrogen and total Phosphorous in runoff from residential irrigation.

7. Irrigation on Council land (parks, sports fields, verges etc)

The proponent may request that as a result of the 3rd pipe system they would like to discharge recycled water onto Council land.

It is Council’s policy to manage water carefully to conserve the shire’s water supply and to reduce water costs, while also ensuring our sports fields are kept in good, safe condition. Under current service levels Council will irrigate sports fields but does not irrigate parks beyond the establishment period (maximum 12 month period and to a level that is ‘fit for purpose’). This is a policy currently applied across the shire to ensure equity in the management of open space.

Irrigation volume is dependent on many factors e.g. rainfall and evaporation rates, soil type and a well-designed irrigation system.

Council is under no obligation to provide bulk water to NWS or to receive treated wastewater into Council's sewerage system or receive treated wastewater for irrigation purposes.

Council will be providing advice to any private company to the effect that whilst Council is willing to undertake the ownership and maintenance of an irrigation system in the sports fields, it will only accept treated wastewater for irrigation purposes when needed. Council will likely only accept a hardstand area within parks. Council will not accept any irrigation within the road verges.

It should be noted that there are no formal agreements in place between Council and NWS. In this regard, if it remains intended that the Kings Forest Estate be serviced by NWS, it is considered to be in NWS' best interest to work with Council to negotiate such agreements sooner, rather than later.

8. *Noise & Odour*

A Noise Assessment for Kings Forest WWTP prepared by Vipac Engineers and Scientists Limited dated 13 April 2017 (Document No: 70Q-17-0005-TRP-541306-0) has been submitted. The following is noted:

- The newly proposed water & waste water facility site is primarily agricultural area with some forested areas, residential and farm buildings.
- Existing and future noise sensitive receivers (NSRs) have been considered.
- Noise readings were taken in the areas of those residences closer to Tweed Coast Road and those further west.
- Use of NSW EPA Industrial Noise Policy.
- Noise management levels have been provided for each of the areas for day, evening and night.
- Two modelling scenarios – neutral weather and worst case for both day and evening/night.
 - Construction – all equipment running simultaneously
 - Operational – all equipment running simultaneously for 24 hours/7 days except for trucks limited to 4 movements per day.
- Noise levels calculated on levels from similar operations, guidelines, and manufacture's specifications.
- Majority of pumps located within the building. Sound transmission loss of the building (0.42mm thick Colorbond) has been applied.
- Construction phase
 - Standard construction hours proposed.
 - Compliance for existing dwellings but not for future community facility land, neighbourhood centre and future residences at Kings Forest (12 db(A) over). Note daytime operation only (as per standard hours). Where future uses are constructed prior to the construction of this facility, a Site Management Plan would be required.

- Where future sites are constructed prior to completion of this development (note that the WWTP is staged), a Construction Noise Management Plan would be required.
- Noise levels are exceeded at the sports field. Consultant considers that this will not impact its use for sporting purposes - 61dB(A).
- Operational phase
 - 24 hours/7 day
 - Compliance for existing and future noise sensitive receivers. Consultant has advised that NSR Neighbourhood Centre is not applicable as it would not be occupied during the night time. Sports centre predicted at 40 dB(A) which has been advised would not impact sporting fields.

Concerns:

- Table 3-3: Project Specific Operational Noise Levels at NSR's identifies amenity criteria levels that do not appear consistent with NSW EPA's Industrial Noise Policy Table 2.2 Modification to acceptable noise level (ANL) to account for existing level of industrial noise. The background is relatively low in these areas and evening and night criteria for both locations would be lower than the project specific noise levels provided. It is noted however that based on Table 6-2 Operational Phase Predicted Noise Impact, criteria would still be met (based on their assumptions in the report).
- The Kings Forest Development Code outlines development applicable to each zone. Predicted noise levels for the Community Facilities/Education zoned land have not been considered which are in immediate proximity to the proposed WWTP. The future Neighbourhood Centre may also include residential development (shop top) and retail premises would likely be open during the evening/night and compliance with operational noise levels would be required.
- Modelled sound power levels do not appear to have taken into consideration the need for possible generators within the WWTP site in the event that there is a power failure.
- The consultant has advised that the majority of pumps are to be located within a building and the sound transmission loss of the building has been determined based on typical single panel Colorbond construction of 0.42mm thickness steel. This proponent has applied this to the noise model. It is unclear from the detail provided how this has been applied in modelling as there will be external pumps and possibly generators.
- The report considers likely noise impacts that have been predicted for both construction and operational phases using assumptions based on sound power levels calculated by manufacturers of the proposed system and a level of attenuation provided by the proposed building. Re-assessment would be required when final designs are provided of the WWTP and building proposed to house equipment to ensure adequate noise attenuation is achieved, including any recommendations.
- Assessment post construction (or after each stage is completed) would be required to confirm that noise criteria has been met.
- Proposed ongoing monitoring would be required to ensure criteria is being met.
- Complaint handling – Note Council is not the Appropriate Regulatory Authority (ARA). The WIC Act allows for the Minister to appoint Inspectors and Authorised Officers with respect to compliance.

- Proposed Maintenance and Site Management Plan for construction and operational phases.
- Possible land parcels closer than the nearest noise sensitive receivers that have a dwelling entitlement.

An Odour Assessment for Kings Forest WWTP prepared by Vipac Engineers and Scientists Limited dated 13 April 2017 (Document No: 70Q-17-0005-TRP-541352-0) has been provided. The following is noted:

- Potential odour impacts associated with the proposed WWTP on Depot Road in the Kings Forest development.
- Use of Approved Methods for the Modelling and Assessment of Air Pollutants in NSW (EPA 2005).
- Compiled using data supplied by Planit and information derived from published maximum specific odour emission rates (SOERs) from Sydney Water for individual activities. Assumes the plant is operating continuously with carbon filtration mitigation – 3 stages of membrane bio reactor (MBR) with UV disinfection, a 2ML permeate storage tank (storage of excess permeates during wet weather events) for Class A treated effluent to provide feed water to an advanced water treatment plan (AWTP). The AWTP includes an ultra-filtration membrane system, UV disinfection, and chlorine tank with transfer pumps to transfer the treated effluent to the storage reservoirs. There are also three 2ML tanks for drinking water (4 day supply).
- Coolangatta data used including the meteorological component of The Air Pollution Model (TAPM) to provide wind fields over the local area.
- Estimation of odour emissions from the proposed WWTP were developed for an emissions scenario with all stages of the WWTP completed (representing a worst case scenario) using maximum values and conservative constant emission for all odour sources for the duration of the year.
- CALPUFF model used to predict impacts from one hour to years. As the human nose can respond in the one second range, peak to mean ratios (scaling factors for one hour odour emission rates to one second values) were determined as per EPA guideline.
- WWTP will be located within a passively ventilated shed. Building ventilation modelling has been made with construction assumptions (carbon filters, passive ventilation, stack dimensions).
- Area sources are the highest odour sources - redundancy tank, truck loading, and specifically the activated sludge (highest and not covered).
- Operational phase
 - Model predicts that the odour impact from the proposed WWTP is well below the 2 OU 99th percentile criterion for all existing and future sensitive receptors (max 0.184 OU), with the nearest existing residence experiencing 0.014 OU and future sporting field 0.05 OU.
 - Results indicate the proposed WWTP would meet the odour performance criteria at the modelled existing and future sensitive receptors.

Concerns:

- The consultant has used a repealed version of the NSW EPA's Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales. The latest version should be used.
- The consultant may consider the draft NSW Best Practice Odour Guideline (NSW Department of Planning, April 2010).
- Confirmation that odour management includes aerosols or potentially toxic air pollutants.
- Predicted odour levels for the Community Facilities/Education zoned land have not been considered which are in immediate proximity to the proposed WWTP.
- Location of the WWTP appears to be closer to the existing receivers in Secret Lane (250m) as shown within the Odour Report compared to the Supporting Document by Planit.
- The entire WWTP will not be located within the proposed shed. It is unclear whether this has been considered in the modelling.
- The system relies on ongoing maintenance and replacement of filters as per manufacturer's recommendations.
- Proposed Maintenance and Site Management Plan for construction and operational phases. The consultant should provide recommendations on options to reduce or eliminate odour impacts.
- Re-assessment would be required when final designs are provided of the WWTP and building proposed to house equipment to ensure adequate noise attenuation is achieved, including any recommendations.
- Assessment post construction (or after each stage is completed) would be required to confirm that odour criteria has been met.
- Proposed ongoing monitoring would be required to ensure criteria is being met.
- Complaint handling – Note Council is not the Appropriate Regulatory Authority (ARA). The WIC Act allows for the Minister to appoint Inspectors and Authorised Officers with respect to compliance.
- Possible land parcels closer than the nearest noise sensitive receivers that have a dwelling entitlement.
- Consideration of relevant buffers with respect to EIS Guideline – Sewerage Systems (Department of Urban Affairs and Planning, Sept 1996) to be made by Council's Water and Wastewater Unit.
- Depot Road has been labelled Pine Ridge Road (previous documents mentioned Kings Forest Parkway).

General Concerns Noise & Odour

There is a lack of detail provided by the proponent to consider the implications of the proposal. The following matters are raised:

- Location of the WWTP in the Planit document does not appear consistent with the noise and odour reports which show the following approximate distances:
 - Future Community Facilities/Education – 0m east and south.
 - Future open space – 70m west (with proposed 20m tree buffer)
 - Future Neighbourhood Centre – 115m southwest
 - Future residential development – 150m south

- Nearest existing dwelling – 330m northeast
- Within the proponent's letter dated 9 March 2017 (Ref: J5193), the proposed SP2 zone is a different size on the Concept Plan and the Land Zoning Map 2005 Amendments. Details of the size of the proposed WWTP and the SP2 zone have not been supplied.
- Pressure sewer proposed. This may result in a proliferation of private sewage pump stations throughout the Kings Forest development which may raise additional odour and noise concerns that have not been addressed.
- The proponent has stated that "The WWTP will be designed and sited to ensure there is no impact upon any current nor future nearby sensitive receptors". This cannot be guaranteed.
- Is reuse of wastewater proposed? If so:
 - Will the proposed standard of the final treated wastewater be acceptable for reuse within dwellings and commercial sites (toilets, washing machines etc.) and do they meet NSW requirements?
 - How will possible cross connection of potable and recycled water systems to end users be managed?
 - Council is not obligated to accept waste water and treated water. If recycled water is proposed to be discharged to Council's parks and recreational facilities, where the recycled water does not meet Council's requirements (excess volume, suitability etc.) for open space irrigation, Council may refuse acceptance of the wastewater. Would refusal create problems with disposal to Council's reticulated sewerage system? Alternative disposal options would need to be explored.
 - Will the system include filtration membrane devices that remove salt and virus pathogens from the effluent? If so, how and where will the super-saline backwash residue liquid be removed and treated/disposed?
- It is noted that not all of the WWTP will be located within the proposed Colorbond structure. Raises potential pollution issues from uncovered and/or unbunded areas.
- Possible overflow of contaminated waters into local waterways, particularly during prolonged rainfall events.
- Possible contamination of potable water supply by wastewater.
- Possible impacts to groundwater by the release of wastewater from the WWTP.
- Who looks after the system if/when it fails? Is an alternative private water utility required to step in? Will Council be required to take on this infrastructure?
- Noise and Odour reports have been provided that will require detailed review and comment by NSW EPA and IPART.
- The WWTP appears to be encroaching into Agricultural Buffer.

9. *Acid Sulfate Soils*

An acid sulfate soil investigation would be required for this proposal. No detail has been provided.

10. *Contaminated Land*

A contaminated land investigation would be required for this proposal. No details have been provided.

11. *Electricity*

Two rows of power lines are located across the proposed development site. Discussion with Essential Energy would be required.

12. *Groundwater Vulnerability*

A groundwater management plan may be required for this proposal. No details regarding depth and potential interception of groundwater/dewatering requirements have been provided.

13. *Lighting*

Potential lighting impacts from operational and security lighting would need to be considered.

13. *Detailed analysis of the proposed amendments to the statutory changes to the SEPP, Consents, and Code*

Changes to MP06_0318 Concept Plan Conditions of Consent

- The proponent proposes to amend the “approved plan list” by replacing the approved Concept Plan with a new Concept Plan showing the new SP2 Infrastructure site for the proposed water & waste water facility.

Concept Approval MP06_0318
Schedule 2, item A2

The project will be undertaken generally in accordance with the following drawings:

Design, Landscape and Survey Drawings			
Drawing No.	Revision	Name of Plan	Date
1058-RD19	A	Kings Forest Cadastre Plan	4 March 2008
01	B C	Revised Concept Plan	5 December 2013 March 2017

However, as can be seen from the below diagram the modification to the Concept Plan does more than just nominate the new SP2 site. The new plan removes other reference points such as the 50m ecology buffer (grey) and removes the nomination of the purple dot which represented the zone substation.

Before any new Concept Plan is endorsed it needs to be critically reviewed for any other inconsistencies



Existing & Proposed Concept Plan (note grey 50m ecological buffer no longer showing up on the Concept Plan, purple dot proposed zone substation no longer showing up on the Concept Plan)

Changes to MP06_0318 Development Code

- The proponent proposes to amend the “Exempt & Complying Development Provisions” by replacing the words “local water & sewer authority” with “relevant water and sewer authority” as shown below:

2.1 Exempt Development

Objectives

To specify minor development with minor environmental impacts that can proceed without any planning approval.

Controls

- (1) Comply with the standards in **Schedule 1** for the relevant development type and the controls (2)-(3) below.
- (2) To be exempt development, the development must:
 - (a) Meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, or if those provisions do not apply, shall be structurally adequate, and
 - (b) be more than 1 metre from any easement or public sewer main, stormwater main, water main or related fixture and comply with the requirements of the ~~local~~ relevant sewer and water authority, and
 - (c) If it relates to an existing building, not cause the building to contravene the *Building Code of Australia*, and
 - (d) Not be designated development, and
 - (e) Be installed in accordance with the manufacturer's specifications, if applicable, and
 - (f) not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent, and
 - (g) Not be in conflict with any existing services, and
 - (h) If work involves any plumbing or drainage works, approval for such work under the *Local Government Act* must be obtained from the ~~local~~ relevant water and sewer authority.
 - (i) not be carried out on land that comprises, or on which there is, an item that is listed on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*.

In regard to b) above this may be satisfactory in relation to water and sewer facilities but this clause also includes stormwater main which remains the domain of the local authority or more specifically Tweed Shire Council.

In regard to h) above this is in relation to “approval of such work under the “Local Government Act”. No other authority has power to approve things under the Local Government Act and certainly not a WIC Act Licensee. If such plumbing and drainage work requires approval under the Local Government Act, then Council is the only authority to give this approval.

Therefore these proposed changes need to be critically reviewed and amended.

The proponent proposes to change 2.1.64 which relates to above ground rain water tanks as follows:

2.1.64 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) have a capacity of:
 - (i) if for an educational establishment—not more than 25,000 litres, and
 - (ii) in any other case—not more than 10,000 litres, and
 - (b) be located at least 0.45m from each lot boundary if the tank has a height of more than 1.8m above ground level (existing), and
 - (c) be located no less than 0.9m behind the frontage building line of any road or public land frontage, and
 - (d) be screened with fencing of 1.8m height located between the development and the road or public land frontage and/or any other lot, and
 - (e) not rest on the footings of an existing building for support, and
 - (f) not require cut and fill of more than 1m below or above ground level (existing) or that is within 0.9m of any lot boundary, and
 - (g) be fitted with a first-flush device that causes initial run-off rainwater to bypass the tank which is of a colour matching the colour of the tank, and
 - (h) have a sign affixed to it stating the water in it is rainwater, and
 - (i) be constructed or installed to prevent mosquitoes breeding in it, and
 - (j) have its overflow connected to an existing stormwater drainage system that does not discharge to an adjoining property or cause a nuisance to adjoining owners, and
 - (k) be constructed in low-reflective, factory pre-coloured materials.
- (2) Pumps attached to the development must be housed in a soundproof enclosure.
- (3) If reticulated water is provided to the lot, the development must not be connected to reticulated water without the prior approval of the local relevant water authority.
- (4) In this clause:

educational establishment means a building or place used for education (including teaching), being:

 - (a) a school, or
 - (b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.

