

Development Committee

Meeting Date: Tuesday, 14 March, 2017
Location: Council Chambers, City Administrative Building, Bridge Road, Nowra
Time: 5:00pm

Membership (Quorum - 5)
Clr Patricia White - Chairperson
All Councillors
General Manager or nominee

Please note: Council's Code of Meeting Practice permits the electronic recording and broadcast of the proceedings of meetings of the Council which are open to the public. Your attendance at this meeting is taken as consent to the possibility that your image and/or voice may be recorded and broadcast to the public.

Agenda

1. **Apologies / Leave of Absence**
2. **Confirmation of Minutes**
 - Development Committee - 14 February 20171
3. **Declarations of Interest**
4. **Mayoral Minute**
5. **Deputations and Presentations**
6. **Notices of Motion / Questions on Notice**

Nil
7. **Reports**

DE17.20	Subdivision Controls in Greenwell Point - Legal Advice and Policy Direction.....	8
DE17.21	Restaurants and Cafes - A new interim restaurant authorisation system for liquor licences	24
DE17.22	Future Potential Subdivision within the R2 Zone Hyams Beach	26
DE17.23	Development Application – Parson St Ulladulla – Proposed Lot 15 in Subdivision of Lot 3 DP 746228 and Lots 5 & 6 DP 805221	41
8. **Confidential Reports**

Nil

Development Committee

Delegation:

Pursuant to s377 (1) of the Local Government Act 1993 the Committee is delegated the functions conferred on Council by the Environmental Planning & Assessment Act 1979 (EPA Act), Local Government Act 1993 (LG Act) or any other Act or delegated to Council, as are specified in the attached Schedule, subject to the following limitations:

- i. The Committee cannot make a decision to make a local environmental plan to classify or reclassify public land under Division 1 of Part 2 of Chapter 6 of the LG Act;
- ii. The Committee cannot review a s82A or s96AB EPA Act determination made by the Council or by the Committee itself;
- iii. The Committee cannot exercise any function delegated to the Council which by the terms of that delegation cannot be sub-delegated;
- iv. The Committee cannot exercise any function which s377(1) of the LG Act provides cannot be delegated by Council; and
- v. The Committee cannot exercise a function which is expressly required by the LG Act or any other Act to be exercised by resolution of the Council.

Schedule:

1. All functions relating to the preparation, making, and review of local environmental plans (LEPs) and development control plans (DCPs) under Part 3 of the EPA Act.
2. All functions relating to the preparation, making, and review of contributions plans and the preparation, entry into, and review of voluntary planning agreements under Part 4 of the EPA Act.
3. The preparation, adoption, and review of policies and strategies of the Council in respect of town planning and environmental matters and the variation of such policies.
4. Determination of variations to development standards related to development applications under the EPA Act where the development application involves a development which breaches a development standard by more than 10% and the application is accompanied by a request to vary the development standard under clause 4.6 of Shoalhaven Local Environmental Plan 2014 or an objection to the application of the development standard under State Environmental Planning Policy No. 1 – Development Standards.
5. Determination of variations from the acceptable solutions and/or other numerical standards contained within the DCP or a Council Policy that the General Manager requires to be determined by the Committee
6. Determination of development applications that Council requires to be determined by the Committee on a case by case basis.
7. Review of all determinations of development applications under sections 82A and 96AB of the EP&A Act.
8. Preparation, review, and adoption of policies and guidelines in respect of the determination of development applications by other delegates of the Council.

MINUTES OF THE DEVELOPMENT COMMITTEE

Meeting Date: Tuesday, 14 February 2017
Location: Council Chambers, City Administrative Building, Bridge Road, Nowra
Time: 5:02pm

The following members were present:

Clr Amanda Findley
Clr Patricia White - Chairperson
Clr Joanna Gash
Clr John Wells
Clr John Levett
Clr Nina Cheyne
Clr Annette Alldrick
Clr Kaye Gartner
Clr Andrew Guile
Clr Mitchell Pakes
Clr Greg Watson
Clr Mark Kitchener
Clr Bob Proudfoot
Mr Russ Pigg - General Manager

Apologies / Leave of Absence

Nil

Confirmation of the Minutes

RESOLVED (Clr Wells / Clr Guile) MIN17.73

That the Minutes of the Development Committee held on Monday 23 January 2017 be confirmed.

CARRIED

Declarations of Interest

Clr Kitchener – DE17.17 – DA Fee Exemption South Coast Branch Surf Life Saving – less than significant non pecuniary interest declaration – is a member of the Mollymook Surf Life Saving Club, a reasonable person might consider I am taking an advantage to Surf Life Saving – will remain in the room and will take part in discussion or vote.

Clr Pakes – DE17.17 – DA Fee Exemption South Coast Branch Surf Life Saving – significant non pecuniary interest – he is the elected vice president of the South Coast Surf Life Saving Branch – will leave the room and will not take part in discussion or vote.

Clr Aldrick – DE17.11 – Notice of Motion – Subdivision Application – 7 Bangalee Road, Tapitallee – pecuniary interest – she is a resident of Tapitallee – will leave the room and will not take part in discussion or vote.

Clr Wells – DE17.12 – Notice of Motion – Development Application – Coastal Palms Caravan Park - Shoalhaven Heads – DA17/1019 – significant non pecuniary interest – his mother in law resides permanently at this property – will leave the room and will not take part in discussion or vote.

DEPUTATIONS AND PRESENTATIONS

Mr Andrew Lesley made submission but withdrew his request to provide a deputation in relation to DE17.14 – Council Land Reclassification Housekeeping Planning Proposal - Post Exhibition Consideration and Finalisation.

Mr Peter Price addressed the Committee in relation to DE17.15 – Development Application DA16/1123 – 56 - 69 Graham St, Nowra, Lots H, J & K & DP 39320

Mr Matthew Wales (Wales & Associates) addressed the Committee in relation to DE17.15 – Development Application DA16/1123 – 56 - 69 Graham St, Nowra, Lots H, J & K & DP 39320

Procedural Motion - Bring Item Forward

RESOLVED (Clr Wells / Clr Gash) MIN17.74

That the matter of item DE17.15 Development Application DA16/1123 – 56 - 69 Graham St, Nowra, Lots H, J & K & DP 39320 be brought forward for consideration.

CARRIED

DE17.15 Development Application DA16/1123 – 56 - 69 Graham St, Nowra, Lots H, J & K & DP 39320	HPERM Ref: D17/217
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Recommendation (Item to be determined under delegated authority)

That Council:

1. Confirm that it supports the height variation
2. Refer the application back to staff for determination.

RESOLVED (Clr Gash / Clr Gartner) MIN17.75

That Council:

1. Confirm that it supports the height variation
2. Refer the application back to staff for determination.

FOR: Clr Findley, Clr White, Clr Gash, Clr Wells, Clr Levett, Clr Cheyne, Clr Aldrick, Clr Gartner, Clr Guile, Clr Pakes, Clr Kitchener and Russ Pigg

AGAINST: Clr Watson and Clr Proudfoot

CARRIED

NOTICES OF MOTION / QUESTIONS ON NOTICE

DE17.11 Notice of Motion - Subdivision Application - 7 Bangalee Road, Tapitallee

**HPERM Ref:
D17/39662**

Clr Alldrick – pecuniary interest – she is a resident of Tapitallee – left the room and did not take part in discussion or vote.

Recommendation (Item to be determined under delegated authority)

To report to Council recommendations and updates on the progress of the Tapitallee Development Application.

RESOLVED (Clr Cheyne / Clr Gartner)

MIN17.76

That the report in relation to Notice of Motion - Subdivision Application - 7 Bangalee Road, Tapitallee be received for information.

FOR: Clr Findley, Clr White, Clr Gash, Clr Wells, Clr Levett, Clr Cheyne, Clr Gartner, Clr Guile, Clr Pakes, Clr Watson, Clr Kitchener, Clr Proudfoot and Russ Pigg

AGAINST: Nil

CARRIED

DE17.12 Notice of Motion - Development Application - Coastal Palms Caravan Park - Shoalhaven Heads - DA17/1019

**HPERM Ref:
D17/39684**

Clr Wells – significant non pecuniary interest – his mother in law resides permanently at this property – left the room and did not take part in discussion or vote.

Note: Clr Alldrick returned to the meeting, the time being 5.50pm.

Note: Clr Gartner left the meeting, the time being 5.55pm.

Recommendation (Item to be determined under delegated authority)

That the time for consideration of DA17/1019 be extended to allow for more considered feedback to Council and that an information evening be held with Council representation to attend the meeting to further explain the elements of the DA.

RESOLVED (Clr Cheyne / Clr Guile)

MIN17.77

That the time for consideration of DA17/1019 be extended to allow for more considered feedback to Council and that an information evening be held with Council representation to attend the meeting to further explain the elements of the DA.

FOR: Clr Findley, Clr White, Clr Gash, Clr Levett, Clr Cheyne, Clr Alldrick, Clr Guile, Clr Pakes, Clr Watson, Clr Kitchener, Clr Proudfoot and Russ Pigg

AGAINST: Nil

CARRIED

DE17.13 Notice of Motion - Crown Land adjacent to Shoalhaven Heads Golf Course**HPERM Ref:
D17/40293****Recommendation (Item to be determined under delegated authority)**

That

1. The General Manager report back to Council on the botanical status of the land at Lot 7010 DP 1035145, Scott Street, Shoalhaven Heads, and
2. If it is confirmed that it is littoral rainforest, council consider submitting making an additional submission to have the land identified in the final State Environmental Planning Policy (Coastal Management) 2016, maps as a coastal wetland and littoral rainforest area.

Note: Clr Wells and Clr Gartner returned to the meeting at 5:58pm

RESOLVED (Clr Cheyne / Clr Findley)

MIN17.78

That under the delegation of the Development Committee, the note from the General Manager be received for information.

FOR: Clr Findley, Clr White, Clr Gash, Clr Wells, Clr Levett, Clr Cheyne, Clr Alldrick, Clr Gartner, Clr Watson, Clr Kitchener, Clr Proudfoot and Russ Pigg

AGAINST: Clr Guile and Clr Pakes

CARRIED

REPORTS**DE17.14 Council Land Reclassification Housekeeping Planning Proposal - Post Exhibition Consideration and Finalisation****HPERM Ref:
D16/393791****Recommendation (Item to be determined under delegated authority)**

That Council:

1. Adopt the Planning Proposal as exhibited with the following change:
 - Amend the Planning Proposal to refer to MIN 812 in relation to the sale of 50 Shoalhaven Heads Road, Shoalhaven Heads.
2. As per Council's delegated functions as Relevant Planning Authority, forward the Planning Proposal to NSW Parliamentary Counsel to draft the amendment to the Shoalhaven Local Environmental Plan 2014 and enable it to proceed to finalisation.
3. When considering the future management of the Lively Street, Vincentia land; have regard to issues raised in submissions at Attachment 1 and those identified in the 3 November 2015 Development Committee Report (D15/324914); and
4. Notify submitters and Community Consultative Bodies of this resolution, and again when the Planning Proposal is notified and comes into effect.

RESOLVED (Clr Watson / Clr Proudfoot)

MIN17.79

That Council:

1. Adopt the Planning Proposal as exhibited with the following change:
 - Amend the Planning Proposal to refer to MIN15.812 in relation to the sale of 50 Shoalhaven Heads Road, Shoalhaven Heads.

2. As per Council's delegated functions as Relevant Planning Authority, forward the Planning Proposal to NSW Parliamentary Counsel to draft the amendment to the Shoalhaven Local Environmental Plan 2014 and enable it to proceed to finalisation.
3. When considering the future management of the Lively Street, Vincentia land; have regard to issues raised in submissions at Attachment 1 and those identified in the 3 November 2015 Development Committee Report (D15/324914); and
4. Notify submitters and Community Consultative Bodies of this resolution, and again when the Planning Proposal is notified and comes into effect.

FOR: Clr Findley, Clr White, Clr Gash, Clr Wells, Clr Cheyne, Clr Alldrick, Clr Gartner, Clr Guile, Clr Pakes, Clr Watson, Clr Kitchener, Clr Proudfoot and Russ Pigg

AGAINST: Clr Levett

CARRIED

DE17.15 DEVELOPMENT APPLICATION DA16/1123 – 56 - 69 GRAHAM ST, NOWRA, LOTS H, J & K & DP 39320	HPERM REF: D17/217
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Item dealt with earlier/later in the meeting see MIN17.75.

DE17.16 Development Application – 1 Brooks Lane, Kangaroo Valley – Lot 102 in DP 1056895	HPERM Ref: D17/31245
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Recommendation (Item to be determined under delegated authority)

That the Council:

1. Support the variations to the 5.5 metre height limit set by clause 4.3 of SLEP-2014;
2. Refer the application back to staff for determination

RESOLVED (Clr Guile / Clr Wells)

MIN17.80

That the Council:

1. Support the variations to the 5.5 metre height limit set by clause 4.3 of SLEP-2014;
2. Refer the application back to staff for determination.

FOR: Clr Findley, Clr White, Clr Gash, Clr Wells, Clr Levett, Clr Cheyne, Clr Alldrick, Clr Gartner, Clr Guile, Clr Pakes, Clr Watson, Clr Kitchener, Clr Proudfoot and Russ Pigg

Against: Nil

CARRIED

DE17.17 DA Fee Exemption - South Coast Branch Surf Life Saving (NSW) - Proposed Administration, Training & Storage Facility - Integrated Emergency Management Centre, 92 Albatross Road, Nowra.	HPERM Ref: D17/26984
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Clr Kitchener – less than significant non pecuniary interest declaration – is a member of the Mollymook Surf Life Saving Club, a reasonable person might consider I am taxing an advantage to Surf Life Saving –remained in the room and did take part in discussion & vote.

Clr Pakes – significant non pecuniary interest – he is the elected vice president of the South Coast Surf Life Saving Branch – left the room and did not take part in discussion or vote.

Recommendation (Item to be determined under delegated authority)

For Committee's consideration.

RESOLVED (Clr Wells / Clr Gash)

MIN17.81

That the fees be waived for the South Coast Branch Surf Life Saving (NSW) - Proposed Administration, Training & Storage Facility - Integrated Emergency Management Centre, 92 Albatross Road, Nowra.

FOR: Clr Findley, Clr White, Clr Gash, Clr Wells, Clr Levett, Clr Cheyne, Clr Alldrick, Clr Gartner, Clr Guile, Clr Watson, Clr Kitchener, Clr Proudfoot and Russ Pigg

AGAINST: Nil

CARRIED

Procedural Motion - Matters of Urgency

Note: Clr Pakes returned to the meeting, the time being 6.43pm.

RESOLVED (Clr Pakes / Clr Guile)

MIN17.82

That an additional item the old Service Station at Culburra Beach Contamination be introduced as a matter of urgency.

CARRIED

The Chairperson ruled the matter as urgent as it deals with contamination.

DE17.18 Contamination - Culburra Beach Old Service Station Site

RESOLVED (Clr Pakes / Clr Guile)

MIN17.83

That Council receive a verbal report on:

1. The progress of the clean up and clean up order issued to the property owner
2. Options available to Council should the property owner not comply with the clean up orders
3. Receive the verbal report from the Director Planning and Development Services for information

CARRIED

Procedural Motion - Matters of Urgency

RESOLVED (Clr Proudfoot / Clr Findley)

MIN17.84

That an additional item DS16/1532 - Section 96 amendment for the quarry on Parnell Rd, Tomerong – Extend Time for Submissions be introduced as a matter of urgency.

CARRIED

The Chairperson ruled the matter as urgent as the submissions close tomorrow.

DE17.19 DS16/1532 - Section 96 Amendment for the Quarry on Parnell Rd Tomerong - Extension of Time for Submissions

RESOLVED (Clr Proudfoot / Clr Findley)

MIN17.85

That

1. Regarding DS16/1532 Section 96 Amendment Quarry Parnell Rd Tomerong, public submissions be extended by a further 21 days.
2. And a residents briefing be held

CARRIED

There being no further business, the meeting concluded, the time being 6.52pm.

Clr White
CHAIRPERSON

DE17.20 Subdivision Controls in Greenwell Point - Legal Advice and Policy Direction

HPERM Ref: D17/28315

Group: Planning & Development Services Group
Section: Strategic Planning

Attachments:

1. Legal Advice - Marsden Law Group - 15 December 2016 (Confidential - under separate cover)
2. Correspondence - Greenwell Point emergency classification - State Emergency Services [↓](#)
3. Adopted Greenwell Point Floodplain Risk Management Options Feasibility Study (councillors information folder) [⇒](#)

Purpose / Summary

This report is provided in response to Council's resolution of 7 November 2016 to adopt Amendment No. 5 to Shoalhaven Development Control Plan (DCP) 2014 and "defer the draft changes to Chapter G9: Development on Flood Prone Land relating to subdivision in Greenwell Point to seek legal advice and remove the current wording in the DCP pending a further report on further advice".

The report considers and addresses the appropriateness of planning controls relating to subdivision in Greenwell Point and legal advice in this regard.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Form a position on development controls relating to flood risk management in Greenwell Point by selecting **Option 1 or 2**; and,
2. Undertake a review of the Lower Shoalhaven River Flood Risk Management Plan, Shoalhaven Local Environmental Plan 2014 and Chapter G9 of Shoalhaven Development Control Plan 2014 as required by this Interim Policy position.

Options

1. Adopt an Interim Policy position to refuse new or expanded development that will increase the population within in the village of Greenwell Point including subdivision (Torrens title and strata), dual occupancy, medium density and tourist development. The objective of this is to reduce the risk to property and life and reduce the burden on emergency services during a flood event.

Implications: This option ensures that Council maintains protection from statutory indemnity provided under Section 733 of the Local Government (LG) Act 1993 by providing development controls that are consistent with the Lower Shoalhaven River Flood Risk Management Study and Plan (FRMS&P) and has followed the process set out in the NSW Floodplain Development Manual 2005.

This option is consistent with the advice from SES – refer Attachment 2.

The current FRMS&P includes actions that require specific planning responses to address the evacuation issues caused by the isolation of the village of Greenwell Point

DE17.20

during a flood event. A number of mitigation options were investigated through the FRMS&P including:

- Construction of levees to protect existing properties;
- Raising Greenwell Point Road; and
- Possible house raising.

Community feedback received during the exhibition of the Greenwell Point Floodplain Risk Management Options Feasibility Study (the Study) showed little support for the engineered/structural mitigation options outlined above. Planning responses and community awareness were the preferred methods of implementing flood risk management at Greenwell Point as reflected in the adopted Study.

In reporting the exhibition outcomes of the draft Shoalhaven DCP 2014 (Housekeeping Amendment Stage 2) and a further review of the FRMS&P and the controls provided in the version of Chapter G9: Development on Flood Prone Land prior to the adoption of the DCP Amendment No. 5, it became clear that the actions adopted in the FRMS&P were not appropriately elevated for consideration in the Local Environmental Plan (LEP).

