

Development & Environment Committee

Meeting Date: Tuesday, 13 July, 2021

Location: Council Chambers, City Administrative Building, Bridge Road, Nowra

Attachments (Under Separate Cover)

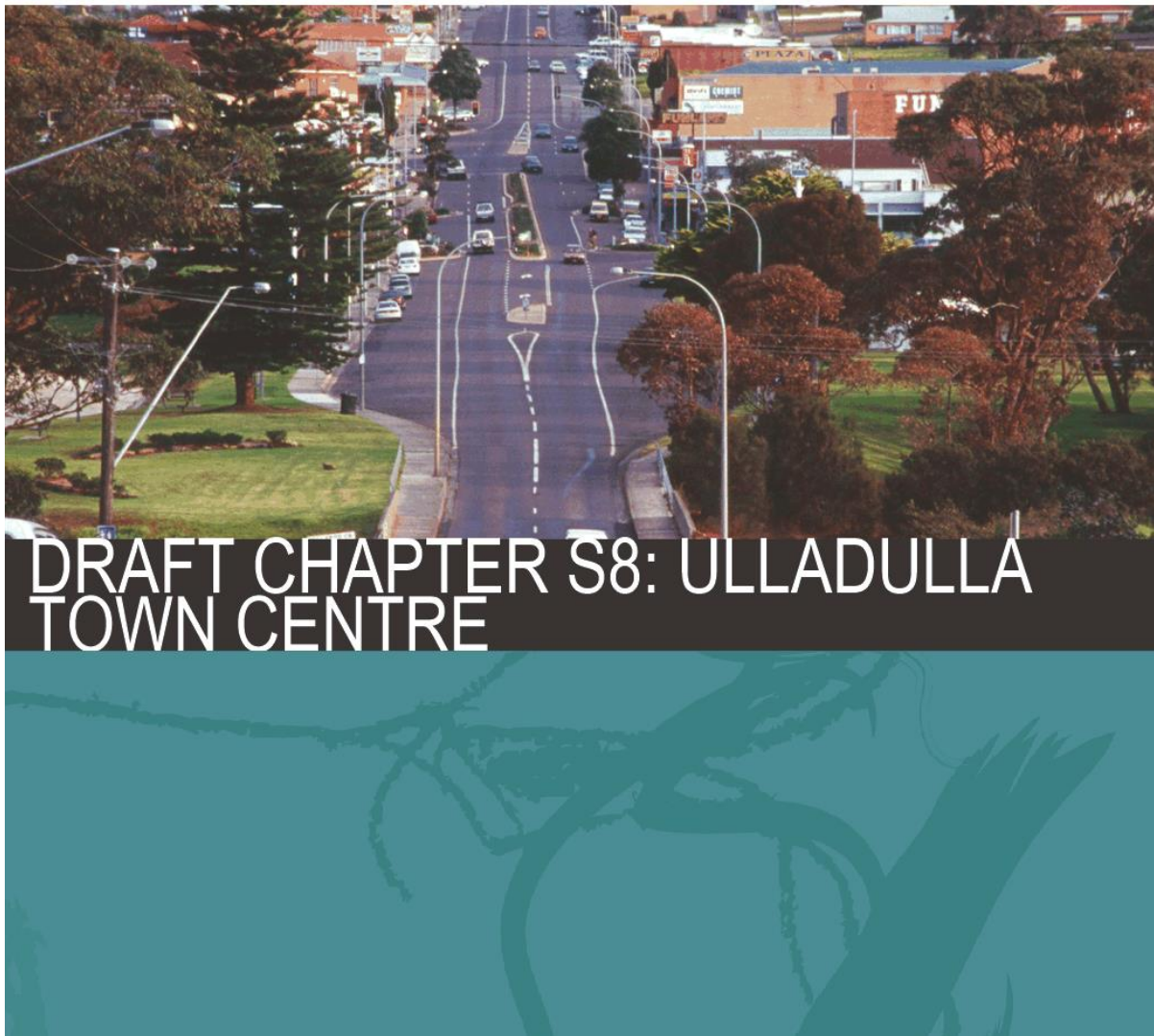
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NOTE: This Chapter should not be read in isolation. You may need to consider other chapters of this DCP when preparing your application.



DRAFT CHAPTER S8: ULLADULLA TOWN CENTRE

DE21.64 - Attachment 1

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Table of Changes

Section/Map	Category	Recommended Change	Reason
Throughout	Text update	Correct a number of typos and grammatical errors.	To enhance readability of the Chapter.
	Text update - deletion	Delete references to Chapter G14 which no longer exists and refer to alternative DCP Chapter where applicable.	
	Text update - external legislation/ policy	Replace 'Residential Flat Design Code' references with 'Apartment Design Guide'.	
	Text update - external legislation/ policy	Replace references to 'State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development' with 'State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development'.	
	Text update - external legislation/ policy	Deletion of references to the 'Residential Flat Design Pattern Book' and 'RFDPB', and specific pattern book styles.	
	Text update	Highlight LEP and DCP dictionary terms.	
Map 1: Land Use Precincts	Map update	Update Mixed Use, Business Development and Medium Density Residential precincts in the southern part of the town centre to reflect current LEP zoning.	Resolve inconsistencies between LEP and DCP.
Section 3 Context	Numbering update	Renumber sub-sections to reflect sub-categories of the retail area (includes Precinct 1: Commercial Core and Precinct 1a: Marlin Hotel).	To enhance readability of the Chapter.
Section 3 Context (Precinct 5: Business Development)	Text update	Update incorrect reference to Section 5.3 Building Setbacks (this is actually 5.1.2; 5.3 is on Infrastructure).	
Map 2: View analysis	Map update	Add street names.	To enhance readability of the chapter.
		Update hatching for Medium Density Residential precinct to reflect current zoning.	Resolve inconsistencies between LEP and DCP.
Section 5.1.1 Important views and vistas	Text update - addition	<p>Insert additional Acceptable Solution to P2 Maintain important views and vistas.</p> <p>A2.2 Any reduction in views from the public domain or private property is not to be severe or devastating based on the following NSW Land & Environment Court Planning Principles:</p> <ul style="list-style-type: none"> Views - General principles. Views - Impact on public domain views. <p>Note: Where compliance with the objective, performance criteria and acceptable solution is achieved, the expectation of there being no change to</p>	<p>Recommendation of Ulladulla Building Heights Review Report (Atlas Urban & City Plan, 2017) to consider a review of view sharing guidelines to reflect current Land and Environment Court Planning Principles.</p> <p>The proposed clause is consistent with other DCP Chapters including Chapter G12: Dwelling Houses and Other Low Density Residential Development and</p>

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		existing views is considered unreasonable.	Chapter V3: Miscellaneous Site Specific Issues.
Map 3: Setbacks	Map update	Extend 5m average setback on Map 3 to include entire block north of Deering Street between St Vincent St and Jubilee Ave to reflect existing setbacks specified in Table 1 (5m either side of Deering Street within Business Development Precinct 5), and to reflect recent Deering Street height increases.	To enhance readability of the Chapter and recommendation of Ulladulla Building Heights Review Report (Atlas Urban & City Plan, 2017) to consider a review of building setbacks in light of additional LEP heights and to enhance readability of the Chapter.
		Delete "See statement" references (these do not exist).	To enhance readability of the Chapter.
		Update hatching for Medium Density Residential precinct to reflect current zoning.	Resolve inconsistencies between LEP and DCP.
		Update text over Medium Density Residential precinct to say "See Chapter G13", instead of "See Chapter G13 and G14" as Chapter G14 no longer exists.	To enhance readability of the Chapter.
Map 3 and Table 1	Text update	Millards Creek setback to align with supporting text.	To enhance readability of the Chapter.
Table 1 Setbacks	Text update - deletion	Delete references to figures 1a, 1b, 1c which do not appear to exist anymore.	To enhance readability of the Chapter.
Table 2 Building Heights and Floor Space Ratios	Text update	Update Business Development Precinct (5) and Medium density residential Precinct (7) (west of Burrill Street South) rows from 'two storeys and 7.5m' to 'three storeys and 11m' to reflect current LEP building heights.	Resolve inconsistencies between LEP and DCP.
		Add heights in metres where missing.	To enhance readability of the Chapter.
Map 4: Building Height Limits	Map update	Update map to reflect current LEP building heights.	Resolve inconsistencies between LEP and DCP.
		Update hatching for Medium Density Residential precinct to reflect current zoning.	
Map 5: Floor Space Ratio	Map update	Delete text from key that says 'In accordance with low density residential building Code' which no longer exists.	To enhance readability of the Chapter.
		Update hatching for Medium Density Residential precinct to reflect current zoning.	Resolve inconsistencies between LEP and DCP.
Section 5.1.7	Text update - addition	Insert new note box to refer to SEPP (Exempt and Complying Development Codes) 2008 for signage.	To enhance readability of the Chapter.
P17 and A17.1	Text update - deletion	Delete duplicated requirements already addressed by SEPP 65 and ADG	To enhance readability of the Chapter.
5.2.2 Building form/ orientation	Text update - deletion	Delete reference to compliance with BCA.	This is not a DCP matter as these are already covered in State requirements.
5.2.5 Building finishes	Text update - addition	Insert "corrosion" to the following acceptable solution. "High quality durable UV stabilised/corrosion-resistant building	To enhance readability of the Chapter.

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		materials are favoured. Materials should be durable and low maintenance."	
A44.3	Text update	Change "embayments" to "bays".	To enhance readability of the Chapter, embayments is not a word.
Advisory Information	Text update – external legislation/ policy	Update reference to 'State Environmental Planning Policy No 71 – Coastal Protection' with 'State Environmental Planning Policy (Coastal Management) 2018'	To enhance readability of the Chapter.

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Amendment history

Version Number	Date Adopted by Council	Commencement Date	Amendment Type
1	14 October 2014	22 October 2014	New
2	23 June 2015	1 July 2015	Amendment
3			Amendment

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1 Purpose

The purpose of this chapter is to encourage and facilitate the vision for the Town Centre and harbour of Ulladulla as a vibrant mixed use shopping centre based on a maritime theme and focusing on its major asset – the harbour. It will have a diversity of business and quality residential and holiday apartments and convenient shopping which creates a place for people to work, live, meet, shop and enjoy life in an attractive, accessible, safe and sustainable environment.

2 Application

This Chapter applies to land generally bound by Parson Street, St Vincent Street, Church Street, the Harbour and Burrill Street South as shown in Figure 1 below.



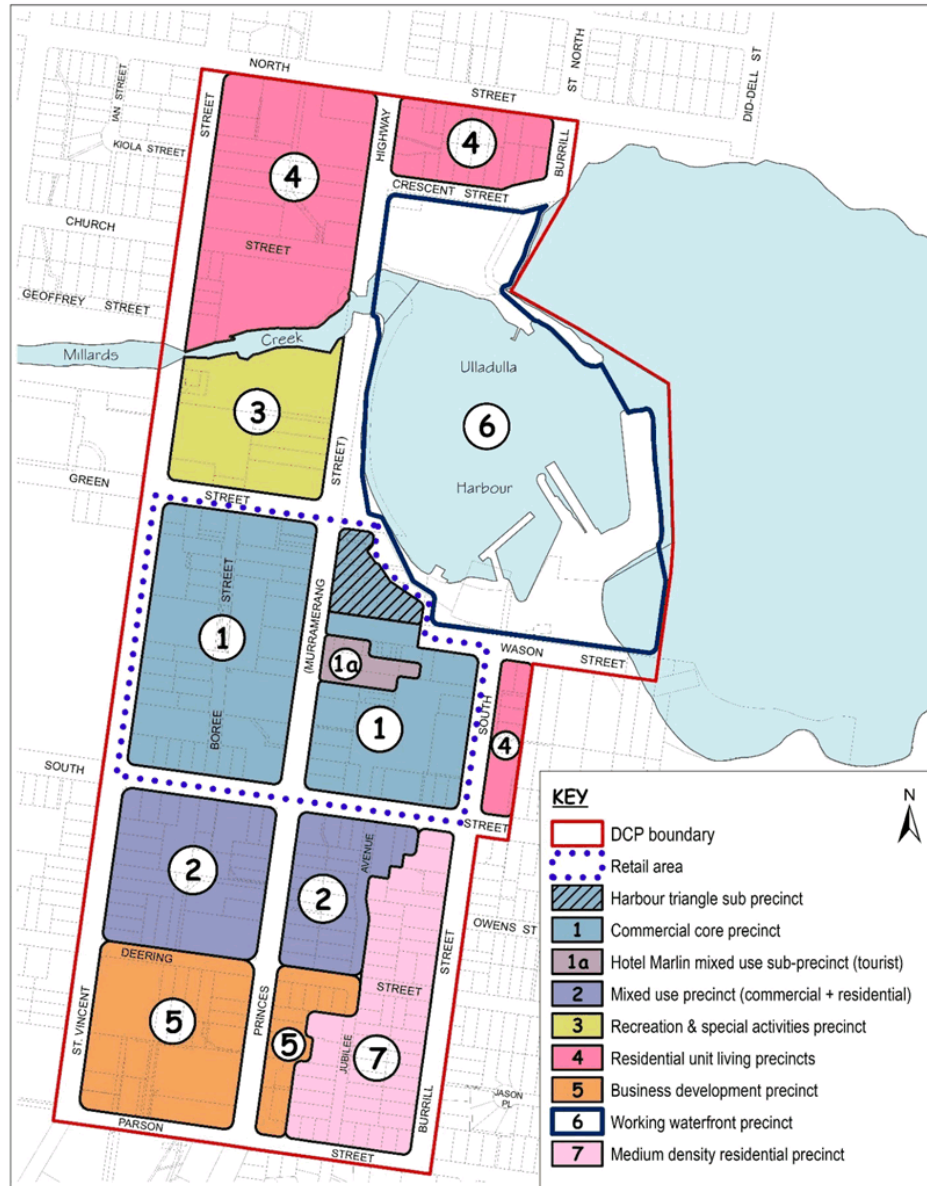
Figure 1: Subject Land Map

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3 Context

This chapter identifies seven land use precincts as shown on Map 1 below. Development within these precincts will need to comply with the following requirements.



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3.1 Retail Area

The retail area includes the commercial core precinct and the Marlin Hotel Tourist Accommodation sub precinct.

Development within the precinct should:

- Reinforce the retail area as the predominant shopping centre for the district and no major retail facility, including supermarkets, discount department stores, department stores and the like, will be permitted outside the retail area.
- Reinforce the harbour as an important asset to the town.
- New development should relate positively to the Harbour by way of quality building designs and permeability within the developments which allow for view sharing and ease of movement to principal activity nodes e.g. public car parks, civic open space, café precincts, etc.

3.1.1 Precinct 1: Commercial Core

The commercial core precinct identified on Map 1 is to be developed as a lively mixed retail use precinct with a clear identity shaped by the character of its maritime history, buildings, streets and public spaces and its location on the foreshores of Ulladulla Harbour. It may allow opportunities for tourist accommodation about the first storey.

Development within the precinct should:

- Not reduce opportunities for future retail floor space in the commercial core through incompatible land use or development.
- Only have commercial or retail development on the ground floor of developments and demonstrate compliance with Clause 7.16 in Shoalhaven LEP 2014.
- Sites with an area of less than 1600m² will be limited to a floor space ratio (FSR) of 1.0:1 to encourage amalgamation of lots and larger retail modules.
- Encourage opportunities for seniors living in the retail area. A minimum of 25% of the total number of residential units and apartments within any one development are to be designed for adaptable housing.

Note: Tourist and visitor accommodation may include temporary and short term accommodation such as hotel and motel accommodation, serviced apartments, backpackers' accommodation and the like (also see Chapter G15: Tourist and Visitor Accommodation).

3.1.2 Precinct 1a: Marlin Hotel accommodation sub-precinct

The Marlin Hotel Tourist Accommodation Sub Precinct includes the land on which the Marlin Hotel is situated being Lots A & B DP 155990, Lot 1 DP 743246 and Lots 11 & 12 DP 759018.

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Development in this precinct:

- May include a combination of tourist accommodation and permanently occupied residential accommodation. The number of permanently occupied residential units will not exceed 50% of the total number of units on the site.
- Any future development would need to maintain the historical significance of the existing Marlin Hotel.
- Tourist accommodation may include temporary and short term accommodation such as hotel and motel accommodation, serviced apartments, backpackers' accommodation and the like (*also see Chapter G15 – Tourist and Visitor Accommodation*).
- Compatible retail/commercial uses may include restaurants and cafes, gift shops, galleries, personal services and the like.

3.2 Precinct 2: Mixed Use (Commercial Residential)

Mixed use development encourages opportunities for residential living within or in close proximity to the commercial core and good mixed use involves the provisions of compatible land uses in a balanced way. Physically the precinct should include vertical and horizontal mix of uses. It may include higher density tourist and residential accommodation as well as commercial uses in any storey. Located on the southern side of the town centre, this area historically includes fringe commercial development associated with the commercial core (mixed use density residential/commercial precincts are shown as Precinct 2 on Map 1).

Development within the precinct should:

- Allow for a combination of tourist apartments, residential units and commercial businesses in any storey. Tourist accommodation may include temporary and short term accommodation such as hotel and motel accommodation, serviced apartments, backpackers' accommodation and the like (*also see Chapter G15 – Tourist and Visitor Accommodation*).
- Compatible retail/commercial uses including restaurants and cafes, gift shops, galleries, personal services, leisure and indoor recreational facilities and the like.
- Ensure that residential uses do not compromise the role of the retail area by limiting opportunities for larger type retail modules or by placing undue controls on trading hours or practice.
- Ensure that no single use dominates other uses.
- Demonstrate the compatibility of the proposed uses within a mixed use development context with specific reference to adjoining and adjacent development such as leisure and entertainment uses.

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3.3 Precinct 3: Recreation and Special Activities

This precinct includes Millards Creek Park, the Civic Centre, the bowling club and the Anglican Church. It acts as the Northern Gateway to the Town Centre. Future land use needs to reinforce the sense of arrival from the north by maintaining quality open space between the harbour foreshores and the civic precinct. It is strategically located to be accessible to the retail area and is one of the few large open spaces in the Ulladulla Town Centre that is capable of holding major festivals and events. There is also provision for long stay car parking, tourist coach parking and comfort facilities.

Development in this precinct should:

- Maintain the relationship of the civic precinct with the Ulladulla Harbour and reinforce the sense of arrival to the town centre.
- Streetscape and landscape works are to reinforce the maritime character of Ulladulla.
- Building and landscape designs need to aspire to the architectural standards that reflect and promote the vision for Ulladulla.
- Reduce the amount of surface level car parks within public open space areas by encouraging multi-level parking facilities that are suitable for both public and private land use activities and that cater predominately for long stay patrons.
- Ensure that the visual integrity is maintained between the harbour foreshore and Precinct 3. No permanent structures apart from directional signage, street furniture, public art elements and the like are to be located within the view lines of the civic precinct and the harbour foreshore or the Millards Creek environmental corridor.
- Makes provision for a future festival park/civic precinct with high quality civic spaces linked to the Ulladulla Harbour foreshore.
- Encourage tourist accommodation uses in conjunction with private recreation facilities where additional quality multi-purpose public facilities (Civic Centre/Tourist Information Centre) are to be retained in public ownership.
- Promote the environmental attributes of Millards Creek and recognise its contribution to the northern gateway to the town centre. adverse environmental impacts to Millards Creek are to be avoided and development proposals are to comply with the Millards Creek Plan of Management'.

3.4 Precinct 4: Higher Density Residential

The purpose of this precinct is to encourage permanent residential apartment living within and in close proximity to the retail area. This will increase activity levels in the Town Centre outside of business hours and improve the quality of the urban environment.

There are 3 areas of residential unit living that make up Precinct 4 in this Chapter.

Development within this precinct should:

- Include a range of apartment types and be adaptable to a range of uses, particularly an aging population. Generally 25% of all units in any one development should be designed for adaptable housing.

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- Have regard to existing and potential **development** opportunities on adjoining land – particularly in regards to achieving **view** sharing.

Note: The site specific higher density residential provisions contained in State Environmental Planning Policy No.65, the Apartment Design Guide will override any Council policies for medium density residential **development**.

3.5 Precinct 5: Business Development (Bulky Goods)

Precinct 5 is subdivided into large parcels and is well suited for bulky goods retailing. The area will become increasingly important to accommodate support activities for the retail area. Minimal public infrastructure is envisaged and most **developments** will need to provide what infrastructure they require themselves i.e. **car parking**, landscaping and the like on site or shared where possible with adjoining **owners**.

Development within this precinct should:

- Be uses that are normally located on the fringe of the **central business district** and which requires large sites for storage or display. Subdivision will generally be discouraged unless it relates to an approved **development** and shows how infrastructure requirements can be met.
- Promote a high quality public realm and maintains an appropriate character for the precinct. In this regard, **development** is to:
- Be visually attractive and have an active street interface and shopfront environment avoiding blank walls.
- Contribute to pedestrian amenity and **scale** of the town and through appropriately scaled signs and **advertising**.
- Maintain the character of existing streetscapes by avoiding excessive **setbacks** to the street frontage (also see Section 5.1.2 Building Setback of this chapter).
- Provide a continuous sheltered and attractive pedestrian environment.
- Provide landscaping and shade to at grade **car parks**.
- To minimise the need to provide publicly funded infrastructure and to promote shared use of privately funded facilities, new **developments** are encouraged to design future infrastructure so that it can be shared, particularly by adjoining users.

3.6 Precinct 6: Working Waterfront

Precinct 6 generally includes all the land fronting the harbour, currently zoned special purposes and public recreation. The Department of Lands has land use proposals for the area under their control. The harbour is strategically important to the commercial viability of the centre.

Development in this precinct should:

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- Maintain the viability of the harbour as an economic resource for the town. A variety of uses including recreational boating and industrial uses associated with fishing and related maritime activities and compatible commercial uses including boating and fishing related retail, office and commercial outlets including restaurants, cafes and the like.
- Establish opportunities for the local **community** and tourists alike to access the harbour foreshores in a way that is safe, convenient and accessible and develop a pedestrian network that provides access generally in accordance with the Ulladulla Harbour Landscape Master Plan.
- Protect existing and future visual linkages from the Civic domain to the Harbour as shown on Map 2, so that such **views** will be retained.
- Protects and enhances the existing passive nature of public recreation opportunities around the foreshore of the harbour. Existing areas of passive recreation are to be retained. Additional areas requiring an activity interface for recreation or operational boating usage will only be permitted in accordance with a publicly advertised and adopted Harbour Management Plan.

4 Objectives

The **objectives** are to:

4.1 Economic

- i. Provide appropriate controls and incentives to attract sustainable investment in the Ulladulla Town Centre and Harbour.
- ii. Encourage harbour related activities that stimulates new retail, tourist, leisure, commercial, and residential activities.
- iii. Encourage the efficient use of land and ensure that the necessary infrastructure is provided to facilitate sustainable growth.
- iv. Ensure an experience for tourists and residents generates value in economic and social terms.
- v. Maintain and promote Ulladulla as a major town centre in the hierarchy of business centres in Shoalhaven.

4.2 Environment

- i. Encourage **ecologically sustainable development**.
- ii. Sustain or enhance character in the townscape and landscape by responding to and reinforcing, where appropriate, locally distinctive patterns and forms of **development**, landscape, topography and harbour setting.
- iii. Encourage reasonable acoustic amenity for residents.
- iv. Address the likely impacts of climate change such as increased temperatures and less rainfall through appropriate building and landscape design features and sensitive urban **stormwater** measures.
- v. Protect and manage the cultural heritage of the area.
- vi. Encourage the use of roof tops to increase the amount of private open space within **mixed use developments**.

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4.3 Built Form and Character

- i. Establish a clear identity and maritime image for the Ulladulla Town Centre as a working port, tourist centre and service centre incorporating diverse residential activities and an enhanced public domain.
- ii. Development of linkages between the town and the harbour.
- iii. Establish an appropriate **scale** of **development** that is in proportion with projected growth and demand for infrastructure.
- iv. Control overshadowing of public spaces.
- v. Providing improvements to streetscapes.
- vi. Foster the creation of a sense of place and sustainable **community** through the promotion of a mix of land use and activities.
- vii. Foster and reinforce the town's potential competitive advantage centred on its highway and harbour context, coastal facilities and natural environment.

4.4 Accessibility

- i. Manage the traffic and parking for the benefit of visitors, residents and businesses, ensuring that both elements are functional.
- ii. Create a compact and accessible retail core which promotes diverse modes of travel and discourages major retail **development** outside this retail core.
- iii. Encourage residential apartments, bulky goods and fringe commercial uses to the south of South Street.
- iv. Provide for car parking within walking distance of the retail focal point (corner Wason Street and Princes Highway).
- v. Promote a public transport focus within the retail core.
- vi. Minimise pedestrian conflict by ensuring traffic volumes are limited to two lanes of traffic in any street, identifying a route for a highway bypass away from the business centre, and maintaining and improving off-street service access.

4.5 Urban Design/Lifestyle

- i. Encourage a well-designed, safe and active public domain that contributes to the wellbeing of the **community** and visitors and promotes an overall maritime theme.
- ii. Improve the quality and safety/accessibility of public places and their **views** to the harbour and other visual attractors.
- iii. Promote a quality built environment which is responsive to **community** values.

4.6 Employment

- i. Promote employment opportunities in the Ulladulla Town Centre and harbour relevant to the character and desired land use activities.

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5 Controls

The following **development** guidelines apply to any **development** under this Chapter.

5.1 Subdivision

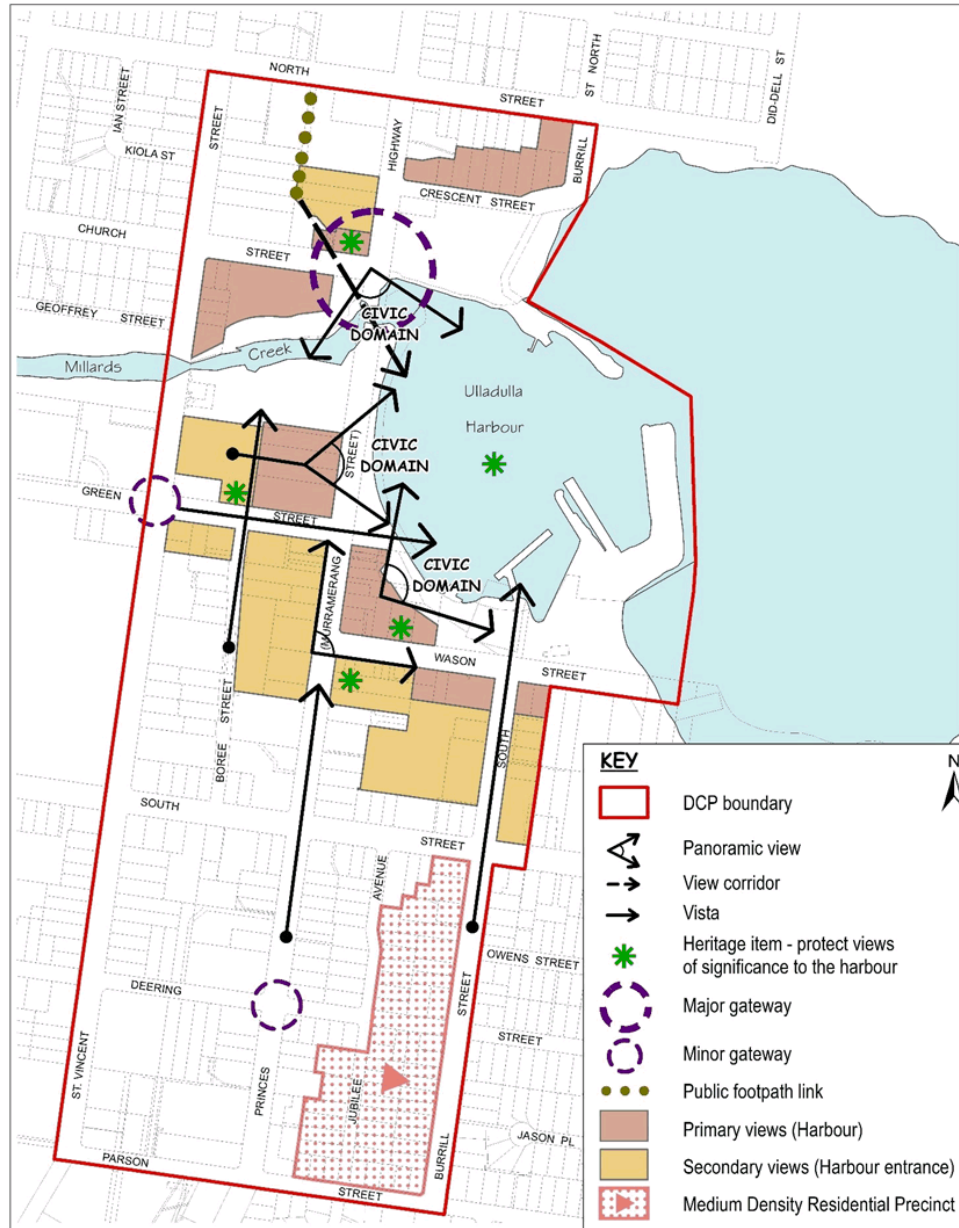
Any subdivision of land within the boundary of this Chapter is subject to the provisions of this plan.

Performance Criteria	Acceptable Solutions
P1 Land subdivision is to ensure that orderly development in the Town Centre is carried out to improve permeability and connectivity.	A1.1 As a general principle, you are encouraged to consolidate land under 2000m ² to create larger development parcels.
	A1.2 If you propose to subdivide land, including strata or community title subdivision , into parcels less than 2000m ² , you will need to demonstrate how the subdivision realises the objectives of this Chapter.
	A1.3 You must comply with <i>Chapter G11: Subdivision of Land</i>

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5.1.1 Important views and vistas (see Map 2)



Map 2: View Analysis

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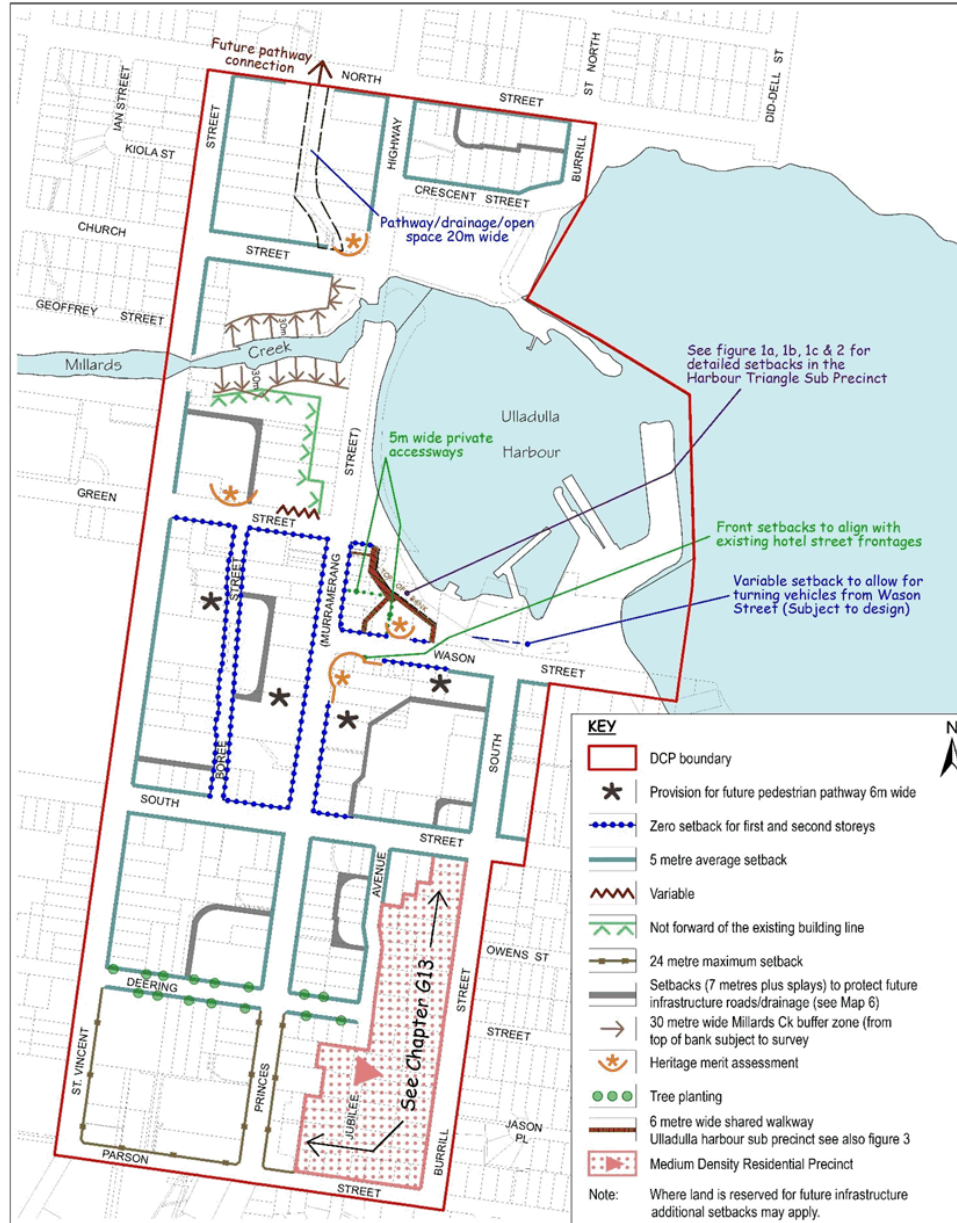
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Performance Criteria	Acceptable Solutions
P2 Maintain important views and vistas .	<p>A2.1 Views along public streets to the water and distant surrounding landscape are protected and embellished through framework planting and the like.</p> <p>A2.2 Any reduction in views from the public domain or private property is not to be severe or devastating based on the following NSW Land & Environment Court Planning Principles:</p> <ul style="list-style-type: none"> • Views - General principles. • Views - Impact on public domain views. <p>Note: Where compliance with the objective, performance criteria and acceptable solution is achieved, the expectation of there being no change to existing views is considered unreasonable.</p>
P3 Development will contribute to the careful management and retention of strategic view corridors and filtered views of the coast, harbour and treed backdrop.	<p>A3.1 You must consider opportunities to reinforce views to the harbour and mountains to the west as part of your development proposal.</p> <p>A3.2 You must consider the concept of view sharing in the siting and design of your development.</p> <p>A3.3 You must integrate large buildings with the scale of the overall built environment.</p> <p>A3.4 Your development should generally step buildings down the slope in line with the relevant contours.</p> <p>A3.5 Your development is to reinforce major or minor gateways as identified on Map 2 through high quality architectural and landscape design.</p> <p>A3.6 Development in the working harbour shall protect existing and future visual linkages from the Civic domain to the harbour as shown on Map 2.</p>

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5.1.2 Building setbacks (see Map 3)



Map 3: Setbacks

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Performance Criteria	Acceptable Solutions
P4 Principal setbacks shall enhance streetscape character, street, role and function. All developments are to consider impacts on view corridors.	A4.1 Your development must comply with the setbacks in Table 1 below and Map 3.

Note:

1. Rooftop areas resulting from setbacks may be used for landscaping and private or open space.
2. Balconies adjoining street frontage and integrated with the design of the building may encroach over the building setback line by no more than 450mm. Open balconies fronting harbour walkways may encroach over the building setback line by a max of 2m.
3. Sun shade devices and the like integrated with the development may encroach over the setback line by no more than 450mm.

Table 1: Setbacks

Land Use Precinct	Storey	Setback
Commercial Core Precinct 1 – Retail commercial office and residential above 1 st storey only	1 st Storey retail	Zero setback
	2 nd Storey	Zero setback from the principal street 5 metres from a service laneway
	Above 2 nd Storey	5 metre setback from street frontage or at a distance which cannot be seen from opposite side of the street whichever is greater
Harbour Triangle Sub Precinct (see Map 1)	1 st and 2 nd Storey for 86-94 Princes Highway	Min 8 – 12m (average 10m) setback as measured from the top of the bank; top of the bank as defined by the plan of acquisition.
	Above 2 nd Storey	5 metre setback from the frontage to the Harbour
	1 st and 2 nd storey 23-25 Wason Street	Min 4m setbacks as measured from the top of the bank
	Above 2 nd Storey	5 metre setback from the frontage to the Harbour
	1 st & 2 nd Storey Lot 51 DP 82822	Min 4m setbacks as measured from the top of the bank
	Above 2 nd Storey	5 metre setback from the frontage to the Harbour and 5 metre setback from Wason street or at a distance

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		which cannot be seen from opposite side of the street whichever is greater
Marlin Hotel Sub Precinct 1(a)	1-2 Storeys	To align with existing hotel setbacks to both street frontages
	Above two storeys	Setbacks to comply with a Conservation Management Plan for the Hotel
Residential Unit Living Precinct 4.	1 st Storey	Average 5 metre setback to principal street address
	2 nd storey	Average 5 metre setback to principal street address
	Above 2 nd Storey	5 metre setback from street frontage or at a distance which cannot be seen from opposite side of the street whichever is greater
Drainage corridor open space network Church to North street	N/A	A 5 metre setback from the rear boundary of properties fronting St Vincent Street between Church and North Streets and a 15 metre setback from the rear property boundary for properties fronting the Princes Highway. Lot 12 DP 565744 and Lot 2 DP 831274 Church street will have a variable setback consistent with an overall width of 20m (see Map 4).
Millards Creek	N/A	A 20 metre setback and an average 10 metre buffer from the top of the banks adjoining the Creek for the protection of the Riparian corridor and as defined by Council survey plan .
Business Development Precinct 5.	N/A	Preferably setbacks should relate to the provision of visible onsite car parking on the street frontage but will be limited to a depth of 24m.
	N/A	A 5m setback to either side of Deering Street to allow for major ridge top tree planting.
Recreation and Special Activities Precinct 3 (Civic Centre site)	N/A	No permanent structures /buildings to be forward of the existing Civic Centre building. 5 metre setback to St Vincent Street.
Lot 2 DP 759018 Cnr. Princes Highway and Church Street	N/A	30 metre wide as measured along the southern boundary of Church Street from the corner of the Princes Highway being the western boundary of Lot 2 DP 759018 Sec 6A.
NE Corner Princes Highway and Wason Street	N/A	Variable setback: This is a prominent corner located in the retail focal point of the CBD and identifies an important entry point to the elevated Harbour walkway/shared way 'prow' or focal point on the walkway. Setbacks to Wason Street and the Princes Highway are to be balanced to achieve a high quality urban design outcome.
General See Map 6	N/A	Building setbacks to allow for future infrastructure 6m in width and key pedestrian links (service roads)

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5.1.3 Building height and floor space ratios (FSR)

The maximum height for any **development** in the area to which this Chapter applies is 5 **storeys** and 17 metres (as per the *Shoalhaven Local Environmental Plan (SLEP) 2014* Height of Buildings Map). This height excludes architectural roof features (see Clause 5.6 of *SLEP 2014*). The maximum **Floor Space Ratio (FSR)** is 2.0:1 (as per the *SLEP 2014* Floor Space Ratio Map).

The Ulladulla Harbour Triangle Sub Precinct is subject to a variable height plane and provides for a maximum of two **storeys** and 7.5m in height as measured from the top of kerb (TOK) in Wason Street and the Princes Highway adjoining the **footpath** and extending to a horizontal plane towards the Harbour. Height adjacent to the Harbour may be up to 3 **storeys** but will be subject to the slope of the land. Any **storeys** about the 2nd **storey** will be setback as detailed in Table 1.

To achieve implementation of the elevated walkway concept adjoining the harbour, an additional **storey** may be permitted on Lot 51 DP 828221 subject to the **development** site area being greater than 1600m².

Floor space ratios in the B5 Business Development zoned areas on the fringe of the commercial core are lower to encourage on site **car parking**.

The floor space ratio for Precinct 3: Recreational and Special Activities and the land to the north of Millard's Creek is less than the retail area to encourage a greater amount of open space at the northern gateway to the Town Centre.

Note: All heights are measured from the **natural ground level** except for the Harbour Triangle Sub Precinct (see above).

Performance Criteria		Acceptable Solutions	
P5.1	New buildings are appropriately scaled in relation to street widths and desired future character as detailed the Built Form and Character objectives at the start of this chapter.	A5.1	Building heights and FSRs are in accordance with the <i>SLEP 2014</i> Height of Building and Floor Space Ratio maps, Table 2 and Maps 4 & 5.
P5.2	Proposed building heights are designed to protect the amenity of the public and private open space.		
P6	Reduces the impact to the urban environment by minimising the apparent size of buildings when viewed from street level.	A6.1	Compliance with building setbacks as described in Table 1.

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P7	Urban development is at an appropriate scale which is in keeping with the surrounding natural features.	A7.1	Locating taller buildings on key corner site to mark the gateway to the retail centre.
P8	Development limits the effects of overshadowing and ensures that solar access is maintained to public open spaces and nearby residences.	A8.1	Ensure high quality residential amenity with good solar access and natural ventilation where development adjoins public open spaces and residential development .

Table 2: Building Heights and Floor Space Ratios

Land use Precinct (see Map 1)	Max Building Height		Max Floor Space Ratio (FSR)	
	Storeys	Metres	Min lot size m ²	Max FSR
Commercial Core Precinct 1.	2-5	7.5m, 11m, 14m, 17m	< 1600 1600-2000 + Orphan sites (see Dictionary) >2000	1.0:1 1.8:1 2.0:1
Ulladulla Harbour triangle sub-precinct	Two storeys and variable (see instrument)	7.5 m as measured from Wason Street or the Princes Highway top of kerb and horizontal plane	Up to 1600 >1600	1.0:1 1.5:1
Ulladulla Harbour triangle precinct Lot 51 DP828221 only (min site area 1600m ²)	Three to four storeys depending on slope of the natural surface	11 m as measured from Wason Street top of kerb & horizontal plane	>1600	1.5:1
Hotel Marlin Mixed Use Precinct (Tourist)	Three storeys	11m	As per commercial core	As per commercial core
Mixed use Precinct 2. (commercial + residential)	Three and Four	11 and 14	No minimum area	1.5:1
Recreation and Special activities Precinct 3.	Three and Four	11 and 14	No minimum area	1.5:1

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Residential unit living Precinct 4.	Three	11	No minimum area	1.0:1
Lots 50-54 DP 263391, Wason Street and Burrill Street South	Three	11	No minimum area	1.5:1
Lot 1 DP 529128, South Street and Burrill Street South	Two	8	No minimum area	1.0:1
Business development Precinct (5)	Three	11	No minimum area	1.5:1
Working waterfront Precinct (6)	Two	7.5	No minimum area	1.0:1
Medium density residential Precinct (7) (west of Burrill Street South)	Three	11	No minimum area	1.0:1

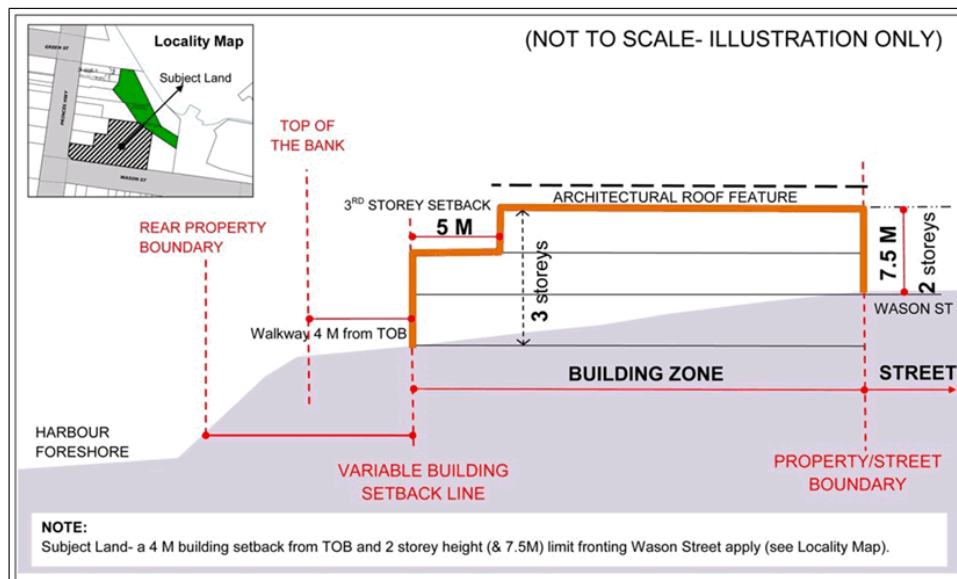


Figure 2: Ulladulla Harbour Triangle Zone Building Height Control

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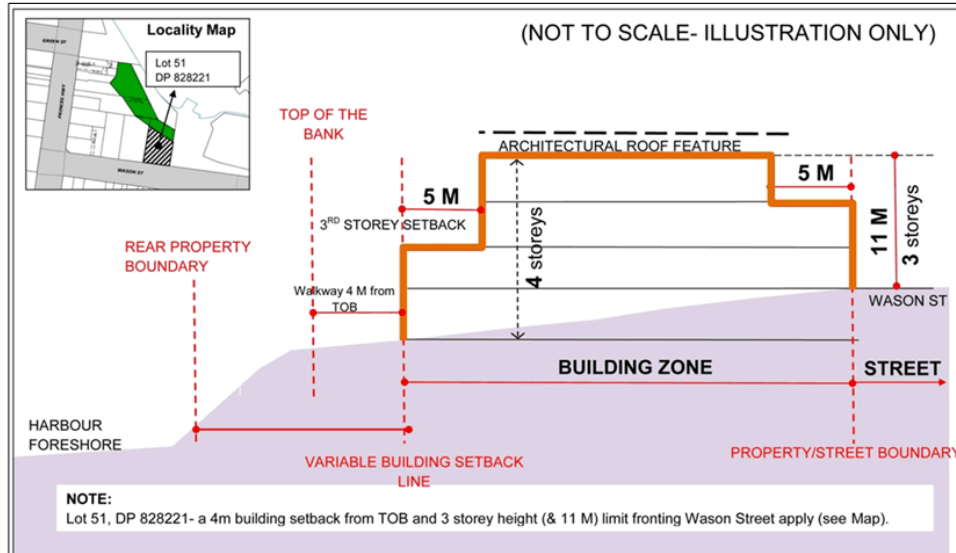


Figure 3: Ulladulla Harbour Triangle Zone Building Height Control (With Height Incentive): Lot 51 DP 828221 Only

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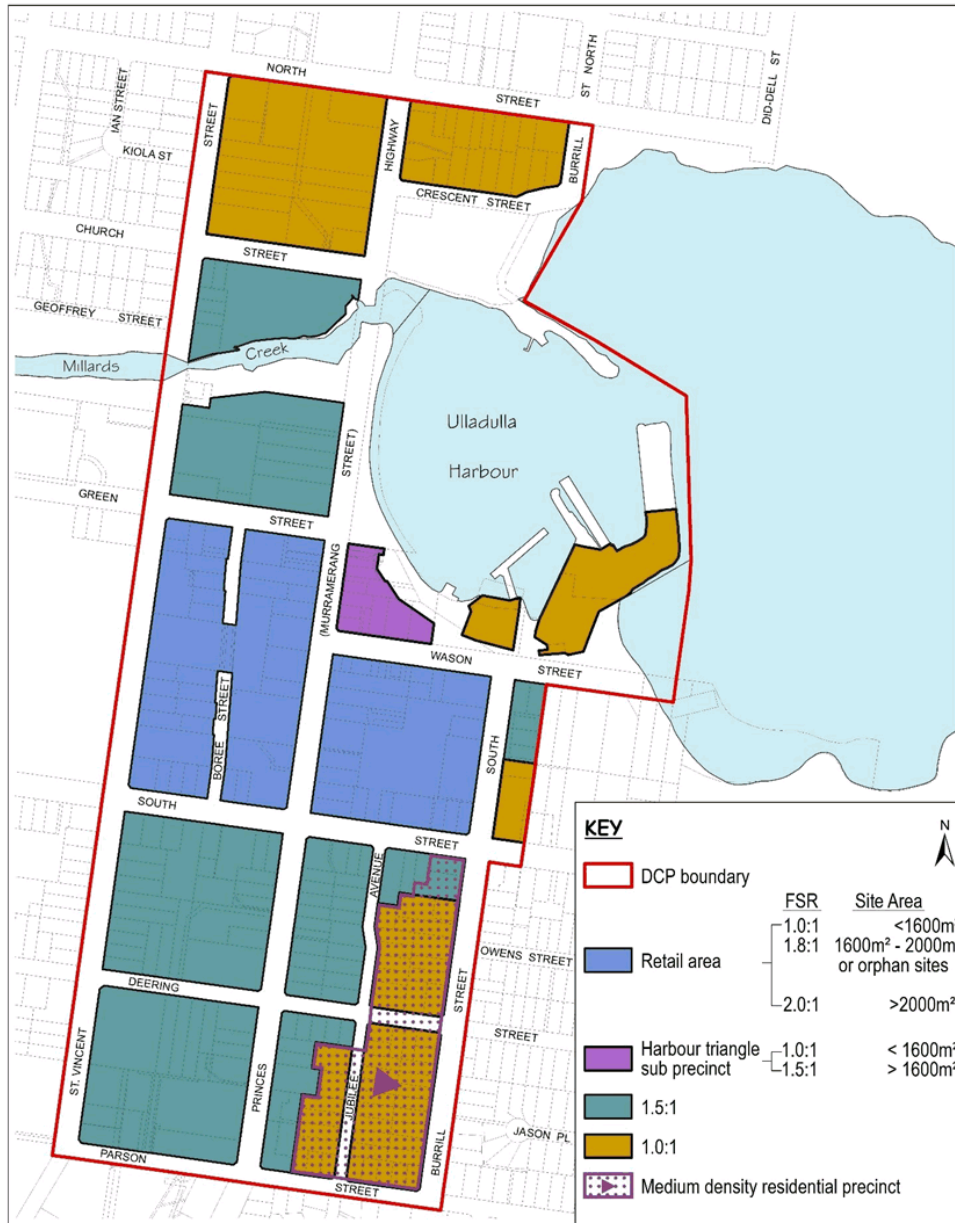
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Map 4: Building Height Limits

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Map 5: Floor Space Ratio

DE21.64 - Attachment 1

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5.1.4 Landscape

Performance Criteria	Acceptable Solutions
<p>P9 Landscaping shall provide a unifying framework and context for the revitalisation of the Town Centre. It will clearly define the street edge or space as well as creating a strong visual link with the public domain.</p>	<p>A9.1 Your development application must include a landscape plan that addresses:</p> <ul style="list-style-type: none"> Any adopted streetscape master plans. General planting schemes within the site and indicative species. Visual penetration into the site and embellishment of views. Hard surface materials within the site including paving, terracing, ornaments, street furniture and the like. Landscape management/maintenance strategies for short and long term. Protection and treatment of vegetation proposed to be retained or established on site.
<p>P10 Development should aspire to the highest standards in landscape design construction and maintenance, and exhibit themes that reflect and promote the achievement of the vision for the Town.</p>	<p>A10.1 You are to provide landscaping that is appropriately scaled and located relative to both the building bulk and incorporating existing vegetation where desirable or practical.</p> <p>A10.2 If you are planting adjacent to intersections and driveways, you must select vegetation that has a mature height of less than 900mm high to maintain safe sightlines.</p> <p>A10.3 Streetscape trees shall be tall branching species and be of a mature size (calliper width of 600mm minimum) and adequately staked to ensure survival from initial planting stage.</p> <p>A10.4 Ensure works are durable and resistant to damage.</p> <p>A10.5 If your development is a new development in Deering Street, it may need to be setback to accommodate future street tree planting of tall species (minimum mature height 15m) to</p>

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		accentuate the ridgeline e.g. Norfolk Island Pines.
P11	Landscaping should promote the latest ESD principles, improve air quality and improve microclimate and solar performance	A11.1 If providing at grade car parking spaces, you must provide shade trees.

5.1.5 The public domain

The creation of a distinct identity for the Ulladulla Town Centre is an important urban design principle of this Chapter. In doing so the Town Centre will be an attractive place to visit and stay longer, particularly into the evening and night time.

It is proposed to achieve this through the use of:

- A co-ordinated palette of paving, signage, lighting, street furniture and street planting.
- The use of public art in streetscape design.
- The use of banners, seasonal flowers and other elements to celebrate different events and activities.
- The creation of town activity nodes in each of the two principle retail blocks.
- A safer pedestrian environment with high amenity created by:
 - Active uses fronting streets and public places.
 - Widened paved footpaths for outdoor eating.
 - Continuous awnings where possible that incorporate pedestrian lighting.
 - The use of landscaping adjacent to the kerb to buffer traffic impacts.
- The creation of an attractive night time image through the use of distinctive street lighting, façade and shop window lighting, special effects and special events lighting.
- The undergrounding or bundling behind the awnings of overhead power lines.

The need to upgrade utility services, electricity, lighting, telephone, water, sewerage and drainage to service the needs of a diverse and increasingly residential based town centre will require careful planning and efficient use of resources. As these services will be provided at the time of development, streetscape masterplans will need to be considered at an early stage.

Performance Criteria	Acceptable Solutions
P12 Encourage street beautification measures in conjunction with development and improve the visual appearance of the Town Centre.	<p>A12.1 Where there is a relevant streetscape master plan, you should incorporate the relevant components of the master plan into your development application.</p> <p>A12.2 If your development is in the retail area, you are to underground utility services i.e. electricity, telecommunications, water and sewer.</p> <p>A12.3 You are to keep clear any tree planting reservation adjoining existing kerb lines</p>

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		of any utility services apart from street lighting.
	A12.4	Tree planning in the centre median south of Green Street and north of Church Street on the Princes Highway should occur following any highway bypass of the town.
	A12.5	Significant tree planning should be carried out on both sides of the St Vincent Street road reserve in locations which minimise impacts to resident's views .
P13	Streetscape and landscape works within public streets and places should be co-ordinated to reinforce the character of the Town and ensure the development of attractive, high quality, memorable and comfortable public places.	<p>A13.1 You should aspire to the highest standards in landscape design, construction and maintenance and exhibit themes that reinforce the maritime character of the Town Centre.</p> <p>A13.2 Future works in the public domain should relate to any adopted Urban Design Concept or master plan and paving and street planting should be carried out in accordance with Council's Landscaping Design Guidelines.</p> <p>A13.3 When planting within the retail area, you must maintain the following existing themes:</p> <ul style="list-style-type: none"> • Lophostemon conferta (Brushbox) on major thoroughfares interspersed with native or exotic shrubs. • Ground covers in garden beds. • Where appropriate, planting of annuals to give added colour.
P14	<p>Ulladulla Harbour Walkway Development in the Harbour Triangle Precinct integrates with the Harbour Walkway and future shared way.</p> <p>The walkway will primarily be used by pedestrians but a section may be a shared way and will be designed for use by light service vehicles, emergency access, cyclist, maintenance vehicles and the like. The shared way would be subject to the completion of a servicing management plan. Servicing from the highway will be discouraged where possible.</p>	<p>A14.1 You are to incorporate an open dining area adjoining the walkway/shared way. Public access must be guaranteed. Specifically:</p> <ul style="list-style-type: none"> • Your development should provide adequate at grade areas adjoining the pedestrian movement corridor to cater for outdoor sitting, cafes and other compatible activities. In this regard, development will be required to be set back a min 8-12m (average 10m) from the top of the bank facing the Harbour (see Figure 2). This area will be designed to allow a future shared way for light servicing,

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emergency access, maintenance vehicles and the like.

- The width of the pedestrian walkway shall be a minimum 3-4m (see Figure 2). The walkway component maybe partly cantilevered from the top of the bank.
- The width of the shared way from the top of the bank facing the Harbour will be 6m wide.
- The width of the shared way from the "Prow" on the walkway (see Figure 3) to Wason St will be 6m wide.
- Additional pedestrian thoroughfares (private) shall be provided to the walkway generally as shown on Figure 3 and Map 3.

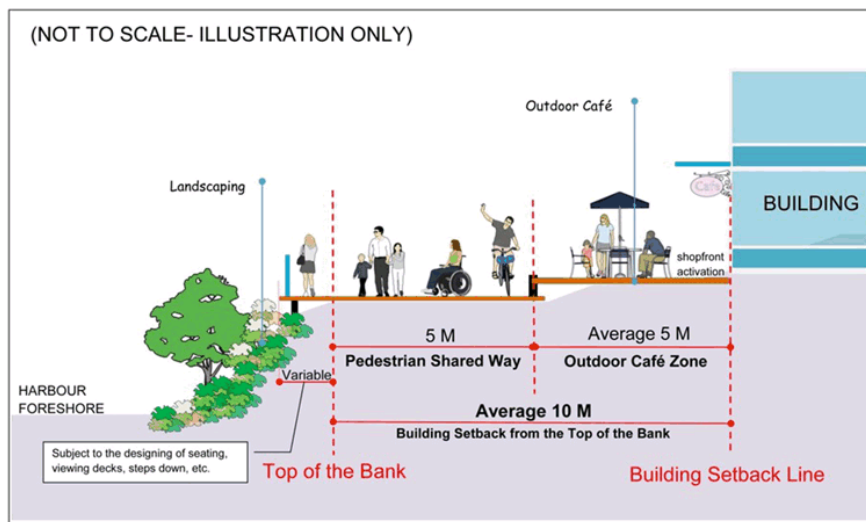
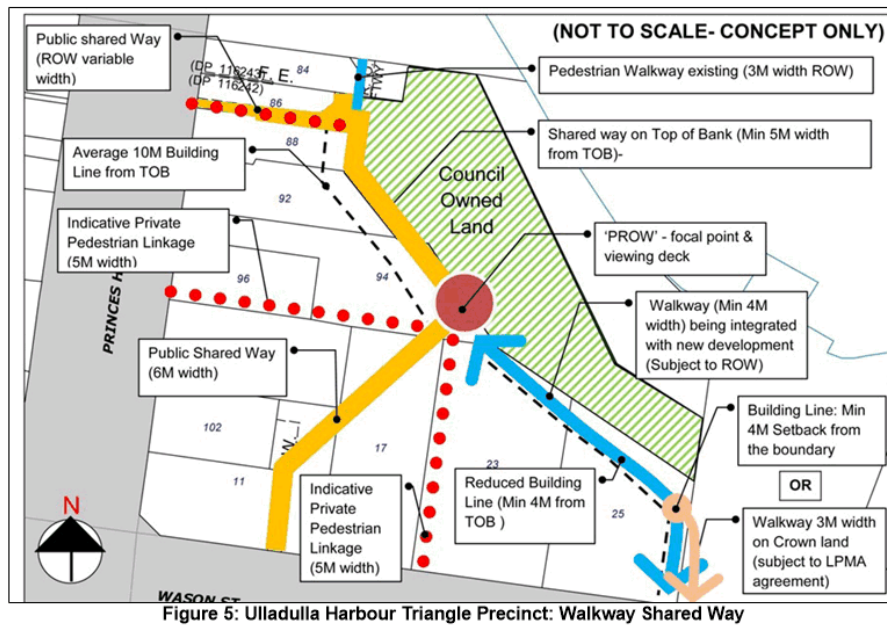


Figure 4: Ulladulla Harbour Triangle Zone Shared Way Concept (Typical Section)

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5.1.6 Land adjoining the harbour foreshore

Performance Criteria	Acceptable Solutions
P15 Development and activities should facilitate the use of the harbour foreshore as an available recreation and visual asset.	<p>A15.1 Your development must address the foreshore zone and ensure environmental values are maintained.</p> <p>A15.2 If your development adjoins the elevated walkways, you are to provide active frontages on the ground floor and balconies and terraces above. Awnings must be lightweight in construction and must not dominate the façade. Where possible, you are to provide transparent awnings to encourage natural light on the footpaths.</p> <p>A15.3 You must not construct permanent structures, car parks, garages or external storage on land having frontage to the harbour foreshore unless it is ancillary to the working harbour or unless a right-of-way is available across Crown land.</p> <p>A15.4 If your development adjoins public land, it is to be consistent with any adopted</p>

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harbour management plans and landscape master plans for the foreshore area around the Harbour.

A15.5 There shall be only one point of access from Crown land to Council land for the purpose of providing vehicle access to private land in the Harbour Triangle Sub Precinct, subject to legal access being able to be obtained.

5.1.7 Signage

Signs attached to buildings should be designed as an integral part of the building.

Performance Criteria	Acceptable Solutions
<p>P16 Signage provides structure and legibility and serve to reinforce the town's image and identity in an integrated manner.</p> <p>Signage does not increase visual clutter.</p>	<p>A16.1 All signage must conform with <i>Chapter G22: Advertising Signs and Structures and State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64)</i>.</p>

Note: Certain signage is considered exempt development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

5.2 Residential Flat Buildings, Residential Tourist Mixed Use & Shop Top Housing

The following guidelines apply to residential flat buildings, residential tourist accommodation, serviced apartments, shop top housing and the like.

Note: In addition to complying with the requirements of this chapter, any development of this nature is to comply with State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide.

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Performance Criteria	Acceptable Solutions
P17	A17.1
P18 Residential style tourist accommodation such as serviced apartments are to be designed to comply with the Apartment Design Guide to maintain high quality urban design and amenities for tourist and adjoining residential apartments.	A18.1 You must submit a local context analysis as part of your statement of environmental effects with any development application.

5.2.1 Ecologically sustainable developments

Performance Criteria	Acceptable Solutions
P19 Achieve energy and water efficient development by: <ul style="list-style-type: none"> Reducing the necessity for mechanical heating and cooling. Reducing reliance on fossil fuels. Minimising greenhouse gas emissions. Supporting and promoting renewable energy initiatives. 	<p>A19.1 You must consider the siting, layout and construction methods for your development to minimise the need for fuel based heating, cooling or lighting.</p> <p>A19.2 You should use water saving features and energy efficient water heating systems.</p> <p>A19.3 All buildings must:</p> <ul style="list-style-type: none"> Adopt waste recycling and water reuse strategies and actions. Adopt energy and water efficient fittings. Incorporate stormwater detention and treatment. Comprise walls, fencing and screens that are designed and located to allow penetration by winter sun and provide shade against summer sun. Set aside a waste recycling area. Incorporate appropriate industrial and commercial waste treatment (including grease traps for restaurants and food manufacturing uses) where necessary.
P20 Deep soil zone	A20.1 You must provide a minimum of 25% of the total area of open space within the site as a deep soil planting zone.

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P21	Mitigate against the future impacts of climate change.	• Assist with management of water levels and quality, and to improve the amenity of developments .	A20.2	Where possible you must locate deep soil planting zones next to adjoining deep soil zones on adjacent properties to maximise benefits.
			A20.3	You should provide sufficient deep soil planting zones to allow for the retention and/or planting of large and medium size trees .
			A21.1	If your development is located in the vicinity of the harbour foreshore, including frontage to Millards Creek, you must provide a coastal hazard assessment.