Whilst there is no objection to this, it would appear that this would be the only way to control the use of water tanks in the development. In the event that it is a WIC Act licensed scheme with recycled water for toilet flushing, cold water laundry and outdoor uses, it would probably not be in the proponent interests to permit rainwater tanks other than very small ones where somebody might very specifically want it.

The proponent proposes to change 2.1.66 which relates to below ground rainwater tanks as follows:

2.1.66 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) be fitted with a first-flush device that causes initial run-off rainwater to bypass the tank, and
 - (b) have a sign affixed to it stating the water in it is rainwater, and
 - (c) be constructed or installed to prevent mosquitoes breeding in it, and
 - (d) have its overflow connected to an existing stormwater drainage system that does not discharge to an adjoining property, or cause a nuisance to adjoining owners, and
 - (e) be located no less than 0.9m behind the frontage building line of a road or public land frontage unless completely submerged below ground with the exception of a cover that either is screened within a garden with planting or is exposed in a paved area and treated with the same paving finish as the surrounding area.
- (2) Pumps attached to the development must be housed in a soundproof enclosure.
- (3) If reticulated water is provided to the lot, the development must not be connected to reticulated water without the prior approval of the local relevant water authority.

Whilst there is no objection to this, it would appear that this would be the only way to control the use of water tanks in the development. In the event that it is a WIC Act licensed scheme with recycled water for toilet flushing, cold water laundry and outdoor uses, it would probably not be in the proponent interests to permit

rainwater tanks other than very small ones where somebody might very specifically want it.

The proponent proposes to change 2.1.80 which relates to temporary builders structure as follows:

- (a) Be located on the lot in relation to which a current development consent has been granted, and
- (b) If it contains plumbing fixtures, have those fixtures connected to an approved waste water treatment device or an approved connection to the sewer, and
- (c) Not be used for residential purposes, and
- (d) Be removed from the lot immediately after completion of the works for which the development consent was granted.
- (e) Not be connected to a reticulated water supply or sewer without the prior approval of the local relevant water and sewerage authority.

No objection to this change.

The proponent proposes to change 5.1 (4) which relates to the need for precinct plans as follows:

5.1 Precinct Plan

Objectives

- (1) To ensure the orderly development of the land and assist in the co-ordinated programming and provision of necessary infrastructure and casual open space.
- (2) To identify the position of Casual Open Space within the subdivision design of the Precinct.
- (3) Provide a planning framework for subsequent plans of development and nominated lots.
- (4) To provide for infrastructure within the SP2 zone and related uses consistent with the intended use of surrounding lands where required.

Controls

- (1) Submit a precinct plan with the first development application for subdivision of each precinct (location illustrated in Figure 5.1.1).
- (2) Provide a permeable, hierarchical street pattern that relates to the original topography, and facilitates 'way' finding.
- (3) Provide a main street, focal point and identifiable public domain.
- (4) Provide lot sizes and configurations to support a range of housing types that integrate into the street pattern.
- (5) Identify an open space network.
- (6) Connect parks, public spaces, main streets, services, infrastructure and natural features.
- (7) Use streets and footpaths to define the edges to public open spaces.
- (8) Provide water sensitive urban design within appropriate open spaces.
- (9) Identify the proposed staging of subdivision within each precinct.
- (10) Identify an estimated development yield.
- (11) Prevent development that is not compatible with or that may detract from the provision of infrastructure relevant to SP2 zoned services.

In regards to the new proposed objective (4) it is unclear why this is necessary. There are no specific objectives in relation to other zones in the plan, so why is a specific objective required for the SP2 section?

In regards to the new proposed control (11) the wording of this is peculiar as it talks about "SP2 zoned services". Zoning refers to land not services. The SP2 zone is to set land aside for specific services.

This wording could possibly be changed to "Prevent development that is not compatible with or may detract from the provision of infrastructure for which the area is zoned SP2 Infrastructure (Sewerage Systems)." However, the proposed location of the SP2 land and the possible future water and waste water facility is

within 400m of land nominated for future uses such as community facilities, town centre land, shop top housing and residentially zoned land. This provision may sterilise land within 400m of the new facility.

The purpose and intent of this Clause needs to be seriously reconsidered.

The proponent proposes to add a new 5.2 which relates to the link to Council's Tweed DCP Section A5 Subdivision Manual as follows:

5.2 Relationship to Tweed Shire Council Development Control Plan 2008 Section A5 - Subdivision Manual

Objectives

(1) To clarify the relationship of the subdivision controls of the Code with the subdivision controls of Council Development Control Plan 2008 Section A5 - Subdivision Manual.

(2) Where water and sewer provision is provided under a WIC Act License, that Authority is not bound by any council standard in relation to the provision.

Controls

(1) This Code adopts the following provisions of Tweed Development Control Plan 2008 Section A5 – Subdivision Manual

- Part A5.4 Urban Subdivision Design Guidelines & Development Standards, except where varied by this Code
- Part A5.6 The Assessment & Decision Making Process

There is no objection to this principle, but it should be noted that the high level standards contained within A5 should be complied with. For example it is a Council standard that every lot be provided with water supply and sewerage services.

The proponent proposes to add a new 5.9 (but deletes the existing 5.9) which relates to the Location and Easement Services as follows:

5.9 Location and Easements for Services

Objectives

- (1) To ensure appropriate easements are provided for adequate servicing of land where services cannot be located on public land.

Amended Development Code compiled by DAC Planning Pty Ltd in September 2015 for use by Project 28 Pty Ltd and the Company's Consulting Team only. Due care has been taken in compiling the amended Development Code but for abundant caution reference should be made to individual Modification Instruments rather than relying on this amended Development Code. 138

Kings Forest Development Code

PART B

Controls

- (1) Where possible, all services must be located in footpaths in accordance with Figure 5.9.1.
- (2) Where services are located within a residential lot an easement is to be provided over that infrastructure that has at least one connection to a public road or reserve.

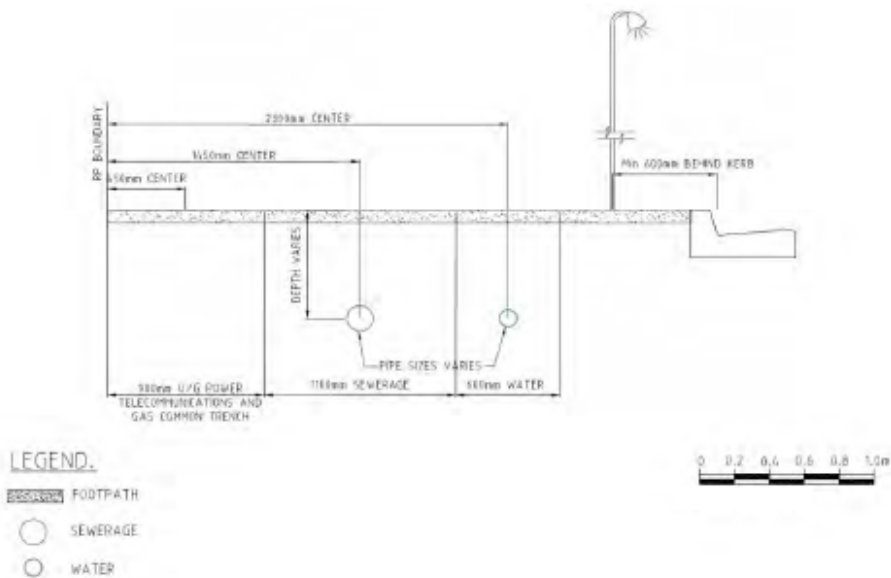


Figure 5.9.1: Typical services section

The deletion of the existing 5.9 is unacceptable as the above wording is an important inclusion within the Code as these sections ensure adequate protection of, and access to infrastructure whether they be Council or private assets.

By replacing 5.9, the controls for the case where the water supply and sewerage by Council in relation to footpath services allocation and provision of easements in private property are eliminated. This would mean that this would revert to Council's standard DCP A5 and Development Design and Construction Specifications would apply to this development unless the mooted Private Water Supply and Sewerage scheme was licensed under the Water Industry Competition Act 2006.

Therefore the existing 5.9 should remain and the proponents proposed 5.9 (as shown below) should be re-numbered to 5.10.

Further, since Section 5.9 does not address the alignment of recycled water mains within road reserves, further modification of the section may be necessary and may result in the need for a wider road cross section. (See 5. *Service Allocation in Subdivision Design* earlier in report with the sketch proposing new cross section)

5.9 Private Services Infrastructure

Objectives

- (1) To facilitate alternate services provision in accord with the Water Industry Competition Act 2006 and to ensure that the approvals process is structured so as to achieve the intent of that legislation.
- (2) to minimise infrastructure works and potential environmental impacts associated with High Water Table, Acid Sulfate Soils and discharges to the natural environment.
- (3) To facilitate alternate means of sewer and water infrastructure provision.

Controls

- (1) In the event that the proponent seeks to pursue Water and or Sewerage connections in accord with the Water Industry Competition Act, 2006, then a licence must be sought and issued by I PART for such works, with the exception of those works that are exempted from approval under the Water Industry Competition Act 2006.
- (2) Both conventional gravity sewerage (connection to Tweed Shire Council) and or an alternate Pressure Sewer System pursued under the Water Industry Competition Act 2006, must be designed in a manner consistent with the provisions of Tweed Shire Council Development Design Specification D12.
- (3) Before undertaking any works requiring approval under Section 68 of the Local Government M, the proponent must ensure that these works are consistent with the conventional sewerage or pressure sewer system requirements of Control No.2 above.
- (4) Should the proponent seek to carry out works in respect of the exemption listed in 1 above and any subsequent Section 68 approval, then in the event that the proponent does not receive a WICA licence and the infrastructure has been constructed on land to be dedicated to Council in the future, then such infrastructure must be removed entirely from the site before Council will accept dedication of the land. Such removal must be done at the cost of the proponent
- (5) Where a dual reticulation water supply for recycled water is provided throughout the development, this must be designed and constructed generally in accordance with WSA Dual Water Supply Systems and Tweed Shire Council Water Supply Specifications.
- (6) The developer must incorporate on the title for all allotments created, relevant Restrictions as to the User which enforce the need for all dwellings and buildings with plumbing (including commercial buildings and the like) to make provision for recycled water service facilities to the approval of the relevant water and sewerage authority

Objectives

- (2) *to minimise infrastructure works and potential environmental impacts associated with High Water Table, Acid Sulfate Soils and discharges to the natural environment.*

This does not seem to be a valid objective in the scope of "Private Infrastructure Services". This consideration would be part of any infrastructure project and not specific to private infrastructure.

- (3) *To facilitate alternate means of sewer and water infrastructure provision.*

This appears to be a restating of (1) without the use of reference to the WIC Act and seems unnecessary.

Controls

- (1) *In the event that a proponent seeks to pursue Water and or Sewerage connections in accord with the Water Industry Competition Act, 2006, then a license must be sought and issued by IPART for such works, with the exception of those works that are exempted from approval under the Water Industry Competition Act 2006.*

This control is confusing and appears to misunderstand the process and the issuer of licenses. IPART handles and assesses applications under the WIC Act 2006 and recommends to the Minister approval to grant licenses, but the license is from the Minister.

The addition of the exception of those works that are exempted from approval under the WIC Act 2006 is also confusing. All works that are to be used by a private utility for its licensed activities once the license is issued should be part of that license application or they could not be used by the license holder. Use of this exemption may be outside the intent of the Act and Regulations and pre-empt the decision of the Minister.

This Control should simply state *“In the event that the proponent seeks to have Water Supply and Sewerage services provided in accordance with the Water Industry Competition Act 2006, then a license under the Water Industry Competition Act 2006 must be obtained through the due processes prescribed by the Act and Regulations.”*

- (2) *Both conventional gravity sewerage (connection to Tweed Shire Council) and or an alternate Pressure Sewer System pursued under the Water Industry Competition Act 2006, must be designed in a manner consistent with the provisions of Tweed Shire Council Development Design Specification D12.*

This makes reference to “conventional gravity sewerage (connection to Tweed Shire Council)” in a section that is supposed to be dedicated to the option of Private Services Infrastructure. It is considered that this reference is unnecessary here as anything in this section should not relate to systems that are to become Council assets.

Control (2) should therefore be amended to only reference private services infrastructure. The use of TSC Specifications to guide the design of infrastructure is accepted but note the inconsistency with 5.2 Objective (2).

- (3) *Before undertaking any works requiring approval under s68 of the Local Government Act, the proponent must ensure that these works are consistent with the conventional sewerage or pressure sewerage system requirements of Control No. 2 above.*

This control is based on an assumption that was inherent in the section of Control (1) referring to works that are exempted from approval under the WIC Act 2006.

Any works that are to be carried out either need to be pursuant to development consent in accordance with Council's requirements or in accordance with a WIC Act License. Council's requirements do not normally include pressure sewerage for normal residential development unless specifically approved by Council for clearly demonstrated servicing needs.

It would be unusual and possibly unlawful for Council to provide approvals for works intended to become part of a private utility. Accordingly Control (3) is considered unnecessary and may oblige Council to do something contrary to the intent of the WIC Act and Regulations and pre-empting a decision of the Minister and due process.

- (4) *Should the proponent seek to carry out works in respect of the exemption listed in 1 above and any subsequent Section 68 approval, then in the event that the proponent does not receive a WICA licence and the infrastructure has been constructed on land to be dedicated to Council in the future, then such infrastructure must be removed entirely from the site before Council will accept dedication of the land. Such removal must be done at the cost of the proponent.*

This refers to carrying out "works in respect to the exemption listed in 1 above". It is considered that this control is unnecessary as the approval of this Development Code modification should not include approval of anything which seeks to subvert or otherwise get around the due process involved in the WIC Act license application process. As stated above, the use of this exemption to the licensing requirement to enable an early start to construction must surely be outside the intent of the Act and Regulations, pre-empting the decision of the Minister.

If the above proposed change to Control (1) is not accepted, then Controls (3) and (4) may still be necessary.

- (5) *Where a dual reticulation water supply for recycled water is provided throughout the development, this must be designed and constructed generally in accordance with WSA Dual Water Supply Systems and Tweed Shire Council Water Supply Specifications.*

This is inconsistent with proposed 5.2 Objective (2) but is acceptable.

- There are additional changes to the Code required that have not been identified by the proponent as follows:

The following figures in the Development Code need to be updated to show the SP2 Infrastructure zone area:

Figure 1.2.1 Revised Concept Plan
Figure 5.4.1 Street Network Plan and Sections
Figure 5.5.1 Kings Forest Precinct Areas

Figure 1.2.2 Precinct Development Matrix also may need to be updated to include the SP2 area for Sewerage System Infrastructure.

1.7 Statutory Context of the Code

An amendment may be needed to provide exemption to specific sections of Development Design Specifications and Development Construction Specifications where water supply and sewerage works are under a WIC Act License.

2.2 Complying Development

(5) *Rainwater harvesting is to be provided in accordance with Appendix C*

In the event that the water supply and sewerage services are provided under a WIC Act license, it is probable that the private utility would require that rain water tanks for connection to toilet flushing, laundry cold water and outdoors use not be permitted. Appendix C was previously included at the request of Council as a means to reduce potable drinking water consumption by substituting rainwater. A private utility is likely to provide recycled water specifically for these uses obviating the need for the rainwater harvesting.