If Council resolves to restrict new or expanded development, a detailed review of the appropriate zoning and controls in Shoalhaven LEP 2014 is required to provide the controls intended by the FRMS&P. As outlined in the report to Council's Development Committee dated 7 December 2016, a Development Control Plan (DCP) cannot prohibit development that the LEP potentially enables, thus any controls to limit development will need to be reflected in an amendment to the LEP zones and controls.

2. Not provide additional development restrictions in Greenwell Point and consider each development application on its merit in accordance with the provisions of Shoalhaven LEP 2014 and Shoalhaven DCP 2014.

Implications: Greenwell Point is somewhat unique from Shoalhaven's other villages and towns that are also flood affected, given that the village becomes isolated creating an island in which evacuation and access is severely affected for an extended period of time. The liability for Council in allowing further population intensification of Greenwell Point, contrary to the recommendations of the relevant flood study, could at this stage, be significant. It is difficult to determine the scale of litigation that Council could be open to, if a major flood event occurs and there is substantial damage to assets.

Following consideration of the legal advice, it is apparent that the most straight forward approach to ensure the indemnity offered by Section 733 of the Local Government Act is protected, requires Council to follow the process prescribed in the Floodplain Manual and undertake actions in 'good faith' to maintain this indemnity. If Council resolves to not restrict development in Greenwell Point as recommended by the FRMS&P, it must acknowledge that if challenged, Council will need to demonstrate how, and on what basis it has acted in 'good faith' even though it did not comply with the processes set out in the Floodplain Development Manual. The loss of indemnity is not limited to any policy decisions made by Council regarding its planning controls, but potentially impacts on future decisions by Council in determining development applications in accordance with Council's adopted policy position.

A review of the FRMS&P is due to commence shortly and it will be carried out in accordance with the principles and process set out in the NSW Floodplain Development Manual 2005. Section 2.7 of which states that *"this review should account for changes across the full range of issues originally addressed and consider any associated emergent issues"*. A detailed explanation of the process prescribed in the Manual is provided in this report and the attached legal advice (Confidential Attachment 1).

One-off changes to the FRMS&P would still require to follow the process in the Manual and any review would need to be facilitated by a Floodplain Risk Management Committee appointed by the Council to make recommendations following a proper and reasoned process that substantially accords with the principles contained in the Floodplain Development Manual.

This option requires no change to Shoalhaven LEP 2014 or Shoalhaven DCP 2014 (as per the amendment that commenced 30 November 2016), however given that Council would be adopting this option, prior to undertaking any review of the flood study and plan, it would potentially be inconsistent with the existing FRMS&P and Council's adopted Greenwell Point Floodplain Risk Management Options Feasibility Study 2014 (Attachment 3 – Councillors Information Folder). Until the review is completed in approximately 2 years time and assuming that this review would resolve the current inconsistency between the Floodplain Plan and Council's DCP, the Council would be exposed and need to be confident it could defend the position adopted.

Background

Following a Notice of Motion, Council resolved on 15 December 2015 to amend the Shoalhaven DCP 2014 (Part D in Schedule 5 of Chapter G9) (MIN15.813) to:

allow the subdivision of land and the creation of strata title lots within the Village of Greenwell Point subject to the lots whether strata or real property having access to flood free land, in compliance with Shoalhaven LEP 2014.

Council's Development Committee considered the exhibition outcomes and finalisation of Amendment No. 5 to Shoalhaven DCP 2014 on 7 November 2016 (MIN16.838). At this meeting, the matter of subdivision of flood free land within the village was again raised in considering submissions received during the public exhibition of the draft amendment to the DCP.

Consistency with the FRMS&P is important, not only to ensure Council's planning documents include suitable controls consistent with the Floodplain Development Manual and Guidelines but to also ensure Council is afforded statutory indemnity under Section 733 of the Local Government (LG) Act 1993 when providing flood risk controls.

There was however concern that the Council resolution could be inconsistent with the FRMS&P and therefore Council could be seen to have planning controls that are inconsistent with the 'good faith' test in regard to Section 733 of the LG Act.

Council ultimately resolved at the November 2016 Development Committee Meeting to adopt Amendment No. 5 to Shoalhaven Development Control Plan (DCP) 2014 and "*defer the draft changes to Chapter G9: Development on Flood Prone Land relating to subdivision in Greenwell Point to seek legal advice and remove the current wording in the DCP pending a further report on further advice*".

In accordance with the resolution, Amendment No. 5 to the DCP was notified on 30 November 2016 including the removal of the wording relating to subdivision in Greenwell from Part D, Schedule 5 in Chapter G9: Development on Flood Prone Land.

Legal Advice

Legal Advice was sought from Marsdens Law Group (Confidential Attachment 1) which considers the following main points and the relationship between them:

- Whether Shoalhaven DCP 2014 and Shoalhaven LEP 2014 are consistent with the Floodplain Development Manual 2005, Floodplain Risk Management Plan 2008 and Floodplain Risk Management Study 2008;

- Whether Council and its Councillors would benefit from the statutory indemnity provided by Section 773 of the LG Act; and
- What amendments could be made to Shoalhaven DCP 2014 or Shoalhaven LEP 2014 in relation to subdivision in Greenwell Point?

As the advice is confidential and privileged, it has been included as a confidential attachment. A confidential Councillor Briefing was held to discuss the details and implications for Council raised in this advice. .

Section 733 of the Local Government (LG) Act 1993

Section 733 of the LG Act provides Council with a statutory exemption from liability in respect of advice furnished or things done or omitted to be done in “good faith” in so far as it relates to the likelihood of land being flooded or the nature or extent of any such flooding. Section 733 applies to (among other things):

- The preparation or making of an environmental planning instrument, or a development control plan under the *Environmental Planning and Assessment Act 1979* (EP&A Act),
- The granting or refusal of consent to a development application under the EP&A Act,
- The determination of an application for a complying development certificate under the EP&A Act.

Council would normally be considered to have acted in good faith if it acts substantially in accordance with the principles contained in the Floodplain Development Manual and the Guideline.

Council has mostly demonstrated compliance with the principles and processes contained in the Floodplain Development Manual and Guideline in respect of the process undertaken and in accordance with Section 2 of the NSW Floodplain Development Manual 2005. The process lead to development controls being included in Shoalhaven Development Control Plan No.106 Amendment No. 1 (adopted by Council April 2011). The specific subdivision controls for Greenwell Point were carried across into Chapter G9: Development on Flood Prone Land of Shoalhaven DCP 2014, however those controls were removed in accordance with Council’s resolution of 7 November 2016 to adopt Amendment No. 5 to DCP 2014 and “*defer the draft changes to Chapter G9: Development on Flood Prone Land relating to subdivision in Greenwell Point to seek legal advice and remove the current wording in the DCP pending a further report on further advice*”.

The legal advice (Confidential Attachment 1) addresses the changes proposed through Council’s resolution of 7 November 2016 to allow subdivision in Greenwell Point.

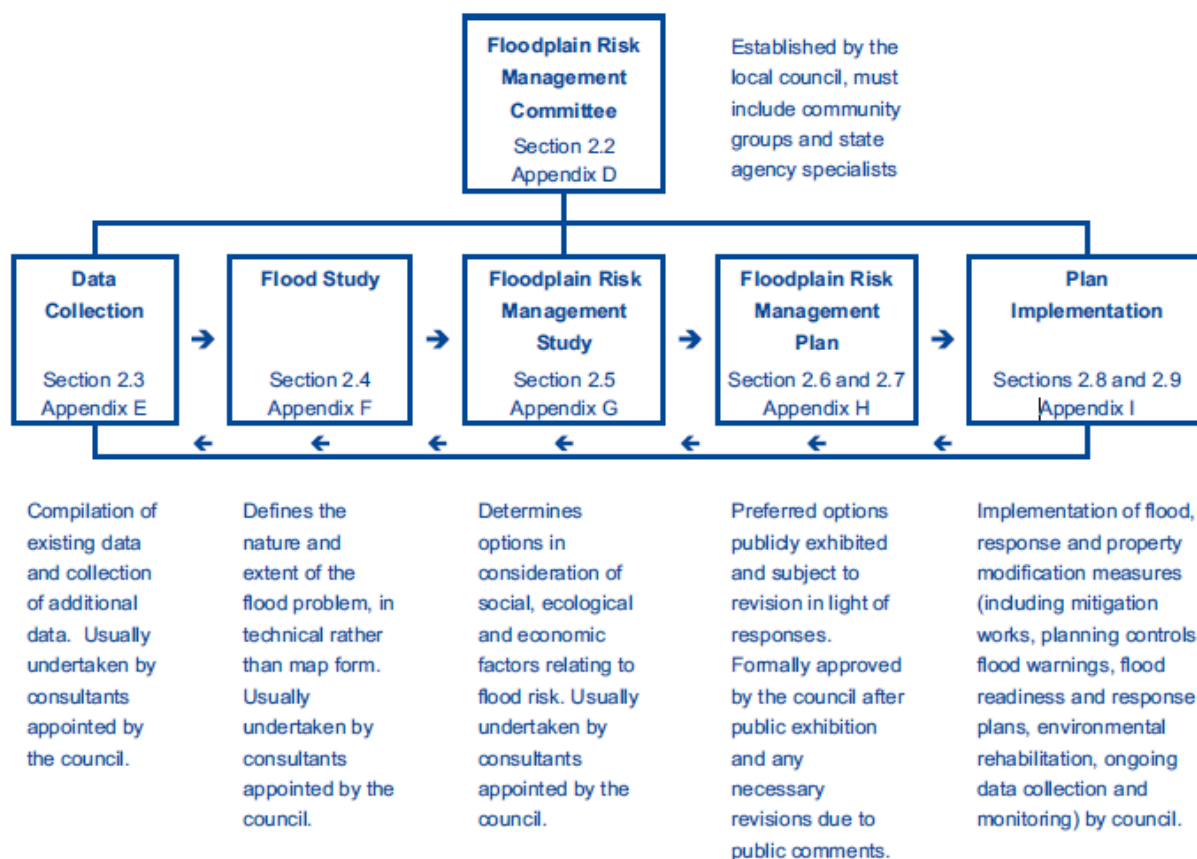
NSW Floodplain Manual 2005

The NSW Floodplain Manual has been in place since April 2005, and is supplemented by the “Guideline on Development Controls in Low Flood Risk Areas” dated January 2017.

The primary objective of the Manual is to “*reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone property, and to reduce private and public losses resulting from floods, utilising ecologically positive methods wherever possible.*” The process for adopting and implementing a Floodplain Management Plan and Study is detailed in Figure 1 below.

The manual recognises that the management of flood prone land is, primarily, the responsibility of councils. The NSW Department of Planning & Environment (DP&E) has a lead role in the development of regional strategies and plans under the Environmental Planning and Assessment Act (EP&A Act) and ensuring that any Planning Proposals are consistent with the Minister for Planning’s Section 117 Directions, including Direction 4.3 Flood prone Land issued 1 July 2009.

The NSW Government, through the Office of Environment and Heritage (OEH) and the State Emergency Service (SES) play an important role in providing specialist technical assistance on all flooding and land use planning matters. The NSW Government continues to provide funding to subsidise flood risk management studies, works and measures through their Floodplain Management Program.



*Fig 1: The Floodplain Risk Management Process
(NSW Floodplain Development Manual 2005)*

Lower Shoalhaven River Floodplain Risk Management Plan and Study (FRMS&P)

The FRMS&P examines flooding issues relating to the floodplain of the Lower Shoalhaven River and identifies issues raised in the course of the study relating to “Subdivision of Land and Evacuation Access” at Greenwell Point. A copy of the Flood Study Report, the Risk Management Study and Plan as well as the Climate Change Assessment completed in 2011 for the Lower Shoalhaven River are available from Council’s website at:-

<http://shoalhaven.nsw.gov.au/Environment/Flood-risk/Flood-program#lowershoalhaveninprog>

Section 5.2.4 of the FRMS&P states (pp 43-44):

Any proposal for further subdivision of land at Greenwell Point will increase the population at risk and potential damages due to flooding for the area. There will also be a greater reliance on emergency services, since the subdivision is likely to attract new people to the area who are not necessarily flood aware.

Ensuring that high hazard flood prone land situated in the existing developed areas is zoned low density and enforcing minimum floor height restrictions will prevent large increases in population or potential flood damages.

DE17.20

Land not classified as flood prone should have similar low density restrictions because the entire area can be isolated from services such as fresh water, sewer and electricity during major flood events. Even though there will be no threat to property in the flood free areas there will still be a burden for emergency services because of the isolation. Any further expansion or new development beyond the current residential zoning should not be permitted at all.”

The FRMS&P is due for review and Council's Natural Resources team are currently developing a project brief and anticipate that the tender process will commence in the next month or so. This review will take approximately 2 years to fully complete and will be undertaken in accordance with the principles and processes defined in the *Floodplain Development Manual*

Greenwell Point Evacuation Issues

The village of Greenwell Point experiences access and evacuation difficulties in potentially as little as a 10% AEP design event and greater. Greenwell Point is classified as an 'island' under the Floodplain Manual 2005. The formation of islands in the floodplain during a flood is a potentially dangerous situation. People trapped on the island and their rescuers will be placed at undue risk. Thus, the development of land that becomes isolated prior to ultimate inundation needs to be carefully considered.

In comparing Greenwell Point to other villages and townships, the following were considered (although not directly the same):

- Burrill Lake;
- Conjola Lake;
- Lake Tabourie;

The flood behaviour for the above villages is similar in regard to:

- Catchment flooding,
- Oceanic inundation,
- Low-level persistent flooding, or
- Combination of the above.

However none of the above villages become totally isolated (island) for extended periods of time during floods. The lower Shoalhaven River catchment is large and has flat topography, thus flood waters can remain for longer periods.

Advice was provided by the State Emergency Services (SES) State Headquarters in relation to a current development application for subdivision in the village. The detailed response from SES is included as Attachment 2. The SES acknowledge that an assessment to determine emergency response classifications has not been conducted for Greenwell Point, however it is likely that there are areas above the Probable Maximum Flood (PMF) level that would be classified as 'high flood islands'.

Greenwell Point Floodplain Risk Management Options Feasibility Study

The Greenwell Point Floodplain Risk Management Options Feasibility Study (Attachment 3 – Councillors Information Folder) thoroughly investigated the floodplain mitigation and management measures recommended in the adopted FRMS&P. The Feasibility Study demonstrates that the structural mitigation options of a levee and the raising of Greenwell Point Road would provide significant flood benefits. However, these measures were generally not supported by the community and are therefore not considered feasible at this time.

Based on the community feedback, the adopted study recommended planning and education initiatives as the most feasible measures that can be implemented for the area.

Council resolved on 10 February 2015 to:

- a) *Adopt the Greenwell Point Floodplain Risk Management Options Feasibility Study;*
- b) *Remove the site specific flood related development controls from the table in Chapter G9 (formerly DCP 106) of Shoalhaven DCP 2014, Schedule 5 Part D for the properties: 3, 7, 9, 11, 42, 59 Adelaide Street; 59 Haiser Road, 2 Keith Avenue, 1 Church Street and 68, 70, 76 Greens Road in Greenwell Point through the Shoalhaven DCP 2014 'Housekeeping Amendment' Part 1;*
- c) *Continue to work with the SES on community awareness and education programs to raise awareness of the flood risk at Greenwell Point;*
- d) *Request Council's Roads Manager, for any future upgrade works of Greenwell Point Road, assess the possibility of incrementally raising the lower sections of the road without impacting on drainage effectiveness*

The change to Chapter G9 of Shoalhaven DCP 2014 detailed in part b) of this resolution was made effective on 1 July 2015. The possible raising of the lower sections of Greenwell Point Road is being investigated and Council's staff will continue to work with the SES on community awareness and education programs to raise awareness of flood risk at Greenwell Point.

Shoalhaven LEP 2014

Clause 7.3 Flood Planning in the Shoalhaven LEP 2014 is a 'model clause' provided by the NSW Department of Planning & Environment (DP&E) that has been slightly adapted to meet the local situation in Shoalhaven.

Clause 7.3 (3) in Shoalhaven LEP 2014 includes the following criteria for the assessment of development applications that are affected by this clause:

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 compatible with the flood hazard of the land, and*
- b) *will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- c) *incorporates appropriate measures to manage risk to life from flood, and*
- d) *will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding, and*
- f) *will not affect the safe occupation or evacuation of the land.*

DP&E's [drafting instructions](#) related to this Clause encourages Council's to:

"first identify flood planning areas through their strategic work and to zone appropriately, wherever possible. Care should therefore be taken in determining the permissible development on land that may be subject to flooding to ensure that appropriate uses are included and that relevant types of development require consent under the applicable zones. Councils are then encouraged to apply this model clause in flood planning areas, particularly where flooding matters cannot be fully addressed by limiting land uses e.g. in areas where an existing zone and existing land uses include residential accommodation."

As shown in Figure 2 below, the majority of Greenwell Point is currently zoned R2 Low Density Residential (with a minimum lot size of 500m²). There are some areas that are also zoned SP3 Tourist, B2 Local Centre, R1 General Residential, IN2 Light Industrial and R3

Medium Density. Most of the zones were a 'best fit' transfer from the previous Shoalhaven LEP 1985.

As discussed at Council's Development Committee Meeting held on 7 November 2016, Council had resolved to rezone Lot 1 DP 530097 and Lots A-D in DP 391663 at 1 Greens Road, Greenwell Point from industrial to residential in July 2005. Arising from the introduction of the Standard Instrument LEP, Council was advised by DP&E that rezoning proposals should not be considered while Councils were in the process of preparing their Standard Instrument LEP's. The draft Shoalhaven LEP under this process included a change of zone to residential in accordance with Council's resolution. The draft LEP was exhibited twice, showing this change and it was eventually included in the notified Shoalhaven LEP 2014. This zoning did not follow the general process required for Planning Proposals which would have required an assessment against the FRMS&P, the Floodplain Development Manual or relevant Section 117 Planning Directions.

Following consideration of the legal advice, the importance of the reconciliation of the rezoning of the additional land in Greenwell Point (Greens Road) to Zone R2 Low Density Residential under Shoalhaven LEP 2014 after the adoption of the Flood Management Risk Study (FMRS) in October 2007 was highlighted; especially in terms of it's consistent with either the principles of the Floodplain Development Manual or with the floodplain risk management process that had been undertaken by Council."

The rezoning, based on the existing flood study and adopted plan, is unlikely to be considered as "substantially in accordance with the principles contained in the Floodplain Development Manual" or to accord with the floodplain risk management process set out in the Manual. As a result, the Council would have to demonstrate how it acted in good faith if challenged. .