5.2.2 Building form/orientation

Performance Criteria		Acceptable Solutions	
P22	<p>Buildings should integrate harmoniously into the townscape and relate to one another through their architectural design quality, landscape or streetscape setting. They should optimise solar access to residential apartments and adjacent developments.</p> <p>Buildings are to be appropriately modulated and articulated in order to provide well-proportioned elevations and human scale when viewed along the street within the retail area.</p>	A22.1	Your building design must demonstrate continuity with neighbouring buildings through the use of similar floor and ceiling heights.
		A22.2	Your building design must respond to the streetscape and surrounding buildings through the use of a palette of similar elements and/or architectural styles in accordance with the built form and urban design objectives of this plan.
		A22.3	You are to avoid large areas of featureless walls and curtain walls.
		A22.4	You are to recess garage doors/loading docks so that they are not the dominant element in the overall presentation of the development and should not be located at the end of a street vista .
		A22.5	If your buildings are over two storeys in height, it must contain highly articulated façade elements to visually break down the scale of the street wall, clearly expressing base, middle and top. Development along active street frontages in the retail area is to provide building separation at 50m intervals and further modulation of facades at 15 – 20m intervals.
		A22.6	Arcades are encouraged to be provided, particularly where they provide access to activated areas such as off street car

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parks and the elevated harbour walkway (see Figure 5).

A22.7 You must plan your site to optimise **solar access** by positioning buildings to maximise north facing walls where possible (within 30 degrees east and 20 degrees west of north).

A22.8 Select **buildings** types or layouts which respond to the streetscape.

A22.9 Optimise **solar access** to living spaces and associated private open spaces by orientating them to the north.

5.2.3 Accessibility

Performance Criteria		Acceptable Solutions	
P23	Accessibility across common property is convenient and establishes comfortable conditions for pedestrian access.	A23.1	Your building must be connected to the public footpath network.
		A23.2	You must provide a separate entry to the residential component of your development for all residential and mixed use buildings . This entrance must be directly visible and address a permanently trafficable street or lane.
P24	All new buildings are accessible for people with disabilities.	A24.1	Any residential development is to provide an access plan demonstrating compliance with relevant access legislation, codes and standards.

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5.2.4 Building roofscapes

Performance Criteria	Acceptable Solutions
P25 Roof treatments form an unobtrusive yet visually interesting and landmark silhouette when viewed from adjoining streets and public vantage points within the Town Centre.	A25.1 You must break up massing of roofs.
P26 Rooflines, including architectural roof features, are designed to be compatible with the natural built environment and present an attractive screened or landscaped structure when viewed from nearby buildings or public places which overlook the development.	A26.1 You must minimise flat roofs and screen any flat roofs with parapets.
P27 Rooflines, including architectural roof features, should not adversely impact upon view corridors or view sharing of heritage items.	A27.1 Articulated parapets and cornice lines should emphasise the top of the building, combining to create a cohesive design and appropriate scale for the overall façade.

5.2.5 Building appearance, materials and finishes

Performance Criteria	Acceptable Solutions
P28 Development reflects the maritime character of the area and the positive contribution that the fishing industry and harbour infrastructure makes to the sense of place in the town.	<p>A28.1 Your building materials, colours, textures and styles reflect a distinctive, contemporary maritime theme. In particular:</p> <ul style="list-style-type: none"> Lapped weatherboard or equivalent combined with coloured gable metal roofing or similar is encouraged as is rendered brick or block work. Face brickwork is discouraged. Windows should be of timber construction or alternatively well detailed powder coated aluminium. <p>A28.2 High quality durable UV stabilised/corrosion-resistant building materials are favoured. Materials should be durable and low maintenance.</p> <p>A28.3 A well-considered mix of materials is encouraged.</p>

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P29	Minimal reflective materials are used.	A29.1	The reflectivity index for glass used externally in the construction of a building shall not exceed 20%.
P30	Colour palettes relate to the maritime character of the area.	A30.1	Your development should draw upon a colour palette that provides a tangible link to the character and history of the place as well as surrounding development and comprise of light hues of white or pastel colours (terracotta) with contrasting trims.
		A30.2	You must provide sample boards that provide details on materials and colours with your development application.

5.3 Infrastructure

It is proposed that short stay public car parks (up to 3 hours) are located within 150-200 metres walking distance of the retail focal point i.e. the intersection of Wason Street and the Highway. All day parking mainly for employees would also be provided within a radius of up to 400 metres (10 minutes walking distance) from the retail focal point. The two public car parks in Boree Street and South Street to the rear of the Marlin Hotel are identified as future infrastructure sites and are to be retained in public ownership unless the nominated infrastructure components (see Map 6) are integrated into a larger **development** proposal. Where possible, angle parking should be provided to maximise the amount of on street parking.

Within the commercial core, all **development** must provide rear service access which does not conflict with or reduce pedestrian or vehicle movements. The location of such service roads will be in accordance with the Infrastructure Plan (see Map 6). **Development** which does not have access to a service road will be required to provide off-street servicing within their property such that all vehicles can enter and leave the site in a forward manner.

All **car parking** areas and spaces shall be designed in accordance with the following provisions and in accordance with the *Chapter G21: Car Parking and Traffic*.

5.3.1 Car parking and access

Performance Criteria		Acceptable Solutions	
P31	Commercially orientated car parks are visually accessible and convenient for shoppers and employees.	A31.1	Provide public car parks (short stay) within 150-200 metres walking distance of the retail focal point i.e. the intersection of Wason Street and the Highway. Long stay car parking should be provided within 10 minutes walking time of the retail focal point (400 metre radius).

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P32 Car parking is adequate for the future requirements of the Town.	<p>A32.1 Allow for the construction of 200 additional car parking spaces within the CBD to the year 2035.</p> <p>A32.2 The Boree Street and South Street public car parks are to be retained for public car parking with provision for multi-level car parks.</p> <p>A32.3 A site for long stay multi-level car parks is to be retained at the rear of the Civic Centre site.</p> <p>A32.4 Notwithstanding the above, the public car parks may be integrated in a future larger development site provided that:</p> <ul style="list-style-type: none"> i. Identified infrastructure components are integrated into the development site including: <ul style="list-style-type: none"> • the provision of all development generated car parking and the replacement of existing public car parking on site; and • additional civic open space, typically 2000m²; and • pedestrian linkages to the Princes Highway and/or Wason Street. and ii. provision of a next order retail facility e.g. discount department store; and iii. inclusion or residential/tourist accommodation.
P33 Car park entries and driveways are to be kept to a minimum and where practicable are not located in pedestrian areas.	<p>A33.1 Car parking entries and driveways are to be avoided on the Princes Highway in favour of the provision of rear service access. Temporary access may be available until such laneways are available. Where alternative access via a secondary road or rear lane is available, access to the primary road frontage is to be avoided.</p> <p>A33.2 Where vehicle access across footpaths cannot be avoided, then a maximum of one access point for each road frontage for the development is provided.</p>

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P34	The 30m wide road reserves are used where possible for on street public car parking.	A34.1	On street car parking is to be maintained in the following streets: <ul style="list-style-type: none"> The Princes Highway between Deering Street and Millards Creek. Wason Street between Burrill Street South and the Princes Highway. Green Street between the Highway and St Vincent Street. South Street between Burrill Street South and St Vincent Street. St Vincent Street between Millards Creek and South Street.
P35	Prevent interruption to existing or potential active street frontages or public open spaces.	A35.1	Car parking structures at street level must present an active frontage preferably with ground level retail or residential tenancies and avoid being next to public places.
P36	Minimise the visual impacts of hard standing areas, maximise site area available for building footprints and maintain a compact and accessible centre.	A36.1	You must hide car parking areas from view. Car parking areas are ideally located in the basement of the building structure where possible.
		A36.2	Your development should not include basement car parks above the surface level. Basement car parks must be adequately screened by landscaping should this occur.
		A36.3	You should avoid at grade car parking or at least provide softening by generous landscaping and shade trees.

5.3.2 Traffic facilities, pedestrian movement and safety

Performance Criteria		Acceptable Solutions
P37	A balance is achieved between pedestrian amenity and traffic volumes.	<div>A37.1 Traffic movement on any street within the CBD shall be limited to two traffic lanes.</div> <div>A37.2 Future streetscapes and kerb reconstruction shall incorporate traffic calming devices which encourage speeds not exceeding 50kph.</div>

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		<p>A37.3 Where pedestrian desire lines cross roads, traffic lights should only require pedestrians to cross a maximum of five pedestrian lanes and a max of two traffic lanes in the case of pedestrian refuges.</p> <p>A37.4 The depth of any pedestrian refuge is to be designed to accommodate an aged person's electric cart or a parent with a baby's pram in accordance with Transport for NSW (TfNSW) and Council standards.</p> <p>A37.5 Mid-block pedestrian thresholds are to be provided to any street located within the retail core.</p> <p>A37.6 Wason Street, Boree Street and the area in Green Street between Boree Street and the Highway are to be designed as parking streets to improve pedestrian and tourist amenity and to allow for outdoor café precincts.</p> <p>A37.7 Traffic roundabouts are to be provided at the following intersections:</p> <ul style="list-style-type: none"> • Boree Street and South Street. • Jubilee Avenue and South Street together with the relocated entrance to the South Street car park.
P38	Minimises the impacts of pedestrian traffic conflicts within the Town Centre	<p>A38.1 Provision is made for median strips on the Princes Highway between Green Street and Parsons Street.</p> <p>A38.2 Traffic lights should be provided at the following intersections:</p> <ul style="list-style-type: none"> • South Street and the Princes Highway. • St Vincent Street and South Street. • Wason Street and Burrill Street. <p>A38.3 A mountable roundabout should be provided at the intersection of St Vincent Street and Parson Street.</p> <p>A38.4 Pedestrian facilities (mid-block crossing) should be provided at the following locations:</p> <ul style="list-style-type: none"> • On the Princes Highway south of Church Street (mid-block crossing).

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		<ul style="list-style-type: none"> • On St Vincent Street north of Millards Creek (mid-block crossing). • On the Princes Highway opposite the Civic Centre (mid-block crossing). • On the Princes Highway between Wason Street and South Street (mid-block crossing). • On the Princes Highway between South Street and Deering Street (mid-block crossing). • On Wason Street (double mid block crossing or wombat).
	A38.5	<p>The following key pedestrian links should be protected:</p> <ul style="list-style-type: none"> • In the vicinity of 22-24 Wason Street – South Street car park to Wason Street café precinct and elevated harbour walkway. • Lot CP SP 69933 existing link from South Street to the Highway. • Lot 46 DP 597282 Boree Street car park to the Highway proposed vehicle and pedestrian thoroughfare. • Lot 2 DP 525618 Boree Street car park to the St Vincent Street Community Centre.
P39	Identifies major traffic access routed to the Town Centre and minimises their impacts on residential amenity.	<p>A39.1 The main feeder roads to the business centre have been nominated as:</p> <ul style="list-style-type: none"> • The Princes Highway (note: access from proposed bypass to the southern end of the CBD should be via Kings Point Road). • St Vincent Street and its extension south to the Princes Highway (see Chapter S10: Ulladulla South). • Green Street to St Vincent Street (access from future bypass). <p>Where such streets are located in residential areas, traffic calming and noise reduction measures are to be undertaken to maintain satisfactory residential amenity.</p>

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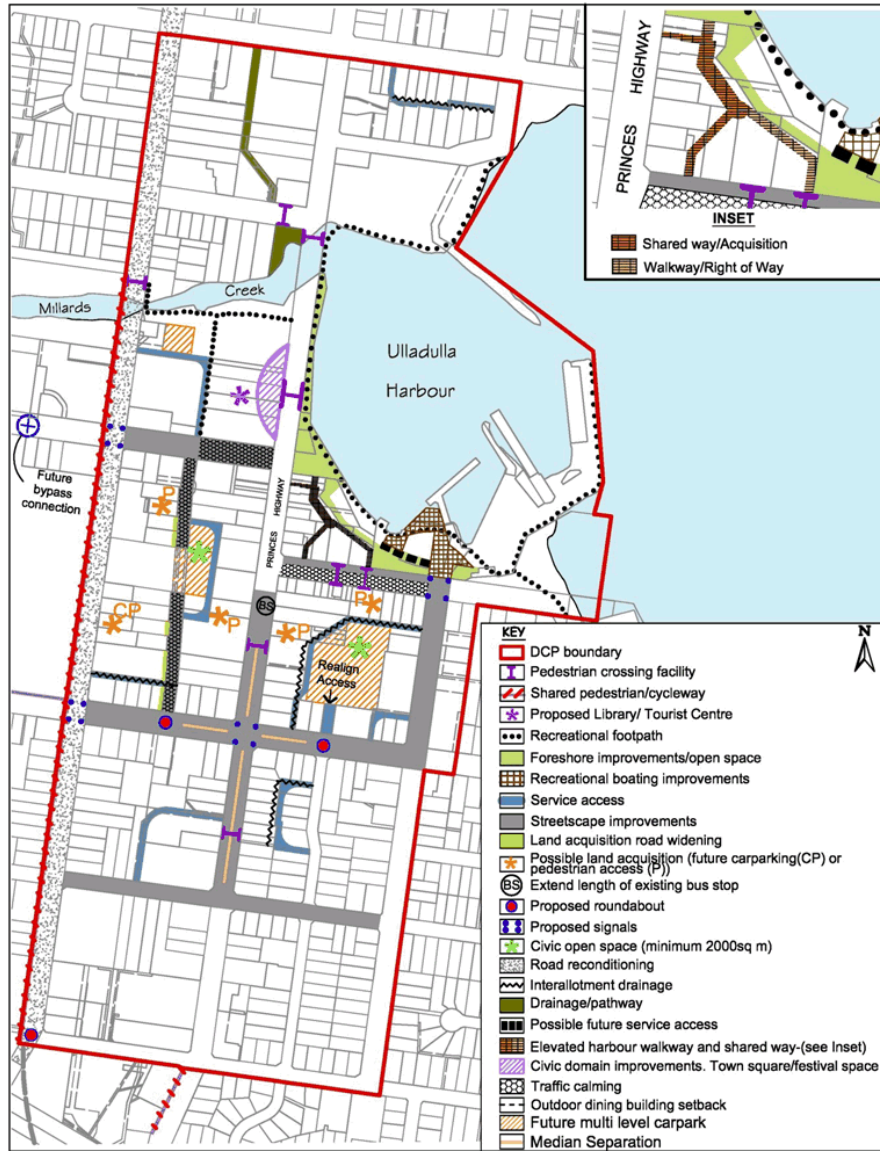
P40	Ensures that pedestrian networks are accessible, safe and convenient and comply with the relevant Australian Standards.	A40.1	Ensure that all footpaths that contribute to the pedestrian network conform to the relevant Australian Standards.
		A40.2	Floor levels relating to future development are set in accordance with existing and proposed footpath designs.
		A40.3	All main entrances should be accessible from such footpaths .
P41	Encourages public transport which is accessible to the travelling public, safe and convenient.	A41.1	Extend the existing bus stop adjacent to the Marlin Hotel.
		A41.2	Provide a dedicated bus station in conjunction with the upgrade of the Civic Centre.
		A41.3	Provide bicycle parking facilities in accordance with the Australian Standard.
		A41.4	Provide shower and change room facilities with any commercial development having a minimum gross floor area of 500m ² .

5.3.3 Roads and rear service lanes

Performance Criteria		Acceptable Solutions	
P42	Ensures that the existing road network is able to service the needs of the projected growth for the area.	A42.1	St Vincent Street is identified to carry additional local traffic and the pavement be upgraded in accordance with expected traffic volumes.
P43	Ensures that the light of major arterial roads within the Town Centre are not diminished and traffic safety threatened by new developments requiring service and car parking access from these roads.	A43.1	Develop a system of rear service lanes and provide a series of infrastructure master plans allowing new developments to construct and integrate with adjoining developments . Where access is not available all vehicles must enter and leave the site in a forward direction.
		A43.2	Child care centres and schools are not encouraged on lots fronting the Princes Highway.

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Map 6: Infrastructure Improvements Concept Plan

DE21.64 - Attachment 1

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5.4 Utility Service, Waste Management and Soil and Stormwater Management

5.4.1 Waste

Waste generated on site should be reused where possible or disposed of in an environmentally responsible manner.

Performance Criteria	Acceptable Solutions
<p>P44 Waste facilities are provided that are adequate in size and conveniently located for residents, centre users, and visitors.</p> <p>Waste facilities are practical, attractively designed and easy to maintain.</p>	<p>A44.1 You are to provide rubbish and recycling bin enclosures which, together with other site facilities, must be adequate in size, durable, weatherproof, easily cleaned, visually integrated with the development and be located having regard to the protection of amenity, vehicle service access, visual impact and access.</p> <p>A44.2 You are not to locate rubbish storage areas between the front alignment of any building and any road or public space. Rubbish storage areas must include a bin wash down facility.</p> <p>A44.3 All service vehicles are to enter and leave any development in a forward direction unless rear service lanes have allowed service bays.</p>

5.4.2 Water supply

Town water supply is available for domestic, production and firefighting support purposes. In respect of production needs, the water supply system may need to be augmented to satisfactorily service the **development** where the levels of customer service are not achieved at the developer's full cost.

In respect of firefighting support, individual systems will need to be sized to support their respective **development**. This may require the augmentation of the water supply reticulated system at the developer's full cost.

Performance Criteria	Acceptable Solutions
<p>P45 Water supply infrastructure is provided to all development within the area to which this Chapter applies.</p>	<p>A45.1 You must make adequate provision for water supply:</p> <ul style="list-style-type: none"> • Provision of components (stops valves, hydrants etc.) to ensure flexible operation of the reticulation in minimising disruption to customers. • Ensure sizing of infrastructure to allow possible future expansion, to

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		<p>minimise pressure loss and maximise flows (within acceptable parameters).</p> <ul style="list-style-type: none"> • Design shall minimise long term operational costs. • Minimum 150 diameter water mains shall be provided to commercial development where reticulated system cannot provide adequate customer levels of service (including requirements for firefighting). • Water supply shall be extended from suitably sized water mains and interconnected to other suitable sized main as required by Shoalhaven Water. • Water mains shall be located within public road reserves. • Minimisation of dead ends.
P46	Water services shall be provided to development within the area to which this Chapter applies.	<p>A46.1 Water services shall be sized to support the overall development.</p> <p>A46.2 All metered services shall have unobstructed access at all times.</p> <p>A46.3 Commercial development shall minimise the number of connections to the water supply system.</p> <p>A46.4 Commercial developments will require backflow device(s).</p>

5.4.3 Sewerage

Town sewerage reticulation is available for connection. Where the sewerage system is not adequate to fully support the **development**, augmentation of the reticulation system will be required by the developer at their full cost.

Performance Criteria	Acceptable Solutions
P47 Sewerage infrastructure is provided to all development within the area to which this Chapter applies.	<p>A47.1 You must make adequate provision for sewerage infrastructure:</p> <ul style="list-style-type: none"> • Minimisation of lengths of sewers. • Sewer designs being above the minimum design limitations to provide tolerances during construction. • Ensure sizing of infrastructure to allow possible future expansion (within acceptable parameters).

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	<ul style="list-style-type: none"> • Provision of components to ensure minimum operational costs to the sewerage system, minimise infiltration and inflow into the system and disruption to customers. • Sewerage infrastructure shall be located within private lands. • All access points shall have unobstructed access at all times. • Easements for drainage of sewage in favour of Council are required to be dedicated to ensure all lands can access the town sewerage system. Width of easement to be determined at development application stage. • Easement for drainage of sewage shall be required to extend across the property(s) to ensure future upstream developments to extend and connect to the sewerage system. • Pressure sewer systems may be required to serve development which cannot drain to the gravity sewerage system. • Sewerage systems must be integrated to service the whole sewerage system.
P48	<p>Sewerage services shall be provided to development within the area to which this Chapter applies.</p> <p>A48.1 Commercial development shall have one connection point to the sewerage system.</p> <p>A48.2 Individual pressure sewer units not part of a pressure sewer system must connect to a manhole.</p> <p>A48.3 All connection points shall have unobstructed access at all times.</p> <p>A48.4 Commercial development may require trade waste approval.</p>

5.4.4 Soil and stormwater management

Performance Criteria	Acceptable Solutions
P49 Minimise impacts of development on the natural stream systems in Millards Creek and ensure that the water quality of discharges to surface and underground receiving waters, including	A49.1 Preparation of a Water Quality Management Strategy showing how the water quality in Ulladulla Harbour will be maintained and improved.

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<p>Ulladulla Harbour, is maintained both during and after construction.</p>	<p>A49.2 Hard engineering solutions involving overly large piped drainage systems should be avoided.</p>
<p>Prepare appropriate management strategies based on the principles of Ecologically Sustainable Development and Water Sensitive Urban Design.</p>	<p>A49.3 Reduce runoff from area to pre-developed levels up to 1:100 year event by on site detention.</p>
<p>Management strategies should be prepared by suitably qualified persons and address:</p>	<p>A49.4 Adequate provision is to be made during construction to ensure that landform is stabilised and erosion is controlled.</p>
<ul style="list-style-type: none"> • The reduction of runoff from the area to pre-development levels of up to 1:100 year events using on site detention. • On-site infiltration. • The ability of existing structures and the subsoil to withstand the effects of retained water on site. • A site drainage system which can be economically maintained with ready access provided to all relevant components. • The minimisation of detrimental impacts on existing water balance. • The safety and convenience of pedestrians and people with disabilities using the site. • Provision is made to ensure damage or nuisance flows to adjoining properties are not exacerbated but reduced where possible. • The design of the minor drainage system takes full account of both upstream and downstream systems. • Community benefit is maximised through the retention of natural watercourses and vegetation where possible. • The system design optimises the interception, retention and removal of water borne pollutants through the use of appropriate fitness for use criteria. • Stormwater systems which are effective in reducing the overall cost of drainage within the catchment. 	<p>A49.5 Drainage easements in favour of Council may be required to be dedicated and constructed by the developer.</p>
	<p>A49.6 Natural floodway of all creek and drainage systems are not to be altered except where alterations are required to ameliorate problems caused by existing development to clear restrictions in natural watercourses.</p>
	<p>A49.7 No untreated stormwater from any future development within the DCP boundaries will directly enter any creek or drainage line, which ultimately drains into Ulladulla Harbour.</p>
<p>P50 Identify areas where drainage systems are inadequate or need to be upgraded.</p>	<p>A50.1 To adequately manage stormwater generated from the higher density residential areas bounded by Church Street, St Vincent Street, the Princes Highway and North Street, a drainage reserve is to be acquired. This drainage</p>

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reserve will also act as a pedestrian movement corridor to the Town Centre.

5.4.5 Lighting

Performance Criteria	Acceptable Solutions
P51 Lighting is designed to relate to the type of activity and the time it will be used.	<p>A51.1 Strip neon flashing or moving lights should only be associated with activities that operate at night e.g. restaurants and bars. Neon type signs will not be permitted to be fixed to heritage items, except where they form part of the heritage significance of the item.</p> <p>A51.2 All external lighting must be of high energy efficiency.</p>

5.4.6 Statutory authorities

Performance Criteria	Acceptable Solutions
P52 The restoration of landscape and streetscape works associated with public utility infrastructure and maintenance activities should be ensured and should be undertaken to agree with the design or and vision for the public domain.	A52.1 Statutory authorities and utility providers are encouraged to consult with Council prior to undertaking any major service augmentation projects or maintenance programs to assist in the co-ordination of embellishment and redevelopment initiatives within the Town Centre.

6 Advisory Information

6.1 Other legislation or policies you may need to check

Note: This section is not exclusive and you may be required to consider other legislation, policies and other documents with your application.

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Council Policies & Guidelines	<ul style="list-style-type: none">• Shoalhaven Contributions Plan 2019
External Policies & Guidelines	<ul style="list-style-type: none">• Apartment Design Guide
Legislation	<ul style="list-style-type: none">• Shoalhaven Local Environmental Plan 2014• State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development• State Environmental Planning Policy (Coastal Management) 2018



Summary of Submissions

PP060: Planning Proposal – Huntingdale Park Estate Large Lot Residential Precinct

Public Exhibition: 26 May to 25 June 2021

No.	Submitter	Summary of Submission	Council Comment
1	Household (residents of the Estate)	Support proposal. Appreciate beauty of the Estate, want children to be able to experience same character and beauty, therefore proposal is appalling. Oppose higher density in such a congested space and streets – traffic safety and servicing concerns. Concern at unsafe and very poor pedestrian access to shops, public transport and medical facilities. Concern at loss of privacy.	Discussed proposal in phone call, clarified intention of proposal will not increase density in existing large lot areas and submitter indicated support for this proposal. Submission of support for proposal. No change recommended.
2	Individual (resident of the Estate)	Support proposal. Reaffirms the intended design of the area. Concerns about medium density.	Submission of support for proposal. No change recommended.
3	Individual (landowner in the Estate)	Support proposal. Object to multi-dwelling housing complex (5 dwellings) in area (Lot 710). Support PP060 because will prevent this type of development from occurring on the other large lot properties. Proposal rectifies zoning anomaly and codifies original intent of Estate developers and Council approvals. Estate originally planned with the larger residential lots forming a buffer to the estate development as it grew denser and as it descended the hill and approached Berry township. Most residents bought within Estate with an honest belief that multi-dwelling housing not permitted.	Submission of support for proposal. No change recommended.
4	Individual (relative of landowners in the Estate)	Support proposal. Very few of these blocks are available, those that do exist need to be preserved, less chance of large lot development occurring in future. Confirms intended design and allows for a diversity of housing, not just medium density. Preserve the character, scenic amenity and liveability of the area. Will prevent overdevelopment in areas closer to farmland and natural surroundings. Provides greater control of appropriate planning to council. Rezoning will stop future inappropriate development like that proposed at 52 Parker Crescent, Berry.	Submission of support for proposal. No change recommended.
5	Individual (landowner in the Estate)	Support proposal. Support protecting adjacent agricultural uses. The area in question is not appropriate for medium density housing. Lots on the western side of Parker Crescent adjoin a working farm. Not appropriate to allow medium density housing to back onto a working rural property.	Submission of support for proposal. No change recommended.
6	Individual (resident of the Estate)	Support proposal.	Submission of support for proposal. No change recommended.

No.	Submitter	Summary of Submission	Council Comment
		Would like Berry to remain a country town with a country feel, concern about overcrowding from duplexes and townhouses like Sydney. Berry once 'town of trees', need more trees and birdlife and not to use all available space for development and money.	
7	Household (residents of the Estate)	<p>Support proposal.</p> <p>Strongly support. Purchased on belief that the area will provide for single residence lots, compensating for medium density at Hitchcocks Lane. PP060 is prudent way of returning the Estate to the purpose intended.</p> <p>Concern at duplex approvals and attempts to subdivide large lots. Shoalhaven needs good mixture of larger area blocks to compensate for the current trend of mass housing on small lots with permanent destruction of native vegetation and wildlife habitat, and rural pasture. Large lot developers and the subsequent owners should be encouraged by Council to minimise clearing and to replant native species wherever possible.</p>	Submission of support for proposal. No change recommended.
8	Individual (resident of the Estate)	<p>Support proposal.</p> <p>Bought into the early stages of the estate - lots were meant to get bigger as they went back into the estate - current zoning allows for lots in western edge to be much smaller than eastern blocks. Originally planned large lots as transition and buffer from the normal residential lots and the rural landscape abutting the development</p> <p>New R5 zoning of the large lots will protect from overdevelopment and protect the natural environment. Also concerned about traffic volumes and safety.</p>	Submission of support for proposal. No change recommended.
9	Individual (resident of the Estate)	<p>Support proposal.</p> <p>Consistent with the original intention of these large lots and within the original plan for Huntingdale Park. Will help protect the estate from unsympathetic development.</p>	Submission of support for proposal. No change recommended.
10	Individual (resident of the Estate)	<p>Support proposal.</p> <p>New R5 rezoning will help protect Berry's heritage and recognition of its rural and regional status. Overdevelopment will comprise this and increased traffic would be detrimental to family. Rezoning is consistent with the original plans for these large lots.</p>	Submission of support for proposal. No change recommended.
11	Individual (resident of the Estate)	<p>Support proposal.</p> <p>This was the original intention for the larger blocks of land and was in the original plan for Huntingdale Park.</p> <p>Will preserve the natural environment surrounding the estate. Will provide an aesthetic feature from the smaller blocks to the rural landscape.</p> <p>Prevent Huntingdale Park from overdevelopment. Less traffic entering and exiting the Estate with less dwellings and a safer environment for young families.</p>	Submission of support for proposal. No change recommended.
12	Household (residents of the Estate)	<p>Support proposal.</p> <p>Would make a great difference to Huntingdale Estate - getting too busy. In danger of changing the estate into an estate that no one wants to live in. Need to protect the environment and the character of Berry.</p>	Submission of support for proposal. No change recommended.

No.	Submitter	Summary of Submission	Council Comment
13	Household (residents of the Estate)	Support proposal. Land sold on the premise there was not going to be multi dwelling occupancy other than the medium density lots on Huntingdale Park Road. Concerned at overdevelopment.	Submission of support for proposal. No change recommended.
14	Household (residents of Berry)	Support proposal. Concern Huntingdale Park has altered the amenity of the town. Large lots included in the later stages an attempt to preserve some of the town character and avoid further urban sprawl. Surprise and concern that larger lots being exploited by property developers for financial gain. Concern about vegetation loss and strain on the environment. Concern about overdevelopment, drainage and traffic impacts, including evacuation and emergency access. Believes estate is inadequately served by a single access street to several hundred dwellings.	Submission of support for proposal. No change recommended.
15	Household (residents of the Estate)	Support proposal. Should be protected from overdevelopment. Consistent with the original intention of these large lots. Didn't buy to be living on top of each other. Love the current look and space of Huntingdale Park and the difference it has to other estates.	Submission of support for proposal. No change recommended.
16	Individual (resident of Nowra, works in Berry)	Support proposal. Limit overdevelopment - large lots designed to keep a particular aesthetic for this area. Townhouses and duplexes are not in keeping. People move to the country to have space, not be crammed on top of each other. Concern about parking, narrow roads and traffic safety. Too often seeing companies in estates trying to make as much money as possible without consideration for families already in the area. Concerned about precedent - If council say yes to one set of townhouses, will have them popping up all over the place - too close on all sides to boundaries. Spend a lot of time here with clients and trades working to make it a beautiful area, would like it to stay that way. Absolutely object to any kind of units.	Submission of support for proposal. No change recommended.
17	Individual (resident of the Estate)	Support proposal. <ul style="list-style-type: none"> Will help protect the estate from overdevelopment, Will help to protect the natural environment on the edges of the estate, Consistent with the original intention of these large lots and the original estate plan. 	Submission of support for proposal. No change recommended.
18	Individual (resident of the Estate)	Support proposal. Purposely purchased land due to the semi rural feel. Would be very disappointed if that lifestyle was lost due to the overdevelopment of the larger blocks.	Submission of support for proposal. No change recommended.
19	Individual (resident of the Estate)	Support proposal.	Submission of support for proposal. No change recommended.
20	Household (residents of the Estate)	Support proposal. <ol style="list-style-type: none"> Consistent with the original intention and plans. 	Submission of support for proposal. No change recommended.

No.	Submitter	Summary of Submission	Council Comment
		<ul style="list-style-type: none"> 2. Will help protect the estate from overdevelopment. 3. Will help protect the natural environment on the edges of the estate. 4. Will provide a suitable transition and buffer from the normal residential lots to the rural landscape abutting the development. 5. No need for additional high density, strata title developments on the higher side of Huntingdale. 6. Majority residents purchased these blocks of land under the impression (and contract) that there would only be single dwelling blocks. 7. Will help to maintain the character of the area and avoid crowding. 	
21	Individual (resident of the Estate)	<p>Support proposal.</p> <p>Advised the estate did not include multi-dwellings on one block when purchasing. Also informed of possible changes to future stages of development, but what resulted was in excess of what was expected at time of purchase. Has previously written to Council expressing concerns about the overdevelopment of this estate.</p> <p>Fully support PP - will be consistent with the original plans for the large blocks in Huntingdale Estate. Very concerned about development in the Huntingdale Estate Berry as already experiencing traffic concerns. Concerned about loss of character.</p>	<p>Submission of support for proposal.</p> <p>No change recommended.</p>
22	Individual (resident of the Estate)	<p>Support proposal.</p> <p>Advised the estate did not include multi-dwellings on one block when purchasing. Also informed of possible changes to future stages of development, but what resulted was in excess of what was expected at time of purchase. Has previously written to Council expressing concerns about the overdevelopment of this estate.</p> <p>Fully support PP - will be consistent with the original plans for the large blocks in Huntingdale Estate. Very concerned about development in the Huntingdale Estate Berry as already experiencing traffic concerns. Concerned about loss of character.</p>	<p>Submission of support for proposal.</p> <p>No change recommended.</p>
23	Individual (resident of Berry)	<p>Support proposal.</p> <p>Support prohibiting multi-dwelling development to ensure outcomes as intended at the time of subdivision.</p>	<p>Submission of support for proposal.</p> <p>No change recommended.</p>
24	Household (residents of the Estate)	<p>Support proposal.</p> <p>Bought lot and designed home abiding by the contract of sale. In contracts there was only a limited number of lots that could have dual occupancy in this semi-rural area. Concerned about excess dual occupancies and homes built on top of each other.</p> <p>Large lots offer a buffer between the suburban and rural land and will make for an environment that is pleasant to the eye and fits in with the surroundings. Already has enough high density living. Concerned about developer intentions and profit-driven development. Concerned about parking problems on narrow roads and one way in and out. Concern about becoming like Sydney.</p>	<p>Submission of support for proposal.</p> <p>No change recommended.</p>

No.	Submitter	Summary of Submission	Council Comment
25	Household (residents of the Estate)	Support proposal. <ul style="list-style-type: none"> proposed rezoning will be key to protecting native vegetation and environment. proposal will prevent loss of existing character and excessive development. <ul style="list-style-type: none"> consistent with the initial intention of the allocation of these large lots and the original plan for the Huntingdale Park Estate development. will provide a sustainable buffer and transition from residential lots to the rural properties which border the Estate. 	Submission of support for proposal. No change recommended.
26	Individual (resident of the Estate)	Supports proposal. When purchasing believed that the original intention of these large lots was to blend with the aesthetic of rural land directly behind and medium density development would be positioned away from rural land. These lots were sold at a premium price at the time to reflect their value as large lots adjoining rural space. Concerned at additional subdivision in area. This new re-zoning is consistent with the original intention of these large lots and the original plan. Infrastructure has not been planned for higher densities i.e., traffic flow (safety), drainage, water pressure and power. Will protect the natural environment on the edges of the estate. Will provide a suitable transition and buffer from normal residential lots to the rural landscape.	Submission of support for proposal. No change recommended.
27	Individual (relative of Estate landowners)	Support proposal. Relatives bought land to not just build a home but to create a lifestyle, for space to grow their own fruit and vegetables and enjoy the rural assets. To get out of Sydney and not be jammed up against neighbours with all the issues of parking, traffic, noise and congestion. Oppose multi-dwelling application at 52 Parker Crescent. Bigger blocks should be a transition buffer between the rural land and more condensed development closer to town. If one of these lifestyle blocks is lost to development it cannot be replaced. It will place more pressure on roads, services and infrastructure that was never planned for. Believe it was planning error not to do this initially.	Submission of support for proposal. No change recommended.
28	Household (residents of the Estate)	Support proposal. Understood when purchasing the land that only single dwellings could be built on each lot. Appears rules have changed without consulting the community. Multi-dwelling housing and dual occupancy affecting lifestyles. Concerned about noise and traffic impacts. Support preventing additional multi-dwelling housing in area.	Submission of support for proposal. No change recommended.
29	Household (residents of Berry)	Support proposal. Support prohibition of multi-dwelling development on large lot properties as this represents only developer interests. Need to support permanent, long term homeowners and occupiers for sense of community.	Submission of support for proposal. No change recommended.
30	Individual (resident of the Estate)	Support proposal.	Submission of support for proposal. No change recommended.



No.	Submitter	Summary of Submission	Council Comment
		<p>Consistent with original intention of these large lots. Created to act as a buffer between rural farmland and forest and other residential development. Lots were only meant to have one dwelling each.</p> <p>Some lots back out onto working farm, and farming activities and hunting, therefore only single dwellings with large backyards are appropriate.</p> <p>R5 zone will protect the natural environment as many lots back out onto forest and the creek, habitat for wombats, echidnas, kangaroos, birds, snakes, and only single dwellings are appropriate on periphery.</p>	
31	Individual (relative of landowners in the Estate)	<p>Support proposal.</p> <p>Very few of these blocks are available, those that do exist need to be preserved, less chance of large lot development occurring in future.</p> <p>Proposed rezoning confirms the intended design of the area and allows for a diversity of housing, not just medium density development. Also serves to preserve the character, scenic amenity and liveability of the area. Will prevent overdevelopment in areas closer to farmland and natural surroundings. Provides greater control of appropriate planning to council. Rezoning will stop future inappropriate development like that proposed at 52 Parker Crescent, Berry.</p>	<p>Submission of support for proposal.</p> <p>No change recommended.</p>
32	Individual (relative of landowners in the Estate)	<p>Support proposal.</p> <p>Relatives bought land to not just build a home but to create a lifestyle, for space to grow their own fruit and vegetables and enjoy the rural assets of Berry and the Shoalhaven area. To get out of Sydney and not be jammed up against their neighbour with all the issues of parking, traffic, noise and congestion.</p> <p>Oppose multi-dwelling application at 52 Parker Crescent.</p> <p>Bigger blocks should be a transition buffer between the rural land and more condensed development closer to town. If one of these lifestyle blocks is lost to development it cannot be replaced. It will place more pressure on roads, services and infrastructure that was never planned for. Believe it was planning error not to do this initially.</p>	<p>Submission of support for proposal.</p> <p>No change recommended.</p>
33	Individual (resident of Berry)	<p>Support proposal.</p> <p>The rezoning is consistent with the original intention and original plan for Huntingdale Park.</p>	<p>Submission of support for proposal.</p> <p>No change recommended.</p>
34	Individual (resident of the Estate)	<p>Support proposal.</p> <p>Support the arguments contained in the document. Concerned about impact of smaller lot sizes on existing infrastructure. Agree that higher density housing surrounding relatively high risk bush fire zone is imprudent.</p>	<p>Submission of support for proposal.</p> <p>No change recommended.</p>
35	Household (residents of the Estate)	<p>Support proposal.</p> <p>Will help protect the estate and town from overdevelopment.</p>	<p>Submission of support for proposal.</p> <p>No change recommended.</p>

No.	Submitter	Summary of Submission	Council Comment
36	Individual (resident of the Estate)	Support proposal. Purchased the land with understanding that the larger lots would be single dwelling with the intention of graduating the density of housing to spread out at the perimeter meeting the surrounding farmland. This was part of the appeal, both from an aesthetic and environmental standpoint. Overdevelopment and infrastructure overload is a risk unless this rezoning occurs.	Submission of support for proposal. No change recommended.
37	Individual (resident of the Estate)	Support proposal. Reasons: original intention of these large lots was not for multi dwelling purposes; R5 Zoning will protect the Estate from over development. Traffic is already a major issue in peak times, any over development will only add to the issue. Rezoning will also ensure a more natural blending of the residential estate to the bushland.	Submission of support for proposal. No change recommended.
38	Individual (resident of the Estate)	Support proposal. Consistent with the original intention of these large lots and the original plan for Huntingdale Park Estate. Restrictions on subdividing these large blocks will help protect from overdevelopment and help protect the natural environment of the area, minimising the impact on the natural habitat (land and animals).	Submission of support for proposal. No change recommended.
39	Individual (resident of the Estate)	Support proposal. The rezoning is consistent with the original intention and planning of the estate.	Submission of support for proposal. No change recommended.
40	Individual (resident of the Estate)	Support proposal. The rezoning is consistent with the original intention and planning of the estate.	Submission of support for proposal. No change recommended.
41	Household (residents of Berry)	Neutral on proposal. Does not support further rezoning of land from rural to residential. Concern about overdevelopment of Berry and surrounds and loss of rural land and character.	Position on proposal confirmed as neutral in a phone call – submission relates to growth planning across Berry generally. No change recommended.
42	Household (residents of the Estate)	Support proposal. Have purchased a very challenging block in subject area, spending a lot of money to meet council requirements. Initial intent of the larger blocks in this area was as a buffer to the farm land. The initial plan has [already] allowed for higher density areas. Other owners of large blocks have built single dwelling as this was what we believed was the required regulation. Multi-dwelling on these blocks changes the nature of the area. Support ½ acre blocks be rezoned to secure the initial intent of the developer and the agreed plan. Please consider the rezoning to R2 to protect the environment and create a buffer to farmland.	Submission of support for proposal. No change recommended.
43	Household (residents of the Estate)	Support proposal. Purchased lot with understanding that only one dwelling was permitted on these large lots. Live on the edge of the farm and bush and have sighted wildlife and many animals and rare birds - Wombats, Wallabies, Echidna's & Nesting Birds are living in the surrounding Bush & have made their home here. Fear could be lost if multiple dwellings built close to the perimeters of the	Submission of support for proposal. No change recommended.

No.	Submitter	Summary of Submission	Council Comment
		Cattle Farm & Bush. Area is so small & requires protection from further over development, excessive vehicles, man power & machinery. Please protect one of the most desirable landscapes for wildlife in the Berry region.	
44	Individual (resident of the Estate)	Support proposal. Abundance of multi dwelling applications already approved in the estate - contrary to initial appeal and the 88B instruction we were given. Smaller subdivisions are not what the Huntingdale community wants.	Submission of support for proposal. No change recommended.
45	Individual (resident of the Estate)	Support proposal. Live close to Connors View and all those lots have their only access past our home. Support rezoning because: <ul style="list-style-type: none"> • consistent with the original intention of these large lots and the original plan for Huntingdale Park Estate. • will help protect the estate from overdevelopment • will help to protect the natural environment on the edges of the estate • suitable transition and buffer from the normal residential lots to rural landscape • will reduce unnecessary, additional traffic going past home Believe Berry is currently nearing capacity with its current infrastructure - further development will compromise the integrity of the township.	Submission of support for proposal. No change recommended.
46	Household (landowners in the Estate)	Support proposal. Currently renting in North Nowra whilst building a home in the estate. Rezoning will align planning controls for large lots with the existing and future character of the area. Do not favour over-development of Huntingdale with high-density housing, as one of the unique features of the area that we appreciate is the open spaces and large block sizes. The larger blocks will enable planting of native plants once the houses have been built, that will encourage native birds and animals and sustain the natural beauty of the area. Multiple dwellings on a residential block will result in virtually no green space, which would be a tragedy in a location as beautiful as the Shoalhaven.	Submission of support for proposal. No change recommended.
47	Individual (resident of the Estate)	Support proposal. Purchased after being assured that only one dwelling [except a granny flat] was allowed on each large block. If multi dwellings on larger blocks are allowed, will cause unmeasurable damage to tranquillity, bushland & the wild life. Recently had a subdivision constructed below our home & it is very noticeable that the wild life living in the natural bushland has decreased significantly. I also believe the larger blocks on the surrounds of the estate act as a natural buffer for normal residential block on other parts of Huntingdale. Hope rezoning happens without delay.	Submission of support for proposal. No change recommended.
48	Household (residents of the Estate)	Support proposal. Allowing multiple dwellings on these lots would result in damage to the remaining natural areas and creek areas, ruin the context of the areas and remove the 'buffering' effect of having one	Submission of support for proposal. No change recommended.

No.	Submitter	Summary of Submission	Council Comment
		dwelling per large lot. Extremely upsetting to the owners who understood this to be the intention and have already built or have approval to build their (one) dwelling on their lot.	
49	Individual (resident of the Estate)	Support proposal. Please do not allow large lots of land to be over developed with multi dwellings in the Huntingdale estate and our community, taking away from the reason we, neighbours and friends who have moved here, and turning a lovely community into an overdeveloped estate.	Submission of support for proposal. No change recommended.
50	Household (residents of the Estate)	Support proposal. Ensure original intention of these large lots in Huntingdale Park as it was when we purchased our lots in 2018. Will help prevent overdevelopment of Huntingdale Park which only has one way in and one way out. Will help to maintain a more rural environment.	Submission of support for proposal. No change recommended.
51	Household (residents of the Estate)	Support proposal. Believe multi-dwelling lots would negatively impact and change the original intention of the estate. Appreciate relatively small number of residents. Children ride their bikes around the small streets and we feel safe that all residents are aware and keep a look out for them in our small community. Multi-dwellings will increase the number of cars and residents in the area, taking away one of the main reasons why we moved to the area.	Submission of support for proposal. No change recommended.
52	Individual (landowner in the Estate)	Support proposal.	Submission of support for proposal. No change recommended.
53	Household (residents of the Estate)	Support proposal. Do not wish to see the rural landscape removed for multi-dwelling housing and loss of beautiful native wildlife.	Submission of support for proposal. No change recommended.
54	Individual (resident of the Estate)	Support proposal. This was the intention when the estate was designed and approved.	Submission of support for proposal. No change recommended.
55	Household (residents of the Estate)	Support proposal. - consistent with the original intention of the developer, and presumably the council in approving the original plan. - will help protect the estate from overdevelopment. - Will help protect the environment and rural landscape on the edges of the estate.	Submission of support for proposal. No change recommended.
56	Individual (resident of the Estate)	Support proposal. Concern amount of traffic on and near Connors View if R5 Zoning is not approved. Especially as there are many young families in the area with young children. An issue which is seemingly overlooked in many cases is the extra traffic that will be generated in future years when those children are grown and have cars of their own. Berry does not have the infrastructure to cope with these numbers now.	Submission of support for proposal. No change recommended.

No.	Submitter	Summary of Submission	Council Comment
57	Individual (resident of the Estate)	Support proposal. For safety and aesthetic reasons.	Submission of support for proposal. No change recommended.
58	Household (residents of the Estate)	Support proposal. Want to protect the half acre lots from over development and to protect the natural environment that the half acre blocks back on to.	Submission of support for proposal. No change recommended.
59	Individual (landowner in Estate)	Support proposal. Bought large block for new home, to have more space, large garden and rural atmosphere. Large garden important private space, not crowded by adjoining houses and no negatives of suburban living. Ideal opportunity for country lifestyle, to build a passive energy home, lessen carbon footprint and ongoing reliance on non-renewable resources. Object to multi-dwelling development proposed on Parker Crescent - would not have happened if the land had originally been zoned as R5. To rezone R5 is only to ensure that it is preserved as intended. Larger lifestyle blocks at edge of the Estate as buffer with rural land. The blocks are further away from town and less dense living here won't impact stormwater by preserving landscapes and won't exacerbate traffic issues for the community. Will preserve the transition area from farmland to residential and prevent Berry from an over built appearance. Needs to be more of this type of development as housing diversity eroded. Support changes to minimum lot size. Once these large blocks are sub-divided and off sold, lost forever.	Submission of support for proposal. No change recommended.
60	Household (residents of Estate)	Support proposal. Concerned about the additional traffic and the overall impact on character [if not rezoned].	Submission of support for proposal. No change recommended.
61	Landowners in the Estate	Object to proposal. 1. Proposed rezoning results in significant de-valuing of land. Purchased in the knowledge that multi-dwelling housing was permissible. 2. Area Specific DCP Chapter N3 applies and notes " <i>limited supply of new housing lots available in Berry</i> ". Estate subdivision sold out in Nov 2020 - outcome of this housing shortfall then justifies new Hitchcock's Lane Subdivision (PP027). PP060 reduces residential capacity of the Estate, obviously inconsistent with the housing needs of Berry. This has already justified further urban expansion and is clearly inconsistent with the aims of urban consolidation, optimal use of existing resources and protection of rural lands. 3. Chapter N3 was prepared with reference to community-led Berry <i>Community Strategic Plan 2016: Strategic focus 4.2: "Provide a distinct town edge that retains views to the escarpment to the north and minimises residential subdivision and housing release at the rural interface</i> . PP060 is back zoning that will reduce residential capacity. Even prior to PP060 additional rezoning for residential expansion and subdivision is required at the rural/urban interface (Hitchcocks Lane, PP027) to meet the housing needs of Berry. Clearly the planning proposal is inconsistent with this endorsed strategic focus for Berry.	Objection considered with points addressed below. Minor changes to PP made to emphasise that proposal is supported by strategic plans and policies. PP060 is consistent with Council's approach to planning for similar residential zones across Shoalhaven that see their zoning reviewed/adjusted after subdivision. Council is also committed to keeping the <i>Shoalhaven Local Environmental Plan (LEP) 2014</i> updated in response to the range of planning changes that can impact on its operation as intended. 1. Acknowledge that PP will not allow for multi-dwelling housing on large lots proposed to be zoned R5. This is consistent with strategic objectives and plans for this part of the Estate, going back to DCP 70 (adopted in 1998) which identified the large lot areas and guided the Estate development and approvals. Large lots have high values in Berry and many residents in the area purchased these lots with the understanding that the large lot, low density characteristics of the lots would be retained as per the DCP and subdivision approval and not be developed and subdivided into multi-dwelling developments.

No.	Submitter	Summary of Submission	Council Comment
		<p>4. Recent multi-unit developments in Estate extremely popular, sold very quickly. Clear market demand for housing diversity and more affordable housing products. PP060 will eliminate capacity for similar in Huntingdale and Berry generally. Shoalhaven LEP Clause 4.1A prohibits multi-dwelling housing on lots under 900m² in R1 and R3 zones and typical lot sizes in Huntingdale are ~700m². Bulk of existing land outside Huntingdale is zoned R2 or R5, and Hitchcocks Lane subdivision (PP027) will be zoned R2. Multi-dwelling housing is prohibited in these zones.</p> <p>Subject land is only substantial pocket of R1 zoned land in Berry with lot sizes capable of supporting multi-dwelling development. PP states (Sec. 3.2) that it <i>"does not compromise the provision of housing choice or greater affordability in the area"</i> - review of the current zoning provisions in Berry and lot size requirements of Clause 4.1A indicates that this comment is simply untrue, false, and misleading.</p> <p>5. PP report seeks to justify rezoning by stating that it aims to mitigate visual impacts of development in a scenic location. DCP Chapter N3 addresses the visual impacts west of the Princess Hwy and provides artistic impressions from viewpoints. These, as well as current views (below) show that the Estate, and the future Hitchcocks Lane subdivision are largely screened from Princes Hwy by existing and recommended landscaping. Besides Princes Hwy and southbound on-ramp, cannot establish any important vantage points. Residential development is well established. Counterintuitive to seek to reduce visual impacts associated by back zoning existing residential land - identified that this will force further urban expansion with its own associated visual impacts.</p>  <p>Above: View of Huntingdale Estate from the south bound land of the Princes Highway looking north-west.</p>  <p>Above: View of Huntingdale Estate from the south bound land of the Princes Highway looking west.</p> <p>6. PP report indicates that planning controls have changed in recent times to allow for increased density and intensity over the areas identified that have been subdivided into lots ≥2000m². Do not agree, noting that even under former Shoalhaven Local Environmental</p>	<p>2. Hitchcocks Lane subdivision (PP029) is a land release area identified in (and justified by) the Shoalhaven Growth Management Strategy (GMS) 2014, and will provide additional new greenfield housing to meet the needs of Berry. PP060 does not substantially reduce the capacity of the Estate as it affects a defined number of properties (that are constrained by topography and in some cases vegetation) and many of the existing large lots have already been developed/approved with single dwellings and the intentions of a number of landowners of remaining vacant lots indicate they also wish to develop their lots for low density development as was originally envisaged.</p> <p>3. The amended site-specific DCP Chapter N3 reiterates and retains the longstanding intention for large lots along the rural-residential interface of the Estate. PP060 is generally consistent with the <i>Berry Community Strategic Plan 2014 (Strategic Focus 4.2)</i>, as it assists in preserving views of the escarpment along the fringe of the Estate and minimises subdivision at the western rural interface.</p> <p>4. DCP Chapter N3 supports provision of housing choice and more affordable housing products, primarily by encouraging smaller homes on smaller lots (small homes are a recognised housing supply gap in the area and are more likely to provide relative affordability than larger homes). Small lot housing is proposed as part of the Hitchcocks Lane subdivision, as this area is centrally located, flat and primarily cleared, in closer walking distance to town and adjacent to a planned future embellished park. Multi-dwelling housing can provide housing diversity, but this and affordability, actually depends on the size, specification and tenure type of individual developments, as well as localised market and economic conditions.</p> <p>5. Higher density development on the ridgelines of the Estate is likely to have visual impacts beyond those visible today (as the area is not fully established) and from within the Estate itself as well as from viewpoints along roads and the Highway. The housing in the elevated areas of the Estate (including large lot areas) is currently visible due to elevation, but may become less visible over time as landscaping around homes establishes and grows. Higher density development will increase hardstand areas around developments, reducing opportunities for landscaping/vegetation screening over time. Along Connors View would likely require additional vegetation removal for development and bushfire mitigation, thereby exacerbating visual</p>

No.	Submitter	Summary of Submission	Council Comment
		<p>Plan 1985 the site was zoned 2c and this allowed for multi-dwelling housing and residential flat buildings.</p> <p>7. Recent development application (DA19/1857) referred to in Section 1.3 of PP report notes "significant community opposition" and 99 objections. Report notes the population of Berry is 2,667 (2016 census). Estimated population for 2020 is 4,798. Based on the 2016 population objections registered <4% of residents. Estimated 2020 population, only 2% of residents registered objection. Not clear why such a small percentage considered a 'significant' proportion.</p> <p>8. Disagree land is so far from public transport (2km to the Berry train station) that current zoning unsuitable. Council's <i>Character Statements</i> by Roberts Day, identifies Berry as being highly accessible given Princes Hwy and South Coast train line. Short drive to station for an elderly person who needs to get to Sydney. As identified at point 4, these lots also represent some of the only appropriately zoned and sized lots for multi-dwelling housing within proximity of the Berry train station.</p> <p>9. Section 3.2 of PP suggests that surrounding rural land needs to be protected for agriculture and land use conflicts need to be reduced. PP is inconsistent with the protection of rural land as the reduction in dwelling capacity in this existing residential area has already resulted in rezoning of adjacent rural land at Hitchcock's Lane for residential development (PP027). With respect to managing land use conflicts, likelihood of the immediately adjoining rural land being used for intensive or extensive agriculture is minimal. Surrounding rural land is mapped as having severe limitations on the NSW land and soil capability mapping data base.</p> <p>10. 'Theme 2' of <i>Shoalhaven 2027 Community Strategic Plan</i> - managing appropriate and sustainable development is cited as of relevance. Unsure how PP, which seeks to reduce the development potential of the land, is in any way sustainable. Will result in the highest residential development possible being large homes on large lots, thus encouraging severe underutilisation of a very scarce resource in the Shoalhaven – that is, uncumbered residentially zoned land, with development potential located a few kilometres from a train station. We would suggest that the planning proposal is totally unsustainable and irresponsible to future generations.</p> <p>11. PP report suggests proposed rezoning will facilitate the delivery of an additional 14,600 homes by 2041. Dispute and believe that the proposal to reduce the development potential of the land will work against meeting these housing targets. Evidenced by the need for rezoning adjacent rural land (PP027).</p> <p>12. Does not meet the objectives of the Local Planning Directives issued under S9.1(2) of the <i>Environmental Planning and Assessment Act 1979</i>, Direction 3.1 – Residential zones. The objectives of this direction are:</p> <p>a. <i>to encourage a variety and choice of housing types to provide for existing and future housing needs,</i></p> <p>b. <i>to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</i></p>	<p>impacts. The images within the DCP Chapter N3 are artists impressions only (of mature vegetation).</p> <p>6. Recent planning control changes that impact the subject land are discussed in the PP document. PP060 is consistent with Council's approach to larger subdivision areas that were initially zoned Residential 2(c) under Shoalhaven LEP1985 (now zoned R1 General Residential under LEP2014) that saw the zoning of the area change when appropriate to reflect the nature/character of the subdivision once approved. The initial 2(c)/R1 zoning provides some initial flexibility until the final subdivision pattern is known or established (which is guided by DCP provisions) and then areas rezoned accordingly. This has occurred in various areas throughout the city and as such is not an unusual approach. In this case, longstanding DCP provisions (dating back to at least 1998) illustrate the desired character and future development intentions for the large lot areas of the Estate.</p> <p>7. The population figure used in the PP document represents the 2016 Usual Resident population of Berry using the ABS Census data for the 'State Suburb' geographical locality of Berry. The population figure quoted in the submission utilises the Estimated Resident Population figure for 'Berry and Surrounds' which includes surrounding suburbs. ERPs for suburb areas are adjusted after each census. More information can be found at https://profile.id.com.au/shoalhaven. In relation to PP060, 85 submissions of support were received, including 63 households living in the Estate (and therefore affected by the proposal). This is a relatively high proportion of approximately 24% of households/landowners in the Estate expressing support for the proposed rezoning).</p> <p>8. A key factor in strategically locating homes closer to train stations is to support active and public transport use and reducing the need to drive to stations by encouraging walking and cycling. This is also important for people who do not have a car or are unable to drive.</p> <p>9. The rezoning of land south of Hitchcocks Lane is not related to PP060, and does not result from any reduction in residential capacity in Huntingdale Park Estate. The Hitchcocks Lane subdivision is identified in the Shoalhaven GMS 2014 and has been investigated as a growth area for a considerable amount of time. There is no requirement to 'maximise' use of all land zoned residential. The practice of planning for larger lots/lower density development at the rural/urban interface is a common practice across NSW and is consistent with principles and policies for</p>

No.	Submitter	Summary of Submission	Council Comment
		<p><i>c. to minimise the impact of residential development on the environment and resource lands.</i></p> <p>The planning proposal will limit housing choice and is inefficient use of existing infrastructure and services. For Council to argue otherwise is simply fanciful. Planning proposal is inconsistent with Paragraph 5(b) of the direction which clearly states a planning proposal "must not contain provisions which will reduce the permissible residential density of the land".</p> <p>13. PP states it will not have any adverse economic impacts. Strongly disagree - will reduce the amount of potential construction activity for the area and local economy and result in poorer housing choice. Major underutilisation of existing urban zoned land and results in a direct devaluation of the affected land.</p> <p>14. Multi-dwelling housing should remain a permissible land use within the area and the planning proposal should not proceed. Implore the Council to cease proceeding with the planning proposal and retain the current land use provisions applicable under the Shoalhaven LEP 2014.</p>	<p>protecting rural land uses through reducing land use conflicts (e.g. refer to NSW Department of Primary Industry policies on managing land use conflict for strategic planning: https://www.dpi.nsw.gov.au/agriculture/lup)</p> <p>10. PP060 takes a place-based approach to planning for Berry, and provides housing for the community whilst considering land use constraints, infrastructure provision and efficient use of land. The large lots are not considered to be unencumbered for development purposes, and are constrained by steeper topography, bushfire risk, existing roads and water infrastructure, visual sensitivity and, along Connors View, native vegetation. There are more suitable areas for additional housing development that are to be rezoned south of Hitchcocks Lane.</p> <p>11. PP060 will not materially impact provision of Council's strategically identified future housing supply. It is also noted that any hypothetical number applied to this area would be based on the original residential subdivision.</p> <p>12. The PP document discusses the Section 9.1 Directions in detail. An inconsistency with Direction 3.1 is acknowledged in the exhibited document and fully justifies this as minor and therefore compliant with the direction and requirements of the EP&A Act 1979. The NSW Department of Planning, Industry and Environment agreed that the inconsistency with 9.1 Direction 3.1 Residential Zones is justified in accordance with the terms of the Direction and that no further approval is required in relation to this direction (Gateway determination cover letter dated 16 April 2021).</p> <p>13. PP060 will not significantly affect construction activity in the locality – the Estate is currently experiencing construction activity associated with general house building and the additional Hitchcocks Lane subdivision will provide additional construction opportunities. Housing choice is discussed in detail within the PP document.</p> <p>14. PP060 is consistent with Council's approach to reviewing LEP controls and keeping them updated to align with strategic plans and policies and to respond to wider changes in the planning system. Adjusting zoning after subdivision is also consistent with the general approach to larger subdivision areas previously zoned 2(c) or now zoned R1.</p>
62	Individual (resident of the Estate)	Support proposal.	<p>Submission of support for proposal.</p> <p>No change recommended.</p>

No.	Submitter	Summary of Submission	Council Comment
63	Individual (resident of the Estate)	Support proposal. Will make sure that section of the estate will remain as intended with larger style blocks with single homes and avoiding overdevelopment. Keep traffic flow to minimum ensuring a safe place for our children to play. Protect environment. Purchased and made the move to Berry for the reason that the 'Ridge' would be a large lot only pocket of Huntingdale - as overdevelopment ruined the previous estate we lived in.	Submission of support for proposal. No change recommended.
64	Individual (resident of the Estate)	Support proposal. <ul style="list-style-type: none"> The original intention in Huntingdale Park was that all lots should have one house built on each lot and road network was designed for such. Multi dwellings will result in more cars than was planned for, possible road congestion and inadequate street parking. Issue of cars not being able to safely pass when there are cars parked both sides of the roads. Serious concerns for the safety of residents with only one road in and out for emergency. Multi dwellings detract from the amenity and original style and planning of Huntingdale Park and Berry. Half acre and larger lots with single dwellings allow for more trees and gardens - more in keeping with the rest of Berry and Huntingdale Park. 	Submission of support for proposal. No change recommended.
65	Household (residents of the Estate)	Support proposal. Appeal of building in Estate was natural bush outlook and low density housing. Preferably one house per block of land with a variety of architectural styles and sizes that provide an open landscape with natural environment transition to the surrounding rural landscape. Most people bought in the estate bought here for the above reasons. Already-allowed duplex developments increased the density too much and no further multi unit developments should be allowed. Traffic concerns.	Submission of support for proposal. No change recommended.
66	Individual (resident of the Estate)	Support proposal. Hoping this gets passed and implemented, to help protect the estate from overdevelopment.	Submission of support for proposal. No change recommended.
67	Household (residents of the Estate)	Support proposal. Currently live on a half acre lot and were originally told that these large lots could not be subdivided. Rezoning these large lots will allow for consistency of the original plan. Concern about overdevelopment and negative impacts on the surrounding natural environment.	Submission of support for proposal. No change recommended.
68	Household (residents of the Estate)	Support proposal. Protect the intended usage of the large blocks and preserve the general nature of the precinct. The Estate was always designed to blend rural into residential. Multi-dwelling developments on the outskirts of the Estate will totally ruin this aesthetic. More importantly, Huntingdale does not have the infrastructure to support multi-dwelling developments, especially road design for Connors View. Plans changed from a handful of blocks to dozens and multi-dwellings could blow this out. Sharp and narrow corner is already dangerous for vehicles and pedestrians. Concern about profit-driven development only, not benefiting people who live in Estate.	Submission of support for proposal. No change recommended.