Accordingly, this control should be amended to exclude it if a private utility is providing recycled water to the lot as proposed below:

(5) *Rainwater harvesting is to be provided in accordance with Appendix C, **unless the subject land has a reticulated recycled water supply.***

3.1.8 Flooding and Water Cycle Management

(4) *Rainwater harvesting is to be provided in accordance with Appendix C*

In the event that the water supply and sewerage services are provide under a WIC Act license, it is probable that the private utility would require that rain water tanks for connection to toilet flushing, laundry cold water and outdoors use not be permitted. Appendix C was previously included at the request of Council as a means to reduce potable drinking water consumption by substituting rainwater. A private utility is likely to provide recycled water specifically for these uses obviating the need for the rainwater harvesting.

Accordingly, this control should be amended to exclude it if a private utility is providing recycled water to the lot, as proposed below:

(4) *Rainwater harvesting is to be provided in accordance with Appendix C, **unless the subject land has a reticulated recycled water supply.***

Schedule 2

DIVISION 1 RESIDENTIAL COMPLYING DEVELOPMENT CODE

Subdivision 1 Site requirements

2.2.1 Lot requirements

(1)(b) has a direct connection to Council's reticulated water supply and sewer
Delete the word "Council's" – no replacement word is considered necessary.

Glossary

It is suggested that a definition of "**public sewer**" that says a public sewer is a sewer provided either by the local water utility or by a private utility under a WIC Act license/approved scheme be included in the Glossary.

It should be considered whether the same is required for water mains, reticulated water or reticulated town water used elsewhere in the Development Code.

Changes to SEPP (State Significant Precincts) 2005 Part 6 Schedule 3

- The proponent proposes to add a new zone reference SP2 Infrastructure as follows:

Part 6 Kings Forest site

1 Definitions

In this Part:

agricultural buffer means an area within the Kings Forest site indicated by distinctive marking as "Agricultural Buffer—150m" on the [Land Zoning Map](#).

ecological buffer means an area within the Kings Forest site indicated by distinctive marking as "Ecological Buffer—50m" on the [Land Zoning Map](#).

Kings Forest site means the land identified on the [Land Application Map](#).

Land Application Map means the *State Environmental Planning Policy (Major Development) 2005 Kings Forest Land Application Map*.

Land Zoning Map means the *State Environmental Planning Policy (Major Development) 2005 Kings Forest Land Zoning Map*.

native vegetation has the same meaning as in the [Native Vegetation Act 2003](#).

2 (Repealed)

3 Application of Part

(1) Subject to subclauses (2) and (3), this Part applies with respect to development within the Kings Forest site and so applies whether or not the development is a transitional Part 3A project.

(2) This Part does not apply to the land comprising Lot 19, DP 112061 unless and until that land has been vacant for one continuous period of 12 months, being a period that commences on or after the commencement of this Part.

(3) Nothing in this Part applies to or with respect to development for the purposes of a public utility undertaking.

4 Land use zones and objectives

(1) For the purposes of this Policy, land within the Kings Forest site is in a zone specified below if the land is shown on the [Land Zoning Map](#) as being within that zone:

(a) Zone 2 (c) Urban Expansion,

(b) (Repealed)

(c) Zone 7 (a) Environmental Protection (Wetlands and Littoral Rainforests),

(d) Zone 7 (l) Environmental Protection (Habitat).

(e) Zone SP2 Infrastructure.

(2) Subject to the other provisions of this Part, the provisions of [Tweed Local Environmental Plan 2000](#), as in force at the commencement of this clause, apply to land within a zone in the same way as they apply to land within a zone of the same name under that Plan and so apply as if those provisions were provisions of this Policy.

(3) The consent authority must have regard to the objectives for development in a zone within the Kings Forest site when determining a development application in respect of land within that zone.

The zoning of Kings Forest as currently referenced in the SEPP defers back to Tweed LEP 2000.

The proposed amendment to create a new SP2 zoning reference fails to identify under which LEP this zone relates. If it relates to Tweed LEP 2014 (as it is a

standard instrument zone title) then this clause of the SEPP needs to be amended to specify to what extent Tweed LEP 2014 applies to the subject site.

- The proponent proposes to add a new Clause 7 detailing the SP2 Infrastructure provisions (and re-number all subsequent clauses) as follows:

7 Zone SP2 Infrastructure

(1) The objectives of Zone SP2 Infrastructure are as follows:

(a) to provide for infrastructure and related land uses;

(b) to prevent development that is not compatible with or that may detract from the provision of infrastructure;

(c) to minimise any adverse effect of infrastructure on other land uses and the environment.

(2) Development for any of the following purposes is permitted without consent within Zone SP2 Infrastructure:

environmental protection works;

(3) Development for any of the following purposes is permitted with consent within Zone SP2 Infrastructure:

infrastructure (including railways, roads, conveyors, electricity transmission and distribution lines, gas pipelines, water pipelines, stormwater systems, flood management facilities, sewerage systems and telecommunications facilities), except if it is for the purposes of a public utility undertaking and is carried out by or on behalf of a public authority;

(4) Except as otherwise provided by this Policy, development is prohibited within Zone SP2 Infrastructure unless it is permitted by subclause (2) or (3).

It is noted that the above definition makes a number of things permissible with consent including water pipelines and sewerage systems. It is noted that the proposed inclusion of water reservoirs and water pump stations on the site (as evidenced in the drawings in the Odour and Noise Reports) are not included in this definition. This could make them prohibited development. And accordingly the Clause requires amendment.

Further, it is questioned as to what use this land would be put in the event that the proponent is unsuccessful with an application to IPART for a license under the WIC ACT, or does not proceed with private water and sewerage infrastructure. Such an event would require further rezoning of the land and would not meet the stated purpose of this modification request to provide for alternate servicing of the development.

Changes to MP08/194 Project Application Conditions of Consent

- The proponent proposes changes to the following conditions:

Part 1 – Subdivision of Entire Site

Registration of Easements / Restrictions to Use / Rights of Carriageway

2.

- 1) The creation of easements for services, rights of carriageway and restrictions as to user are applicable to the subdivision of the entire Kings Forest Estate under Section 88B of the *Conveyancing Act 1919*, including (but not limited to) the following:
 - a) Easements for sewer, water supply and stormwater/drainage over all public services/infrastructure on private property
 - b) Stormwater/drainage easements are to be placed over all relevant surface drains, all subsurface drains and inter-allotment drainage, benefiting and burdening the property owners. Maintenance of the subsurface drains is to be included in the 88B instrument.
 - c) Easements for existing and proposed powerlines benefiting the energy supplier to allow access for maintenance purposes
 - d) An easement over the existing 600mm water main across Precincts 12, 13 and 14 registered on title over the location of the main. The 88B is to benefit council and contain a provision enabling the easement to be revoked, varied or modified only with the consent of council.
- 2) Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit the relevant authority shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of council the relevant authority.
- 3) Pursuant to Section 88BA of the *Conveyancing Act 1919* the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened, and for costs to be shared equally or proportionally on an equitable basis.

No objection.

UTILITIES

Water Supply and Sewerage Strategy

30. Prior to the issue of a Construction Certificate for civil works the Proponent shall engage a suitably qualified person to prepare a detailed Water Supply and Sewerage Strategy for the whole site in consultation with and to the satisfaction of Council the relevant authority.

No objection.

Water & Sewer

31.

- 1) Reticulated water supply and outfall sewerage reticulation shall be provided to all residential lots and all lots for private occupation, community facilities lots, sport fields, parks, play areas, other utility facilities (pump stations, etc.) but not including proposed environmental open space lots within the project in accordance with ~~council's Development Control Plan Part A5 Subdivisions Manual, Councils Development~~ the relevant authority's Design and Construction Specifications (as in force at the date of this approval).
- 2) Where relevant, A sewer conveyancing design report shall be submitted for all sewer pump stations and rising mains proposed to be constructed in the project. The study will include staging of pumps and mains, odour and septicity issues, interaction of future pump stations that may share the rising mains and controls for variable speed pumps that may be recommended. The sewer conveyancing design report is to be provided prior to the issue of a Construction Certificate for civil works relating to water and sewer.
- 3) Where Council is the water authority, A water supply network model study of the water reticulation within Precincts 1 and 5 shall be submitted to Council for approval as required by Council's Development Design Specification D11 (as in force at the date of this approval) prior to the issue of a construction certificate for civil works relating to water and sewer.
- 4) Where Council is the sewerage authority, Prior to the issue of a construction certificate for any stage of the civil works in Precinct 5 and Precinct 1 the Proponent must prepare a detailed network analysis and plans for water and sewer reticulation infrastructure. The analyses must be prepared in accordance with council's Development Design Specification D11 and D12 (as in force at the date of this approval) respectively.

The requirements of DCP A5 Subdivision Manual remain relevant as the requirement is that "All lots created in urban areas for private occupation must be fully and individually serviced with sealed road (equipped with kerb and gutter both sides of the road) frontage, water supply, sewerage, underground electricity and telecommunications." Table A5-10 does link the Standard of Infrastructure to Council's Development Design Specifications D11 and D12 for Water Supply and Sewerage.

It is therefore proposed that this clause should be reworded as follows:

- 1) Reticulated water supply and outfall sewerage reticulation shall be provided to all residential lots and all lots for private occupation, community facilities lots, sports fields, parks, play areas, other utility facilities (pump stations etc.) but not including proposed environmental open space lots within the project in accordance with council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications (as in force at the date of this approval). Where a private utility is licensed under the provisions of the Water Industry Competition Act to provide water supply and sewerage services, alternate recognised Australian design and construction standards and or codes may be used.

- 2) This change proposes the addition of the words "Where relevant" to a condition requiring the provision of a sewer conveyancing design report.

This phrase is too general in nature as even if the developer does not proceed with the proposed private water utility to service the development, "where relevant" could be construed to permit argument that the report is not relevant.

It is proposed that the phrase should be replaced with something much more specific such as "Where Council is the sewerage authority,".

- 3) This change proposes the addition of the words "Where Council is the water authority" to the start of the condition.

No objection to this change as it is quite specific.

- 4) This change proposes the addition of the words "Where Council is the sewerage authority" to the start of the condition.

This change should include water authority as it refers to both water supply and sewerage. i.e. "Where Council is the water authority and / or sewerage authority,".

To align this development to Council's current practice of requiring a Certificate of Compliance application prior to Construction Certificate **add** the following sub-condition:

- 5) Where Council is the water authority and/or sewerage authority, Prior to the issue of a Construction Certificate for Subdivision Works, application shall be made to Council under Section 305 of the Water Management Act 2000 for a certificate of compliance for development to be carried out – i.e.: the provision of water and sewerage to the development.

Note:

1. Following this, requirements shall be issued by Council under Section 306 of the Water Management Act 2000.

2. Following this, any works needing to be undertaken will require a further application to be made to Council under Section 68 of the Local Government Act for the relevant water / sewer works. Approval of this application will be required prior to/in conjunction with issuing the Construction Certificate.

The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

Registration of Easements

118.

- 1) Prior to the issue of any Occupation Certificate, the Proponent shall provide to the Certifying Authority evidence that all matters required to be registered on title including easements and Restrictions as to User under Section 88B of the *Conveyancing Act 1919* required by this approval, have been lodged for registration or registered at the NSW Land and Property Information.

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- 2) A restriction to the land use shall be placed on the lots containing an asset protection zone requiring the asset protection zone to be maintained as outlined within section 4.1.3 and Appendix 5 of *Planning for Bush Fire Protection 2006* and the NSW Rural Fire Service's document *Standards for asset protection zones*.
- 3) Easements for sewer, water supply and drainage over all public services/infrastructure on private property.
- 4) Drainage Easements are to be placed over all subsurface drains and interallotment drainage, benefiting and burdening the property owners. Maintenance of the subsurface drains is to be included in the 88B instrument.
- 5) Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit ~~Council~~ the relevant authority shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of ~~Council~~ the relevant authority.

No objection.

Registration of Easements / Restrictions to Use / Rights of Carriageway

142.

- 1) The creation of easements for services, rights of carriageway and restrictions as to user are applicable under Section 88B of the *Conveyancing Act 1919*, including (but not limited to) the following:
 - a) Easements for sewer, water supply and stormwater/drainage over all public services/infrastructure on private property.
 - b) Stormwater/drainage easements are to be placed over all relevant surface drains, all subsurface drains and inter-allotment drainage, benefiting and burdening the property owners. Maintenance of the subsurface drains is to be included in the 88B instrument.
 - c) A restriction to the land use shall be placed on the lots containing an asset protection zone requiring the asset protection zone to be maintained as outlined within section 4.1.3 and Appendix 5 of *Planning for Bush Fire Protection 2006* and the NSW Rural Fire Service's document *Standards for asset protection zones*.
 - d) A Restriction as to User on all residential lots prohibiting the keeping of cats within the site.
 - e) All existing powerlines are to have an easement registered on title over the location of the powerlines and the land transferred to Essential Energy prior to dedication of any land to the Office of Environment and Heritage.
 - f) A Restriction as to User over all private allotments abutting the acoustic fence within Precinct 5: Certification shall be received from an appropriately qualified acoustic engineer certifying that an acoustic building shell assessment has been undertaken in accordance with Australian Standard AS3671:1989 Acoustics - Road traffic noise intrusion - Building Sitting and Construction to achieve satisfactory internal noise levels prescribed in AS/NZS 2107:1987 Acoustics - Recommended Design Sound Level and Reverberation Times for Building Interiors. The assessments are applicable to any second and subsequent level, or equivalent level, habitable spaces.
 - g) A Restriction as to User burdening all private allotments abutting any acoustic fence making the landowner responsible for the acoustic fence in perpetuity, including maintenance and replacement.
- 2) Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit ~~council~~ the relevant authority shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of ~~council~~ the relevant authority.
- 3) Pursuant to Section 88BA of the *Conveyancing Act 1919* (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened, and for costs to be shared equally or proportionally on an equitable basis.

No objection, however this item should be correctly referenced as "143."

Section 64 Developer Contributions

Condition 154(c)-(e) is relevant only where the local water and sewer authority remains as Council.

154.

- a) Development Servicing plans relevant to the project include:
 - i. Tweed Shire Council Development Servicing Plans for Water Supply Services July 2007
 - ii. Tweed Shire Council Development Servicing Plans for Sewerage Supply Services July 2007
- b) Where Council is the relevant water and sewer authority, A certificate of compliance (CC) under Sections 305, 306 and 307 of the *Water Management Act 2000* is to be obtained from council to verify that the necessary requirements for the supply of water and sewerage to the development have been made.
- c) Where Council is the relevant water and sewer authority, pursuant to Section 109J of the *Environmental Planning and Assessment Act, 1979* a Subdivision Certificate shall not be issued unless all Section 64 Contributions have been paid and the Certifying Authority has sighted council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of council.
- d) The below charges remain fixed for a period of twelve (12) months from the date of this approval and thereafter in accordance with the rates applicable in council's adopted Fees and Charges current at the time of payment.
- e) The Proponent shall pay, in proportion to the additional lots created by each stage, the following monetary contributions:

Stage 1 – Precinct 1

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	Equivalent Tenement	Rate per ET	Total Contribution
Water DSP5	4.072 ET*	\$12,575 per ET	\$51,205.40
South Kingscliff Water Levy	4.072 ET	\$292 per ET	\$1,189
Sewer Kingscliff	6.108 ET	\$6,042 per ET	\$36,904.50

Note in the Consolidated Conditions, this is shown as “Condition 155.”

Condition 154(c)–(e) is relevant only where the local water and sewer authority remains as Council.

It is agreed that sub-conditions a) and b) will remain active if the water and sewer is provided under a WIC Act license.