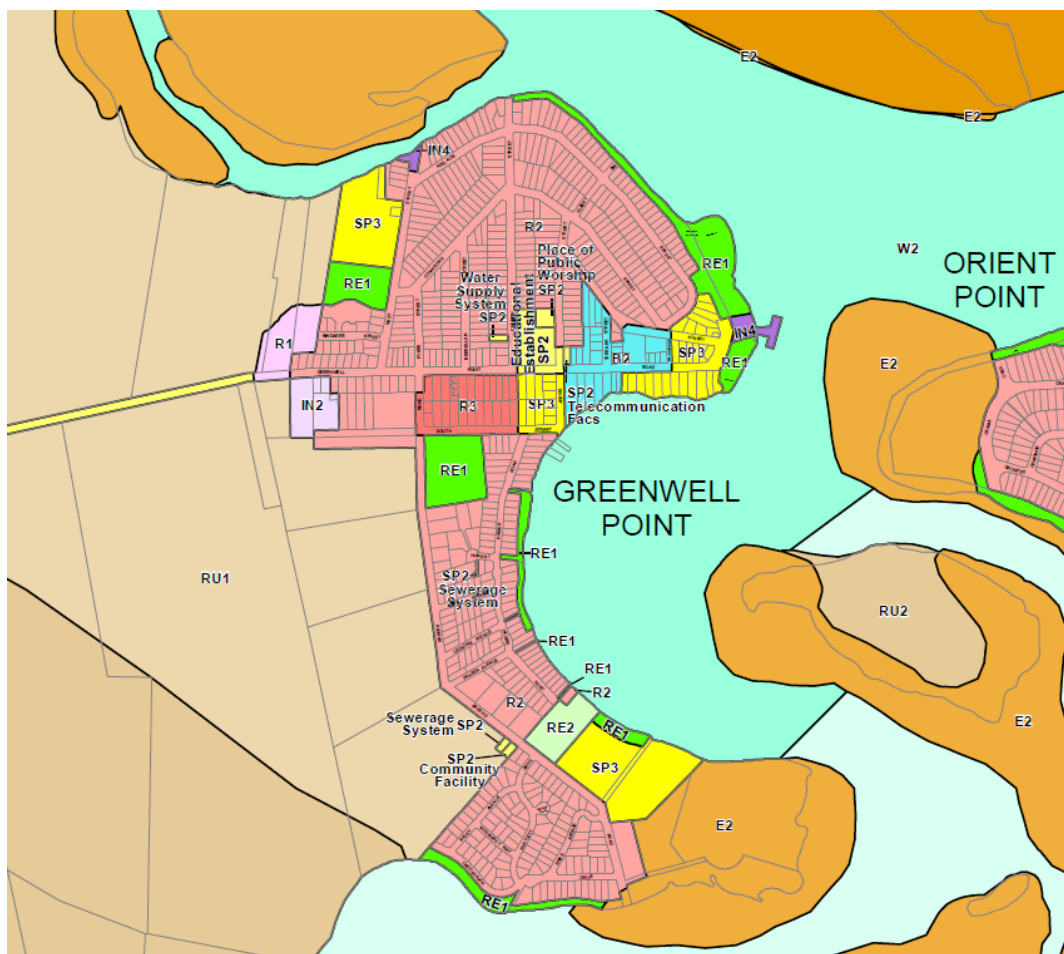


Fig 2: Shoalhaven LEP 2014 zoning map

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Shoalhaven DCP 2014

The previous wording in the DCP was problematic in that it did not have the power to prohibit subdivision or additional development, only an Environmental Planning Instrument (e.g. LEP) can prohibit development. The DCP can however provide controls and criteria that must be considered in any development application and Council may refuse development applications where the proposed development does not meet the requirements in the DCP.

Any amendment to Part D of Schedule 5 in the DCP in line with the 2015 notice of motion is unlikely to have the benefit of the indemnity from liability provided in section 733 of the LG Act as it is not “*substantially in accordance with the principles contained in the Floodplain Development Manual*”, nor does it accord with the floodplain risk management process that has been undertaken by Council. It is therefore recommended that any changes to restrict development in accordance with the FRMS&P be undertaken through a review of the land zoning and minimum lot size controls in Shoalhaven LEP 2014 and a subsequent review of the DCP to ensure consistency.

Subdivision Application

A Development Application (DA) for a 9 lot residential subdivision over 1 Greens Road, Greenwell Point was submitted on 20 December 2016. The application is currently under assessment, however concerns have been raised through the referral process for this application.

Conclusion

Even though the flood behaviour is similar, what makes Greenwell Point unique is that it becomes an isolated island where evacuation and access is severely affected for an extended period of time. The liability for Council of allowing further population intensification is difficult to estimate and would require further investigation to determine the scale of the liability. Following consideration of the legal advice, it is clear that Council's indemnity offered by Section 733 of the Local Government Act requires Council to either follow the process prescribed in the Floodplain Manual and undertake actions in 'good faith' to maintain indemnity or alternately be able to demonstrate how it has acted in good faith, and on what basis.

Following consideration of the legal advice (confidential Attachment 1), it is important to ensure that 'one-off' changes are not made to the management plan or the Council's planning instruments and controls that have potential consequences on the flood risk to life and property associated with the use of land. Council must determine a clear policy position in relation to development at Greenwell Point by adopting either Option 1 or 2 following consideration of the implications outlined in this report.

Community Engagement

Council has met its current legislative requirement for consultation through the exhibition of Amendment No. 5 to Shoalhaven DCP 2014.

Any further review of Shoalhaven LEP 2014 or Shoalhaven DCP 2014 will involve consultation with the community and affected landowners. Any resultant draft amendments would also need to be exhibited as required by legislation.

Policy Implications

The current FRMS&P was prepared in accordance with the Floodplain Development Manual and Guidelines.

Council needs to clarify and resolve the difference between the existing zoning provisions that imply further development ability and the recommendations of the FRMS&P, which suggest restrictions on the intensification of development. A review of the FRMS&P will enable Council to determine whether any changes should be made to enable further expansion or new development in Greenwell Point.

The controls within Shoalhaven DCP 2014 are ultimately the last stage in the process and implement the actions of the FRMS&P.

Financial Implications

There are no immediate and direct financial implications for Council if development is restricted in Greenwell Point in accordance with the FRMS&P and legal indemnity is maintained. A future review of Shoalhaven LEP 2014 and Shoalhaven DCP 2014 would be resourced within the existing Strategic Planning budget. Any review of the FRMS&P will potentially need to be resourced within the Environmental Services budget.

If there is a mind to not restrict development in Greenwell Point, Council may not be afforded protection under Section 733 of the LG Act, unless it can demonstrate how it has acted in good faith. If Council is legally challenged on this decision, there is a risk that Council could be liable for damages following a flood event if it is found to not have acted in good faith by providing suitable flood risk management controls in accordance with the FRMS&P.

Risk Implications

Increased density through subdivision or new development will potentially increase the existing burden on emergency services and will increase the number of people at risk during a flood event.

Consistency with the FRMS&P is the most straight forward way to ensure Council's planning documents include suitable controls consistent with the Floodplain Development Manual and Guidelines and to ensure Council is acting in good faith when providing flood risk controls maintain legal indemnity.

19 January 2017



The General Manager
Shoalhaven City Council
PO Box 42,
Nowra, NSW, 2541

State Headquarters
Level 3, 6-8 Regent Street
Wollongong NSW 2500
PO Box 6126
Wollongong NSW 2500
Phone 02 4251 6111

Your Ref: Greenwell Point
Attention: Ms Isabelle Ghetti

Dear Ms Ghetti,

GREENWELL POINT

Thank you for the request for comment from the NSW State Emergency Service (NSW SES) with regards to the investigation into the potential for subdividing land and permitting medium density development at Greenwell Point.

The NSW SES is the legislated combat agency for floods, storms and tsunami in NSW. This role includes, planning for, responding to and coordinating the initial recovery from floods.

The NSW SES has a strategic interest in the public safety aspects of the development of flood prone land, in particular, the potential for changes to land use to either exacerbate existing flood risk or create new flood risk for communities in NSW. Additional information about the NSW SES responsibilities and emergency management arrangements in flood can be found in the State Flood Plan, which is available at: <http://www.ses.nsw.gov.au/communitysafety/floodsafe/floodplanning/>.

Greenwell Point

Greenwell Point is a flood prone location. It is surrounded by flood water during a flood. Some properties in Greenwell Point will have over floor flooding in events more frequent than a 10% AEP flood whereas other parts are above the probable maximum flood (PMF) and not flood affected.

Table 3 of the Lower Shoalhaven River Floodplain Risk Management Study (Shoalhaven City Council, 2008) shows that the 10% AEP flood level in Greenwell Point is 2m AHD. At this level 137 properties will have over floor flooding and Greenwell Point Road will be inundated in at least two locations by 0.3m of flood water. Furthermore a 'survey of Greenwell Point Road found approximately 5.7 km of the road below or equal to a level of 2m AHD'. The study also states that areas above the PMF could be 'left without power, water or sewer, as well as access to food or medical supplies without the need for third party intervention'. (pg 27)

To assist in devising emergency response strategies, the SES classifies communities according to the impact flooding has on them. A High Flood Island ‘includes enough land higher than the limit of flooding (i.e. above the PMF) to cope with the number of people in the area.’ Whereas a Low Flood Island may ‘not have enough land above the limit of flooding to cope with the number of people in the area’ (NSW Department of Environment and Climate Change, 2007).

Although an assessment to determine emergency response classifications has not been conducted for Greenwell Point, it is likely there are areas above the PMF which would be classified as ‘high flood islands’. This is where the land is surrounded by flood water but not directly impacted by flooding. Furthermore, as an assessment of the capacity of Greenwell Point community to cope with the risk during floods up to and including the PMF has not been conducted, it is unknown whether the community can cope with the risk during floods.

During a flood, the NSW SES response strategy for Greenwell Point is to warn the community to evacuate prior to Greenwell Point Road closing. If the community does not evacuate in time, they will become isolated for up to three days at a time. Greenwell Point is a particularly difficult place to resupply, especially during a severe flood on the Shoalhaven River, when NSW SES resources are limited. Therefore to ensure the safety of residents who have not evacuated prior to flood waters closing Greenwell Point Road, and other roads within the town, there would need to be adequate services to support the community for the period they are isolated.

Any increase in residential development at Greenwell Point will increase the population at risk from flooding. A decision to enable development that deliberately places more people at risk from flooding, is in contravention to emergency management principles supported by the NSW SES. Furthermore, where no mitigation strategies are put in place to address the existing, future and continuing risk, the NSW SES will be required to devise emergency response strategies to deal with this additional population at risk.

NSW State Emergency Service position

The NSW SES considers the following emergency management principles to be of particular importance in undertaking an adequate flood risk assessment, although this list is not to be considered exhaustive. The principles relevant to the current information request include:

- Development needs to avoid an intolerable increase in risk to life, health or property of people living on the floodplain.
- Risk assessment needs to consider the full range of flooding; including events up to the PMF and not focus only on the 1% AEP flood (see Floodplain Development Manual section 2.4, page 7). This would assist in developing the classification of communities to assist with emergency management planning.
- Risk assessment needs to pay particular regard to flood warning and evacuation demand on existing and future access/egress routes. Consideration needs to be given to the impacts of localised flooding on evacuation routes.

- In the context of future development, self-evacuation of the community needs to be achievable in a manner which is consistent with the NSW SES's principles for evacuation.
- Future development must not conflict with the NSW SES's flood response and evacuation strategy for the existing community. The arrangements and strategies are contained in local flood plans and guided by Part 6 of the State Flood Plan.
- Evacuation must not require people to drive or walk through flood water.
- Development strategies relying on deliberate isolation or sheltering in buildings surrounded by flood water are not equivalent, in risk management terms, to evacuation.
 - o Evacuation ensures people can be moved to a location where they are reliably separated from the risks associated with flooding, whereas an isolated community in a flood will continue to require emergency services to maintain around the clock safety monitoring. In the worst case the NSW SES may be required to undertake dangerous and logistically difficult rescue operations.
 - o Sheltering in buildings surrounded by flood water presents a greater risk than a well-conducted evacuation. It should only be used where evacuation is not possible, or where evacuation from an at-risk area has failed. Where evacuation is not possible, the risks of sheltering needs to be adequately assessed to determine the tolerability of isolation, before any strategy of sheltering in place can be considered.
 - o 'Shelter in place' strategies increase the risk to emergency service personnel. Before attempting rescue, emergency service personnel will assess the risk to their own safety. There is therefore no guarantee that rescue will be available for residents who are effectively entrapped in a building during a flood.
- Development strategies relying on an assumption that mass rescue may be possible where evacuation either fails or is not implemented are not acceptable to the NSW SES.
- The NSW SES is opposed to the imposition of development consent conditions requiring private flood evacuation plans rather than the application of sound land use planning and flood risk management.

Isolation of Greenwell Point during flooding

In the case where the only safe road to evacuate on is closed by river floodwater or local stormwater before flooding is obvious to residents such as in Greenwell Point, this will present difficulties in motivating people to evacuate early and people may become isolated. If the Greenwell Point community does not evacuate in time, they will become isolated during a flood. This can be for periods of three days or more at a time. Furthermore, 30% of the population living at Greenwell Point is over 60 years of age. These residents are likely to be more vulnerable to medical emergencies.

Tolerability of isolation

When determining the tolerability of isolation, it is important that urban design and development take into account expected human behaviour and the expected range of severity of hazards. Likewise emergency management strategies have to take into account expected human behaviour and the expected range of severity of hazards.

A paper by Haynes et al. (2009) supports this in reference to new development, indicating:

‘If decisions to deliberately adopt shelter in place instead of evacuation are to be defensible, then a methodology must be developed to reliably quantify the residual risk stemming from the human behaviour the research predicts. This is essential if that risk is to be objectively assessed in terms of tolerability (of death or injury).’ (p9)

In determining whether to allow development that will lead to an isolated community during a flood, a decision-maker needs to take into account risks such as the unpredictable nature of human behaviour during a flood including the desire to escape from a hazard when it is unsafe to do so. People may also have the desire to access isolated areas to reunite with loved ones or return to a home cannot be underestimated. A recent study by Haynes et al. (2016) has shown that since 2002, 90 people have died trying to cross flooded roads.

A paper by Oppen and Toniato (2008, p4) provided some commentary on what should be further considered when determining flood risk tolerability, comparing the risk standards that apply to urban areas near large industrial complexes. This paper also includes the NSW SES position on evacuation and shelter in place. Specifically, the paper notes:

‘The Service’s evacuation-centric public safety position is logical and defensible because evacuation is the only emergency management measure that ensures people can be moved to a location where they are reliably separated from the risks associated with flooding. Only after a threatened area has been evacuated, is it no longer necessary for the emergency services to maintain around the clock safety monitoring of isolated communities or to have to implement dangerous and logistically difficult rescue operations.’ (Oppen and Toniato, 2008, page 2)

‘The SES’s evacuation-centric position is not based on the convenience of the SES but on a belief in the spirit of its’ legislative responsibility as defined in the SES Act 1989 (as amended). Part 2, Section 8 of the SES Act says, inter alia; “to protect persons from dangers to their safety and health, and to protect property from destruction or damage, arising from floods and storms”.’ (Oppen and Toniato, 2008, page 2)

‘It should be made very clear that in relation to the strategy of sheltering in place the SES has done some work with several councils which have flash flood risk over large urban areas. In this existing flash flood context, and only in that context, it has been recognised that causing residents to attempt to evacuate at the time flash flooding is occurring, could be a serious risk to life. Only in areas where urban redevelopment cannot be prevented under existing planning policy, it has therefore been proposed

that the DCP for any new or redeveloped dwelling will require an internal refuge area above the level of the PMF.’ (Opper and Toniato, 2008, page 5)

‘The SES’s position, supported by all workshop participants, continues to be that isolation is dangerous from the moment it commences and the longer the isolation continues, the more opportunity there is for an emergency to develop. Despite considerable pressure during the Court proceedings to do so, the SES was not prepared to specify a safe period of isolation arguing that there is, at least at present, no logical basis on which to determine this.

For example:

- Would you evacuate to avoid 30 minutes of isolation? – probably not BUT that depends on individual risk circumstances e.g. What if (it) were possible for floodwater to rise a further 2 metres after you are cut off?

- Is 30 minutes of isolation safer than 24 hours? – intuitively the answer seems to be yes BUT is 30 minutes of isolation safe?

The problem is that at present it is not possible to answer these questions in a logical, quantitative, and repeatable way. For the time being then it is obviously convenient for the pro-floodplain development lobby to convince the Court, without any proof, that deliberate isolation is a sound flood risk management strategy.’ (Opper and Toniato, 2008, page 8)

Additionally, other secondary emergencies such as fires and medical emergencies may occur in buildings isolated by floodwater. During flooding it is likely that there will be a reduced capacity for the relevant emergency service agency to respond in these times. Even relatively brief periods of isolation, in the order of a few hours, can lead to personal medical emergencies that have to be responded to.

‘Shelter in place’ strategies also increase the risk to emergency service personnel. Before attempting rescue, emergency service personnel will assess the risk to their own safety. There is therefore no guarantee that rescue will be available for residents who are effectively entrapped in a building during a flood.

As no analysis of whether it would be tolerable or not for the future occupants of the site to be isolated during a flood, the NSW SES recommends that Council consider the above and give due consideration to the risks that this proposal may create if approved.

Concluding remarks

The NSW SES considers that if subdivision or medium density development is allowed, it will ultimately expose more people to the effects of flooding. The Service considers that this would not be an orderly planning outcome, unless sufficient evidence can show that the period of isolation is tolerable for the future residents in flood events up to and including the probable maximum flood.

I trust that the above advice will assist Council in its review of the development potential at Greenwell Point. Please contact me on (02) 4251 6665 if you wish to discuss any of the matters raised in this correspondence further.

Yours sincerely,
Marcus Morgan
Planning Coordinator
NSW State Emergency Service

Cc: Alexandra McFadden, A/Deputy Region Controller, Hunter SES Region
Manager, Emergency Risk Management

References

1. Haynes, K., Coates, L. & van den Honert, R. An analysis of human fatalities and building losses from natural disasters: Annual project report 2015-2016. (Bushfire and Natural Hazards CRC, 2016).
2. Haynes, K., Coates, L., Leigh, R., Gissing, A., McAneney, J., Handmer, J. & Opper, S., 2009 'Shelter-in-place v. Evacuation in Flash Flood Environments' Paper presented at the Joint NSW and Victorian Flood Management Conference – Albury Wodonga 16 – 20 February 2009.
3. NSW Department of Environment and Climate Change, 2007, Floodplain Risk Management Guideline: Flood Emergency Response Planning Classification of Communities.
4. Opper, S. and Toniato, A., 2008 'When too much risk just isn't enough – welcome to fortress flood' Paper presented at the 48th Annual Floodplain Management Authorities Conference, Wollongong.
5. Shoalhaven City Council, 2008, Lower Shoalhaven River Floodplain Risk Management Study.