No.	Submitter	Summary of Submission	Council Comment
69	Individual (resident of the Estate)	Support proposal. Support only one residence on each large lot as original intention of estate. Ensure character maintained.	Submission of support for proposal. No change recommended.
70	Household (residents of the Estate)	Support proposal. Will be as originally intended and hope sets a precedent.	Submission of support for proposal. No change recommended.
71	Household (residents of the Estate)	Support proposal. Believe will prevent overdevelopment.	Submission of support for proposal. No change recommended.
72	Individual (resident of the Estate)	Support proposal.	Submission of support for proposal. No change recommended.
73	Individual (resident of the Estate)	Support proposal. In line with the original plan of the estate and why we chose to buy. Helps protect against over development and the safety on the roads, especially for children.	Submission of support for proposal. No change recommended.
74	Individual (resident of the Estate)	Support proposal. Moved from Canberra under the guidance that it was for single dwellings and would provide a safe environment. Support the flow from rural to suburbia and to protect the natural environment.	Submission of support for proposal. No change recommended.
75	Household (residents of the Estate)	Support proposal. All future development within the nominated area to adhere with the natural landscape and beauty of the surrounding area.	Submission of support for proposal. No change recommended.

Form Letters

12 submissions (on behalf of 18 persons) were received with the same content (a form letter) expressing support for the Berry Forum position, discussed at the Forum meeting of 10 June 2021. This position supports the rezoning of large lot properties from R1 to R5 (Large Lot Residential), to prohibit multi-dwelling development. Of the 12 form letter submissions, 9 were received from households in Berry (outside of Huntingdale Park Estate), 1 from a household in Broughton Vale and 2 submissions did not include place of residence.

PLANNING PROPOSAL – PP060

Shoalhaven Local Environmental Plan 2014

Huntingdale Park Large Lot Residential Precinct, Berry

Prepared by
City Futures
Shoalhaven City Council

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Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

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Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

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Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

1 Introduction

This Planning Proposal (PP) seeks to amend the Shoalhaven Local Environmental Plan (LEP) 2014 to preserve the large lot and low density residential character on the western and northern periphery of Huntingdale Park Estate (the Estate) in Berry.

This PP seeks to ensure planning controls align with the strategic planning intent for the large lot residential areas of the Estate and achieve the following objectives:

- Facilitate a transition from suburban and medium density housing in the central parts of the Estate to lower density areas bordering the neighbouring farmlands, existing rural-residential development and native bushland;
- Provide large lots on the north and western fringes of the Estate (along the elevated and prominent ridgelines) to mitigate visual impacts of development in this scenic location;
- Reinforce the character of Berry through high quality subdivision and housing design to protect residential amenity;
- Ensure planning controls for large lots reinforce character objectives, including encouraging suitable open space around buildings and larger landscaped areas; and
- Provide suitable and efficient infrastructure to the Estate.

The PP is necessary to update planning controls that apply to the large lot area of the Estate, as contemporary controls could compromise achievement of the aforementioned objectives and impact adversely on the desired future character and residential amenity in the area.

It is requested that Council be given delegation for plan making functions for this PP. The evaluation criteria for delegation are provided at **Attachment A**.

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

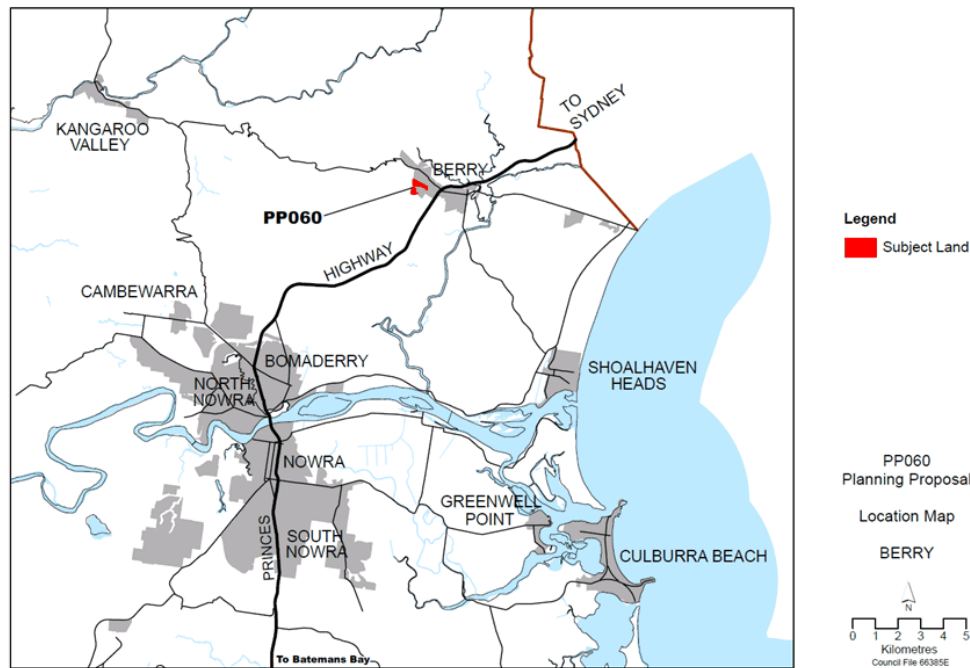
1.1 Subject Land

The subject land is located on the edges of Huntingdale Park, a new residential estate in Berry, west of the Princes Highway (refer to **Figure 1: Location Map**). The Estate is located approximately 850m west of the Berry Town Centre at its closest point, and approximately 2.4km away at its furthest point.

The subject land represents the large lot housing area of the Estate, situated in the north and western extremities of the Estate as highlighted in **Figure 2: Subject Land**.

There are forty-three (43) properties affected by the PP, consisting of properties in the western corner of Parker Crescent and along the north-western section of Connors View. The large lot properties range in size from 2000m² to 6113m² and are located in the steeper areas of the Estate, at the interface between the residential and rural areas of Berry. The typical lot size in the Estate is ~700m².

Table 1: PP060 Affected Properties lists all the properties affected by this Planning Proposal and provides their respective lot size.



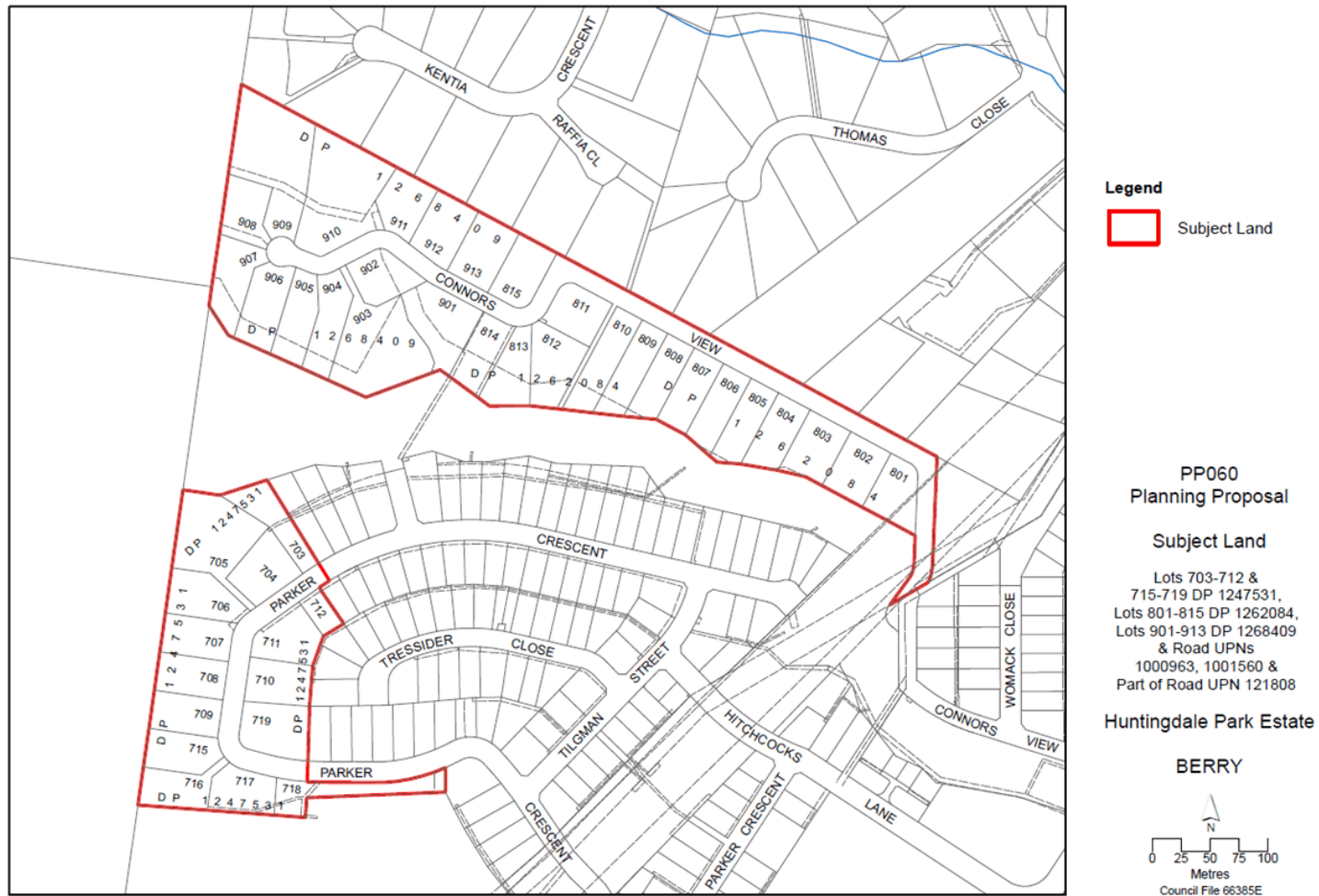


Figure 2: Subject Land

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

Table 1: Affected properties

Lot & DP	Address	Lot Size
Lot 703 DP 1247531	69 Parker Crescent	2071m ²
Lot 704 DP 1247531	65 Parker Crescent	2298m ²
Lot 705 DP 1247531*	63 Parker Crescent	4430m ²
Lot 706 DP 1247531	61 Parker Crescent	2261m ²
Lot 707 DP 1247531	59 Parker Crescent	2063m ²
Lot 708 DP 1247531	57 Parker Crescent	2001m ²
Lot 709 DP 1247531	55 Parker Crescent	2000m ²
Lot 710 DP 1247531#	52 Parker Crescent	2062m ²
Lot 711 DP 1247531	56 Parker Crescent	2194m ²
Lot 712 DP 1247531^	60 Parker Crescent	784m ²
Lot 715 DP 1247531	53 Parker Crescent	2060m ²
Lot 716 DP 1247531	51 Parker Crescent	2035m ²
Lot 717 DP 1247531	47 Parker Crescent	2045m ²
Lot 718 DP 1247531	43 Parker Crescent	2401m ²
Lot 719 DP 1247531	48 Parker Crescent	2617m ²
Lot 801 DP 1262084	21 Connors View	2071m ²
Lot 802 DP 1262084	23 Connors View	2094m ²
Lot 803 DP 1262084	25 Connors View	2193m ²
Lot 804 DP 1262084	27 Connors View	2002m ²
Lot 805 DP 1262084	29 Connors View	2000m ²
Lot 806 DP 1262084	31 Connors View	2000m ²
Lot 807 DP 1262084	33 Connors View	2001m ²
Lot 808 DP 1262084	35 Connors View	2000m ²
Lot 809 DP 1262084	37 Connors View	2159m ²
Lot 810 DP 1262084	39 Connors View	2408m ²
Lot 811 DP 1262084	41 Connors View	2009m ²
Lot 812 DP 1262084	43 Connors View	2570m ²
Lot 813 DP 1262084	45 Connors View	2087m ²
Lot 814 DP 1262084	47 Connors View	2041m ²
Lot 815 DP 1262084	42 Connors View	2131m ²
Lot 901 DP 1268409	49 Connors View	3111m ²
Lot 902 DP 1268409	51 Connors View	2017m ²
Lot 903 DP 1268409	53 Connors View	5456m ²

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

Lot 904 DP 1268409	55 Connors View	2318m ²
Lot 905 DP 1268409	57 Connors View	2195m ²
Lot 906 DP 1268409	58 Connors View	2497m ²
Lot 907 DP 1268409	61 Connors View	2477m ²
Lot 908 DP 1268409	54 Connors View	2072m ²
Lot 909 DP 1268409	52 Connors View	6113m ²
Lot 910 DP 1268409	50 Connors View	6031m ²
Lot 911 DP 1268409	48 Connors View	2041m ²
Lot 912 DP 1268409	46 Connors View	2262m ²
Lot 913 DP 1268409	44 Connors View	2348m ²

Notes

* Approval to subdivide existing lot into two (2) lots: Lot 1 - 2301m² & Lot 2 - 2129m²

DA to construct multi-dwelling housing (5) and strata subdivision refused by Council in September 2020. The applicant has lodged a Class 1 appeal against this decision and the matter is currently being heard by the Land and Environment Court of NSW – Case Number 2020/00296318.

^ This lot is not part of the large lot area. It is proposed to retain the R1 General Residential zoning over this lot. This lot is included in the PP to correct a mapping anomaly. It is proposed to remove the minimum lot size requirement of 2000m² in the top / western corner of the site and extend the 500m² minimum lot size across the lot (refer to Map 2: Minimum Lot Sizes for more information).

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

The subject land is bordered by residential development to the east (Huntingdale Park Estate), rural land and bushland to the west and south, and large lot (rural-residential) housing to the north. The Estate sold out in November 2020 with all stages released. Some of the subject properties have dwelling houses built upon them, whilst others are vacant, having recently been released or sold (see **Figure 3: Aerial Photo**). All the subject lots are zoned to allow for residential development and are expected to be developed for housing over time.



Figure 3: Aerial Photo

The majority the Estate is zoned R1 General Residential under Shoalhaven Local Environmental Plan 2014. The exceptions are a small central area along Hitchcocks Lane, which is zoned R3 Medium Density Residential, and development east of Boran Place, which is zoned R2 Low Density Residential. An area between Hitchcocks Lane, Huntingdale Park Road and the Princes Highway is zoned RE1 Public Recreation (for a park). Land to the south and west is zoned RU1 Primary Production (rural). Land to the north (along Kangaroo Valley Road) is zoned R5 Large Lot Residential.

The current zoning of the subject land and surrounds is illustrated in **Figure 4: Current Land Use Zones**. Eleven (11) hectares of land to the south of Hitchcocks Lane is proposed to be rezoned from rural land to R2 Low Density Residential as part of PP029. The Hitchcocks Lane subdivision area is expected to deliver approximately 110 – 150 new homes in the area, consistent with the Shoalhaven Growth Management Strategy 2014.

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

PP060
Planning Proposal
Existing SLEP2014 LZN

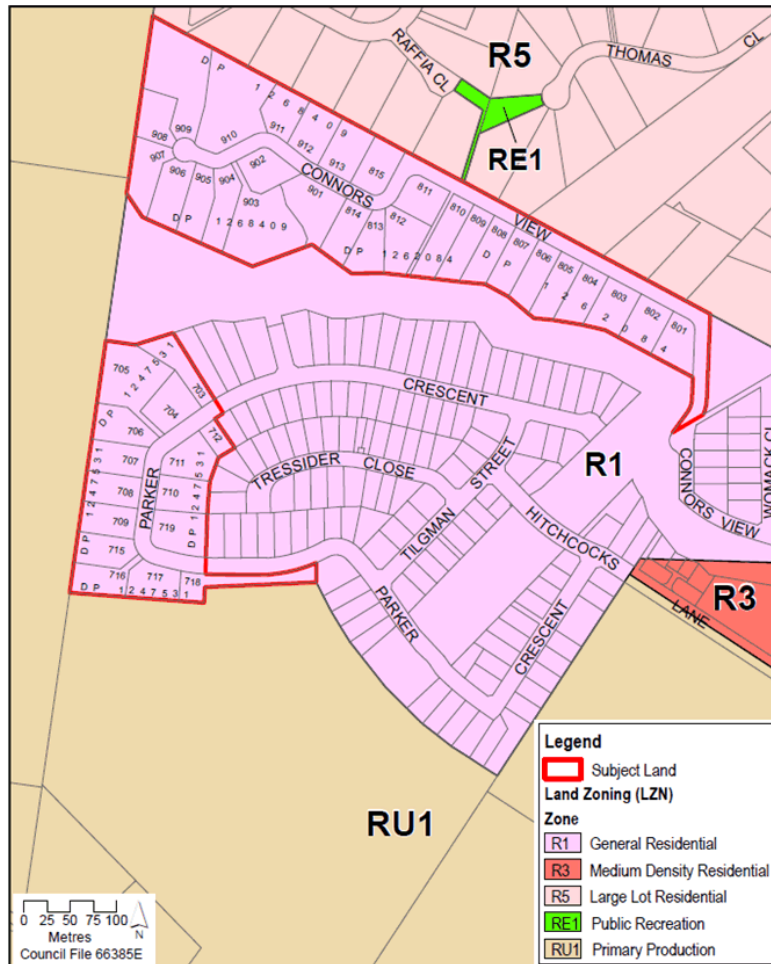


Figure 4: Current Land Use Zones

DE21.69 - Attachment 2

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

1.2 Site photos

Parker Crescent – March 2021



Figure 5: Detached housing development showing separation between buildings



Figure 6: Looking west, showing rural and escarpment landscape beyond



Figure 7: Currently vacant corner lot looking east, showing slope of land

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct



Figure 8: Currently vacant lots



Figure 9: Looking south



Figure 10: Vacant lot, advertising development (currently subject to legal proceedings)

DE21.69 - Attachment 2

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

Connors View – March 2021



Figure 11: Large lot areas looking east



Figure 12: Large lots with significant vegetation - top of Connors View



Figure 13: New housing under construction

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

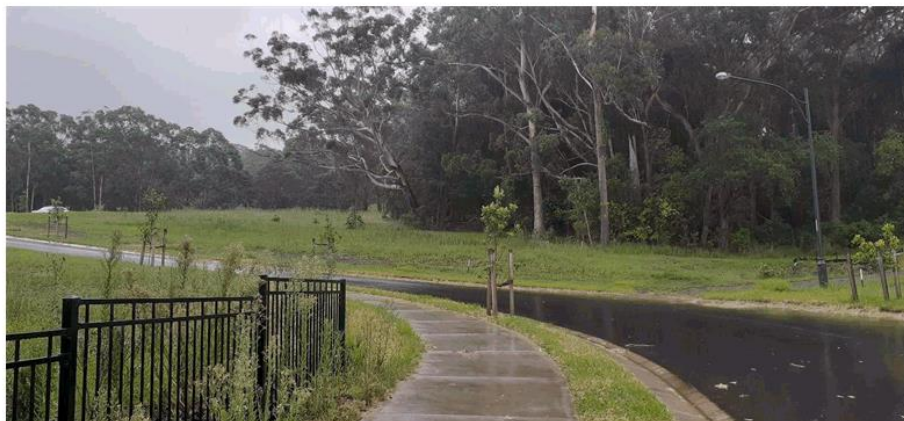


Figure 14: Looking west



Figure 15: Access to large lot area - Connors View



Figure 16: Connors View 6 m wide road carriageway

DE21.69 - Attachment 2

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

1.3 Background

This PP seeks to rezone the large lot areas of Huntingdale Park Estate (the Estate) to better reflect the original strategic intent of planning for the area.

Strategic planning for the Estate occurred in the 1990s, when the area was known as Berry Gardens Estate. Planning involved extensive community and agency consultation. A site-specific Development Control Plan (DCP) 70 was approved in 1998 to guide development of the Estate, including identification of large lot areas on the fringes of the residential area (see **Figure 17: DCP 70 Map**).

The first subdivision approval for the Estate was issued in 2003 (SF9320) for a “*Six Stage Subdivision comprising 287 Residential lots, One (1) Community lot, One (1) Medium Density Lots & Public Open Space and residue lot*”. This approval was subsequently modified 19 times, most recently as part of DS18/1462 in July 2019 for: *Staged Subdivision Comprising 255 Residential Lots, 3 Medium Density Lots and Public Open Space*. The Estate development was completed in 2020 with the release of the final (9th) stage of the subdivision. The Estate provides a mix of lot sizes, with 42 of the 255 residential lots measuring 2000m² or more in size.

As part of the introduction of Shoalhaven LEP 2014, the subject land (large lot area) within the Estate land was given an R1 General Residential zone. This zone was applied generally to all new residential areas/urban release areas across Shoalhaven as the objectives of the zone are most similar to those of the former ‘2 (c) Residential Living zone’ (as both relate to planning for new residential areas). The R1 General Residential zone allows for a wide range of housing types, including attached dwellings; boarding houses; dual occupancy (attached and detached); multi-dwelling housing; manor houses and residential flat buildings.

The minimum lot size applied under Shoalhaven LEP 2014 allows for subdivision down to 500m² lots over the majority of the Estate, with a 2000m² minimum lot size applying to part of the large lot area on the north and western fringe. However, as shown in **Figure 18: Current Minimum Lot Size Map**, the area of 2000m² lot sizes do not align with the resulting larger lots, as they were drawn from the DCP 70 mapping and not the approved subdivision pattern. Consequently, some of the large lot areas have a split minimum lot size requirement of between a 2000m² and 500m². This mapping anomaly requires rectification, which is proposed as part of this PP.

As planning controls (and housing market trends) have changed over time, contemporary controls now allow for increased development density and intensity over the areas that have been subdivided into lots 2000m² and larger.

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

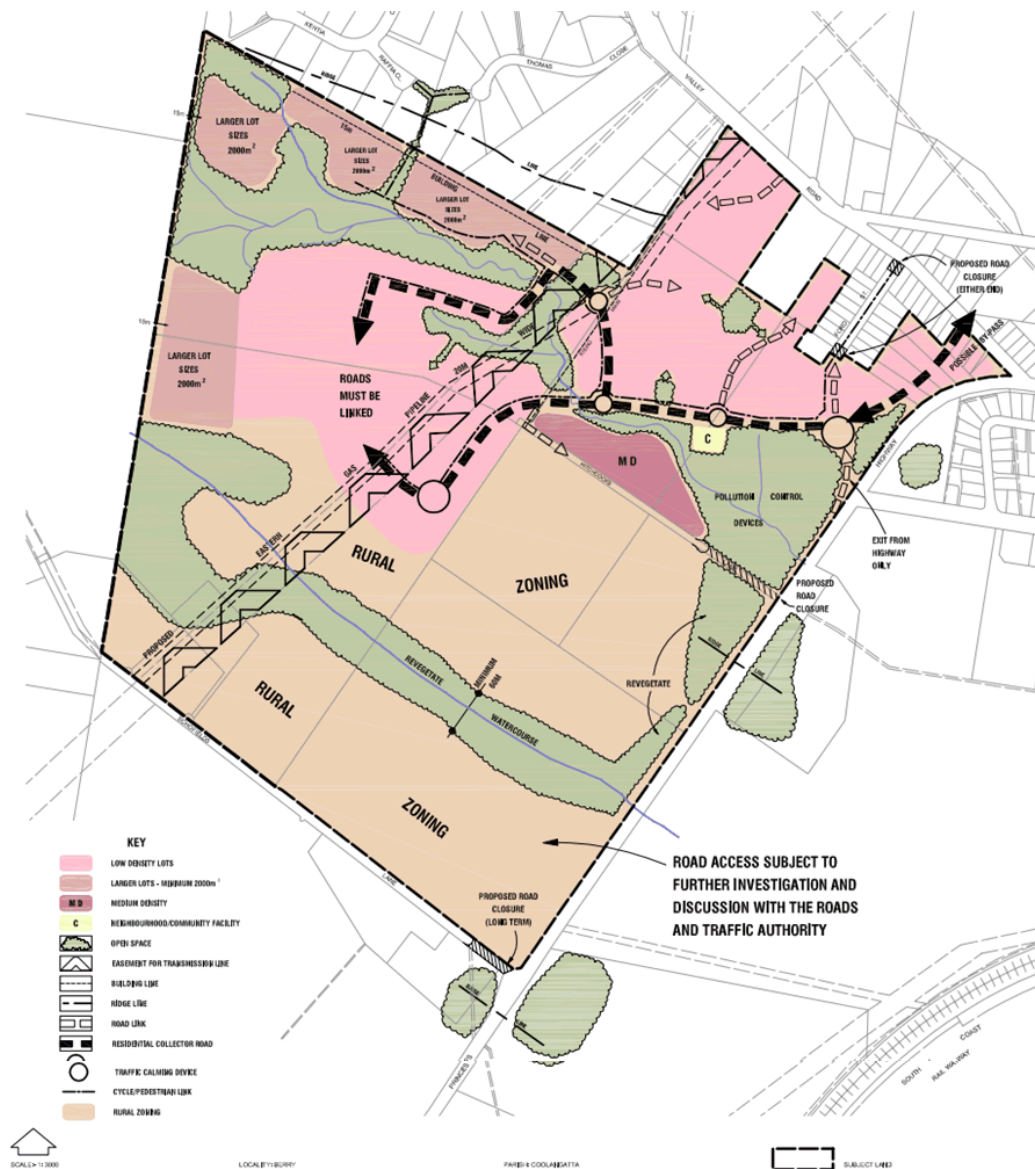


Figure 17: Map from DCP 70
Showing original strategic plans for the Estate with large lot areas identified along northern and western edge of residential areas.

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

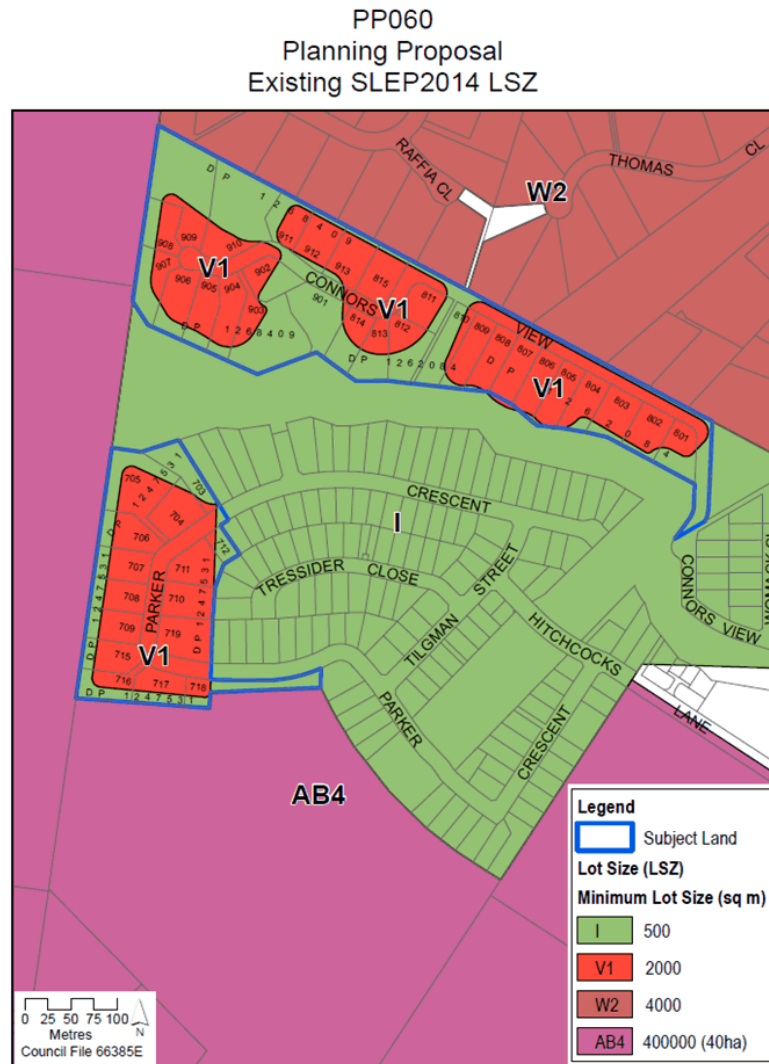


Figure 18: Current Minimum Lot Size Map - SLEP 2014

DE21.69 - Attachment 2

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

Amendment No 35 to Shoalhaven LEP 2014 (PP027) – Review of Subdivision Provisions & Introduction of the Low-Rise Housing Diversity Code

These two key changes to the planning system have been recently introduced which allow for increased development opportunities in the large lot residential area of the Estate (the subject land) beyond what was originally intended and planned for in the area.

Amendment No 35 to Shoalhaven LEP 2014 removed restrictions on Torrens Title subdivision of lawfully approved dual occupancy and medium density housing types and introduced minimum parent lot sizes for these development types.

These changes were made following a comprehensive review of Shoalhaven's subdivision provisions and clarified controls relating to the delivery of diverse housing types across Shoalhaven. These changes coincided with the introduction of the NSW State Government's Low Rise Housing Diversity Code, which provides fast-track approval pathways for dual occupancy and medium density housing types (that meet certain standards). Whilst facilitating the delivery of more diverse housing types is a shared goal, the review process identified some areas where large lot housing and lower density development is more appropriate, due to a wide range of factors including location (proximity to services), topography, environmental constraints, existing and future desired character and infrastructure considerations. Therefore, as part of Amendment No 35 (PP027), over 700 properties in 11 locations were rezoned from R2 Low Density Residential to R5 Large Lot Residential. This included land located directly north of the subject land (the large lot residential estate along Kangaroo Valley Road).

The subject land was not originally included in PP027 because the scope of that proposal was informed by previous land use zones under Shoalhaven LEP 1985.

During the public exhibition of PP027, there were a number of requests to review the land zoning of the large lot areas within Huntingdale Estate, Berry. Specifically, twenty-three (23) submissions by households in the Estate (and including one submission by the Berry Forum Community Consultative Body) supported a suggestion to rezone the large lot areas of the estate to R2 Low Density Residential, in order to protect the large lot and low density character of the area on the fringe of Berry township.

In addition, a recent Development Application for a multi-dwelling development (5 dwellings and strata subdivision) (DA19/1857) on one of the large lots in the Estate attracted significant community opposition (99 objections, no submissions in support). DA19/1857 was refused on 1 September 2020. Objecting residents were concerned that the recently introduced subdivision provisions incentivise similar multi-dwelling developments on the large lot periphery of Berry, stating this is not consistent with the intended or desired future character of this particular area, nor is it consistent with strategic planning objectives to encourage higher density development in more accessible locations closer to services.

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

Council Resolution to prepare Planning Proposal for large lot areas of Huntingdale Park Estate

In response to planning control changes and community concerns, Council resolved at its meeting of 23 June 2020 to: *Review the zoning of the R1 zoned large lots at the periphery of Huntingdale Estate Berry.* (MIN 20.448). This review was completed and presented to the Council Development and Environment Committee meeting of 18 January 2021, where Council resolved to (MIN21.5(1)):

1. *Endorse the preparation of a Planning Proposal with the following scope and proceed to submit it to the NSW Government for a Gateway determination, and if this is favourable, proceed to exhibition as per the legislative and any determination requirements:*

a. *Huntingdale Park Estate Precinct (Berry):*

i. *Rezone the subject land to R5 Large Lot Residential.*

ii. *Set a 2,000m² minimum lot size for the entirety of the subject land.*

As the subject land is currently characterised by large lot, low density layouts with single residential dwellings, it is appropriate to reconsider the zoning of this land to maintain this character into the future, consistent with the original strategic planning intentions for the area.

Part 1 – Intended Outcome

The intended outcome of this Planning Proposal is to update planning controls applying to the large lot residential areas of Huntingdale Park Estate in Berry to maintain the current and desired future character of the area as a low density transition to the surrounding rural and bushland areas.

Part 2 – Explanation of Provisions

The intended outcome will be achieved by amending Shoalhaven LEP 2014 to:

- Rezone 42 large lot properties along the western and northern boundary of the Estate from R1 General Residential to R5 Large Lot Residential; and
- Extend the minimum lot size for subdivision requirement to 2000m² across the entire area proposed to be zoned R5 Large Lot Residential and,
- Apply a minimum lot size of 500m² across the entire Lot 712 DP 1247531 (60 Parker Crescent) to rectify a mapping anomaly on this lot. The lot measures 784m² and is not a large lot. The current R1 General Residential zone will be retained over this property.

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

Thumbnail Maps (refer to Part 4 for full-sized maps)

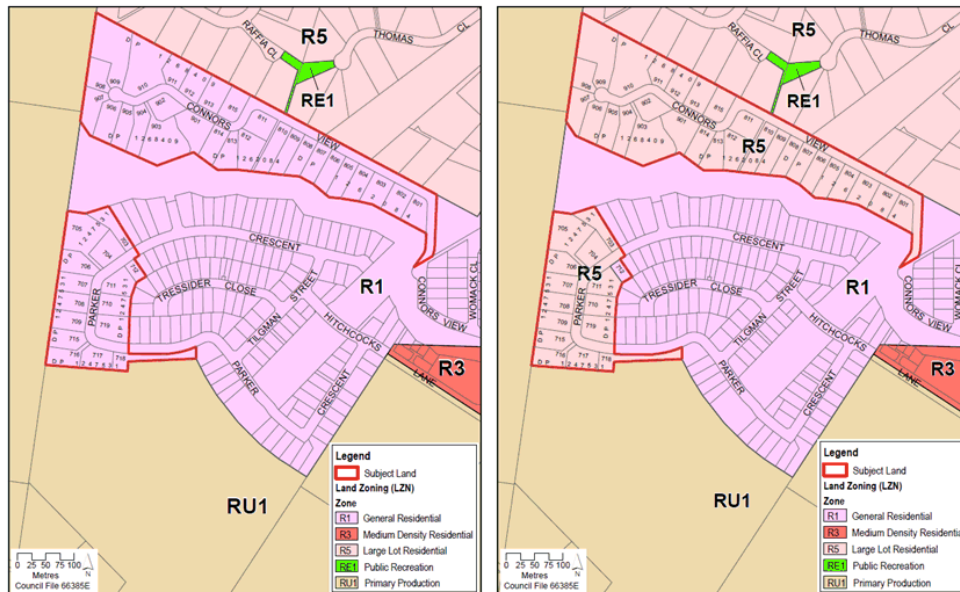


Figure 19: Existing Land Use Zone (left) and Proposed Land Use Zone (right)

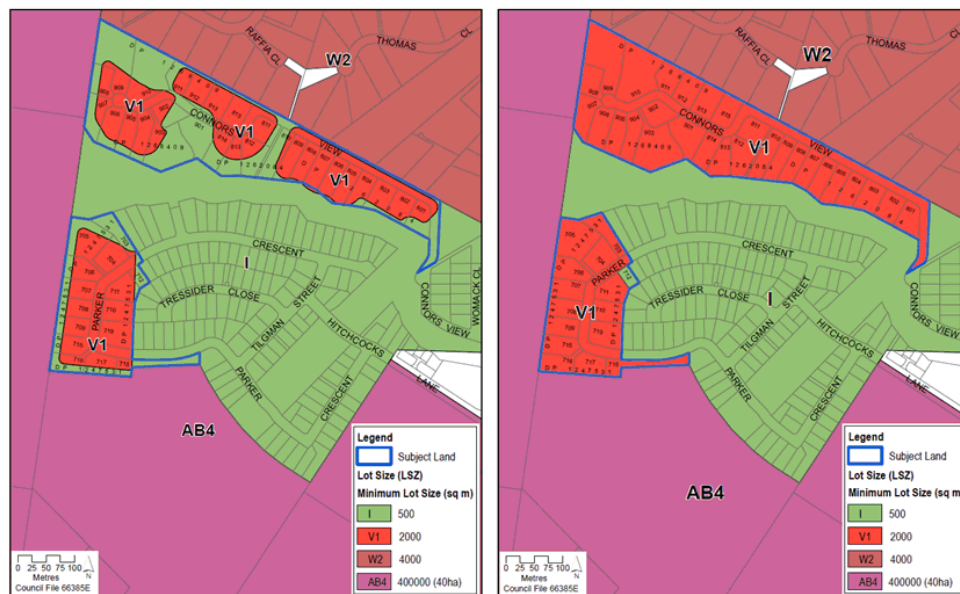


Figure 20: Existing Minimum Lot Size (left) and Proposed Minimum Lot Size (right)

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

Part 3 – Justification

3.1 Need for the Planning Proposal (Section A)

3.1.1 Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

Yes – The PP is the result of a strategic review of subdivision provisions across Shoalhaven (PP027 / Amendment No. 35 to Shoalhaven LEP 2014). This review and its outcomes are detailed in **Attachment B: Council Report Ordinary Meeting 23 June 2020**.

Amendment 35 allows large lot housing areas to be further subdivided and developed on the fringes of the Estate, in a manner contrary to strategic objectives for the area. Amendment 35 identified a number of large lot housing areas to be rezoned to R5 Large Lot Residential in response to the proposed changes, to maintain the low density nature and character of these areas into the future. In addition, the review process identified the subject land at the Estate should also be investigated for rezoning as it displays similar large lot characteristics that could be compromised by planning control changes.

With the changes to subdivision provisions across Shoalhaven, the introduction of the Low Rise Housing Diversity Code and current development pressures, it is an appropriate time to consider the future zoning of this land in order to maintain its desired character into the future.

Post-exhibition note: The Planning Proposal also gives effect to the principles within the *Berry Community Strategic Plan (CSP)*, dated September 2016, which is a community-led plan to guide future directions for the town. This Plan was prepared by the Berry Forum and involved extensive community engagement and was endorsed by Council's Strategy and Assets Committee under delegation on 15 November 2016.

The preservation of the town's heritage character and "village feel" is one of the very high priorities in the CSP. The subject land is physically separated from the town centre by the Princes Highway and is located within a modern housing area, however respecting the character of the town, and especially the landscape setting and 'gateway' positioning, remains very important.

The Berry CSP provides the following direction: *4.2 - Define the edge of the town - Provide a distinct town edge that retains views to the escarpment to the north and minimises residential subdivisions and housing release at the rural interface.*

The PP gives effect to this direction by minimising further subdivision at the rural interface of Parker Crescent and Connors View in Huntingdale Park Estate. The Berry CSP does support the provision of affordable housing, but not at the expense of retaining heritage character and definition of a clear town edge to surrounding rural areas.

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

3.1.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The R5 zone is the most appropriate to secure the low-density intentions of the identified parts of the Estate. The Low Rise Housing Diversity Code (part of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*) (The Code) does not apply to the R5 zone and medium density opportunities are limited. Also, extending a 2,000m² minimum lot size to all areas within the precinct (currently part 500m² and part 2,000m²) will prevent future fragmentation of the large lots and mitigate any associated character, amenity and design concerns. The area is at risk of attracting unsympathetic, poorly located medium density development, in an area that was not planned to accommodate higher densities. The Estate was planned to provide a variety of lot sizes and housing types. Medium density development and small housing lot opportunities are provided in the central, less constrained areas nearby.

The proposed R5 zoning of the subject land will protect the area from the erosion of the existing (and desired) large lot character, as well as respond to design and amenity concerns arising as a result of the Code. This zone is also the same as that applied to the land to the north that was rezoned as part of Amendment 35 for many of the same reasons.

An alternative considered as part of the review included investigating rezoning the subject land to R2 Low Density Residential in order to prevent multi-dwelling development as suggested by some residents of the area. An R2 zone could assist in maintaining large lot characteristics, with the exception of allowing detached dual occupancy and subdivision. Detached dual occupancy development is permitted using Council or State approval pathways in the R2 Low Density Residential zone. Despite the minimum lot size provisions applying to the land, subdivision of lawful dual occupancy is permitted, potentially allowing the large lots (should they be zoned R2 Low Density) to be split below the prescribed minimum lot size. Cumulative dual occupancy (detached) development in the area has the potential to erode the desired large lot characteristics of the subject land. **Table 2** below outlines the main differences between the R1, R2 and R5 zones.

Table 2: R1, R2 & R5 Zones - Land Use Table Comparison

R1 General Residential	R2 Low Density Residential	R5 Large Lot Residential
Permissible without Consent		
Home occupations	Home occupations	Home occupations
Permissible with Consent		
Attached dwellings; Boarding houses; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental protection works;	Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling	Bed and breakfast accommodation; Building identification signs; Business identification signs; Community facilities; Dual occupancies (attached); Dwelling houses; Emergency services facilities; Environmental facilities; Environmental protection

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

Exhibition homes; Exhibition villages; Group homes; Home-based child care; Home businesses; Home industries; Hostels; Jetties; Multi dwelling housing ; Neighbourhood shops; Office premises; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Registered clubs; Residential flat buildings ; Respite day care centres; Roads; Semi-detached dwellings ; Seniors housing; Sewerage systems; Shop top housing ; Tank-based aquaculture; Tourist and visitor accommodation; Veterinary hospitals; Water supply systems	houses ; Environmental protection works; Exhibition homes; Flood mitigation works; Group homes; Health consulting rooms; Home-based child care; Home businesses; Home industries; Jetties; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Respite day care centres; Roads; Semi-detached dwellings ; Sewerage systems; Tank-based aquaculture; Water supply systems	works; Exhibition homes; Extensive agriculture; Group homes (transitional); Home-based child care; Home businesses; Home industries; Horticulture; Neighbourhood shops; Oyster aquaculture; Pond-based aquaculture; Recreation areas; Roads; Sewerage systems; Tank-based aquaculture; Water supply systems
Prohibited		
Farm stay accommodation; Any other development not specified in item 2 or 3	Any development not specified as 'permissible without consent' or 'permissible with consent'.	Any development not specified as 'permissible without consent' or 'permissible with consent'.

The residential land uses in the table have been highlighted in bold. When comparing the R1 zone to the R5 zone:

- 'Dwelling houses' and 'Dual occupancies (attached)' are permissible in both zones.
- 'Dual occupancies (detached)' are prohibited in the R5 zone.
- Multi dwelling housing, boarding houses, attached dwellings, residential flat buildings, shop top housing and semi-detached dwellings are prohibited in the R5 zone.
- Secondary dwellings are permissible in the R1, R2 and R5 zones under the *SEPP Affordable Rental Housing 2009*.

Therefore, rezoning of the large lot areas to R5 Large Lot Residential is the preferred method to achieve the intended outcomes of this PP.

3.2 Relationship to strategic planning framework (Section B)

3.2.1 Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

The Illawarra Shoalhaven Regional Plan (ISRP) specifies that the Berry centre is an area identified for increased housing activity in Shoalhaven, notably in the form of dual occupancies. The subject land applies to a small number of lots that are removed from the Berry Town Centre, over 2km from the western most extent of the business zone. It is expected that the demand for dual occupancy development in the Berry area will be concentrated closer to the Berry Town Centre, including land in existing built up areas, east of the subject land. It is noted that dual occupancy (attached) will remain a permissible land use in the R5 zone. Given the above, the proposal is not inconsistent with the provisions of the ISRP as they relate to Berry.

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

The PP is consistent with the following general objectives and actions of the Illawarra-Shoalhaven Regional Plan 2015-2036 as summarised below.

Goal 1: A Prosperous Illawarra-Shoalhaven

The scenic location, leafy village character and urban form of Berry contribute to the tourist appeal of the area, and tourism is a priority growth sector in the Regional Plan. This PP seeks to minimise the potential for unsympathetic urban development on the rural fringes of Berry, which could undermine this highly-valued character and appeal.

Goal 2: A variety of housing choices, with homes that meet needs and lifestyles

Direction 2.1 Provide sufficient housing supply to suit the changing demands of the region

The Regional Plan indicates there is enough housing supply identified across the Shoalhaven and no new release areas are required beyond those already identified in the Shoalhaven Growth Management Strategy (GMS). The Estate is identified in the GMS, with original development envisaged to provide a variety of housing choices ranging from medium density housing within walking distance to Berry Town Centre through to conventional suburban lots (~500m²) through to large lots (>2000m²) on the rural periphery.

Direction 2.2 Support housing opportunities close to existing services, jobs and infrastructure in the region's centres

As detailed above, strategic planning and subsequent subdivision of the Estate provides for higher densities closer to Berry Town Centre and closer to the planned park. The large lot areas are further from the Berry Town Centre (~2 km away and not in typical walking distance, with limited access to any form of public transport) making them less suitable for higher density forms of housing.

Direction 2.3 Deliver housing in new release areas best suited to build new communities, provide housing choice and avoid environmental impact

This direction supports sound urban design principles such as those adopted in strategic planning for the Estate – to locate higher density forms of housing in less constrained areas focused on local centres. The PP does not compromise provision of housing choice or greater (relative) affordability in the area. The large lot areas of the Estate were not intended, nor originally subdivided, to accommodate higher density development. The proposed R5 zone allows for the provision of housing choice through allowing secondary dwellings and dual occupancy (attached), whilst preserving space for housing designs that are sympathetic to the character and landscape qualities of the location.

Direction 2.4 Identify and conserve biodiversity values when planning new communities

The proposal will not adversely impact upon any biodiversity values of the subject land, as the existing significant vegetation on the site (primarily located at the rear of lots along Connors View) is protected by conditions of development consent (issued with the subdivision approval of the land), positive covenants and easements over the land. These covenants and easements are registered on the land title and enforced via an 88B instrument (under the *Conveyancing Act 1919*).

Goal 3 – A region with communities that are strong, healthy and well-connected

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

Direction 3.2 Enhance community access to jobs, goods and services by improving connections between centres and growth areas

As discussed above, the Estate was planned to locate higher density housing closer to the Berry Town Centre with lower density housing (i.e. the subject land) on the periphery. This PP seeks to maintain this urban form and the current and future desired character of the locality.

Direction 3.3 Build socially inclusive, safe and healthy communities

The larger lots are intended to provide for greater open space and landscaping around homes in the area, to preserve the valued scenery in the Berry foothills and provide a low density transition between the smaller lot areas of the Estate and the rural and natural surrounds. There are opportunities for diverse housing types available across the Estate and within the Hitchcocks Lane proposed residential area (subject to PP029) which will provide additional small lot housing opportunities in the lower-lying, more centrally located parts of the Estate.

Goal 4 – A region that makes appropriate use of agricultural and resource lands

Direction 4.1 Protect regionally important agricultural lands as an asset to food and fibre production

The PP is consistent with state-wide policies which seek to reduce land use conflict between rural and residential land uses (land use conflict is considered more likely if development is intensified on the rural fringe). The R5 Large Lot Residential zone will act as a buffer between rural land and urban areas.

Goal 5 – A region that protects and enhances the natural environment

Direction 5.1 Protect the region's environmental values by focusing development in locations with the capacity to absorb development

Planning for the Estate followed this principle, and this PP seeks to bring contemporary planning controls in line with these intentions.

Direction 5.2 Build the Illawarra-Shoalhaven's resilience to natural hazards and climate change

The majority of the subject land is mapped as bushfire prone. Planning for Bushfire Protection 2019 (NSW RFS) supports locating lower density development on fringes of residential areas that are exposed to greater bushfire risks and seeks to limit intensification of development in bushfire affected areas.

Draft Illawarra-Shoalhaven Regional Plan 2041

The 5-year review of the Illawarra-Shoalhaven Regional Plan has commenced with the release of the Draft ISRP 2041 for public comment in late 2020. The PP is not inconsistent with the directions within the Draft ISRP, with the Draft Plan in fact adding weight to the justification for the proposal with the addition of commentary about reinforcing Urban Growth Boundaries across the region to protect existing character and scenic landscapes:

The unique character of the cities, towns and villages in the Illawarra Shoalhaven region is contingent on protecting the scenic, non-urban spaces in-between. The

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Regional Plan identifies West Lake Illawarra, Nowra-Bomaderry and Bombo Quarry as growth areas. Aside from these areas, the Plan concentrates new development and intensive uses in existing centres, rather than in the scenic hinterland that defines the coastal rural character of the region. The Plan promotes the retention of existing scenic and natural areas, and seeks to protect them through an urban growth boundary. This will be maintained by land use zones that do not permit urban uses or intensive subdivision, and will ensure that existing centres, not identified as growth areas, do not expand into the surrounding, non-urban hinterlands.

Post-Exhibition Note: The Illawarra Shoalhaven Regional Plan 2041 came into force on 3 June 2021. The Planning Proposal is not inconsistent with the new Regional Plan, reinforcing the aforementioned planning principle to locate new development in and near existing centres and protect scenic hinterland areas. PP060 also gives effect to various new objectives including:

Objective	Comment
Objective 9: Promote agriculture innovation, sustainability and value-add opportunities	The proposal will minimise risk of land use conflicts between neighbouring rural land and residential development through providing a low-density and large lot transition to surrounding rural land.
Objective 11: Protect important environmental assets	The proposal will continue to protect important vegetation on large lot properties.
Objective 12: Build resilient places and communities	The proposal will ensure higher density development is located further from areas of bushfire affected land.
Objective 13: Increase urban tree canopy cover	The proposal will continue to protect existing tree canopy on private land.
Objective 15: Plan for a Net Zero region by 2050	The proposal will support lower transport emissions by directing medium density development to areas closer to shops and services, thereby enabling active transport choices in higher density locations.
Objective 22: Embrace and respect the region's local character	The proposal gives effect to this objective and aims to protect the scenic values of the large lot areas, which are generally steeper than the rest of the Estate and located upon visible ridgelines. The proposal is consistent with the strategic intent of plans for the area, which seek to provide a low-density transition to rural and bushland areas in the Berry Mountain foothills.

3.2.2 Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Shoalhaven 2027 – Community Strategic Plan

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The Proposal is consistent with Shoalhaven 2027, specifically: Theme 2 - Sustainable, liveable environments and Action 2.2 Plan and manage appropriate and sustainable development.

Local Strategic Planning Statement (LSPS) – Shoalhaven 2040

Shoalhaven 2040 is Council's adopted Local Strategic Planning Statement (LSPS). The PP gives effect to a number of strategies described within the LSPS.

The PP is consistent with the LSPS Vision Statement as it supports the provision of well-located housing offering residents a relaxed lifestyle, including protection of the natural and rural character qualities of the area and supporting the local economy, including but not limited to agriculture and tourism.

This PP is consistent with the two directions of the LSPS being *Enhancing and managing Economic Growth and Preserving and enhancing the City's natural and built environments and lifestyles* through providing for housing growth in accordance with strategic plans and policies.

Sitting under the two Directions are sixteen Planning Priorities. Thirty-seven potential Actions or tasks sit under the priorities. The PP is consistent with the relevant Planning Priorities and Actions as listed below. The PP is not inconsistent with any of the Planning Priorities or Actions.

- *Planning Priority 1 Providing homes to meet all needs and lifestyles*
 - *CW1.1 Implementing the existing Shoalhaven Growth Management Strategy (2014) and the settlement strategies and structure plans that are reflected in it to manage residential growth and deliver a potential 12,700 of the 14,600 dwellings required by 2041.*
- *Planning Priority 2 Delivering infrastructure*
 - *CW2.3 Delivery and maintenance of a safe and efficient road and active transport network.*
- *Planning Priority 11 Adapting to natural hazards through building resilience*
 - *CA11.1 Work with the NSW Rural Fire Service to identify bush fire prone land and implement the Planning for Bush Fire Protection 2019 Guideline in relevant decisions.*
- *Planning Priority 13 Protecting and enhancing neighbourhoods*
 - *CW13.2 Support the implementation of Community Strategic Plans that are prepared by community groups and accepted by Council.*
 - *CA13.1 Work with the NSW Government to identify opportunities for proposed special character planning controls to help guide in-fill development in Berry, Kangaroo Valley, Milton and other area as appropriate*
- *Planning Priority 15 Scenic and cultural landscapes*

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- A15.1 Consider, where appropriate, the identification of scenic and landscape values and the development of appropriate controls to protect and enhance identified values

Shoalhaven Growth Management Strategy (GMS) 2014

The purpose of the GMS is to manage the social and economic implications of future growth in Shoalhaven whilst protecting and preserving the environmental values of the City.

The GMS highlights that the Estate and infill development across Berry will cater for growth in the area, and notes the importance of protecting landscape qualities and character of the area. The PP is not inconsistent with the GMS as it applies to a relatively small area of the Estate and it will give effect to objectives to preserve character and scenic qualities of the area.

3.2.3 Is the Planning Proposal consistent with applicable state environmental planning policies?

The PP is consistent with applicable SEPPs as outlined in **Attachment D: List of SEPPs**. Specific commentary regarding the Vegetation in Non-Rural Areas SEPP is provided below.

State Environmental Planning Policy - Vegetation in Non-Rural Areas

Whilst this SEPP and Council's accompanying Development Control Plan (DCP) Chapter G4: Tree and Vegetation management have general implications for vegetation removal in R5 Large Lot Residential zones, no additional vegetation removal on the subject land will be permitted. This is because the significant vegetation within the Estate is protected via conditions of development consent issued for the subdivision approval (SF9320) under the *Environmental Planning and Assessment Act 1979*.

These conditions of consent prevent vegetation removal (not associated with approved bushfire risk mitigation such as provision of asset protection zones) and restrict development to the cleared areas of lots via easements and positive covenants, described in the 88B instruments for each lot. 88B instruments detail land based restrictions registered on title and are issued under the *Conveyancing Act 1919*. In this case, any change to the 88B instrument restriction and development consent conditions would require separate development application assessment and approval (either via a new DA or a modification to and existing DA). Therefore, the PP does not affect the current vegetation management restrictions applying to the land.

Part 1, Clause 6 of this SEPP does not affect authorisations under other Acts, therefore the PP and the proposed change of land use will have no implications for the protection of the vegetation on the land.

3.2.4 Is the Planning Proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

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Relevant Ministerial Directions (Planning Policy Directions issued under section 9.1 of the *Environmental Planning and Assessment Act 1979*) are addressed below. For a comprehensive list of s.9.1 Directions see **Attachment E**.

2.1 Environmental Protection Zones

This Direction requires planning proposals to protect biodiversity values. Areas of the subject land with biodiversity value (primarily at the rear of lots along Connors View and in the north-western corner of the site) are protected via conditions of development consent (issued for SF9320 and dated 12 July 2019) and restrictions on land title (88B instruments registered on the Deposited Plans of each of the lots). Therefore, significant vegetation will not be able to be removed, regardless of the land use zone applying to the land.

The proposal was referred to the Biodiversity and Conservation Division (BCD) of the Department of Planning, Industry and Environment for comment. The BCD did not object to the proposal subject to the existing conditions of subdivision consent SF9320 being complied with. The referral recognised that:

‘In principle, formalising a larger area of 2000m² lots would reduce pressure on tree removal, notably for those lots adjacent to and contiguous with the riparian corridor. The proposed rezoning from R1 to R5 would also prevent additional development pressure on retained trees resulting from more intensive and higher density forms of residential development allowed under the NSW Low Rise Housing Diversity Code.’

Therefore, the PP is not inconsistent with this Direction.

2.6 Remediation of Contaminated Land

This Direction applies because the land was historically used for agricultural (grazing) purposes. However, the land is not known to be contaminated and has since been rezoned and developed for residential purposes. The PP is not inconsistent with this Direction as it relates to rezoning from one type of residential land use to another type of residential land use and does not propose a more intensive or sensitive land use.

3.1 Residential Zones

The PP meets the objectives and gives effect to the provisions within Part (4) of this Direction. The PP displays a minor inconsistency with Part (5)(b), however this inconsistency is strategically justified, is consistent with the Illawarra-Shoalhaven Regional Plan (and Draft Regional Plan) and is of minor significance, therefore is acceptable and meets the provisions of Part (6) of this Direction. **Table 3** comprehensively addresses the requirements of this Direction.

Table 3: S.9.1 Planning Direction 3.1 Residential Zones

<i>Provision</i>	<i>Comment</i>
Objectives (1) The objectives of this direction are:	The PP meets these objectives. The Estate is planned to provide housing choice, ranging from medium density housing in the central

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<p>(a) to encourage a variety and choice of housing types to provide for existing and future housing needs,</p> <p>(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</p> <p>(c) to minimise the impact of residential development on the environment and resource lands.</p>	<p>parts of the Estate through to large lot, low density development on the urban fringe. The R5 zone allows for housing choice by allowing for secondary dwelling development (also known as granny flats) and attached dual occupancy development. These forms of development (in the regional context) are most likely to provide housing choice and fill identified gaps in the local housing market for smaller dwellings.</p> <p>The PP will ensure that new housing has appropriate access to infrastructure and services, by reinforcing strategic plans to cluster higher density development closer to services and infrastructure such as the local park and Berry Town Centre and to provide lower density development on the edges of the Estate. The land has been subdivided on the basis that the large lot areas would accommodate primarily detached housing; therefore, current planning controls that allow higher density housing types in the area (such as multi-dwelling housing or smaller lot sizes) may have unforeseen infrastructure implications.</p>
<p>Where this direction applies</p> <p>(2) This direction applies to all relevant planning authorities.</p>	-
<p>When this direction applies</p> <p>(3) This direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</p> <p>(a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),</p> <p>(b) any other zone in which significant residential development is permitted or proposed to be permitted.</p>	<p>This direction applies because the PP seeks to alter a residential zone.</p>
<p>What a relevant planning authority must do if this direction applies</p> <p>(4) A planning proposal must include provisions that encourage the provision of housing that will:</p> <p>(a) broaden the choice of building types and locations available in the housing market, and</p> <p>(b) make more efficient use of existing infrastructure and services, and</p> <p>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</p> <p>(d) be of good design.</p>	<p>The PP is consistent with Part (4) of this direction. In particular the PP will give effect to Part (4)(c), in that it will reduce the consumption of land for housing on the urban fringe of Berry.</p> <p>The PP allows for large lots and detached housing on the urban fringe. The zone permits dual occupancy (attached) development. Secondary dwelling development is enabled under the Affordable Rental Housing SEPP. These housing types provide housing choice as they are typically associated with smaller housing products, which are in short supply locally. Secondary dwellings and dual occupancy (attached) are also compatible with large lot characteristics and make efficient use of existing infrastructure.</p> <p>As the large lot parts of the Estate were originally subdivided with the intention of providing a low</p>

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	density transition to rural and natural surrounds, infrastructure has not been delivered to provide for increased density and any future retrofitting of medium density development within the current subdivision and road layout will likely result in significant design compromises. Therefore, the proposed PP will encourage good design outcomes, consistent with original masterplans for the locality.
<p>(5) A planning proposal must, in relation to land to which this direction applies:</p> <p>(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</p> <p>(b) not contain provisions which will reduce the permissible residential density of land.</p>	<p>The PP is not consistent with Part (5)(b) but this inconsistency is minor and acceptable as discussed below.</p> <p>The change in zone will prohibit certain residential land uses, including multi-dwelling housing and detached dual occupancies. The proposal therefore reduces the theoretical permissible residential density of the land. However, the area has been planned and infrastructure delivered to service a large lot, low density area. Higher residential densities and housing types such as multi-dwelling housing were not originally intended for the land. This PP seeks to realign planning controls with the strategic objectives for the land, as they have changed over time, leading to unintended consequences and potential unforeseen impacts.</p> <p>All dwelling entitlements will be preserved by virtue of all lots meeting the prescribed minimum lot size. Diverse housing options that are compatible with the future desired character of the area will remain permissible, in the form of secondary dwellings and attached dual occupancies.</p>
<p>Consistency</p> <p>(6) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:</p> <p>(a) justified by a strategy which:</p> <p>(i) gives consideration to the objective of this direction, and</p> <p>(ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and</p> <p>(iii) is approved by the Director-General of the Department of Planning, or</p> <p>(b) justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or</p> <p>(c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy</p>	<p>The PP is mostly consistent with Direction 3.1 Residential Zones, with a minor inconsistency with Part (5)(b).</p> <p>The PP is justified by a number of strategies, including the Illawarra-Shoalhaven Regional Plan and Shoalhaven GMS which align with the objectives of this direction; identify the subject land as part of a growth area; and are approved by the NSW Department of Planning. These strategies are discussed in Sections 3.2.1 and 3.2.2 above.</p> <p>The PP applies to 42 existing large lots on the periphery of the Estate. The broader Estate comprises over 255 lots, plus medium density housing areas and additional housing of between 110-150 new lots are proposed in the area as part of PP029. Housing diversity development options remain permissible on the subject land in the form of attached dual occupancy and secondary dwellings and more broadly across the Estate due to the R1 zoning. The capacity for housing in the area will</p>

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prepared by the Department of Planning which gives consideration to the objective of this direction, or (d) of minor significance.	remain consistent with approved plans and strategies, and the PP provides numerous strategic and community benefits, as discussed throughout this PP. The PP inconsistency with part of this Direction is therefore considered minor.
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3.4 Integrating Land Use and Transport

The objectives of this Direction include:

- a) *improving access to housing, jobs and services by walking, cycling and public transport, and*
- b) *increasing the choice of available transport and reducing dependence on cars, and*
- c) *reducing travel demand including the number of trips generated by development and the distances travelled, especially by car...*

This PP is consistent with the provisions of this Direction, as it seeks to limit higher density development to the relatively more accessible parts of the Estate, and promote lower density development on the subject land which is located at the north and western extremities of the Estate.

4.3 Flood Prone Land

This direction applies as the PP seeks to alter planning provisions for land that is identified as flood prone. However, it is noted that only small areas of the subject land are identified as flood prone as shown in **Figure 21** below.

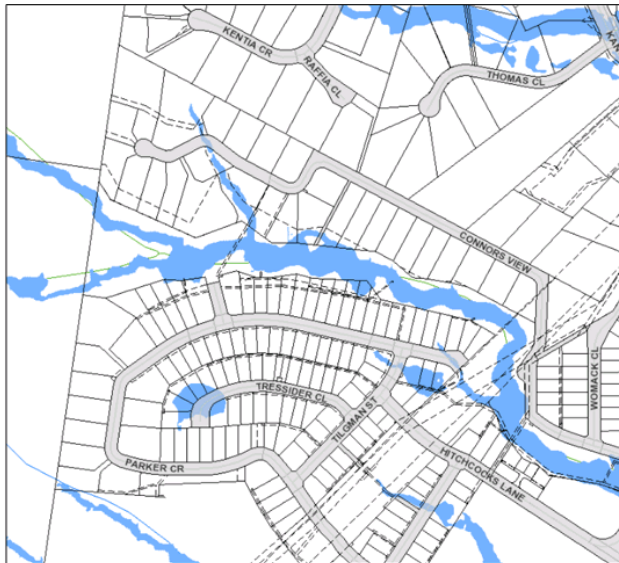


Figure 21: Flood Prone Land affected land

The PP is not inconsistent with this direction for the following reasons:

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- It is not inconsistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.
- It does not rezone any land from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use of Special Purpose Zone.
- It does not contain provisions that apply to flood planning areas which:
 - Permit development in floodway areas.
 - Permit development that will result in significant flood impacts to other properties.
 - Permit a significant increase in the development of that land.
 - Are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services.
 - Permit development to be carried out without development consent except for the purpose of agriculture (not including dams, drainage canals, levees, buildings or structures in floodway's or high hazard areas), roads or exempt development.
- Flood related development controls are not being imposed.

4.4 Planning for Bushfire Protection

A significant portion of the large lot areas of the Estate is mapped as being bushfire prone, as shown below in **Figure 22**. Large lots are generally intended to limit increases in future residential density, in turn decreasing bushfire risk exposure. Pre-exhibition consultation with the NSW RFS, as required by this direction, raised no issues or concerns in relation to bushfire. The PP is therefore consistent with this Direction, as outlined in **Table 4**.