- b) Addition of “Where Council is the relevant water and sewer authority” at the start of the condition – no objection. The proponent should understand that this will apply where a water utility wishes to obtain services from Council for potable water supply and disposal of excess effluent or early stage raw sewage.
- c) Addition of “Where Council is the relevant water and sewer authority” at the start of the condition – no objection, however there needs to be some mechanism whereby the Subdivision Certificate cannot be signed off without proof that water supply and sewerage has been provided to all lots subject of the certificate.
- e) The Stage 1 s64 contributions quoted in the Attachment 1 are not the current contributions as shown in the consolidated Conditions of Approval. These contributions were increased in the recent MOD approval for the service station and other facilities in lieu of the rural services previously approved. See table below copied from Consolidated Conditions.

Stage 1 – Precinct 1

	Equivalent Tenement	Rate per ET	Total Contribution
Water DSP5	19.2631 ET	\$13,386 per ET	\$257,855.86
South Kingscliff Water Levy	19.2631 ET	\$338 per ET	\$6,510.92
Sewer Kingscliff	30.4854 ET	\$6,431 per ET	\$196,051.61

It should be noted that at some point, or points, if the developer engages a private water utility and the water supply and sewerage services for this development are provided under a license issued pursuant to the Water Industry Competition Act, whereby the water utility sources potable water from Council and discharges excess effluent and / or early stage raw sewerage to Council's sewerage scheme, developer charges will be necessary and the proponent / water utility will be required to obtain a Certificate of Compliance under s305, 306 and 307 of the Water Management Act to certify that Council's requirements have been met.

Water Supply and Sewer

157.

- 1) Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation shall be provided to all residential lots within the subdivision in accordance with ~~Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual (as in force at the date of this approval), Council's Development~~ the relevant authority's Design and Construction Specifications (as in force at the date of this approval) and the Construction Certificate approval.
- 2) Where relevant, The site of the sewage pumping station shall be transferred to Council in fee simple, at no cost to Council within 28 days of the date of registration of the plan of subdivision.
Note: The *Environmental Planning and Assessment Act 1979* makes no provision for works under the *Water Management Act, 2000* to be certified by an Accredited Certifier.
- 2) In the event that Council provides sewerage services, The site of the sewage pumping stations shall be transferred to Council in fee simple no cost to Council within 28 days of the date of registration of the Plan of Subdivision. The size and shape of the any pump station lot required shall be determined on the basis of the design of the pump station taking into account all infrastructure to be constructed on the site at the initial stage and at any future stage of the development of Kings Forest as indicated by the Water and Sewer Strategy to the extent of the relevant authority requirements (as in force at the date of this approval) and ~~Council's Development~~ the relevant authority's Design Standards and Standard Drawings (as in force at the date of this approval). Location, size and layouts shown on the drawings are considered indicative and may be subject to change to ensure compliance with relevant standards and requirements.

Note in the Consolidated Conditions, this is shown as "Condition 158."

- 1) This change proposes removal of reference to Council's DCP Part A5 Subdivisions Manual and Council's Development Design and Construction Specifications and simply replacing it with "the relevant authority's Design and Construction Specifications.

The requirements of DCP A5 Subdivision Manual remains relevant as the requirement is that "All lots created in urban areas for private occupation must be fully and individually serviced with sealed road (equipped with kerb and gutter both sides of the road) frontage, water supply, sewerage, underground electricity and telecommunications." Table A5-10 does link the Standard of Infrastructure to Council's Development Design Specifications D11 and D12 for Water Supply and Sewerage.

Council proposes that this clause should be reworded as follows:

- 1) Prior to subdivision certificate, reticulated water supply and outfall sewerage reticulation shall be provided to all residential lots and all lots for private occupation, community facilities lots, sports fields, parks, play areas, other utility facilities (pump stations etc.) but not including proposed environmental open space lots within the project in accordance with council's Development Control Plan Part A5 - Subdivisions Manual, Council's Development Design and Construction Specifications (as in force at the date of this approval) and the Construction Certificate approval. Where a private utility is licensed under the provisions of the Water Industry Competition Act to provide water supply and sewerage services, alternate recognised Australian design and construction standards and or codes may be used.

It is noted that under this Condition, the proponent has requested changes to two conditions 2) whereas in the Consolidated Conditions the second one cited is 4). It does appear that there is a duplication of the condition or very similar conditions in that 2) talks about the site of the sewerage pumping station while 4) refers to the site of the sewerage pumping stations. 4) has further information about the size and shape of the lot.

Accordingly it is considered that 2) could probably be deleted and that 4) be modified to refer to the sites of the sewerage pumping stations.

In relation to the proponent's proposed change to 2), the phrase "Where relevant" may be considered too general and should be replaced with "Where a sewerage pumping station is to become Council's".

In relation to the proponent's proposed change to 4), either the proposed introductory clause "In the event that Council provides sewerage services," or "Where a sewerage pumping station is to become Council's," may be suitable.

The change to "any pump station lot required" seems unnecessary as "the lot" refers to the site referenced in the preceding sentence of the same condition, but otherwise appears not to change the intent.

Other changes requested in this condition are considered unnecessary as it refers only to pump stations being gifted to Council, in which case the standards required should be those in Council's Development Design Standards and Standard Drawings.

Accordingly, the addition of "to the extent of the relevant authority requirement" and the replacement of "Council's Development" with "the relevant authority's" is not supported as this only refers to pump stations that will become Council assets.

Other Approvals and Permits

A2. Where required:

- 1) The Proponent shall apply to the council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the *Local Government Act 1993* or Section 138 of the *Roads Act 1993*.
- 2) The Proponent must obtain relevant licences under the *Water Act 1912* and the *Water Management Act 2000* (whichever is relevant at the time the application is made) for all activities that intercept or extract groundwater or surface water prior to commencement of these activities.

The addition of "Where required" is unnecessary as there may be requirements under all the various provisions listed that has nothing to do with water supply or sewerage. S68 of the Local Government Act does not refer only to water supply and sewerage but includes stormwater drainage and other items that may be relevant. The provisions in 2) relate to groundwater and surface water and not to water supply.

Overall the changes to the Project Application do not appear to address recycled water.

The proponent is required to address recycled water in both the Project Application MP08_0194 MOD 5 and the Kings Forest Development Code for consistency.

These applications reference road and verge widths in the nominated plans and references to DCP A5 which will be affected if recycled water is approved for the subdivision.

The approvals should all be consistent with the recent Concept Plan Modification MP06_0318 MOD 5 to avoid confusion.

OPTIONS:

That Council:

1. Endorse this report as Council's submission to the NSW Department of Planning.
2. Endorse changes to this report.

Option 1 is recommended.

CONCLUSION:

Council's assessment of the Modifications has raised a number of concerns for the proposed WWTP for the Kings Forest development site. It is considered appropriate to forward these concerns to the NSW Department of Planning for consideration.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.	Kings Forest Development Code (ECM 4591865)
Attachment 2.	Consolidated Concept Application Conditions (ECM 4591866)
Attachment 3.	Consolidated Project Application Conditions (ECM 4591877)
Attachment 4.	Part 6 Kings Forest SEPP (State Significant Precincts) 2005 (ECM 4591878)

5 [PR-PC] Murwillumbah Main Street Heritage Conservation Project - Look Up

SUBMITTED BY: Strategic Planning and Urban Design

Validms



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.2 Engagement
- 2.2.6 Strategic Land Use Planning - To provide long-term land-use plans to guide future development, plan for population growth, and protect the Tweed's environment, heritage and community life.

ROLE: Provider

SUMMARY OF REPORT:

This report provides a summary of the process and outcomes of the 2016-17 Murwillumbah Main Street Heritage Conservation Project – ‘Look Up’. The project has been very successful in delivering heritage appropriate conservation and maintenance improvements to the buildings funded and contributing to enlivening the wider Murwillumbah Town Centre Streetscape. These properties and works also serve as important examples of small scale conservation projects and practices for other heritage and conservation property owners.

Murwillumbah Town Centre is endowed with an enviable richness and depth of heritage that is representative of many different times and their unique fashions or styles, and which has the potential to attract greater visitor numbers to the area. The Tweed Regional Art Gallery is highly successful and attracts a large number of visitors, so collectively there is enormous potential and opportunity for the local tourism industry, which would also benefit the wider economy of surrounding rural towns and villages. Improving the condition and appearance of the buildings and their contribution to the streetscape is therefore critical for building and marketing heritage based tourism.

Participants in the program are acknowledged and thanked for their contribution and efforts in maintaining and improving the areas heritage. Further consideration of how best the program can be funded and managed in the long-term is required at a later stage. Council’s Senior Strategic Planner, is also recognised for her outstanding effort and commitment in managing this program and assisting the landowner’s with their grant applications, heritage advice and working to assist contractors, as well as providing the support to see these important projects completed.

RECOMMENDATION:

That the summary of projects funded under the 2016-17 Murwillumbah Main Street Heritage Conservation Project – Look Up grants be received and noted.

REPORT:

Background

In 2015-16 Tweed Shire Council ran a Heritage Conservation and Demonstration Pilot Project, more widely known as the 'Look Up' project. The project consisted of providing financial grant support and heritage advice to encourage owners of historic buildings within the Murwillumbah Town Centre to carry out repair and restoration works.

The increase in visitor numbers to the Tweed Art Gallery offers a fantastic opportunity to draw these visitors into Murwillumbah and surrounding rural towns and villages. Improving the streetscape appearance and enlivening the commercial areas through its heritage significance contributes towards creating places people will want to visit.

The goals of the program are to build on the heritage significance and understanding to:

- Encourage long term investment in the presentation and conservation of Murwillumbah's main street precinct.
- Respect the past whilst supporting the future.
- Maximise a property's functional opportunity while respecting its significance.
- Acknowledge and promote the heritage of Murwillumbah.
- Provide a program that can grow in future years and link with other projects.
- Be a program of mutual investment connecting land owners and community by way of Council.
- Provide opportunities for broader community participation through involvement in the development of interpretation.
- Provide new skills and understanding of heritage conservation work.
- Improve pedestrian and shopper's experience by streetscape improvement and by celebrating Murwillumbah's history.
- Respect, conserve and cautiously restore original historic buildings and elements;
- Actively promote the program and its outcomes.
- Target a specific theme each year to enable cost efficient tendering.

In order to maximise the amount of funding available the Look Up program was developed around the same process of the Local Heritage Assistance Fund (LHAF) grants, being a minimum dollar for dollar grants and resulting in a greater investment in improvement and conservation works, effectively doubling the outcome of the project investment.

As part of the program Council's application fee for the temporary road closure requirements was waived for participating projects.

Due to the success of the project the Look Up program was continued in 2016-17.

2016-17 Program

The 2016-17 Murwillumbah Main Street Heritage Conservation Project - Look Up grants were open to all property owners within the Murwillumbah Main Street Heritage Conservation Area and town centre commercial area.

The theme of the program continued to focus on works to the underside of awnings with an emphasis upon pressed metal lined awnings and highlight windows as well as such works as under awning lighting; down pipe and guttering conservation; external painting and

cleaning; attention to intrusive elements such as air conditioning units to facades; repairs to contributory wall and entry way tiling; and window repairs.

A call for applications was advertised in the Tweed Link on 1 November 2016 and again through editorial on 15 November 2016. A direct invitation letter was also sent all property owners inviting them to apply for the grants on 27 October 2016.

Six applications for the Look Up project were received. All applications had sound merit, met the application guidelines and were conditionally approved.

As an integral part of the program Heritage Advisor advice was provided on the suitable maintenance, materials and colour schemes in order to encourage and educate the community on best practice heritage conservation management.

Six projects were approved with five reaching completion. An additional grant offer was made to two of the properties as an incentive to relocate the air conditioning units from the upper facade windows; however, these offers were not taken up.

The grant funding was awarded to:

1. 99-101 Murwillumbah Street (ANZ Bank) – roof plumbing repairs to address water leaks to the building.
2. 132 Murwillumbah Street (Keith's Arcade) – repairs to windows, cleaning and exterior painting of previously painted surfaces.
3. 91 Murwillumbah Street (former Flamingos) - exterior cleaning, painting, reinstatement of stucco parapet treatment and installation of under awning lighting.
4. 80 Murwillumbah Street (Con Varela Pharmacy) – exterior cleaning, repairs and painting.
5. 12 Queen Street (Queen Street Medical Centre) – repairs and replacement of awning roofing.

The five projects represented a total budget commitment of Tweed Shire Council of \$13,000 and resulted in a total cost of improvement works of \$36,119 contributing to the Murwillumbah Main Street Heritage Conservation Area and commercial area.

A summary of the projects funded is provided in Attachment 1 to this report.

Benefits of the Project

The benefits of the program are evident in the enhanced streetscape contribution from the uplift in the buildings' appearance and presentation, as well as, an increased general awareness among property owners and visitors of the Town's heritage character and significance.

Installation of a consistent and appropriate style of under awning lighting and painting of the under awning in clean, light colours has greatly improved the presentation of the footpath

area, not only for pedestrian safety but also brightening up the appearance and attractiveness of the shopfronts.

Notwithstanding, the program is resource intensive for internal staff and Council's contract Heritage Advisor, who attends Council 1 day per month. As such the current program will be unable to proceed in the 2017-18 year owing to resource constraints.

OPTIONS:

1. Council receives and notes the outcomes of the 2016-17 Murwillumbah Main Street Heritage Conservation Project - Look Up; or
2. Defers the report for further information.

Staff recommend Option 1, but are equally open to providing further information or attending a Councillor Workshop, as required.

CONCLUSION:

The second year of the Murwillumbah Main Street Heritage Conservation Project - Look Up has resulted in significant maintenance and presentation improvements, totalling \$36,119, to five additional buildings within the Murwillumbah Main Street Heritage Conservation Area.

These improvements have made a significant enhancement to the presentation of the Murwillumbah Main Street Heritage Conservation Area and commercial precinct.

In addition the program continues to grow the broader understanding of property owners, residents and visitors of Murwillumbah's heritage character and significance.

It is anticipated that the program will inspire more property owners to use the Council's Heritage Advisor service and embrace best practice heritage conservation and maintenance.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

The program was funded through the 2016-17 allocated budget and this would need to be reviewed should the program be continued.

c. Legal:

Nil.

d. Communication/Engagement:

Consult - We will listen to you, consider your ideas and concerns and keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Murwillumbah Heritage Conservation Project – Look Up
Summary of Projects 2016-17 (ECM 4586906)

6 [PR-PC] Report on the 2016-17 Local Heritage Assistance Fund Program

SUBMITTED BY: Strategic Planning and Urban Design

Validms



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LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.2 Engagement
- 2.2.6 Strategic Land Use Planning - To provide long-term land-use plans to guide future development, plan for population growth, and protect the Tweed's environment, heritage and community life.

ROLE: **Provider**

SUMMARY OF REPORT:

This report provides feedback on the 2016-17 Local Heritage Assistance Fund Grants program. It provides a summary of each of the projects funded and the successful outcomes achieved through the funding, both for the property owners and for the maintenance and improvement of a number of the Shire's heritage properties.

Projects funded this year were a mix of heritage listed items and properties within a heritage conservation area. Their improvements will be of benefit to the streetscape and locality as well as facilitating a better understanding of heritage significance and appropriate heritage maintenance.

RECOMMENDATION:

That:

1. **The summary of the outcomes of the 2016-17 Local Heritage Assistance Fund Grants program, as attached to this report, is noted.**
2. **The continuation of the Local Heritage Assistance Fund and Heritage Advisor Program is supported.**

REPORT:

Background

This is the third year of the Local Heritage Assistance Fund (LHAF). The aim of the LHAF is to encourage positive conservation work and best practice management and conservation of heritage items and heritage conservation areas in the Tweed Shire. The LHAF is part funded by Council and the Office of Environment and Heritage (OEH), managed by Council and is facilitated through grants to owners of heritage items and places within conservation areas who undertake positive conservation work within the parameters of the annual funding program.