DE17.21 Restaurants and Cafes - A new interim restaurant authorisation system for liquor licences

HPERM Ref: D17/43541

Group: Planning & Development Services Group
Section: Development Services

Purpose / Summary

The NSW Government is making it easier for restaurants and cafes to seek on-premises licences to sell liquor as soon as they have lodged a liquor licence application online. This is referred to as an interim arrangement. To qualify applicants need to meet and adhere to certain requirements.

Council has received correspondence from Liquor and Gaming NSW advising also that they would appreciate Council informing applicants (of Development Applications (DAs)) to include advice with respect to any intentions concerning the sale of liquor and the purpose of the venue (café or restaurant) when lodging a DA. The reason for this being a quicker turnaround of interim applications.

Recommendation (Item to be determined under delegated authority)

That this report be noted for information.

Options

1. Note this report for information.

Implications: Nil.

2. Resolve alternatively to the above and advise and direct staff accordingly.

Background

On 8 December 2016, the NSW State Government announced a range of changes to areas of the State's liquor laws.

The changes included a provisional approval system that grants interim restaurant authorisations for restaurants and cafes so they can begin serving liquor as soon as they lodge a licence application online provided they meet certain requirements. The authorisations were made available from 31 January 2017.

Details

Eligibility for an interim authorisation

To be eligible, applicants must apply online for an on-premises licence for a restaurant and fulfil certain requirements including but not necessarily limited to:

1. Seeking standard trading hours with liquor to be sold only with meals.

2. No authorisations such as extending hours of trade must have been applied for.
3. Have development consent to use the premises as a restaurant or café. Council and the community must be informed about the intention to sell liquor. This is expected to be done with the notification of the development application.

An interim authorisation is exempted from advertising and public submission requirements under the liquor laws on the basis that consultation would have occurred as part of the development application assessment and approval process.

Cost

Development Application fees apply as prescribed by the Planning and Assessment Regulations 2000. There is no additional fee for an interim restaurant authorisation on the standard fee which is \$700 for an on-premises liquor license applies and no GST is applicable.

When can liquor start to be served?

If an interim authorisation has been granted:

- The licensee must comply with the licence conditions and the Liquor Act 2007.
- Staff must have a Responsible Service of Alcohol (RSA) certification before liquor is serviced.
- Signage must be displayed at the premises indicating the name of the premises, type of liquor sold, type of license g Interim Restaurant Authorisation and what business is being conducted eg restaurant. The sign must be visible from outside of the front of the premises.

Hours of trade

If an interim restaurant authorisation is granted, liquor can be served between 10am to Midnight Monday to Saturday and 10am to 10pm on Sunday.

Cancellation

Cancellation can occur if the licensee does not provide information to Liquor and Gaming NSW within 30 days if information is requested or if conditions of the licence are not complied with. There are penalties of up to \$11,000 or 12 months imprisonment for breaches of NSW liquor laws such as underage drinking.

Full licence

Once an interim authorisation has been issued, Liquor and Gaming NSW will assess a licence application as per the existing arrangements in place and thereafter a full licence will be issued or alternatively a refusal. If a refusal is issued, liquor sales must cease.

Toilet facilities

The Building Code of Australia only requires toilet facilities in restaurants when the population exceeds 20. However, alcohol is a diuretic and there is a need to ensure at least one unisex toilet facility is provided at these smaller venues if alcohol is to be sold. Council Officers have raised this with the Compliance Section of Liquor, Gaming and Racing and it is currently being considered.

DE17.22 Future Potential Subdivision within the R2 Zone Hyams Beach

DA. No: SF10534

HPERM Ref: D17/46796

Group: Planning & Development Services Group
Section: Development Services

Attachments: 1. Report - Development Committee 23 January 2017 [↓](#)
2. Subdivision Potential Hyams Beach Village [↓](#)

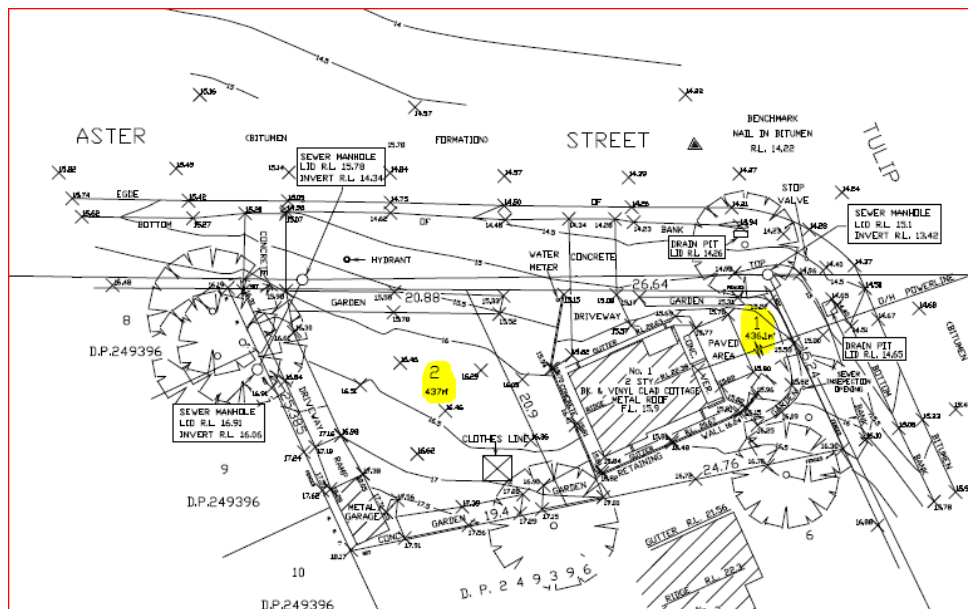
Purpose / Reason for consideration by Council

Development Committee (23 January 2017) deferred consideration of Development Application (DA) SF10534 – Proposed 2 lot subdivision at Lot 7 DP249396 (No.1) Tulip Street, Hyams Beach to the “*Development Committee Meeting, Tuesday 14 March 2017 in order to assess the flow on effects of future potential subdivisions*”. The report to Development Committee of 23 January 2017 is available in full, in **ATTACHMENT 1**.

Since consideration of the matter on 23 January 2017, the applicant has chosen to amend the DA. The revised plan of subdivision (**Figure 1**), submitted 15 February 2017, has adjusted the proposed boundary so that Lot 1 has an area of 437m² and proposed Lot 2 has an area of 436.1m².

Figure 1

Extract of revised plan of subdivision for SF10534 submitted 15/2/17



The applicant proposes variations to the minimum lot size of 12.6% and 12.8% to proposed Lots 1 and 2 respectively. This however is still a 25.4% variation over two lots instead of an equivalent variation for a single lot.

Given the change to the application and submission of additional information, due process must be observed and in this regard, referrals are underway (Rural Fire Service (RFS) and Threatened Species Officer (TSO)). The proposal is also being renotified to ensure neighbours and submitters are aware of the change.

DE17.22

On receipt of all referral responses the revised application will be subject to the full assessment process that includes consideration of submissions and the policy direction provided by Council.

Recommendation (Item to be determined under delegated authority)

That:

1. Council note the findings of this report; and
2. Confirm the variations to the minimum lot size proposed in development application SF10534, as modified, not be supported and the application be determined under delegated authority.

Options

1. Support the recommendation.

Implications: The revised application would not proceed and would result in a refusal given that the lot size variation is not supported. This could result in an appeal to the Land and Environment Court. There would also be cost implications to Council if litigation ensued.

2. Given the significant implications of permitting the variations, that prior to making any decision, the whole village be invited to comment on a Hyams Beach lot size policy variation.

Implications: This would require Council to write to the community, seek comments, compile the results of the consultation and potentially report the matter to Council. This information could potentially inform a potential amendment to the minimum lot size map in SLEP14 with respect to Hyams Beach. This would be the most equitable approach if Council wishes to allow smaller lot sizes within the village.

3. Not support the recommendation.

Implications: The Committee would need to provide direction to staff.

Background

The following analysis of potential subdivision in Hyams Beach is based solely on existing lot size. A detailed assessment of constraints that may limit or preclude subdivision would require a detailed investigation of building and environmental impacts on individual lots.

ATTACHMENT 2 maps the lot sizes and subdivision potential with the R2 zone in Hyams Beach.

Table 1 shows the subdivision potential for the village of Hyams Beach based on lots that may comply with minimum lot sizes and lots that may be subdivided with a total variation of 25% to the minimum lot sizes.

Table 1
Subdivision Potential R2 Zone Hyams Beach

Extent of variation to minimum parent lot size	No. lots with subdivision potential	Additional lots	Additional lots less than 500m² after subdivision
Nil variation	11	12	23
25% variation	36	36	72
Total	47	48	95

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Assumptions:

- The number of lots with subdivision potential includes the lot subject of this report, i.e. Lot 7 DP 249396.
- Lots within R1 zone are not included.
- **Subdivision potential is based on lot size only.** Environmental or building constraints that may affect the suitability of a lot for further subdivision are not considered.
- Lots with subdivision potential, nil variation required:
 - Corner lot subdivision: $2 \times 500\text{m}^2 = 1000\text{m}^2$ or greater;
 - Battle-axe lot subdivision: $500\text{m}^2 + 650\text{m}^2 + 60\text{m}^2$ (handle, $4\text{m} \times 15\text{m}$) = 1210m^2 or greater.
- Lots resulting from 25% variation to minimum parent lot size:
 - Corner lot subdivision: $1000\text{m}^2 / 0.75 = 750\text{m}^2$;
 - Battle axe lot subdivision: $1210\text{m}^2 / 0.75 = 907.5\text{m}^2$, adjust to 900m^2 .

Table 2 below shows the existing number of lots less than the minimum 500m^2 and the potential impact on the subdivision pattern should the potential subdivisions in Table 1 proceed. This does not include seven lots in Community Title Schemes for approved tourist developments.

Table 2

Lot Size in the R2 Zone Hyams Beach

Existing lots	218	Potential lots	266
Existing lots $< 500\text{m}^2$	5	Potential lots $< 500\text{m}^2$ with 25% variation	72
% existing lots $< 500\text{m}^2$	2.29%	% potential lots $< 500\text{m}^2$	27%

The result of the subdivision is potentially a higher density of development which is of concern, noting the isolated location (only one road into / out) of Hyams Beach.

The following table shows the subdivision potential for the village of Hyams Beach based on lots that may comply with minimum lot sizes and lots that may be subdivided with a total variation of 25% to the minimum lot sizes.

Table 3

Subdivision Potential – lots with a 25% Variation

Extent of variation to minimum lot size	No. lots with subdivision potential	Additional lots
Nil variation	11	12
25% variation to minimum parent lot size	36	36
Total	47	48

Again, there have been certain assumptions made. Refer to the information associated with Table 1.

Policy Implications

Approval of a subdivision with a 25% variation is considered to create an undesirable precedent that may facilitate and provide weight to further subdivision within the Hyams Beach village.

DE17.22

Significant variation to the minimum lot size will compromise the integrity of the development standards of the SLEP14, and over time increase densities to a greater level than that currently allowed; inevitably this will change the character of the village.

Consultation and Community Engagement:

The revised plan of subdivision, Statement of Environmental Effects, bushfire report and flora and fauna assessment are being re-notified to persons making previous submissions. Additionally, technical referrals have also been made.

Summary and Conclusion

Based on the application of 25% variation to minimum lot size, there is potential for an additional 36 residential lots, this could result in 72 lots less than the minimum lot size, see Table 1. In addition, the potential for subdivision without variation is for 12 additional lots equal to or greater than the minimum lot size. The total subdivision potential is 48 additional lots, this includes lots that meet the minimum lot size and lots with a 25% variation.

There are a small number of existing lots (5) in the R2 zone that are less than the minimum lot size, that is, 2.29% of existing R2 zoned lots. A 25% variation to the minimum lot size has the potential to create 72 lots less than the minimum, an increase of 27% in the number of lots less than the minimum, see Table 2.

Supporting the lot size variations creates a potential that may lead to other applications and possibly also for greater variation. Council's ability to withstand substantial departures from the minimum lot size, in the event of an approval, will be compromised which in turn will call into question the integrity of the development standard.

The potential for additional lots is not insignificant. The impacts of the additional lots will result in additional development and population in a sensitive coastal village that currently enjoys a very attractive and somewhat distinctive character. Hyams Beach is a unique coastal village accessed by a single road that is bushfire affected. The village places significant demands on Council resources during peak holiday periods and the increased population and associated demands with any increased residential densities may contribute further to these holiday impacts.

Support for the proposed variations subject of the current application will not by itself necessarily change the character of the village but it will encourage further similar development which cumulatively, will contribute to alterations in the appearance of area which in turn will impact on the low scale and low density 'coastal village' character of Hyams Beach.

**DE17.6 Development Application SF10534 – Proposed 2
lot subdivision at Lot 7 DP249396 (No.1) Tulip
Street, Hyams Beach**

DA. No: SF10534

HPERM Ref: D16/404195

Group: Planning & Development Services Group
Section: Development Services

Description of Development: Two lot subdivision

Owner: J Forbes

Applicant: Lee Carmichael Town Planning

No. of Submissions: 13 in objection
0 in support

Purpose / Reason for consideration by Council

The applicant proposes a Clause 4.6 exception to the minimum lot size, as specified by Shoalhaven Local Environmental Plan 2014 (SLEP 2014). The extent of the exception, or variation exceeds the delegated authority level (greater than 10%) of staff, and is therefore required to be considered by Council.

Recommendation (Item to be determined under delegated authority)

That the request for the exception under Clause 4.6 of the Shoalhaven Local Environmental Plan 2014 (variation), to the minimum lot size:

1. Not be supported; and
2. Refer the application back to staff for determination.

Options

1. Not support the exception to Clause 4.1 SLEP2014, under Clause 4.6 SLEP 2104.
Implications: The application would not be able to be supported, and the application would therefore be determined by way of refusal, under delegated authority.
2. Support the application, and the exception to Clause 4.1 SLEP2014, under Clause 4.6 SLEP 2014, as submitted.
Implications: Subject to the completion of a satisfactory 79C assessment the application be determined by way of approval, under delegated authority.
3. Adopt an alternative recommendation and provide direction to staff.

Background

Proposed Development

The applicant proposes a 2 lot Torrens title subdivision. Proposed lot 1 will have an area of 373.1m² and will contain the existing dwelling.

Proposed lot 2 will have an area of 500m², and will include the existing garage. This lot may be further developed by way of a future dwelling or attached dual occupancy.

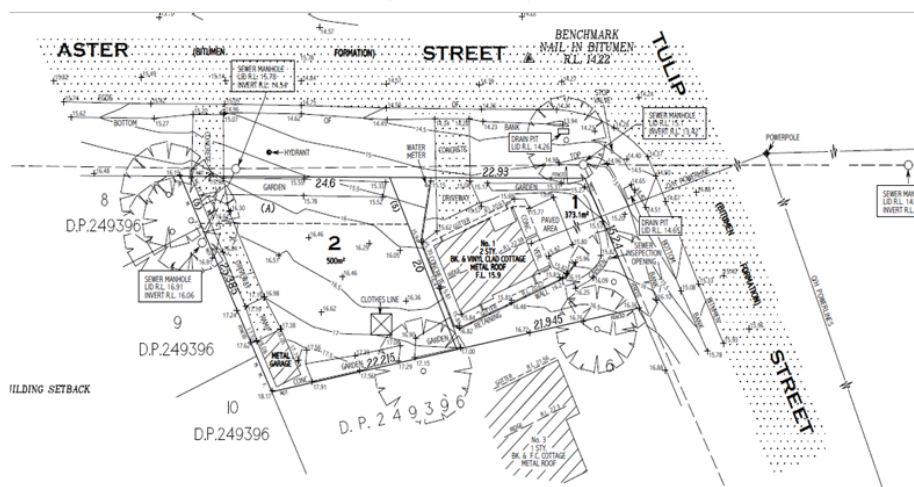
The applicant is seeking an exception (or variation) with respect to proposed lot 1, under clause 4.6 of the Shoalhaven Local Environmental Plan 2014 (SLEP 2014), to the minimum lot size of 500m².

Proposed lot layout

Figure 1

Extract of subdivision plan

Johnson Procter Surveyors dated 26 July 2016, reference 16070.



Subject Land

The subject land is Lot 7 DP249396, 1 Tulip Street, Hyams Beach. The land is situated on the corner of Aster and Tulip Street, it faces the National Park to the north of the Hyams Beach village.

Figure 2 – Site Location



Site & Context

Hyams Beach is surrounded by National Park and vacant Crown land. Access to the village is limited to a single road through heavily vegetated lands. The subject land is located on the northern 'edge' of the village separated from the National Park by Aster Street. Of the 40 lots within the area identified above:

- There are no lots less than 550m²;
- 40% have an area between 651m² and 700m²;
- 10% of lots have an area between 800m² and 850m²;
- 12.5% of lots exceed 850m², including the subject land;
- 7 (including the subject land) of the 40 lots have an irregular lot shape to accommodate the trapezoid blocks defined by the road reserve.

The size of the existing lot and the lot configuration is consistent with the overall subdivision pattern in the northern end of the village.

History

The subject land was subdivided in 1962. A weatherboard and brick dwelling is located on the land. Additions to the dwelling were approved in 1987 (BA87/0639) and a Building Certificate (BC14/1003) issued for the dwelling and metal shed in 2014.

Issues

Clause 4.1 Minimum subdivision lot size, Shoalhaven Local Environmental Plan 2014

Clause 4.1 is reproduced below.

4.1 Minimum subdivision lot size

- (1) *The objectives of this clause are as follows:*
 - (a) *to ensure that subdivision is compatible with, and reinforces the predominant or historic subdivision pattern and character of, an area,*
 - (b) *to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,*
 - (c) *to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.*
- (2) *This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.*

- (3) *The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.*
- (4) *This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.*

The subject land is identified on the SLEP14 Lot Size Map as having a minimum lot size of 500m². Proposed Lot 2 has an area of 500m² and achieves the minimum lot size. Proposed Lot 1 has an area of 373.1m² and is 25.38% less than the minimum lot size.

The Hyams Beach area is not subject to Clause 4.1A *Exceptions to minimum lot sizes for dual occupancy and multi dwelling housing*.

The applicant has made a formal submission requesting a variation the minimum lot size under Clause 4.6 *Exceptions to development standards*.

Applicant's Submission

The relevant details from the applicant's submission is reproduced below.