Figure 22: Huntingdale Estate: Bushfire Prone land

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Table 4: S.9.1 Direction 4.4 Planning for Bushfire Protection

Provision	Comment
Objectives (1) The objectives of this direction are: (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) to encourage sound management of bush fire prone areas.	The PP gives effect to these objectives as it seeks to discourage incompatible land uses in fire prone areas and facilitates continued management of these areas consistent with the subdivision approval.
Where this direction applies (2) This direction applies to all local government areas in which the responsible Council is required to prepare a bush fire prone land map under section 10.3 of the Environmental Planning and Assessment Act 1979 (the EP&A Act), or, until such a map has been certified by the Commissioner of the NSW Rural Fire Service, a map referred to in Schedule 6 of that Act.	The subject land is mapped as bushfire prone land.
When this direction applies (3) This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.	This PP is located on land that is mapped as bushfire prone land.
What a relevant planning authority must do if this direction applies (4) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 3.34 of the Act, and prior to undertaking community consultation in satisfaction of Schedule 1, clause 4 of the Act, and take into account any comments so made, (5) A planning proposal must: (a) have regard to Planning for Bushfire Protection 2019, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. (6) A planning proposal must, where development is proposed, comply with the following provisions, as appropriate: (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building	The NSW RFS was consulted in accordance with this part and as required by the Gateway determination. Comments from the NSW RFS received on 7 May 2021 indicate the NSW RFS considered the proposal and have 'no concerns or issues in relation to bush fire.' The PP has regard to PBP 2019 and does introduce controls that avoid placing inappropriate development (more intensive housing development and more people) in bushfire prone areas. Bushfire hazard reduction is not prohibited in the proposed R5 Large Lot Residential zone. The proposal is not inconsistent with, and does not compromise compliance with, Part (6) (a) – (f).

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<p>line consistent with the incorporation of an APZ, within the property, and</p> <p>(ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,</p> <p>(b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,</p> <p>(c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,</p> <p>(d) contain provisions for adequate water supply for firefighting purposes,</p> <p>(e) minimise the perimeter of the area of land interfacing the hazard which may be developed,</p> <p>(f) introduce controls on the placement of combustible materials in the Inner Protection Area.</p>	
<p>Consistency (7)</p> <p>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the council has obtained written advice from the Commissioner of the NSW Rural Fire Service, to the effect that, notwithstanding the noncompliance, the NSW Rural Fire Service does not object to the progression of the planning proposal.</p>	<p>The PP is consistent with this Direction.</p>

3.3 Environmental, Social and Economic Impact (Section C)

3.3.1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The proposal will not impact on any critical habitat or threatened species, populations or ecological communities, or their habitats as the existing significant vegetation on the subject land is protected from removal by conditions of development consent under the *Environmental Planning and Assessment Act 1979* (issued with the subdivision approval to protect significant vegetation on the site) and restrictions on land title under the *Conveyancing Act 1919*.

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The large lot areas of Parker Crescent are largely cleared; however significant vegetation remains at the rear of many lots along Connors View. Retention and protection of this vegetation was recognised throughout the planning process for the Estate, with the upper reaches of the Estate valued by the community for its habitat and scenic values. As part of the subdivision approval (SF9320), land title restrictions were placed upon lots containing significant vegetation in the form of an 88B instrument, preventing removal of this vegetation (except for maintenance of Asset Protection Zones for bushfire risk mitigation). This 88B instrument also requires landowners to manage weeds on their properties and undertake vegetation management in accordance with approved Vegetation Management Plans (VMPs). A development application approval would be required in order to remove vegetation that is currently protected by an easement, positive covenant or otherwise protected via the 88B instruments applying to each property.

Therefore, whilst NSW Biodiversity Reforms have resulted in generally less restrictions for clearing trees/vegetation on R5 zoned land (compared to R1 or R2 zoned land) in Shoalhaven, the above land title based restrictions and subdivision consent conditions protect the existing vegetation on the subject land. The PP therefore will not enable any additional vegetation clearing.

As the subdivision of the land was predicated on the provision of large lots and low density housing, planning for vegetation management, asset protection zones and biodiversity conservation assumed higher density development would not be built on the large lot properties and that further subdivision (and associated fencing) would not occur. Therefore, any higher density development on the large lots may have implications for bushfire management and vegetation clearing that have not previously been accounted for. The PP seeks to avoid these unforeseen impacts.

3.3.2 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

The PP will have a number of beneficial environmental impacts including:

- Precluding higher density housing forms on the urban fringe given the large lot areas are located in an elevated area furthest from Berry Town Centre and not within convenient walking distance (over 2 km away). Higher density development within the Estate is located closer to town services and the planned park thereby promoting walking, cycling and active transport. The PP will therefore limit additional car dependency (and related congestion and emissions) associated with poorly located medium density dwellings on the urban fringe.
- The PP will ensure there is ample space to accommodate well-designed dwellings on the large lot areas, providing for optimised passive design opportunities, larger landscaped areas and greater opportunities for stormwater infiltration. The PP seeks

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to avoid compromising housing design on the urban fringe to achieve higher development yields in an area intended for, and best suited to, lower-density housing.

- The PP will reduce the risk of overdevelopment in a visually sensitive area, and within an area that contains (or borders) areas of ecologically important vegetation.

3.3.3 How has the Planning Proposal adequately addressed any social and economic effects?

Dwelling entitlements

The PP will maintain all dwelling entitlements to all existing and approved lots. Lots within the R5 zone trigger clause 4.2D(3) of Shoalhaven LEP 2014, which requires a lot to have a dwelling entitlement prior to the erection of a dwelling house or dual occupancy. As a result of this, all lots would be required to be greater than 2000m² (the minimum lot size for the land) to meet the requirements of clause 4.2D(3) or the lots would need to meet the requirements of another part of clause 4.2D(3). **Table 1** presents the lot size of all lots in the investigation area. All lots proposed to be rezoned from R1 General Residential to R5 Large Lot Residential contain an area greater than 2000m², exceeding the minimum lot size for the land, and will therefore continue to benefit from dwelling entitlement.

Development potential

The PP will result in reduced development capacity for certain types of development; namely, multi-dwelling housing and dual occupancy (detached) will no longer be permissible in the R5 Large Lot Residential Zone. However, the large lot area of the Estate is not considered to be an optimal location for these housing types, as the subject land is not located close to town centre services or recreational facilities.

The subdivision of the area has also been carried out with the intention of the large lot areas providing for low density housing. This is evidenced by the legal restrictions placed on the land via an 88B instrument (under the *Conveyancing Act 1919*) which attempt to limit development on the land to only one residence per lot (**see Figure 23**). These developer-imposed restrictions can be overridden by the provisions of the Shoalhaven LEP 2014. In addition, infrastructure has been extended to the subject land based on the area accommodating low-density residential development.

3. Terms of Restriction numbered 5 in the plan:

- Not more than one main building may be erected or be permitted to remain on any lot burdened and that main building must not be used for any purpose other than a single residential dwelling but this restriction does not prevent the erection and use of a building or buildings on any lot burdened strictly in accordance with the conditions of the Shoalhaven Local Environmental Plan 2014.

Figure 23: Excerpt from Huntingdale Estate (SF9320) Section 88b Instrument

Importantly, the subject land will retain the ability for secondary dwellings and attached dual occupancies to be built upon the land, providing additional development options for

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landowners and some flexibility. There are many other opportunities for detached dual occupancy and medium density housing types to be accommodated nearby, in more central, accessible and less-constrained areas of the Estate and Berry. The proposed rezoning of land south of Hitchcocks Lane (proposed as part of PP029) also looks to provide additional opportunities for suburban and small lot housing in the area.

The area is characterised by high property values with the median house price in Berry in 2020 over \$1.15 million. The larger lot sizes of the area are valued by residents for the space, privacy and outlook they provide, with many residents in the area raising concerns about the impacts of additional subdivision in the area and higher density development during recent planning projects (e.g. DA19/1857 for multi dwelling housing on Parker Crescent and PP027 (Citywide changes to subdivision provisions). The PP is therefore unlikely to impact adversely on property values, as large lot housing remains in demand in the area.

Overall, the PP is unlikely to have any adverse economic impacts as it proposes to support a development character that is consistent with strategic plans for the area, and consistent with marketing of the properties and resident expectations. Any potential negative social and economic effects of the proposal are envisaged to be minimal and are outweighed by the benefits of the proposal.

View and character impacts

The Estate is located in the foothills of Berry Mountain and is bounded by rural land to the west and south, and by large rural lifestyle lots to the north. The subject land is located in the elevated areas and along the ridgelines of the Estate, making the area visually prominent. The surrounding landscape is characterised by rural pastures and forested hills and provides residents and visitors with a sense of arrival into the historic town of Berry. Protecting these views and scenic landscapes is an important planning consideration, and the large lot areas (minimum lot size of 2,000m²) are intended to provide a transition between the suburban lots within the estate (with a 500m² minimum lot size) and the surrounding rural and forested escarpment areas. Higher density building forms, depending upon their design, could intrude on these views. This PP will reduce the likelihood of adverse view impacts by promoting low density development on large lots, encouraging provision of additional landscaped areas and greater separation between buildings.

This PP, to rezone land on the edges of the Estate, is consistent with recent decisions to rezone large lot areas to R5 Large Lot Residential to better reflect existing and desired future character. The subject land is similar in character to the rural-residential land directly to the north of the Estate, being the lifestyle properties along Kangaroo Valley Road. This area was recently rezoned from R2 Low Density Residential to R5 Large Lot Residential as part of Amendment 35, recognising the need to maintain this character into the future.

Post-exhibition note: The proposal illustrates consistency with the Shoalhaven Character Assessments by Roberts Day (February 2020), prepared for the then NSW Department of Planning and Environment and Shoalhaven Council. This document recognises that place

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character has become a clear and important focus for planning and development in recent times and seeks to *'ensure that any proposed changes and future development consider the place character and local values'* in the context of growth planning. The document also recognises planning opportunities (to build upon) such as Shoalhaven's unique natural setting and recreation opportunities, and challenges such as lack of housing diversity, dispersed network of settlements and fluctuating population (e.g. seasonal tourism impacts). Berry is recognised in the Character Assessment as 'leafy', 'surrounded by countryside', with a 'historic', 'boutique' and 'rural' identity. Elements of character listed as 'to improve' include improving walkability and pedestrian connections; and for new developments to ensure they are sympathetic to heritage, fine-grain character and rural atmosphere. In relation to Huntingdale Park Estate, the assessment states, *'Newer development to the south & south west to be enhanced to reflect the character of the main historic town, whilst maintaining the strong character of the core heritage area.'*

The large lot areas of the Estate therefore contribute to valued characteristics of Berry overall, including preservation of rural landscapes and leafy streetscapes and historic development patterns.

Housing choice and (relative) affordability

Multi-dwelling housing is often described as providing greater housing choice and affordability; which is true and desirable in many contexts; however, it is important that multi-dwelling housing and other diverse housing types are well-located in order to realise these objectives. Large lot residential areas in the regions typically have limited access to town centres, parks and public transport and other locational features that incentivise and justify compact housing forms in metropolitan/urban areas. Therefore, multi-dwelling housing developments on the fringes of regional towns usually do not offer true housing choice, instead offering very similar features, sizes and building forms as detached housing in the area, but with reduced landscaped and private open space areas and sometimes less parking space.

A pertinent example is the recent DA for multi-dwelling housing in Parker Street within the Estate. This multi-dwelling application proposed 5 dwellings, each with 3 bedrooms (and media room with window which could also be a 4th bedroom), and 3 bathrooms (one dwelling proposed to have 2 bathrooms). All but one dwelling offered a double garage. These types of developments accommodated on large lots do not contribute to achieving the objective of providing greater housing choice (or affordability) in an area lacking in smaller one and two bedroom (and small 3 bedroom, 1 / 2 bathroom) dwellings and simply replicate more common 3 and 4 bedroom detached dwelling configurations multiple times within a larger property. The large lot areas of the Estate were not intended, nor originally subdivided, to accommodate higher density development with more central and less-constrained areas identified for this purpose.

With the ability to undertake multi-dwelling housing and other higher density housing forms removed, other diverse housing forms are incentivised such as development of secondary dwellings or attached dual occupancy (these could be overlooked where higher density

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housing is permitted as they would not typically be considered as profitable as higher density). These housing types are typically smaller and therefore assist in supplying a recognised gap in the local market for smaller 1,2 and modest 3 bedroom dwellings. This PP therefore does not impact upon the provision of true housing choice and whilst it does not contribute to directly improving housing affordability, as large lots are envisaged to remain very high value properties, it does allow for housing types which are likely to be more (relatively) affordable than larger dwellings in the area.

3.4 State and Commonwealth Interests (Section D)

3.4.1 Is there adequate public infrastructure for the Planning Proposal?

The PP will reduce the possibility of future development placing undue strain on infrastructure provision (e.g. roads, water, sewer) in an area which was not planned or intended to accommodate higher density development.

3.4.2 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

The Gateway determination required consultation with the following public authorities listed in **Table 5**:

Table 5: List of agencies for consultation

Agency	Reason for consultation
NSW Rural Fire Service	To satisfy the requirements of Section 9.1 Direction 4.4 Planning for Bushfire Protection Clause (4).
DPIE - Biodiversity and Conservation Division	To provide the opportunity to comment on the proposal's potential impacts on biodiversity.

A response from the NSW Rural Fire Service was received on 7 May 2021. The NSW RFS did not raise any issues or concerns in relation to bushfire.

A response from DPIE - Biodiversity and Conservation Division was received on 7 May 2021. The BCD did not object to the Planning Proposal, recognising the proposed rezoning will (in principle) reduce pressure to remove trees and vegetation given the lower density and intensity of permitted uses.

The BCD noted the riparian corridors in the area contain significant vegetation (mapped as High Environmental Value under the Illawarra Shoalhaven Regional Plan 2015) and provide a link to remnant vegetation west of the Estate (consisting of Illawarra Subtropical Rainforest and Illawarra Lowlands Grassy Woodland Endangered Ecological Communities). The BCD requested that these riparian areas (within the upper reaches of Huntingdale Park Estate) be rezoned from their current R1 General Residential Zone to E3 Environmental Management or similar to better reflect their environmental character and function. The riparian corridor will remain unchanged as part of this PP, and the corridor has been dedicated to Council. This suggested zoning change to the riparian corridor will be explored as part of a future housekeeping amendment to Shoalhaven Local Environmental Plan 2014.

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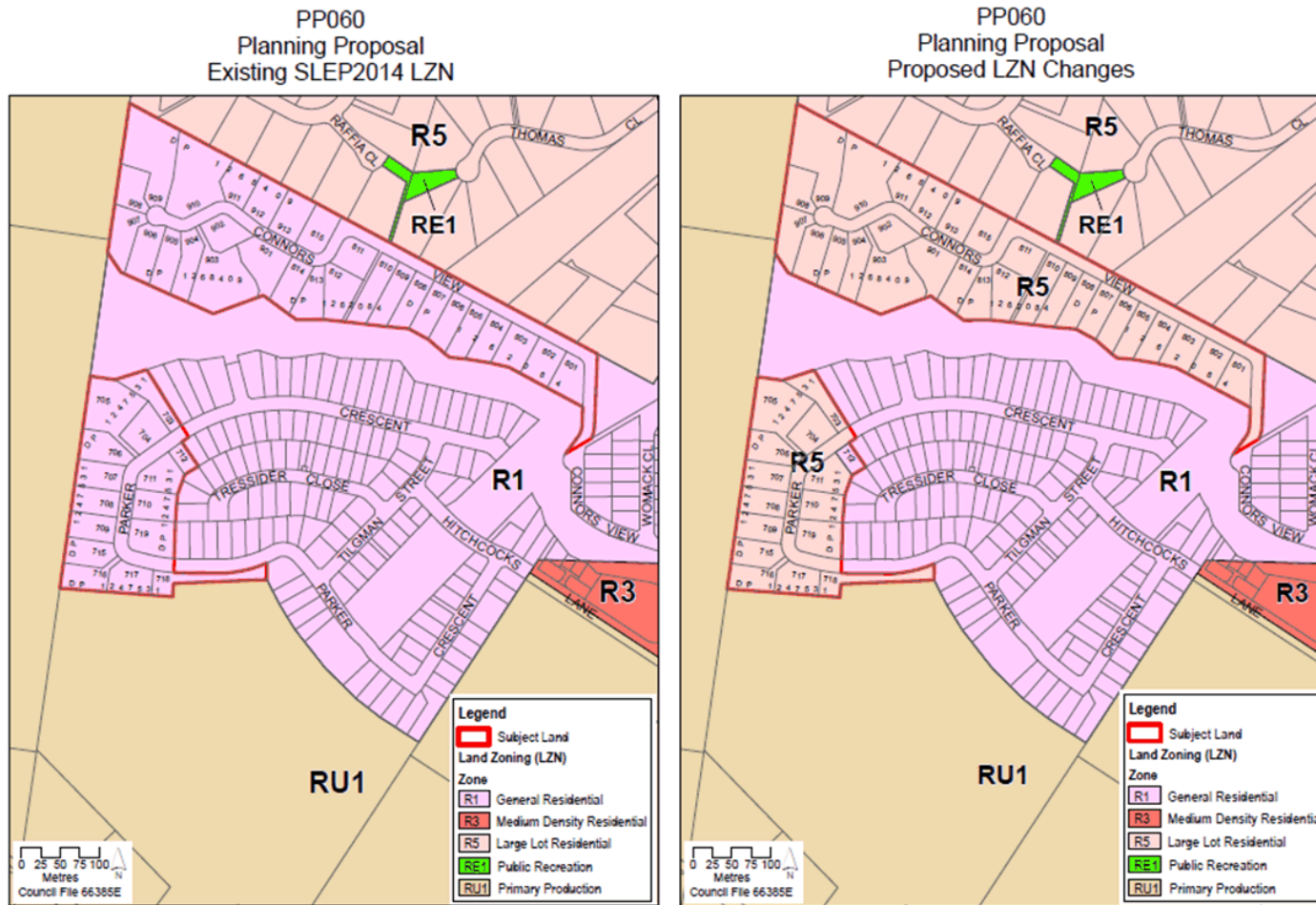
Part 4 – Mapping

This PP is supported by the following maps:

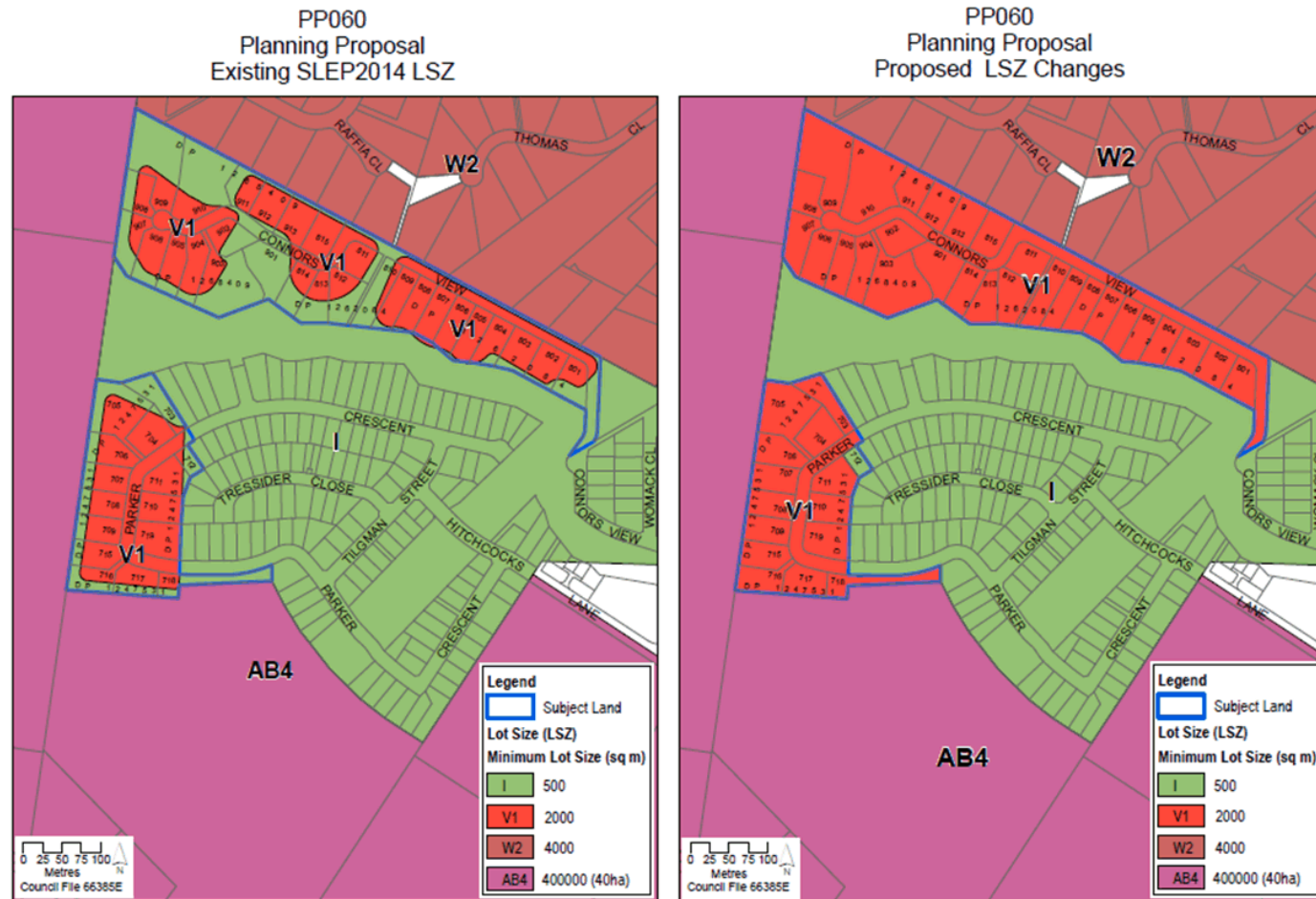
- Land Zone Map (LZN) – PP060 Existing LZN & PP060 Proposed LZN
- Lot Size Map (LSZ) – PP060 Existing LSZ & PP060 Proposed LSZ

These maps are provided on the following pages.

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Part 5 - Community Consultation

The PP was exhibited in accordance with the requirements of Schedule 1 of the *Environmental Planning and Assessment Act 1979* and the Gateway determination.

The PP was placed on public exhibition for 31 days between 26 May to 25 June 2021 (inclusive). The Gateway determination required a public exhibition period of a minimum of 28 days.

The exhibition was publicly notified via Council's website. Affected and adjoining landowners (74 households) were notified in writing. Key stakeholders were also notified in writing, including: Berry Forum Community Consultative Body; Huntingdale Park Resident Action Group; Berry Chamber of Commerce and Tourism; Nowra Local Aboriginal Land Council and development industry representatives.

The PP package was available on Council's webpage and electronically at the Nowra Administration Building as well as on the NSW Planning Portal webpage (PP2021-2380).

The submissions received during the exhibition were considered and are addressed in the Council Development and Environment Committee Report dated 13 July 2021.

Part 6 – Project Timeline

Table 6: Project timeline

Task	Anticipated Timeframe
Commencement date (date of Gateway determination)	April 2021
Completion of Gateway determination requirements	May-June 2021
Public exhibition	June-July 2021
Consideration of submissions	July-August 2021
Post exhibition consideration of PP	September-October 2021
Finalisation and notification of Plan	November 2021

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Attachment A: Checklist for the review of a request for delegation of plan making functions to Councils

Local Government Area:

Shoalhaven City Council

Name of draft LEP:

Shoalhaven Local Environmental Plan 2014
PP060

Address of Land (if applicable):

The following land in Berry:

Lot 703 DP 1247531, 69 Parker Crescent	Lot 810 DP 1262084, 39 Connors View
Lot 704 DP 1247531, 65 Parker Crescent	Lot 811 DP 1262084, 41 Connors View
Lot 705 DP 1247531, 63 Parker Crescent	Lot 812 DP 1262084, 43 Connors View
Lot 706 DP 1247531, 61 Parker Crescent	Lot 813 DP 1262084, 45 Connors View
Lot 707 DP 1247531, 59 Parker Crescent	Lot 814 DP 1262084, 47 Connors View
Lot 708 DP 1247531, 57 Parker Crescent	Lot 815 DP 1262084, 42 Connors View
Lot 709 DP 1247531, 55 Parker Crescent	Lot 901 DP 1268409, 49 Connors View
Lot 710 DP 1247531, 52 Parker Crescent	Lot 902 DP 1268409, 51 Connors View
Lot 711 DP 1247531, 56 Parker Crescent	Lot 903 DP 1268409, 53 Connors View
Lot 712 DP 1247531, 60 Parker Crescent	Lot 904 DP 1268409, 55 Connors View
Lot 715 DP 1247531, 53 Parker Crescent	Lot 905 DP 1268409, 57 Connors View
Lot 716 DP 1247531, 51 Parker Crescent	Lot 906 DP 1268409, 58 Connors View
Lot 717 DP 1247531, 47 Parker Crescent	Lot 907 DP 1268409, 61 Connors View
Lot 718 DP 1247531, 43 Parker Crescent	Lot 908 DP 1268409, 54 Connors View
Lot 719 DP 1247531, 48 Parker Crescent	Lot 909 DP 1268409, 52 Connors View
Lot 801 DP 1262084, 21 Connors View	Lot 910 DP 1268409, 50 Connors View
Lot 802 DP 1262084, 23 Connors View	Lot 911 DP 1268409, 48 Connors View
Lot 803 DP 1262084, 25 Connors View	Lot 912 DP 1268409, 46 Connors View
Lot 804 DP 1262084, 27 Connors View	Lot 913 DP 1268409, 44 Connors View
Lot 805 DP 1262084, 29 Connors View	Road UPNs - 1000963, 1001560 & Part of
Lot 806 DP 1262084, 31 Connors View	Road UPN 121808
Lot 807 DP 1262084, 33 Connors View	
Lot 808 DP 1262084, 35 Connors View	
Lot 809 DP 1262084, 37 Connors View	

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Intent of draft LEP:

The Planning Proposal seeks to:

- Rezone the large lot areas of Huntingdale Park Estate Berry, from R1 General Residential to R5 Large Lot Residential; and
- Extend the minimum lot size of 2000m² across the entire area proposed to be zoned R5 Large Lot Residential and,
- Apply a minimum lot size for subdivision of 500m² across the entire Lot 712 DP 1247531 (60 Parker Crescent) to rectify a mapping anomaly on this lot.

Evaluation criteria for the issuing of an Authorisation	Council Response		Department Assessment	
	Y/N	Not relevant	Agree	Not agree
(Note: where the matter is identified as relevant and the requirement has not been met, council is to attach information to explain why the matter has not been addressed)				
Is the Planning Proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the Planning Proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the Planning Proposal contain details related to proposed consultation?	Y			
Is the Planning Proposal compatible with an endorsed regional or sub-regional strategy or local strategy endorsed by the Director-General?	Y			
Does the Planning Proposal adequately address any consistency with all relevant S9.1 Planning Directions?	Y			
Is the Planning Proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments				
Does the Planning Proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	N			

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Heritage LEPs				
Does the Planning Proposal seek to add or remove a local heritage item and is it supported by a strategy / study endorsed by the Heritage Officer?	N			
Does the Planning Proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		N/A		
Does the Planning Proposal potentially impact on item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?	N			
Reclassifications				
Is there an associated spot rezoning with the reclassification?		N/A		
If yes to the above, is the rezoning consistent with an endorsed Plan Of Management (POM) or strategy?		N/A		
Is the Planning Proposal proposed to rectify an anomaly in a classification?		N/A		
Will the Planning Proposal be consistent with an adopted POM or other strategy related to the site?		N/A		
Will the draft LEP discharge any interests in public land under Section 30 of the Local Government Act, 1993?		N/A		
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the Planning Proposal?		N/A		
Has the council identified that it will exhibit the Planning Proposal in accordance with the Department's Practice Note (PN09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guidelines for LEPs and Council Land?		N/A		
Has council acknowledged in its Planning Proposal that a Public Hearing will be required and agree to hold one as part of its documentation?		N/A		

DE21.69 - Attachment 2

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

Spot Rezoning				
Will the proposal result in a loss of development potential for the site (i.e. reduced FSR or building height) that is not supported by an endorsed strategy?	N			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	N			
Will the Planning Proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	N			
If yes, does the Planning Proposal contain sufficient documented justification to enable the matter to proceed?		N/A		
Does the Planning Proposal create an exception to a mapped development standard?	N			
Section 73A matters				
<p>Does the proposed instrument:</p> <ul style="list-style-type: none"> a. Correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b. Address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; c. Deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? <p>(NOTE – the Minister (or delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).</p>	N			

DE21.69 - Attachment 2

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

Attachment B: Council Resolution and Report – Ordinary Meeting 23 June 2020

CL20.146 Planning Proposal (PP027) - Review of Subdivision Provisions - Post Exhibition Consideration and Proposed Finalisation

HPERM Ref:
D20/183027

RESOLVED* (Clr Proudfoot / Clr Wells)

MIN20.448

That Council:

1. Adopt the Planning Proposal (PP027) as exhibited and forward to the NSW Department of Planning, Industry and Environment for finalisation as a matter of urgency.
2. As part of a separate process:
 - a. Monitor the effectiveness/appropriateness of the minimum parent lot sizes in proposed clause 4.1A during operation and review as required.
 - b. Review the zoning of the R1 zoned large lots at the periphery of Huntingdale Estate Berry.
3. Advise key stakeholders, including all CCBs, relevant industry representatives and submitters, of this decision and when the LEP amendment will be made effective.

CARRIED



Ordinary Meeting – Tuesday 23 June 2020

CL20.146 Planning Proposal (PP027) - Review of Subdivision Provisions - Post Exhibition Consideration and Proposed Finalisation

HPERM Ref: D20/183027

Section: Strategic Planning

Approver: Phil Costello, Director Planning Environment & Development Group

Attachments: 1. Public Exhibition Submission Summary (under separate cover) [📄](#)

Reason for Report

- Detail the outcomes of the public exhibition of the Review of Subdivision Provisions Planning Proposal (PP027).
- Enable the amendments to Shoalhaven Local Environmental Plan (LEP) 2014 to proceed to finalisation.

Note: this matter is being reported direct to Council given the need for a final position on this Planning Proposal as it responds in part to the impending commencement of the NSW wide Low Rise Medium Density Code on 1 July 2020.

Recommendation

That Council:

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

1. Adopt the Planning Proposal (PP027) as exhibited and forward to the NSW Department of Planning, Industry and Environment for finalisation as a matter of urgency.
2. As part of a separate process:
 - a. Monitor the effectiveness/appropriateness of the minimum parent lot sizes in proposed clause 4.1A during operation and review as required.
 - b. Review the zoning of the R1 zoned large lots at the periphery of Huntingdale Estate Berry.
3. Advise key stakeholders, including all CCBs, relevant industry representatives and submitters, of this decision and when the LEP amendment will be made effective.

Options

1. As recommended.

Implications: This is the preferred option as it will enable Council to respond to the changing nature of medium density development and associated subdivision through an amendment to Shoalhaven LEP 2014. The amendment will also involve rezoning 718 lots that are currently zoned R2 Low Density Residential to R5 Large Lot Residential to adequately reflect the prevailing large lot character of the land given the impending commencement of the Low Rise Medium Density Housing Code.

This option also enables monitoring of the new clause 4.1A following commencement and a review of a number of large lots at the periphery of Huntingdale Estate Berry as part of separate processes.

2. Adopt an alternative recommendation.

Implications: This will depend on the extent of any changes and could postpone the amendments to Shoalhaven LEP 2014. This may have implications for Shoalhaven as the Low Rise Medium Density Housing Code commences on 1 July 2020.

3. Not adopt the recommendation.

Implications: This could stop or postpone the implementation of amendments to Shoalhaven LEP 2014. This option is not preferred as the relevant subdivision provisions in Shoalhaven LEP 2014 may not be amended and 718 large residential lots across Shoalhaven will retain a R2 Low Density Residential zone which does not adequately reflect the prevailing large lot character of the land.

This option also means that the zoning of a number of large lots at the periphery of Huntingdale Estate Berry will not be reviewed.

Background

In 2016, Council commenced a planning review looking at medium density development, dual occupancy development and subdivision potential/implications across the City. Following the review, it was considered that a number of changes to the existing subdivision provisions in Shoalhaven LEP 2014 were required to:

- Tidy up several clauses (interpretation / definition),
- Assist deliver appropriate medium density development in certain residential zones,
- Respond to the NSW Government's Low Rise Medium Density Housing Code, and
- Lift the restriction on the subdivision of medium density development via the Torrens system.

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Thus, on 17 July 2017, Council resolved (MIN17.611) to prepare a Planning Proposal (PP) to amend Shoalhaven LEP 2014 to facilitate this.

Through this process, the appropriateness of an R2 Low Density Residential zoning for certain large lot residential land in Shoalhaven was identified as something that needed reconsideration. The scope of the PP was subsequently expanded to rezone certain R2 land to R5 Large Lot Residential.

The exclusion of certain residential areas/land from the Low Rise Medium Density Housing Code was also explored and six villages were ultimately proposed for exclusion (Greenwell Point, Kangaroo Valley, Bawley Point, Kioloa, Depot Beach, Durras North).

The intent and content of the PP was refined following two Councillor workshops (15 October and 10 December 2018) and a Forum with key Development Industry representatives on 5 November 2018. On 2 April 2019 (MIN19.210), Council resolved to endorse a PP and to submit it to the NSW Department of Planning, Industry and Environment (DPIE) for a Gateway determination.

The PP was submitted to the then NSW Department of Planning and Environment (DP&E) and received a mostly favourable Gateway determination on 10 July 2019. The NSW Government required Council to remove the part of the PP that sought to exclude the six villages from the Code and to also include a savings and transitional provision to protect any undetermined development applications or appeal processes. Council was not given delegated authority to finalise the LEP amendment which means the PP will ultimately need to be submitted to the NSW Department of Planning, Infrastructure & Environment (DPIE) for finalisation.

Planning Proposal

Following satisfaction of the requirements of the Gateway determination, the exhibition version of the Planning Proposal seeks to amend Shoalhaven LEP 2014 as follows:

- Include a new sub clause in clause 4.1 (minimum subdivision lot size) to clarify that for the purpose of calculating the area of a battle-axe lot, an access handle is excluded from the calculation.
- Replace existing clause 4.1A (minimum lot sizes for dual occupancies and multi dwelling housing) with a minimum lot size for the parent lot prior to the erection of a dual occupancy, manor house, multi dwelling housing, multi dwelling housing (terraces) or residential flat building. The provision also seeks to lift the restriction on Torrens subdivision via clause 4.1 following lawful medium density development.

This means that medium density development in certain urban zoned locations can only be undertaken if the minimum lot size for the parent lot can be met, however once this is satisfied, the resulting dwellings can be Torrens subdivided to any size.

- Amend clause 4.1C (exception to minimum subdivision lot sizes) relating to dwelling houses, attached dwellings and semi-detached dwellings to reduce the minimum lot size for resulting lots from 350m² to 300m².
- Include term 'battle-axe' in the Dictionary.
- Amend all relevant Lot Size Maps to remove the clause 4.1A layer.
- Rezone certain R2 Low Density Residential land in the following locations to R5 Large Lot Residential to assist ensure that the low density large lot characteristics of the land can be maintained into the future: Berry, Bomaderry, Bangalee, Tapitallee, North Nowra, Worworing Heights, Bewong, St Georges Basin, Conjola Park, Milton, Lake Tabourie.

It is noted that an R5 zoning would trigger clause 4.2D of SLEP 2014 which requires a lot to have a dwelling entitlement prior to the erection of a dwelling house or dual occupancy (clause 4.2D(3)). This clause also considers replacement dwellings (4.2D(5)). It is Council's intention that all lots potentially affected by this change would retain a dwelling entitlement in this regard.

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- Include a savings and transition provision to ensure that the proposed amendments do not affect any undetermined development applications or appeal processes.

Government Agency Feedback

The Gateway determination required consultation with the following relevant NSW Government Agencies prior to public exhibition:

- WaterNSW.
- NSW Rural Fire Service.

It is noted in this regard that Shoalhaven's recent bushfires resulted in a 6-month delay in receiving a response from the NSW Rural Fire Service, which was received during the public exhibition period. This has unfortunately caused substantial delays in the timeframes associated with the PP.

The Biodiversity and Conservation Division (formerly Office of Environment and Heritage) of DPIE was also directly consulted during the public exhibition period as per the Gateway determination.

The agency responses are summarised in **Table 1**.

Table 1: Summary of State Authority Consultation Responses (pre-public exhibition)

Agency	Response Summary
WaterNSW	<p>Supports replacement of existing clause 4.1A with a minimum lot size for parent lots and the lifting of restrictions on Torrens title subdivision as proposed. This change will reduce the opportunity for 'low rise medium density' development to bypass the requirements of State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011, NorBE and the concurrence of WaterNSW.</p> <p>Recommends describing the relationship of the new clause 4.1A to the Subdivisions Code under the Codes SEPP. <i>Comment - The PP was updated prior to exhibition to provide commentary in this regard.</i></p> <p>Agrees that the PP does not adversely affect water quality in the Sydney Drinking Water Catchment in relation to Section 9.1 Direction 5.2. Requested reference to the Sydney Catchment Authority be replaced with WaterNSW. <i>Comment - the PP was updated in this regard.</i></p> <p>Consistency with Section 9.1 Direction 5.2 was noted relating to the timing of consultation with WaterNSW. <i>Comment - This matter has been resolved through WaterNSW's response and the PP has been updated accordingly.</i></p> <p>Has no objections to the other elements of the PP, however, notes that further consultation should be undertaken with WaterNSW should the scope of the rezoning be expanded to include land in the Sydney Drinking Water Catchment in the future.</p>
NSW Rural Fire Service	<p>No objection to the PP.</p> <p>Provides commentary on a range of matters to be considered at the DA stage, including requirements for subdivisions, dual occupancy and multi-dwelling development on bushfire prone land.</p> <p>The response also notes that Council should consider other mechanisms to identify and address impacts of an increase in density dispersed across the existing urban landscape</p>

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	(contributions, infrastructure plans) which will be undertaken, as appropriate, through separate processes.
DPIE - Biodiversity and Conservation Division	No comments: however, note that the proposed rezoning of numerous areas from R2 to R5 can result in a range of positive environmental benefits.

Public Exhibition

In accordance with the Council resolution (MIN19.210) and Gateway determination, the PP was publicly exhibited for a period of 30 days, from 22 April to 22 May 2020 (inclusive).

Notices appeared in local newspapers on 22 April 2020. All Community Consultative Bodies (CCBs), Development Industry Representatives and over 700 directly affected landowners (i.e. those subject to the proposed rezoning) were notified directly in writing.

Note: the PP was exhibited during the COVID-19 pandemic period and this was unfortunately unavoidable as Council was advised by the DPIE to exhibit the Planning Proposal as soon as possible in light of the impending 1 July 2020 commencement of the Low Rise Medium Density Housing Code (the Code) set by the NSW Government (see further discussion on the Code below).

Given that Council's customer service centres and other facilities were at the time closed to the public in response to COVID-19, the PP was available for viewing on Council's public exhibition webpage only. A [Get Involved Page](#) was also set up for the project.

Council staff were also available via phone or email to answer any detailed or specific enquiries regarding the proposed rezoning or broader PP. Council staff also held several online meetings with landowners, business owners and CCBs regarding the PP so that these stakeholders can better understand what the proposal means for them. Printed copies of the PP were made available and posted to landowners who advised they did not have access to a computer.

Despite some criticism related to the exhibition occurring during the COVID-19 period, on balance it is considered that the approach generally worked well, with over 100 phone calls received regarding the PP and appreciation being noted for Council's additional effort in light of the COVID-19 restrictions.

The exhibition material consisted of the following:

- [Review of Subdivision Provisions Planning Proposal \(PP027\)](#).
- [Explanatory Statement](#).
- Gateway determinations dated [10 July 2019](#) and [12 December 2019](#).
- [Rezoning Frequently Asked Questions](#).
- [Newspaper advertisement](#).

As a result of the exhibition, twenty (20) formal submissions were received including:

- Sixteen (16) submissions from the community members (i.e. individuals).
- Two (2) submissions from CCBs (The Milton & District Community Forum and The Berry Forum Committee).
- One (1) submission from the Development Industry (Allen Price & Scarratts)
- One (1) internal Council staff submission: Community and Recreation Section.

A detailed summary of the submissions and a Council staff response to all comments raised is provided in **Attachment 1** and a brief summary of feedback and resulting recommendations is provided in **Table 2**.

Copies of the actual submissions can also be made available to Councillors for review prior to the meeting, if required, on request.

Table 2: Consolidated feedback summary and recommendations

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Component of Planning Proposal	Summary and Recommendations
New sub clause in clause 4.1 to clarify that for the purpose of calculating the area of a battle-axe lot, that an access handle is excluded from the calculation.	Two (2) submissions were received - one support, one objection. Concern raised regarding exclusion of access handle for smaller blocks and inequity with standard residential blocks. It is noted that this is now a common clause across NSW Standard Instrument LEPs. It is also noted that clause 4.6 (Exceptions to development standards) could be considered where individual flexibility in lot size would result in a better outcome. <i>No changes to the proposal are recommended at this stage.</i>
Replace existing clause 4.1A with a minimum lot size for the parent lot prior to the erection of a certain medium density development. Lift the restriction on Torrens subdivision via clause 4.1 following lawful medium density development. Amend all relevant Lot Size Maps to remove the clause 4.1A layer.	Six (6) submissions were received: •One (1) submission in support. •Five (5) objections: <ul style="list-style-type: none"> One (1) suggesting the proposed parent lot sizes are too large. Four (4) suggesting the proposed provision is too pro-development. The concerns of overdevelopment identified by the community is balanced by the concerns of the development industry that the lot sizes are too large. No changes to the proposed parent lot sizes or resulting Torrens potential in the PP is recommended at this stage. Recommendation: <i>That Council monitor the effectiveness / appropriateness of the minimum parent lot sizes in clause 4.1A during operation and review as required.</i>
Amend clause 4.1C relating to dwelling houses, attached dwellings and semi-detached dwellings to reduce the minimum lot size for resulting lots from 350m ² to 300m ² .	Three (3) submissions objected to the minimum lot size change: •One (1) objection related to a certain part of Berry, which is not applicable as the clause does not apply in that location. •One (1) objection related to size – not large enough to address adverse impacts. •One (1) objection related to size – too large and should be consistent with medium density changes. The concerns of overdevelopment identified by the community is balanced by the concerns of one development industry member that the lot sizes are too large. <i>No change recommended.</i>
Include term 'battle-axe' in the Dictionary.	One (1) objection - did not support the definition as the amendment to clause 4.1 was not supported. Noted that 'access handle' in the definition should be defined. The drafting has been considered appropriate by the NSW Parliamentary Counsel's Office for other LEPs across NSW. <i>As such no change is recommended.</i>
Rezone certain R2 Low Density Residential land in the following locations	As expected, this was the aspect of the PP that was commented on the most – total of eleven (11)

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<p>to R5 Large Lot Residential: Berry, Bomaderry, Bangalee, Tapitallee, North Nowra, Worrowing Heights, Bewong, St Georges Basin, Conjola Park, Milton, Lake Tabourie.</p>	<p>Submissions were received in relation to the proposed rezoning at:</p> <ul style="list-style-type: none"> •Milton – two (2) in support. •Bangalee – one (1) support, one (1) objection. However the reasons for objection were actually in support of the intent of the rezoning i.e. to stop further subdivision. •Bomaderry – one (1) objection. However again on reading the reasons for objection were actually in support of the intent of the rezoning i.e. to stop further subdivision. •Berry – one (1) in support, two (2) objections. •Citywide generally – one (1) in support, two (2) objections. <p>No submissions were received in relation to the proposed rezoning at Tapitallee, North Nowra, Worrowing Heights, Bewong, St Georges Basin, Conjola Park or Lake Tabourie.</p> <p>It is noted that general support was received via phone enquiries, especially in relation to the Berry, Bangalee and Tapitallee areas.</p> <p>Points of support related to retention of large lot character and future restrictions on subdivision.</p> <p>Objections related to loss of development opportunities and reduction in land value. In this regard it is relevant to note that the areas in question were originally proposed to be zoned R5 in earlier versions of LEP 2014 given their previous zoning under LEP 1985. The R5 zoning did not proceed at that time due to concerns about the potential impact of the then Native Vegetation Act. These concerns are no longer present given legislative changes.</p> <p>Thus on balance, no changes are recommended to the exhibited rezoning proposal.</p> <p>Two (2) submissions raised concern regarding the zoning of the large lot parcels of land at the periphery of Huntingdale Estate, Berry (e.g. Parker Crescent) that are currently zoned R1. Suggest the land should be rezoned to R2 Low Density Residential or R5 Large Lot Residential. There may be some merit in exploring this matter further to consider the appropriateness of an alternative zoning for this land. It is noted that the process has always been that once R1 zoned areas are subdivided/developed that their zoning is then adjusted to the most appropriate residential zone. This change/review is however outside the scope of this current PP.</p> <p>Recommendation: <i>Review the zoning of the R1 zoned large lots at the periphery of Huntingdale Estate Berry as part of a separate process.</i></p>
<p>Include a savings and transition provision to ensure that the proposed amendments do not affect any undetermined development applications or appeal processes.</p>	<p>One (1) submission in support. <i>No change recommended.</i></p>

Commencement of the NSW Government's Low Rise Medium Density Housing Code

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

The Low Rise Medium Density Housing Code enables the consideration of the following medium density development types as complying development (do not need a development application):

- One and two storey dual occupancies, manor houses and terraces in Shoalhaven's R1 General Residential, R3 Medium Density Residential and RU5 Villages zones; and
- One and two storey dual occupancies in Shoalhaven's R2 Low Density Residential zone.

Following the review of the Code by Professor Roberta Ryan in 2019, commissioned by the NSW Government, the commencement of the Code was 'deferred' again for Shoalhaven until 1 July 2020. Despite representations, Council has been advised that no further extensions to the Code will be extended by the Minister.

As advised by DPIE, the PP needs to be finalised as soon as possible. It is noted that the delays with the NSW RFS referral have meant that the LEP Amendment will not be in place for 1 July 2020, however, if adopted by Council it can be in place shortly thereafter.

Conclusion

The PP will enable the existing provisions in Shoalhaven LEP 2014 to be refined and brought in line with industry and community expectations, whilst also responding, in part, to recent amendments to NSW Government medium density policy. The PP also seeks to protect the current and proposed large lot character of eleven (11) large lot residential locations across Shoalhaven.

As a result of the public exhibition, no changes are recommended to the exhibited PP, however it is recommended that the following be undertaken as part of separate processes:

- Monitor the effectiveness/appropriateness of the minimum parent lot sizes in clause 4.1A during operation and review as required.
- Review the zoning of the R1 zoned large lots at the periphery of Huntingdale Estate Berry.

The recommendation, if accepted, will enable the PP to be submitted to DPIE for finalisation as soon as possible in line with DPIE's advice. Thus timing is critical in this regard.

Policy and Risk Implications

The PP represents a change in how medium density development and related subdivision is considered in Shoalhaven. This approach is more responsive and provides a greater element of flexibility for subdivisions.

The Low Rise Medium Density Housing Code commences for Shoalhaven on 1 July 2020. Whilst the LEP Amendment will not be in place for 1 July 2020, it is likely to be in place shortly thereafter.

Financial Implications

Finalisation of the PP will continue to be undertaken within the existing Strategic Planning budget.

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

Attachment C: Council Resolution and Report – Development and Environment Committee 18 January 2021

DE21.4	Proposed Planning Proposal - Riverview Road Precinct (Nowra) and Huntingdale Park Estate Precinct (Berry)	HPERM Ref: D20/538996
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RESOLVED (Clr Watson / Clr Wells) MIN21.5

That Council:

1. Endorse the preparation of a Planning Proposal with the following scope, and proceed to submit it to the NSW Government for a Gateway determination, and if this is favourable, proceed to exhibition as per the legislative and any determination requirements:
 - a. Huntingdale Park Estate Precinct (Berry):
 - i. Rezone the subject land to R5 Large Lot Residential.
 - ii. Set a 2,000m² minimum lot size for the entirety of the subject land.
2. Receive a further report following the conclusion of the public exhibition period or if the Gateway determination is not favourable.
3. Advise key stakeholders of this decision and the resultant exhibition arrangements, including affected landowners, relevant Community Consultative Bodies and Development Industry representatives.

FOR: Clr Pakes, Clr Gash, Clr Wells, Clr White, Clr Watson, Clr Kitchener and Clr Proudfoot

AGAINST: Clr Findley, Clr Gartner, Clr Digiglio, Clr Levett and Stephen Dunshea

CARRIED



Development & Environment Committee – Monday 18 January 2021

DE21.4 Proposed Planning Proposal - Riverview Road Precinct (Nowra) and Huntingdale Park Estate Precinct (Berry)

HPERM Ref: D20/538996

Section: Strategic Planning

Approver: Robert Domm, Director - City Futures

Reason for Report

- Provide an update on the resolved planning investigations for:
 - Riverview Road Precinct (Nowra) – dual occupancy exclusion options.
 - Huntingdale Par Estate Precinct (Berry) – large lot residential zoning options.
- Obtain endorsement to proceed with a Planning Proposal (PP) to amendment Shoalhaven Local Environmental Plan (LEP) 2014 to respond in this regard.

Recommendation (Item to be determined under delegated authority)

That Council:

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

1. Endorse the preparation of a Planning Proposal with the following scope, and proceed to submit it to the NSW Government for a Gateway determination, and if this is favourable, proceed to exhibition as per the legislative and any determination requirements:
 - a. Riverview Road Precinct (Nowra):
 - i. Insert a new local clause (similar to clause 4.1A) setting a parent lot size for the erection of a dual occupancy development that is 1,500m².
 - ii. Establish a clause map to identify the land to which the local clause would apply (the land in Figure 1 of this report).
 - iii. Amend clause 4.6(8) to ensure that the parent lot size set in the new local clause could not be varied.
 - b. Huntingdale Park Estate Precinct (Berry):
 - i. Rezone the subject land to R5 Large Lot Residential.
 - ii. Set a 2,000m² minimum lot size for the entirety of the subject land.
2. Receive a further report following the conclusion of the public exhibition period or if the Gateway determination is not favourable.
3. Advise key stakeholders of this decision and the resultant exhibition arrangements, including affected landowners, relevant Community Consultative Bodies and Development Industry representatives.

Options

1. As recommended.
Implications: This is the preferred option as it will enable Council to adjust Shoalhaven LEP 2014 to resolve the planning issues resulting from the Council resolutions on Riverview Road Precinct (Nowra) and Huntingdale Park Estate Precinct (Berry).
2. Adopt an alternative recommendation.
Implications: This will depend on the extent of any changes and could postpone or stop the resolution of these planning issues.
3. Not adopt the recommendation.
Implications: This option would stop the resolution of these planning issues. The planning controls in these areas would remain unaltered.

Background

Riverview Road Precinct – Nowra

On 2 July 2019, Council resolved (MIN19.459) that:

The next Housekeeping Amendment seek to consider inserting provisions in the Shoalhaven LEP to rule out dual occupancy development in the vicinity of Riverview Road and Lyrebird Drive, Nowra.

This resolution essentially seeks to prohibit dual occupancy development in the Riverview Road precinct (**Figure 1**) due to the highly flood prone nature of the land. The precinct includes all the R2 Low Density Residential zoned land located in the Riverview Road Area Floodplain Risk Management Plan area. Dual occupancy development (both attached and detached) is currently permissible with consent citywide in the R2 zone.

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

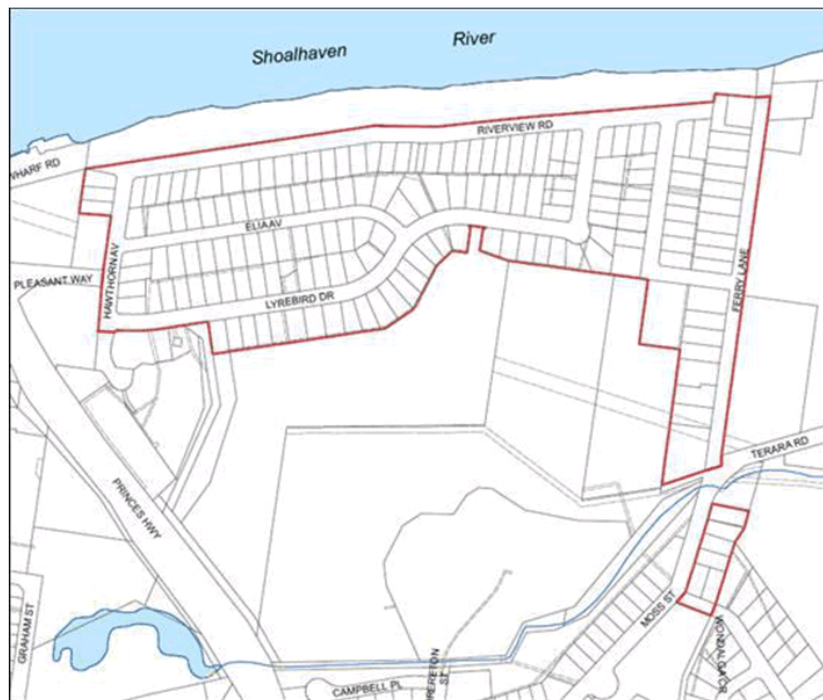


Figure 1: The Riverview View Road Precinct

A number of options have been explored to progress this matter, as outlined in the following table.

Option	Comment
Use the DCP to highlight the precinct's flood issues to specify that dual occupancies are not supported in this area.	<p>Chapter G9: Development on Flood Prone Land of Shoalhaven Development Control Plan (DCP) 2014 already seeks to restrict dual occupancies in this location, stating that no dual occupancy or subdivision will be permitted.</p> <p>It is noted that there are difficulties in enforcing this provision solely through a DCP, especially where there is a direct conflict with an environmental planning instrument (i.e. Shoalhaven LEP 2014). Simply a DCP cannot prohibit something that is permissible under an LEP.</p> <p>From a practicality perspective, this option is not ideal; however, following a discussion with the Department of Planning and Environment (DPIE), this is their preferred option despite the obvious conflict issue.</p>
Rezone the land to a zone that prohibits dual occupancy development.	<p>Dual occupancy development is currently prohibited citywide in the following zones:</p> <ul style="list-style-type: none"> • RU3 Forestry. • All business zones. • All industrial zones. • All special purpose zones.

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

	<ul style="list-style-type: none"> • All recreation zones. • All waterway zones. <p>None of the above zones would be ideal for the precinct; however, of them all, SP3 Tourist would perhaps be the only one that could even be considered. It is noted that dwelling houses remain permissible with consent in that zone; however, clause 7.27 of Shoalhaven LEP 2014 requires that any future dwelling needs to form an integral part of development for the purposes of tourism. This precinct is not an identified tourism precinct and rezoning it SP3 would have a range of additional unintended consequences.</p> <p>DPIE have advised that applying an appropriate zone to the land is preferable; however, as discussed above, none of the existing zones are considered appropriate if this approach is taken.</p>
Pursue a local clause in the LEP prohibiting dual occupancy development.	Trying to prohibit dual occupancies in the precinct through a local clause will result in what would be termed a 'sub-zone' which is not consistent with the Standard LEP Instrument approach and will not be supported by DPIE.
Pursue a new local clause to introduce a minimum parent lot size specifically for the Precinct for dual occupancy development, similar to the new clause 4.1A in the LEP.	<p>In August 2020, an amendment to Shoalhaven LEP 2014 was finalised which introduced a new clause (clause 4.1A) that set a minimum parent lot size prior to the erection of medium density development in certain residential zones.</p> <p>A similar approach could be considered for the Precinct. Dual occupancies would remain permissible with consent as per the land use table; however, a local clause would set a parent lot size that is greater than the standard lot size in the area for both attached and detached dual occupancies. It is noted that the largest lot in the Precinct is 4,016.49m²; however, 85% of lots are less than 1,000m² and 98% are less than 1,500m². As such, it is considered appropriate for the parent lot size to be set at 1,500m².</p> <p>This would require consolidation of lots for a dual occupancy development and would be less appealing for infill dual occupancy development.</p> <p>It is noted that this option is not a prohibition. A dual occupancy development could be considered if land is consolidated and an applicant could seek a variation to the parent minimum lot size standard, unless the proposed new local clause is exempt from clause 4.6 Exceptions to development standards (the clause enabling variations to LEP standards).</p> <p>This is the preferred option should Council still wish to pursue a change to the LEP in this regard.</p>

As a result of the investigations, and assuming Council still wishes to pursue this matter, it would be appropriate to progress this matter by amending the LEP via a PP to:

- Insert a new local clause (similar to clause 4.1A) setting a parent lot size for a dual occupancy development that is greater than the standard lot size in the Precinct, being 1,500m².
- Establish a clause map to identify the land to which the new local clause would apply, being the land in **Figure 1**.
- Amend existing clause 4.6(8) to ensure that the parent lot size set in the new local clause could not be varied.

Huntingdale Park Estate Precinct – Berry

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

During the public exhibition of Council's Review of Subdivision Provisions PP (PP027), there were a number of specific requests to review the zoning of certain land within Huntingdale Park Estate, Berry. As a result, Council resolved on 23 June 2020 (MIN20.448(2b)) to:

As part of a separate process: Review the zoning of the R1 zoned large lots at the periphery of Huntingdale Estate Berry.

The resolved review has now been undertaken in relation to the land within the estate shown in **Figure 2**, being the larger R1 General Residential lots in the Estate on its periphery.



Figure 2: The Huntingdale Park Estate Review Precinct

In the planning for the Huntingdale Park Estate area and through the DCP, large lots with a minimum lot size of 2,000m² were envisaged along the northern, western, and southern boundaries to provide a transition from the higher density development in the centre of the subdivision through to lower density development bordering the adjacent rural lands.

Despite the original intentions to create low density lots along these boundaries, following the commencement of LEP in 2014, the majority of the residential portion of the estate was zoned R1 General Residential. Multi-dwelling housing is however generally permitted with consent within the R1 zone and this is considered to conflict with the desired low density characteristics and intentions envisaged for the Huntingdale Estate. Recent multi-dwelling development applications on some of these larger lots have prompted significant community opposition/concern.

Submissions during the PP027 process suggested that the subject land (Figure 2) be rezoned to R2 Low Density Residential in order to prevent multi-dwelling development which is prohibited within the R2 zone under the LEP. An R2 zone would assist in maintaining the low density large lot characteristics that were initially supported by Council and the community during the original subdivision, with the exception of dual occupancy development and its lawful subdivision via the NSW Government's *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the Code) (complying development) and clause 4.1A of Shoalhaven LEP 2014 (development application). These opportunities still have the potential to also erode the desired large lot low density characteristics of the subject land.

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

Thus an R5 Rural Residential zoning is considered more appropriate in securing the low-density intentions of the identified parts of the Estate, as the Code does not apply to this land and limited medium density opportunities are available. Suitable 'dual occupancy (attached)' development would remain permissible as would 'secondary dwellings' under the NSW Government's *State Environmental Planning Policy (Affordable Rental Housing) 2009*. The proposed R5 zoning of the subject land will likely protect the area from the erosion of the existing (and desired) large lot character, as well as respond to issues arising as a result of the Code. This zone is also the same as the land to the north that was rezoned as part of PP027 for (in part) the same reasons.

In considering the zoning of the subject land, it would be appropriate to also adjust the minimum lot size of the subject land and apply a 2,000m² minimum lot size to all areas within the precinct (currently part 500m² and part 2,000m²).

The rezoning of the land to R5 will trigger clause 4.2D of Shoalhaven LEP 2014 which requires a dwelling entitlement to be established before a dwelling could be considered on the land. It is noted that all lots in the subject area are larger than the 2,000m² minimum lot size proposed for the land, meaning that each lot by virtue would retain a dwelling entitlement.

As a result of the investigations, it would be appropriate to progress this matter by amending the LEP via a PP to:

- Rezone the subject land to R5 Large Lot Residential (**Figure 3**).
- Set a 2,000m² minimum lot size for the entirety of the subject land (**Figure 4**).

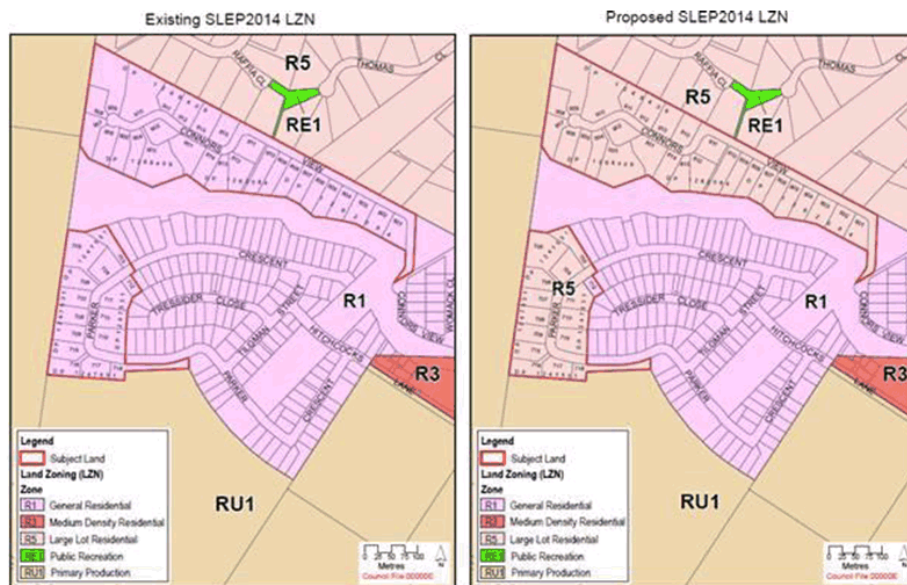


Figure 3: Existing and proposed zoning - Huntingdale Park Estate Review Precinct

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct



Figure 4: Existing and proposed minimum lot size - Huntingdale Park Estate Review Precinct

Conclusion

Given the relatively contemporary nature of the resolutions regarding these two matters it is assumed, subject to the consideration of the detail in this report, that Council will be comfortable proceeding with a PP to seek to amend the LEP as recommended.

Community Engagement

Any PP to amend Shoalhaven LEP 2014 would require a formal public exhibition in accordance with the Gateway determination and legislative requirements. Affected landowners, relevant CCBs and Development Industry Representatives would be directly notified of the exhibition arrangements.

Policy Implications

The suggested approach to resolve the planning issues associated with the Riverview Road Precinct and the Huntingdale Park Estate Precinct will see a reduction in the achievable density in these areas which will need to be adequately justified in any PP.

Financial Implications

Any PP would be resourced within the existing Strategic Planning budget.