The 2016-17 grants program

The 2016-17 grants were open to all owners of properties which are heritage items or within a heritage conservation area. A call for applications was advertised in the Tweed Link on 2 September 2016. A direct invitation letter was also sent to all owners of a heritage item or within a heritage conservation area on 2 September 2016.

Eighteen applications were received and the 2016-17 grants were awarded to seven recipients consistent with the *Local Heritage Assistance Fund Grants Protocol* endorsed by the Executive Management Team on 4 December 2014. This is a significant increase on the eight applications received in the first year and demonstrates the increased awareness of, and demand for, the heritage programs.

A report on the awarding of the grants was considered and endorsed by the Executive Management Team (EMT) at their meeting of 10 October 2017. A variations report (revised lesser scope of works for 71 Riverside Drive, Tumbulgum) was also endorsed by EMT on 1 March 2017.

In accordance with the grant conditions recipients were to submit:

- Notification of commencement of works by 10 February 2017
- Progress updates midway by 17 March 2017; and
- Final reports for acquittal by 21 April 2017.

Two of the grant recipients: Lisnagar House, Kynnumboon and 71 Riverside Drive, Tumbulgum, were impacted by the March 2017 flooding in Tweed Shire and required an extension to complete the works.

The funding of works to these heritage properties makes a significant contribution towards their maintenance, appearance and generally towards the understanding and appreciation of the Shire's heritage.

In summary a total of \$16,000.00 was paid in grants towards a total cost of improvement works of \$73,382.00 undertaken to these properties. This is a significant increase in the total cost of improvements over previous years and reflects the growing awareness and appreciation of appropriate heritage conservation and management within the Shire.

Grants are offered on a minimum dollar for dollar basis and all funding is to be acquitted at the end of each financial year. In accordance with the grant conditions, a final report and project acquittal was submitted to the Heritage Branch of OEH at the end of May 2017.

In addition, the outcomes of the LHAF grants will be promoted on the Council website, further encouraging the participation of property owners in future years and promoting the broader understanding of heritage.

A summary of each of the seven projects is provided in Attachment 1 and outlines the improvements made.

2017-18 grants program

Council has been successful in obtaining OEH grant funding for 2017-18. \$6,000.00 has been awarded to each of the Local Heritage Assistance Fund program and the Heritage Advisor Service for 2017-18. Accordingly Council will continue to provide the Heritage Advisor service and run the LHAF grants program 2017-18, within the limits of current budgeted allocations.

OPTIONS:

1. Council receives and notes the 2016-17 LHAF projects summary.
2. Council defers consideration of this report pending further clarification or information.

Staff recommend Option 1, but are equally open to providing further information or attending a Councillor Workshop, as required.

CONCLUSION:

The LHAF program has contributed just over \$73,000 in maintenance and improvements to properties which are heritage listed or within a heritage conservation area. This is a significant contribution towards their maintenance, appearance and generally towards the understanding and appreciation of our Shire's heritage.

The LHAF and Heritage Advisor programs continue to increase the level of awareness and consideration of the Heritage of the Tweed Shire. Property owners are increasingly using the Heritage Advisor service to resolve heritage considerations prior to lodging a DA, thus improving their DA processing.

The Heritage Strategy provides the guiding framework and key actions for the heritage management programs over the 2017-2020 period.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Current LHAF and Heritage Advisor programs are included in the 2017/18 budget.

c. Legal:
Not Applicable.

d. Communication/Engagement:
Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Summary of the 2016-17 LHAF grant program (ECM
4587119)

7 [PR-PC] Review of the NSW Government's Proposed Greenfield Housing Code May 2017

SUBMITTED BY: Strategic Planning and Urban Design

Validms



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LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Making decisions with you
2.2	Engagement
2.2.6	Strategic Land Use Planning - To provide long-term land-use plans to guide future development, plan for population growth, and protect the Tweed's environment, heritage and community life.

ROLE: **Provider**

SUMMARY OF REPORT:

The NSW State Government, through its lead land-use planning agency, Department of Planning and Environment (DPE), is considering the making of an environmental planning instrument to make amendments to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* to expand its provisions relating to the fast-tracking of housing development approvals within greenfield subdivision as complying development. The government's objectives are:

- increase housing supply by 50,000 to achieve the approvals required every year;
- removing identified barriers to the wider take-up of complying development;
- establish the need and nexus to well-designed subdivision (guidance); and,
- provide simplified and tailored standards for complying development in greenfield areas.

Information surrounding the amendments, as well as a supplementary discussion establishing a linkage between faster and simpler housing approvals with master-planned subdivision development, is provided in the: *Explanation of Intended Effect (Proposed Greenfield Housing Code)* and *Background Paper (A Review of Complying Development in Greenfield Areas)*; which are an attachment to this report. The DPE is also considering whether to prepare non-statutory subdivision master-planning guidelines which councils might then adopt within their own subdivision development control plan.

A review of these exhibited documents is provided within this report with recommended points of reply as the basis of a Council submission. The original closing date for submissions was 16 June, but Tweed's request for a short extension to allow time to prepare this report has been granted by the DPE.

The review begins with commending the DPE for its initiative to evaluate the application of codes assessable development to greenfield development and its attempt to overcome some of the perceived barriers identified as potentially hindering faster approvals. The wider discussion provided

in the background paper spotlights potential opportunities for efficiency gains in approvals systems, cost savings and better quality housing outcomes, and in anticipation of developers requiring time to prepare new compliant housing designs proposes as 3-year phasing in period. It is acknowledged that this initiative imprints a level of commitment needed to support the implementation and actions within Regional Growth and District Plans for delivering on housing targets to match population growth demand and which is particularly important to Tweed as it moves forward with fulfilling its designated role as one of four Regional Cities and major growth areas in the recently adopted North Coast Regional Plan 2036.

The review does however highlight some concern for a number of proposals as the detail of these are analysed in the context of the staffs' extensive practical expertise managing the assessment and development of Tweed's many and large-scale greenfield subdivision developments over many years. Some of the proposals are considered quite ambitious and their practicality, relative to the potential for elevated risk and cost to consumers, is queried.

The report also notes that the planning system has become overly complex and inflexible and is widely recognised across all sectors as being in need of reform. Speeding up the planning and assessment process and consequently quicker and cheaper development approvals that does not compromise on outcomes requires policy change that is meaningful and measurable and justified by a clear demonstration of how claimed improvements will be achieved and reported. It is unlikely to be realised through perpetual piecemeal or ad hoc policy.

The government has committed to its publicised target of 90% housing approvals within 40 days by 2019 and the take-up of complying development must be significant for the government to achieve this target. Staff consider this commitment is inherent in the design of this reform package and weighs too heavily on the approvals side of the proposals at the risk of not delivering construction start-ups correspondingly sooner or delivering housing that is suited to local climate and geographic conditions and more sustainable, vibrant or diverse. Given that the proposed Greenfield Housing Code applies to single and two-storey dwellings and Tweed's current approval time for these is about 37 days (average) – 3 days less than the government's own target, and that additional measures are being pursued by staff to reduce this further, the relevance and suitability of the proposed reform to Tweed's context is questionable. This further reinforces a preference for this scheme to be one that councils or developers should be able to opt-in or opt-out of.

This report concludes that although the draft Greenfield Code is not suited to the Tweed at this time it may nevertheless be suited to other areas of the State. Therefore, it is recommended that Council makes a submission highlighting the areas of concern.

RECOMMENDATION:

That a submission to the NSW Department of Planning and Environment detailing the issues raised in the Officers review, comprising the highlighted recommendations within this report, be submitted in reply to the call for public submissions in respect of the proposed Greenfield Housing Code, prepared and exhibited by the NSW Department of Planning and Environment.

REPORT:

The NSW State Government, through its lead land-use planning agency, The Department of Planning and Environment (DPE) is currently exhibiting proposed amendments to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (also referred to as the Codes SEPP), through a new Greenfield Housing Code.

The intended purpose is to increase the uptake of complying development in greenfield areas which the DPE believe is the key to achieving faster and more cost-efficient housing approvals and with greater certainty, so much so it has set itself a KPI target of 90% of all housing approvals within 40 days by 2019. The Codes are proposed to apply to new single and two storey dwellings on land described as within a residential release areas and that meets specific minimum requirements, such as:

- being within land zoned R1, R2, R3 Medium Density, R4 High Density or RU5 Village;
- that is within an approved subdivision;
- has a minimum lot width of 6 metres at the building line with;
- a minimum lot depth of 25 metres a primary road frontage to rear lot boundary, and;
- has a minimum lot size of 200m².

This and further detailed information surrounding the amendments, as well as a supplementary discussion about the role and importance of master-planning subdivision development to achieve not only faster approvals but greater neighbour amenity, sustainability and environmental benefits, is also provided in these documents, as attached to this Report: *Explanation of Intended Effect (Proposed Greenfield Housing Code)* and *Background Paper (A Review of Complying Development in Greenfield Areas)*.

Of particular note are the following proposed amendments:

- Deferred commencement conditions allowing Complying Development Certificates (CDCs) to be issued prior to the lot being registered.
- Looking at allowing structures to encroach within access maintenance easements where the adjoining building is not built to the boundary.
- Looking at prescribing a time frame in which a consent authority must determine a section 68 application, currently there is no time frame legislated within the NSW Local Government Act to process section 68.
- Simplified language and development standards.
- Discusses two different subdivision scenarios;
 1. solely by developer i.e. subdivision and individual dwelling approved constructed one application; and,
 2. subdivision by developer with master plan including broad dwelling design concepts, however individual CDC approvals obtained by designer/builders.
- Current General Housing Code will be replaced by the Greenfield Complying Development Code (GCDC) for new release areas and New Housing Code over a three-year transition period to allow builders to modify their standard design and procedures to comply/adapt. The GCDC will apply to land identified as residential

release under clause 136AB of the *Environmental Planning & Assessment Regulation 2000* (EP&A Regulation) and any other greenfield release area nominated by Council as a release area under Part 6 of a Standard Instrument LEP or otherwise identified under *SEPP (State Significant Precincts) 2005*.

- Neighbour notification to remain as current under clause 130AB Pre-Approval Notification and clause 136AB Pre-Construction Notification.
- Development standards within the new proposed GCDC are to comprise three major design standards:
 1. Built Form,
 2. Landscaping,
 3. Amenity.
- Secondary dwellings currently provided under the SEPP (Affordable Rental Housing) 2009 will be transferred to the Code SEPP.
- *SEPP (State and Regional Development) 2011*(Greenfield SEPP) will be simplified to align with Sydney's Growth Centre DCP.
- Development standards are similar to existing General Housing Codes front setback however side and rear setback changes significantly.
- Max building height 8.5m.
- Minimum ceiling height 2.7m.
- Min landscaping area requirement and planting of one tree to the front and back.

The DPE is commended for taking proactive initiatives in preparing the draft Greenfield Complying Development Code (GCDC) and seeking ways for improving efficiency in development approvals and better quality complying development housing outcomes. The timely provision of new housing is seen as an imperative for Tweed Shire Council (TSC) given its designated role as one of four Regional Cities and growth areas in the recently adopted North Coast Regional Plan 2036, and the Tweed's shortage of affordable rental and housing stock.

It is worth repeating at this juncture however that in the case of Tweed, and undoubtedly many other LGAs, the fundamental issues (and opportunities for reform) are not found with the approval processes for single dwelling-houses at the very end of the development and planning cycle, but rather in meeting the needs of a growing population and maintaining appropriate levels of affordability under a planning system that has long-since lacked certainty and context, arising from its over-amendment; combined with a substantive under funding and investment in essential infrastructure.

Nevertheless, staff appreciate the DPE has attempted to respond to the requests identified in recent DPE consultations with TSC and other North Coast Councils, to re-orient the Codes SEPP to better respond to the contrasting development constraints and opportunities of regional coastal areas. The strategic planning opportunities afforded by greenfield areas to capture economies of scale and innovative solutions for improved sustainability and affordability outcomes is acknowledged and as such DPE's proposal to prepare guidelines for subdivision and masterplans, in order to promote a consistent approach that will enable locally tailored solutions to growth and infrastructure challenges, is supported; despite there

being no discussion as to how they could be better lawfully imposed and regulated to deliver on their commitments.

For the purpose of this report and because the DPE is not proposing any amendment to incorporate master-planning provisions or to change the master-planning status within the legal planning hierarchy, which is the key to their effectiveness, there is no need for a detailed discussion of that practice; although there are further references to master-planning throughout this report.

What is noteworthy is that TSC currently employs master-planning practices and principles within its local planning controls, noticeably through community-based locality planning processes which inform the Tweed DCP and LEPs. Councillors would be familiar with recent Councillor Workshops: Dunloe Park and Kingscliff, at which broad master-planning principles and approaches were demonstrated by those landowners as they presented how they are approaching the future development of their land; and which incidentally would not lend itself to any significant take-up of a Greenfield complying development code without a substantial refocus of their business / development concepts.

It is helpful to understand the contextual setting within which the DPE's proposals within the draft GCDC will operate in the Tweed context. This centres on the need to support a framework that promotes a diverse mix of housing types, in well-located, connected and serviced areas. Tweed has a high proportion of single and couple households, which is projected to increase into the future and which market research to date has shown a strong trend towards more diverse housing types as an efficient way of addressing this demand both in terms of need or lifestyle and affordability.

While some of Tweed's greenfield development sites are reasonably well-located, and there is opportunity within these for small lot and medium density housing types to improve housing choice and density within proximity to our business and activity centres and public transport hubs; most are at the marginal edges of existing communities. This arguably puts TSC greenfield sites at a comparative disadvantage, for example, when compared to those in the greenfield areas of the outer fringe metropolitan areas of Sydney, which are either largely serviceable by existing expansive infrastructure and services or themselves have a critical level of mass to support investment in new infrastructure and services, and, where the NSW government is also heavily investing in this. These metropolitan areas are also benefitted by a separate planning legislation framework under the *Greater Sydney Commission Act 2015*, that is contextual and enforceable, combined with the oversight of a fit-for-purpose and heavily-resourced Commission. In that setting and with the latent and projected high population growth, the need for alternative assessment and approval practices, combined with predetermined development outcomes, would better lend itself to the draft GCDC than might be the case for Tweed or other like regional areas.

This said, if there is a genuine beneficial application of such proposals as the ability to approve a dwelling-house complying development certificate application on an unregistered lot within an approved subdivision, then it is incumbent on the DPE to ensure that such practices are applied to all current approvals pathways and not applied purely to incentivise the take-up of complying development. Complying development has its place and has become an important part of the planning approvals framework, however the scale of development under the CDC pathway can be significantly more limited than under the Part 4 development application pathway; it is notoriously reliant on achieving minimum standards and stifling innovation, which flourish under the Part 4 approach.

Recommendation

The Code SEPP Greenfield Housing Development should be an opt-in policy for regional councils. There is concern that release areas already mapped within standard instrument LEPs will be caught by the proposal necessitating an amendment to remove them and thus weakening councils' ability to proactively plan strategically for these; e.g. requiring a DCP.

Recommendation

While the development of a guideline for greenfield (master-planned) subdivision is welcomed, greater emphasis and support needs to be given to upfront strategic planning in partnership with local communities, and regulatory certainty (legal weight) to delivery outcomes.

Recommendation

That greater emphasis be given to providing the community with the information and tools to support their decision-making on planning matters, for example a guideline on the cost of development, evidence of the sustainability and well-being benefits of well-designed and serviced subdivision, and how this relates to other State-wide policy initiatives such as BASIX and Climate Change Fund Strategic Plan; and how they collectively operate on the cost and choice of housing.