The following comments are made in support of this proposal and to justify the request made for this application to be approved pursuant to Clause 4.6 of the SLEP 2014:

- 1) *The provision of the SLEP 2014 which requires variation is Clause 4.1. This clause is not expressly excluded from the operation of Clause 4.6 of the SLEP 2014.*
- 2) *The standard being varied is the 500m² minimum lot size.*
- 3) *The land is with the R2 zone.*
- 4) *The objectives of the zone have been outlined earlier in this report.*
- 5) *The objectives of Clause 4.1 are as follows:*
 - a. *to ensure that subdivision is compatible with, and reinforces the predominant or historic subdivision pattern and character of, an area,*
 - b. *to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,*
 - c. *to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.*
- 6) *The extent of the variation is 25.38% with the proposed lot size at 373.1m².*
- 7) *The proposal is consistent with the objectives of the R2 zone for the following reasons:*
 - a. *The proposal contributes towards providing additional saleable housing in the locality.*
 - b. *The proposal to subdivide cannot reasonably be regarded as one that will substantially alter the low density nature of the existing residential environment.*
 - c. *The proposed lots will facilitate the construction of detached housing and housing that will be compatible with the immediate environs.*

- d. *The proposal to subdivide will in no way result in development that would be incompatible with the existing built environment.*
- 8) *The proposal is consistent with the objectives of the development standard for the following reasons:*
 - a. *There is no reason to believe that the subdivision will not be compatible with the established subdivision pattern. Both new lots will have full street frontage and the current property, being a corner lot, lends itself to this proposal.*
 - b. *The design of the subdivision is sound with respect to creating new lots which can be developed in accordance with the provisions of Council's adopted development controls for single dwellings and/or dual occupancy. These policies aim to ensure development takes place in such a way so as to protect the amenity of adjoining lands.*
 - c. *The new lot proposed can easily accommodate new residential development – it meets the minimum lot size. With respect to the under-sized lot, it must be remembered that it already contains a dwelling and this sits comfortably within allowable development controls for low density residential development (i.e. setbacks, FSR etc). The newly proposed vacant lot meets the minimum lot size.*
- 9) *Strict compliance with the development standard in this instance is not considered necessary for the following reasons:*
 - a. *The site is within an established residential area comprising a range of lot sizes. The locality is one subject to urban renewal through redevelopment and use of vacant land as well as replacement of existing housing stock.*
 - b. *As outlined above, the proposed subdivision if approved will not result in development taking place that would be contrary to the objectives of the R2 zone or the objectives of Clause 4.1.*
 - c. *The proposed subdivision will not impact on either the built or natural environment in any substantial away. In this regard;*
 - i. *It will not result in any substantial changes to the established streetscape qualities of the area;*
 - ii. *The act of subdividing will not directly impact on neighbouring properties. Future development will be subject to building application requirements where issues including overshadowing, noise, and privacy will be addressed. The new building site would have good separation distances to adjoining dwellings.*
 - iii. *The act of subdividing the site will not result in any substantial changes to traffic volumes in the locality;*
 - iv. *Subdividing the site will not necessitate removal of any existing important vegetation.*
 - d. *This report demonstrates that despite Lot 1 being less than 500m² in area, the proposal fully complies with the performance criteria within Council's Development Control Plan for Subdivisions (Chapter G11).*
- 10) *The contravention of the 500m² development standard in no way known to the author of this report raises any matter of significance for State or regional environmental planning. Further, there are no identifiable public benefits of the maintaining the 500m² development standard in this instance. The proposal*

does not represent an unacceptable departure to said standard and this report demonstrates the merits of the application justify approval of the same.

- 11) *Due to the size, scale and nature of the development coupled with the nature of the variation sought, the proposal will not hinder the attainment of the objects specified in Section 5(a)(i) and (ii) if the EP&A Act.*
- 12) *The site is not one that would be sensitive to threatened species issues, and it is not flood prone. Further, the site is not steep or unstable land. Potential bushfire threat has been appropriately assessed and professional advice from Bushfire Building Solutions Pty Ltd indicates the proposal is acceptable in this regard. For these reasons, it is considered that there are sufficient environmental planning grounds to approve the proposal.*
- 13) *It is our view that the proposal will not set an undesirable precedence. Hyams Beach has been subject of subdivisions in the past whereby lots of less than 500m² have been created. Further, the locality is undergoing change and redevelopment includes larger homes and dual occupancies. The site, its location within Hyams Beach, the fact that it contains an existing dwelling, it being located on a corner lot, coupled with the absence of development opposite the site contribute towards the appropriateness of the proposal.*
- 14) *The proposal is within the public interest for reasons outlined above.*

It is requested that for reasons outlined above and throughout the remainder of this report, the Council approve the creation of the lots proposed.

Discussion

An assessment of the proposed Clause 4.6 variation against the five part test as outlined in Department of Planning, *Varying development standards, A Guide*, August 2011 is made below.

1. **The objectives of the standard are achieved notwithstanding noncompliance with the standard;**

The objectives are:

- (a) **to ensure that subdivision is compatible with, and reinforces the predominant or historic subdivision pattern and character of, an area,**
- (b) **to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,**
- (c) **to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.)**

For a sample of 40 lots in the vicinity of the subject land, existing lots have a:

- minimum area of 588.06m²;
- maximum area of 1138.18m²;
- median range of 651m² to 700m²; and
- mean area of 702.94m².

The areas of the proposed lots are 500m² and 373.1m². The proposed lots are significantly smaller than the lots within the existing subdivision. The proposal is not compatible with the predominant subdivision pattern or character of the area.

The result of the subdivision is potentially a higher density of development which is of concern, noting the isolated location of Hyams Beach.

2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

The underlying objectives of Clause 4.1 preserve and support the zone objectives and the intentions of the SLEP 2014 as demonstrated by the exclusion of the Hyams Beach area from the provisions of Clause 4.1A *Exceptions to minimum lot sizes for dual occupancy and multi dwelling housing*.

Clause 4.1A permits the subdivision of constructed dual occupancies and multi-dwelling housing within R1 and R2 zoned land to create Torrens Title lots less than the minimum lot size shown in the Lot Size Map. The Clause permits the creation of lots to 350m² within Area 1 and to 400m² within Area 2. The Clause does not apply to areas:

- where there are significant limitations on higher densities, such as the lack of town sewer; or
- where the character of the area is considered a significant and desirable attribute, such as Hyams Beach; and / or
- where the environmental heritage of the area may be unsuited to higher densities, such as Berry and Milton townships.

The Clause requires that the dwellings be constructed prior to the issue of a Subdivision Certificate thereby ensuring that the final development achieves the desired outcomes as outlined in the relevant Chapters of SDCP14.

3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

Compliance with the minimum lot size of 500m²:

- Is compatible with and does not limit, restrict or prevent the reinforcement of the predominant or historic subdivision pattern and character of, an area;
- Minimises any likely impact of subdivision and development on the amenity of neighbouring properties;
- Ensures that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.

Therefore, the underlying objectives of Clause 4.1 are not thwarted or defeated by compliance with the development standard.

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

The development standard has not been abandoned. No other variations to the development standard as applied in SLEP 2014 have been approved for the Hyams Beach area.

5. *The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

In accordance with the findings of *Four2Five Pty Ltd v Ashfield City Council* (2015) NSWLEC 90 the applicant has not established that the requested variation to the minimum lot size is unreasonable and unnecessary.

Showing that the development achieves the objectives of the development standard will be insufficient to justify that a development is unreasonable and unnecessary in the circumstances of the case for the purposes of an objection under Clause 4.6 (and 4.6 (3) (a) in particular (Excerpt Is an Objection Under Clause 4.6 More Onerous to Establish Than Under SEPP1?, Stuart Simington, Lindsay Taylor Lawyers, July 24 2015).

The R2 Low Density Residential zone applying to the land is appropriate given the constraints on the area imposed by the isolation, limited access and bush fire risk. The R2 zone is consistent with the domestic low scale coastal residential / village character of the area. The subject land and the current residential use of the land are not unique with respect to location, lot size, orientation, configuration or constraints, that is, the site and dwelling do not provide or present a particular set of circumstances warranting special consideration or smaller lot development. Furthermore, the isolated location and associated bushfire risk are also important considerations with respect to controlling density of development.

Accordingly, compliance with the development standard is neither unreasonable nor unnecessary.

To establish that compliance with the development standard is unnecessary and/or unreasonable, circumstances specific to the proposed development must be identified to justify a significant departure from the development standard. For example, a pre-existing use of the land that is at variance with the objectives of the residential zone (petrol station) and where separation of a portion of the land for residential use is considered reasonable.

The proposal requires clearing of vegetation within the road reserve to provide asset protection requirements. The impact of such clearing has not been assessed and the required specialist report has not been received to date (at the time of writing this report).

Planning Assessment

The DA will be assessed under s79C of the Environmental Planning and Assessment Act 1979. At the time of drafting this report, the planning assessment was not complete.

Policy Implications

Environmental Planning Instrument SLEP 2014

Support for a significant variation of 25.38%, undermines the integrity of the development standard as discussed earlier in this report.

Consultation and Community Engagement:

Thirteen (13) submissions were received in relation to Council's notification of the development. All were objections to the development. The notification was made in accordance with Council's Community Consultation Policy with letters being sent to adjoining and nearby property owners and the Hyams Beach Villagers Association (HBVA).

Key issues raised as a result of the notification are provided in the table below:-

Table 1 – Key Issues	
Issues / Concerns Raised	Comments
<i>Does not comply with the SCC LEP14, Part 4.1 Minimum Sub Division Lot Size, Objectives 1, a, b and c; Objective 2 Lot size Maps, which require 500 sq mtrs and Objective 3.</i>	Agreed

Lot 1 of the proposed subdivision does not comply (and is not even close to) the minimum lot size of 500 sq mtrs.	Agreed
373.1m ² is a <u>substantial reduction</u> to the already minimum block size. It is difficult to see that a block size only 75% of the <u>minimum</u> is in any way acceptable.	Agreed
I completely object to this variation as the Council mapping site distinctly shows that Hyams Beach does not fall in permissible areas for subdivision below 500 sqm. On the Council map for our area the shaded green depicts a minimum permissible lot minimum lot size of 500 sqm. The Vincentia map has a blue border around it which indicates that clause 4.1A of the SLEP 2014 applies i.e. dual occupancy subdivision. However, Hyams Beach does not have a blue border, therefore Clause 4.1A of the SLEP does not apply - therefore minimum lot sizes must be 500sqm.	Noted
Not representative of any historical subdivision in the Village and is smaller than previously allowed subdivisions	Agreed
The proposal is overdevelopment and inconsistent with the objective and terms of the LEP (a legally binding document). They aren't guidelines to be overcome but impose limits for the benefit of residents which should be respected. If this sort of development is allowed it begs the question as to what the use of LEPs are and why bother consulting with residents when they are being prepared in the first place.	The proposal is an intensification of land use and is not characteristic of the area
As Secretary of HBVA I have received a substantial number of communications from residents of the village, expressing dismay at the application and the precedent it could set. I personally share these concerns, especially in view of the fact that HBVA, as the recognised CCB for the village, has just commenced the development of a strategic plan - in which the issues raised by this application will certainly be given considerable attention. In view of this process, any departure from the minimum subdivision sizes set out in the SCC LEP 14 would seem particularly unfortunate and to risk setting a dangerous precedent that could undermine important elements of our strategic plan.	The proposal is a significant variation to the minimum lot size development standard.
Construction of a larger home on the second block will result in over development of this area	The proposed vacant Lot 2 achieves the 500m ² minimum lot size for the area. Further development of the lot would require a further application and assessment under the 'rules' applicable at the time.
We already have so many overdeveloped sites which continue to cause ongoing problems with neighbours - the hatred and bickering has become unbearable.	Noted.
I echo the sentiments of other residents of Hyams Beach who are appalled at the idea of further degrading a village atmosphere characterised by quiet enjoyment, large open lots, expansive views, and extensive vegetation. This proposal would directly contribute to degrading these characteristics, particularly in a quiet corner of Hyams Beach that has remained relatively unaffected by much larger recent developments in other parts of the village. I encourage you to strongly reject the proposer's assertion that "It is not expected that this proposal will in any way alter the character of the place." This is demonstrably false and self-serving	The low density 'village' character of the area is a significant factor in the assessment of this application.
If this application is approved it would be a green light for any landowner or speculator to make the same application and such subdivisions would spoil the 'village' atmosphere of Hyams Beach.	The low density 'village' character of the area is a significant factor in the assessment of this application.
Hyams Beach is one of the most beautiful places in the Shoalhaven area and must be protected from overdevelopment.	Noted.
As both Council and residents repeatedly acknowledge, a large part of the appeal of Hyams Beach is the view corridors afforded to most homes in the	The low density 'village' character of the area is a

<i>village due to the relatively small homes on larger blocks, a factor which the council has thankfully and obviously taken account of in its minimum allowable block size. To ignore this now, allowing this exception to the clearly stated rules, sets a precedent that others will be able to cite and employ.</i>	significant factor in the assessment of this application.
<i>It should be noted by Council that no trees or "important vegetation" will be removed in relation to the proposed development because the owner has already cut down all vegetation on the proposed block.</i>	Vegetation is a s79C planning consideration.
<i>Once a subdivision like this is approved it sets a precedence for all future subdivisions and developments.</i>	Each application for variation to a development standard is assessed on its merits.
<i>I request that the Council observes the sensible and reasonable limits already set in the area and reject this proposal, which clearly fails to comply with minimum block-size requirements by a significant margin.</i> <i>By doing so, Shoalhaven Council will be embracing another opportunity to maintain Hyams Beach uniqueness and re-enforce its cultural and environmental value and character as a low density coastal village. This was clearly the Council's intention with the current regulations and I firmly support its ongoing existence. By upholding the SLEP, Hyams Beach will retain its character for both visitors and residents alike, rather than seeing it eroded by setting a precedent which will be hard to overturn when the damage is done.</i>	The low density 'village' character of the area is a significant factor in the assessment of this application.
<i>There is ample land within the Shoalhaven that is available for development without destroying the simple rule of 500 square metres minimum size.</i>	No comment

Financial Implications:

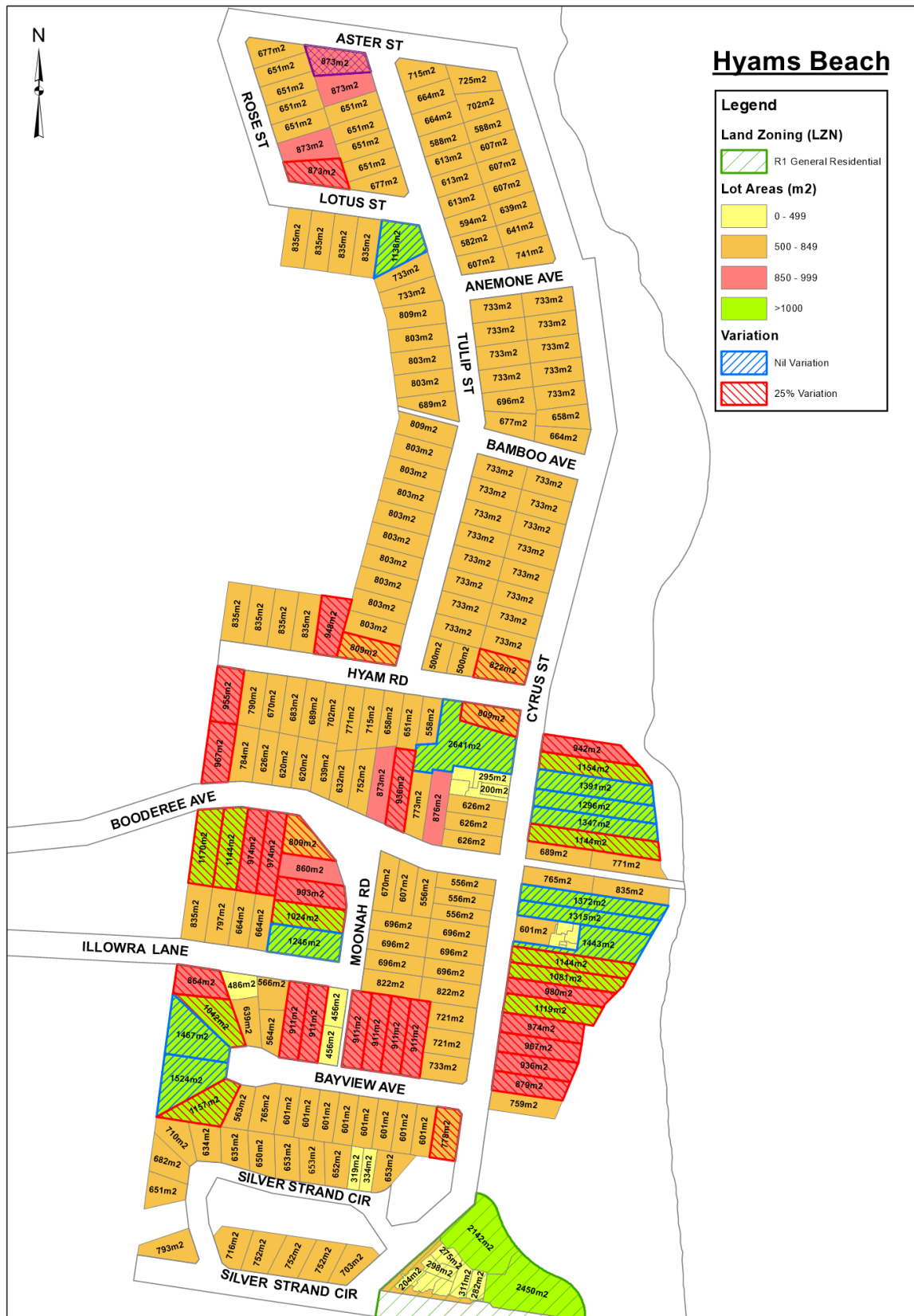
In the event that Council decides to adopt the recommendation and a refusal ensues, the applicant has the right to lodge an appeal with the Land and Environment Court. Litigation has cost implications for Council. Conversely, objectors could also seek to challenge Council's decision if the development is ultimately approved, however this can legally only relate to the process followed by Council not the merits of the application. Again, this has potential cost implication for Council.

Legal Implications

Should the exception not be supported and the application not be approved, then the applicant may choose to lodge an appeal with the Land and Environment Court as is the case with objectors.

Summary and Conclusion

The applicant's submission has not adequately justified the variation to the minimum lot size development standard. The departure from the minimum lot size is significant at 25.38%. In the circumstances of the case and given the attributes of the site, character of the area its location and isolation, noting the bushfire risk, it is considered undesirable to increase the density of the area contrary to the SLEP 2014.



DE17.23 Development Application – Parson St Ulladulla – Proposed Lot 15 in Subdivision of Lot 3 DP 746228 and Lots 5 & 6 DP 805221

DA. No: DA16/2412/4

HPERM Ref: D17/50496

Group: Planning & Development Services Group
Section: Ulladulla Service Centre

Attachments: 1. Site Context Photos [↓](#)
2. DA Plans [↓](#)

Description of Development: Construction of a three storey office building, car parking, landscaping and associated infrastructure

Owner: ET & ME Oberg

Applicant: Triple A Developments

Notification Dates: 12 December 2016 to 9 January 2017

No. of Submissions: 4 in objection
Nil in support

Purpose / Reason for consideration by Council

The purpose of this report is to seek Council direction with respect to a request for a variation of a development standard (building height) applicable to the site under Clause 4.6 of the Shoalhaven Local Environmental Plan 2014 (SLEP 2014).