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

Attachment D: State Environmental Planning Policies Checklist

SEPP #	Name	Applicable	Relevant to PP	Consistency/Comment
		✓ / ✗	✓ / ✗	
-	Aboriginal Land 2019	✗	✗	Currently this SEPP only applies to land owned by the Darkinjung Local Aboriginal Land Council on the Central Coast.
-	Activation Precincts 2020	✗	✗	N/A
-	Affordable Rental Housing 2009	✓	✓	This SEPP allows for future secondary dwellings and other forms of affordable rental housing on the land.
-	Building Sustainability Index: BASIX 2004	✓	✗	Future dwellings on the site will need to comply with BASIX requirements relating to energy, water and thermal efficiency.
-	Coastal Management 2018	✗	✗	Subject land is not within the coastal management zone.
-	Concurrences & Consents 2018	✓	✗	This SEPP relates to integrated development applications.
-	Educational Establishments and Child Care Facilities 2017	✓	✗	Allows for certain educational and child care development as exempt and complying development.
-	Exempt and Complying Development Codes) 2008	✓	✓	Will apply to future rezoned area allowing for exempt and complying development on applicable land. Complying Development under the Low Density Housing Diversity Code will be precluded in the proposed R5 Large Lot Residential zone.
-	Gosford City Centre 2018	✗	✗	N/A
-	Housing for Seniors or People with a Disability 2004	✓	✗	No provisions relevant for PPs. Allows for some seniors housing and disability care facilities on certain land.
-	(Infrastructure) 2007	✓	✗	This SEPP allows for certain forms of infrastructure to be carried out as exempt development on behalf of a public authority.
-	Koala Habitat Protection 2020 & Koala Habitat Protection 2021	✓	✗	The Koala SEPP 2021 applies to the Shoalhaven LGA. The Koala SEPP 2020 applies to rural land in the Shoalhaven (and is not relevant to this proposal). The Koala SEPP 2021 requires individual study of koala habitat for development applications on land held in the same ownership that is greater than 1 hectare in size, therefore it is unlikely the SEPP requirements will be triggered for future development on the subject land (lot sizes are all < 1 ha).
-	Kosciuszko National	✗	✗	N/A

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

	Park—Alpine Resorts) 2007			
-	Kurnell Peninsulas	✖	✖	N/A
-	(Major Infrastructure Corridors) 2020	✖	✖	Applies only to western Sydney LGAs
-	Mining, Petroleum Production and Extractive Industries) 2007	✓	✖	The Mining SEPP aims to manage and sustainably develop these resources for the social and economic benefit of the community.
19	Bushland in Urban Areas	✖	✖	N/A
21	Caravan Parks	✓	✖	SEPP 21 identifies that consent is required under the EP&A Act to develop caravan parks within NSW.
33	Hazardous and Offensive Development	✓	✖	SEPP 33 presents a systematic approach to planning and assessing proposals for potentially hazardous and offensive development for the purpose of industry or storage.
36	Manufactured Home Estates	✓	✖	SEPP 36 provides permissibility and planning requirements for manufactured home estates.
47	Moore Park Showground	✖	✖	N/A
50	Canal Estate Development	✓	✖	This SEPP prohibits new canal estate development.
55	Remediation of Land	✓	✖	The requirement to consider contamination when rezoning land was removed from the SEPP and is now considered under Section 9.1 Ministerial Directions of the <i>Environmental Planning and Assessment Act 1979</i> .
64	Advertising and Signage	✓	✖	This SEPP regulates certain advertising signage.
65	Design Quality of Residential Apartment Development	✓	✖	Residential apartment buildings will not be permissible should the land be rezoned.
70	Affordable Housing Schemes	✓	✖	This SEPP enables schemes to levy developer contributions for Affordable Housing.
-	Penrith Lakes Scheme 1989	✖	✖	N/A
-	Primary Production and Rural Development 2019	✓	✖	This SEPP includes provisions relating to agricultural land uses.
-	State and Regional Development) 2011	✓	✖	This SEPP provides an assessment framework for state and regionally significant developments.

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

-	State Significant Precincts 2005	✓	✗	This SEPP provides a planning and assessment framework for state significant precinct.
-	Sydney Drinking Water Catchment) 2011	✗	✗	N/A
-	Sydney Region Growth Centres 2006	✗	✗	N/A
-	Three Ports 2013	✗	✗	N/A
-	Urban Renewal 2010	✗	✗	N/A
-	Vegetation in Non-Rural Areas 2017	✓	✓	Will apply to clearing of vegetation in residential areas, defers generally to Council's DCP requirements for tree management and removal. Council's DCP requirements for vegetation management in R5 zones are discussed in Sections 4.31 and 4.3.2 of this PP.
-	Western Sydney Employment Area) 2009	✗	✗	N/A
-	Western Sydney Parklands) 2009	✗	✗	N/A

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

Attachment E: Section 9.1 Planning Directions

24 February 2021 Version

Direction	Applicable	Relevant	Not inconsistent
1 Employment and Resources			
1.1 Business and Industrial Zones	x	x	n/a
1.2 Rural Zones	x	x	n/a
1.3 Mining, Petroleum Production and Extractive Industries	x	x	n/a
1.4 Oyster Aquaculture	x	x	n/a
1.5 Rural lands	x	x	n/a
2 Environment and Heritage			
2.1 Environmental Protection Zones	✓	✓	✓
2.2 Coastal Management	x	x	n/a
2.3 Heritage Conservation	✓	x	n/a
2.4 Recreation Vehicle Area	✓	x	n/a
2.5 Application of E2 and E3 Zones in Environmental Overlays in Far North Coast LEPs	x	x	n/a
2.6 Remediation of Contaminated Land	✓	✓	✓
3 Housing, Infrastructure and Urban Development			
3.1 Residential Zones	✓	✓	Consistent with Part (4). Minor inconsistency with Part (5) – addressed within PP.
3.2 Caravan Parks and Manufactured Home Estates	x	x	n/a
3.3 Home Occupations	Revoked 9 Nov 2020		
3.4 Integrating Land Use and Transport	✓	✓	✓
3.5 Development Near Regulated Airports and Defence Airfields	x	x	n/a
3.6 Shooting Ranges	x	x	n/a
3.7 Reduction in non-hosted short term rental accommodation period	x	x	n/a
4 Hazard and Risk			
4.1 Acid Sulphate Soils	✓	✓	

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

				✓ Land is not mapped as affected by Acid Sulfate Soils (class1 - 4)
4.2	Mine Subsidence and Unstable Land	×	×	n/a
4.3	Flood Prone Land	✓	✓	✓
4.4	Planning for Bushfire Protection	✓	✓	✓
5 Regional Planning				
5.1	Implementation of Regional Strategies	(Revoked 17 October 2017)		
5.2	Sydney Drinking Water Catchments	×	×	n/a
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	×	×	n/a
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	×	×	n/a
5.5	Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	(Revoked 18 June 2010)		
5.6	Sydney to Canberra Corridor	(Revoked 10 July 2008)		
5.7	Central Coast	(Revoked 10 July 2008)		
5.8	Second Sydney Airport: Badgerys Creek	(Revoked 20 August 2018)		
5.9	North West Rail Link Corridor Strategy	×	×	n/a
5.10	Implementation of Regional Plans	✓	✓	✓
5.11	Development of Aboriginal Land Council land	×	×	n/a
6 Local Plan Making				
6.1	Approval and Referral Requirements	✓	×	n/a
6.2	Reserving Land for Public Purposes	✓	×	n/a
6.3	Site Specific Provisions	×	×	n/a
7 Metropolitan Planning				
7.1	Implementation of A Plan for Growing Sydney	×	×	n/a
7.2	Implementation of Greater Macarthur Land Release Investigation	(Revoked 28 November 2019)		
7.3	Parramatta Road Corridor Urban Transformation Strategy	×	×	n/a

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	x	x	n/a
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	x	x	n/a
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	x	x	n/a
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	x	x	n/a
7.8	Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	x	x	n/a
7.9	Implementation of Bayside West Precincts 2036 Plan	x	x	n/a
7.10	Implementation of Planning Principles for the Cooks Cove Precinct	x	x	n/a
7.11	Implementation of St Leonards and Crows Nest 2036 Plan	x	x	n/a
7.12	Implementation of Greater Macarthur 2040	x	x	n/a
7.13	Implementation of the Pyrmont Peninsula Place Strategy	x	x	n/a

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct

Attachment F: Pre-exhibition State Agency correspondence



Planning,
Industry &
Environment

Our ref: DOC21/359888
Senders ref: PP060

Rebecca Jardim
Senior Strategic Planner
Shoalhaven City Council
E-mail:
Rebecca.jardim@shoalhaven.nsw.gov.au

Dear Ms Jardim

Subject: Huntingdale Estate Berry Planning Proposal – PP060

Thank you for referring the abovementioned planning proposal dated 28 April 2021 via the NSW Planning Portal. We understand that the proposal comprises rezoning of part of the Estate from R1 General Residential to R5 Large Lot Residential and corresponding changes to minimum lot size to correct a mapping anomaly.

In summary, we do not object to the proposal, subject to the existing conditions of subdivision consent SF9320 being complied with. We do however suggest that consideration be given to rezoning the riparian corridor E3 Environmental Management or similar, recognising that this provides a local linkage to remnant vegetation to the west.

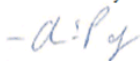
In principle, formalising a larger area of 2000m² lots would reduce pressure on tree removal, notably for those lots adjacent to and contiguous with the riparian corridor. The proposed rezoning from R1 to R5 would also prevent additional development pressure on retained trees resulting from more intensive and higher density forms of residential development allowed under the NSW Low Rise Housing Diversity Code.

We have reviewed the relevant conditions of consent for the most recent subdivision approval SF9320. We note that a Vegetation Management Plan is already required under development consent SF9320 requiring management of vegetation within the riparian corridor, as well as vegetation on those lots in the north western corner of Connors View.

Significant retained vegetation is situated within the existing riparian corridor and is to remain unchanged by this proposal. We note that the remnant vegetation west of the Estate aligns with Illawarra Subtropical Rainforest and Illawarra Lowlands Grassy Woodland EEC and land within the existing riparian corridor is identified as having high environmental value (HEV) under the Illawarra Shoalhaven Regional Plan (ISRP) 2015. This corridor is currently zoned R1 General Residential, however, the opportunity exists for zoning that more accurately reflects its environmental character and function.

If you have any questions about this advice, please do not hesitate to contact Mr Calvin Houlison, Senior Conservation Planning Officer, via calvin.houlison@environment.nsw.gov.au or 4224 4179.

Yours sincerely



Chris Page 6 May 2021
Senior Team Leader, Planning (Illawarra)
Biodiversity & Conservation Division
Environment, Energy and Science

84 Crown Street Wollongong 2520 | PO Box 514 Wollongong 2500 | dpie.nsw.gov.au | 1

DE21.69 - Attachment 2

Planning Proposal – Shoalhaven LEP 2014 – PP060 Huntingdale Park Large Lot Residential Precinct



NSW RURAL FIRE SERVICE

Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

Your reference: (REF-191) PP060
Our reference: SPI20210430000057

ATTENTION: Rebecca Jardim

Date: Friday 7 May 2021

Dear Sir/Madam,

**Strategic Planning Instrument
LEP Amendment**

The planning proposal seeks to rezone the large lot areas of Huntingdale Park Estate at Berry (lots larger than 2000 m2) to maintain the current and future desired character of the area.

I refer to your correspondence dated 28/04/2021 inviting the NSW Rural Fire Service (NSW RFS) to comment on the above Strategic Planning document.

The NSW RFS has considered the information submitted and subsequently raise no concerns or issues in relation to bush fire.

For any queries regarding this correspondence, please contact Peter Dowse on 1300 NSW RFS.

Yours sincerely,

Anna Jones
Supervisor Development Assessment & Plan
Built & Natural Environment

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142


Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au



Planning Report – S4.15 Assessment - 8 Homestead Lane, BERRY - Lot 101 DP 1057897

	Planning Report S4.15 Environmental Planning & Assessment Act 1979
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DA Number	DA20/2172
Property	8 Homestead Lane, BERRY - Lot 101 DP 1057897
Applicant(s)	Cowman Stoddart Pty Ltd
Owner(s)	Matthew and Julie Quinn

Conflict of interest declaration

I have considered the potential for a conflict of interest under the [Code of Conduct](#) and to the best of my knowledge no pecuniary and/or significant non-pecuniary conflict of interest exists.

NOTE: If you determine that a non-pecuniary conflict of interest is less than significant and does not require further action, you must provide a written explanation of why you consider that the conflict does not require further action in the circumstances. This statement should then be countersigned by the section manager.

1. Detailed Proposal

The Statement of Environmental Effects prepared by Cowman & Stoddart dated October 2020 (D20/184961), describes the proposed development as follows:

The proposal involves the use of the subject land for functions or events for up to 120 guests and comprises:

- *Alterations and additions to the former cowshed building as follows:-*
 - *Addition to the western end of the cowshed measuring approximately 9.5 m x 3 m to provide suitable amenities.*
 - *Installation of commercial kitchen.*
 - *Provision of exit doors to the eastern and northern elevations of the cowshed.*
- *The use of an existing building that will be able to accommodate functions or events for up to 120 guests.*
- *Construction of a timber pergola over part of an existing paved area.*
- *The use of the property is restricted to the cowshed building itself, plus the brick paved area to the north of this building*
- *On-site parking for 10 staff adjacent an existing internal accessway, plus capacity for 10 guests as emergency overflow.*
- *Conservation works as outlined in the Conservation Management Plan prepared by Navin Officer including:*
 - *Replacement of plastic roof sheeting for Mananga Homestead dwelling with high quality translucent panels;*
 - *Repoint brickwork in chimney stacks;*
 - *Repairs to existing decking on Mananga Homestead dwelling involving punching exposed fittings, sanding back and staining timber decking to match existing;*
 - *Damp-proofing of Mananga Homestead dwelling;*
 - *Draught proof existing external timber doors to Mananga Homestead dwelling using sympathetic materials;*

Planning Report – S4.15 Assessment - 8 Homestead Lane, BERRY - Lot 101 DP 1057897

- Provision of interpretative signage to outline the history and function of the subject site;
- Provision of a sculpture/artwork which reflects the history of the site;
- Contouring of existing earth embankment adjacent the eastern boundary of the site;
- Establishment of an Heirloom garden, including pathways;
- Retaining wall and contouring of embankment to the eastern boundary of the site
- Planting of an avenue of trees adjacent the eastern boundary of the site.
- Site Landscaping and its management, as outlined in the Landscaping Plan and Management Schedule prepared by Savile & Will (Annexure 1), and which includes the retention of all significant vegetation and that having heritage significance, including a Norfolk Island Pine and grove of Eucalypt trees; and
- Ongoing maintenance works as outlined in the schedule prepared by Mitchell Brandtman.

The functions are to be undertaken between the hours of 10:00 am and 11:00 pm, and only one function is to occur on any day. Functions are typically likely to involve the use of the site for approximately 5 to 6 hours, and the hours proposed provide opportunity for both daytime or evening functions. For those functions undertaken of an evening, all music is to cease by 10:30 pm in order that all guests vacate the site by 11:00 pm.

The proposal is for up to 40 commercial functions in any one year, and a maximum of 1 in any week. In addition to the commercial component, it is proposed that the building be available to local charity groups for fund raising purposes, at no cost, on up to 10 occasions in any year.

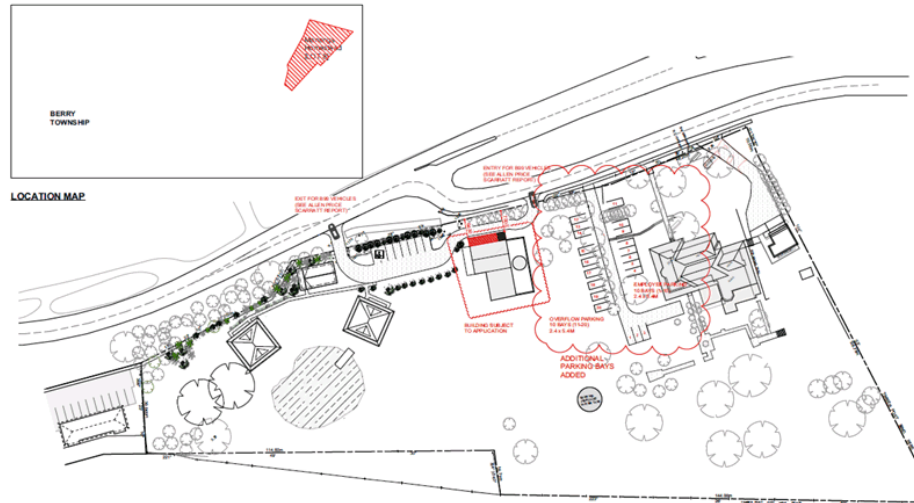
Parking is proposed for 10 vehicles for staff associated with the functions. Formal parking is not proposed for guests, apart from those temporarily residing in the on-site accommodation units. Other guests will be transported to and from the site in mini-buses. As outlined above however, 10 spaces will be available as emergency overflow if required and these are located immediately adjacent an existing internal accessway and are not proposed to be formalised given their very infrequent use.

Functions will cater for a maximum of 120 guests with amplified music. Receptions will be held within the shed building and music will be played within the shed building, however, guests may access the paved courtyard and lawn area to the north and east of the building during functions.

Minibuses will be used to transport guests to and from the site and there is on-site accommodation (five (5) tourist cabins – approved according to Development Consent No. DA19/2134), that will be used by function centre attendees.

An overall site plan and floor plan of the shed for use as a function centre are provided in **Figure 1 and 2** below.

Planning Report – S4.15 Assessment - 8 Homestead Lane, BERRY - Lot 101 DP 1057897



O/A SITE PLAN
1:750

Figure 1 – Extract of the overall site plan (D21/1849737).

Planning Report – S4.15 Assessment - 8 Homestead Lane, BERRY - Lot 101 DP 1057897

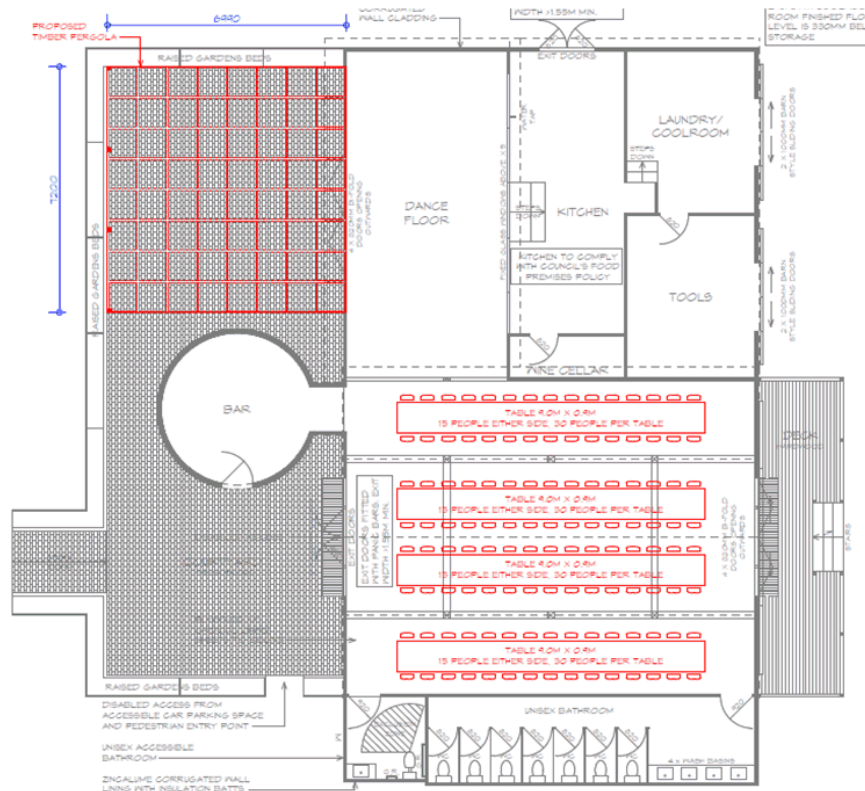


Figure 2 - Extract of the proposed floor plan associated with the function centre, including works for additional bathrooms and timber pergola to the northern elevation (D21/45180).

2. Subject Site and Surrounds

The subject site is located on the eastern side of Homestead Lane and Queen Street, 600m north-east of the township of Berry. The property is an irregular-shaped allotment of approximately 1.98ha. The site is legally identified as Lot 101 DP 1057897 and is described as 8 Homestead Place, Berry. The site is also referred to as Mananga Homestead.

The land slopes gradually from the northwest to the southeast corner of the site. A recently approved dam is located in the south-eastern corner of the site and receives a portion of the runoff from the site. There are presently four (4) formalised access points to the site.

There is limited native vegetation across the site, with significant ornate European landscaped gardens around the curtilage of the dwelling and detached garage. The ornate landscaping forms a significant component of the heritage significance of the site. The property is locally listed under Schedule 5 of the *Shoalhaven Local Environmental Plan 2014* (SLEP 2014) as an Item of environmental heritage (Item I63 - *Mananga* - Berry Estate Managers Farm Complex).

The existing development on the site consists of a Federation Queen Anne style homestead, associated outbuildings, earth dam and jetty, recently renovated associated shed for use as a home business (home industry and arts) and inground swimming pool. The site is listed, as mentioned above, and is identified as locally significant in the SLEP 2014 (Item No. I63).

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Council has previously approved the renovation and use of the shed located to the south of the dwelling for use as a home industry/business (DA19/2060). The detached habitable rooms and a portion of the breezeway connecting the structure to the dwelling house, located to the north of the dwelling-house were destroyed by fire and are currently in the process of being rebuilt in accordance with Development Consent No. DA20/1266.

On 2 June 2020, Council granted Development Consent No. DA19/2134 for development described as

*"Tourist and visitor accommodation and associated works, consisting of a total of five (5) individual tourist and visitor accommodation **rooms**, as follows:*

- Demolition and rebuild of existing structure 'Old Bails' building for use as tourist and visitor accommodation (tourist cabin); and*
- construction of two (2) detached single storey buildings each with two (2) rooms for use as tourist and visitor accommodation (tourist cabins)"*

A Construction Certificate (CC20/1814) has been issued in relation to DA19/2134 and the tourist cabins are substantially commenced (refer to the aerial image of the subject site at Figure 2).

Site & Context

The site immediately adjoins the Bangalee Motel located to the south at 180 Queen Street. The Bangalee Motel features a single storey masonry motel building comprising 10 motel units, attached reception and manager's residence, swimming pool and parking. Council has recently granted development consent to substantial additions to the available motel accommodation on this site through the construction of two x 2-storey buildings that will contain an additional 16 accommodation units, bringing the total to 26 (Development Consent DA 17/1357). Development on the western side of Queen Street consists of detached dwelling houses and their associated uses. Development to the north and east largely consists of rural and residential land uses. Located further to the south of the site is the Pulman Heritage Conservation Area Scheduled under the SLEP 2014.

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Figure 3 - Aerial image of the subject site.

Deposited Plan and 88B Instrument

There are no easements or restrictions relating to the lot that would prevent the development of the site as proposed.

3. Background

The property is locally listed under Schedule 5 of SLEP 2014, as an Item of environmental heritage (Item 163 - *Mananga - Berry Estate Managers Farm Complex*). The site was identified in the Shoalhaven Council Heritage Study 2003 and identified as reference number B087 "Mananga Federation, Queen Anne Style Farmhouse". The building is described as having regional significance.

The statement of significance provided by Heritage NSW indicates that "*Mananga*"—*Berry Estate manager's farm complex* is "[a]n excellent Federation Queen Anne style farmhouse in weatherboard designed by noted Sydney architect Howard Joseland. Historical interest as a leasehold property, originally, on the Berry Estate. Closely associated with the early private town of Broughton Creek."

The physical description of the "*Mananga*" provided on the Heritage NSW State Heritage Inventory is provided as follows:

"The homestead and attached land is situated on the crest and eastern fall of a low but locally prominent spurline shoulder which forms the watershed between the Broughton Creek to the east, and Broughton Mill Creek to the west. The homestead is situated 80 metres to the east of Broughton Mill Creek and is elevated approximately eight metres above the surrounding valley floor.

A Federation Queen Anne style weatherboard homestead featuring a complex corrugated iron roof with decorative timberwork to gables (with Art Nouveau character), hipped skillion verandah returning to sides, timber posts and brackets. Verandas appear to have originally surrounded

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an original core building. An additional wing has been added to the north eastern corner of the building, sometime prior to 1949. A conservatory has been relatively recently added to the eastern side of the building. The building is surrounded by a mature garden. The homestead building is thought to be designed by noted Sydney architect Howard Joseland (1860-1930) (Peter Freeman Pty Ltd 1998).

The current property holding includes five outbuildings to the south of the current homestead, including a concrete silo, associated large iron sheds and disused milking bails. Eight outbuilding structures are visible on the 1958 aerial photo (Figures 6.91). Images appear to show interior rendered walls (and/or ceilings) within an outbuilding (buttery) constructed using sawn timber studs filled in using multiple timber slats with applied plaster or render.

At the southern end of the property there are landform traces of the excavated trench through the spurline (now filled in for the Princes Highway platform) which formed part of the infrastructure for the water race for the Berry Estate saw mill which dates from the 1830s.

Immediately north of the race alignment is the location of the original Mananga homestead or cottage. This site is associated with some exotic plantings and mature trees. This site, together with the infilled mill race should be considered and managed as archaeological deposits.

Original building had approximate dimensions 24 x 18 metres. The additional wing on NE corner has approximate dimensions: 15 x 11metre.

The current property attached with the homestead is approximately 250 x 118 metres in cross dimensions."

Post-Lodgement

On 16 November 2020, the development application was considered at the Development Review Panel Meeting (internal). Several items were identified as being deficient with the application.

On 24 November 2020, the Development Application was notified for a period of 14 days. Over 160 submissions were received objecting to the application. A single submission in support was received.

On 8 December 2020, the Council resolved at the Strategy & Assets Committee (SA20.257) *That DA20/2172 – 8 Homestead Lane Berry - Lot 101 DP 1057897 - Commercial Additions - Alterations & Additions & Use of Existing 'Mananga Homestead' for Functions & Events be called to Council for determination due to significant public interest.* (MIN20.918).

On 18 December 2020, a Site inspection was completed at the subject site in the presence of the owner Matthew Quinn and his planning consultant (Stuart Dixon). A site inspection report and photos were prepared by the assessing officer (D21/4991).

On 11 January 2021, Council requested additional information from the applicant. The additional information raised issues relating to:

- Traffic, transport and site management;
- Noise Impacts;
- Use of Clause 5.10(10) and the veracity of the claim for use of the clause to enable the prohibited use; and
- Public submissions.

On 15 January 2021, the assessing officer met with a number of residents of the Pulman Heritage Conservation Area.

On 4 February 2021, the applicant lodged additional information and amended plans following Council's request for additional information dated 11 January 2021.

On 5 February 2021, the applicant's legal representative lodged an additional letter of support to the development application (D21/49524).

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On 9 February 2021, the amended plans and supporting information were notified to all previous submitters for 14 days per the Council's Community Consultation Policy.

The amended plans and supporting information were referred to the Environmental Health Officer, City Services and the Development Engineers for consideration.

On 31 March 2021, the applicant submitted additional information. The information was not submitted following a request for information.

5 & 6 May 2021, the applicant submitted final plans, reports and legal opinions in support of the development application.

On 12 May 2021, the amended plans and supporting information were notified to all previous submitters for 14 days per the Council's Community Consultation Policy.

Site History and Previous Approvals

On 27 April 1994, Council granted Development Consent No. DA93/3283, for development described as *"Alteration & Additions to Existing Dwelling & Change of Use to Bed & Breakfast Accommodation"* relating to the subject site. Note: on 2 June 2020 this approval was surrendered by the owner.

On 20 October 2004, Council refused a Development Application (DA03/2381) for a brick fence on the subject site.

On 9 September 2019, Council granted Development Consent No. DA19/1519 for the continued use of an earth dam sited to the south of the building the subject of this current application.

On 9 December, Council granted Development Consent No. DA19/2101 for a jetty to be constructed on the western bank of the approved earth dam.

On 30 January 2020, Council granted Development consent No. DA19/2060 (as modified by DS20/1307) for *"[a]lterations and additions to an existing shed and silo and part use for the purpose of a home business, including the following activities: repair and restoration of furniture, flower arranging, holding of classes for furniture restoration, flower arranging, painting and other craft related activities, and knitting, sewing and craft."* The alterations and additions related to the building the subject of the current application.

On 21 March 2020, Council granted Development Consent No. DA20/1266 for the *"[p]artial demolition of structures (detached habitable rooms, carport and connecting breezeway)"*. The structures were destroyed by a building fire.

On 26 March 2020, Council granted Development Consent No. DA20/1231 for development described as *"[a]dditions to existing dwelling house consisting of detached habitable rooms, carport and breezeway"*. The approval enabled the elements destroyed by the building fire which were demolished via DA20/1266 to be rebuilt.

On 2 June 2020, Council granted Development Consent No. DA19/2134 for development described as *tourist and visitor accommodation and associated works, consisting of a total of five (5) individual tourist and visitor accommodation rooms, as follows:*

- *Demolition and rebuild of existing structure 'Old Bails' building for use as tourist and visitor accommodation (tourist cabin); and*
- *construction of two (2) detached single storey buildings each with two (2) rooms for use as tourist and visitor accommodation (tourist cabins)*

A Construction Certificate (CC20/1814) has been issued in relation to DA19/2134 and the tourist cabins are substantially commenced (refer to the aerial image of the subject site).

On 1 February 2021, Council granted Development consent No. DA20/2353 for an inground swimming pool to be located to the east of the residence.

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On 17 February 2021, Council granted Development Consent No. DA21/1044 for business identification signage relating to the approved tourist cabins.

A Construction Certificate (CC21/1173) was issued for the swimming pool and deck on 3 March 2021.

4. Consultation and Referrals

Internal Referrals		
Referral	Recommendation	Comment
Development Engineer	<p>The application was referred to the Council's Development Engineers on three (3) separate occasions to consider the applicant's plans and supporting reports. On each occasion, concerns were raised in relation to the design and provision of car parking for the site in accordance with Chapter G21.</p> <p>In accordance with the final referral comments from the Development Engineer (D21/133913), the following comments are made in relation to the application:</p> <p><i>The applicant has provided a letter of response to the City Services referral comments.</i></p> <p><i>The document remains unclear on the potential for patrons who travel to Berry by private car and are not staying locally.</i></p> <p><i>A further 10 overflow spaces have been identified on the site plan. These partially address the parking shortfall, however, the spaces should be all weather and not just grassed area.</i></p> <p><u><i>The conditions suggested in the 2nd referral (D21/48747) remain relevant with respect to the new information.</i></u></p> <p><i>If the DAO considers it necessary to preserve the grassed appearance of the overflow spaces, an additional condition under 'Car Parking Design' could be included to permit the 'overflow' spaces to be constructed with a reinforced turf pavement, to retain the appearance of grass. However, it is suggested that at least the number of spaces required by the DCP for the development should be provided to a minimum all-weather gravel</i></p>	<p>The development does not provide the required number of car parking spaces under Chapter G21. The car parking overflow located to the south of the Mananga Homestead does not meet the requirements of Chapter G21 or AS 2890.1-1993 Parking facilities - Off-street car parking.</p>

Planning Report – S4.15 Assessment - 8 Homestead Lane, BERRY - Lot 101 DP 1057897

	<i>standard, given the likelihood of regular use.</i>	
Traffic & Transport Unit	<p>The application was referred to the Council's City Services on three (3) separate occasions to consider the applicant's plans and supporting reports (in particular the works within the road reserve (footpath) and traffic and parking impacts outlines in the applicant's Traffic impact Assessment. On each occasion, concerns were raised in relation to the design and provision of car parking and proposed patron bus service and the practicalities of its operation for the site.</p> <p>In accordance with the final referral comments from City Services (D21/133916), the following comments are made concerning the application:</p> <p><i>Ensure fall in any direction of accessible car park is compliant with AS2890.6</i></p> <p><i>Ensure 2.4m length behind accessible parking as share zone as per AS2890.6</i></p> <p><i>Ensure footpath is minimum 1.2m width to allow for wheelchair accessibility as per Austroads Guide to Road Design Part 6a.</i></p> <p><i>We agree with the Referral (3) – Development Engineer for overflow car space design.</i></p> <p><i>Council is satisfied with the proposed pick up drop off arrangement pending nomination of a feasible 'U-turn' route for the buses.</i></p>	<p>City Services has indicated that the design of the overflow car parking as it relates to their design and number remains a concern and that the information provided is not sufficient to enable support of the application.</p> <p>While the application could not be recommended for approval, it is considered that the following matters could be conditioned if the application were recommended for approval:</p> <ul style="list-style-type: none"> <i>fall in any direction of the accessible car park is compliant with AS2890.6</i> <i>2.4m length behind accessible parking as share zone as per AS2890.6</i> <i>footpath to be designed to a minimum 1.2m width to allow for wheelchair accessibility as per Austroads Guide to Road Design Part 6a.</i> <i>the proposed pick up drop off arrangement pending nomination of a feasible 'U-turn' route for the buses to be in accordance with a Plan of management.</i>
Building Surveyor	Standard conditions recommended. Conditions recommended for building upgrades in accordance with clause 93 of the EP&A Regulations.	Conditions to be included in the development consent if approved.
Shoalhaven Water	<p>A Shoalhaven Water Notice has issued for the development.</p> <p>The application includes a request to connect to the reticulated sewer.</p> <p>The request to connect has been supported by Council at the Ordinary Meeting of Council on 26 May 2020.</p>	The Shoalhaven Water Notice is to be issued with the development consent if approved.
Environmental Health Officer	Council's Environmental Health Officer's have reviewed the applicant's ENIA and	The submitted information is not considered to be sufficient for

Planning Report – S4.15 Assessment - 8 Homestead Lane, BERRY - Lot 101 DP 1057897

	<p>supporting information and have concluded in their referral (D21/48725) in relation to the assessment, recommendations and conclusions of the ENIA that:</p> <p><i>"[T]he additional acoustic assessment prepared by Harwood Acoustics has addressed the further information requested to some extent, however, it has not given any consideration to the tNSW property directly across the road at 191-195 Queen Street which according to Councils GIS is approximately 80m. (Refer map below). This distance is less than half that which has been considered for the other nearby receivers (150-180m) and would therefore require a considerable acoustic re-assessment of the proposed function venue to assess the potential noise impact upon this rural/residential property."</i></p> <p>Council cannot determine the application until such time as the following additional information is provided:</p> <ol style="list-style-type: none"> 1. <i>Additional information (acoustic assessment) should be submitted addressing the potential noise impact upon the Bangalee Hotel at 180 Queen Street and the existing residence at 191-195 Queen Street. These two residential locations were not considered as part of the ENIA.</i> <p><i>Consideration could also be given to some of the residents in Pulman Street, especially those located to the North.</i></p> <ol style="list-style-type: none"> 2. <i>Further information on how the in-house sound system can cater for two pre-set maximum allowable amplified noise levels (86dBA and 91dBA) and remain secure from being accessible to others is requested. Achieving this provision is critical if this proposal is to operate in a manner that would not have a significant adverse impact upon other residential receivers.</i> <p>Subsequent to the comments and recommendations being received by Council's Environmental Health Officers, Council engaged an external specialist noise consultant – Stephen Gauld of Day</p>	<p>Council to conclude that the application will not have an unreasonable impact on the amenity of adjoining residents by virtue of associated noise impacts.</p> <p>The development is recommended for refusal in relation to a lack of information relating to potential noise impacts when assessed against the more stringent <i>Liquor and Gaming Noise Criteria</i>.</p>
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Planning Report – S4.15 Assessment - 8 Homestead Lane, BERRY - Lot 101 DP 1057897

	<p>Design Pty Ltd to review the applicant's ENIA and the noise conclusions drawn in the Memorandum of Advice provided by T Robertson SC.</p> <p>The Acoustic Review relevantly suggested that:</p> <ul style="list-style-type: none"> • The ENIA relies on standard assessment criteria, based on EPA's <i>Noise Guide for Local Government 2013</i>. Granted that the facility will operate in the same way as a licensed facility (albeit that '[g]uests will be responsible for providing alcohol, food and entertainment and as such the owners will not require a liquor licence), the more stringent <i>Liquor and Gaming Noise Criteria</i> should apply as the facility will operate more inline with a licensed facility with the service of alcohol the responsibility of the catering staff and not the function venue. • noise impacts are not relevant to the Transport for NSW property, as the dwelling there is derelict and there is no imminent residential use of the land. Accordingly, it is not an affected receptor. • Separate noise predictions have been made for different aspects of the proposal (eg patrons & music, mechanical plant, traffic), which is not correct unless a cumulative noise level is also calculated, which has not been shown. Nevertheless, the dominant noise will be from the music inside the building and from guests outdoors, with other aspects of the proposal adding little to the cumulative noise level. • Concerns have also been raised in relation to data presented in Table 10 of the ENIA. For a sound power level (SWL) of 95 dBA (Section 4.1.2) for guests outdoors, and a distance of 150m to 12 Homestead Lane, the calculated noise level at 12 Homestead Lane should be 43 dBA, not 38 dBA. This higher level is acceptable until 10 pm, but not after 10 pm (see Table 10). Note that no assessment has been provided for guests outside after 10 pm. 	
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Planning Report – S4.15 Assessment - 8 Homestead Lane, BERRY - Lot 101 DP 1057897

	<ul style="list-style-type: none"> There is also no assessment of the noise emission for the end of the function as guests farewell the wedding couple and perhaps mingle outside. I note the main outdoor area directly faces the residence at 12 Homestead Lane. 	
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External Referrals

Agency	Recommendation	Comment
Transport for NSW	As part of the notification process, the development application was notified to adjoining residents. Transport for NSW has lodged as submission in relation to the development application and raised concerns with the potential impacts of the use on their properties at 191 and 195 Queen Street, Berry.	<p>Council has considered the potential impacts of the development (including noise impacts) on the TfNSW land.</p> <p>The noise impacts are not relevant to the TfNSW property, as the dwelling there is derelict and there is no imminent residential use of the land. Accordingly, it is not an affected receptor. This approach is taken by the applicant's acoustic assessment and supported by the Memorandum. It is contrary to the position taken by Transport for NSW.</p> <p>The existing structures (derelict dwellings) have been approved for demolition (DA20/1089 – 191 and 195 Queen Street, Berry).</p> <p>This position has been confirmed following review by:</p> <ol style="list-style-type: none"> 1. Stephen Gauld of Day Design Pty Ltd, who has reviewed the applicant's ENIA and the noise conclusions drawn in the Memorandum of Advice provided by T Robertson SC; and 2. Separate legal advice.

5. Other Approvals

N/A.

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6. Statutory Considerations

This report assesses the proposed development/use against relevant State, Regional and Local Environmental Planning Instruments and policies in accordance with Section 4.15 (1) of the Environmental Planning and Assessment Act 1979 (EP&A Act). The following planning instruments and controls apply to the proposed development:

Instrument
Shoalhaven LEP 2014
State Environmental Planning Policy – (Coastal Management) 2018
State Environmental Planning Policy No 55 - Remediation of Land

Additional information on the proposal's compliance with the above planning instruments is detailed below in Section 7 (Statement of Compliance/Assessment) of this report.

7. Statement of Compliance/Assessment

The following provides an assessment of the submitted application against the matters for consideration under Section 4.15 of the EP&A Act.

(a) Any planning instrument, draft instrument, DCP and regulations that apply to the land

Environmental Planning and Assessment Act 1979

i) Environmental planning instrument

SEPP (Coastal Management) 2018

The subject site is mapped as being within the Coastal Environment Area under Clause 13 of Coastal Management SEPP. The proposed development is consistent with subclauses (1) and (2) of clause 13.

SEPP 55 Remediation of Land

Question	Yes	No
1. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)?	Proceed to Question 3	X Proceed to Question 2
2. Does the proposal result in a change of use (that is the establishment of a new use)?	X Proceed to Question 3	Assessment under SEPP 55 and DCP not required.
3. Does the application proposed a new: <ul style="list-style-type: none"> Child care facility Educational use Recreational use Health care use Place of public worship Residential use in a commercial or industrial zone 	Proceed to Question 5	X Proceed to Question 4
4. Review the property file and conduct a site inspection of the site and surrounding	Proceed to Question 5	X The proposal is satisfactory under SEPP 55 and DCP.

Planning Report – S4.15 Assessment - 8 Homestead Lane, BERRY - Lot 101 DP 1057897

Question	Yes	No
lands. Is there any evidence that the land has been used for a listed purpose?		
5. Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater?	Request contaminated site assessment	The proposal is satisfactory under SEPP 55 and DCP.

Shoalhaven LEP 2014

Land Zoning

The land is zoned RU1 Primary Production under the SLEP 2014.

Characterisation and Permissibility

The proposal is best characterised as *Function Centre* under the SLEP 2014. The proposal is prohibited within the zone.

Mananga - Berry Estate Manager's Farm Complex is identified as a heritage item under Schedule 5 of the Shoalhaven Local Environment Plan 2014 (Item 63) as having 'local significance' (Shoalhaven).

The development application has been made according to Clause 5.10(10) of the Shoalhaven LEP 2014.

RU1 Primary Production - Zone objectives

Considering the question of consistency, the adopted approach of the former Chief Judge, Justice Pearlman in *Schaffer Corporation v Hawkesbury City Council* (1992) LGRA 21, is as follows at [27]:

"The guiding principle, then, is that a development will be generally consistent with the objectives, if it is not antipathetic to them. It is not necessary to show that the development promotes or is ancillary to those objectives, nor even that it is compatible."

Objective	Comment
<ul style="list-style-type: none"> To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. To encourage diversity in primary industry enterprises and systems appropriate for the area. To minimise the fragmentation and alienation of resource lands. To minimise conflict between land uses within this zone and land uses within adjoining zones. To conserve and maintain productive prime crop and pasture land. To conserve and maintain the economic potential of the land within this zone for extractive industries. 	<p>It is appropriate, in this context, to treat the zone objectives as six sequential requirements. If all six of the requirements are passed satisfactorily, the proposed development is consistent with the objectives of the zone and can then be assessed against the other relevant matters in SLEP 2014.</p> <p>The proposed development is conserved to be consistent with the first three objectives and the final two objectives.</p> <p>The proposed development is not however consistent with the fourth objective of the zone:</p> <ul style="list-style-type: none"> <i>To minimise conflict between land uses within this zone and land uses within adjoining zones.</i>

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	<p>The development if approved would likely result in conflict between land uses within this zone and land uses within adjoining zones.</p> <p>Council has formed this view following consideration of all supporting information and submissions. It is not considered that the proposal has provided sufficient information to demonstrate noise impacts associated with the development application would have a reasonable or acceptable impact on land uses within this zone and land uses within adjoining zones.</p> <p>In the absence of sufficient information to demonstrate otherwise, Council is of the view that the development is not generally consistent with the objectives of the zone.</p>
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SLEP 2014 Clauses

Clause	Comments	Complies/ Consistent
Part 2 Permitted or prohibited development		
2.3	<p>In accordance with clause 2.3(2), The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.</p> <p>As previously stated, Council has considered the objectives of the RU1 Primary Production zone and does not consider that all six of the objectives are satisfied and that the development will not minimise conflict between land uses within this zone and land uses within adjoining zones.</p>	Noted.
2.8	Partial demolition works proposed. Demolition works are considered to be alterations and development consent has been proposed for these works.	Yes.
Part 5 Miscellaneous provisions		
5.10	Refer to the detailed assessment below.	No.
Part 7 Additional local provision		
7.1	The site is mapped as containing Class 5 Acid Sulfate soils. The proposed development is unlikely to result in Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.	Yes.
7.2	Minor site preparation works, landscaping and drainage proposed. No separate approval required.	Yes.
7.3	The site is mapped as being partially below the flood planning level and PMF. The mapped areas do not extend to the development area or access to or from the site which enjoy flood free access.	Yes.
7.11	Essential services are available to the site. The applicant's request to connect to the reticulated sewer has been supported.	Yes.

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Heritage

The site is zoned RU1 Primary Production under the provisions of SLEP 2014. The development for a 'function centre' is prohibited in the RU1 zone in accordance with the Land Use Table for the zone.

The development application (DA) has been made with regard to cl. 5.10(10) of the SLEP 2014.

Clause 5.10(10) of SLEP 2014 is extracted below as follows:

"(10) Conservation incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that—

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area."*

The application is supported by the following heritage and planning documents that have been prepared in support of the Development Application:

- *Mananga Homestead-Function Centre (Former Cowsheds and Silo) Statement of Heritage Impact (SoHI) prepared by Navin Officer dated April 2021, Project No. 210048 (D21/184997);*
- *Capital Works & Maintenance Cost Report prepared by Mitchell Brandtman dated 25 January 2021 (Project Ref No. 28644) (D21/184959);*
- *Mananga, Berry Estate Manager's Farm Complex (Mananga Homestead) Conservation Management Plan (CMP) prepared by Navin Officer dated April 2021 (Project no. 210049) (D21/185437)*
- *Letter prepared by Beatty Legal dated 4 February 2021 (D21/45147);*
- *Memorandum of Advice – Mananga Homestead DA for Function Centre and Heritage Conservation Works (Memorandum of Advice) prepared by Tim Robertson SC dated 5 May 2021 (D21/185981);*
- *Statement of Environmental Effects prepared by Cowman Stoddart Pty Ltd dated 4 May 2021 (Ref No. 18/19) (D21/184961);*

The heritage impacts of the development and use of clause 5.10(10) of SLEP 2014, has been reviewed by an external consultant - Dr Peter Kabaila of Black Mountain Designs as part of the assessment of the application (Refer to Heritage Review (D21/222540) - Attachment 3).

Applicant's Submission

Effect of the proposed development on heritage significance – clause 5.10(4)

Based on the assessment of Navin Officer provided in the SoHI, the proposal does not adversely impact the heritage significance of the "Mananga"—Berry Estate manager's farm complex (Item 63 – Schedule 5 – SLEP 2014).

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Furthermore, it is not considered that the proposed works and use will have a significant impact on any listed heritage items and conservation areas in the vicinity of the subject site, which have local heritage significance, including:

- Pulman Street Conservation Area – Shown by red hatching and labelled “C1” – Schedule 5 – SLEP 2014
- “Constables Cottage”—Victorian Georgian style weatherboard cottage and garden - 185 Queen Street, Berry - Lot 1, DP 558065; Lot 5, DP 600374 – Item – 62 - Schedule 5 – SLEP 2014

It is considered by the applicant that the proposal provides an opportunity to formalise heritage management measures through the implementation of the CMP to ensure the ongoing conservation of the property to maintain its significance.

Conservation Incentives – Clause 5.10(10)

The SEE prepared by Cowman Stoddart summarises the applicant’s response to the five requirements of the clause in Table 4 of the SEE and is extracted in Table 1 below. Furthermore, the Memorandum of Advice prepared by T Robertson SC has reviewed the relevant application of clause 5.10(10) in light of current case law from paragraph [17]-[31] of the advice and concludes at [31] that:

“it is open to Council to be satisfied (now) that the application complies with the preconditions to the conservation incentives clause and therefore that the development of a function centre is permissible with consent.”

Table 1 - Applicant's assessment of clause 5.10(10) as extracted from the submitted SEE (D21/184961) pg 49-50

Clause 5.10(10) – Conservation Incentives	Applicant's Response
(a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and	<p>Accompanying this SEE are the following separate assessments and documents:</p> <ul style="list-style-type: none"> • A Statement of Heritage Impact and Conservation Management Plan prepared by Navin Officer; • Capital Works and Maintenance Costs Report prepared by Mitchell Brandtman Quantity Surveyors (MBQS). MBQS have expertise in quantifying costs associated with the ongoing maintenance and conservation of heritage buildings. <p>The use of the property as a function centre will facilitate the conservation of the heritage significance of Mananga Homestead in a number of ways.</p> <p>Firstly, the proposal will ensure the ongoing retention and conservation of the cowshed building and silo, both features identified by Navin Officer as contributing to the heritage significance of the place, and which contribute to the landscape qualities of the Berry District Landscape Conservation Area. This is in addition to the conservation of other elements of the site including the Mananga Homestead, significant heritage trees, surrounding gardens and water race.</p> <p>Secondly, the proposal will involve interpretative signage concerning the old Broughton Post Office and remnant water race (implemented through the CMP) which will assist visitors to the site understand the history of the old Broughton</p>

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	<p>Creek settlement, relevant to both the Pulman Street Conservation Area and Constables Cottage.</p> <p>Thirdly, whilst the property is currently in good condition, funds generated through the commercial use will contribute to the maintenance of the property to ensure its ongoing conservation. The Capital Works and Maintenance Costs Report prepared by MBQS provides a very detailed assessment of the costs associated with this development proposal, and which separately identifies costs associated with its maintenance, identifying costs in the short term (1 year), medium term (2 to 4 years) and recurrent costs both on an annual and biennial basis. The works identified in the MBQS align with conservation measures outlined in the Conservation Management Plan.</p> <p>The MBQS identifies the following costs for maintenance associated with the property:</p> <ul style="list-style-type: none"> · Short term - \$154, 800; · Medium term - \$62,000; · Recurring annual - \$161, 900; · Recurring biennial - \$24,700. <p>Navin Officer consider that the costings outlined by MBQS are a realistic assessment of the maintenance costs associated with properties such as Mananga Homestead.</p> <p>Finally, the proposal enhances the heritage significance of the site by enabling the property to be seen by the public (being visitors and guests of functions) who would otherwise be excluded from this private property.</p> <p>The Statement of Heritage Impact prepared by Navin Officer has considered the assessment of MBQS and advises that these works contribute to the conservation of the heritage significance of the subject site.</p> <p>The use of the property as a function centre will clearly facilitate the conservation of the heritage significance of Mananga Homestead in many ways, thereby satisfying the provisions of subclause (a).</p>
<p><i>(b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and</i></p>	<p>For the purposes of the Shoalhaven LEP 2014, a heritage management document is defined as:</p> <ul style="list-style-type: none"> (a) a heritage conservation management plan, or (b) a heritage impact statement, or (c) any other document that provides guidelines for the ongoing management and conservation of a heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area. <p>The proposal is accompanied by a SHI prepared by Navin Officer and a CMP to further establish the relative significance of the various elements of the property and outline agreed heritage conservation policies to guide its future management.</p>

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(c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and	The recommendations of the SHI and CMP can be included as conditions of consent.
(d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and	This has been assessed by Navin Officer and which concludes that the proposal does not adversely affect the heritage significance of the subject site. Furthermore, the assessment of Navin Officer has concluded that the proposal will not significantly adversely affect the heritage significance of other identified heritage times, including the Berry District Landscape Conservation Area, Pulman Street Conservation Area, or Constable's Cottage.
(e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.	<p>The proposal has been subject of a number of separate expert assessment including:</p> <ul style="list-style-type: none"> · Environmental Noise Impact Assessment prepared by Harwood Acoustics; · Traffic and Parking Impact Assessment prepared by McLaren Traffic Engineering; and · Statement of Heritage Impact prepared by Navin Officer. <p>All of these assessments concludes that the proposal does not result in significant adverse impacts.</p> <p>In addition, the proposal has been assessed in the Statement of Environmental Effects prepared by our firm which also concludes that the proposal does not adversely affect the amenity of the locality.</p>

Based upon the analysis, assessment, and conclusions of the SOHI, the SOHI makes the following recommendations in relation to the works and use of the site (Refer to page 43 of the SOHI – D21/184997):

- “1. **The proposed further works:** The proposed works as detailed in this report are considered to have minimal heritage impacts on Mananga and no negative heritage impacts on neighbouring heritage items and are therefore recommended for approval as they will complete and compliment the works already approved as part of the adaptive reuse of these structures.
2. **The change of use to include use as a function centre:** The proposed variation of use to include wedding receptions, and similar, is not considered to be detrimental to the heritage values. The property has been periodically exposed to large numbers of visitors through the annual open garden program. While use of the cowsheds and silo as a function centre will involve more wear and tear on the structures, this can be managed through regular maintenance in line with the policies in the CMP. The change of use has the benefit of providing a more resilient income stream to ensure the long-term management of the property.
3. **Long term management of the heritage values of Mananga:** It is recommended that the CMP which has recently been prepared for the property is formally adopted to guide the future management of the property. It establishes the relative significance of the

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various elements of the property and sets out agreed heritage conservation policies and strategies to guide its future management. The Capital Works and Maintenance Cost Report (Mitchell Brandtman 2021) provided information that has been integrated into the cyclical maintenance schedule of the CMP.

4. **Heritage Interpretation:** *The CMP provides policies to guide the interpretation for the property. The owner already has ideas for interpretation of the remnant water race and the former Berry post office.*
5. **Unanticipated archaeological finds:** *Although the archaeological potential around the cowsheds and silo has been assessed as low, it is always possible that unexpected archaeological material may be encountered on historic properties during ground disturbance works. It is important to note that archaeological deposits of either Aboriginal or historical settler origin are protected by legislation in NSW. Therefore, it is recommended that the unanticipated finds protocols included as Appendix 3 in this report are adopted and are included in contractor's contracts.*

Provided these recommendations are followed, then landscape values associated with the Mananga - Berry Estate Manager's Farm Complex, and the properties inherent value to the broader local area, are not considered to be at risk. In particular, the rural/agricultural setting of the structures are maintained and are readily interpretable within the landscape. Indeed, the retention of the structures and their re-purposing is desirable and will ensure their future maintenance and active interpretation".

Council's Assessment

Clause 5.10 - Heritage Conservation

As the site contains a heritage item, cl. 5.10 Heritage conservation applies to the development. The objectives of cl 5.10 of SLEP 2014, 'Heritage Conservation' at sub-cl (1)(a)-(d), are:

- (a) *to conserve the environmental heritage of Shoalhaven,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) *to conserve archaeological sites,*
- (d) *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

Council as the consent authority must, before granting consent in respect of a heritage items and heritage conservation areas, consider the effect of the proposed development on the heritage significance of the item and the area.

Clause 5.10(4) - Effect of the proposed development on heritage significance

Clause 5.10(4) sets out the matters that the consent authority must consider - specifically *"the effect of the proposed development on the heritage significance of the item or area concerned"*. Council must form the opinion that the impact of the proposed development on the heritage significance of the item is acceptable.

The heritage impacts of the development on the item and the surrounding items of heritage significance, including the Constables Cottage and Pulman Conservation Area, has been reviewed by an external consultant - Dr Peter Kabaila of Black Mountain Designs as part of the assessment of the application (the Heritage Review is provided as Attachment 3).

The outcomes of the Heritage Review, indicate that the only specific suggestion of adverse effect is the position of proposed car park spaces 4-11. The Heritage Review does not otherwise suggest that this particular development will adversely affect the significance of the heritage item, however, it does observe that previous developments have cumulatively affected that significance.

It is not considered that the proposed works and use will be sufficiently detrimental to any adjoining heritage item or conservation area to warrant refusal of the application pursuant to s4.15(1)(b) of the EP&A Act.

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Clause 5.10(5) - Heritage assessment

Clause 5.10(5) may require the preparation of a heritage management document that assesses the extent to which the carrying out of development that would affect the heritage significance of the heritage item or heritage conservation area concerned, in relation to development:

- (a) on land on which a heritage item is located, or
- (b) on land that is within a heritage conservation area, or
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),

The development application is supported by *Mananga Homestead-Function Centre (Former Cowsheds and Silo) Statement of Heritage Impact (SoHI)* prepared by Navin Officer dated April 2021, Project No. 210048 (D21/184997) and the other heritage and legal documents listed previously. These documents satisfactorily address clause 5.10(5) and have been reviewed by an external Heritage Consultant engaged by Council - Heritage Review (D21/222540).

Clause 5.10(10) - Conservation incentives

In accordance with sub-clause (10) of cl. 5.10, the consent authority has a discretionary power to grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan if the consent authority is satisfied that the application meets sub-cl. (a) – (e).

The five requirements are conjunctive and jurisdictional and so the proposed development, for a use otherwise prohibited under SLEP 2014, **must** meet each of the five requirements to be capable of being granted consent under the clause.

- “(a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.”*

Furthermore, the development alone must satisfy the jurisdictional requirements alone to satisfy Council of the requirements under sub-cl. (a) – (e), **Council cannot look to impose a condition that would otherwise, in the view of Council, enable the requirement to be satisfied.** In this regard, it is important to note that conditions cannot be used to satisfy a requirement under clause 5.10(10).

In Council's consideration of the application of clause 5.10(10) Council has considered the supporting information submitted by the applicant, the heritage consultant engaged by Council and independent legal advice.

The focus of the heritage incentive clause is on expanding the uses to which a building (or an Aboriginal place) identified as a heritage item, or the land on which the building is erected, can be put to, to facilitate the conservation of the building (or the Aboriginal place) - *Howe Architects Pty Ltd v Ku-ring-gai Council* [2021] NSWLEC 1233 at [37].

- a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and**

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The first step in consideration of cl. 5.10(10) is to first identify what is the heritage item and what is its significance. It is considered that the identification of the heritage item and its significance has been appropriately detailed through the applicant's supporting information.

The term 'conservation' is not defined in the Dictionary to SLEP 2014 and therefore it is appropriate to consider the definition of 'conservation' as defined by the Burra Charter, 2013. Article 8 of the Burra Charter (2013) provides as follows:

"Conservation requires the retention of an appropriate setting, This includes retention of the visual and sensory setting, as well as the retention of spiritual and other cultural relationships that contribute to the cultural significance of the place.

New construction, demolition, intrusions or other changes which would adversely affect the setting or relationships are not appropriate."

Likewise, the term 'facilitated' is not defined in the Dictionary to SLEP 2014. Reasonably construed, it is not the purpose of the clause to enable reliance upon works of a *de minimis nature* (Parramatta City Council v Hale (1982) 47 LGRA 319 at p. 335 per Street CJ).

In relation to the interpretation of the meaning of 'facilitate conservation', the Court found in *David Fox v North Sydney Council* [2016] NSWLEC 1366 at [47]:

"Facilitating conservation requires a higher threshold than just ensuring the proposal does not adversely impact on the identified heritage significance of an item. In order to facilitate the conservation of the heritage item, the proposal must assist in retaining its cultural significance, such as by revealing and interpreting the heritage significance of the item."

From the case law, it is generally held that the need to carry out minor maintenance works which is an ordinary incident of property ownership is not within the scope and purpose of conservation work within the meaning of cl 5.10(10) and would not 'facilitate' the conservation of the heritage item.

The Heritage Review (D21/224818) suggests that the Development Application entails very little conservation of the heritage item. In particular, it identifies that seven (7) of the items in the *Capital Works & Maintenance Cost Report* could be seen as conservation works, with the remaining thirty (30) items being works for "maintaining the property at its current, highly renovated, standard". There is a suggestion that interpretive works could be key to "heritage conservation", given the highly renovated status of the item and that any detail of heritage interpretation is missing from the heritage documentation.

Based upon Council review of the application and the outcomes of the Heritage Review it is questionable whether the proposed development facilitates conservation of the heritage item.

Council is therefore not satisfied that the DA meets the criterion in sub-cl. 5.10(10)(a) of the SLEP 2014 notwithstanding the cost to carry out the proposed works.

b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and

The applicant has provided the following heritage documentation in satisfaction of this sub-clause:

- *Mananga Homestead-Function Centre (Former Cowsheds and Silo) Statement of Heritage Impact* (SoHI) prepared by Navin Officer dated April 2021, Project No. 210048 (D21/184997);
- *Capital Works & Maintenance Cost Report* prepared by Mitchell Brandtman dated 25 January 2021 (Project Ref No. 28644) (D21/184959);
- *Mananga, Berry Estate Manager's Farm Complex (Mananga Homestead) Conservation Management Plan* (CMP) prepared by Navin Officer dated April 2021 (Project no. 210049) (D21/185437)

Clause 5.10 refers separately to a heritage management document "that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item" and a heritage conservation management plan. In requiring that the development is in accordance with a "heritage management document that has been approved", the clause has no clear pathway for "approval" of either of those documents.

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The wording of this clause would require that a heritage management document be firstly approved by Council prior to the grant of consent under this sub-cl. Council has not approved a heritage management document relating to the development. Furthermore, the above three documents (if considered as a single document forming a *heritage management document*) are not in a form and containing relevant conservation works to satisfy sub-clause. 5.10(10)(a) of the SLEP 2014. Council could not approve these documents in their current form and conditions could not be imposed to rectify any deficiency or inadequacy in these documents.

It follows that Council is not satisfied that the DA meets the criterion in sub-cl. 5.10(10)(b) in that the Heritage Management Document could not be approved in its current form.

c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and

A *Capital Works & Maintenance Cost Report* and *Conservation Management Plan* have been submitted as part of the application.

Council must be satisfied that development consent will, by reference to these documents, satisfy Council that all necessary conservation work will be carried out, in that the policies are adequately tied to actions, priorities and timing.

The Heritage Review indicates that the Development Application does not include all necessary conservation works to an extent that would allow Council to be satisfied with this criterion. The Heritage Review maintains that:

- the *Capital Works & Maintenance Cost Report* is not a schedule of necessary conservation work;
- the heritage landscape plan does not describe works that go towards the heritage item and its conservation;
- there is a need for details of the interpretive works and a timeframe for those works;
- redesign and rebuilding of the carport and its link is necessary; and
- there is a need for a low hedge or stone wall at the northern edge of the house driveway if the additional car parking spaces are to be provided to service the development.

Council is not satisfied that the Development Application meets the criterion in sub-clause. 5.10(10)(c) of the SLEP 2014.

d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and

The applicant's *Statement of Heritage Impact* (D21/184997) and *Conservation Management Plan* (D21/185437) both indicate that the Development Application will not adversely affect the significance of the heritage item.

The only specific suggestion of adverse effect in the Heritage Review is the position of proposed car park spaces 4-11 (refer to **Figure 4**). Were car parking spaces 4 -11 to be required to be formalised there would likely be an impact on the heritage item and Council could not be satisfied that the Development Application meets the criterion in subclause 5.10(10)(d) of the SLEP 2014. However, the applicant has not proposed to formalise these car parking spaces and does not seek to utilise these as part of the application.

The Heritage Review does not otherwise suggest that this particular development will adversely affect the significance of the heritage item, however, it does observe that previous developments have cumulatively affected that significance.

It is important to note that a condition **could not be imposed** to delete car parking spaces 4-11 from the plans in order to satisfy this sub-clause. Granted that a condition cannot be imposed to delete these car parking spaces the inclusion of these spaces, on the account of the Heritage Review, will result in an adverse impact. Were the parking spaces to be removed by the applicant prior to determination it is considered that the development would not have an adverse effect on the heritage

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significance of the heritage item, including its setting. However, the removal of the spaces raises another issue which is discussed later in this report, and that is car parking.

Council is not satisfied that the Development Application meets the criterion in sub-cl. 5.10(10)(d) of the SLEP 2014. The proposed development as currently proposed includes car parking spaces 4-11 which are considered to have an adverse impact on the heritage significance of the heritage item, including its setting.

e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

As stated by the Court in *Fox v North Sydney Council* [2020] NSWLEC 1056 at [43]:

“Under cl 5.10(10)(e), a consent authority needs to, in a sense, turn away from heritage factors and be satisfied of a further factor before the incentivising provisions of the clause are triggered. This is that “the proposed development would not have any significant adverse effect on the amenity of the surrounding area”

The term ‘amenity’ is not defined in the Dictionary to SLEP 2014, however, the concept was considered by the Court in the case of *New Century Developments Pty Limited v Baulkham Hills Shire Council* [2003] NSWLEC 154 at [53]

“The amenity of the locality is encompassed by the consideration of environmental impacts on both the natural and built environments, and social and economic impacts in the locality required by s 79C(1)(b) of the EP&A Act. The concept of “amenity” is wide and flexible (Broad v Brisbane City Council & Anor (1986) 59 LGRA 296), transcending the merely physical content (Perry Properties Pty Ltd v Ashfield Council (No. 2) (2001) 113 LGERA 301 at 317 per Bignold J).”