DRAFT GCDC KEY DESIGN ISSUES

- ***Cumulative Impact of Proportionally Large Dwellings on Small Allotments***

Following the implementation of The NSW Housing Code, dwelling houses processed under the Complying Development Code generally have a much larger building envelope proportionally to the sites they occupy with less landscaping compared to Council's minimum standards. This increased building envelope and reduced landscape proportion changes neighbourhood character and visual amenity particularly with a noticeable absence of landscaping and trees across sites.

The further intensification of density and increased proportion of building envelopes over increasingly smaller allotments without the uplift in access to public open space, business, transport and social infrastructure opportunities has the potential to further exacerbate residential character, visual amenity and social dislocation issues across new greenfield development sites.

Recommendation

The DPE should take a lead role to facilitate guidelines and frameworks to guide design-led greenfield master-planning and subdivision processes to optimise robust urban structure frameworks and identify appropriate density targets and housing typologies relative to available infrastructure, proximity to business centres, transport, open space and social infrastructure. This needs to be undertaken prior to increasing code assessable development of a denser scale and in consultation with local communities.

Whilst the controls clearly identify the allowable building envelope achievable across the range of allotment sizes, there is a disjunct between the size of the allotment and the size of a dwelling which could potentially be constructed disproportionately to the allotment size and resultant landscape open space available.

For example, using the minimum lot size (6m frontage x 33.3m depth) and after a deduction of required front (4.5m) and rear setback (3m) and assuming a zero-side setback could result in a building envelope of 153sqm which equates to 76.5% site coverage. The amount of permeable site surface then further decreases with the inclusion of a rear garage and pathways. Assuming a single garage size (6.0m x 3.0m =18sqm) to the rear of the site, equates to 171sqm of total impervious surface and a landscape area of 29sqm or 14.5% of the total site area.

This represents a significant increase in development potential in relation to the NSW Housing Code and provisions within the Tweed DCP.

Cumulatively this may impact a precinct's ability to manage stormwater runoff through reduced site permeability. It may also exacerbate the heat island effect through increased hard surfaces and reduced opportunity for landscaped open space, which is at odds with the strategic objectives of the proposed GCDC.

The smaller lot size may also lead to councils' being further burdened with significantly more compliance issues, mainly from noise e.g., air-conditioning, BASIX-required water pumps connected to toilets running through the night, hot water heat pumps and pool pumps and the like.

Further, each of the diagrams in the DPE's publication depicts only pairing of different housing types when the reality is that a number of housing and setback scenarios would likely apply within a street or urban block. Understanding the competing design issues at this urban block scale is imperative to understand likely cumulative amenity-based and streetscape impacts, and application of the standards. The diagrams should also consider and provide guidelines on differing site orientation considerations. Each of the diagrams presented have illustrated the favourable orientation of backyard to the north and two storey examples.

Recommendation

The illustrated guiding diagrams need to be revised to depict a broader range of potential (and likely) design outcomes. This includes a range of different site orientations and dwelling configurations. Diagrams should also be included to depict urban blocks where the cumulative impacts of different adjoining developments can be appraised and potential amenity impacts mitigated.

Recommendation

Introduce a sliding scale relationship between lot size and dwelling size to ensure that small houses can only be achieved on small allotments resulting in greater opportunity for landscaped open space. This could be achieved by:

- Introducing site coverage for the lower level of development encouraging two storey development;
 - Introducing sliding scale of maximum GFA relating to allotment sizes; and
 - Increasing proportion of landscape open space requirements.
-
- ***Limited contextual or climatic consideration***

Given the standardised nature of code-assessable criteria, there is limited opportunity for design requirements to respond to climatic considerations outside of a general BASIX assessment. As such, despite Tweed's subtropical climatic location, many new dwellings

processed under the proposed GCDC will need to consider design in relation to solar path, prevailing breezes and use of climatically-appropriate materials. This is particularly pertinent in the context of a number of dwellings with zero side setbacks which restrict both ability to take advantage of solar path and natural light and ability to take advantage of prevailing breezes paths.

BASIX reports that new dwellings in the Tweed Shire have consistently shown a preference for no cooling systems (33%) or ceiling fans only (40%) over air-conditioning (20%), indicating the importance of capturing prevailing breezes in local housing designs¹.

Lower thermal loads achieved through these passive design measures reduce the demand for new or upgraded energy infrastructure by managing peak demand for energy required for cooling and heating; a BASIX policy setting that is supported.

There is concern that prescriptive 0m (zero-lot-line) or small side-setbacks with no maximum gross floor area will restrict necessary passive design measures for thermal performance and require greater reliance on more costly heating and cooling systems and technologies for a dwelling to maintain thermal comfort levels.

- ***Prescriptive requirements conflict with performance-based policy for improved sustainability outcomes***

The prescriptive standards, if approved, are noted to come into force in 2020. There is concern the proposed development standards will halt and restrict current design trends and market flexibility to meet current and future improved thermal comfort stringencies, as per national sustainability commitments in the Building Code of Australia, or through NSW Government *Climate Change Policy Framework*. It is noted there is no policy discussion or evidence of analysis in the documents on exhibition that demonstrates the measurable performance of the proposed development standards against BASIX requirements or Climate Change Policy Framework sustainability objectives.

Recommendation:

The DPE conduct and make available BASIX assessment of proposed development standards for side-setback and no maximum gross floor area on BASIX thermal comfort performance requirements for affected dwellings.

Recommendation: Council notes and supports the proposal in “*A Draft Plan to Save NSW Energy and Money*” for higher BASIX target increases in selected high-growth land release areas in the specific local government areas with participating Councils.

Council welcomes an opportunity to collaborate with the Department’s policy authors for BASIX and the Housing Code as well as the Office of Environment and Heritage Climate Change Policy Framework on this proposal.

- ***Data and tools to achieve ‘stretch’ targets for greenfield areas***

¹ ePlanning data reports – BASIX. www.datareporting.planning.nsw.gov.au/ (as at 01/06/2017)

Note - Council values and supports the continued provision of this ePlanning reporting tool as critical for monitoring and evaluation of outcomes. Council notes latest data available is to Q2 2015 and requests a further update of publicly available data.

Master-planning and subdivision design of greenfield areas present critical opportunities to capture economies of scale and measure the cumulative impact and performance of sustainability standards at neighbourhood scales, and lock in necessary infrastructure.

There are available precinct scale assessment tools available such as CCAP Precinx tool and Urban Feasibility Model that the NSW Government has developed and used previously in master-planning of urban activation precincts and greenfield areas in Sydney's growth centres. Urban Growth NSW (formerly Landcom) have used these tools to assess and achieve improved sustainability performance of BASIX energy and water "stretch" targets across neighbourhoods and this was celebrated by the Minister of Planning in Bunya showcase in 2012².

Recommendation:

Council calls on the DPE to make available guidance, data and precinct-scale assessment tools to councils and industry to support master planning processes and outcomes. This would enable a transparent and consistent assessment method to test and clearly define measurable and meaningful performance outcomes in plans and their controls. The Urban Growth NSW case study highlights the capability and importance of tools such as CCAP Precinct and Urban Feasibility Model to test feasibility of lot-based development standards and controls and integration with BASIX scheme.

- ***Landscape Area and planting requirements***

There is support for the strategic objectives for improved landscaping to provide urban canopy cover in order to mitigate urban heat island effects resulting for urban development and consolidation. However, there is concern regarding the proposed minimum landscaping area and tree planting requirements as measures to ensure each lot contributes to these goals.

The disproportionately small areas of landscape open space raise concerns with regards to its actual use and practicality. If maximum building envelopes were pursued, landscape areas would account for a small proportion within the front setback (3.5m/4.5m deep ~ frontage) and rear yards (3-6m deep ~ width) unlikely to be used for anything more than a small outdoor courtyard likely to be a paved surface with small vegetation.

Given the potential landscape open space dimensions, planted trees are unlikely given the canopy reach would exceed the areas landscape open space. With the ability of zero setbacks on 6m frontages, these spaces will be disconnected.

It is noted there are known compliance issues with current landscape requirements in BASIX. The DPE's BASIX Target Review 2013 highlighted the issue found with single dwellings in particular where *"landscape features of a development are rarely completed at final inspection and the preference is to leave landscaping to the occupier. As a result, it is likely that the landscape commitments are not certified in many cases and are potentially never implemented by the occupier"*.³ The review points to several other studies such as LGNSW survey and University of Canberra report that found the use of landscaping as an example of a commitment that is frequently compromised at post-occupancy as landscaping and plants are easy to remove and are likely to be changed to reflect to the style and

² Landcom Sustainability Report 2012 www.bunyaliving.com.au

³ Department of Planning and Infrastructure, 2013. *BASIX Target Review - Supporting Research paper*

preferences of the new owner. It is noted for this reasons, landscaping requirements as factors toward water reduction targets were proposed to be removed from BASIX.

Recommendation:

Council does not support the mandatory requirements for tree planting at lot scale, due to the uncertain link between the measures against performance outcomes and known compliance issues concerning landscaping requirements. This also poses risk to structural systems to neighbouring properties and increases the risk of damage to property and life arising from natural events, the liability for which TSC does not accept.

- ***Need for evidence to demonstrate performance of codes against strategic outcomes.***

There is not sufficient detail made available to demonstrate the nexus between process efficiencies by the proposed removal of barriers to complying development and improved housing affordability or faster construction start-ups.

For example, shifting final approval for registration, road easement and driveways to a later stage in the process may not deliver efficiencies overall, or secure the transfer of any savings to the consumer / homeowner. A cost-benefit analysis done by CIE is mentioned in the Background paper report but is not made publicly available. There are also notable major changes envisioned under draft ePlanning Regulation and programme that propose to deliver broad efficiencies in planning and development assessment processes however, there is no discussion of these.

Recommendation:

Given the ongoing expansion of complying development policies and ePlanning Regulation reforms, Council requests a clear business process mapping and change and economic impact analyses be conducted and made available for all stakeholders to understand the alignment and interface of these systemic reforms and their anticipated impact and benefit.

The Independent Commission Against Corruption raises the need for “performance outcomes contained in local plans should be meaningful and measurable” in their submission to the White Paper Planning Reform Bill 2013 in response to proposed code-assessable development⁴.

For example, the Codes propose carbon sequestration benefits from landscaping requirements of one tree to be planted in front and rear setbacks in order to mitigate climate change. Plant sequestration is a short-term contributor to climate change mitigation, however the uptake of CO² by vegetation is known to decrease with time as plants grow to their full capacity and become limited by other resources such as nutrients, and the capacity and longevity of storage depends on the final fate of the plant material. Consequently, these controls for the purposes of sequestering carbon are considered insufficient; it is not supported with evidence and therefore should not be required on that basis.

Minimum landscaping requirements could be better addressed and delivered using such tools for example by quantifying and measuring a proportion of canopy cover or open space that accounts for population or household densities per walkable catchment, and that can be

⁴ NSW Independent Commission Against Corruption, [Submission Regarding a New Planning System for NSW \(White Paper and Accompanying Bills\)](#), June 2013, p. 1

better delivered as green infrastructure or distributed per lot in the subdivision design. Another measurable of urban heat island effect mitigation objectives is the ratio of pervious to impervious surfaces that may contribute to urban thermal performance as well as water hydrology and flood mitigation.

The strategic planning, design of and provision for the green grid and green infrastructure is a noted key component of the District Plans prepared for Sydney Metropolitan Region by the Greater Sydney Commission. There are no equivalent district planning scale legal mechanisms for the regions. Councils manage these strategic planning considerations through LEP amendments, detailed locality plans delivered through DCPs and subdivisions design manual DCP and assessment of development applications.

Council supports the direction by the DPE to proposed Guidelines for Subdivision and Masterplans, however is concerned about the uncertain legal authority and how they will operate in the event of a conflict with Council's Subdivision Design DCP. This will be important to ensure 'in-principle' approval of subdivision design of lot layout, road easements, driveways for proposed complying development.

Recommendation: Council calls on the DPE to provide support and greater legal weight on district or local master-planning processes and outcomes, to ensure the delivery of important elements for long-term sustainability and viability of new and growing communities including infrastructure, mixed uses and densities and new homes and jobs.

- **Design Based Issues**

There is an inherent difficulty in ensuring well-designed outcomes with codified numerical principle standards which are devoid of character and climatic considerations. Achieving well-designed contextually appropriate greenfield development sites is the result of detailed and high level negotiation and design review between Council's, development stakeholders and the broader community.

Locality based planning processes that seek to embed character and context are vital to the overriding vision and strategic planning principles which may apply to such new development sites whereas a codified framework provides a mechanism for new Greenfield development buildings to override these character and context considerations set during the master-planning / subdivision process. This is particularly pertinent in Greenfield development sites where the first stages of development set the built form character.

The proposed GCDC and supporting Guidelines for subdivision and masterplans is noted to have been developed from Sydney-centric objectives from the *A Plan for Growing Sydney*, and comparative references development standards in the Blacktown DCP.

Despite inferences about the proposed codes seeking to protect and enhance amenity by reflecting the distinct character of greenfield areas, there are no considerations to the distinct character of new communities in regional and rural areas. It is considered that the proposed GCDC would deliver poor urban consolidation outcomes for regional areas which do not have the benefit of the existing metropolitan transport services and infrastructure.

The need for councils to be involved in the development of locally-relevant codes is a noted issue that contributed to the controversy around the proposed introduction of code

assessment in the Planning Reforms 2013⁵. The Planning Institute of Australia emphasised this point, stating: *“It must remain possible for local planning authorities to develop locally-relevant and responsive planning codes”*.

For these reasons support should be directed toward the proposed changes to code-assessment development, as announced by the former Minister for Planning, the Honourable Brad Hazzard⁶, in response to concerns voiced by the community and key stakeholders, including local government, as follows:

- Allowing councils to modify the State-wide codes to better reflect their local area.
- Code assessable development will only apply in nominated growth areas (for example around the North West and South West train lines or areas nominated by councils).

Recommendation:

The Greenfield Housing Code to apply to areas of identified State Significant Urban Growth where there is an identified housing supply shortfall or Greenfield development sites nominated by a planning authority or developer, but only after approval of the master-planned subdivision.

Recommendation:

In the long-term, Council calls on the DPE to apply a policy development approach that involves Councils to participate in the drafting and management of complying development codes that suit local conditions and community priorities defined in regional and local strategies.

This approach could provide a complying development policy framework that:

- gives greater legal authority to district and master-planning processes and outcomes;
- provides a methodology, data and tools to derive controls that are measurable against performance outcomes as defined in regional, district or local plans and strategies;
- enables councils to collaborate with regional planning offices and engage with local communities in how the codes are derived; and enables monitoring of outcomes and evaluation of policy settings according to changing national or state government priorities.

NON-DESIGN BASED POLICY RESPONSES TO ‘OTHER’ BARRIERS

- **Allowing development approvals on unregistered lots within an approved subdivision**

Under the current planning framework, a complying development cannot be approved on an unregistered lot. According to the DPE (p21 EIE) this unlike a DA which can be made on an unregistered lot, on which a condition of consent can be applied to suspend the consent’s

⁵NSW Parliamentary Research Service “NSW planning reforms: decision-making” Briefing Paper No 11/2013. Pp 31. Source: <https://www.parliament.nsw.gov.au/researchpapers/Documents/nsw-planning-reforms-decision-making/NSW%20planning%20reforms%20decision-making.pdf>

⁶ NSW Parliamentary Research Service “NSW planning reforms: decision-making” Briefing Paper No 11/2013. Pp 8, 19 Source: <https://www.parliament.nsw.gov.au/researchpapers/Documents/nsw-planning-reforms-decision-making/NSW%20planning%20reforms%20decision-making.pdf>

operation until such time the lot is registered. This is not a practice that has been employed in the Tweed, staff are unaware of any multi-lot developments where this has occurred and are doubtful that it would occur on a greenfield development site scale, for the same reasons detailed below regarding this draft proposal to allow CDC's to be issued for dwellings on unregistered allotments after the granting of a DA for the subdivision of land and prior to the final plan of subdivision being registered and individual Title created.