Recommendation (Item to be determined under delegated authority)

That Council:

1. Confirm that it supports the proposed height variation to the 7.5m height limit and allow the increase sought;
2. Refer the application back to staff for determination by delegation;
3. That a review of the 7.5m building heights in this part of the town centre be included in any future review of DCP2014 Chapter S8 – Ulladulla Town Centre

Options

1. Resolve to support the proposed variation to the development standard for height from 7.5m to 11m and refer the application back to staff to determine the application under delegated authority.

Implications: This would enable the application to be finalised and conditions prepared to enable consent to be issued. The objectors could choose to pursue the matter through the land and environment court. It would however be necessary to demonstrate that due process was not observed with respect to the processing of the DA.

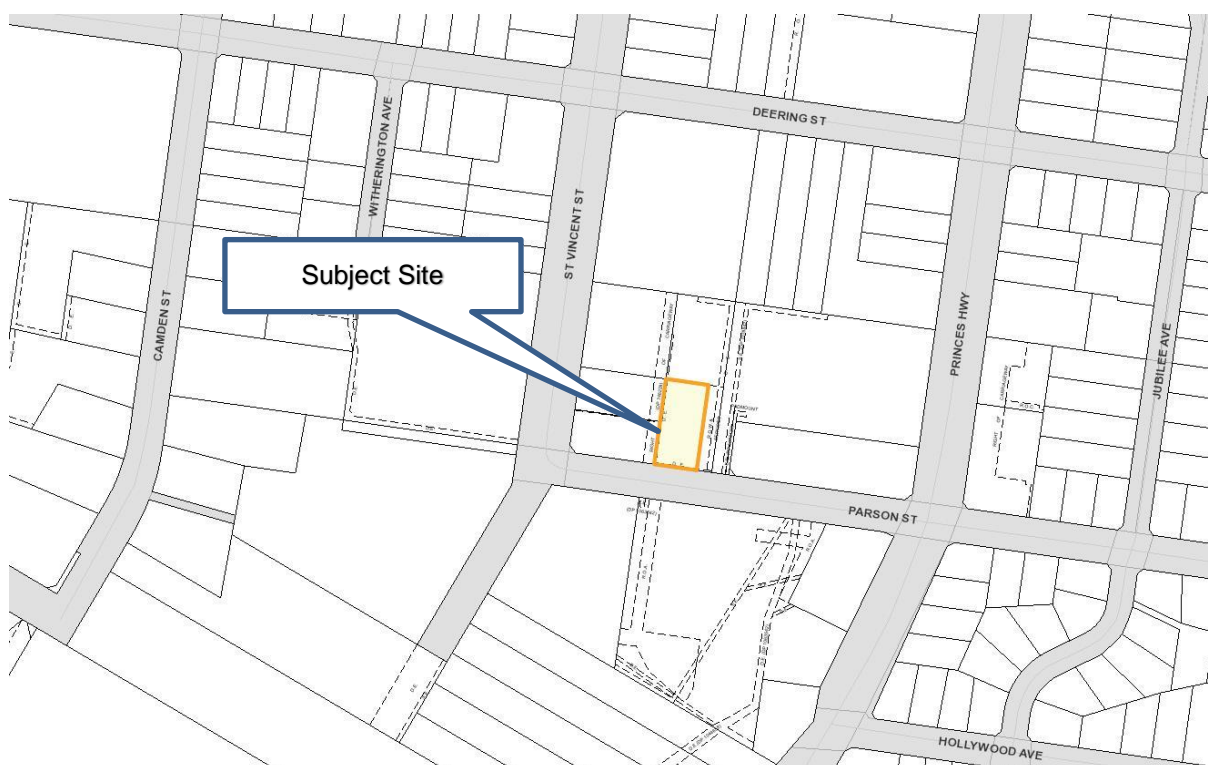
DE17.23

2. Resolve not to support the proposed variation to the development standard and refer the application back to staff to negotiate with the applicant to redesign the proposal to meet the 7.5m height standard.

Implications: This would mean that the application could not be supported in its current form. This would require modifications to be made to specifically adjust the height which could have implications on the development and its commercial viability for the owners of the site. This option could also potentially result in litigation by the applicant.

3. Adopt an alternative recommendation and provide direction to staff.

Figure 1 Location Map



DE17.23

Background

Proposed Development

The application proposes construction of a three (3) storey office building comprising ground floor car parking and two levels of office space (refer to **Attachment 1 – Plans**). More specifically the application can be summarised as follows:

- Overall maximum building height is 11 metres.
- The predominant height expressed to Parson Street is 10.5 metres at the south-western corner to 11 metres at the south-eastern corner. The building reduces in height in a south to north direction with lowest part of the building being to the rear of the structure at 6.48 metres in the north-west corner.
- Building design is contemporary with a mix of materials including concrete, render, metal/aluminium cladding, perforated metal screening and glazing.
- A total of 25 (including 1 accessible space) car spaces are proposed on the ground level.

- Two office levels comprising floor areas of 504m² (first floor) and 492m² (second floor).
- Vehicle entry and egress to and from the site is proposed via Parson Street.

Subject Land

The site is located on the northern side of Parson Street approximately 124 metres west of the Princes Highway and will be created by a separate approval for the consolidation and boundary adjustment of Lots 5 & 6 DP805221 and Lot 3 DP 746228.

The land upon finalisation of a consolidation plan will have a frontage to Parson Street of 33.84 metres and a slightly variable depth averaging 38.5 metres with a total site area of 1303m². The land has a fall of approximately 4.5 metres from the northwest to southeast. The site is currently vacant.

The lot will be encumbered by a 1m wide drainage easement along the western and southern boundaries and a 3m wide drainage easement along the eastern boundary.

Site & Context

The site is surrounded by a range of commercial premises which are characteristic of the B5 Business Development zone.

To the immediate north is a storage facility whilst to the western boundary abuts two lots which comprise a storage facility and car wash with frontages to St Vincent Street. A Right of way adjoins the eastern boundary and beyond this is a car dealership and commercial building with multiple occupancies along the Highway.

On the southern side of Parson Street is the Home Maker Centre with multiple commercial and retail occupancies whilst the Dunn & Lewis Centre and Bunnings are located further west and south-west of the site.

Strategic Context

The development site is located within an existing commercial precinct identified as Precinct 5: Business Development under chapter S8 Ulladulla Town Centre of the Development Control Plan (DCP 2014). The site is characterised by predominantly commercial uses. Buildings are typically single storey however there are more recent larger developments in the immediate surrounds including the Dunn & Lewis Centre, Bunnings and Project Lighting.

The area bounded by Deering Street, St Vincent Street, Parson Street and the Princes Highway is an area of mixed built form and character, with a mix of large format retail buildings with either multiple occupancies or single buildings purposely built such as the car wash and storage facilities, Bunnings and McDonalds restaurant. The area is essentially a mix of business and warehouse and bulky goods premises which are consistent with the objectives of the zone. (refer to **Attachment 2 – Site Context Photos**)

The site is located approximately 400 metres from the Commercial Core of Ulladulla.

Figure 2 Aerial view of subject site and surrounding area



DE17.23

The 7.5 metre height control was originally set in DCP 56.4 in 2008 as an acceptable solution and then incorporated into SLEP 2014 as a development standard. Figure 3 shows the various maximum heights in the locality of the proposal.

Figure 3 Height Limit Map



History

The site was previously approved for expansion of the storage units, however, the owners have decided to limit the extent of the storage units and develop this proposed residual vacant lot more in keeping with the type of development to the south and west of the site.

The building height controls on this site were originally established as 8m and 2 storeys under DCP 56 in 1995, as it applied to most of the town centre area other than some specified locations where 11m or 14m was permitted. DCP 56.4 was adopted in 2008 which included significant changes to building heights, particularly in the business core, of up to 14m with key development precincts of up to 25m, however, in the location of this development the height control was reduced to 7.5m with the intent of insuring that development along the ridge of Deering Street did not impact visually on the appearance of the town centre as viewed from the harbour end of town. This site is well south of this ridge and at least 6m lower than Deering Street.

The adoption of DCP 56.4 caused considerable concern within the Ulladulla community, which stimulated the establishment of the Ulladulla and Districts Community Forum and a sustained campaign to review the heights that were adopted in the plan. Following considerable consultation with the community the heights were revised down and adopted in DCP 56.5 in 2011. The building heights south of the town centre were not highlighted in this review nor was the 7.5m building height reviewed in the preparation of SLEP 2014, which rezoned the low density area to R3 Medium Density in the southeast of the town centre DCP area.

Issues

Clause 4.3 Height of Buildings

The site is situated within an area where Height Building Maps under cl.4.3 of SLEP 2014 provides for a maximum building height of 7.5m. This application seeks to vary this building height development standard.

A variation of 46% (3.5m) is sought along the southern elevation and to a lesser degree to the remaining elevations.

Clause 4.6 Exceptions to Development Standards

The NSW planning system provides flexibility in planning controls by providing the ability for Council to vary development standards in certain circumstances. In this regard, the concurrence of the Secretary of the Department of Planning and Environment (DP&E) can be assumed as provided in DP&E publication – Varying development standards: A Guide – August 2011 (the Guide). Clause 4.6 enables a development standard to be “contravened”, provided the applicant has submitted a written request that adequately justifies the exception (variation) from the development standard by demonstrating that:

- a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and*
- b) *that there are sufficient environmental planning grounds to justify contravening a development standard.*

Further, the consent authority must be satisfied that:

- i. *the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- ii. *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objective for development within the zone in which the development is proposed to be carried out.*

Applicant's Submission

The applicant provided Council with a justification to variation of the development standards as follows:

There are no nearby buildings apart from the adjoining rear storage sheds, the corner Car wash is 8.0 M away to the west and the Car dealership is 28.0 M to the east.

The proposed development will be a landmark Office Building just off the Princes Highway and because the site elevation and location of surrounding buildings, the proposed development will have a stand alone appearance.

The proposed building will be three levels, a Car Park and two Office floors above, the Car Park will be excavated into the rear of the site so that the rear of the building appears two levels and is under the 7.50 M height requirement while the building appearance from Parson Street will be 3 levels with open Car parking across the frontage and the top storey roof facade will be 10.00 M high above natural ground.

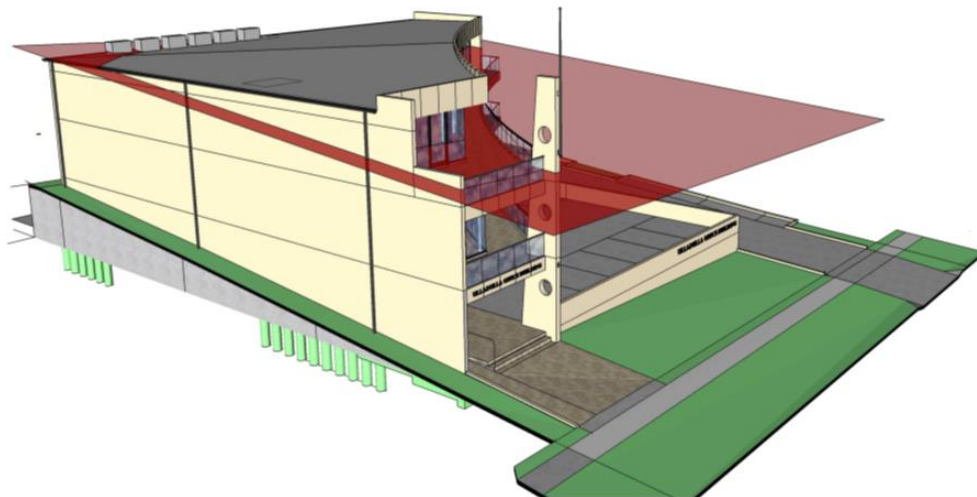
The proposed building frontage has been design to go diagonally across the site following the existing contours of the land with the building frontage set back at the Entry at 5.50 M to the furthest point set back 28.50 M off the front boundary, by following the contour of the land the building design maintains a constant height across the site above natural ground and the bulk of the building height recedes to the rear of the site so there is not a lot of building bulk at the street There is also a precast concrete blade with flag pole which reflects the masthead on a ship which is 11.0 M above ground and ties in with the front Office Terraces, this is a significant feature of the building design as it stands out from the building as the Office terraces recede to the back of the site.

Apart from the Entry frontage and feature concrete blade which are position towards the front of road the building frontage consist mainly of an open Car Parking area with side driveway access, the top floor Offices continues to recede back to the rear of the site, this design reduces the height and bulk appearance of the building from the street frontage.

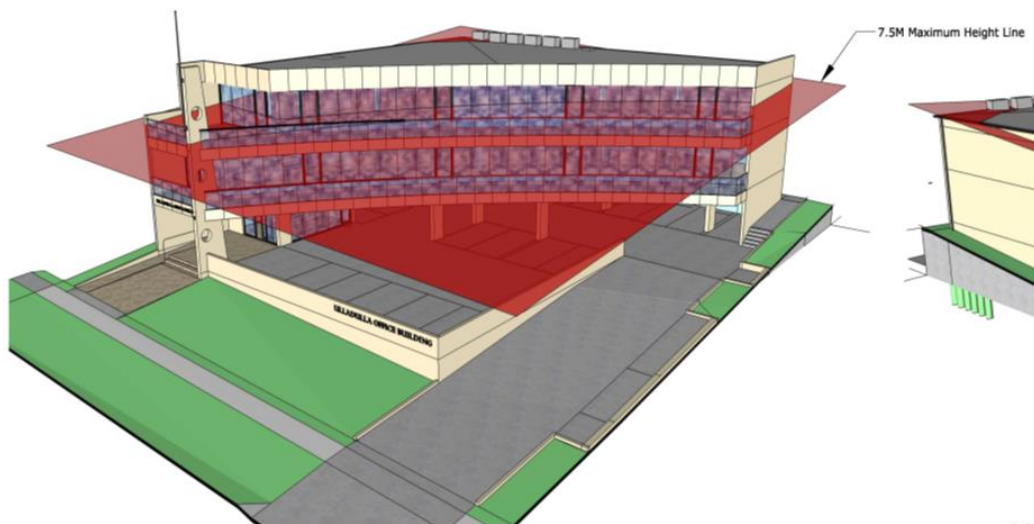
The fall in the land has made it difficult to keep the building height under the 7.50m limitation the diagonal frontage will reduce the impact of the building height on the streetscape and the sweeping curved front terraces will provide an attractive appearance, due to the unique site location there will not be any adjoining buildings next to the building proposal, the building will not compete or detract from the adjoining sites, the request for building height variation in this instance will have no impact on the adjoining and surrounding sites.

The proposed development will have minimal impact on adjoining buildings as the height variation requested will not cause any loss of views, privacy and solar access.

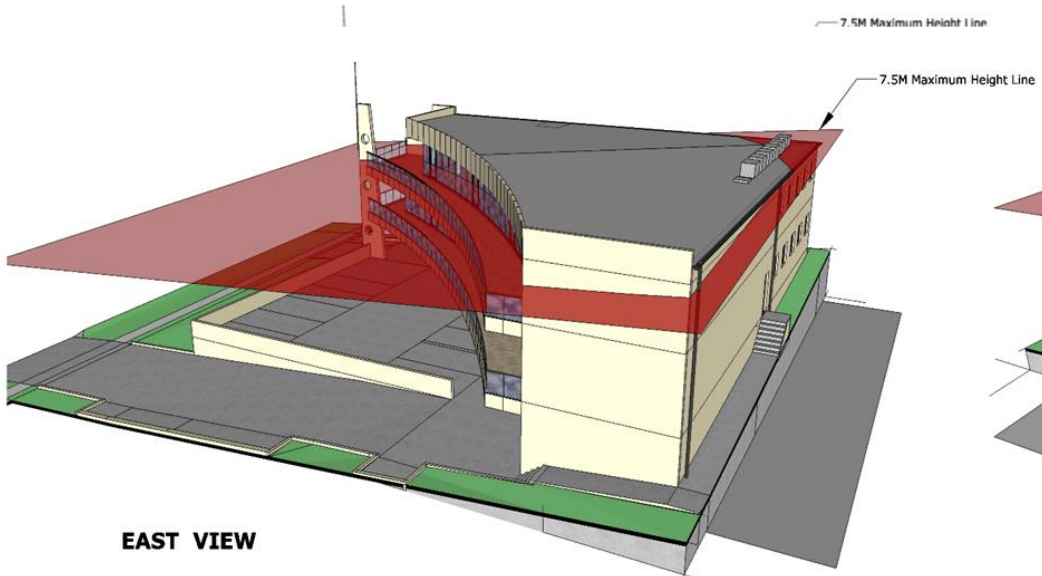
The applicant has also submitted plans which illustrate the extent of the intrusion of the building above the 7.5m height plane.