The physical works to the site are minor and will not impact the significance of the heritage item or the surrounding items of heritage significance (except for the car parking as mentioned above). Furthermore, it is not likely that there will be any significant visual impacts associated with the development. The visual issues raised as part of the Heritage Review point to previous developments (such as the carport/garage) rather than the “proposed development”. In this regard, it is not anticipated that the proposal will have any significant adverse impact on the built environment.

It is not anticipated that the proposal will have any significant adverse social or economic impact on the locality.

In relation to the potential noise impacts or impacts on the natural environment associated with the development, however, it is noted later in this report that the development does not provide sufficient assessment of the noise impacts to justify that the impacts will be reasonable and not result in a significant adverse impact. The Acoustic Review completed by Day Design suggests that:

- a. the liquor and gaming noise criteria should apply which are more stringent. However, it is not suggested that this would then result in a significant amenity impact.
- b. Noise impacts are not relevant to the Transport for NSW property, as the dwelling there is derelict and there is no imminent residential use of the land. Accordingly, it is not an affected receptor. This approach is taken by the applicant’s acoustic assessment and supported by the Memorandum. It is however contrary to the position taken by Transport for NSW.
- c. Contrary to the amended noise impact assessment, the calculated noise level at receptor 1 should be 43 dBA. However, this only affects amenity from 10 pm with regard to outside guests. A restriction on the use of the outdoor space after 10 pm is proposed.

Given that the DA does not provide sufficient information to satisfy Council of the potential noise impacts it would not be open to Council to conclude that the development has satisfied this requirement. Furthermore, Council cannot impose a condition to require satisfaction of this clause where it is unclear as to the development’s satisfaction of the sub-clause.

Council is not satisfied that the Development Application meets the criterion in sub-clause. 5.10(10)(e) of the SLEP 2014.

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Conclusion

As previously stated, the relevant assessment under sub-clauses. 5.10(10) requires Council to be satisfied with each of the five (5) requirements (i.e. they are conjunctive) and so the proposed development, must meet each of the five (5) requirements to be capable of being granted consent under the clause.

The proposed development has been assessed and established not to satisfy sub-clauses. (a)-(c) and (e). Council therefore cannot approve the DA in accordance with clause 5.10 of SLEP 2014.

ii) Draft Environmental Planning Instrument

The following Draft EPIs are relevant to the subject site:

- State Environmental Planning Policy No. 44 - Koala Habitat Protection - Review
- Draft State Environmental Planning Policy (Environment) 2017
- Draft State Environmental Planning Policy (Remediation of Land)
- Draft State Environmental Planning Policy (Short-term Rental Accommodation)

No additional assessment is required in relation to these EPIs

iii) Any Development Control Plan

Shoalhaven DCP 2014

Generic Chapters
Chapter 2: General and Environmental Considerations
<p>3 European heritage</p> <p>3.3.1 Assessment considerations</p> <p>Council must give consideration to a range of matters when assessing an application in relation to any heritage items or within any heritage conservation area including natural and pastoral landscapes. Council will make an assessment of:</p> <ul style="list-style-type: none"> • the heritage significance of the item as a heritage item or as a component of a heritage conservation area of the City of Shoalhaven (urban, pastoral or natural); and • the impact the proposed development will have on the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the heritage item and its site or the heritage conservation area (urban, pastoral or natural); and • the impact the proposed development will have on any stylistic, horticultural or archaeological features of the heritage item or its site or the heritage conservation area (urban, pastoral or natural); and • the measures proposed to conserve the heritage significance of the item and its setting or the conservation area; and • The extent to which the carrying out of the proposed development would affect the form of a historic subdivision. <p><u>Comment:</u> The application is supported by the following heritage and planning documents that have been prepared in support of development and use:</p> <ul style="list-style-type: none"> • <i>Mananga Homestead-Function Centre (Former Cowsheds and Silo) Statement of Heritage Impact (SoHI)</i> prepared by Navin Officer dated April 2021, Project No. 210048 (D21/184997);

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- *Capital Works & Maintenance Cost Report* prepared by Mitchell Brandtman dated 25 January 2021 (Project Ref No. 28644) (D21/184959);
- *Mananga, Berry Estate Manager's Farm Complex (Mananga Homestead) Conservation Management Plan (CMP)* prepared by Navin Officer dated April 2021 (Project no. 210049) (D21/185437)
- Letter prepared by Beatty Legal dated 4 February 2021 (D21/45147);
- *Memorandum of Advice – Mananga Homestead DA for Function Centre and Heritage Conservation Works* (Memorandum of Advice) prepared by Tim Robertson SC dated 5 May 2021 (D21/185981);
- *Statement of Environmental Effects* prepared by Cowman Stoddart Pty Ltd dated 4 May 2021 (Ref No. 18/19) (D21/184961);

The heritage impacts of the development and use of clause 5.10(10) of SLEP 2014, has been reviewed by an external consultant, Dr Peter Kabaila of Black Mountain Designs as part of the assessment of the application (Refer to Heritage Review (D21/222540)

3.3.5 Heritage Impact Statements

The Heritage Impact Statement should be prepared per NSW Heritage Manual "Statements of Heritage Impact" and "Assessing Heritage Significance Guidelines" and the principles of The Burra Charter. It should include a Statement of Significance which is a concise summary of the cultural significance of a place and includes an assessment of aesthetic, historic, scenic and cultural values and comparative criteria.

Comment: The document titled *Mananga Homestead-Function Centre (Former Cowsheds and Silo) Statement of Heritage Impact (SoHI)* prepared by Navin Officer dated April 2021, Project No. 210048 (D21/184997), has been prepared per NSW Heritage Manual "Statements of Heritage Impact" and "Assessing Heritage Significance Guidelines" and the principles of The Burra Charter. It should include a Statement of Significance which is a concise summary of the cultural significance of a place and includes an assessment of aesthetic, historic, scenic and cultural values and comparative criteria.

G1: Site Analysis, Sustainable Design and Building Materials in Rural and Coastal Areas

An appropriate plan for consideration of the site and surrounding area. In this regard, only a very basic site analysis plan has been provided but an overall assessment of the site and its characteristics was ascertained through a site inspection.

G2: Sustainable Stormwater Management and Erosion/Sediment Control

The provisions of Chapter G2 apply to the proposed development. In this regard, only very minor works would be proposed in relation to the additional toilets to the western elevation of the existing shed to be used for functions.

Given the rural character of the site, it is believed that the discharge of water to the previously approved dam would be sufficient to ensure appropriate disposal of water on the site and will ensure that water is not concentrated on adjoining lots.

Sediment and erosion control work will be undertaken in accordance with Landcom publication *Managing Urban Stormwater: Soils and Construction Volume 1, 4th Edition* (the "Blue Book"). A sediment and erosion control plan will form part of the Construction Certificate application.

G4: Tree & Vegetation Management

No tree removal proposed as part of this application.

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G7: Waste Minimisation and Management Controls

The provisions of Chapter G7 apply to the proposed development. In this regard, a basic Waste Minimisation and Management Plan (WMMP) in relation to both the construction stage was provided (D21/184975).

All generated waste will be removed by commercial waste contractors. All waste will be taken and treated off-site, and all proposed structures are either temporary or removable.

As such, standard conditions should be imposed in any consent issued which stipulates compliance with this WMMP as well as regarding ongoing operation.

G8: Onsite Sewage Management

The site is a rural lot and is currently not connected to the reticulated system. As part of the assessment of DA19/2134 (tourist cabins), the applicant applied to connect to the reticulated system to service the five (5) units and the shed.

On 26 May 2020, Council considered a report (CL20.126) in relation to the connection to town sewerage system - Lot 101 DP 1057897 Homestead Lane Berry. Council resolved on the recommendation to: *approve the connection of DA19/2134 and DA19/2060 to the Berry Sewerage Scheme by a pressure sewer system subject to the applicant complying with all conditions specified in the Shoalhaven Water Development Application Notices for each development.*

Should the application be approved, the development would be required to obtain a s. 68 Approval for connection to the existing system and connect to the reticulated system prior to the issue of an Occupation Certificate for the additional W/C toilets proposed to the western elevation of the shed.

G21: Car Parking and Traffic

The car parking requirements and traffic impacts of the development have been considered as part of the assessment of the development application. In support of the applicant's proposal the applicant has submitted the following reports:

- *Traffic and Parking Impact Assessment* (TPI) prepared by McLaren Traffic Engineering dated 30 March 2021 (D21/184960);
- *Letter Of Response To Council Comments For The Events & Wedding Functions Facility At 8 Homestead Lane, Berry* prepared by McLaren Traffic Engineering (Reference: 210019.02FE) dated 30 March 2021 (D21/184966); and
- *Statement of Environmental Effects* prepared by Cowman Stoddart Pty Ltd dated 4 May 2021 (Ref No. 18/19) (D21/184961).

Access

Four (4) separate access points are provided to the site along the Homestead Lane and Queen Street frontage. The Mananga Homestead may be accessed via two access points located toward the northern extent of the site off Homestead Lane. The tourist accommodation is serviced by, separate ingress and egress driveways. The ingress point being on Homestead Lane near the Queen Street Intersection and the egress point located to the south of the intersection on Queen Street.

No change to the access points is proposed as part of the application.

Car Parking

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In accordance with Chapter G21: Car Parking and Traffic of Shoalhaven Development Control Plan 2014 (SDCP 2014), car parking for a function centre is required to be provided at a rate of 1 space per 6.5m² of public dining area.

Car parking details are provided as follows:

- The floor area of the function centre is 155m² (110m² dining room and 45m² dance floor)
- A total of 23.8 (24) off-street car parking spaces are required.
- Guests (other than those accommodated on-site) will be transported via two (2) x 12-seat minibuses from their local off-site accommodation to the function centre.
- A total of ten (10) staff will be required during functions.
- A total of twelve (12) car parking spaces are proposed to the south of the Mananga Homestead. Ten (10) of the nominated car parking spaces are proposed for the use by staff. A total of two (2) car parking spaces are available for the use of function guests.
- An additional seven (7) car parking spaces (including one (1) accessible space) are approved and support the existing tourist accommodation (DA19/2134). Five (5) of the car parking spaces proposed (including one (1) accessible spaces) are required to service the existing development.

An extract of the applicant's site plan with details of the car parking arrangements is provided in **Figure 4** below:

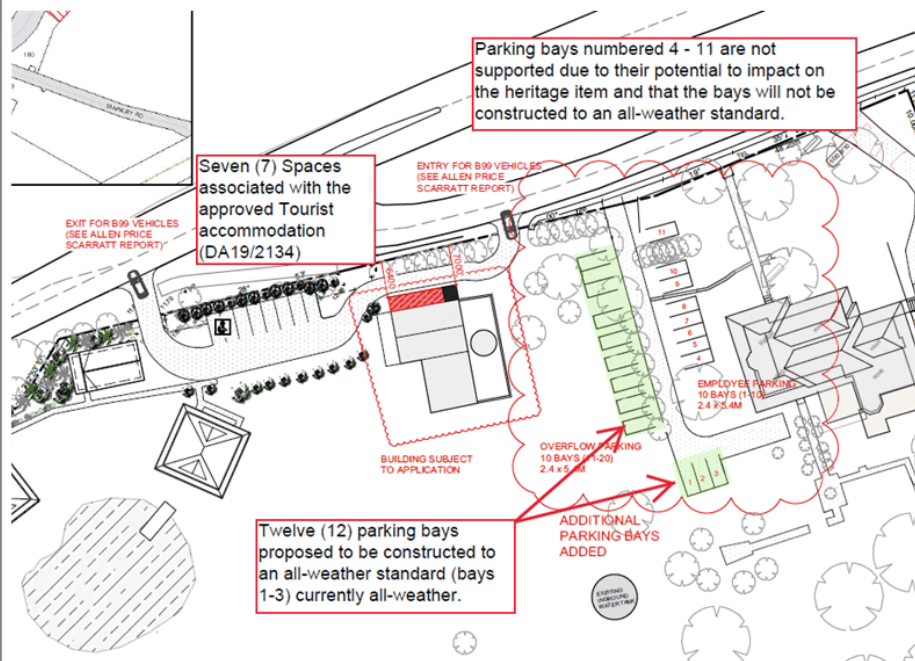


Figure 4 - Extract of Site Plan with further details of proposed parking arrangements.

Applicant's Submission

The applicant's TPI (D21/184960) provides an assessment of the following traffic and car parking issues associated with the development application:

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- the existing traffic and parking conditions, including:
 - Road Hierarchy.
 - Existing Traffic Management
 - Existing Traffic and Parking Environment
 - Future Road and Infrastructure Upgrades
- Parking Assessment, including:
 - Parking justification for use by minibus
 - Disabled parking
 - Bicycle and motorcycle parking
 - Servicing and loading
 - Car parking design and compliance

The TPI makes the following conclusions on page 18 of the Report as follows:

In view of the foregoing, the subject proposal at 8 Homestead Lane, Berry for a function facility is fully supportable in terms of its traffic and parking impacts with due regard to traffic flow efficiency and road safety considerations. The following outcomes of this report are relevant to note:

- *The proposed development requires 24 car parking spaces based upon Council's DCP. The proposed plans detail a combined total of 19 car parking spaces, resulting in a parking shortfall of five (5) spaces from Council's DCP requirement when considering the tourist accommodation being occupied by guests attending the function.*
- *Sufficient room is provided for 10 informal spaces dedicated primarily to staff, adjacent to the Mananga Homestead, meeting the function centres staff parking demand. Carpooling between staff will be promoted to reduce the staff car parking demand with any available parking spaces used by guests who do not comply with the Plan of Management and advertised requirements.*
- *All visitors not staying on-site will be transported to and from their accommodation within Berry using two (2) private 12-seater Minibuses (Toyota HiAce Commuter, Mercedes-Benz Sprinter Transfer Minibus or similar), which can carry 11 passengers before and after each event. A plan of management shall be developed to communicate to guests that no-parking is available on-site for guests and that they shall use the minibus transport service to get to and from the function facility.*
- *It is expected that the proposed development will operate with no change to waste collection compared to the existing operation of the site. Waste generated from functions will be removed from the site by staff after the conclusion of the function.*
- *The site is expected to generate a worst-case peak of 39 (29 IN, 10 OUT) vehicle trips in the one-hour period before a function on either a Saturday or Sunday. The impacts of the traffic generation have been modelled using SIDRA INTERSECTION 8.0, indicating that there will be no detrimental impact to the performance of the intersections as a result of the generated traffic.*
- *The existing car park layout (associated with the tourist accommodation) meets the dimension requirements of both AS2890.1:2004, AS4299:1995 and AS2890.6:2009. Informal staff parking, during functions will be provided on the gravel/grass area, adjacent to the Mananga Homestead.*
- *The exit driveway exceeds the sight line requirements for an 80km/h road design and is located within a superior location compared to Homestead Lane.*
- *In accordance with Clause 5.10(10)(e) of the Shoalhaven LEP 2014, from a traffic and parking perspective, the proposed development will not have any significant adverse effect on the amenity of the surrounding area.*

Comment:

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The car parking requirements and traffic impacts of the development have been reviewed by Council Development Engineer and City Services.

The car parking does not comply with Chapter G21: Car Parking and Traffic of SDCP 2014. The shortfall in car parking and the design of the additional proposed car parking to the south of Mananga Homestead are not supported for the following reasons:

- The development is required to provide a total of 24 spaces for the use of staff and guests associated with the function centre. The applicant has nominated 20 spaces to the south of the Mananga Homestead (refer to **Figure 4** above). Twelve of the car parking spaces highlighted green are proposed to be constructed to an all-weather standard.

Car parking numbered 4 – 11 are to be retained as grass and are not supported by Council's development engineers as any car parking supporting the function venue are required to be constructed to an all-weather standard. In accordance with the applicant's TPI (D21/184966) (refer to page 2):

*"It has been advised by the client that an additional ten (10) informal overflow parking spaces are available within the employee parking area as identified on the updated plans provided in **Annexure C**. These parking spaces will cater for any patrons who do not follow the clear directions of the Plan of Management, and instead drive to the site. Their existence will not be advertised, and their use will be at the discretion of the operator."*

Ten (10) of the 12 car parking spaces are not designed to be open and accessible to the public and will be *informal overflow parking spaces are available within the employee parking area*. This is a shortfall of 12 spaces or 50% of the required car parking.

- Notwithstanding the above numerical shortfall, Section 5.2.3 of Chapter G21 allows Council to take into consideration the shared or co-use of on-site car parking facilities following the completion and submission of a parking impact and needs study by an independent suitably qualified professional. Any discounting that may be allowable for multi-purpose trips within a mixed-use development will have a maximum discount of 25%.

As noted previously, an additional seven (7) car parking spaces (including one (1) accessible space) are approved and support the existing tourist accommodation (DA19/2134). Five (5) of the car parking spaces proposed (including one (1) accessible space) are required to service the existing development.

Taking into account the existing use (tourist cabins) and function centre a total of 29 car parking spaces are required to service these two uses.

Granted the tourist use and function centre are to be used concurrently and will not be independently utilised the development should, at a minimum, be required to provide the total number of car parking spaces required for the function centre (24 car parking spaces). The development provides a total of 19 car parking spaces for use by the two uses. This amounts to a 5 car parking space shortfall (17%) in the total number of car parking spaces required.

The application of a full 25% reduction in the required car parking under Section 5.2.3, does not reflect the likely demand for car parking on the site with all tourist car parking likely to be utilised by the bride and groom and the bridal party and no less than ten of the car parking spaces to the south of the Mananga Homestead required for use by staff. This results in only three car parking spaces available for guests or associated function guests (i.e. photographers, band/DJ, wedding MC and planners etc).

- Section 5.2.6 Conservation Incentives of Chapter G21 provides a discretionary provision to allow Council to consider a reduction in the total number of car parking spaces required if a development proposal involves the retention and enhancement of an item of

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environmental heritage, as identified in SLEP 2014, if it is felt that this parking would reduce the significance of the item.

As detailed earlier in the assessment of the application against cl. 5.10(10), Council is not satisfied that the DA meets the criterion in subclause 5.10(10)(a) of the SLEP 2014 notwithstanding the cost to carry out the proposed works. It follows that a reduction in the total car parking required is not warranted or recommended.

- The applicant's justification for a reduction in the car parking rate relies upon the continued use of bus pick-up and drop-off associated with events. Granted that the management of the site may change in the future and patron transport to the venue will likely also change, the reduction in the required car parking relies heavily upon the ongoing proper management of the site and likely monitoring of the car parking by surrounding residents. A reduction in the required car parking on-site is not a desirable planning outcome and should not be supported. Given the placement of buildings, access points, heritage impacts and topography, the site has constraints concerning the placement of car parking.
- The construction or use of Car parking spaces 4-11 is not supported.

The location and any formalisation of these car parking spaces will have an impact on the heritage significance of the item and would be contrary to clause 5.10(10)(d) which requires that: *"the proposed development would not adversely affect the heritage significance of the heritage item, including its setting."* This position is supported by the outcomes of the Heritage Review completed by Dr Peter Kabaila of Black Mountain Designs (Refer to Attachment 3).

- The twelve (12) car parking spaces to the south of Mananga Homestead and access to these spaces are not currently designed in compliance with AS2890.1:2004. The aisle dimensions, offsets from trees and the width of the driveway access to these spaces do not currently comply with AS2890.1:2004.

Furthermore, No swept path details have been provided to demonstrate that the overflow parking provided to the south of Mananga Homestead will be compliant with an AS 99th percentile vehicle.

- The development does not provide a dedicated accessible car parking space and an associated compliant path of travel for that space to the function centre. It is noted that an accessible parking space is provided to service the tourist cabin.

In accordance with G21, Acceptable Solution A2.2, *Where access for people with a disability is expected, a minimum of 1 accessible space is required and thereafter one additional space per 100 spaces or part thereof.*

The function centre is classified as a Class 9b Public Assembly building and is required to provide 1 accessible car parking space (Section D3.5 The proposal is to consist of 1 car parking space complying with AS1428).

The applicant's TPI (D21/184960) (Section 3.3) indicates that:

"The proposed development requires the provision of one (1) disabled car parking spaces. One (1) disabled space is associated with the existing tourist accommodation that is provided on-site which will also cater for the disabled parking requirements of the function centre. This disabled parking space has been provided in accordance with AS2890.6:2009."

An accessible car parking space is required to be provided for each use (tourist cabins and function centre) the sharing of the space does not take into account the fact that a person with a disability may be staying in the cabins and therefore there would be no accessible space provided for use by a guest not staying on-site or a worker associated with the function venue.

- In accordance with Section 4.15(3A) of the EP&A Act, Council—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of

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those standards for dealing with that aspect of the development. The applicant's proposal is not considered to be a reasonable solution that would achieve the objects of the standard.

It is not considered that the proposed alternate solution meets objectives (i) and (iii) under Section 4 of Chapter G21, Objectives (i) and (iii) state as follows:

- i. *"Ensure that adequate off street parking is provided in conjunction with development throughout the City, including any overflow parking."*
- iii. *"Ensure that car parking areas are visually attractive, functional, operate efficiently, are safe and meet the needs of users."*
- The shortfall in car parking is likely to result in on-street car parking within the Homestead Lane and Queen Street Road reserve. The reliance on on-street car parking to service the development is not recommended and does not reflect the desire for each development to cater sufficiently for its own car parking on the development site.
- Support for the variation is likely to result in an undesirable precedent. The requirement for the provision of car parking to be provided at a rate of one space per 6.5m², has been consistently applied to other permanent functioning venues in rural and urban localities.

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

iv) Environmental Planning and Assessment Regulation 2000

Clause 92 Additional matters that consent authority must consider	The assessing officer has considered the applicable matters for consideration under clause 92(1)(a)-(d)
Clause 93 Fire safety and other considerations	Considered and conditions are recommended should the development application be approved.
Clause 94 Consent authority may require buildings to be upgraded	In determining a development application to which this clause applies, Council has taken into consideration whether it would be appropriate to require the existing buildings to be brought into total or partial conformity with the Building Code of Australia.
Clause 96 Imposition of conditions—ancillary aspects of development	Ancillary conditions are proposed as recommended in the development consent.
Division 8A Prescribed conditions of development consent	Prescribed conditions are to be imposed as required under this Division.

v) Repealed.

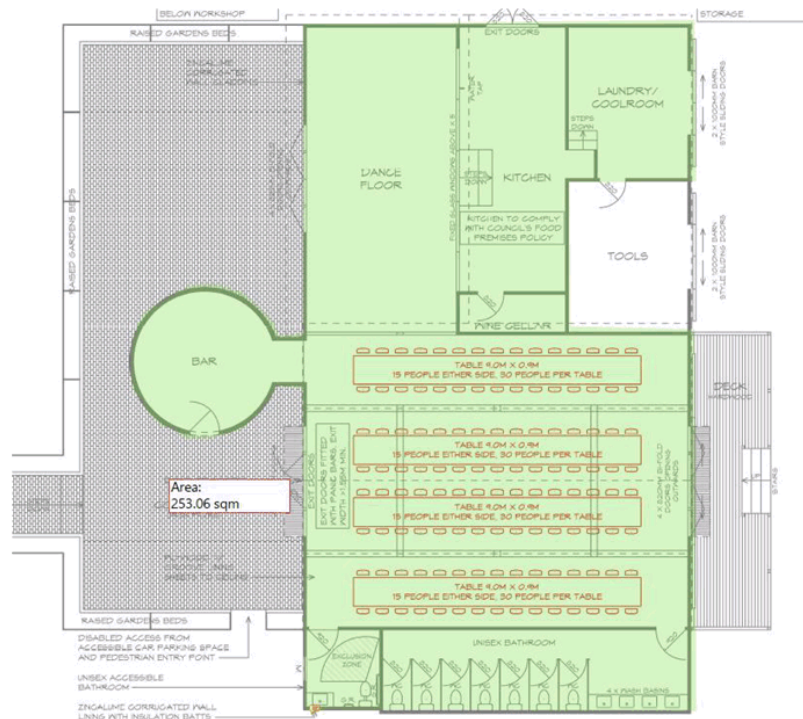
Shoalhaven Contribution Plan 2019

The proposed development is considered to increase the demand for community facilities in accordance with the Shoalhaven Contributions Plan 2019 (the Plan). The development is most aptly characterised as an Hotel/Restaurant development to calculate contributions under the Plan.

The function centres gross floor area = 253m² (including bar, kitchen, coolroom, dance floor and seating area)

Note: no contributions have previously been levied against the structure or use.

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Note: enter area in m2 and calculator will convert area to ETs

	Existing	Proposed
Retail (Gross Floor Area m2)	0	0
Commercial Office (Gross Floor Area m2)	0	0
Hotel / Restaurant (Gross Floor Area m2)	0	253
Bulky Goods (Gross Floor Area m2)	0	0
Industrial (Gross m2, include parking/landscape)	0	0
Total ET		16.87
Management Project ETs		1.26

Project	Description	Rate	Qty	Total	GST	GST Incl
CWFIRE2001	Citywide Fire & Emergency services	\$138.13	1.26	\$174.04	\$0.00	\$174.04
CWFIRE2002	Shoalhaven Fire Control Centre	\$202.07	1.26	\$254.61	\$0.00	\$254.61
CWMGMT3001	Contributions Management & Administration	\$574.39	1.26	\$42.87	\$0.00	\$42.87
				Sub Total:		\$471.52
				GST Total:		\$0.00
				Estimate Total:		\$471.52

Nowra Bomaderry Structure Plan 2008

The proposed development is unlikely to impact upon the objectives of the Structure Plan.

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

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Head of Consideration	Comment
Natural Environment	<p>The proposed works are not likely to impact any native flora and fauna in the locality and no expressed conditions are required to limit such impacts.</p> <p>There is however a potential for the development to impact on the amenity of the locality by virtue of the production of unreasonable levels of noise. The submitted ENIA does not provide sufficient information to demonstrate to Council that the development will not result in a significant or unreasonable impact in relation to the production of noise.</p>
Built Environment	<p>The extent of works associated with the development include:</p> <ul style="list-style-type: none"> Alterations and additions to the former cowshed building as follows:- <ul style="list-style-type: none"> Addition to the western end of the cowshed measuring approximately 9.5 m x 3 m to provide suitable amenities. Installation of a commercial kitchen. Provision of exit doors to the eastern and northern elevations of the cowshed. Construction of a timber pergola over part of an existing paved area. On-site parking for 10 staff adjacent to an existing internal accessway, plus capacity for 10 guests as an emergency overflow. Conservation management works as detailed in the Conservation Management Plan prepared by Navin Officer <p>The extent of the proposed works is unlikely to have a negative impact on the built environment as it relates to the streetscape and local character and will not result in unreasonable visual impacts when viewed from the public domain.</p> <p>The heritage impacts of the development and use of clause 5.10(10) of SLEP 2014, has been reviewed by an external consultant, Dr Peter Kabaila of Black Mountain Designs as part of the assessment of the application (Refer to Heritage Review (D21/222540).</p> <p>The only specific suggestion of adverse effect in the Heritage Review is the position of proposed car park spaces 4-11 (refer to Figure 5). Were car parking spaces 4-11 to be used and/or required to be formalised there would likely be an impact on the heritage item and Council could not be satisfied that the Development Application meets the criterion in subclause 5.10(10)(d) of the SLEP 2014.</p> <p>Granted that the current plans before Council identify these car parking spaces as forming part of the application. These car parking spaces are likely to result in an adverse impact on <i>the heritage significance of the heritage item, including its setting</i>.</p>
Social Impacts	<p>The development is unlikely to result in negative social impacts in the locality if appropriate management conditions were to be</p>

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Head of Consideration	Comment
	imposed and an appropriate plan of management of the site implemented and adhered to.
Economic Impacts	The proposed development is likely to have a satisfactory economic impact in the locality is approved.

(c) Suitability of the site for the development

The site is zoned RU1 Primary Production under the provisions of SLEP 2014. Development for a 'function centre' is prohibited in the RU1 zone in accordance with the Land Use Table for the zone. The development application has been made according to cl. 5.10(10) of the SLEP 2014.

In accordance with the jurisdictional requirements of sub-cl. 5.10(10), the development must satisfy all five requirements (a) – (e), for use otherwise prohibited under SLEP 2014, to be capable of being granted consent.

The development does not satisfy all requirements under sub-cl. 5.10(10) and Council cannot approve the application which is otherwise prohibited in the RU1 zone.

Notwithstanding that the development is prohibited and Council the jurisdictional requirements under the sub-cl. to approve the application, the development is not considered to be suitable for the site for the following reasons:

1. The development is not generally consistent with each of the six objectives of the RU1 zone. Chiefly, Council is not satisfied that the development minimise conflict between land uses within this zone and land uses within adjoining zones;
2. The development does not provide sufficient information in relation to noise impacts. It follows that Council cannot be satisfied that the development will have a reasonable impact on the amenity of the area and adjoining sensitive receptor by virtue of noise impacts;
3. The development is likely to have an adverse impact on the heritage significance of Mananga - Berry Estate Managers Farm Complex - Item I63 – Schedule 5 of SLEP 2014, through the retention of car parking to the south of Mananga Homestead – principally car parking spaces 4 – 11;
4. The development fails to provide sufficient car parking in accordance with SDCP 2014 Chapter G21: Car Parking and Traffic and AS/NZS 2890.1:2004 Parking facilities - Off-street car parking.

(d) Submissions made in accordance with the Act or the regulations

The Development Application was notified on three (3) occasions throughout the assessment period, the relevant notification periods were:

- 24 November – 10 December 2020;
- 9– 25 February 2021; and
- 12 – 26 May 2021.

552 public submissions were received in relation to Council's notification of the development. the majority of the submissions were in objection to the development.

- First notification – 142 submissions;

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- Second notification – 152 submissions; and
- Third notification – 258 submissions.

The notification was for a period of 14 days on each occasion

The notification of the application resulted in significant public interest and the receipt of over submissions.

There have been a number of submissions made by members of the community with expertise in heritage, architecture and acoustic impacts which raise salient points of concern. The concerns raised are summarised in the table below and response to each matter identified.

Submission	Response
Impact on the heritage significance of the Mananga farm complex and the broader heritage context, including the Pulman Street Heritage Conservation Area will be significant and the application should be refused.	<p>The development in its current form (which excludes the formalisation of car parking spaces 4-11) would not adversely affect the heritage significance of the heritage item, including its setting.</p> <p>The Heritage Review prepared Dr Peter Kabaila does not otherwise suggest that this particular development will adversely affect the significance of the heritage item, however, it does observe that previous developments have cumulatively affected that significance.</p>
Clause 5.10(10) has not been satisfied, there is no necessity for the proposed use to facilitate the ongoing management of the heritage item	<p>Council does not have the jurisdiction to grant consent pursuant to clause 5.10(10) given that Council is not satisfied with respect to all of the relevant tests in sub-cl. (a) to (e). As a result, the proposed development is prohibited and the development application must be refused.</p>
The conservation works proposed do not facilitate the conservation of the item and are largely associated with the upgrading of the site for the function use and	<p>It is noted that <i>de minimis</i> conservation works and ordinary maintenance works will not be sufficient to show that the conservation of the heritage item will be "facilitated by" the granting of development consent.</p> <p>The Heritage Review suggests that the Development Application entails very little conservation of the heritage item. In particular, it identifies that seven (7) of the items in the Capital Works & Maintenance Cost Report could be seen as conservation works, with the remaining thirty (30) items being simply works for "maintaining the property at its current, highly renovated, standard". There is a suggestion that interpretive works could be key to "heritage conservation", given the highly renovated status of the item and that any detail of heritage interpretation is missing from the heritage documentation.</p>
The heritage management and conservation documents lodged with the application fail to provide the required assessment and conservation incentive works to satisfy cl. 5.10(4) and (10).	<p>The Heritage Review indicates that the Development Application does not include all necessary conservation works to an extent that would allow Council to be satisfied with this criterion. The Heritage Review argues that:</p>

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	<p>a. the Capital Works & Maintenance Cost Report is not a schedule of necessary conservation work;</p> <p>b. the heritage landscape plan does not describe works that go towards the heritage item and its conservation;</p> <p>c. there is a need for details of the interpretive works and a timeframe for those works;</p> <p>d. redesign and rebuilding of the carport and its link is necessary; and</p> <p>e. there is a need for a low hedge or stone wall at the northern edge of the house driveway associated with the overflow car parking highlighted in green in Figure 4.</p>
The existing approved use of the site, in particular the five tourist units, are sufficient to enable management of the heritage significance of the site.	<p>Council cannot limit the lodgement of development applications and must assess every application on its merits.</p> <p>Clause 5.10(10) does not require an assessment of the current uses on the site or the ability for these uses to contribute to ongoing maintenance of the heritage item and any conservation management works.</p>
<p>The noise impacts will result in a significant adverse impact on adjoining property owners (including those identified by Transport for NSW in their submissions).</p> <p>The noise impacts associated with the proposed use have not been appropriately measured and considered by the submitted <i>Environmental Noise Impact Assessment</i> prepared by Harwood Acoustic and additional testing and consideration of additional management arrangements are required.</p>	<p>Council engaged an external specialist noise consultant – Stephen Gauld of Day Design Pty Ltd to review the applicant's ENIA and the noise conclusions drawn in the Memorandum of Advice provided by T Robertson SC.</p> <p>It is considered that additional information is required to be provided to justify the impacts of the development on the adjoining receptors and an assessment against the more stringent <i>Liquor and Gaming Noise Criteria</i> should apply as the facility will operate more in line with a licensed facility with the service of alcohol the responsibility of the catering staff and not the function venue.</p>
Amenity impacts associated with the operation of the function venue, including patron behaviour and any light spill from the site to neighbouring properties, has not been considered and as the potential to result in significant adverse impact.	Potential impacts associated with patron behaviour and light spill is not considered to be significant. Furthermore, the behaviour of patrons can likely be managed through a plan of management for the overall use of the site.
Insufficient on-site car parking to service the development and the potential for the overflow parking on the local roads surrounding the site.	An assessment of the car parking in accordance with Chapter G21 of SDCP 2014 details that the development does not provide sufficient car parking and that the request to vary the requirement for car parking through the use of patron bus service is not supported. The use of a mini-bus is considered a reasonable suggestion however it needs to be in conjunction with appropriate and adequate car parking. For reasons detailed earlier in this report, the car parking is deficient.

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Additional car parking on the site to accommodate patron parking is likely to have an adverse impact on the heritage significance of the heritage item.	The Heritage Review completed by Dr Peter Kabaila provides support to the removal of spaces 4-11 (refer to Figure 4). The additional spaces highlighted green in Figure 4 are not considered to have an impact on the heritage significance of the item if formalised to an all-weather standard and provided with low height hedge.
Traffic impacts on the local road network from unregulated car parking in the surrounding road reserve and traffic on the local road network.	Overflow car parking may occur within Homestead Lane. Although a condition could be imposed to require all car parking on the development site, the enforcement and management of this requirement without signposting (i.e. No Stopping") would be difficult to manage.
The cumulative impact of this development and the proposed inground swimming pool (DA20/2353) should be considered when assessing the potential impacts on the heritage significance of the heritage item.	The only specific suggestion of adverse effect in the Heritage Review is the position of proposed car park spaces 4-11. The Heritage Review does not otherwise suggest that this particular development will adversely affect the significance of the heritage item, however it does observe that previous developments have cumulatively affected that significance.
The prior use of the site for functions should not set a precedent to justify the current use of the site.	There was a claim by the owner that the site had been historically used as a function venue for a significant number of years prior to the current owners taking management of the site. It is noted that no prior consent for the use of the site as a function centre was ever granted and therefore Council does not consider that any alleged prior use of the site would justify the current proposed use and has not been taken into account in the assessment of the application.
The comparison of the subject site with Terrara House should be rejected	Council's assessment of the development application has been carried out on the merits of the application before Council. The assessment has not sort to compare this application with other approved function centres in the LGA.
The applicant has failed to address any of the issues that a function centre at Mananga would cause in terms of the Significant Adverse Effect on the amenity of the surrounding area. In particular, its impact on the "quality of life" of the neighbouring local residents due to the unavoidable noise, traffic and associated parking issues associated with operating a Function Centre in close proximity to the Pulman Street Heritage Conservation Area.	Council's assessment of the impacts of the development taking into account amenity impacts (as required under clause 5.10(10(e)) does not indicate that there will be a "significant" level of impact on the amenity of the surrounding area.
A "confidential" Councillor briefing document was prepared by Mr & Mrs Quinn and provided to Councillors in January 2021. While this document has to date been protected from public scrutiny, we note that Council has ruled that it be released on the	Council's assessment has not included an assessment of or reliance upon any statement in the document referred to as the "confidential Councillor briefing" document.

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<p>basis "...that the information was not received in a confidential context include: The information was provided voluntarily."</p>	
<p>Potential adverse impacts on Aboriginal cultural heritage have not been addressed through the development application.</p> <p>The Jerrinja LALC has raised concern in relation to the consultation with the local Aboriginal Community, potential impacts of the development on a significant site, misrepresentations made by the Navin Officer Statement of Heritage Impact and potential for the development to impact on cultural artefacts.</p>	<p>The development application involves minor works to the associated outbuilding ("cowshed") and potential works to formalise the car parking identified to the south of the Mananga Homestead (highlighted green in Figure 4). The works proposed were not identified within the Navin Officer Heritage Report as potentially impacting on any Aboriginal place of heritage significance.</p> <p>It is important to note that the site is not currently identified under Schedule 5 of SLEP 2014 as an Aboriginal place of heritage significance.</p> <p>Furthermore, an appropriate condition could be recommended that: if an Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:</p> <p>All excavation or disturbance of the area must stop immediately</p> <p>The Office of Environment, Energy and Science must be advised of the discovery in accordance with section 89A of the <i>National Parks and Wildlife Act 1974</i>.</p>

A number of submissions (53) were also lodged by members of the community in support of the application. The submissions noted that the development application should be supported for the following reasons:

- The site is located in close proximity to the Berry Township and can be accessed by patrons and guests of the existing tourist cabins.
- The application will support other business in Berry.
- The development is reflective of the existing development on the site and its rural and heritage context.
- The location is unlikely to result in amenity impacts on the surrounding land uses.

There were also a significant number of submissions lodged which went to the character of the owner's and did not relate to substantive planning matters.

Council has considered the reasons for support of the development application and given equal weight to the valid planning reasons to support the application.

The notification of the application resulted in significant public interest. It is noted that submissions that did not go towards the application (character references for example) or raise substantive planning matters relating to the development application were not considered in the assessment but were counted in the figures of submissions provided above.

The key issues raised as a result of the notification have been identified earlier in this report and Council's consideration of the issues raised identified.

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(e) The Public Interest

While the required assessment in relation to assessing the public interest is not well defined by the legislation.

The Courts have provided some guidance. In the case of *Minister for Planning v Walker* (2008) 161 LGERA 423, Justice Hodgson of the NSW Court of Appeal overturned the decision of the Land and Environment Court of NSW in relation to Ministerial approval of a concept planning approval which the primary Court held was invalid as the Minister failed to have regard to the principles of ecologically sustainable development by failing to consider whether the impacts of climate change would lead to increased flood risk on this flood-constrained coastal plain project.

As part of the appeal, the Court considered aspects of the public interest considerations as required under the Section 79C(1)(e) of the Act (now Section 4.15(1)(e) of the EP&A Act) at [42]-[45] of the judgement. Justice Hodgson's judgement highlighting that the considerations that can form part of the public interest in any specific case may include:

1. importance of safeguarding private property rights,
2. the provision of community services and infrastructure, and
3. the ecological imperative of conserving natural ecosystems and species or ecologically sustainable development.

In considering whether the development application is in the public interest, the assessment has considered: the matters outlined by Justice Hodgson in the *Walker* case, whether the objectives and outcomes of the decision-making process are in the public interest and that the process adopted, and procedures followed in exercising discretionary powers are in the public interest.

The public interest of the Shoalhaven local government area and the broader population that may be impacted by the development has been considered along with the different sectors of the community that have made a submission and have expressed particular views relating to their objection to the application.

The assessment has considered:

- the portion of the public whose interests required to be considered in the decision-making process,
- the relevant 'public interest'; and
- the weighing up of each applicable 'public interest', including the balancing of differing or opposing 'public interests'.

The assessment of the public interest has considered the competing and conflicting public interests associated with the development and granted equal weight to the consideration of relevant interests associated with the development.

Furthermore, the consideration has considered the need to balance the public interest against private interests in the scope of the development.

The recommendations made in this assessment are considered to have been made on reasonable grounds, based on the information provided and the merits of the application.

Ultimately the development is unlikely to represent the interests of all sectors of the public who have an interest in the development. The proposed development is not considered to be in the public interest when the interests of all sectors of the public and those submissions received and considered in accordance with s. 4.15(1)(d) of the EP&A Act.

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Delegations

Guidelines for use of Delegated Authority

The Guidelines for use of Delegated Authority have been reviewed and the assessing officer does not have the Delegated Authority to determine the Development Application.


On 8 December 2020, the Council resolved at the Strategy & Assets Committee (SA20.257) *That DA20/2172 – 8 Homestead Lane Berry - Lot 101 DP 1057897 - Commercial Additions - Alterations & Additions & Use of Existing 'Mananga Homestead' for Functions & Events be called to Council for determination due to significant public interest. (MIN20.918).*

Granted that the application has been called in for determination, the application must be determined by the Council.

Recommendation

This application has been assessed having regard for Section 4.15 (Matters for consideration) under the Environmental Planning and Assessment Act 1979. As such, it is recommended that Development Application No. DA20/2172 be refused.

Planning Report – S4.15 Assessment – 260 Mount Hay Rd (Priv), BROUGHTON VALE - Lot 2 DP 4498

	Planning Report S4.15 Environmental Planning & Assessment Act 1979
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DA Number	DA20/1621
Property	260 Mount Hay Rd (Priv), BROUGHTON VALE - Lot 2 DP 4498
Applicant(s)	Anthony Houghton of Mt Hay Pty Ltd c/o SET Consultants Pty Ltd
Owner(s)	WL Houghton

Conflict of interest declaration

I have considered the potential for a conflict of interest under the [Code of Conduct](#) and to the best of my knowledge no pecuniary and/or significant non-pecuniary conflict of interest exists.

NOTE: If you determine that a non-pecuniary conflict of interest is less than significant and does not require further action, you must provide a written explanation of why you consider that the conflict does not require further action in the circumstances. This statement should then be countersigned by the section manager.

Name

Senior Development Planner 20/05/2021

1. Detailed Proposal

The DA seeks approval for “*primitive camping grounds catering for a total of 12 guests, consisting of six (6) tent sites each provided with individual amenities*”.

‘Primitive camping ground’ is not a defined land use term under Shoalhaven Local Environmental Plan 2014 (SLEP 2014) or relevant environmental planning instruments under the Environmental Planning and Assessment Act 1979 (EP&A Act). The proposed use however seeks to meet the definition of ‘camping ground’ under SLEP 2014 (provided below) and accordingly the subject DA is being assessed for this purpose.

camping ground means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.

The tent sites are proposed to be located on the north western portion of the subject site (refer to Figure 1 and 2).

Each of the tent sites is to be provided with permanent amenities and a timber platform for the tents (refer Figure 4). These platforms also include ensuite and potentially privacy screens with an outdoor bath placed on the deck. These items are considered to be permanent fixtures. The plans note that the drawings are only “*an indication of the layout however placement of items will vary from site to site for privacy, cooling etc*”. The plans also specify that the deck maximum size is 70sqm, while the maximum bathroom size will be 8sqm.

The submitted plans demonstrate a possible tent which could be provided to the tent site (refer to Figure 4). The applicant has indicated in the submitted Statement of Environmental Effects (SEE) that “*the tent sites provide flexibility for tents such as a **bubble tent, tiny home**, or could be provided without accommodation on site for clients to bring their own*”.

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The applicant has also submitted an Operational Plan of Management (POM) with this application, which sets out the management procedures for the safe and effective management of the proposed camping grounds.

It is noted that the grounds are to be staffed and managed by existing personnel who live at the subject site.

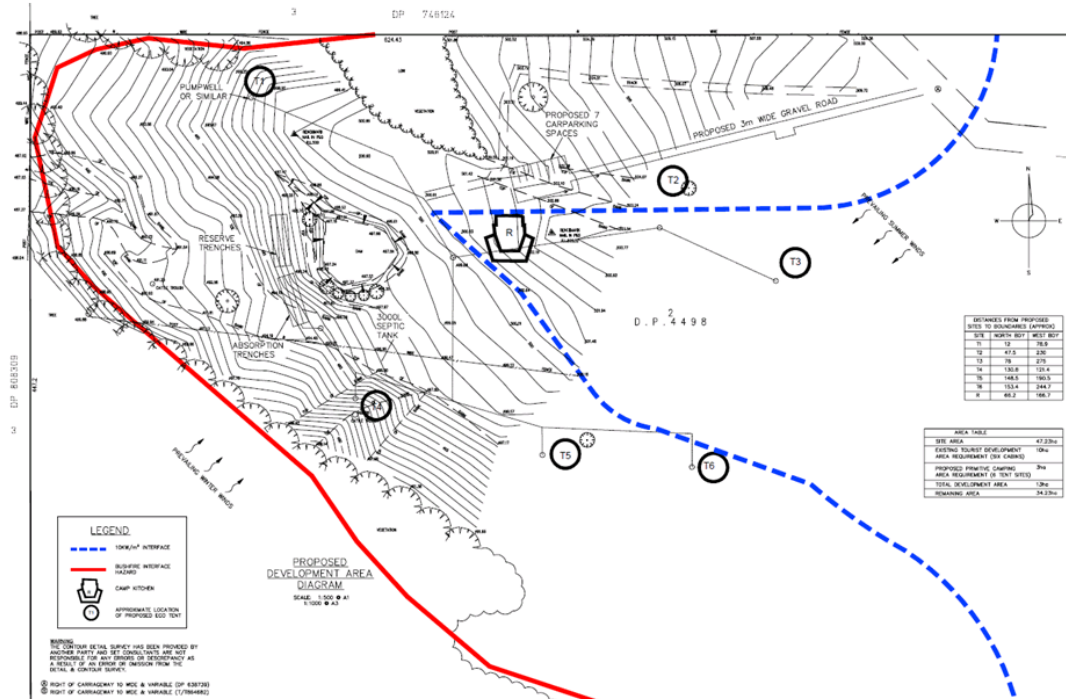


Figure 3 – Extract of the Site Plan

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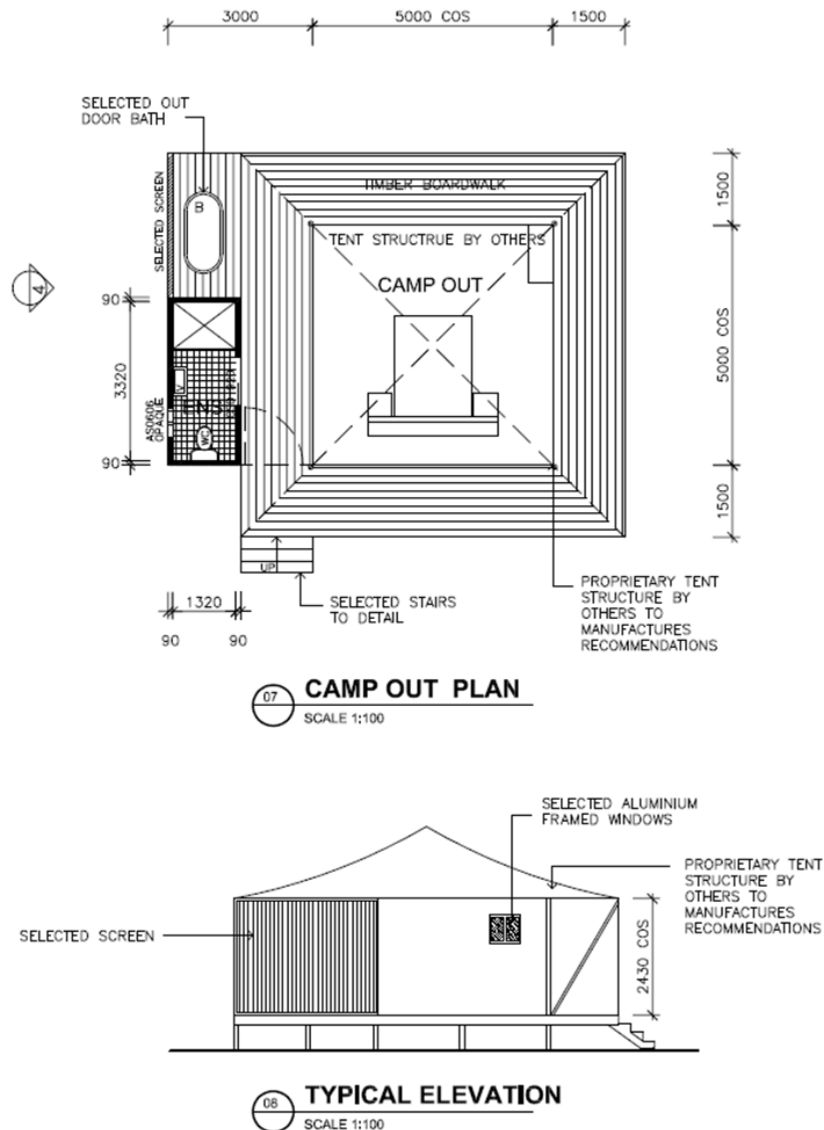


Figure 4 – Extract of the Floor & Elevation Plan for the Tent Site and Amenities Structure

- a) Communal camp kitchen building, to be used as a bush fire refuge

The proposed communal camp kitchen is to consist of a kitchen, dining area, outside deck, games room, accessible bathroom, and store (refer to Figure 5). The camp kitchen is to be located centrally to the proposed development area. The proposed bathroom has been designed with a secondary function as a refuge building in the event of a bush fire where evacuation of the site is not feasible.

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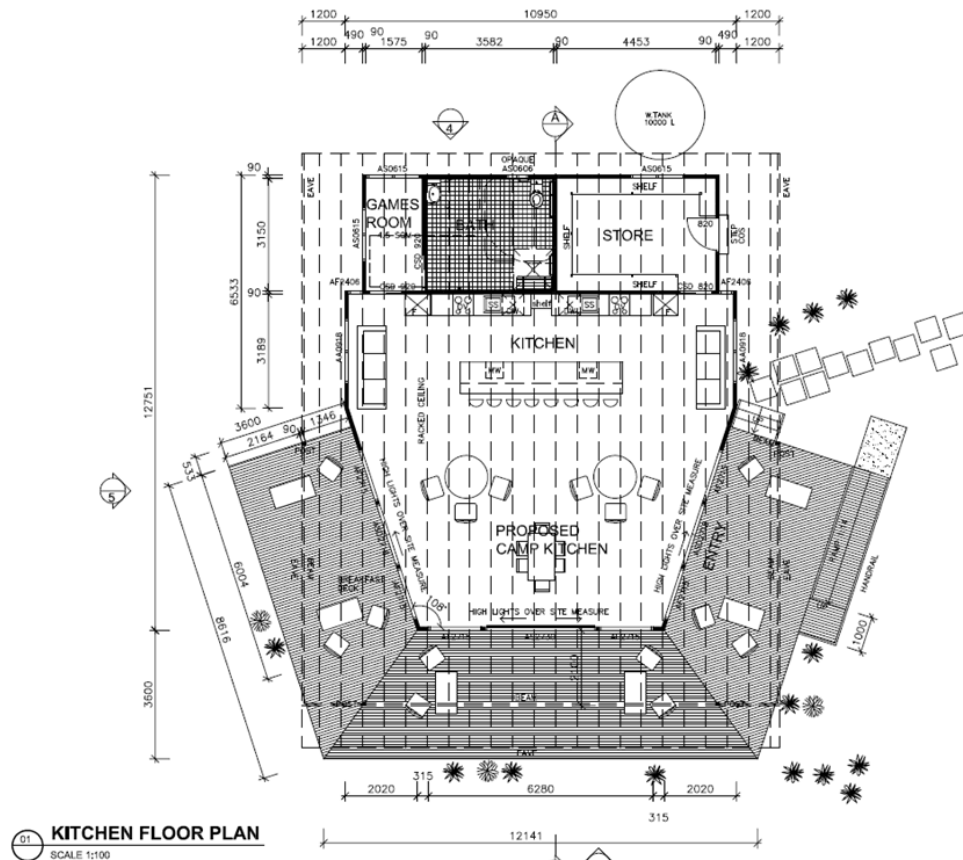


Figure 4 – Extract of the Floor Plan for the Camp Kitchen

b) Access driveway and parking

The subject site is accessed by a Right of Way known as Mount Hay (private) Road (refer Figure 6). The site and several other allotments to the north of this site benefit from a Right of Way that burdens Lot 102 and Lot 103 DP 786955 which are located to the south, with Lot 102 adjoining at the southern boundary of the subject site. Mount Hay (private) Road comprises sections of Crown road reserve and Rights of Way through Lots 102 and 103.

The Right of Way that extends to the west from Mount Hay (private) Road is proposed to be used to access the camp site, with a 3m wide gravel track to be extended to the proposed camp kitchen (refer to Figure 6). The applicant has indicated in the submitted Statement of Environmental Effects that "the track location is currently used by maintenance vehicles to access the site".

There are also items/works proposed within Mount Hay (private) Road as outlined within the submitted report by McLaren Traffic Engineering. Refer to Figure 7. These include passing bays, traffic signs and tree trimming, which the applicant has advised are capable of being located within the Right of Way.

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In relation to parking, each tent site is to be provided with one (1) vehicle parking space. A total of seven (7) onsite parking spaces are proposed and these are to be provided adjacent to the camp kitchen.

A LEC decision in relation to a DA on the subject site (lodged with Council in 2000), for a staged development including a new dwelling and tourist development required the developer of the site to obtain insurance but to also emplace an 88B instrument on the land. The text below has been extracted from a LEC Order, case 10581 of 2012 *Wayne Lawrence Houghton v Shoalhaven City Council* dated 7 September 2012, dated entered 20 September 2012.

55. *A restriction as to user under section 88E of the Conveyancing Act 1919 must be created burdening the land to which this development consent applies in terms that prevent the land being used for the purposes of tourist accommodation unless the registered proprietor of the lot burdened:*

- a) *contributes to the ongoing maintenance and repair of the Mount Hay Private Road from Bong Bong Road to Chainage 870 (being the area covered by the right of carriageway 10 wide created upon registration of DP639920 ("ROC No 1")), if and when required and as and when they arise, in an amount equal to 8% of the total maintenance and repair costs in addition to the proportion payable by the registered proprietor of the lot burdened in accordance with the terms of ROC No 1;*
- b) *contributes to the ongoing maintenance and repair of the right of carriageway from Chainage 870 to the tourist cabins on the lot burdened (being the area covered by the right of carriageway 10 wide and variable created upon registration of DP639920 ("ROC No 2")), if and when required and as and when they arise, in an amount equal to 11% of the total maintenance and repair costs in addition to the proportion payable by the registered proprietor of the lot burdened in accordance with the terms of ROC No 2;*
- c) *carries out the following regular maintenance of Mount Hay Private Road at his own expense:*
 - i. *the slashing of vegetation along the sides of the road between Bong Bong Road and the lower tributary of Connelly's Creek; and*
 - ii. *keeping passing bays clear of vegetation.*

The restriction as to user in this condition must:

- a) *be registered prior to the issue of an occupation certificate for, and use of, the tourist cabins; and*
- b) *benefit Shoalhaven City Council and name Shoalhaven City Council as the authority with power to release, vary or modify the restriction.*

Advisory Note:

The apportionment identified in condition 55 is based on traffic generated by all of the allotments that use Mount Hay Private Road as at the date of determination of DS11/1485.

If the traffic generation on Mount Hay Private Road increases as a result of further approved development on any of the other lots with the benefit of the use of Mount Hay Private Road, the registered proprietor of the land to which the consent applies may apply to Shoalhaven City Council to release, vary or modify the terms of the restriction."

It is considered that this development has the potential to impact on the apportionment identified in condition 55 of the Order and this issue warrants exploration. Note, Figure 7 showing the extent of

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additional works proposed with the application and described earlier in this report including “*passing bays, traffic signs and tree trimming, which the applicant has advised are capable of being located within the Right of Way.*”

As indicated in supporting documentation, the development would generate 18 daily vehicle movements. It is noted that the applicant considers that the additional traffic generated by the development will not significantly impact on the existing road/s which provide access to the site and surrounding properties. Further to this, the additional traffic, along with the existing traffic generated by the existing tourist facility is not considered to generate traffic in excess of what the existing access road (with improvements) is capable of supporting.

As indicated in the advisory note above if the traffic generation on Mount Hay (private) Road is to increase (as proposed) as a result of this development, the registered proprietor of the subject site needs to apply to Council to release, vary or modify the terms of the restriction.

This matter has not been addressed by the applicant and no request has been made, presumably on the basis that the development will not have a significant impact on the roads.

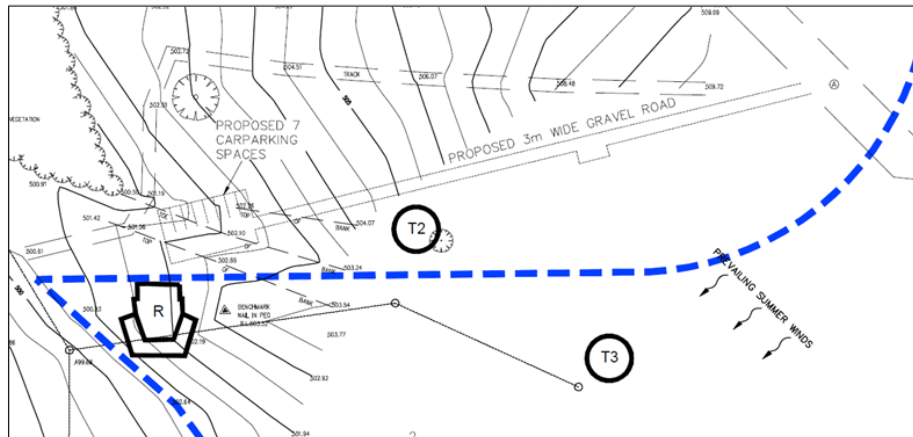


Figure 6 – Extract of the Site Plan showing the location of the proposed access track and onsite parking

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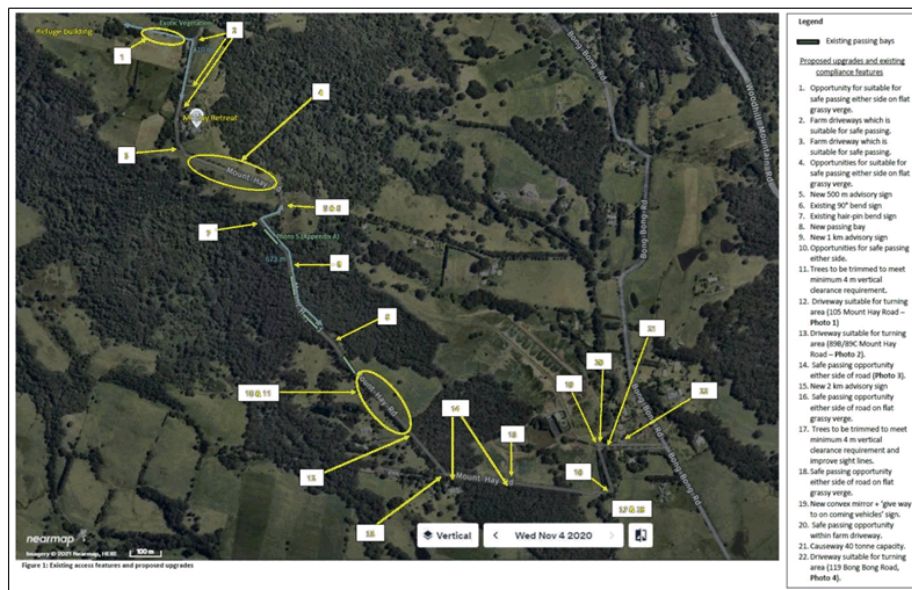


Figure 7 – Existing access features and proposed upgrades to Mount Hay (private) Road

c) Onsite effluent disposal

The proposed development requires onsite effluent disposal, as reticulated sewer is not available to the subject site (refer Figure 8). The submitted report by Harris Environmental Consulting recommends the following:

- Installation of a minimum 3,000L septic tank (4500L preferable), fitted with baffles to minimise turbulent mixing of wastewater in the septic tank;
- Installation of 600L RELN pumpwell (or similar) for each structure to pump wastewater via a 40mm reticulated line to the proposed septic tank;
- Installation of 192sqm of soil absorption trenches, installed as three (3) x 3.2m wide by 20m long trenches to dispose of treated wastewater from the septic tank; and
- Reservation of 192sqm of land for the reserve effluent disposal site, for future expansion or replacement of the existing effluent disposal area.

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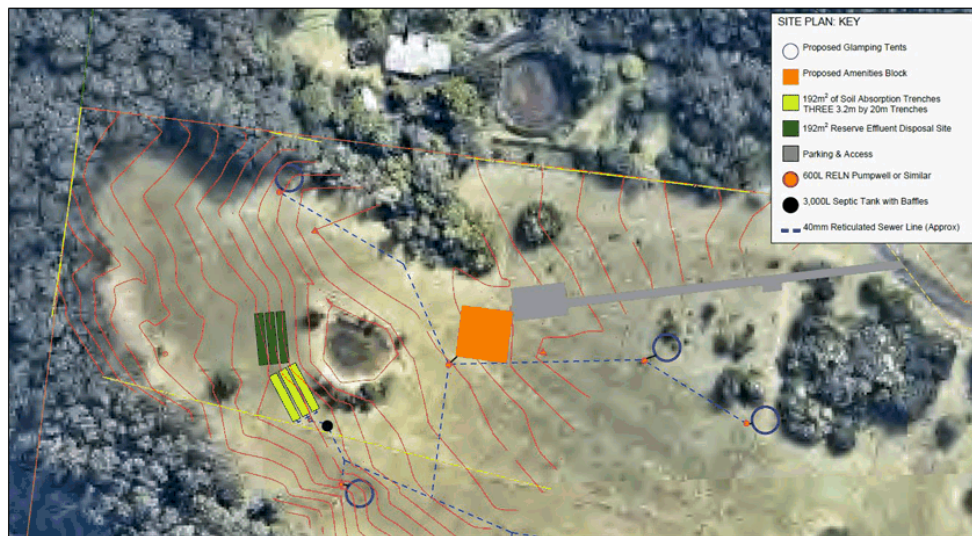


Figure 8 – Extract of the Wastewater Management Plan

2. Subject Site and Surrounds

- The subject site contains an existing tourist and visitor accommodation facility known as the Mt Hay Retreat. There are also a number of ancillary structures and dams on the site. There is scattered vegetation throughout the site, however, the area to be developed as part of this application is cleared.
- The subject site is zoned E3 Environmental Management. The items/works proposed within Mount Hay (private) Road is land zoned RU1 Primary Production and RU2 Rural Landscape.
- The subject site is 47.30ha in area.
- The subject site is identified as being partially bush fire prone land.
- The subject site is located on Mount Hay (private) Road, which intersects through the site.
- The subject site adjoins land zoned E3 Environmental Management, RU1 Primary Production and RU2 Rural Landscape.