The DPE contends that this practice will reduce approval times for CDC's for consumers and reduce costs through a greater take-up of CDCs and whilst this might be achievable at varying levels the evidence tendered is insufficient to be conclusive about the likely rate of success or failure if adopted.

While the theory of this new practice therefore has a level of plausibility and given the lack of take-up of this approach under the DA pathway, that we are aware of, there is some concern that the extent of potential implication has not been addressed in any credible way and as such uncertainty arises about whether these have been properly taken into account.

It is considered that several matters require clarification or resolution prior to support being given to this new approach.

The granting of development consent for the subdivision of land is only the first step in a four (4) stage process that must be completed before Title to land can be registered for the new allotments. The remaining steps are the approval of a construction certificate for the actual infrastructure works, the physical construction of the infrastructure and finally the determination of the subdivision certificate and lodgement of the plan of subdivision with the NSW Land and Property Information (LPI). During any of these subsequent stages changes may be required to the original allotment layout shown on the development consent. These changes could have significant implications for a dwelling approved on an unregistered allotment such as:

- It is not uncommon for property boundaries shown on the DA subdivision plan to be amended by the Plan of Subdivision registered at the LPI. This could result in dwellings being approved across adjoining allotments.
- Often easements for underground services such as sewer, water supply, stormwater and electricity are not shown on the DA plan. They are shown on the registered Deposited Plan and s88B instrument. It is possible that parts of the dwelling approved by the CDC could be located over a future easement.
- The authority issuing the CDC for the dwelling will not be aware of the location of infrastructure such as road pavements and kerb alignments, street lights, storm water gully pits, electrical supply boxes, water services and sewer junctions as no approved Construction Certificate exists for this infrastructure. Furthermore, the infrastructure has not yet been constructed.
- The authority issuing the CDC will be unaware of final fill or cut levels and how final allotment levels impact on the proposed dwelling.
- No geotechnical assessment might have been undertaken for the proposed allotment. It is possible that the proposed dwelling cannot be constructed on the subject allotment due to geotechnical constraints.

- Contamination issues relating to chemical, acid sulfate soil or radioactive substances have not been addressed at the DA approval stage and may impact on the dwelling location.

The matters that can and often do arise from the time of granting a subdivision consent to the creation of land Titles for those newly created lots are varied. They possess inherent risks of delay and costs. They may lead to the need for an approval to be amended. They may lead to the need, in a worst case, of a lot reconfiguration (boundary adjustment) to rectify errors arising from reliance on subdivision plans prepared before all critical matters have been addressed or constructed.

It is difficult to see how the proposed approach could be managed whilst maintaining the consumer safety-net the current approach provides in a Tweed context. That is not to say this approach is unworkable or inherently too risky - it may work well in the case of a developer who has and maintains control of the site, approvals and dealings throughout the entire process, especially where individual consumers are purchasing a land & house package at the end of the process, and are essentially shielded from the development processes and potential risks.

Whilst this might lead to quicker housing approvals, there is no evidence to show that the construction start-up will occur any earlier, and Council calls on the DPE to record and report this data to justify the approach, and to demonstrate how the indicated average \$15,000 cost-saving gained from reforming the CDC pathway will be passed on to the consumer.

Recommendation:

DPE is encouraged to ensure that a deferred commencement condition is added requiring the approved CDC plans to be consistent with the registered plan of subdivision.

Recommendation:

The DPE should commit to and demonstrate how it will report back to the NSW public on the effectiveness of these proposed amendments, in particular how reforms to speed approvals have impacted on the start-up time for actual constructions as well as how the average \$15,000 cost saving has been passed on to consumers.

Recommendation:

- The DPE should provide complete case study examples of where development consent has been granted for dwelling-house approvals within a multi-lot subdivision consent prior to those lots being created by Title deed as this would provide a better platform to evaluate this practice.
- The DPE to clarify the conflicting information on this point on p21 (EIE) where it states on the one hand that a condition could require the lot to be legally created “prior to completion of the development” whereas it is elsewhere presented as a condition enabling operation of the consent only after creation of the lots – the former representing a very different circumstance to the latter and one that is strictly opposed.

Recommendation:

Based on the level of detail provided, Council cannot support the proposal to allow an application or approval over an unregistered lot in a subdivision consent approval. Council calls on the DPE to first consider the type of issues likely to arise between the granting of

consent and Title creation that may impact developers or consumers adversely, particularly concerning modifications and the delay and additional costs that be incurred.

- **Other 'Approvals' Barriers – ss68 & 138 Stormwater and Roads**

The exhibited publications identify 'secondary' applications, including s68 Local Government Act stormwater applications and s138 Roads Act driveway applications as contributing to delays in CDC approvals. However, staff are of the view this has not been the experience in Tweed Shire Council in recent years, where parallel approvals processes are in place and resourced to process these concurrently.

Delays only occur where there is a site-specific issue that requires additional information to overcome, such as a conflict with driveway location and other services, unsatisfactory grades between the roadway and the garage floor. Notably, this is usually to the advantage of the overall outcome of the dwelling development.

Concept or in-principle approvals of driveway locations at subdivision stage is generally supported, and similar processes have been enacted for subdivision applications at Cobaki Lakes Release Area.

Issues that can arise through the concept approval phase include:

- Conflicts with other services – this occurs when consultants preparing the driveway plans do not consider other infrastructure layers being developed by others.
- Non-compliance with Council standards – for example when driveway locations do not comply with minimum setbacks from intersections or conflicts between adjacent driveways or conflicts with adequate provision of on-street parking.
- Consideration of driveway locations in plan only – in-principle approvals do not take into account finished levels of allotments and grades on roadways, so have limited weight in the final determination of the driveway.
- It is unclear given these assessments occur with the parent subdivision how this can be incorporated into the housing code that applies to subsequent development.

Because of the limitations in the concept / in-principle approvals, detailed applications at s138 construction stage are still required, consequently further information on the DPE's intent regarding "standard construction requirements" for driveways needs to be clarified.

Recommendation:

Further information on the DPE's intent regarding "standard construction requirements" for driveways requires clarification. Council is open to providing and discussing its design and construction standards for driveways with DPE.

Regarding the drive to enable smaller lot housing and zero-lot lining there is concern for the implications this may have on driveway layouts, locations, and spacings, and these in turn have the potential to impact on availability of on-street carparking and safety in proximity to intersections and pedestrian crossing points. For example, the minimum lot widths of 6m do not allow for a standard driveway and on-street carparking space to be provided. TSC has adopted 2mx2m clear zone triangles either side of residential driveways, requiring them to be set back from side fences, high landscaping and entry features. This reduces the risk of

reversing cars conflicting with pedestrians. Many of these standards would not be possible for the indicative proposed standards provided on page 18 of the EIE document.

Recommendation:

Council is supportive of pursuing mixed lot sizes within new greenfield release areas and those of smaller dimension. There is a need however to better understand impacts on accessibility resulting from reduced availability of on-street carparking, particularly adjacent to smaller lots with a lesser capacity to accommodate off-street parking, and implications for strategic planning and deliver of public transport infrastructure.

OPTIONS:

- 1 That the 'recommendations' highlighted in the body of this report form the basis of a submission to the DPE of Planning and Environment.
- 2 That no submission be made.

Council officers recommend Option 1, the making of a submission.

CONCLUSION:

Above all, staff note that reform of the NSW planning and development assessment system and its processes is needed if housing supply is to meet the needs and expectations of the community and is to be delivered in a sustainable, cost and time efficient way. Council considers such reforms can only be guaranteed if the policy changes are meaningful and measurable and can be justified by a clear demonstration of how the claimed improvements will be attained, delivered and monitored. It must not otherwise allow for piecemeal or ad hoc policy that supplants the need for the government to comprehensively and holistically review and update the current 37 year old Environmental Planning and Assessment Act where required; for it is widely agreed by all sectors that prevailing planning legislation is overly complex and with its layered approach to regulation brought about by years of continual incremental change, is stifling innovation and efficiency gains in the planning system at both the developer and local government level.

While the approach advanced in the draft new Code is recognised for its more concise form of controls and potential measures for improving cost-saving and efficiency; it is generally the view of TSC officers that the emphasis of these is most likely suited to an end product of greenfield development on the outer fringes of the Sydney metropolitan area and where the landowner, subdivision and housing developer are either a single entity or multiple entities with close associations and common aspirations. The proposed Code is not seemingly suited to the Tweed nor does it align with the design outcomes espoused by current larger scale developers in the release areas of the Tweed. There is also uncertainty that the proposed Codes are not consistent with national and state sustainability building and planning measures. For these reasons the draft GCDC is not supported for use in the Tweed however, it is accepted that its relevance elsewhere in the State might be timely and appropriate.

It is recommended that Council makes a submission in reply to the exhibition of the Proposed Greenfield Housing Code.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Nil

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

8 [PR-PC] Kingscliff Locality Plan Community Consultation

SUBMITTED BY: Strategic Planning and Urban Design

FILE REFERENCE: GT1/DCP/B26

Validms



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Making decisions with you
2.2	Engagement
2.2.6	Strategic Land Use Planning - To provide long-term land-use plans to guide future development, plan for population growth, and protect the Tweed's environment, heritage and community life.

ROLE: **Provider**

SUMMARY OF REPORT:

This report seeks Council's endorsement of the draft Tweed Development Control Plan, Section B26 Kingscliff, for public exhibition.

The purpose of the Kingscliff Locality Plan (KLP) and Development Control Plan (the 'DCP') is to provide a 30-year vision and planning framework to guide the future growth and expansion of the locality. The KLP has been prepared in three volumes including:

- Volume 01 - Kingscliff Locality Wide Strategies
- Volume 02 - Kingscliff Precinct Plans
- Volume 03 - Kingscliff Development Control Plan (Section B26 – Kingscliff)

The aim of the **KLP Volume 01 – Locality Wide Strategies**, is to provide a contextual background and locality wide strategies relating to environmental context, demographic and community context, urban structure, economic and retail, traffic, access and movement and service infrastructure.

The aim of the **KLP Volume 02 – Kingscliff Precinct Plans** is to provide precinct specific background, context and strategies relating to existing settlement areas and greenfield development make up the Kingscliff and Cudgen localities.

The aim of the **KLP Volume 03 - Kingscliff Development Control Plan** (the 'DCP'), is to guide planning and design development within the Kingscliff Locality through application of planning and design principles, objectives and development controls.

It is anticipated that the outcomes of a formal public exhibition will provide additional opportunity for the community to have input into the final Kingscliff Locality Plan and DCP which is anticipated to be delivered in the fourth quarter of 2017.

RECOMMENDATION:

That:

- 1. Council endorses the Draft Kingscliff Locality Plan (Volumes 1 & 2) and Development Control Plan (Volume 3 - Draft Tweed Development Control Plan, Section A26 – Kingscliff), is to be publically exhibited for a minimum period of 28 days, in accordance with Section 18 of the *Environmental Planning Assessment Regulation 2000*;**
- 2. During the public exhibition period conduct a public ‘drop-in’ session undertaken by Council staff at Kingscliff; and**
- 3. Following public exhibition a further report is to be submitted to Council detailing the content and response of submissions received.**

REPORT:

Background: Kingscliff Locality Process

The Kingscliff Locality Plan and community consultation processes have been in progress since the project commencement in 2014. The Kingscliff Locality Plan development to date has progressed through four stages of a five-stage process represented as annexure 2 including:

Stage 01 - Project Inception - Project initiation stage established a project plan, communications plan, defined the study area as well as establishing internal and external reference panels. The external reference panel comprised of 14 people local community and business members selected for demonstrating a diverse range of local knowledge, planning and built environment experience with strong links, and networks with the local community. The key deliverables from this stage included:

- Kingscliff Locality Project Plan
- Kingscliff Locality Plan Communications Plan
- Formation of the External Reference Panel and Charter (14 members/8 meetings)

Stage 02 - Background and Community Vision - Initial community consultation included a community vision workshop attended by more than 150 people who sought to understand broader community visions, aspirations and issues experienced within the Kingscliff locality. This was followed by a widely distributed community vision survey which received more than 250 responses. This background and community visioning opportunity established the core values and important character elements which underpin the Kingscliff locality. Key deliverables from this stage included:

- Statutory Planning Framework Report
- Community Vision survey (250 responses)
- Community vision workshop (150 attendees)

Stage 03 - Context, Issues, Opportunities and Options - The purpose of Stage 03 was to establish a comprehensive background context, issues and opportunities report to serve as a platform to understand the locality and directly inform draft strategies within the draft precinct plans. This was also supplemented with the findings of previous community vision workshop and survey. A stakeholder and community invited Enquiry by Design Workshop. This information culminated in a two-week shopfront exhibition attended by over 800 people. Key deliverables from this stage included:

- Context Issues and Opportunities Report
- Enquiry by Design Workshop Report
- Draft Precinct Plans Report
- Shopfront Exhibition (2 weeks – over 800 attendees)
- Shopfront exhibition feedback report (over 1600 ‘sticky dot’ responses, 40 written submissions)

Stage 04 - Draft Locality Plan and DCP – Following consultation from Stage 03, key strategies, planning and design principles are refined and developed into a draft Kingscliff Locality Plan and Development Control Plan. The key deliverables from this stage include:

- Draft Kingscliff Locality Plan and Development Code.
- Formal exhibition of the Draft Kingscliff Locality Plan and Development Code.

Stage 05 - Final Locality Plan and DCP - Following a formal exhibition and submission review period of Stage 04, the draft Kingscliff Locality Plan and DCP may be further refined where required into the final Kingscliff Locality Plan and DCP, to be formally adopted and implemented by Council. The key deliverables for this stage will include:

- Final Kingscliff Locality Plan and Development Code.
- Council adoption and implementation of the Plan.

Council's Building Height Resolution

Following on from the Kingscliff shopfront exhibition, where the *Context, Issues and Opportunities Report, Draft Precinct Plans* and *Enquiry by Design Report* were publicly exhibited, it was noted there was a mixed community and land owner stakeholder view in relation to building height proposals.

In response a report was forwarded to Councils Ordinary Meeting on the 16th March 2017 with a number of further consultation options specifically relating to the relationship between building height and public domain outcomes. At that meeting Council resolved that rather than pursue additional community based building height consultation, that the draft Kingscliff Development Control Plan be prepared with amended building heights and reported back to Council. Those amended building heights have now been integrated within the draft DCP and include:

- *The Marine Parade Town Centre Precinct be limited to a building height of 11.0m;*
- *All other areas of medium density residential zones be limited to a building height of 12.2m;*
- *All mixed use and business zones be limited to a building height of 13.6m;*
- *The Kingscliff Hill area, bounded by Moss Street / Sutherland Street and Boomerang Street/Cudgen Road be limited to a building height of 9.0m;*

Draft DCP Section B26 - Kingscliff

The draft DCP B26 – Kingscliff will apply to all development on land within the area illustrated in Figure 1.3 of the DCP. The DCP includes lands bounded by the Pacific Highway to the north extending to the locality boundary with Fingal Head, the Tweed Coast Road to the west and south to the locality boundary with Casuarina. The study area also includes Cudgen Village given the proximity and strong historic relationship with Kingscliff the need to more holistically consider the broader locality context, particularly in relation to land use, desired future character and traffic management considerations. The study area includes part of Chinderah (south of the Pacific Highway) as it marks the interface between the existing light industrial estate and those lands to the south.