SOUTH WEST VIEW

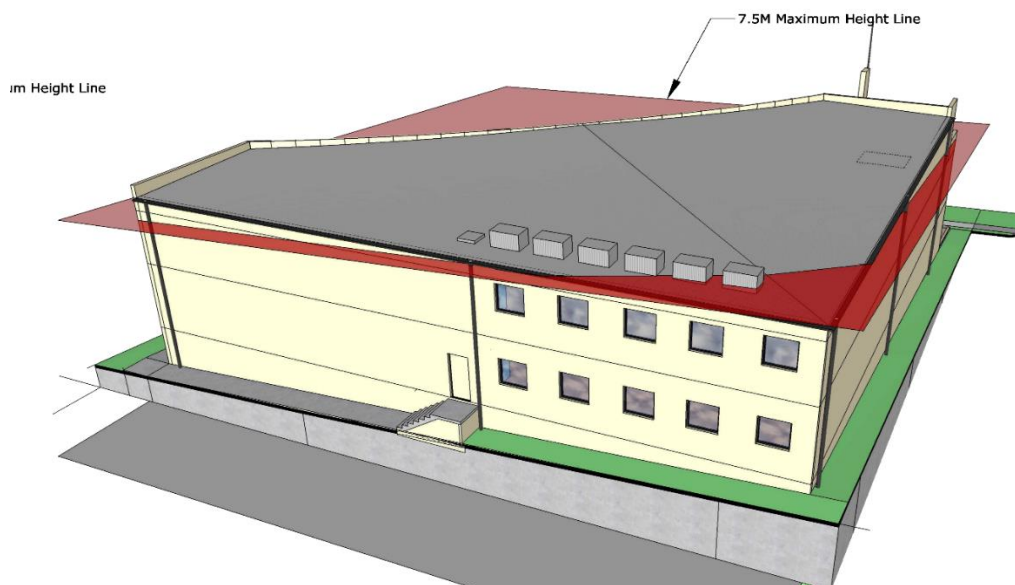


SOUTH EAST VIEW



EAST VIEW

DE17.23



NORTH VIEW

Discussion

In accordance with 4.(a)(i) of Clause 4.6 of the SLEP 2014, the applicant's written request is considered to have adequately addressed the matters required to be demonstrated by subclause (3) that is,

- a) *Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and*
- b) *There are sufficient environmental grounds to justify contravening the development standard.*

After reviewing the applicant's submission, it is considered that the variation is reasonable and acceptable for the following reasons:

- The building height varies with the slope of the block and is contextually appropriate.
- The building height variation does not generate overshadowing impacts on the surrounding properties.
- The proposal is consistent with the desired future character of the area. The area is identified in the Ulladulla Town Centre DCP as a Business Development Precinct located on the fringe of the central business area which will become increasingly important as an area for support activities to the Commercial Core Precinct and provides a buffer to the industrial areas to the south.
- The proposal is considered to be consistent with the objectives of the height standard, to ensure that the height of development is appropriate to the condition of the site and its context.
- Where the variation is the greatest in the southern elevation it incorporates large expanses of glass and balconies to the first and second floors which provide articulation and reduces the perceived height from the street level. The curved shape of the front elevation also provides relief and softens the appearance of the building from Parson Street.
- Height controls can be appropriate so long as they appropriately designed to facilitate good planning outcomes. In this instance it is considered that this might not be the case and a review of the current height controls in the precinct would be beneficial to identify the desired outcomes and the appropriateness of the controls. There is considerable

variation in the building height controls in the immediate surrounds of this proposal. An 11m height control applies to the west side of St Vincent Street, a 10m height limit applies to the south side of Parson Street (opposite the site) which is the same B5 zoning. Low density residential land surrounding this precinct has an 8.5m height control but medium density R3 within the precinct has a 7.5m height control (Refer Figure 3).

Consistency with the underlying objectives of the standard:

The objective of the Height Standard is listed at Clause 4.3 (1) of SLEP 2014.

- a) *to ensure that buildings are compatible with the height, bulk and scale of existing and desired future character of the locality,*
- b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*
- c) *to ensure that the height of building on or in the vicinity of a heritage item or within a heritage conservation area respect heritage significance.*

The proposal is consistent with bulk and scale of the existing development and the desired future character of the locality. The proposed height of the development is appropriate to the context and is compatible with the prevailing pattern of buildings in the locality. The extension of the building beyond the 7.5m height control is predominant at the front of the building (southern elevation) and gradually reduces towards the rear of the building.

The proposal positively responds and satisfactorily addresses the particular characteristics of the site and its broader context. The proposal is of a height and scale that is sympathetic to its immediate context.

The proposed development, when viewed from the street, will not dominate the streetscape and will be compatible with newer developments in the vicinity including Project Lighting, the Dunn & Lewis Centre and Bunnings that are of a similar bulk and scale within close proximity of the site. The proposal is contemporary commercial design which is consistent with the surrounding environs and the objectives of the B5 zone.

Planning Assessment

The application will be fully assessed under s79C of the Environmental Planning and Assessment Act 1979 following determination of the application for variation to development standards.

Policy Implications

The application identifies a need to review the appropriateness of the height controls in the precinct and it is recommended that this be included in the next review of DCP 2014 Chapter S8 Ulladulla Town Centre.

Consultation and Community Engagement:

The notification was made in accordance with Council's Community Consultation Policy to properties within a 60 metres of the site and a newspaper advertisement. The notification was for a 4 week period to account for the Christmas/New Year's holidays and 4 submissions were received.

Key issues raised as a result of the notification are provided below.

Issue

Development should comply with the existing height controls/Development will set undesirable precedent if approved at proposed height.

Comment

It is considered that this issue has been addressed in the preceding assessment.

Issue

Not enough time given for public evaluation.

Comment

Whilst the application was notified over the Christmas/New Year period, it was advertised for four (4) weeks rather than the regular two (2) week period timeframe to account for the holiday period. It is considered that notification of the application was undertaken in a fair and reasonable process.

Issue

Increased traffic demand and pressure on existing infrastructure.

Comment

The proposed use is of a size and intensity which would be anticipated in the zone and is unlikely to cause significant traffic impacts. Whilst there is congestion in peak holiday periods at the roundabout at the intersection of The Princes Highway and Parson Street this is not directly related to the proposal and it is unlikely to contribute significantly as traffic can enter and exit away from the roundabout on local roads.

Issue

Appearance of building out of character and not 'coastal' in appearance. Large blank walls

Comment

The proposed building is consistent with surrounding built form character and consistent with the objectives of the Business Development precinct (S8 Ulladulla Town Centre DCP) by providing an attractive and active street frontage. The DCP does not require a coastal design in this precinct.

In relation to the comments on the blank wall on the western boundary and its visibility from adjoining properties, these walls will be in part obscured by the car wash and storage facility on the western boundary. Also the design of the wall incorporates delineation of the different levels of the building which will provide some relief.

Financial Implications:

Not applicable

Legal Implications

If the application is refused, or if the applicant is dissatisfied with Council's determination, the applicant is entitled to appeal to the Land and Environment Court.

Under some circumstances, third parties may have a right to appeal Council's decision to the Land and Environment Court.

Summary and Conclusion

It is recommended that the variation is reasonable and acceptable and in this instance, strict compliance with the height development standard is considered to be unnecessary as the development is appropriate in the location and can achieve relevant planning objectives.

It is considered that there are sufficient planning grounds to justify the departure from the height development standard prescribed in the Shoalhaven LEP 2014. Therefore, the proposed variation to the building height development standard is considered to be well founded in this instance.

Attachment 1 – Site Context Photos

**Lot 5 Parson Street ULLADULLA,
DA16/2412**



Photo 1 Looking North from Parson Street to subject site (Storage unit walls about the shared boundary as seen in the background)



Photo 2 Looking north to property that abuts the eastern boundary of the subject site

Attachment 1 – Site Context Photos

**Lot 5 Parson Street ULLADULLA,
DA16/2412**



Photo 3 Looking north-west to western boundary of subject site



Photo 4 Looking north-west from adjacent eastern property across subject site to north-western boundary

Attachment 1 – Site Context Photos

**Lot 5 Parson Street ULLADULLA,
DA16/2412**



Photo 5 South side of Parson Street opposite subject site



Photo 6 Looking west along Parson Street with subject site in the background (where vehicles are parked on grass).

Attachment 1 – Site Context Photos

**Lot 5 Parson Street ULLADULLA,
DA16/2412**



Photo 7 Bunnings building (St Vincent Street
)



Photo 8 Bunnings building from corner of Parson Street and St Vincent Street

Attachment 1 – Site Context Photos

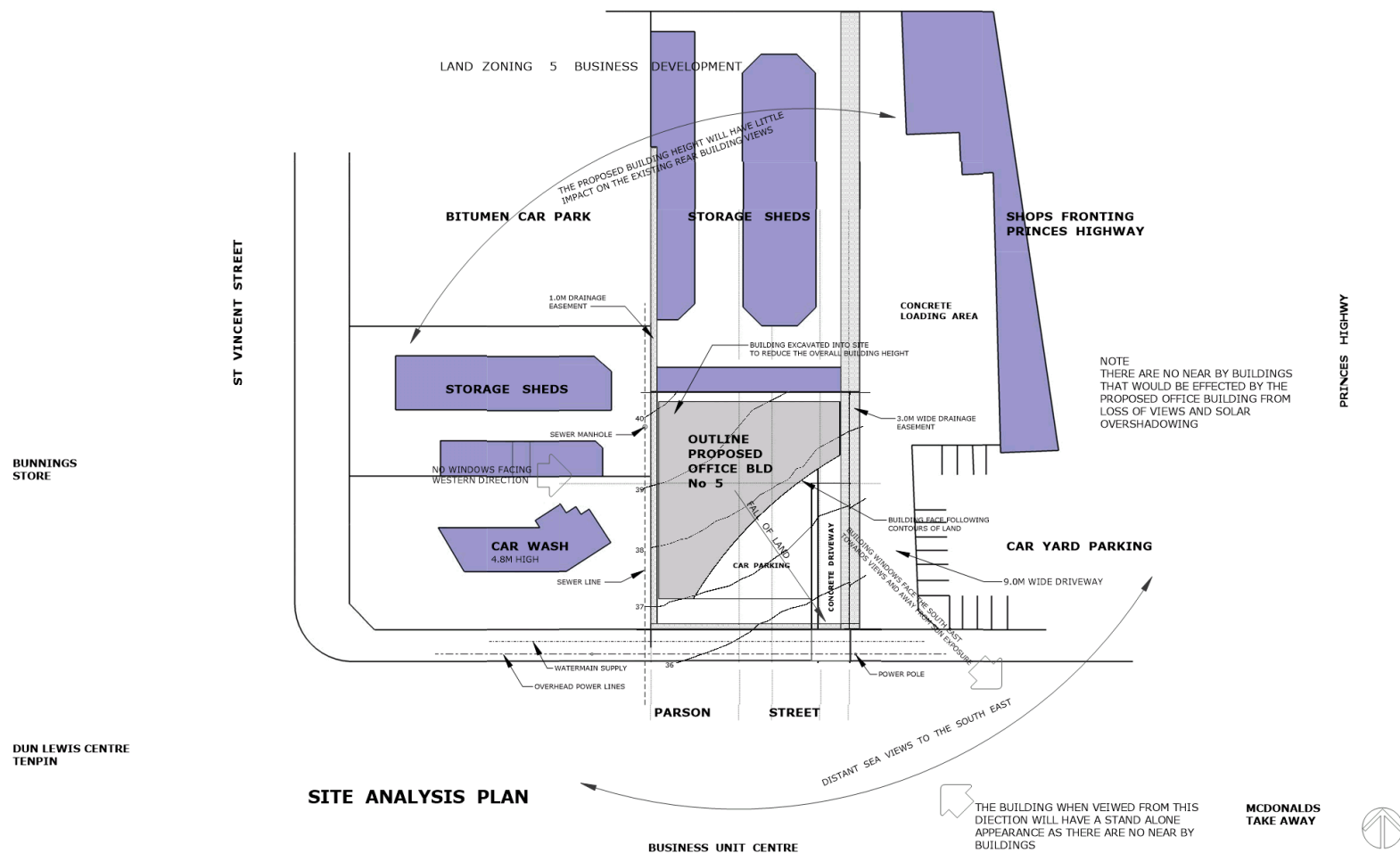
**Lot 5 Parson Street ULLADULLA,
DA16/2412**



Photo 9 Dunn & Lewis Centre



Photo 10 Dunn & Lewis Centre

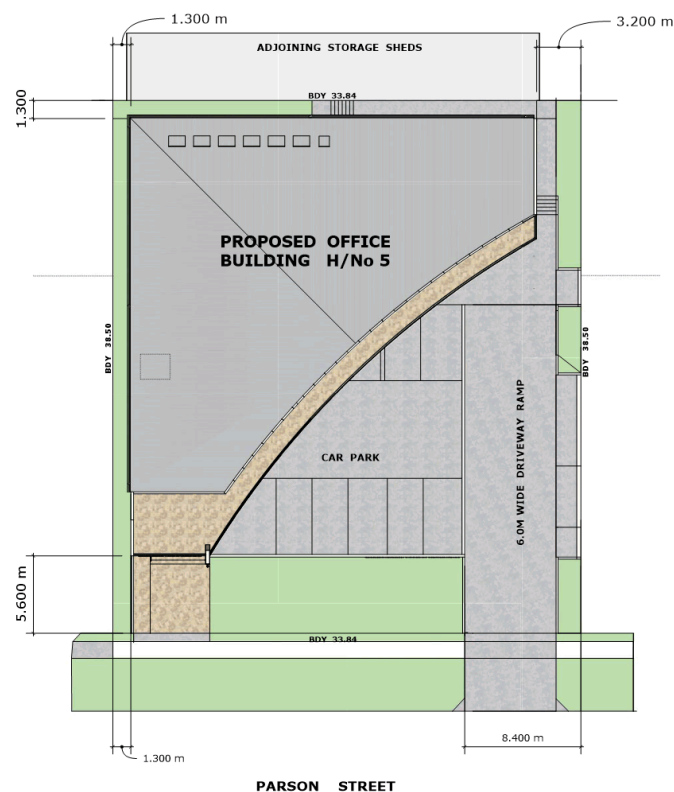


PROPOSED ULLADULLA OFFICE BUILDING No 5 PARSON STREET, ULLADULLA NSW
FOR **ET & ME OBERG**

DRAWN BY **TRIPLE A DEVELOPMENTS PTY LTD**
PO BOX 419 PADSTOW NSW 2211 MOB 0414 604 362
SCALE 1:400 DATE 24 NOV 2016

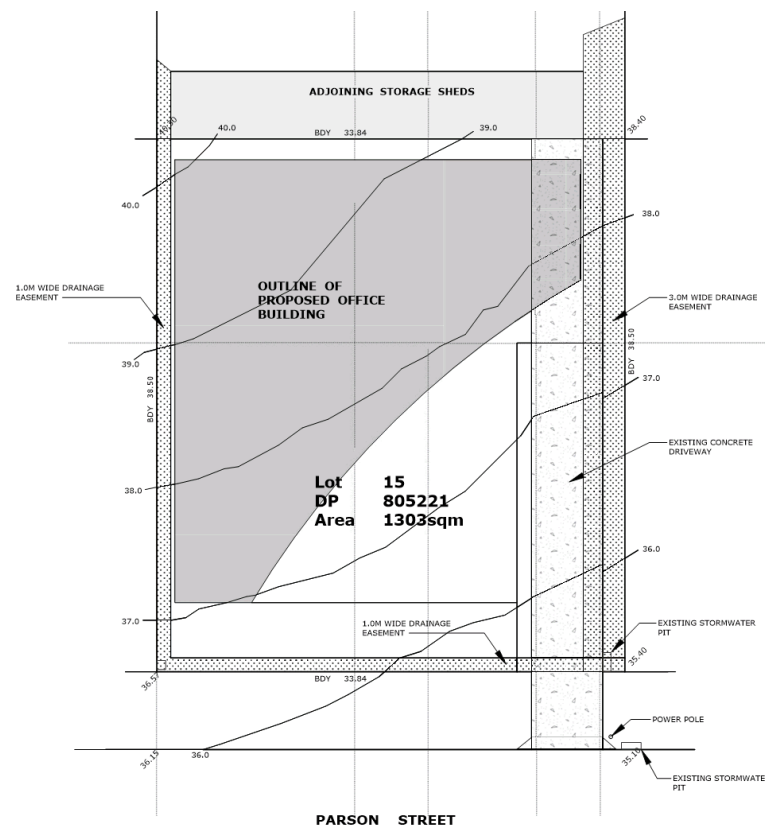
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17-20



SITE PLAN

SCALE 1:200



CONTOUR PLAN

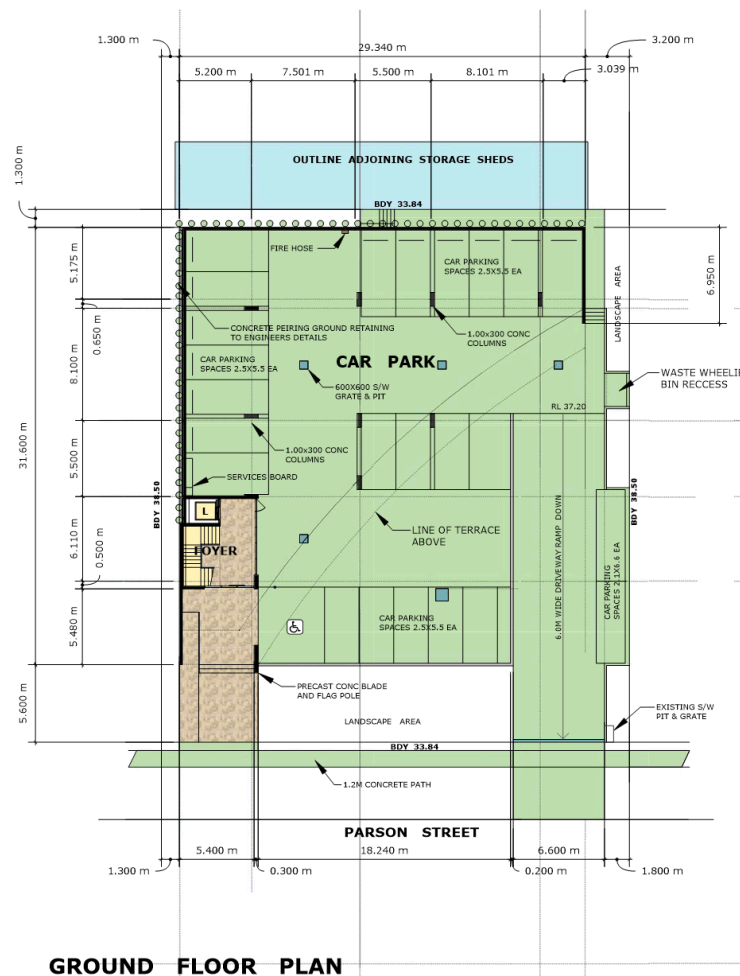


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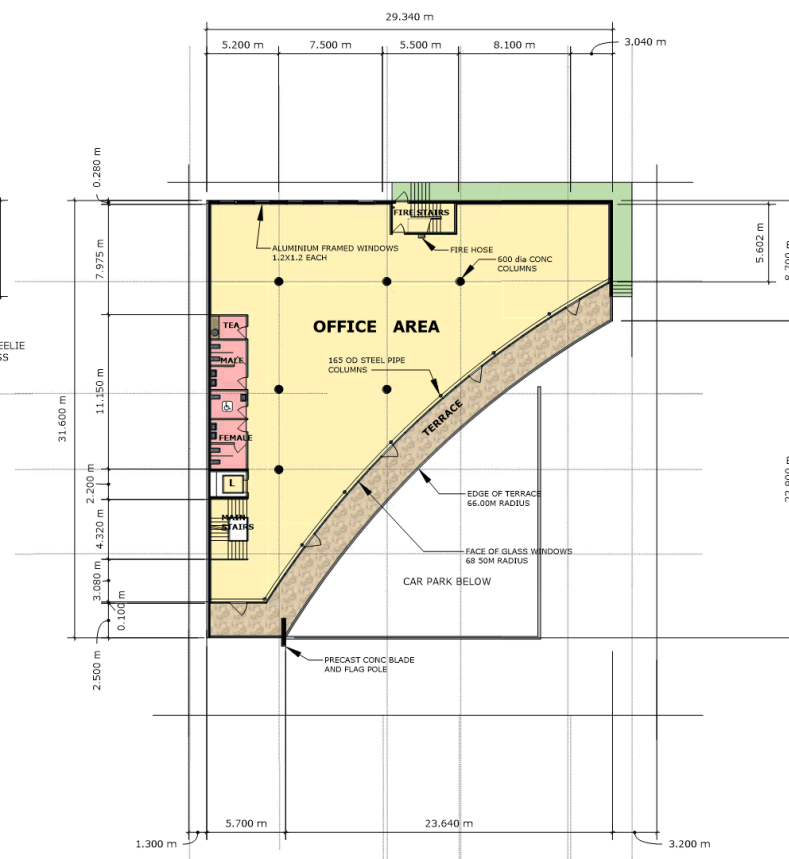
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GROUND FLOOR PLAN