3. Background

Post-Lodgement

The following provides details on post-lodgement actions for context:

- This application was lodged on 26 June 2020.
- As a result of detailed assessment of the application, additional information was requested from the applicant on seven (7) occasions – 3 July 2020, 5 September 2020, 22 September 2020, 2 November 2020, 17 December 2020, 13 January 2021 and 4 February 2021. The main issues related to the following:
 - Characterisation of the proposed development as 'camping grounds'. The structures did not appear to be temporary or portable and lightweight.
 - Ability to comply with the requirements of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
 - The bush fire assessment report submitted at lodgement incorrectly assessed the proposed development against the requirements of Planning for Bush Fire Protection

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2006 instead of Planning for Bush Fire Protection 2019. Further to this, inadequate information was subsequently provided for NSW Rural Fire Service (RFS) to complete their assessment.

- The items/works proposed within Mount Hay (private) Road as outlined within the submitted report by McLaren Traffic Engineering. It was also relayed to the applicant on 4 February 2021 that it appears that works may be proposed on adjoining land in which case they were requested to provide evidence of owners consent and legal ability to undertake the required works.
- Councillors called in the application due to public interest and concern on 1 September 2020 (MIN20.603).
- On 14 July 2020, 23 October 2020, 28 October 2020, 23 November 2020, 17 December 2020 and 25 March 2021, the applicant submitted additional information, which was subsequently referred to the relevant sections of Council and external agencies where necessary for comment.

The applicant addressed the matters raised for consideration. However, in relation to the matter of owners consent for items/works proposed within Mount Hay (private) Road (shown at Figure 7), the applicant responded as follows in email dated 25 March 2021:

“...Mount Hay is a private road consisting of parts within the Crown road reserve, and parts within the Right of Way is variable in width being mostly 10m wide. The proposed passing bays, traffic signs and tree trimming are capable of being located within the Right of Way. All required consent and approvals will be obtained and in place before any work takes place along the private road. It is anticipated this be reflected in conditions of consent.”

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Site History and Previous Approvals

Darts - since 1st July 2005

Application	Appl. Date	Application Type	Proposal	Status	Completed
DA20/1621	28/06/2020	Development Application	Commercial Additions Camping Ground	Incomplete	
DR19/1184	14/03/2019	SMF Application	Alterations & Additions to an Existing Tourist Facilities	Approved	14/03/2019
CC17/1130	08/02/2017	Construction Certificate	Alterations & Additions to an Existing Tourist Facilities	Approved	24/01/2017
QC15/1270	25/03/2015	Final Occupation Certificate	Commercial	Approved	25/03/2015
DA14/2381	05/11/2014	Development Application	Alterations & Additions to an Existing Tourist Facilities	Approved	28/05/2016
CC12/1944	28/09/2012	Construction Certificate	New Commercial - Five (5) Tourist Cabins	Approved	13/11/2012
DS11/1485	13/12/2011	Section 96 Amendment	Tourist Development - Section 96 to Increase Number of Cabins to 5	Approved	07/09/2012
QC11/1504	02/08/2011	Final Occupation Certificate	New Dwelling (Rural)	Approved	02/08/2011
DS11/1016	21/01/2011	Section 96 Amendment	Section 96 to Delete Plan of Management & Road Access requirements	Approved	18/03/2011
DS07/1439	27/09/2007	Section 96 Amendment	Stage 1: New Dwelling, Swimming Pool & Pool House - S96(1a) to relocate pool house	Approved	18/10/2007
DS06/1490	08/09/2006	Section 96 Amendment	New Dwelling (Rural) - Sec 96 (1) - deleting condition 2 on DA00/2809	Approved	18/09/2006
DS05/3238	20/10/2005	Section 96 Amendment	New Rural Dwelling, pool and cabins - Section 96 Appln	Approved	20/10/2005

Plain Sailing - since 2nd September 1996

Application	Appl. Date	Proposal	Status	Status Date
DS05-1358	23/06/2005	Section 96 Amendment	Approved (O)	15/09/2005
DR99-2500	23/05/2003	Septic Tank Application	Approved (P)	23/05/2003
DA00-2809	22/05/2003	Commercial	Approved (T)	03/09/2003
DS02-1291	15/07/2002	Section 96 Amendment	Approved (O)	21/08/2002
DS01-1265	07/09/2001	Section 96 Amendment	Approved (O)	22/10/2001
BC01-1206	09/04/2001	Building Certificate	Certificate Issued (C)	11/07/2001
DA00-2809	01/09/2000	Commercial	Approved (T)	23/07/2001
DR00-2174	01/09/2000	Septic Tank Application	Approved (P)	23/07/2001
DR99-2500	10/05/1999	Septic Tank Application	Approved (P)	21/05/1999

4. Consultation and Referrals

Internal Referrals			
Referral	Required	Recommendation	Comment
Development Engineer	<input checked="" type="checkbox"/>	No objections subject to recommended conditions of consent (dated 27/05/2021).	Conditions to be imposed should the application be determined by approval.
Building Surveyor	<input checked="" type="checkbox"/>	No objections subject to recommended conditions of consent (dated 04/12/2020).	Conditions to be imposed should the application be determined by approval.
Environmental Health Officer	<input checked="" type="checkbox"/>	No objections subject to recommended conditions of consent (dated 26/11/2020).	Conditions to be imposed should the application be determined by approval.

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External Referrals			
Agency	Required	Recommendation	Comment
Rural Fire Service	<input checked="" type="checkbox"/>	General Terms of Approval and Bush Fire Safety Authority (dated 19/05/2021) have been issued.	Conditions to be imposed, should the application be determined by approval.

5. Other Approvals

Integrated Approvals and Concurrences			
Agency	Required	Recommendation	Comment
Rural Fire Service	<input checked="" type="checkbox"/>	General Terms of Approval and Bush Fire Safety Authority (dated 19/05/2021) have been issued.	Conditions to be imposed, should the application be determined by approval.

6. Statutory Considerations

This report assesses the proposed development/use against relevant State, Regional and Local Environmental Planning Instruments and policies in accordance with Section 4.15 (1) of the Environmental Planning and Assessment Act 1979 (EP&A Act). The following planning instruments and controls apply to the proposed development:

Instrument	Relevant	Instrument	Relevant
Shoalhaven LEP 2014	<input checked="" type="checkbox"/>	State Environmental Planning Policy No 55 - Remediation of Land	<input checked="" type="checkbox"/>
State Environmental Planning Policy (Koala Habitat Protection) 2020 & 2021	<input checked="" type="checkbox"/>	State Environmental Planning Policy No 21 - Caravan Parks	<input checked="" type="checkbox"/>

Additional information on the proposal's compliance with the above planning instruments is detailed below in Section 7 (Statement of Compliance/Assessment) of this report.

7. Statement of Compliance/Assessment

The following provides an assessment of the submitted application against the matters for consideration under Section 4.15 of the EP&A Act.

Planning Report – S4.15 Assessment – 260 Mount Hay Rd (Priv), BROUGHTON VALE - Lot 2 DP 4498

(a) Any planning instrument, draft instrument, DCP and regulations that apply to the land

Environmental Planning and Assessment Act 1979

Section 4.46 – Integrated Development			
Act	Provision	Approval	Relevant
Rural Fires Act 1997	100B	Authorisation under section 100B in respect of bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes	<input checked="" type="checkbox"/>

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

The application seeks development consent to establish primitive camping grounds. The application has been assessed against Part 3 Division 3 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds, Moveable Dwellings) Regulation 2005.

Division 3 – Caravan Parks and Camping Grounds
Subdivision 1 - Land and site requirements
N/A – Does not apply to primitive camping grounds.
Subdivision 2 - Setbacks
N/A – Does not apply to primitive camping grounds.
Subdivision 3 – Roads
N/A – Does not apply to primitive camping grounds.
Subdivision 4 – Utility services
N/A – Does not apply to primitive camping grounds.
Subdivision 5 – Shower and toilet facilities
N/A – Does not apply to primitive camping grounds.
Subdivision 6 – Laundry facilities
N/A – Does not apply to primitive camping grounds.
Subdivision 7 - Management
N/A – Does not apply to primitive camping grounds.
Subdivision 8 - General
N/A – Does not apply to primitive camping grounds.

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Subdivision 9 – Primitive camping grounds		
Development Control	Proposal	Compliance
132 – Primitive camping grounds		
1) If an approval to operate a primitive camping ground designates one or more camp sites within that ground, then the maximum number of designated camp sites is not to exceed a mean average of 2 for each hectare of the camping ground (where that figure is the average calculated over the total area of the primitive camping ground).	<p>The proposal designates six (6) camp sites.</p> <p>The subject site is 47.30 hectares.</p> <p>The application for six (6) camp sites does not exceed the density requirements.</p>	Yes
2) The following conditions apply to a primitive camping ground:		
a) if the approval to operate the primitive camping ground designates one or more camp sites within that ground—camping is not permitted within the primitive camping ground other than on those designated camp sites,	<p>The proposal designates six (6) camp sites.</p> <p>Any consent granted, should the application be determined by approval, would specify that camping is not permitted onsite except within the designated camp sites.</p>	Yes
b) if the approval to operate the primitive camping ground does not designate one or more camp sites within that ground—the maximum number of caravans, campervans and tents permitted to use the camping ground at any one time is not to exceed a mean average of 2 for each hectare of the camping ground (where that figure is the average calculated over the total area of the primitive camping ground),	N/A – The proposal designates six (6) camp sites. Camping is not permitted except within the designated camp sites.	N/A
c) a caravan, annexe or campervan must not be allowed to be installed closer than 6 metres to any other caravan, annexe, campervan or tent,	Any consent granted, should the application be determined by approval, would require the primitive camping grounds to comply with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.	Yes

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d) a tent must not be allowed to be installed closer than 6 metres to any caravan, annexe or campervan or closer than 3 metres to any other tent,	Any consent granted, should the application be determined by approval, would require the primitive camping grounds to comply with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.	Yes
e) the camping ground must be provided with a water supply, toilet and refuse disposal facilities as specified in the approval for the camping ground,	Appropriate water, toilet and refuse facilities will be provided for the development.	Yes
f) unoccupied caravans, campervans and tents are not to be allowed to remain in the camping ground for more than 24 hours,	Any consent granted, should the application be determined by approval, would require the primitive camping grounds to comply with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.	Yes
g) if a fee is charged for camping, a register must be kept that contains entries concerning the same matters as are specified in clause 122 and, in addition, that specifies the size of the group (if any) with whom the person listed in the register camped,	Any consent granted, should the application be determined by approval, would require the primitive camping grounds to comply with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.	Yes
h) such fire fighting facilities as may be specified in the approval are to be provided at the primitive camping ground.	Any consent granted, should the application be determined by approval, would require the primitive camping grounds to comply with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.	Yes
3) If the approval to operate a primitive camping site does not designate camp sites, a council may impose as a condition of the approval that the installation of tents, caravans, campervans and annexes is not permitted on a particular area or areas of land within the primitive camping ground, for reasons of health or	The approval to operate a primitive camping site is a separate approval issued under Section 68 of the Local Government Act 1993.	N/A

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safety or to ensure consistency with the principles of ecologically sustainable development or for any other purpose.		
4) The provisions of Subdivisions 1–8 do not apply to a primitive camping ground.	As above.	Noted.
5) For the purposes of subclause (2)(b), in the calculation of the number of tents using a camping ground, 2 or more tents occupied by not more than 12 persons camping together as a group are to be counted as only one tent.	As above.	Noted.
6) The general manager of the council for the area in which a primitive camping ground is located may modify the conditions under this clause as they apply to the camping ground if the general manager is reasonably satisfied that it is necessary to do so for the purposes of accommodating persons who have been displaced because of bush fires.	This relates to an existing approval to operate under Section 68 of the Local Government Act 1993.	N/A

i) **Environmental planning instrument**

SEPP 21 Caravan Parks

Clause 6 of this Policy defines *caravan park* as “*land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.*” (emphasis added)

Clause 7 of this Policy states:

“7 Application of certain planning controls to places licensed for movable dwellings

In any environmental planning instrument (whether made before or after this Policy), references (however expressed) to caravan parks or to camping grounds, or to caravan parks and camping grounds, include references to caravan parks, within the meaning of this Policy.”

The inclusion of the words “including a camping ground” is accordingly taken to include camping grounds, and the term “caravan parks” intended to capture the camping ground use, and thus the provisions of this Policy apply to the proposed development. This is further established through *Wygiren Pty Limited v Kiama Municipal Council* [2008] NSWLEC 56 and *Najask Pty Ltd v Palerang Council* [2009] NSWCA 39.

Clauses 8 and 10 of this Policy are applicable and are further assessed below:

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8 Development consent required for caravan parks	
(1) Development for the purposes of a caravan park may be carried out only with the development consent of the Council.	The subject application seeks consent for a camping ground which as noted above is captured under the definition of “caravan park”.
(2) Before granting development consent to the use of land for the purposes of a caravan park, a Council must determine—	
(a) the number of sites (if any) within that land that the Council considers are suitable for long-term residence, within the meaning of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993, and	N/A No long-term sites are proposed. The Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993 has been repealed and replaced by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
(b) the number of sites (if any) within that land that the Council considers are not suitable for long-term residence, but are suitable for short-term residence, within the meaning of that Regulation.	All sites are for short-term purposes.
(3) A Council must not grant development consent to the use of land for the purposes of a caravan park unless it imposes as a condition of that consent a condition specifying the maximum number of sites (if any) within that land that may be used for long-term residence.	A condition would be imposed with any consent granted to address this should the application be determined by approval.
(4) The holder of an approval under Part 1 of Chapter 7 of the Local Government Act 1993 to operate a caravan park or camping ground on land must not, without the development consent of the Council, allow a person to occupy a site within that land— (a) for a continuous period of more than 3 months, except as provided by paragraph (b), or (b) for a continuous period longer than the period (if any) for which the person is allowed to be accommodated within the land by an extension that has been granted under clause 19 (6) of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993, if such a use of that site was not lawful under the Environmental Planning and Assessment Act 1979 when this Policy commenced.	Section 68 approval would need to be obtained under the Local Government Act 1993 prior to operating, setting out the requirements for the length of stay for a person occupying a site. A condition would be imposed with any consent granted to address this should the application be determined by approval.
(4A) Except as provided by subclause (4), nothing in this Policy or any other environmental planning instrument requires separate development consent	Noted.

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<i>to be obtained for the installation or placement of a moveable dwelling on land on which development for the purposes of a caravan park is being lawfully carried out.</i>	
<i>(5) This clause does not apply to any land that is authorised to be used for the purposes of a manufactured home estate by a development consent granted pursuant to State Environmental Planning Policy No 36—Manufactured Home Estates or dedicated or reserved under the National Parks and Wildlife Act 1974.</i>	N/A

10 Matters to be considered by Councils

A Council may grant a development consent required by this Policy only after it has considered the following—	
(a) whether, because of its location or character, the land concerned is particularly suitable for use as a caravan park for tourists or for long-term residence,	The subject site, as outlined in this assessment report is considered suitable for the purpose of short-term tourist use. The site is zoned to permit camping grounds and the small scale of the proposed development has demonstrated that there will be minimal impacts associated with the use and any potential impacts are able to be satisfactorily managed through design or conditions of consent.
(b) whether there is adequate provision for tourist accommodation in the locality of that land, and whether existing or potential tourist accommodation will be displaced by the use of sites for long-term residence,	The region in which the camping ground is proposed has capacity for tourist development and no existing or potential tourist accommodation will be displaced through the approval of this application.
(c) whether there is adequate low-cost housing, or land available for low-cost housing, in that locality,	N/A
(d) whether necessary community facilities and services are available within the caravan park to which the development application relates or in the locality (or both), and whether those facilities and services are reasonably accessible to the occupants of the caravan park,	The proposed communal camp kitchen is to consist of a kitchen, dining area, outside deck, games room, accessible bathroom, and store, and to be located centrally to the proposed development area. This is considered suitable for the proposed primitive camping ground use.
(e) any relevant guidelines issued by the Director, and	N/A
(f) the provisions of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993.	The relevant provisions of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and

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	Moveable Dwellings) Regulation 2005 have been considered earlier in this report.
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In light of the above assessment the proposal is considered to satisfactorily meet the provisions of this Policy and raises no reasons for the refusal of the application.

SEPP 55 Remediation of Land

Question	Yes	No
1. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)?	Proceed to Question 3	X Proceed to Question 2
2. Does the proposal result in a change of use (that is the establishment of a new use)?	X Proceed to Question 3	Assessment under SEPP 55 and DCP not required.
3. Does the application proposed a new: <ul style="list-style-type: none"> Child care facility Educational use Recreational use Health care use Place of public worship Residential use in a commercial or industrial zone 	Proceed to Question 5	X Proceed to Question 4
4. Review the property file and conduct a site inspection of the site and surrounding lands. Is there any evidence that the land has been used for a listed purpose?	Proceed to Question 5	X Proposal satisfactory under SEPP 55 and DCP.
5. Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater?	Request contaminated site assessment	Proposal satisfactory under SEPP 55 and DCP.

The site was inspected on 13 January 2021, with there being no evidence of obvious contamination in the area to be developed.

Accordingly, it is considered that the proposal is satisfactory under SEPP 55 and SDCP 2014.

SEPP (Koala Habitat Protection) 2020 & 2021

This Policy is required to be addressed for this development as it occurs on a site that has an area of more than 1ha and is within a local government area listed in Schedule 1.

As there is no local population, there is likely to be no impacts on koalas or habitat.

There is also no approved Koala Plan of Management applicable to the subject site.

Shoalhaven LEP 2014

Land Zoning

The land where the proposed camping ground is situated is zoned E3 Environmental Management and Mount Hay (private) Road, upon which road upgrade works will be required, is zoned RU1 Primary Production and RU2 Rural Landscape under the SLEP 2014.

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Characterisation and Permissibility

The subject development has been presented to Council as “*proposed primitive camping grounds consisting of six (6) tent sites and amenities, and a communal camp kitchen*”.

- Inconsistency in information

It is noted that there are inconsistencies in the submitted documentation.

The submitted traffic report refers to the proposed development as “tourist cabins”.

The applicant has also indicated in the submitted Statement of Environmental Effects that “*the tent sites provide flexibility for tents such as a bubble tent, tiny home, or could be provided without accommodation on site for clients to bring their own*”.

“Tiny homes” may be considered as caravans and therefore would not be consistent with the proposed camping grounds use. However, in this regard, no details have been provided with the application.

The submitted plans have only demonstrated a possible tent which could be provided to each tent site.

Accordingly, Council has based its assessment on the applicant’s request and that shown on the submitted plans.

Based on the applicant’s request, the proposal would be best characterised as *camping grounds* under the SLEP 2014. The proposal is permitted with the consent of Council in the applicable zones identified above.

- Consistency with zone objectives

It is considered that the proposed development satisfies the relevant zone objectives (particularly E3 – see below) by providing opportunities for low impact camping within the rural environment.

The E3 zone is described as an “Environmental Management” zone which is intended to:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To protect the natural and cultural features of the landscape, including coastal and foreshore areas, that contribute to scenic value and visual amenity.*
- *To maintain the stability of coastal land forms and protect the water quality and ecological values of estuaries and coastal streams.*

- Permissibility

Land uses in E3 Environmental Protection:

2 **Permitted without consent** *Home occupations*

3 **Permitted with consent** *Animal boarding or training establishments; Boat building and repair facilities; Boat sheds; Building identification signs; Business identification signs; **Camping grounds**; Cellar door*

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premises; Charter and tourism boating facilities; Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Environmental facilities; Environmental protection works; Extensive agriculture; Forestry; Group homes; Helipads; Home-based child care; Home businesses; Home industries; Information and educational facilities; Kiosks; Oyster aquaculture; Pond-based aquaculture; Recreation areas; Research stations; Roads; Roadside stalls; Sewerage systems; Tank-based aquaculture; Tourist and visitor accommodation; Water recreation structures; Water supply systems

4 Prohibited

Hotel or motel accommodation; Industries; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Serviced apartments; Warehouse or distribution centres; Any other development not specified in item 2 or 3

The applicant has advised that the development will be marketed as “glamorous camping” as each tent site is to be provided with an amenities structure for private use; and that this style of ‘luxury’ camping will provide a unique type of tourist accommodation, that is in keeping with the rural aesthetics and amenity of the area.

With further regard to the permissibility of the development, Council staff have obtained legal advice on the matter (attached as a confidential item at Attachment 3 of the Council Report) regarding the characterisation of camping grounds. This advice is confidential as it may affect legal privilege and the matter is still in progress.

There are two (2) factors to consider with regard to the permissibility of the proposed development, and the definition of the use as a ‘camping ground’.

Considering permissibility, the first question is not whether the proposed use meets the definition of ‘camping ground’, but whether the use falls within any permissible use within the E3 Environmental Management zone (and RU1 and RU2 zones as it pertains to road upgrade works ancillary to the development). Clause 2.3 of SLEP 2014 and the Land Use Table outlines the respective land uses permitted without consent, permitted with consent, or prohibited.

Accordingly, in the applicable zoning if the development cannot be characterised as a land use identified as “*development that may be carried out without development consent*”, or “*development that may be carried out with development consent*” land uses, the development will be prohibited, being “*Any other development not specified in item 2 or 3*”.

Review of permissible uses that may be applicable to the proposed use include camping grounds, eco tourist facility and tourist and visitor accommodation. The best characterisation of the use is considered to be ‘camping ground’, however, more broadly, it is also noted that the ‘group’ or ‘parent’ term of *tourist and visitor accommodation* is also a permissible use. Accordingly, all terms within the ‘group term’ definition in the SLEP 2014 Dictionary are permissible, with the exception of any ‘child term’ listed as prohibited in the Land Use Table. The definition for tourist and visitor accommodation is produced below:

“tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following—

- (a) backpackers’ accommodation,**
- (b) bed and breakfast accommodation,**
- (c) farm stay accommodation,**
- (d) hotel or motel accommodation,**
- (e) serviced apartments,**

but does not include—

- (f) camping grounds, or**
- (g) caravan parks, or**

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(h) *eco-tourist facilities.*

The proposal could accordingly also be considered a 'tourist and visitor accommodation' being "a building or place that provides temporary or short-term accommodation on a commercial basis" (noting the use does not have to exactly fit within any of the 'included' child terms listed at (a) to (e) to fit the definition). The only prohibited 'child' terms of tourist and visitor accommodation in the E3 Environmental Management zone are hotel or motel accommodation, and serviced apartments, which the proposed development is not.

Accordingly, while the use could be characterised as 'tourist and visitor accommodation' or 'camping ground'; camping ground is still considered the best characterisation as the applicant has used this terminology within the submitted application, and this has been the basis for the subsequent assessment of parking, access and requirements of the development under SDCP 2014. Further to this, the application has not been sought for this purpose and council is limited in its ability to assess the application as has been proposed by an applicant.

The application as a tourist and visitor accommodation has not been assessed by the applicant in the submitted documentation, and accordingly insufficient information has been submitted to demonstrate the permissibility of the proposal within the zone.

- Categorisation as camping ground

The proposal involves the temporary erection of tents (or the like) on permanent timber deck structures, with private ensuite bathrooms and with access to communal amenities.

Camping ground is defined under the Dictionary of SLEP 2014 as:

Camping Ground means an area of **land** that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park. **(emphasis added)**

Land is defined under the EP&A Act (Section 1.4) as:

"land includes—

- (a) the sea or an arm of the sea,
- (b) a bay, inlet, lagoon, lake or body of water, whether inland or not and whether tidal or non-tidal, and
- (c) a river, stream or watercourse, whether tidal or non-tidal, and
- (d) **a building erected on the land.** **(emphasis added)**

Building is defined under the EP&A Act (Section 1.4) as:

"building includes part of a building, and also includes any structure or part of a structure (including any temporary structure or part of a temporary structure), but does not include a manufactured home, moveable dwelling or associated structure within the meaning of the Local Government Act 1993." **(emphasis added)**

Accordingly, while the tents are to be erected on structures, these proposed structures are considered to be both:

- Defined as "land" for the purpose of the definition of "camping ground"; and
- Ancillary to the proposed use.

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The definition of a “camping ground” when referring to “an area of land” includes the proposed structure and that by erecting tents on the structure does not cause the use to be contrary to the definition. The proposed timber structures themselves are considered to be ancillary and incidental to the use of the land for the purpose of a camping ground.

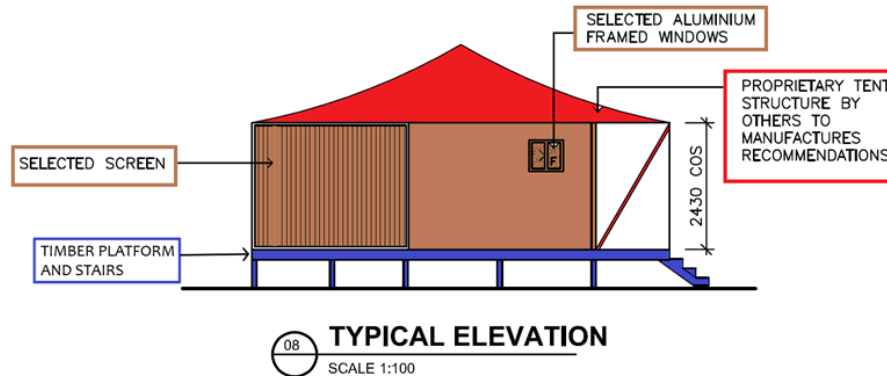


Figure 9 – Marked up elevation plan of proposed platforms and ensuite

The proposed platforms (highlighted in blue at Figure 9), however also include the construction of private bathrooms (highlighted in brown) which are permanent fixed buildings. The tent structure (highlighted in red) would affix to these permanent components of the development.

While the platforms themselves may be an ancillary structure to a camping ground, the proposed private ensuite bathrooms are permanently fixtured, and not ‘portable and lightweight’. Being permanent private bathrooms, which are additional to the provision of communal bathrooms provided in the camp kitchen building, these are not considered incidental to the use as a camping ground. While the definition of a camping ground does not prevent or prohibit the provision of private facilities, it is considered the permanency of the ensuite bathrooms undermines the ability of the development to be properly characterised as development for the purpose of a “camping ground” as defined in SLEP 2014.

Any ancillary or incidental structure associated with the erection of a tent, that is not a ‘communal amenity’, should also be ‘light weight and portable’ in nature, including any ancillary private ensuite or bathroom which any tent would privately utilise. The proposed development as a whole therefore is not considered to be consistent with the definition of ‘camping ground’.

This forms part of the reason for refusal of the application.

- Primitive camping

The Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 defines a *primitive camping ground* as follows:

“primitive camping ground means a camping ground that is specified in its approval as being a primitive camping ground.”

This definition however is not relevant for the specific purpose of characterisation of the use under the EP&A Act and the subject application. Put simply, the first step is to describe the development having regard to the planning definitions available and ascertaining if it is permissible or not having regard to the planning instrument.

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It is considered appropriate to consider this definition for future section 68 approvals and the requirements under the Local Government Act 1993 and associated Regulations.

- Commentary on objectives

E3 Zone objectives

Objective	Comment
• To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.	Satisfies the nominated objective.
• To provide for a limited range of development that does not have an adverse effect on those values.	Satisfies the nominated objective.
• To protect the natural and cultural features of the landscape, including coastal and foreshore areas, that contribute to scenic value and visual amenity.	Satisfies the nominated objective.
• To maintain the stability of coastal land forms and protect the water quality and ecological values of estuaries and coastal streams.	Satisfies the nominated objective.

RU1 Zone objectives

Objective	Comment
• To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.	Satisfies the nominated objective.
• To encourage diversity in primary industry enterprises and systems appropriate for the area.	Satisfies the nominated objective.
• To minimise the fragmentation and alienation of resource lands.	Satisfies the nominated objective.
• To minimise conflict between land uses within this zone and land uses within adjoining zones.	Satisfies the nominated objective.
• To conserve and maintain productive prime crop and pasture land.	Satisfies the nominated objective.
• To conserve and maintain the economic potential of the land within this zone for extractive industries.	Satisfies the nominated objective.

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RU2 Zone objectives

Objective	Comment
• To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.	Satisfies the nominated objective.
• To maintain the rural landscape character of the land.	Satisfies the nominated objective.
• To provide for a range of compatible land uses, including extensive agriculture.	Satisfies the nominated objective.

SLEP 2014 Clauses

Clause	Relevant	Comments	Complies/ Consistent
Part 5 Miscellaneous provisions			
5.10	<input checked="" type="checkbox"/>	The subject site is in the vicinity of land on which a heritage item is located – being Item No. 144, Colonial weatherboard cottage, at Lot 103 DP 786955 (119 Bong Bong Road). However, the proposed development will not affect the heritage significance of this item and a heritage management document is not required.	Yes
Part 7 Additional local provision			
7.1	<input checked="" type="checkbox"/>	Not applicable. The subject site is identified as Class 5 land and the works proposed to facilitate the development are not likely to lower the watertable. An acid sulfate soils management plan is not required.	N/A
7.2	<input checked="" type="checkbox"/>	Earthworks will be required to facilitate the development. The provisions of subclause (3) have been considered. The proposed earthworks will have no detrimental effect on use of the subject site or the existing and likely amenity of adjoining properties. Appropriate conditions could be imposed should the application be determined by approval, including the requirement for sediment and erosion controls for the duration of construction works.	Yes
7.6	<input checked="" type="checkbox"/>	A number of watercourses, identified as “Watercourse Category 2”, appear to originate on the site, and flow to the south. The subject site is not identified as “Riparian Land”. The development is to be sited and will be managed to avoid any significant adverse environmental impact on these watercourses.	Yes

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7.7	<input checked="" type="checkbox"/>	Portions of the subject site have a slope of >20%. The location of the proposed tents however are positioned on land that has a slope of >20% and accordingly the proposed development is satisfactory. There is no concern that the proposal would adversely impact the geotechnical stability of the site or increase erosion or other land degradation.	Yes
7.11	<input checked="" type="checkbox"/>	Services are available.	Yes

ii) Draft Environmental Planning Instrument

None relevant.

The Draft Illawarra Shoalhaven Regional Plan 2041 does not raise any additional matters for consideration as part of the assessment of this application.

iii) Any Development Control Plan

Shoalhaven DCP 2014

Generic Chapters	Relevant
<u>G1:</u> Site Analysis, Sustainable Design and Building Materials in Rural and Coastal Areas	<input checked="" type="checkbox"/>
The provisions of this chapter have been considered and adequately addressed.	
<u>G2:</u> Sustainable Stormwater Management and Erosion/Sediment Control	<input checked="" type="checkbox"/>
The provisions of this chapter have been considered and Council's Development Engineer has raised no objections subject to conditions of consent being imposed should the application be determined by approval.	
<u>G3:</u> Landscaping Design Guidelines	<input checked="" type="checkbox"/>
The provisions of this chapter have been considered and no objections are raised in principle with the submitted design, noting that a landscape plan has not been provided with this application.	
The development will retain existing vegetation onsite. Given the rural nature of the site, the existing ground cover and vegetation will be retained as landscaping.	
<u>G4:</u> Removal and Amenity of Trees	<input checked="" type="checkbox"/>
The provisions of this chapter have been considered.	
There is no tree removal proposed as part of this application. The development area is predominately grassed, with the areas of denser vegetation and scattered trees. The proposed tent sites, camp kitchen and effluent disposal areas take advantage of the cleared and managed portions, and therefore do not require the removal of existing vegetation. The tent sites do not require asset protection zones. The camp kitchen will be used as a refuge building in the event that evacuation is not possible. In this case, the asset protection zones are currently established.	
<u>G5:</u> Threatened Species Impact Assessment	<input checked="" type="checkbox"/>

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As above.	
G7: Waste Minimisation and Management Controls	<input checked="" type="checkbox"/>
The provisions of this chapter have been considered and no objections are raised with the submitted Waste Management Plan subject to conditions of consent being imposed should the application be determined by approval.	
G8: Onsite Sewage Management	<input checked="" type="checkbox"/>
The provisions of this chapter have been considered and Council's Environmental Health Officer has raised no objections subject to conditions of consent being imposed should the application be determined by approval.	
G10: Caravan Parks in Flood Prone Areas	
<p>The proposed road works to Mount Hay (private) Road are located within land identified as flood prone.</p> <p>This chapter states as an Advisory Note: <i>"Manufactured home estates, caravan parks and camping grounds will all be referred to as caravan parks from here on"</i>. Accordingly, an assessment against these planning requirements is warranted.</p> <p>No flood assessment report has been submitted as the subject site is not identified as being flood prone. However, it is noted that Mount Hay (private) Road does contain a small portion of flood affected land in close proximity to Bong Bong Road. The applicant has contended that the subject site is deemed to have reliable access during 1% AEP flood events.</p> <p>It is noted that the proposed camping ground development is located on a flood free portion of the site, however, access to the site is restricted in the event of a flood. A flood evacuation plan is to be prepared for this development subject to conditions of consent being imposed should the application be determined by approval.</p> <p>The proposal is accordingly considered consistent with the provisions of this Chapter.</p>	
G15: Tourist and Visitor Accommodation	<input checked="" type="checkbox"/>
The provisions of this chapter do not apply to camping grounds.	
G21: Car Parking and Traffic	<input checked="" type="checkbox"/>
<p>The provisions of this chapter have been considered and Council's Development Engineer has raised no objections subject to conditions of consent being imposed should the application be determined by approval.</p> <p>It is noted that access to the subject site has been assessed in the submitted traffic report and plan detailing improvements. The recommendations as set out in the report are generally accepted. The additional passing bay would need to be conditioned to be constructed in accordance with Planning for Bush Fire Protection 2019.</p> <p>A LEC decision in relation to a DA (lodged with Council in 2000), for a staged development including a new dwelling and tourist development required the developer of the site to obtain insurance but to also emplace an 88B on the land. The text below has been extracted from a LEC Order, case 10581 of 2012 <i>Wayne Lawrence Houghton v Shoalhaven City Council</i> dated 7</p>	

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September 2012, dated entered 20 September 2012. Whilst this is referred to earlier, it is reproduced for convenience here:

55. A restriction as to user under section 88E of the Conveyancing Act 1919 must be created burdening the land to which this development consent applies in terms that prevent the land being used for the purposes of tourist accommodation unless the registered proprietor of the lot burdened:

- a) contributes to the ongoing maintenance and repair of the Mount Hay Private Road from Bong Bong Road to Chainage 870 (being the area covered by the right of carriageway 10 wide created upon registration of DP639920 ("ROC No 1")), if and when required and as and when they arise, in an amount equal to 8% of the total maintenance and repair costs in addition to the proportion payable by the registered proprietor of the lot burdened in accordance with the terms of ROC No 1;
- b) contributes to the ongoing maintenance and repair of the right of carriageway from Chainage 870 to the tourist cabins on the lot burdened (being the area covered by the right of carriageway 10 wide and variable created upon registration of DP639920 ("ROC No 2")), if and when required and as and when they arise, in an amount equal to 11% of the total maintenance and repair costs in addition to the proportion payable by the registered proprietor of the lot burdened in accordance with the terms of ROC No 2;
- c) carries out the following regular maintenance of Mount Hay Private Road at his own expense:
 - i. the slashing of vegetation along the sides of the road between Bong Bong Road and the lower tributary of Connelly's Creek; and
 - ii. keeping passing bays clear of vegetation.

The restriction as to user in this condition must:

- a) be registered prior to the issue of an occupation certificate for, and use of, the tourist cabins; and
- b) benefit Shoalhaven City Council and name Shoalhaven City Council as the authority with power to release, vary or modify the restriction.

Advisory Note:

The apportionment identified in condition 55 is based on traffic generated by all of the allotments that use Mount Hay Private Road as at the date of determination of DS11/1485.

If the traffic generation on Mount Hay Private Road increases as a result of further approved development on any of the other lots with the benefit of the use of Mount Hay Private Road, the registered proprietor of the land to which the consent applies may apply to Shoalhaven City Council to release, vary or modify the terms of the restriction."

It is considered that this development has the potential to impact on the apportionment identified in condition 55 of the Order and this issue warrants exploration. Note Figure 5 showing the extent of additional works proposed with the application and described earlier in this report including "passing bays, traffic signs and tree trimming, which the applicant has advised are capable of being located within the Right of Way."

As indicated in supporting documentation, the development would generate 18 daily vehicle movements. It is noted that the applicant considers that the additional traffic generated by the development will not significantly impact on the existing road/s which provide access to the site and surrounding properties. Further to this, the additional traffic, along with the existing traffic generated by the existing tourist facility is not considered to generate traffic in excess of what the existing access road is capable of supporting.

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As indicated in the advisory note above if the traffic generation on Mount Hay (private) Road is to increase (as proposed) as a result of this development, the registered proprietor of the subject site needs to apply to Council to release, vary or modify the terms of the restriction.

This matter has not been addressed by the applicant and no request has been made.

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

Nil

iv) Environmental Planning and Assessment Regulation 2000

Clause	Comment
49 Persons who can make development applications	
1. A development application may be made— (a) by the owner of the land to which the development application relates, or (b) by any other person, with the consent of the owner of that land.	<p>This application has been made by a person other than the owner of the subject land, being Mr Anthony Houghton of Mt Hay Pty Ltd c/o SET Consultants Pty Ltd.</p> <p>No evidence has been provided that this has been made with the consent of all relevant landowners, noting the items/works proposed within Mount Hay (private) Road as outlined within the submitted report by McLaren Traffic Engineering.</p> <p>Given that the application makes reference to works in the road reserve, consent is required. (Stokes v Waverley Council (No. 2) [2019] NSWLEC 1137 & 174 and [2020] NSWLEC 1224)</p> <p>As detailed earlier in this report, the subject site is accessed by a Right of Way known as Mount Hay (private) Road. The site and several other allotments to the north of this site benefit from a Right of Way that burdens Lot 102 and Lot 103 DP 786955 which are located to the south, with Lot 102 adjoining at the southern boundary of the subject site. Mount Hay (private) Road comprises sections of Crown road reserve and Rights of Way through Lots 102 and 103 which do not align with Crown road reserve. It remains a private road.</p> <p>The applicant has indicated in email advice dated 25/03/2021 that "all required consent and approvals will be obtained and in place before any work takes place along the private road".</p> <p>Owner's consent must be provided by the time a consent authority determines whether to grant development consent.</p>

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2.	<p>The consent of the owner of the land is not required for a development application made by a public authority, or for a development application for public notification development, if the applicant instead gives notice of the application—</p> <p>(a) to the owner of the land before the application is made, or</p> <p>(b) by publishing a notice no later than 14 days after the application is made—</p> <p>(i) in a newspaper circulating in the area in which the development is to be carried out, and</p> <p>(ii) in the case of an application made by a public authority, on the public authority's website, or, in the case of public notification development, on the NSW planning portal.</p>	Not applicable.
3.	Despite subclause (1), a development application made by a lessee of Crown land may only be made with the consent given by or on behalf of the Crown.	Not applicable.
3A.	Despite subclause (1), a development application made in respect of land owned by a Local Aboriginal Land Council may be made by a person referred to in that subclause only with the consent of the New South Wales Aboriginal Land Council.	Not applicable.
4.	Subclause (3) does not require the consent of the Crown if the development application is for State significant development made by a public authority or public notification development.	Not applicable.
4A.	The consent of an owner or other person under this clause is not required to be in writing.	Noted.
5.	<p>In this clause—</p> <p>public authority includes an irrigation corporation within the meaning of the <i>Water Management Act 2000</i> that the Minister administering that Act has, by order in writing, declared to have the status of a public authority for the purposes of this clause in relation to development of a kind specified in the order.</p> <p>public notification development means—</p> <p>(i) State significant development set out in clause 5 (Mining) or 6 (Petroleum (oil and gas)) of Schedule 1 to <i>State Environmental Planning Policy (State and Regional Development) 2011</i> but it does not include development to the</p>	Noted.

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	<p>extent that it is carried out on land that is a state conservation area reserved under the <i>National Parks and Wildlife Act 1974</i>, or</p> <p>(ii) State significant development on land with multiple owners designated by the Planning Secretary for the purposes of this clause by notice in writing to the applicant for the State significant development.</p>	
92 What additional matters must a consent authority take into consideration in determining a development application?		
1.	<p>For the purposes of section 4.15 (1) (a) (iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application:</p> <p>(a) (Repealed)</p> <p>(b) in the case of a development application for the demolition of a building, the provisions of AS 2601,</p> <p>(c) in the case of a development application for the carrying out of development on land that is subject to a subdivision order made under Schedule 5 to the Act, the provisions of that order and of any development plan prepared for the land by a relevant authority under that Schedule.</p>	<p>(a) Noted.</p> <p>(b) Not applicable.</p> <p>(c) Not applicable.</p>
2.	<p>In this clause:</p> <p>AS 2601 means the document entitled Australian Standard AS 2601—1991: <i>The Demolition of Structures</i>, published by Standards Australia, and as in force at 1 July 1993.</p>	Noted.
98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989		
1.	<p>For the purposes of section 4.17 (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:</p> <p>(a) that the work must be carried out in accordance with the requirements of the <i>Building Code of Australia</i>,</p> <p>(b) in the case of residential building work for which the <i>Home Building Act 1989</i> requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.</p>	Noted. Subject to conditions of consent (if approved).

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98A Erection of signs		
1.	For the purposes of section 4.17 (11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.	Noted. Subject to conditions of consent (if approved).
2.	<p>A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:</p> <ul style="list-style-type: none"> (a) showing the name, address and telephone number of the principal certifying authority for the work, and (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and (c) stating that unauthorised entry to the work site is prohibited. 	Subject to condition of consent (if approved).
3.	Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.	Subject to condition of consent (if approved).

v) Any [coastal zone management plan](#)

Not applicable.

Council Policies

Shoalhaven Contribution Plan 2019

The proposed development is considered to increase the demand for community facilities in accordance with the Shoalhaven Contributions Plan 2019 (the Plan). The development is most aptly characterised as a Caravan Park/Tourist Accommodation development for the purpose of calculating contributions under the Plan.

In relation to the tent sites, it is noted that they would each be considered to contain one (1) bedroom.

It is also considered the development should benefit from a 1ET credit for the existing subject site.

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Caravan Park/Tourist Accommodation

	Existing	Proposed
1 Bedroom Unit, Relocatable Dwelling, Motel Room, Cabin	1	6
2 Bedroom Unit, Relocatable Dwelling, Motel Room, Cabin	0	0
3 Bedroom Unit, Relocatable Dwelling, Motel Room, Cabin	0	0
4 Bedroom Unit, Relocatable Dwelling, Motel Room, Cabin	0	0
Bed & Breakfast Bedroom	0	0
Total ET		2.0
		0

Project	Description	Rate	Qty	Total	GST	GST Incl
01AREC5006	Northern Shoalhaven Sports Stadium	\$700.23	2.0	\$1,400.46	\$0.00	\$1,400.46
01AREC5007	Nowra Swimming Pool Expansion (Scenic Drive)	\$543.04	2.0	\$1,086.08	\$0.00	\$1,086.08
01AREC5009	Planning Area 1 recreational facilities upgrades (various locations)	\$733.01	2.0	\$1,466.02	\$0.00	\$1,466.02
CWAREC5005	Shoalhaven Community and Recreational Precinct SCaRP Cambewarra Road Bomaderry	\$1,931.92	2.0	\$3,863.84	\$0.00	\$3,863.84
CWFIRE2001	Citywide Fire & Emergency services	\$138.13	2.0	\$276.26	\$0.00	\$276.26
CWFIRE2002	Shoalhaven Fire Control Centre	\$202.07	2.0	\$404.14	\$0.00	\$404.14
CWMGMT3001	Contributions Management & Administration	\$574.39	2.0	\$849.68	\$0.00	\$849.68
				Sub Total:		\$9,346.48
				GST Total:		\$0.00
				Estimate Total:		\$9,346.48

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

Head of Consideration	Comment
Natural Environment	Subject to recommended conditions of consent as detailed in this report, should the application be determined by approval, it is considered that there will be no adverse impacts upon the natural environment.
Built Environment	Subject to recommended conditions of consent as detailed in this report, should the application be determined by approval, it is considered that there will be no adverse impacts upon the built environment.
Social Impacts	It is considered that there will be minimal social impacts.
Economic Impacts	It is considered that there will be no adverse economic impacts.

(c) Suitability of the site for the development

It is considered that the site will be suitable for the proposed development.

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(d) Submissions made in accordance with the Act or the regulations

The DA was notified in accordance with Council's Community Consultation Policy for Development Applications. 158 submissions were received by Council in relation to the proposal. The concerns raised are outlined below:

Summary of Public Submissions	
Objection Raised	Comment
<p><u>Land use and permissibility</u></p> <p>The definition of a camping ground means an area of land on which tents or similar portable and lightweight temporary shelters are placed.</p> <p>However, the DA states —</p> <ul style="list-style-type: none"> Each tent site has a permanent base, with timber boardwalk, ensuite amenities & luxury bath Permanent facilities capable of supporting tent structures such as; a bubble tent, tiny home Each tent site is provided with an amenities structure for private use. <p>Based on the proposed description of development, it is unclear as to whether the structures will be portable, lightweight and/or temporary. In effect, they may be erected on a permanent basis.</p> <p>Further to this, SLEP 2014 Aims include: <i>(e) to minimise the risk of harm to the community through the appropriate management of development and land use.</i> The proposal is inconsistent with the above aim and increases the risk of harm to the local community through inappropriate development and land use.</p>	<ul style="list-style-type: none"> The subject development has been presented to Council as <i>"proposed primitive camping grounds consisting of six (6) tent sites and amenities, and a communal camp kitchen"</i>. It is noted that there are inconsistencies in the submitted documentation in relation to the proposed use. Including: <ul style="list-style-type: none"> The submitted traffic report refers to that proposed as <i>"tourist cabins"</i>. The applicant has also indicated in the submitted Statement of Environmental Effects that <i>"the tent sites provide flexibility for tents such as a bubble tent, tiny home, or could be provided without accommodation on site for clients to bring their own"</i>. <p>Tourist cabins are not consistent with the 'camping ground' definition, and "tiny homes" may be considered as caravans and therefore also would not be consistent with the proposed camping grounds use.</p> <p>In this regard however, no details have been provided with the application supporting either of these uses. The submitted plans have only demonstrated a possible tent which could be provided to each tent site.</p> <p>Accordingly, Council has based its assessment on the documentation provided on the DA form and that shown on the submitted plans as a primitive camping ground, or <i>'camping ground'</i> as defined under SLEP 2014..</p> <ul style="list-style-type: none"> The proposal as a camping ground is a permitted use within the relevant land use zones with the consent of Council. Further to this, as per the SLEP 2014 Aims, it is considered that the proposed development and land use can potentially be appropriately managed to reduce risk of harm to the local community.

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<p><u>Incorrect Characterisation</u></p> <p>In reference to Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds, Moveable Dwellings) Regulation 2005 (Part 3, Division 3) and classifying the development as a “primitive camping ground” the applicant is aiming to avoid the requirements of Subdivisions 1 to 8. These subdivisions specify critical requirements for campgrounds including public safety, facilities for people with disabilities and prohibiting the use of the campground for any other commercial purpose (including a function centre).</p> <p>The nature and scale of the proposed development appears to be well outside the definition of a “primitive camping ground”.</p> <p>The NSW Department of Planning Guide on a “primitive camping ground” (PCGs) is also noted:</p> <ul style="list-style-type: none"> ▪ <i>PCGs are lower key than conventional camping grounds and are not required to have, for example, sealed roads, hot water or laundries.</i> ▪ <i>A PCG is generally remote from urban areas with only a limited range of facilities. However, the proposed PCG site at Mount Hay is –</i> <ul style="list-style-type: none"> ○ <i>accessed by a sealed road and has access to hot water</i> ○ <i>adjacent to an existing tourist facility with up to 14 guests and three other dwellings</i> ○ <i>according to the website “just a few minutes away from the heart of exclusive Berry village”</i> ○ <i>has individual amenities structures for private use, a luxury bath and access to a dining facility • has permanent structures that cannot be removed when the camp site is unoccupied</i> 	<p><u>Primitive camping ground</u></p> <ul style="list-style-type: none"> ▪ As detailed earlier in this report, the proposal is best defined under SLEP 2014 as a ‘camping ground’. ‘Primitive camping grounds’ are not a defined land use term under SLEP 2014. ▪ The Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 definition of a <i>primitive camping ground</i> is not relevant for the purpose of characterisation of the use under the EP&A Act and the subject application. It is considered appropriate for future section 68 approvals and the requirements under the Local Government Act 1993 and associated Regulations. ▪ While it is inferred that the comment on the Department of Planning Guide relates to Planning Circular PS06-001, issued on 10 January 2006, this circular is irrelevant for the assessment of this DA, being related to the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005, which would be further assessed under a future section 68 application. ▪ The designation of camp sites is in a formal manner with the timber structures delineating the location of tents and allowing for the management and mitigating of the impact of surrounding areas of the site. This is not considered to be a reason for refusal in that the land use is appropriately defined as a camping ground which is a permissible use within the zone. Further categorisation as a “primitive campground” under the Local Government Act, is not a <u>land use</u> consideration for the purposes of this EP&A Act development assessment. <p><u>Camping ground</u></p> <ul style="list-style-type: none"> ▪ As detailed earlier in this report, the proposed permanent platform and ensuite are not considered to be consistent with the definition of a camping ground, which forms a reason for refusal. <p>A camping ground, as defined earlier in this report, means “<u>an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park. (emphasis added)</u>”</p>
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<p><u>Ancillary use</u></p> <p>The land uses which are either permissible, with or without consent, or prohibited, are set out in the land use clause for the E3 zoning in the Land Use Table in the LEP. The permissible use of "tourist and visitor accommodation" was previously approved. However, the disproportionate size of the camp kitchen suggests it cannot in truth be described as ancillary either to the owners or the visitors to the site but is in essence of the size more likely to be used for functions which is not permissible.</p>	<ul style="list-style-type: none"> ▪ Council cannot consider a proposed use other than what has been sought under the subject application. Speculation on possible or potential future uses based on the size of the camp kitchen cannot form part of the consideration of the application.
<p><u>Inconsistency with E3 zone objectives</u></p> <p>There is issue raised in relation to the E3 zone objectives in relation to the prospective visual impact of the camp kitchen, and the parking of caravans and the like on the ridgeline.</p> <p>Consideration to the objectives needs to be proper, genuine and realistic. The intrusive nature of the proposal seems to be contrary to the objectives of the E3 zone, and consequentially leaves open the opinion that the objectives are not, and cannot be met.</p>	<ul style="list-style-type: none"> ▪ The SLEP, clause 2.3(2) states that the consent authority must have <i>regard</i> to the zone objectives. ▪ It is considered that the proposal as a camping ground is not inconsistent with the relevant objectives. Camping grounds are a permissible use which are permissible due to their minimal effects on the environment. As detailed earlier in this report however, it is not considered the proposal adequately meets the definition of 'camping ground' and accordingly is recommended for refusal.
<p><u>Future non-compliant use</u></p> <p>With this scale of development there is potential of the proposed buildings to be repurposed for other commercial purposes that are prohibited in this zoning (e.g. function centres).</p>	<ul style="list-style-type: none"> ▪ Council can only consider that proposed as part of this application. ▪ Should the development application be determined by way of approval, any consent (if issued) would be limited to camping and therefore no approval would be given or implied for anything else.
<p><u>Undesirable precedent</u></p> <p>Approval of this application will set a precedent for further inappropriate tourist development that does not comply with Council's requirements.</p>	<ul style="list-style-type: none"> ▪ Any proposed development the subject of a DA is to be assessed against the relevant provisions of section 4.15(1), EP&A Act 1979 and relates to the subject development site only. ▪ Whether or not other developments of a similar nature will follow is unknown and is dependent on a number of factors including the intentions of individual owners, individual characteristics of the development and unique attributes of the site.

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	<ul style="list-style-type: none"> ▪ Council needs to be satisfied that the site is suitable for each development. If a development has been approved, it does not necessarily stand that a similar development will be approved nearby as mentioned above, the unique attributes of each site and development must be assessed having regard to the planning framework at the time.
<p><u>Out of character</u></p> <p>The scale of the proposed development is at odds with its secluded rural setting.</p>	<ul style="list-style-type: none"> ▪ The design of the development is not considered out of character in this locality. Camping is typically a low key activity. While the associated private ensuite bathroom building are not considered to be consistent with the definition of camping ground, they are not however out of character or 'at odds' with the rural character given their low scale nature. ▪ The issue of character goes to matters such as height bulk and scale. Often scale is used to reference size. ▪ See paragraphs 26 – 29) <i>Project Venture Developments Pty Ltd v Pittwater Council [2005] NSWLEC 191</i>. This established what is called a planning principle in the LEC. The principle assists in assessing character by posing a series of questions. Including are the impacts consistent with the impacts that may be expected under the planning controls and are there controls in place intended to maintain the character.
<p><u>Disproportionate size of camp kitchen</u></p> <p>The proposed 220sqm building (similar to a function centre) is described in the application as a "communal camp kitchen" for a maximum of 12 campers.</p> <p>The proposed footprint of the camp kitchen is an unrealistic 16,351m x 10,320m with a height of 5.176m. To put the size into perspective, and apart from the exceptionally high building, a 6 x 12m marquee will seat 80 guests on round tables, and a 6 x 21m marquee will seat 140 guests on round tables. Arguably therefore, the size of the proposed camp kitchen is disproportionate to accommodating 12 guests, and it can only be surmised that the applicant has a</p>	<ul style="list-style-type: none"> ▪ The requirements of SEPP 21 are not prescriptive with regard to the size of ancillary structures and facilities to a campground. ▪ It is considered that "necessary" community facilities and services are proposed for the camping grounds as part of this application. ▪ As mentioned earlier, a consent authority, i.e., Council can only assess what is put to it in an application. It cannot foreshadow any wrongdoing and/or alternative future development etc. If another use is proposed, a further DA would be potentially required. In the event of a compliance issue, there are separate provisions in legislation that deal with breaches, unlawful development etc.

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<p>secondary purpose to use this building to hold functions.</p>	
<p><u>Tent structures</u></p> <p>Each tent structure has an excessively large floor area of 75sqm. A 25sqm tent site would comply with the legislation.</p> <p>These structures are also permanent and not temporary.</p>	<ul style="list-style-type: none"> ▪ Addressed above. ▪ The permanency of the ancillary elements of the ensuite bathroom and platform is not considered in keeping with the definition of camping ground. Being an ancillary use it is considered these should also be 'portable and light weight' in accordance with the definition of camping ground.
<p><u>Access and Traffic</u></p> <ul style="list-style-type: none"> ▪ Mount Hay (private) Road is a 3km steep, single lane, winding access road. It has two (2) right hand bends and a hairpin bend on its steepest section. There are unsafe crests and hidden drainage culverts. ▪ Passing bays specified as conditions of consent in a past DA are not adequately maintained. ▪ The submitted bush fire assessment report is out of date. The road does not meet current RFS requirements – e.g., the width of the road narrows considerably through the steepest section to around only 2m. ▪ The RFS has informed the road's property owners that in a significant fire event they would be unable to respond past Bong Bong Road, due to safety concerns for their staff and equipment. ▪ Three (3) times in the past six (6) months the bridge access to the road was severely flooded and impassable for hours, requiring a major clearing exercise. Emergency access would be impossible. ▪ Road usage is considered by the road's residents to already be at capacity. 	<ul style="list-style-type: none"> ▪ As detailed earlier in this report, Council's Development Engineer raised no objections to the submitted report by McLaren Traffic Engineering and the accompanying plan detailing improvement works, subject to recommended conditions of consent (dated 27/05/2021). Should the application be determined by approval, then these conditions would be included. ▪ Again, as detailed earlier in this report, it is considered that this development has the potential to impact on the apportionment identified in condition 55 of the LEC Order and this issue warrants exploration. Note Figure 5 showing the extent of additional works proposed with the application and described earlier in this report including <i>"passing bays, traffic signs and tree trimming, which the applicant has advised are capable of being located within the Right of Way."</i> ▪ As indicated in supporting documentation, the development would generate 18 daily vehicle movements. It is noted that the applicant considers that the additional traffic generated by the development will <i>not</i> significantly impact on the existing road/s which provide access to the site and surrounding properties. Further to this, the additional traffic, along with the existing traffic generated by the existing tourist facility is not considered to generate traffic in excess of what the existing access road is capable of supporting. ▪ As indicated in the advisory note relating to condition 55 if the traffic generation on Mount Hay (private) Road is to increase (as proposed) as a result of this development, the registered proprietor of the subject site needs to apply to Council to release, vary or modify the terms of the restriction. ▪ This matter has not been addressed by the applicant and no request has been made,

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	<p>presumably on the basis that the application concludes that there no significant impact.</p> <ul style="list-style-type: none"> ▪ In relation to bush fire, General Terms of Approval and a Bush Fire Safety Authority were issued by NSW Rural Fire Service (dated 19/05/2021). <p>It is noted that certification would be required prior to the issue of a Construction Certificate from a traffic engineer for the access road from Bong Bong Road to the refuge building (camp kitchen) to demonstrate that the existing road and proposed roadworks comply with Planning for Bush Fire Protection 2019. A suitably qualified person would need to provide a certificate of completion that all required work has been satisfactorily achieved, prior to the issue of an Occupation Certificate.</p> <ul style="list-style-type: none"> ▪ In relation to flooding, no flood assessment report has been submitted as the subject site is not identified as being flood prone. ▪ However, it is noted that Mount Hay (private) Road does contain a small portion of flood affected land in close proximity to Bong Bong Road. ▪ The applicant has contended that the subject site is deemed to have reliable access during 1% AEP flood events. ▪ It is noted that the proposed development is located on a flood free portion of the site, however, access to the site is restricted in the event of a flood. A flood evacuation plan is to be prepared for this development subject to conditions of consent being imposed should the application be determined by approval. ▪ It is important to note, the road is a private concern and the traffic on that road is managed or controlled largely by the types of development that adjoin / access it. Most properties are rural residential with the exception of the Houghton's property which has tourist and visitor accommodation component. The development has historically caused concern with neighbours with respect to traffic and road maintenance issues. ▪ In the LEC, a condition was imposed on the development (for the dwelling and tourist cabins) apportioning maintenance costs to address the concerns about the upkeep of the road. The
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	<p>apportionment specifies a percentage which was based on the development <u>at the time</u>. Since then, an additional cabin was approved which was considered to be capable of being absorbed into the regime. However, this development intensifies the development and will add an additional six (6) 'camp sites' and therefore additional traffic movements, being 18 daily vehicle movements.</p>
<p><u>Noise and lighting impacts</u></p> <p>The location of this property on the ridgeline would mean that noise and lighting from the development would have an adverse impact on more than just the neighbouring properties.</p>	<ul style="list-style-type: none"> ▪ Ongoing management of noise and lighting could be subject to a condition of any consent granted. Should the application be determined by approval, then this condition would be included. ▪ If there is concern about antisocial behaviour, this is a matter for the Police.
<p><u>Bush fire risk</u></p> <p>There are concerns with bush fire risk and the submitted assessment report and its accuracy.</p>	<ul style="list-style-type: none"> ▪ It is considered bushfire risks have been adequately addressed. General Terms of Approval and a Bush Fire Safety Authority were issued by NSW RFS (dated 19/05/2021).
<p><u>Owner's consent</u></p> <p>The only vehicular access the subject site is via Mount Hay (private) Road comprising an easement/Right of Way over Lot 103 DP 786955.</p> <p>Applying the terms of Clause 49 of the EP&A Regulation 2000, the application requires the consent of Thoroughbred Property Holdings Pty Ltd for an intensification of use of the Right of Way/existing easement. That consent has not been obtained.</p>	<ul style="list-style-type: none"> ▪ It is agreed that no evidence has been provided that this application has been made with the consent of all relevant landowners, noting the items/works proposed within Mount Hay (private) Road as outlined within the submitted report by McLaren Traffic Engineering are located on land not under the ownership of the applicant or the owner of the subject site, WL Houghton.
<p><u>Previous conditions of development consent</u></p> <p>Conditions of consent granted to the applicant in the former approval should be reflected in any subsequent consent to achieve the same planning objectives, of protecting the road and its users, and from increased usage caused by increase traffic to the applicant's property.</p> <p>In addition, under condition 46 of the original development consent, the applicant was required to provide minimum standard cattle fencing</p>	<ul style="list-style-type: none"> ▪ Whilst there may be compliance issues, Council cannot take these alleged breaches into account in the assessment of this application. There are separate compliance provisions in the legislation and Council policy and procedures to deal with breaches.

Planning Report – S4.15 Assessment – 260 Mount Hay Rd (Priv), BROUGHTON VALE - Lot 2 DP 4498

between cattle grids 2 and 3. However the applicant unilaterally decided there was a dispute as to what comprised "minimum standard cattle fencing", and unequivocally refused to comply with that condition. Council nonetheless provided an Occupation Certificate in the absence of the applicant fulfilling that condition.

Cattle currently graze over that portion of Lot 103, and the applicant should be required to construct the minimum cattle fence as contemplated in the original application for a tourist facility.

(e) The Public Interest

Taking into consideration the above matters it is considered that the proposal is not in the public interest, as the applicant has not followed due process and obtained the consent of all relevant landowners, in relation to the items/works proposed within Mount Hay (private) Road.

Furthermore, while each of the community concerns are addressed above, it cannot be discounted that significant public concern has been raised with regard to the development and due to the significant public objection to the proposal, approval would not be considered to be in the public interest.

Delegations

Guidelines for use of Delegated Authority


The Guidelines for use of Delegated Authority have been reviewed and the assessing officer does not have the Delegated Authority to determine the Development Application.

Given the application has been called in by the Councillors in response to considerable public concern, it must be determined by the elected Council.

Recommendation

This application has been assessed having regard for section 4.15 (Matters for consideration) under the Environmental Planning and Assessment Act 1979. As such, it is recommended that Development Application No. DA20/1621 be refused.

Planning Report – S4.15 Assessment - 23 Parker Cr, BERRY - Lot 331 DP 1226462

	Planning Report S4.15 Environmental Planning & Assessment Act 1979
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DA Number	DA21/1333
Property	23 Parker Cr, BERRY - Lot 331 DP 1226462
Applicant(s)	Hotondo South Coast Pty Ltd
Owner(s)	Comsult Pty Ltd

Conflict of interest declaration

I have considered the potential for a conflict of interest under the [Code of Conduct](#) and to the best of my knowledge no pecuniary and/or significant non-pecuniary conflict of interest exists.

NOTE: If you determine that a non-pecuniary conflict of interest is less than significant and does not require further action, you must provide a written explanation of why you consider that the conflict does not require further action in the circumstances. This statement should then be countersigned by the section manager.