The draft DCP provided in Attachment 1 is structured into four parts as follows:

Part 01 - Introduction - The first part is the Introduction and Context which addresses the legislative requirements of the plan

Part 02 - Master planning and Subdivision – Provides planning and design guidelines for all development relating to master planning and subdivision. Additional planning and design principles provide specific planning and design principles relating to key Greenfield development sites to inform the design led master planning and subdivision process.

Part 03 - Town Centre – Provides planning and design guidelines for the Kingscliff Town Centre Precinct. This part identifies the town centre character statement, illustrates guiding design principles, and provides development objectives and controls to guide future built form development and facilitate improved urban design, streetscape and place making outcomes.

Part 04 - Residential Precincts - Details character statements, objectives and development controls for Kingscliff's existing residential precincts.

Key Strategies and Initiatives

Some of the key strategies and initiatives contained within the Kingscliff Locality Plan and DCP are summarised below in a precinct by precinct breakdown below. A map illustrating the defined precinct areas have been provided within the draft DCP document (Volume 03).

Kingscliff Town Centre Precinct – The primary objective of the Kingscliff town centre is to reinforce the existing role and function of the town centre core as a sub-regional retail centre servicing the local residents as well as a broader network of Tweed coastal towns. The key planning and design opportunities include:

- Continue to build upon the diverse range of town centre uses including a mix of retail, commercial, public domain, recreation, tourism and accommodation uses with a focus on improving the connectivity, streetscape and pedestrian amenity whilst effectively managing traffic and car parking.
- Facilitate expansion opportunity of the Town Centre west along Turnock Street.
- Retaining the low scale and fine grain retail frontages of the shops along Marine Parade with an 11.0m building height.
- Retain a low rise (<13.6m) building height across the balance of the Kingscliff town centre B4 Mixed Use Zone.
- Encourage through block connections between Pearl St and Marine Parade.
- With the future redevelopment of the Kingscliff Shopping Village site establish the development of a basement and multi-storey car park, development of a public square and allocation of floor area for a multi-purpose community facility to include a relocated library and community meeting rooms.
- Facilitate a town centre public domain improvement master plan to deliver a range of public domain outcomes including footpath widening, additional street tree planting and landscaping.

Turnock Street Precinct - Turnock St will form the primary access into the Kingscliff township and as such presents significant opportunity for character defining built form and urban development, strong passive movement links (pedestrian and cycling) balanced with areas of environmental protection across the southern portion of the precinct. The key planning and design opportunities for this precinct include:

- Expansion of the town centre and B4 Mixed Use land uses west along Turnock St.
- Facilitate mixed use development along part of Turnock St including an active ground floor retail uses and shop top housing above.
- Public domain treatment to Turnock St frontage including widened footpath, areas for outdoor dining and street trees.
- Facilitate a diverse mix of low rise medium density housing opportunities across the northern portion of the precinct to take advantage of the flat site topography and good walking proximity to the existing town centre.
- Design Turnock Street as a well landscaped visually attractive connector street integrating traffic movement, cycle and pedestrian movement, parking, shade, lighting and WSUD befitting of the primary access road from Tweed Coast Road into the Kingscliff township.

Business and Knowledge Precinct – The business and knowledge precinct will play a strong transformative role to expand economic and employment generating land uses servicing both Kingscliff and broader sub-regional area. Given the large site area (47.5ha) and the ready access to the Pacific Highway, the Business and Knowledge Precinct will establish an integrated and connected urban structure and diverse mix of employment generating land uses. The key planning and design opportunities for this Greenfield development site include:

- The development of a regionally scaled business park (approx. 75000sqm).
- The establishment of a regional education and/or health services campus.
- Development of a new local retail centre to serve the immediate future resident population and complement the existing Kingscliff town centre (approx. 10-15000sqm).
- The establishment of a character defining mixed use main street.
- A mix of low, medium and high residential housing typologies which may include low rise medium density, residential flat buildings and student housing in association with an education and/or health precinct.
- Provide open spaces areas including additional structured and casual open space (approx. 9.5ha) to meet the future need of the growing locality population.

North Kingscliff Precinct – The North Kingscliff Precinct includes the existing low density residential areas as well as a Greenfield development site. The key planning and design opportunities for this Greenfield development site include:

- Development of the north Kingscliff Precinct Greenfield development site as a mix of housing types including low density residential housing, low rise medium density residential, small lot housing as well as small residential flat buildings fronting Kingscliff Street.
- Subdivision configuration of this site needs to consider the broader locality movement (vehicular and passive) opportunities and open space network. This may include; Ozone Road connection west to a future intersection with Tweed Coast Road; and a new north south road connecting Elrond Drive with Sands Street.
- Increasing residential density and building heights fronting Kingscliff Street which is the key north south connector road and public transportation route and Shell St

fronting the Kingscliff playing fields with an R3 zoning and building height of 12.2m.

- Reducing minimum lot size to encourage coastal small lot housing and additional dual occupancy infill development whilst maintaining a low-density character.
- Encouraging secondary dwelling development within the existing residential areas providing affordable housing, aged housing in place and inter-generational family housing opportunities.
- Embellish north south drainage corridor for combined drainage, vegetation, open space and passive movement (shared path) uses and pursue a dedicated on-road cycle path the length of Kingscliff Street / Pearl Street.

West Kingscliff Precinct – The West Kingscliff Greenfield development site presents opportunity to develop a range of low rise medium and low density residential housing types with the southern development boundary defined by the Turnock St extension alignment and areas of environmental protection south of the road alignment. Well defined north-south and east-west strong passive movement links (pedestrian and cycling) will connect the Greenfield development site to existing residential precinct areas to the immediate north and the Kingscliff Township to the east. Areas of environmental protection delineated by the Turnock St (west) extension will form a continuous ecological connection from the Tweed Coast Road through to the Kingscliff Town centre. The key planning and design opportunities for this Greenfield development site include:

- Construction of the Turnock Street extension which will form the new primary connector road and gateway from the Tweed Coast Road into the Kingscliff Township to include a dedicated cycle and walking path.
- Facilitate a mix of low rise medium density residential development heading west along the extended Turnock Street to take advantage of the close proximity to the existing centre and encouragement of higher densities along principle movement corridors.
- Pursue the embellishment of the north-south drainage corridor for combined drainage, vegetation, open space and passive movement (shared path) uses.

Beachfront Precinct - The Beach Front Precinct has been an area in transition for the last 20 years with the gradual redevelopment of the small coastal cottage into larger multi-unit developments capitalising on ocean views and adjacency to the linear coastal reserve and flat walkable proximity to the town centre to the south. This is reinforced with this precinct's current R3 Medium Density Residential Zoning and prevalence of the three storey residential flat buildings and other medium density housing types. The key planning and design opportunities for Beachfront Precinct include:

- Continue to facilitate high quality medium density residential development including residential flat buildings which respond to the site and subtropical climatic conditions by way of site planning, internal planning building form and material specification.
- Revise maximum building heights as they relate to building typologies within the TLEP including allocation of a 12.2m building height or three storeys for residential flat building development.
- In consultation with property owners facilitate the rezoning of 246-254 Marine Parade and Lot 701 DP 1002309 (Police site) from R3 Medium Density Residential to B4 Mixed Use to allow an active ground floor use (such as retail,

food and beverage) with residential or tourist accommodation above with a building height limit of 13.6m.

Kingscliff Hill Precinct – The primary objective within the Kingscliff Hill Precinct is to continue to facilitate the development of low density housing and low rise medium density housing within the existing residential precinct which meets housing needs and is responsive to the sloping site conditions, view sharing, aspect and sub-tropical climatic context. The key planning and design opportunities for Kingscliff Hill Precinct include:

- The requirement for all development which increases the overall envelope of a dwelling to submit as part of the Statement of Environmental Effects consideration of the four-key planning principle assessment steps relating to potential view loss.
- Further embellishment of Hansen Park including upgraded playground equipment and shelters.
- Traffic calming and pedestrian safety (footpaths, crossing median) measures along Viking St.

Salt Precinct – The primary objectives for the Salt Precinct is to continue to facilitate the development tourist accommodation and tourist related development as well as the growth of the local centre and associated uses to service the needs of both tourists as well as local residents. To retain the predominantly low density residential character surrounding the local centre in keeping with the estates existing built form character and design covenants. The key planning and design opportunities for Salt Precinct include:

- In consultation with property owners facilitate the rezoning of Lot 169 DP 1075495 and Lot 930 DP 10791198 from SP3 and R1 to B4 Mixed Use to allow a range of residential, tourist, retail, food and beverage and other development uses with a building height limit of 13.6m.
- In consultation with the Tweed Byron Local Aboriginal Land Council regarding the future planning and management of Lot 1 & 2 DP 1117599 including the rezoning of these lands from SP3 to an appropriate E-Zone

Seaside Precinct - The primary objectives for the Seaside Precinct is to continue to facilitate the development of low density housing and low rise medium density housing within the existing residential precinct which meets housing needs and is responsive to site conditions, aspect and sub-tropical climatic context.

- To continue to facilitate the growth of the local centre including shop top housing as well as tourist accommodation and associated uses to service the needs of tourists as well as local residents.

Cudgen Village – Cudgen Village combines an existing low density residential precinct as well as a greenfield development site to the immediate north of the settlement as well as a large approved sand extraction development to the settlements west which over time will result in a large artificial lake. The key planning and design opportunities for this Greenfield development site include:

- Retain the low scale landscape residential character of Cudgen Village.
- Over the green field development site pursuing a subdivision pattern based around principles of sustainable design which will allow a range of housing typologies

and mix of density including opportunity for some low rise medium density housing and seniors housing.

- Opportunity for a small local centre accessed off the Tweed Coast Road to fulfil day-to-day convince needs.
- Long term active and passive recreation uses and holiday or tourist accommodation surrounding the future artificial lake.

Public Domain Considerations

In response to a report on the provision of open space and public benefit in Kingscliff to Councils Ordinary Meeting on 15 June 2017 Council resolved, among others, that:

5. *A further report be brought back on other possible options, including but not limited to amending planning controls, to achieve potential benefits outlined within the report.*

Public domain and civic improvements within the town centre precinct are addressed at Section 3.18 Public Domain and Civic Improvements within KLP Volume 03 - Kingscliff Development Control Plan (Pages 124-127). Specific reference is made to Table 8 which tabulates key public domain elements, outlines an indicative cost, timing / delivery and responsibility. The key levers for delivering some of these benefits will be through s94 plans where as others are reliant on the commercial decisions of private land owners.

As identified within that KLP section and previous report (15 June 2017), the procurement of these public benefits would currently be outside of any existing s.94 Contributions Plan. As such these public domain improvements / benefits would need to be established within an S 94 Contribution Plan based on accurate costing of a design which has been endorsed through a town centre public domain improvement master plan process. The realisation of these projects would then be dependent on the collection of development contributions through staged release of greenfield development sites, typically over long time frames. Importantly, this collection is contingent on the reallocation of developer contributions within the capped thresholds of existing s 94 Contribution Plans.

Given that some of the public benefits such as a library site, car parking and town square would be over privately owned land (Kingscliff Shopping Village site and Turnock St Precinct) there is no certainty that these public developments can be delivered. As previously reported one procurement method which could be employed to ensure this certainty would be via voluntary planning agreement tied to a given development consent. However, the onus of these procurement mechanisms is reliant on their voluntary nature; one which cannot be required or regulated through strategic planning policy frameworks. Given the cost of developing and allocating land to deliver public benefits over private land, this private land allocation for 'public benefit' are typically offset through more flexible development standards (building height, floor space ratio, site coverage etc) to ensure redevelopment viability over the balance of the development site.

In the context of Council's adopted position pertaining to building height standards across key development sites, the ability to leverage these public outcomes across privately owned land becomes increasingly unviable from a development perspective and thereby increasingly unlikely to enter into a voluntary planning agreement. In this instance public benefit outcomes on private sites are contingent on commercial decisions made by land

owners and negotiated design outcomes through development merit assessment processes which includes compliance with planning and design frameworks.

Consultation

In addition to the ordinary public exhibition requirements it is also proposed to hold a general public information / drop in session at Kingscliff during the 28 day exhibition period.

The general public information/drop in session would typically include the display of the documents on exhibition, a static exhibition of the key strategies as they relate to the different precincts and a looped PowerPoint presentation of the key draft strategies and controls. Council staff would be on hand to discuss the contents of the plan and any specific issues with the general public. The exhibition(s) would also have information on how the submissions can be made.

CONCLUSION:

The progress of the draft Kingscliff Locality Plan and Development Code is at a critical milestone stage of the process. To date a thorough and detailed communications plan and community engagement strategy has ensured opportunity for the broader community as well as other stakeholder groups to have direct input into each project milestone stage. This feedback was used to develop the concept plans, which later informed the supplementary community feedback on the range of possible options for establishing clear principles to guide the future growth and development of the locality and to ensure its continued transition from a once quiet seaside village into the vibrant and thriving town it is now becoming retains the inherent characteristics the community most value. While the concepts offering wider options to achieve greater levels of public net benefit through agreed negotiated development trade-offs were not pursued further, post Council's March building height resolution, the draft locality plan does seek to maximise public infrastructure opportunities within the current planning framework and those lower height limits.

The Draft Kingscliff Locality Plan and DCP provides the strategic and development control framework to guide future development within Kingscliff and aims to achieve the broader strategic directions and objectives which have been identified within the Kingscliff Locality Plan Volumes 01: Locality Wide Strategies Volumes 02: Precincts Plans and Volume 03 Development Control Plan.

These three policy documents have been drafted to meet the Council's requirements and are suitable for public exhibition.

COUNCIL IMPLICATIONS:

a. Policy:

Community Engagement Strategy v1.1

b. Budget/Long Term Financial Plan:

A revised consultation budget will be prepared based on Council resolved consultation option.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Empower-We will give the community greater opportunity to participate in a transparent flow of information and feedback to Councillors who have been empowered as the Community representatives to make decisions in accordance with the Local Government Act 1993.

UNDER SEPARATE COVER/FURTHER INFORMATION:

- | | |
|---------------|--|
| Attachment 1. | Kingscliff Locality Plan – Volume 01 - Kingscliff Locality Wide Strategies (ECM 4596021) |
| Attachment 2. | Kingscliff Locality Plan – Volume 02 - Precinct Plans (ECM 4596022) |
| Attachment 3 | Kingscliff Locality Plan – Volume 03 – Development Control Plan (ECM 4596023) |
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9 [PR-PC] Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards

SUBMITTED BY: Director



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LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.1 Built Environment
- 2.1.2 Development assessment - To assist people to understand the development process and assess applications lodged with Council to achieve quality development outcomes and land use decisions.

ROLE: **Provider**

SUMMARY OF REPORT:

In accordance with the Department of Planning's Planning Circular PS 08-014 issued on 14 November 2008, the following information is provided with regards to development applications where a variation in standards under SEPP1 has been supported/refused.

RECOMMENDATION:

That Council notes there are no variations for the month of May 2017 to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

REPORT:

On 14 November 2008 the Department of Planning issued Planning Circular PS 08-014 relating to reporting on variations to development standards under State Environmental Planning Policy No. 1 (SEPP1).

In accordance with that Planning Circular, no Development Applications have been supported/refused where a variation in standards under SEPP1 has occurred.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

CONFIDENTIAL COMMITTEE

CONFIDENTIAL ITEMS FOR CONSIDERATION

ORDERS OF THE DAY IN COMMITTEE

Nil.

REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

C1 [PR-PC] Class 1 Appeal Development Application DA16/0355 for a 60 Lot Subdivision at Lot 1 DP 779976 No. 26 Tringa Street, Tweed Heads West

REASON FOR CONFIDENTIALITY:

This application is subject to a current Class 1 Court Appeal

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

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- 2 Making decisions with you
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ROLE: **Provider**