FURTHER DETAILS SEE DWG 12-16



FIRST FLOOR PLAN

FURTHER DETAILS SEE DWG 13-16

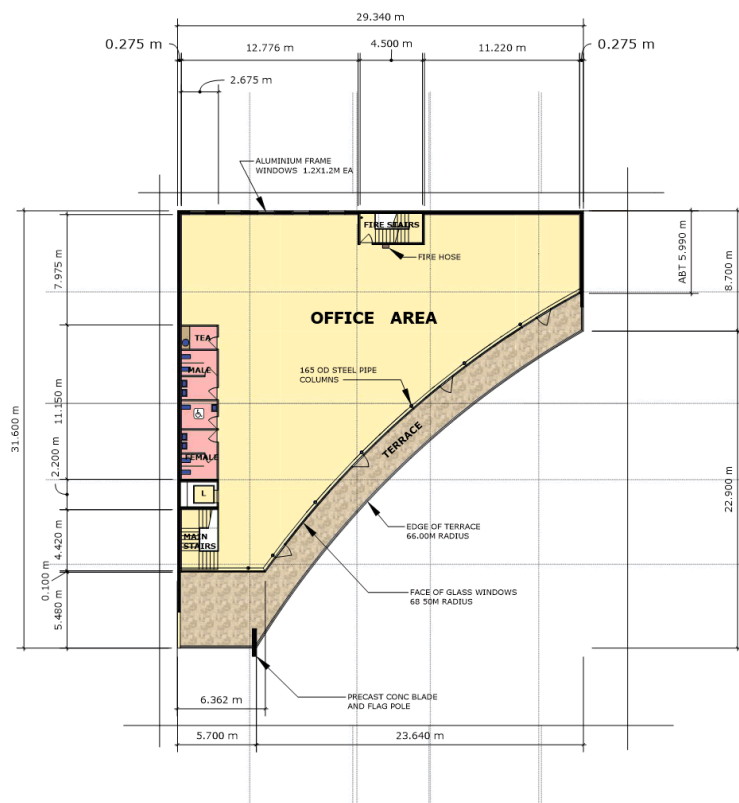


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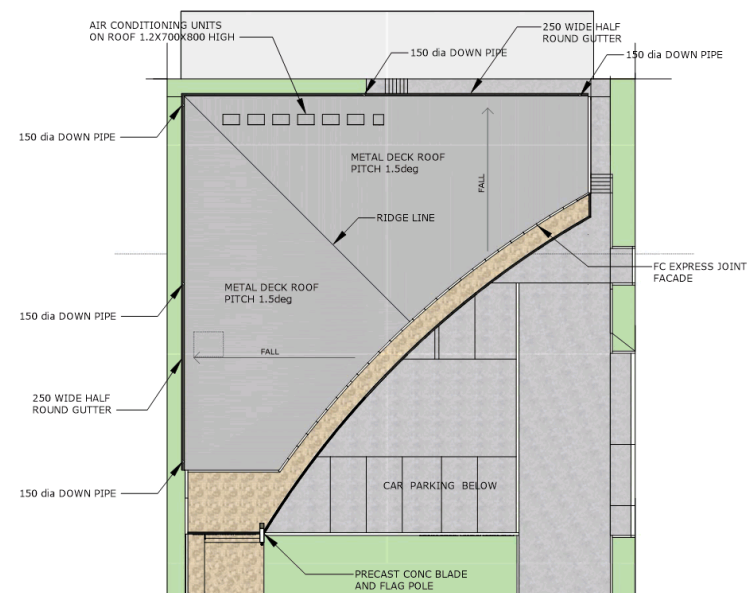
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SECOND FLOOR PLAN

FURTHER DETAILS SEE DWG 14-16



ROOF PLAN

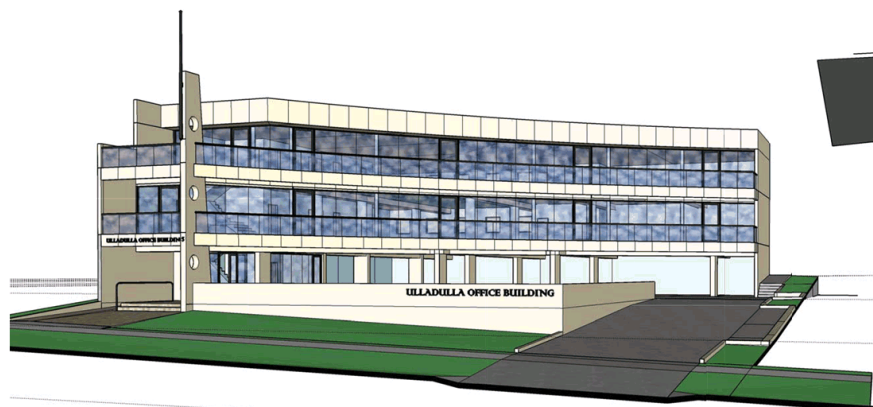


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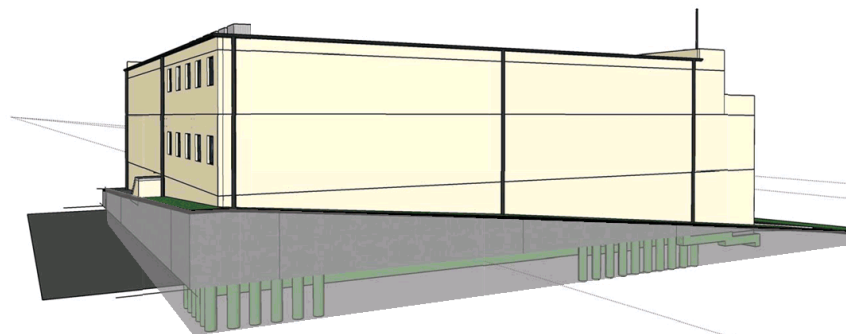
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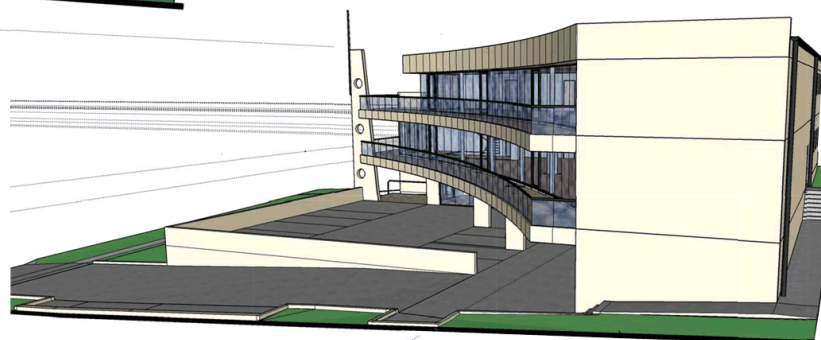
SOUTH EAST VIEW

EXTERNAL COLOURS

PRECAST WALL PANEL & COLUMNS	DULUX HOG BRISTLE
EXPRESS JOINT FC FASCARD	DULUX HOG BRISTLE
WINDOW FRAMES AND BALUSTRADE RAILING	POWDER COATED CHARCOAL
WINDOW GLAZING & BALUSTADE	12.3 LOW E BLUE
GUTTERS AND DOWNPIPES	CHARCOAL
METAL DECK ROOF	SILVER ZINCALUME METAL
TERACES AND PATHS	BLOND TRAVERTINE
DRIVEWAY AND PARKING	GREY NATURAL CONCRETE



WEST VIEW



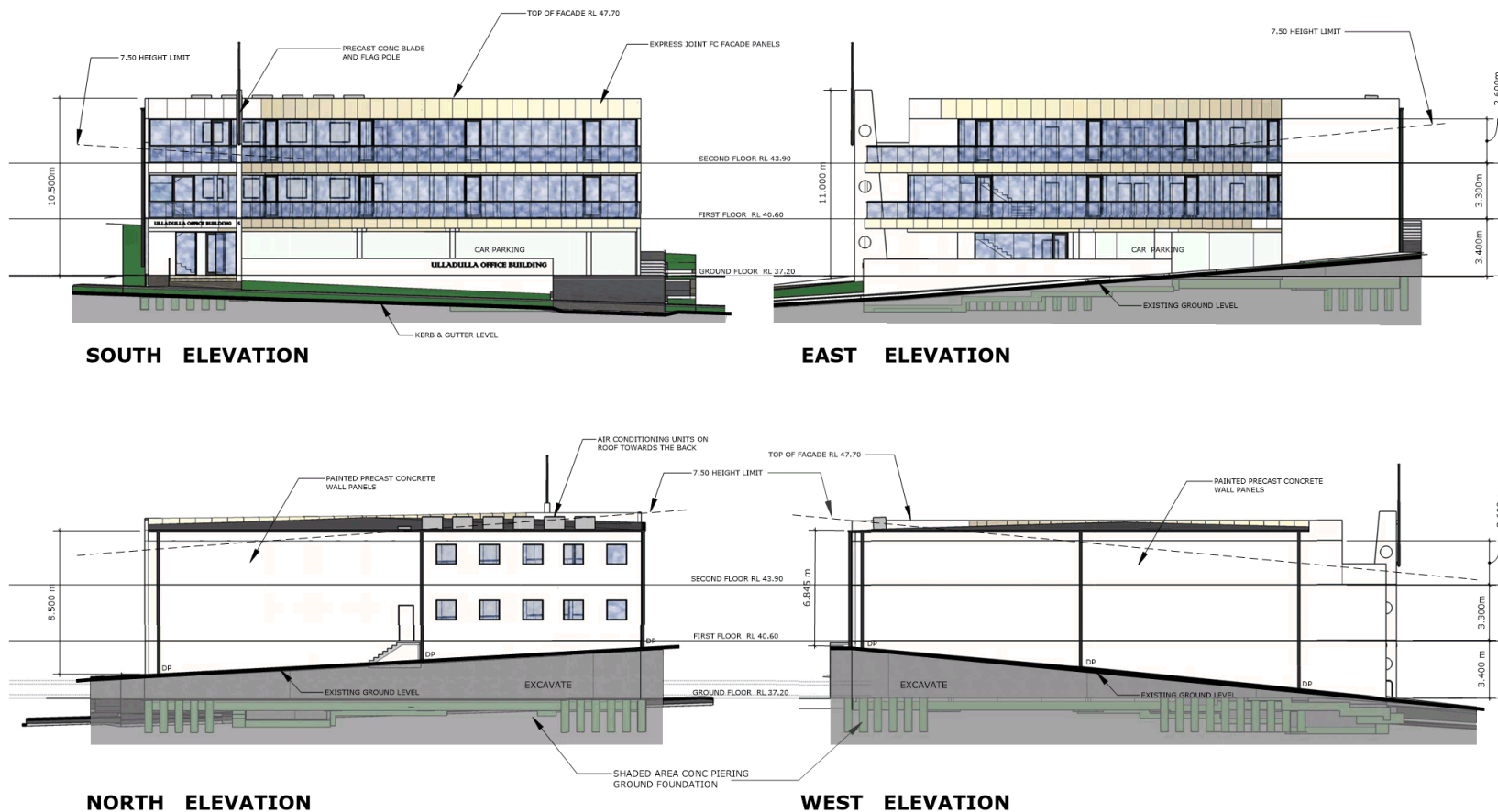
EAST VIEW

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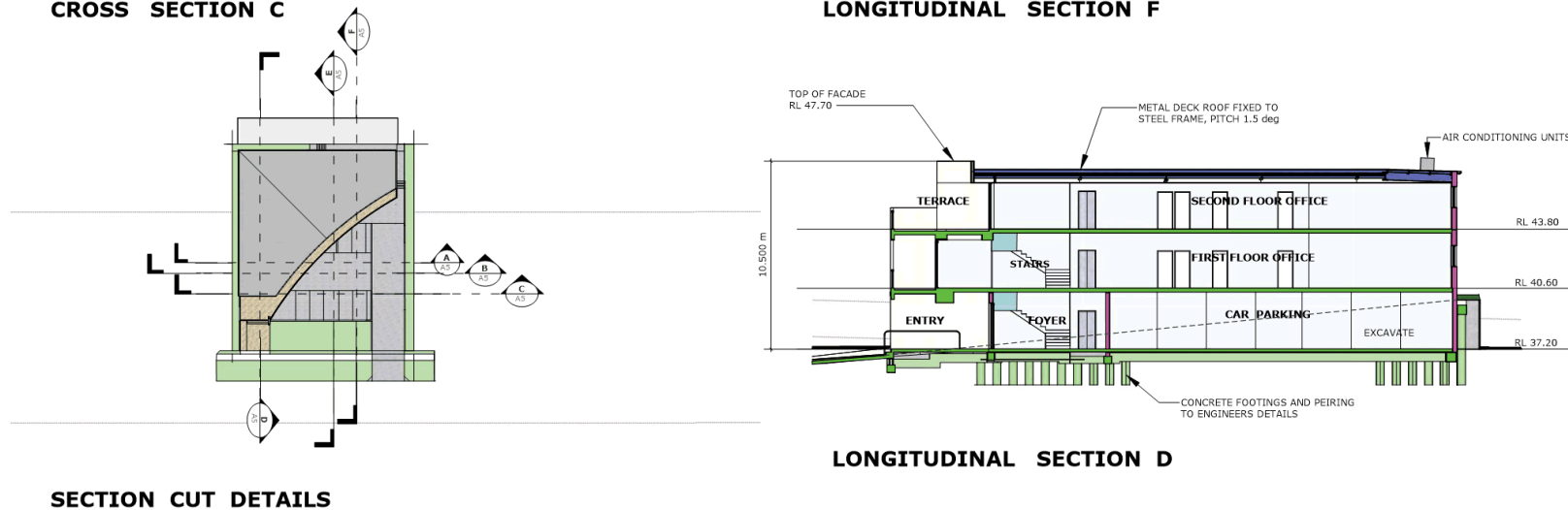
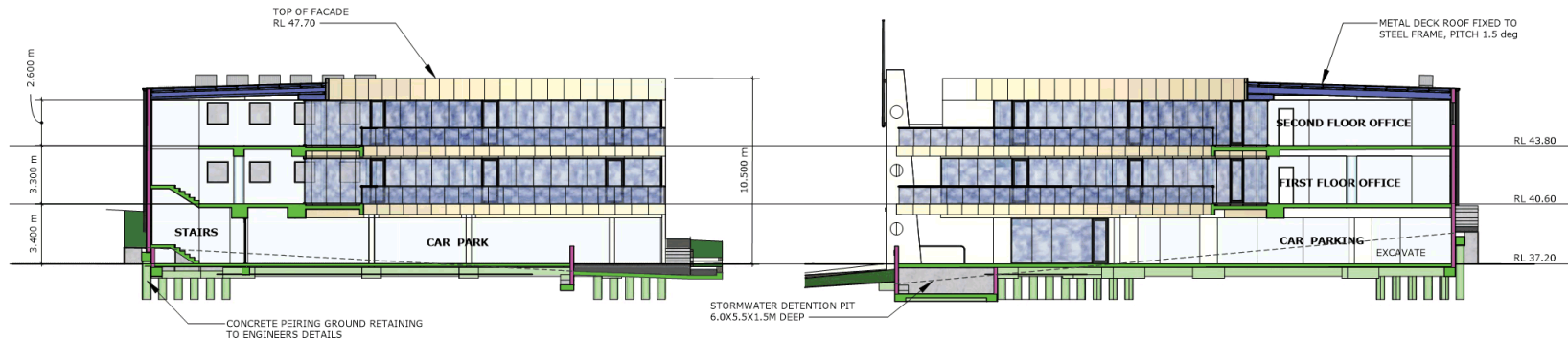


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LOCAL GOVERNMENT AMENDMENT (GOVERNANCE & PLANNING) ACT 2016

Chapter 3, Section 8A Guiding principles for councils

(1) Exercise of functions generally

The following general principles apply to the exercise of functions by councils:

- (a) Councils should provide strong and effective representation, leadership, planning and decision-making.
- (b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
- (c) Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- (d) Councils should apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- (e) Councils should work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- (f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (g) Councils should work with others to secure appropriate services for local community needs.
- (h) Councils should act fairly, ethically and without bias in the interests of the local community.
- (i) Councils should be responsible employers and provide a consultative and supportive working environment for staff.

(2) Decision-making

The following principles apply to decision-making by councils (subject to any other applicable law):

- (a) Councils should recognise diverse local community needs and interests.
- (b) Councils should consider social justice principles.
- (c) Councils should consider the long term and cumulative effects of actions on future generations.
- (d) Councils should consider the principles of ecologically sustainable development.
- (e) Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

(3) Community participation

Councils should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

Chapter 3, Section 8B Principles of sound financial management

The following principles of sound financial management apply to councils:

- (a) Council spending should be responsible and sustainable, aligning general revenue and expenses.
- (b) Councils should invest in responsible and sustainable infrastructure for the benefit of the local community.
- (c) Councils should have effective financial and asset management, including sound policies and processes for the following:
 - (i) performance management and reporting,
 - (ii) asset maintenance and enhancement,
 - (iii) funding decisions,
 - (iv) risk management practices.
- (d) Councils should have regard to achieving intergenerational equity, including ensuring the following:
 - (i) policy decisions are made after considering their financial effects on future generations,
 - (ii) the current generation funds the cost of its services

Chapter 3, 8C Integrated planning and reporting principles that apply to councils

The following principles for strategic planning apply to the development of the integrated planning and reporting framework by councils:

- (a) Councils should identify and prioritise key local community needs and aspirations and consider regional priorities.
- (b) Councils should identify strategic goals to meet those needs and aspirations.
- (c) Councils should develop activities, and prioritise actions, to work towards the strategic goals.
- (d) Councils should ensure that the strategic goals and activities to work towards them may be achieved within council resources.
- (e) Councils should regularly review and evaluate progress towards achieving strategic goals.
- (f) Councils should maintain an integrated approach to planning, delivering, monitoring and reporting on strategic goals.
- (g) Councils should collaborate with others to maximise achievement of strategic goals.
- (h) Councils should manage risks to the local community or area or to the council effectively and proactively.
- (i) Councils should make appropriate evidence-based adaptations to meet changing needs and circumstances.