Detailed Proposal

Multi-Unit Housing and Strata Subdivision

The proposed development is for the construction of a multi-dwelling development consisting of three (3) x four (4) bedroom units. All proposed units are double storey and constructed from brick veneer to the lower level, horizontal cladding to the upper level and Colourbond roofing.

The units within the development are described as follows:

- Unit One: is free-standing facing Parker Crescent, and includes:
 - Ground floor: two (2) bedrooms, double garage, rumpus with ground floor alfresco and laundry.
 - First floor: two (2) bedrooms including the main bedroom with walk-in-robe and ensuite; open plan kitchen, living and dining with gas fireplace; bathroom; powder room; upper-level balconies to the street, and west and eastern boundaries.
- Unit Two: is attached to Unit Three, and includes:
 - Ground floor: double garage; laundry; two (2) bedrooms; rumpus; study; bathroom; and ground floor alfresco area.
 - First floor: two (2) bedrooms including the main with walk-in-robe and ensuite; open plan kitchen with walk-in pantry, living and dining with gas fireplace; powder room; and upper-level balconies to the west and eastern boundaries. .
- Unit Three: is attached to Unit Two and is a mirror-reverse design of Unit Two consisting of the same layout.

Access to and from the site will be by a single driveway off Parker Crescent, with one (1) visitor parking space towards the rear of the site.

The proposal includes Strata Subdivision which will result in three (3) Strata Lots comprised of:

- Lot 1 – Unit 1, balconies, and courtyard = 338.0m²
- Lot 2 – Unit 2, balconies, and courtyard = 266.0m²
- Lot 3 – Unit 3, balconies, and courtyard = 483.0m²

Planning Report – S4.15 Assessment - 23 Parker Cr, BERRY - Lot 331 DP 1226462

The remaining lot area will be classed as 'common property' including all retaining walls and driveways.

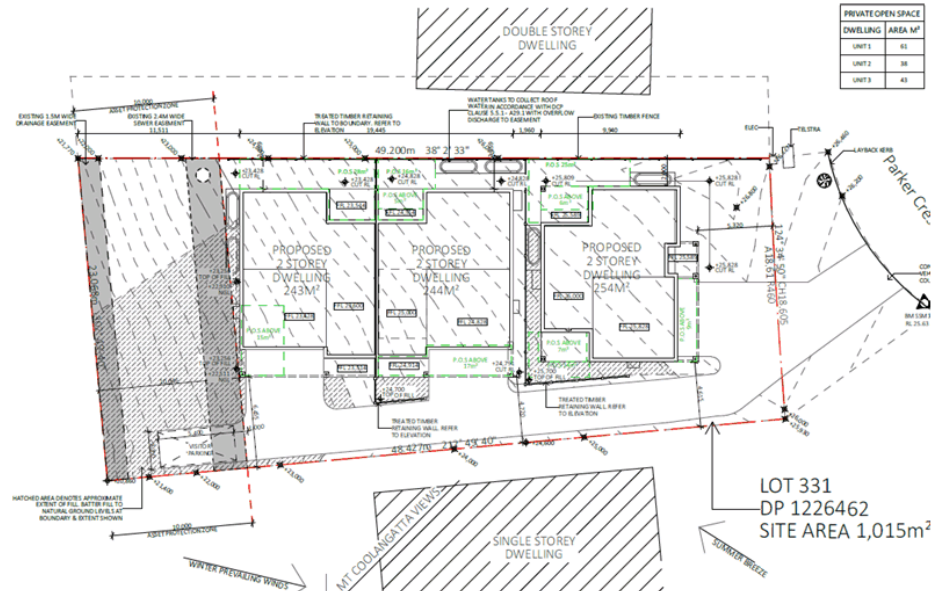


Figure 1 – Proposed Site Plan

Subject Site and Surrounds

Site Description

- The site has an 18.61m frontage to Parker Crescent with a total site area of 1,015.00m².
- The site is currently vacant and cleared of all vegetation. The site slopes down from the street with a fall of just over 5m or 1:0.1.
- The site has legal and practical access to Parker Crescent.
- The site is zoned R1 General Residential under the SLEP 2014.
- There are no known site constraints over the site.
- The subject site is located within 'Stage 3' of Huntingdale Estate, Berry. The surrounding character is comprised of existing residential development, predominately single dwellings.

Planning Report – S4.15 Assessment - 23 Parker Cr, BERRY - Lot 331 DP 1226462



Figure 2 – Subject Site



Figure 3 – Site Location

DE21.79 - Attachment 1

Planning Report – S4.15 Assessment - 23 Parker Cr, BERRY - Lot 331 DP 1226462

Deposited Plan and 88B Instrument

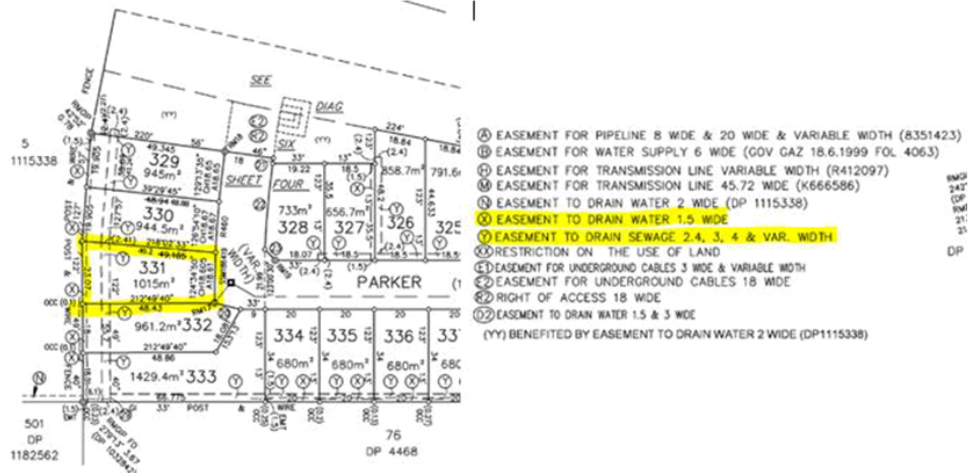


Figure 4 – Deposited Plan

There are no proposed works over the easement except for a visitor parking space which is not considered to impede the easement use or access.

The following Restrictions as to User (RATU) apply to the subject site.

2. Terms of Restriction numbered 3 in the plan:

- No dwelling shall be constructed on any burdened lot unless it is provided with a roof water collection tank of minimum capacity 10,000 litres to be used for gardening, laundry and flushing of toilets to the requirements of Shoalhaven City Council.
- No dwellings shall be designed in such a manner that they will detract from and not be compatible with the existing bulk and scale of the housing stock within Berry township.
- No building shall be constructed of metal deck cladding having an external surface area greater than 50% of the building.
- No building shall be constructed unless it has a roof pitch greater than 15°.
- No building shall be constructed on any allotment having the following lot size, with a total floor area exceeding:

650 m ² - 750 m ²	50%
750 m ² - 850 m ²	40%
850 m ² - 1000 m ²	35%
1000 m ² plus	35%
- No front or side fence shall be constructed on any boundary, unless it is constructed of materials in character with the proposed dwelling.
- Where the rear of any proposed structures are greater than 70 metres from the nearest hydrant, a new hydrant is required to be installed as per AS2419 - "Fire Hydrant Installations". Location of hydrant to be delineated by blue pavement markers in the centre of the road.

RATU 3(a) The proposed dwellings are proposed to include two (2) 5,000L rainwater tank to collect stormwater runoff from the roof. One of the tanks for each unit is designated as BASIX storage, whilst the other tank includes 1,500L for OSD and the remainder as additional BASIX

Planning Report – S4.15 Assessment - 23 Parker Cr, BERRY - Lot 331 DP 1226462

asper the submitted concept stormwater plans. Across the three (3) dwellings a cumulative capacity of 30,000L is provided.

RATU 3(b) the proposed development is not considered to be designed in a “manner compatible with the existing bulk and scale”. See full assessment of local character and context in Appendix B.

RATU 3(c) there is no proposed metal cladding to any of the proposed dwellings.

RATU 3(d) Proposed roof pitch of all dwellings is 22.5°.

RATU 3(e) The total allotment size is 1,015.0m² which allows for a total floor area of 35% or 355.25m². The total floor area across all three (3) dwellings is 740m² which exceeds the maximum floor area.

Due to significant DCP variances specifically in relation to building envelope, height, and setbacks; solar access; private open space; the proposed development is considered to be an overdevelopment of the site and not in accordance with the 88b restrictions.

RATU 3(f) There is no front fencing proposed as part of the development. The side fencing to the north-west is existing 1.8m high timber fencing. There is currently no fence along the rear or side south-east. The proposal seeks to install 1.8m high Colourbond fencing to the unfenced boundaries and between the proposed dwellings. The existing materials within Huntingdale Estate are timber fencing as per RATU 4(n). The proposed fencing does not comply however Conditions of Consent can require timber fencing in accordance with Estate guidelines.

RATU 3(g) The furthest point, of the furthest dwelling is approximately 70m from the nearest dwelling.

4. Terms of Restriction numbered 5 in the plan:

- a) Not more than one main building may be erected or be permitted to remain on any lot burdened and that main building must not be used for any purpose other than a single residential dwelling but this restriction does not prevent the erection and use of a building or buildings on any lot burdened strictly in accordance with the conditions of the Shoalhaven Local Environmental Plan 2014.
- b) No main building may be erected or be permitted to remain on any lot burdened unless such building has a gross floor area of 125 square metres or greater.
- c) No fence may be erected or permitted to remain on the side boundary facing the street of any corner lot burdened unless it is:
 - 3.1 approved by the Developer; or
 - 3.2 constructed of timber (vertical boarding, 3 rail, lapped and capped) or brick of the same colour and texture as used in the dwelling on that lot.
- d) No earth, stone, gravel or trees can be excavated or removed from any lot burdened except to the extent necessary for the erection of a building promptly following that excavation or removal.
- e) No fuel storage tanks (except for oil heating purposes) or air conditioning units can be placed on or be permitted to remain on any lot burdened unless those tanks or units are not closer to any street than the front building line and are screened from public areas.
- f) No noxious, noisy or offensive occupation, trade, business or industry can be conducted or carried out on any lot burdened.

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- g) No advertising hoarding or sign except temporary signs relating to sale of a lot can be erected or displayed or permitted to remain on any lot burdened without the previous written consent of the Developer.
- h) No building may be erected or be permitted to remain on any lot burdened other than a building constructed with external walls of brick, rendered or bagged cement blocks or bricks or concrete, stone, glass, timber, approved texture coated material, composite cladding or any combination of those materials but the proportion of brick, rendered or bagged cement blocks or bricks or concrete, stone, approved texture coated material or any combination of those the external walls of that building.
- i) No motor vehicle, plant or machinery or motor vehicle bodies or parts or machinery bodies or parts shall be permitted to stand on any lot unless the same be within an outbuilding or shall be in immediate use.
- j) No second-hand materials shall be used in connection with the construction of any main building or any other improvement upon the subject land without the consent of the Developer.
- k) No building may be erected or be permitted to remain on any lot burdened unless it has a roof of terracotta or cement tiles or of precast metal.
- l) No clothes drying facility can be placed or be permitted to remain on any lot burdened closer to any street than the front building line and any such facility must be screened from public areas.
- m) No fence may be erected or be permitted to remain on any lot burdened to divide if from any adjoining land owned by the Developer, but only during the ownership of that adjoining land by the Developer its successors and assigns other than purchasers on sale, without the prior written consent of the Developer, but that consent cannot be withheld if that fence is erected without expense to the Developer and that consent is deemed to have been given in respect of every fence for the time being erected.
- n) Except for those lots effected by Clause (c) of this Restriction, no fence can be erected or be permitted to remain on any lot burdened closer to any street than the building line of that street without the prior written consent of the Developer and no other fence can be erected or permitted to remain on any lot burdened unless it is:
 - (i) 1.8 metre in height or less; and
 - (ii) constructed of timber (vertical boarding, three rail, lapped and capped.)

Name of person empowered in release, vary or modify restriction numbered 5 in the abovementioned plan

Jemalong Berry Pty Ltd

RATU 5(a) The terms of restriction limit the permissible number of dwellings on a single site to one (1) dwelling only. The restriction states that it does "not prevent the erection and use of a building or buildings on any lot burdened strictly in accordance with the conditions of the Shoalhaven Local Environmental Plan 2014." The SLEP 2014 permits the multi dwelling development within the zone and as such the proposed development is considered permissible.

RATU 5(b) The total floor area across all three (3) dwellings is 740m², the individual units comprise of 254m², 243m², and 243m² respectively.

RATU 5(c) Not applicable to the subject site.

RATU 5(d), (e), (f), (g), and (i) Not proposed as part of the application.

RATU 5(h) and (k) The proposed dwellings are to be constructed of face brickwork to the lower floors, horizontal cladding to the upper floors and Colourbond roof sheeting.

RATU 5(l) There are no external clothes drying facilities proposed as part of the application.

RATU 5(m) and (n) There is no front fencing proposed as part of the development. The side fencing to the north-west is existing 1.8m high timber fencing. There is currently no fence along

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the rear or side south-east. The proposal seeks to install 1.8m high Colourbond fencing to the unfenced boundaries and between the proposed dwellings. The existing materials within Huntingdale Estate are timber fencing as per RATU 4(n). The proposed fencing does not comply however Conditions of Consent can require timber fencing in accordance with Estate guidelines.

It is noted that in relation to the above Restrictions Jemlong Berry Pty Ltd is nominated as the authority to release, vary or modify the restrictions. Clause 1.9A(1) Suspension of covenants, agreements, and instruments, Shoalhaven Local Environmental Plan 2014 states the following:

“(1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.”

Site History and Previous Approvals

There are no previous applications over the subject site.

[Darts - since 1st July 2005](#)

Application	Appl. Date	Application Type	Proposal	Status	Completed
DR21/1321	01/04/2021	Sewer Connection	Units/Flats - Multi Unit Housing	Incomplete	
DA21/1333	01/04/2021	Development Application	Units/Flats - Multi Unit Housing	Incomplete	

Post-Lodgement

Councillors called in the Development Application (DA) due to the significant public interest on 18 May 2021 (MIN21.297).

Consultation and Referrals

Internal Referrals

Referral	Recommendation	Comment
Development Engineer	11/06/2021 – Additional Information Requested	Second visitor parking space required to comply with DCP G21 Unit 1 garage should be reoriented towards the driveway to facilitate forward ingress and egress
Shoalhaven Water	17/06/2021 – Approved Subject to Conditions	No major impact to the water and/or sewerage systems. Development can be supported by the water and sewerage systems. Where consent is granted, the conditions as listed shall apply.
GIS	12/05/2021 – Approved Subject to Conditions	The numbering for the proposed development and strata title subdivision with reference to the lodged site plan D21/192493 & lodged strata plan D21/130671 is: – Unit 1 – 1/23 Parker Cr, Berry – Unit 2 – 2/23 Parker Cr, Berry – Unit 3 – 3/23 Parker Cr, Berry – Common Property – 23 Parker Cr, Berry

External Referrals

None required as part of this application

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Statutory Considerations

Environmental Planning and Assessment Act 1979

Section 4.46 – Integrated Development

Not applicable to this application

Biodiversity Conservation Act 2016 and Biodiversity Conservation Regulation 2017

A valid Biodiversity Offset Scheme Entry Threshold (BOSET) tool has been submitted as part of the application which shows the proposed development does not trigger the Biodiversity Offsets Scheme (BOS).

A site inspection has been undertaken along with a desktop review and it is concluded that the proposed development is unlikely to have a significant impact.

A review of the proposed development against the BOS triggers has concluded that the proposal does not trigger entry into the BOS.

Shoalhaven Contribution Plan 2019

The proposed development is considered to increase the demand for community facilities in accordance with the Shoalhaven Contributions Plan 2019 (the Plan). The development is most aptly characterised as an **Medium Density/Dual Occupancy** development for the purpose of calculating contributions under the Plan.

Medium Density/Dual Occupancy

	Existing	Proposed
1 Bedroom Dwelling (Affordable Rental Housing SEPP)	0	0
2 Bedroom Dwelling (Affordable Rental Housing SEPP)	0	0
3 Bedroom Dwelling (Affordable Rental Housing SEPP)	0	0
4 Bedroom Dwelling (Affordable Rental Housing SEPP)	0	3
Lots/Dwellings (not via Affordable Rental Housing SEPP)	1	0
Boarding House Bedrooms	0	0
Total ET		2
		0

Project	Description	Calculation	Amount
01AREC5006	Northern Shoalhaven Sports Stadium	\$700.23 *	\$1,400.46
01AREC5007	Nowra Swimming Pool Expansion (Scenic Drive)	\$543.04 *	\$1,086.08
01AREC5009	Planning Area 1 recreational facilities upgrades (various locations)	\$733.01 *	\$1,466.02
01CFAC5012	Nowra Integrated Youth Services Centre (Cnr Kinghorne & Plunkett Streets)	\$29.98 *	\$59.96
01OREC0009	Berry Garden Estate Passive Open Space	\$4,741.49 *	\$9,482.98
CWAREC5005	Shoalhaven Community and Recreational Precinct SCArP Cambewarra Road Bomaderry	\$1,931.92 *	\$3,863.84
CWCFAC5002	Shoalhaven Entertainment Centre (Bridge Road Nowra)	\$1,460.12 *	\$2,920.24
CWCFAC5006	Shoalhaven City Library Extensions (Berry Street, Nowra)	\$1,280.53 *	\$2,561.06
CWCFAC5007	Shoalhaven Regional Gallery	\$70.30 *	\$140.60

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CWFIRE2001	Citywide Fire & Emergency services	\$138.13 *	\$276.26
CWFIRE2002	Shoalhaven Fire Control Centre	\$202.07 *	\$404.14
CWMGMT3001	Contributions Management & Administration	\$574.39 *	\$1,148.78
\$24,810.42			

Illawarra Shoalhaven Plan

The subject site is not identified within the Illawarra Shoalhaven Plan.

Draft Illawarra Shoalhaven Plan

The subject site is not identified within the Draft Illawarra Shoalhaven Plan.

Coastal Zone Management Plan 2018

The subject site is not located within the identified Coastal Zone.

Nowra Bomaderry Structure Plan 2008

The subject site is not located within the identified area of the Structure Plan.

Council Policies

No policies are considered applicable to this application

4.15 Assessment

The following provides an assessment of the submitted application against the matters for consideration under Section 4.15 of the EP&A Act.

(a) Any planning instrument, draft instrument, DCP and regulations that apply to the land

i) Environmental Planning Instruments

SEPP 55 Remediation of Land

Question	Yes	No
1. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)?	Proceed to Question 3	✓ Proceed to Question 2
2. Does the proposal result in a change of use (that is the establishment of a new use)?	Proceed to Question 3	✓ Assessment under SEPP 55 and DCP not required.
3. Does the application proposed a new: <ul style="list-style-type: none"> Childcare facility Educational use Recreational use Health care use Place of public worship Residential use in a commercial or industrial zone 	Proceed to Question 5	✓ Proceed to Question 4
4. Review the property file and conduct a site inspection of the site and surrounding	Proceed to Question 5	✓ Proposal satisfactory under

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Question	Yes	No
lands. Is there any evidence that the land has been used for a listed purpose?		SEPP 55 and DCP.
5. Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater?	Request contaminated site assessment	✓ Proposal satisfactory under SEPP 55 and DCP.

SEPP (Building Sustainability Index: BASIX) 2004

A valid BASIX certificate has been submitted as part of the application. The certificate demonstrates compliance with the provisions of the SEPP and is consistent with commitments identified in the application documentation.

SEPP (Vegetation in Non-Rural Areas) 2017

The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation. It is considered that the proposed development does not unduly impact upon any existing biodiversity or trees or vegetation on the site.

Shoalhaven LEP 2014

Land Zoning

The land is zoned R1 General Residential under the SLEP 2014.

Characterisation and Permissibility

The proposal is best characterised as **Multi Dwelling housing** under the SLEP 2014. The proposal is permitted within the zone with the consent of Council.

Multi Dwelling Housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

Zone objectives

Objective	Comment
<ul style="list-style-type: none"> – To provide for the housing needs of the community. – To provide for a variety of housing types and densities. – To enable other land uses that provide facilities or services to meet the day to day needs of residents. – To identify land suitable for future urban expansion. 	The proposed development is consistent with the objectives of the R1 zone, being a permissible use which provides for additional housing of a permissible housing type, in an existing urban expansion area.

SLEP 2014 Clauses

Clause	Comments	Complies/ Consistent
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Planning Report – S4.15 Assessment - 23 Parker Cr, BERRY - Lot 331 DP 1226462

Part 2 Permitted or prohibited development		
2.6 Subdivision Consent requirements	– The proposed development proposes Strata Title Subdivision. The proposed Strata Titling of the development would be considered Exempt Development under <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> , if the multi dwelling housing is approved.	Consistent
Part 4 Principal development standards		
4.1A Exceptions to minimum lot sizes for dual occupancies and multi dwelling housing	The subject development site is 1,015m ² and is located within the R1 General Residential. The multi dwelling housing development proposal complies with the minimum lot size. Under this clause the proposed multi dwelling development can be subdivided into any size to enable the resulting individual dwellings on those lots to have separate titles.	Complies
4.3 Height of buildings	Maximum permissible building Height 8.5m. The proposed maximum ground to ridge height is: – Unit 1 = 7.965m – Unit 2 = 7.975m – Unit 3 = 8.690m Unit 3 exceeds the permissible ridge high by 0.19m. A 4.6 variation is required to be completed as part of the assessment. The proposal also is inconsistent with the objectives of the height of building development standard as detailed in the clause 4.6 variation assessment	Non-compliant
4.6 Exceptions to development standards	The applicant has provided a clause 4.6 variation statement as part of the application. See full assessment in Appendix A	Not Supported
Part 7 Additional local provisions		
7.1 Acid sulfate soils	The subject site is Class #5 ASS. There are no proposed works which will impact upon ASS or the water table.	Complies

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7.2 Earthworks	The proposed development will require cut and fill works to be undertaken to enable suitable access and construction. Maximum cut/fill is less than 1.0m	Complies
7.11 Essential services	The proposed development will be connected to all essential services	Complies

ii) Draft Environmental Planning Instrument

Draft N3: Berry - West of the Princes Highway

Chapter N3 Berry – West of the Princes Highway came into effect on 16 June 2021. This Chapter replaces the former Chapter N3 Berry Residential Subdivision.

Context extract:

“Residential land in the south-west of Berry (the Subject Land) is located in a visually sensitive area. It is important for the design of new development to respect the scenic values of the area and enhance the natural features and landscape quality of Berry... The planning objectives and controls within this Chapter build upon the themes and strategic priorities described within the community-led Berry Community Strategic Plan 2016.”

5. Precinct-wide Controls	
5.1 Masterplan P1 Development is consistent with the Masterplan (figure 3)	The subject site is located within the “Housing Area” as identified in Figure 5 below.

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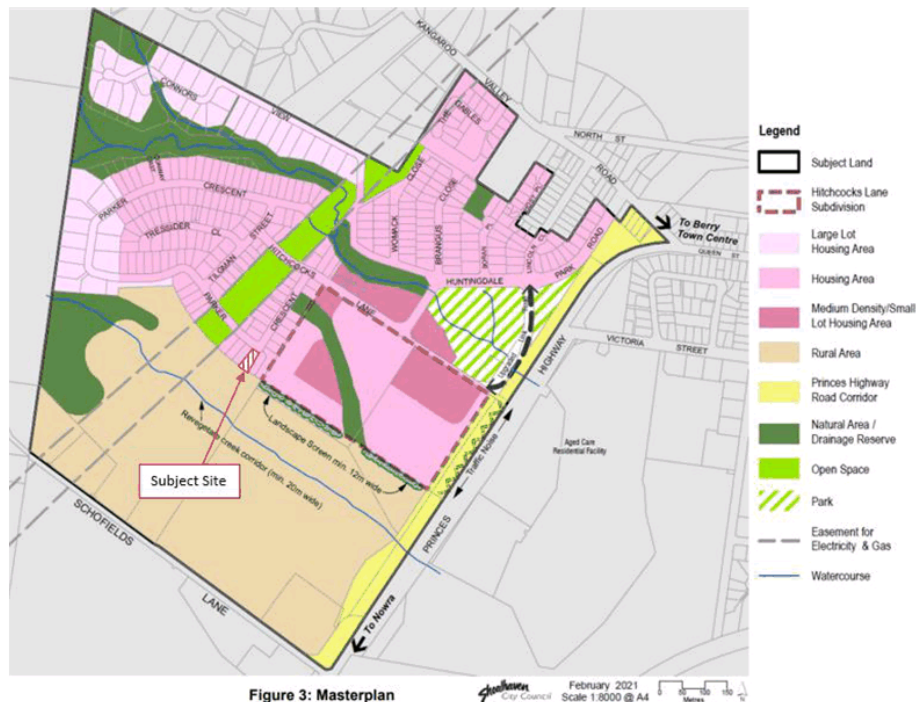


Figure 5 – Masterplan excerpt from DCP Chapter N3 Figure 3.

Sections 6 and 7 of the DCP are only applicable to the Hitchcocks Lane Subdivision Area as identified in Figure 5 above.

On exhibition

There are planning proposals within Huntingdale Estate, currently on exhibition which do not affect the subject site:

- Planning Proposal (PP040) 2018 Housekeeping Amendment (SLEP2014 Mapping)
- Planning Proposal (PP060) to amend Shoalhaven Local Environmental Plan 2014 – Large Lot Areas – Huntingdale Park Estate Berry.
- Planning Proposal (PP056) to amend Shoalhaven Local Environmental Plan 2014 – Heritage Conservation Areas.
- Planning Agreement (VPA015) Proposed Landscape Screen - Hitchcocks Lane Berry

iii) Any Development Control Plan

Shoalhaven DCP 2014

Chapter 2 General and Environmental Considerations

Potentially Contaminated Land

The subject site is not identified as potentially contaminated land. The SEPP 55 assessment earlier in this report identifies the development as being satisfactory.

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European Heritage	The subject site is not identified as containing any items of historical significance and is not located within a Conservation Area.
Aboriginal Cultural Heritage	The subject site is not identified as containing any items of Aboriginal heritage and is not identified as Cultural Lands.
Crime Prevention Through Environmental Design	The proposed development is not considered to create a risk or increase risk of crime within the locale. The proposed development does not trigger a formal crime risk assessment or referral to NSW Police Local Area Command.

Generic Chapters

G1: Site Analysis, Sustainable Design and Building Materials

The proposal has been assessed against the provisions of Chapter G1.

A suitable site analysis plan and schedule of proposed colours and materials has been submitted as part of the application and is deemed acceptable.

G2: Sustainable Stormwater Management and Erosion/Sediment Control

The proposal has been assessed against the provisions of Chapter G2

The proposed residential development will only require a minor system to be installed.

A suitable Stormwater Management Plan has been submitted as part of the application.

The Development Engineer has assessed the viability of the proposed development and provided Conditions of Consent to be applied the Development Consent

G3: Landscaping Design Guidelines

The proposal has been assessed against the provisions of Chapter G3

A landscape plan has been submitted as part of the application. The landscape plan identifies a total landscaped area of 430m² (42%) of which 123.3m² (12.2%) is deep soil planting.

The submitted landscape plans do not address the requirements of P2.2, as they do not specify the species of proposed plantings, and do not meet the requirements of Section 6.1 as they are not supported by a planting schedule. Amended plans would be required prior to the issue of a Construction Certificate demonstrating compliance with this provision if the application is to be approved.

G7: Waste Minimisation and Management Controls

The proposal has been assessed against the provisions of Chapter G7.

A suitable Waste Management Plan has been submitted as part of the application and conditions of consent will be imposed.

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G11: Subdivision of Land		
<p>The proposal has been assessed against the provisions of Chapter G11.</p> <p>The proposed development is for a one (1) into three (3) lot Strata Title Subdivision of the proposed dwelling units. The proposed subdivision will result in:</p> <p>Lot 1 – Unit 1, balconies, and courtyard = 338.0m²</p> <p>Lot 2 – Unit 2, balconies, and courtyard = 266.0m²</p> <p>Lot 3 – Unit 3, balconies, and courtyard = 483.0m²</p> <p>The remaining lot area will be classed as 'common property' including all retaining walls and driveways.</p>		
G13: Medium Density and other Residential Development		
<p>The proposal has been assessed against the provisions of Chapter G13.</p> <p>Due to numerous non-compliances, the proposed development does not meet the requirements of this Section and is considered to not be appropriate development for the site.</p> <p>See full assessment in Appendix B</p>		
G21: Car Parking and Traffic		
<p>The proposal has been assessed against the provisions of Chapter G21.</p> <p>The Development Engineer has assessed the viability of the proposed development and provided Conditions of Consent (D21/193437). Should the application be determined by way of approval, then these conditions would be included.</p>		
Land Use Type	Standard	Comment
Multi Dwelling Housing	<p>2 spaces per: • Dwelling containing 3 or more bedrooms or rooms capable of use as a bedroom</p> <p>For developments with 3 or more dwellings, 0.5 car parking spaces per dwelling for visitors.</p>	<p>Each dwelling has four (4) bedroom which requires two (2) spaces per dwelling. Each dwelling includes a double garage, enclosed within the dwelling footprint.</p> <p>The proposed development includes three (3) dwellings which requires two (2) dedicated visitor parking space in addition to the resident parking. Only one (1) visitor space has been provided.</p> <p>There is room for another space adjacent to the one provided, which can be conditioned to be provided prior to the issue of a Construction Certificate, if approved.</p>
Access		
<p>A single driveway has been provided off Parker Crescent. The proposed development is located on a 90° bend along where the street is quite narrow (as per Figure 6 below). The location of the proposed driveway access is considered suitable in relation to the street and verge placement, however, Council's Development Engineer raised concerns with entry and exit into the garage for Unit 1 (Figure 7 below).</p>		

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Chapter 21: Car Parking and Traffic of SDCP 2014 outlines both in the objectives of the chapter and in the performance criteria and acceptable solutions that vehicles are to enter and leave a site in forward direction (refer s.4(vi), s5.4, and s5.6).

The location and design of Unit 1 however requires vehicles to exit the driveway in reverse, having adverse road safety impacts, particularly given the location of the driveway on 90° bend along where the street is quite narrow. Whilst Parker Crescent is unlikely to carry large traffic volumes, the manoeuvre is unnecessary and could be addressed by an alternative design.

Council's Development Engineer has provided the following:

"The garage for Unit 1 should be re-oriented to the south, towards the common driveway to facilitate forward ingress and egress. The current arrangement would encourage vehicles to reverse out, which is not supported given the ample opportunity to comply with DCP G21 by rotating the garage".

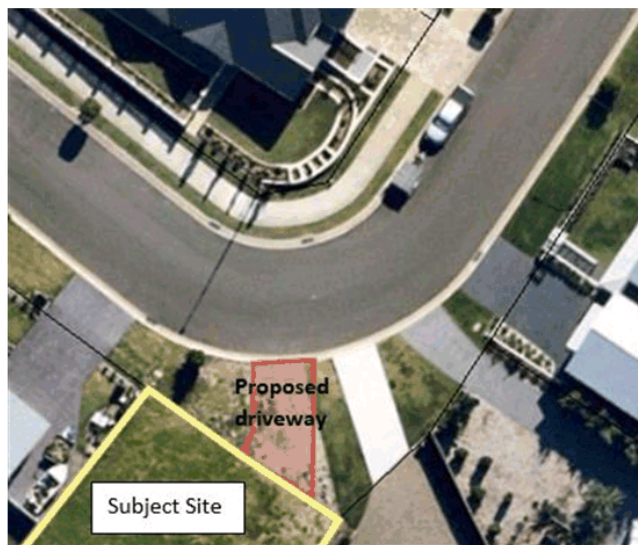


Figure 6 – Location of proposed driveway in relation to existing adjacent driveways.

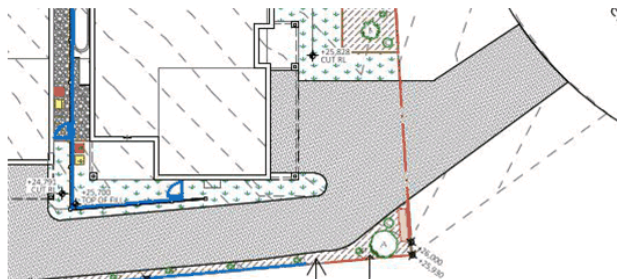


Figure 7 – Unit 1 garage as per the submitted plans.

Visitor Parking

Only one visitor parking space has been provided. DCP G21 requires two (2) visitor spaces due to the rounding provisions. It is considered that there is ample room on the site to provide

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a second visitor parking space. Should the application be determined by way of approval, then conditions would be included which require an additional space to be provided prior to the issue of a Construction Certificate as per Figure 8 below.

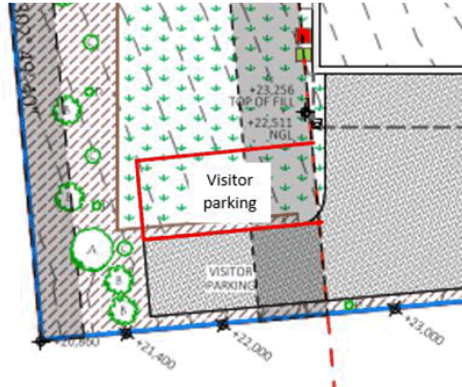


Figure 8 – On-site Visitor parking as per the submitted plans with identified space for second space.

Area specific Chapters – North Shoalhaven

N3: Berry Residential Subdivision

The proposal has been assessed against the provisions of Chapter N3.

This chapter relates to the overall Huntingdale Park subdivision and not infill development such as the proposed development. No further assessment is required.

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

Not applicable to this application

iv) Environmental Planning and Assessment Regulation 2000

Not applicable to this application

v) REPEALED

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

Head of Consideration	Comment
Natural Environment	It is not anticipated that the proposal will have a negative impact on the natural environment.
Built Environment	It is anticipated that the proposal will have a negative impact on the built environment due to the overdevelopment of the site. The assessment within this report has demonstrated the development is considered to be an overdevelopment of the

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Head of Consideration	Comment
	site and will have unacceptable impacts on neighbouring properties and the neighbourhood.
Social Impacts	It is anticipated that the proposal will have a negative social impact in the locality due to the overdevelopment of the site and impact on minimal local services and facilities.
Economic Impacts	It is not anticipated that the proposal will have a negative economic impact in the locality.

(c) Suitability of the site for the development

The site is not considered suitable for the proposed development for the following reasons:

- Non-compliance with objectives and requirements of SLEP 2014;
- Non-compliance with objectives and acceptable solutions outlined in SDCP 2014;
- The proposal is not considered to be compatible with surrounding land uses;
- The proposal is considered to have a negative impact on the surrounding built environment;
- The proposal is considered to have a negative impact on the surrounding social environment; and
- The proposed vehicular access is not considered suitable for proposed Unit 1 and is unsafe.

(d) Submissions made in accordance with the Act or the regulations

The DA was notified in accordance with Council's Community Consultation Policy for Development Applications. Submissions were received by Council objecting to the proposal. The concerns raised are outlined below:

Summary of Public Submissions	
Objection Raised	Comment
General objection	There was a total of 45 submissions against the proposed development (no submissions were in support). The majority of the objections were of a general nature with no specific concerns to the development.
Overdevelopment of site The Estate was marketed as only single-family homes to be constructed. The proposal for 3 double story, 4 bedroom, townhouses on a 1000m ² block, when similar sized blocks only have single dwellings.	A significant number of objections were concerned with the over development of the site, specifically due to the proposal including three (3) dwellings when existing sites within Huntingdale Estate have single dwellings. Due to the significant number of DCP variances, specifically building envelopes, height, and setbacks; solar and daylight access; and private open space, which have compounding impacts on the development, the proposed development is considered to be an overdevelopment of the site. The overdevelopment of the site forms part of the basis for refusal.

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	Whilst the Estate may be marketed in a particular way, it is the planning controls that will influence what is proposed and potentially built.
Proposed Strata Subdivision The proposed Subdivision does not comply with minimum Lot size map or clause 4.1f of the SLEP.	<p>The proposed development proposes Strata Title Subdivision. Clause 4.1(f) <i>Minimum subdivision lot size for community scheme and strata plan lots</i> states that for strata subdivision, the minimum size shown on the Lot Size Map is irrelevant if <i>"the consent authority is satisfied that each lot to be created will be used for a purpose permitted ... under an existing development consent for the land"</i>.</p> <p>Accordingly, if the proposal were approved, the proposed Strata Subdivision of units of any size would be permissible, being a purpose permitted under an existing development consent.</p> <p>Further to this, the proposed Strata Titling of the development would be considered <u>Exempt Development</u> under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, if the multi dwelling housing is approved.</p>
Against 88b Restrictions The development has a floor area of 498m ² /49% exceeding the requirement. The 88b restriction refers to total floor area which in this case is stated totalling 741m ² /73% of the total land area. Proposed Colourbond fencing is not in accordance with 88b restrictions.	<p>RATU 3 The total allotment size is 1,015.0m² which allows for a total floor area of 35% or 355.25m². The total floor area across all three (3) dwellings is 740m² which exceeds the maximum permissible floor area.</p> <p>As stated previously, due to significant DCP variances, the proposed development is considered to be an overdevelopment of the site.</p> <p>RATU 5 There is no front fencing proposed as part of the development. The side fencing to the north-west is existing 1.8m high timber fencing. There is currently no fence along the rear or side south-east. The proposal seeks to install 1.8m high Colourbond fencing to the unfenced boundaries and between the proposed dwellings. The existing materials within Huntingdale Estate are timber fencing as per RATU 4(n). The proposed fencing does not comply however Conditions of Consent can require timber fencing in accordance with Estate guidelines.</p> <p>Where 88B instruments are imposed as a private restriction or seek to circumvent planning controls, there are provisions in instruments that ensure the planning outcome can be achieved.</p>
Privacy, overshadowing, and reduced solar access. Loss of privacy due to adjoining properties upper-level balconies/alfresco areas.	<p>Suitable shadow diagrams were requested to be provided by the applicant which were to clearly show the neighbouring developments. The submitted shadow diagrams do not adequately identify the adjoining sites. As suitable shadow diagrams have not been provided it is difficult to assess the impact on adjoining properties.</p>

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<p>The height of the proposed structure reduces the adjoining property solar access.</p> <p>The height of the proposed structure creates unsuitable overshadowing.</p>	<p>The plans fail to show detail on the neighbouring properties (as required by Schedule 1) to enable an appropriate assessment of the impacts of the proposal. It is considered however that the proposed two storey development is not located to minimise overshadowing .</p> <p>As detailed in the DCP assessment, the first floor private open space on Units 2 and 3 are likely to overlook the dwellings adjoining the site and cause unreasonable privacy impacts.</p> <p>The non-compliance privacy, overshadowing, and reduced solar access, forms part of the basis for refusal.</p>
<p>Traffic</p> <p>Location of multiple driveways on the bend and on a narrow street.</p> <p>Increased traffic generation and impacts.</p> <p>Minimal off-street parking provided.</p> <p>Safety of pedestrians.</p> <p>Restricted access for emergency services vehicles.</p>	<p>The Development Engineer has assessed the viability of the proposed development and has raised concerns with entry and exit into the garage for Unit 1 and visitor parking provisions.</p> <p>Concerns relating to safe ingress and egress forms part of the basis for refusal.</p>
<p>Height and building lines</p> <p>The proposed development exceeds the LEP height restriction of 8.5m.</p> <p>Double storey development will dominate and overlook the area.</p> <p>Front setback not maintaining existing</p> <p>Proposed building line at rear of property on APZ.</p>	<p>The proposed development exceeds the LEP allowable height limit of 8.5m and no justification has been provided for the exceedance. The non-compliance with the height of buildings development standard is identified as a reason for refusal of the application.</p> <p>Surrounding development is predominately single storey or split-level to allow for the excessive slope within the area. The proposed double story is considered to be out of context with the existing surrounding development and is considered to dominate the area.</p> <p>The front setback is not considered to be consistent with adjoining development as it is approximately 1m closer to the frontage than the average street setback. Furthermore, due to the location on the corner the adjoining property to the south-east is setback 9.967m from the shared boundary frontage.</p> <p>The rear setback is located in accordance with the DCP and APZ provisions.</p> <p>The non-compliance with the building envelope, height, and setbacks forms part of the basis for refusal.</p>
<p>Local Character and Context</p> <p>Development is not compatible with surrounding development</p>	<p>Submission which raised concerns with the proposed development being “not in keeping” with the historical significance of the Berry township.</p>

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<p>and not in keeping with other adjoining or adjacent lots.</p> <p>Development not in keeping with the existing heritage of Berry township.</p>	<p>The proposed development is not considered sympathetic or compatible with the existing or desired character and amenity of the locality.</p> <p>The current design of the development is considered out of character in the Huntingdale Estate locality. Although the estate is still undergoing further development, and the subject planning controls will establish the character of the area, residential amenity both within and adjoining the site would not be maintained.</p> <p>The incompatible design of the proposed development in regard to local character and amenity, forms part of the basis for refusal.</p>
<p>Non-compliance with Development Control Plan.</p> <p>Local character & context.</p> <p>Visual impact, bulk and scale of the proposed development is excessive.</p> <p>Private Open Space does not comply with the minimum required dimensions.</p> <p>Landscaping non-compliance</p>	<p>As previously discussed, the proposed development is considered non-compliant with the surround existing and proposed local character and context.</p> <p>The applicant has stated that there no/minimal variations to many of the non-compliances and therefore has not provided variation statement for the variances.</p> <p>Council's assessment has identified significant and numerous DCP variances including solar and daylight access; and private open space, which have compounding impacts on the development.</p> <p>The significant variances from the DCP forms part of the basis for refusal.</p>
<p>Noise</p> <p>Minimal building separation.</p> <p>Increase in vehicle traffic.</p> <p>Noise from multiple air-conditioners and water pumps.</p>	<p>Concerns were raised in relation to excessive noise being generated by the development due to three "family" sized dwellings being located on a single lot.</p> <p>There is potential for noise impacts to the adjoining properties from the extensive driveway along the south-east boundary. The adjoining property has habitable rooms located adjacent to the driveway with a total separation distance of 3.0m which is within suitable acoustic separation distances.</p> <p>Should the application be determined by way of approval, all noise generating (mechanical) plant and equipment will be conditioned to not exceed LAeq (15min) of 5dB(A) above background noise at the property boundary and will be required to be acoustically screened.</p>
<p>Stormwater management</p> <p>Rainwater run-off from "excessive" hard-stand surfaces.</p>	<p>The Development Engineer has assessed the viability of the proposed development and provided Conditions of Consent (D21/193437). Should the application be determined by way of approval, then these conditions would be included.</p>
<p>Lack of infrastructure</p> <p>Concerns relating to electricity provision, and lack of public transport.</p>	<p>The proposed development is considered to have suitable access to the provision of electricity services.</p>

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	Huntingdale Estate is not serviced by any form of public transport. Berry itself has limited services available, and predominantly located on the eastern side of the highway.
Waste The addition of multi dwelling household waste bins on the street for collection is a potential hazard.	The applicant has not demonstrated suitable locations for waste pick-up as required by DCP Chapter G13, 5.5.3 Waste Management. The proposed development would require a minimum street frontage of 8.5m to adequately provide for safe kerbside collection. The site can only provide a kerbside frontage of approximately 7m. Due to the limited street frontage and the number of existing driveways on the bend, the ability of the site to cater for the safe placement and collection of waste bins is not considered suitable.

(e) The Public Interest

The proposal is not considered to be in the public interest.

Delegations

On 18 May 2021 it was resolved by the Strategy and Assets Committee that DA21/1333 be called in to Council for determination due to the significant public interest. (MIN21.297)

Recommendation

This application has been assessed having regard for Section 4.15 (Matters for consideration) under the Environmental Planning and Assessment Act 1979. As such, it is recommended that Development Application No. DA21/1333 be **refused**.

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Appendix A – Clause 4.6 Variation Assessment

Development consent may, subject to clause 4.6, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

The application seeks a variation to clause 4.3 in accordance with clause 4.6, SLEP 2014.

The development standard is not excluded from the operation of clause 4.6 as it is not listed within 4.6(8), SLEP 2014.

Development Standard to be Varied

Clause 4.3 Height of buildings. The subject site has a maximum permitted building height of 8.5m as per sub-clause 2 (Height of Buildings Map).

Extent of the Variation

Proposed dwelling 3 exceeds the maximum permissible height by 0.19m, a 2.2% variance, for a total building height of 8.69m.

Applicants Response

"The development standard to be varied under this application is the maximum building height requirement of 8.5m. The proposed design is two storey and will result in a maximum building height of 8.69m. This is a 2.21% variation on the standard but is not inconsistent with the objectives of either Clause 4.6 or the objectives of the R1 zone.

The site is zoned to facilitate housing. The objectives of the R1 zone are:

- To provide for the housing needs of the community.*

The proposed development is multi dwelling housing which is a permitted use within the R1 zone and will provide housing acceptable for the residential zoning. CONSISTENT

- To provide for a variety of housing types and densities.*

The proposal will provide additional housing types for future residents and only residential land uses are proposed. CONSISTENT

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

The proposed multi dwelling housing will not interfere with other land uses and will help increase the demand for facilities or services associated with the general residential zone. CONSISTENT

- To identify land suitable for future urban expansion.*

The proposed development is located in a newly created estate within proximity to the Berry town centre in an area having been previously earmarked for urban expansion. CONSISTENT

As above, the proposed development is in accordance with the aims and objectives of the land use zone. Further, the objectives of Clause 4.3 Height of Buildings are:

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

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The site is located in a new residential area that supports a mix of free-standing dwellings, units, and dual occupancies. There is also a mix of single and two storey dwellings. The building height proposed with this application does not contravene this objective and is considered in keeping with the character of the area. CONSISTENT

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

The proposed development is of an appropriate building height when viewed from the street and will not have a disproportionate visual impact or disrupt significant views. Further, it is not expected to decrease the privacy or solar access of adjoining properties. Therefore, the proposed development will fit within the character of the area and contribute positively toward the existing built form in the immediate vicinity. CONSISTENT

(c) to ensure that the height of buildings on or in the vicinity of a heritage item or within a heritage conservation area respect heritage significance.

There are no heritage items or heritage conservation areas within the vicinity of the development or surrounding estate and therefore the proposal will not affect heritage significance. CONSISTENT

The proposed development is in keeping with the character of the surrounding area and other new developments. Further, the proposed variation will not result in a detrimental impact to the environment, the amenity of the area or the public realm, it is considered that strict compliance is unreasonable”.

Clause 4.6 (Exceptions to development standards) of SLEP 2014

Development consent may, subject to clause 4.6, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.

The applicant has submitted a written request to justify the contravention of the height of buildings development standard pursuant to the requirements of clause 4.6 of SLEP 2014 (**Attachment 3**). Refer to **Attachment 1** for the detailed request made by the applicant and Council's assessment. The following provides Council's review (summary) of the request for a height variation in relation to the requirements of clause 4.6. Refer to the attached assessment report (**Attachment 2**) for additional detail.

Council is required to consider subclauses (3), (4) and (5) of Clause 4.6. Clause 4.6(3)-(5) are extracted from SLEP 2014 below:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless—*
 - (a) *the consent authority is satisfied that—*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by 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 objectives for*

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- development within the zone in which the development is proposed to be carried out, and*
(b) *the concurrence of the Planning Secretary has been obtained.*

- (5) *In deciding whether to grant concurrence, the Planning Secretary must consider—*
(a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
(b) *the public benefit of maintaining the development standard, and*
(c) *any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*

Clause 4.6(3) states that the development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard

Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and for development within the zone in which the development is proposed to be carried out.

An assessment of the objectives of the zone and development standard is provided below. The proposed departure from the development standard is considered to **NOT** be in the public interest as the proposal is inconsistent with these objectives.

Clause 4.6(3)(a) – Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

To assess whether compliance with a development standard is unreasonable or unnecessary the Courts have provided guidance in the required assessment, with particular reference to the accepted "5 Part Test" for the assessment established by the NSW Land and Environment Court (L&EC) in *Wehbe v Pittwater Council* [2007] NSWLEC 827 the principles outlined in *Winten Developments Pty Ltd v North Sydney Council* [2001] NSWLEC 46 and further clarified by *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

The "5-part Test" and the applicant's response to the separate tests must be demonstrated:

- Test 1.** *The objectives of the development standard are achieved notwithstanding noncompliance with the standard.*
- Test 2.** *The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*
- Test 3.** *The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*
- Test 4.** *The development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable.*
- Test 5.** *The zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary.*

It is considered that the applicant has not satisfactorily demonstrated that compliance with the development standard is unreasonable or unnecessary.

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The applicant's written request includes the following justification for the development standard being unreasonable or unnecessary in the circumstances:

Strict compliance is not necessary in this case as the proposed development is the best outcome for the site under current zoning, will not result in a loss of amenity to neighbouring properties, and the proposed layout makes best use of the site.

The written submission by the applicant has not provided suitable justification against the 5-part Test, and the applicant's argument in relation to clause 4.6(3)(a) does not go toward demonstrating that the development standard is unreasonable or unnecessary in the circumstances of the case. It may be reasoned that the applicant's justification goes toward providing planning grounds for the support of design, but there is no justification to demonstrate that compliance is either unreasonable or unnecessary.

Clause 4.6(3)(b) – Are there Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard?

The consent authority must form the positive opinion that the applicant's written request has adequately addressed those matters required to be demonstrated by clause 4.6(3)(b).

In this regard, the proposed portion of the development that contravenes the development standard is not justified on environmental planning grounds as the written submission by the applicant has not provided suitable justification for the proposed variance to be supported.

In this regard, the applicant states:

"The development standard to be varied under this application is the maximum building height requirement of 8.5m. The proposed design is two storey and will result in a maximum building height of 8.69m. This is a 2.21% variation on the standard but is not inconsistent with the objectives of either Clause 4.6 or the objectives of the R1 zone.

The site is zoned to facilitate housing. The objectives of the R1 zone are:

- *To provide for the housing needs of the community.*
The proposed development is multi dwelling housing which is a permitted use within the R1 zone and will provide housing acceptable for the residential zoning. CONSISTENT
- *To provide for a variety of housing types and densities.*
The proposal will provide additional housing types for future residents and only residential land uses are proposed. CONSISTENT
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
The proposed multi dwelling housing will not interfere with other land uses and will help increase the demand for facilities or services associated with the general residential zone. CONSISTENT
- *To identify land suitable for future urban expansion.*
The proposed development is located in a newly created estate within proximity to the Berry town centre in an area having been previously earmarked for urban expansion. CONSISTENT

As above, the proposed development is in accordance with the aims and objectives of the land use zone. Further, the objectives of Clause 4.3 Height of Buildings are:

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

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The site is located in a new residential area that supports a mix of free-standing dwellings, units, and dual occupancies. There is also a mix of single and two storey dwellings. The building height proposed with this application does not contravene this objective and is considered in keeping with the character of the area.
CONSISTENT

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

The proposed development is of an appropriate building height when viewed from the street and will not have a disproportionate visual impact or disrupt significant views. Further, it is not expected to decrease the privacy or solar access of adjoining properties. Therefore, the proposed development will fit within the character of the area and contribute positively toward the existing built form in the immediate vicinity. **CONSISTENT**

- (c) *to ensure that the height of buildings on or in the vicinity of a heritage item or within a heritage conservation area respect heritage significance.*

There are no heritage items or heritage conservation areas within the vicinity of the development or surrounding estate and therefore the proposal will not affect heritage significance. **CONSISTENT**

The proposed development is in keeping with the character of the surrounding area and other new developments. Further, the proposed variation will not result in a detrimental impact to the environment, the amenity of the area or the public realm, it is considered that strict compliance is unreasonable".

The applicant has only stated that they believe the proposed development is "consistent" with each of the environmental planning grounds, however, have not provided evidence as to "how" the proposed development meets these grounds to justify contravening the development standard. It is therefore considered that the applicant's clause 4.6 variation report has not adequately provided justification that there are sufficient environmental planning grounds to justify contravening the development standard.

Clause 4.6(4)(a)(ii) – Will the Proposed Development be in the Public Interest Because it is Consistent with the Objectives of the Particular Standard and Objectives for Development within the Zone in Which the Development is Proposed to be Carried Out?

Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

An assessment of the objectives of the zone and development standard is provided below. As detailed further below, the proposed departure from the development standard is not considered to be in the public interest as while the proposal is consistent with the objectives of the R1 General Residential zone by its inherent nature of being a residential development, the proposal is inconsistent with the applicable development standard.

Zone Objectives

Pursuant to the provisions of the SLEP 2014, the land is zoned R1 General Residential. The objectives of this zone are as follows:

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

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- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To identify land suitable for future urban expansion.

The proposed development is consistent with the objectives of the R1 zone, being a permissible use which provides for additional housing of a permissible housing type, in an existing urban expansion area.

Development Standard Objectives

Pursuant to the provisions of the SLEP 2014, the development standard proposed to be varied is clause 4.3 Height of buildings.

The objectives of this standard are as follows:

- a) *to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of a 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 buildings on or in the vicinity of a heritage item or within a heritage conservation area respect heritage significance.*

The proposal **does not comply** with the development standard objectives in the following ways:

- The proposed dwellings are not considered to be compatible with the height, bulk, and scale of the existing and desired future character of a locality. The three units are each 4-bedroom two-storey dwellings which extend for a length of 31.35m down the 49.20m long block (see Figure 6). With a setback of only 10m to the rear boundary, the overall built form is far closer than the established rear setback of neighbouring properties as shown in Figures 10 & 11);
- The proposed development will result in a loss of shared views from adjoining sites with the rear Unit 3 sitting directly within the view outlook of both 21 and 25 Parker Crescent;
- The proposed development will result in a loss of privacy to neighbouring properties as a result of overlooking. The positioning of the main living areas on the first floor with adjoining private open space (balconies) will mean occupants have direct view opportunities to the neighbouring rear yards. This is only achieved as a result of the extended length of the development down the lot and the overall height of the buildings (refer Figure 12); and
- As a result of the elongated built form down the length of the lot, the proposed development will result in a loss of solar access to existing neighbouring properties. This is further exacerbated as a result of the two-storey design not responding to the sloping site and/or the breaking up of the massing of the building through reducing upper-level floor plates (refer Figure 13). In this regard, attention is drawn to the 3pm shadow diagram which demonstrates that modified design would not be as extreme.

No compelling argument has been provided by the applicant as to the how the proposed development meets the objectives of clause 4.3 and how the buildings are compatible with the height, bulk, and scale of the existing and desired future character of a locality. Most importantly the existing and desired future building heights of development within the Estate is to remain below the 8.5m height into the future.

Clause 4.6(4)(a)(ii) asks '*Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and objectives for development within the zone in which the development is proposed to be carried out?*'.

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The proposal meets the objectives of the R1 General Residential zone in the sense that it literally provides for an additional residential development within a residential zone. However, it is fundamental that development also meets the associated built form objectives and standards in relation to the development type (in this case multi dwelling housing), to ensure it is consistent with the character of the environment in which it is situated. This underpins the site suitability of the development, and without meeting both sets of objectives, approval of the development cannot be considered to be in the public interest.

The development does not meet the objectives of the particular development standard of maximum building height as while the numerical standard being varied is minimal; the privacy, overshadowing and visual impacts caused by the design and overall bulk of the development are incompatible with the established character of the area and result in unacceptable impacts on neighbours.

The requirements of Clause 4.6(4)(a)(ii) ask if the proposed development is in the public interest because the development is consistent with the objectives of the particular standard and the zone, despite the noncompliance with the particular development standard. Accordingly, the proposed development is not considered to be in the public interest and does not meet Clause 4.6(4)(a)(ii).

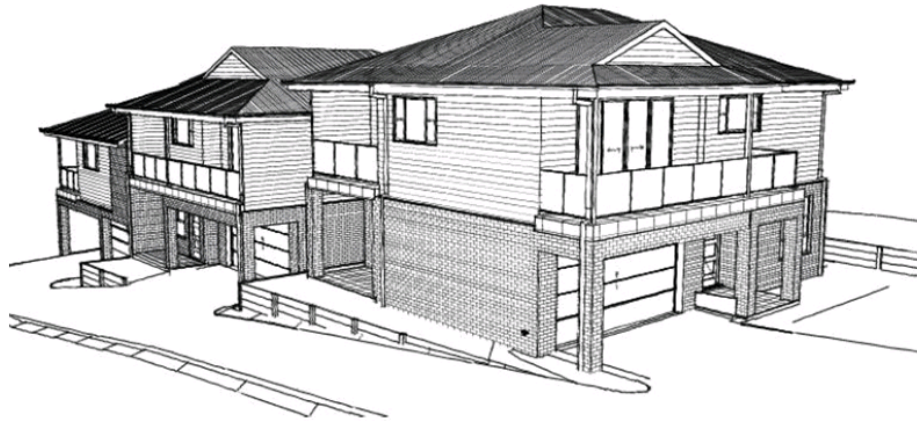


Figure 9 – 3D image of proposed development submitted by the applicant looking south-west

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Figure 10 – Marketing drone image of subject site in its context looking north east up Parker Crescent towards Hitchcock's Lane (Source: realestate.com.au, dated July 2020)



Figure 11 – Marketing drone image of subject site in its context looking north (Source: realestate.com.au, dated July 2020)

DE21.79 - Attachment 1

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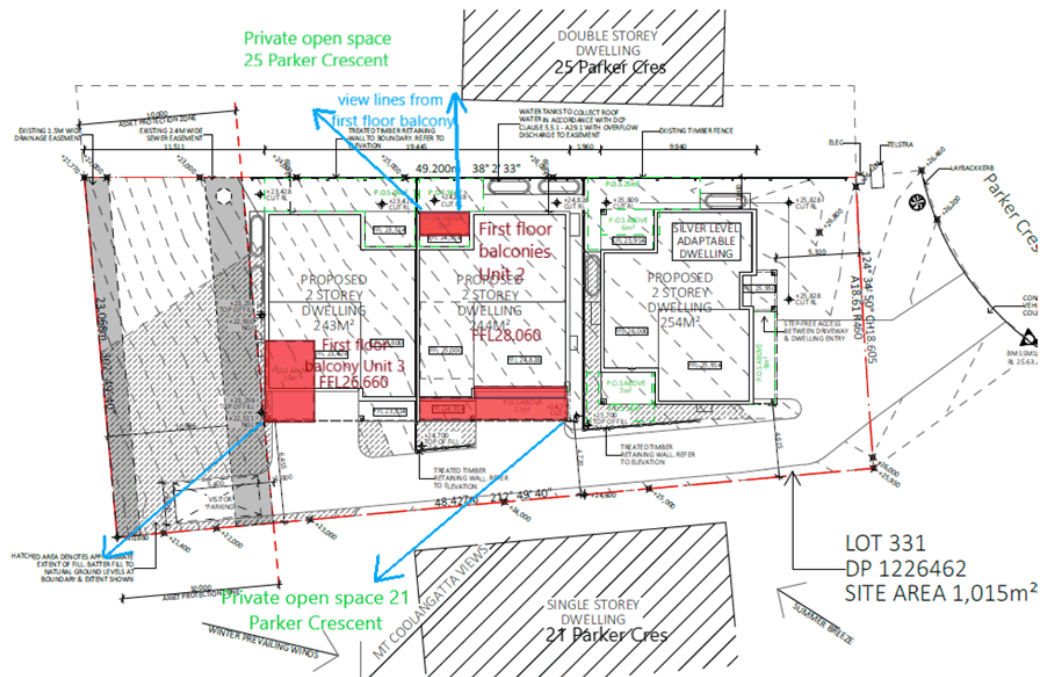


Figure 12 – Excerpt of submitted site plan indicating potential overlooking of the development to neighbouring properties

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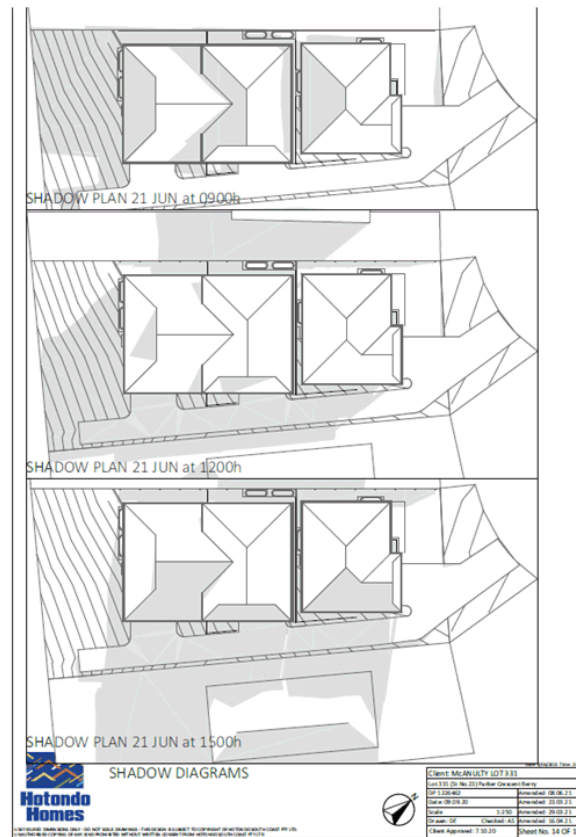


Figure 13 – Submitted shadow diagrams

Clause 4.6 (4)(b) – Concurrence of the Secretary has been obtained

Council may assume concurrence if it were of the view to support the variation.

Clause 4.6(5)(a) – Would Non-Compliance Raise any Matter of Significance for State or Regional Planning?

The contravention does not raise any matters of significance having regard to State or regional environmental planning. It does not have implications for any State Environmental Planning Policies in the locality or impacts which are considered of a State or regional scale.

Clause 4.6(5)(b) – Is There a Public Benefit of Maintaining the Planning Control Standard?

In the judgement of *Ex Gratia P/L v Dungog Council* [2015] (NSWLEC 148), Commissioner Brown of the NSW LEC outlined that the question that needs to be answered in relation to the application of clause 4.6(5)(b) is "whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development".

The applicant is to demonstrate that there will be better planning outcomes achieved through variation to the development standard as opposed to strict compliance with the development standard or amending the application to reduce the extent of the variation.

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In this regard, it is considered that strict compliance with the development standard would result in a better outcome. The extent of the departure from the height control, whilst numerically small does not relate to a design that demonstrates considered design having regard to the established character within the area as detailed in the assessment against Clause 4.6(a)(ii).

The departure from the development standard is the result of inadequate regard to the site context and the applicable planning controls relating to the site and the proposed land use. It is further noted that due to the circumstances of the site situated within the Estate, the contravention is likely to set an undesirable precedent for a departure of this development standard in the locality.

There appears to be no reason or specific site characteristic.

Summary and conclusion with regard to clause 4.6

The Council accepts that the application is supported by a written request from the applicant that seeks to justify the contravention of the development standard by addressing the matters under clause 4.6(3)(a) and (b).

No compelling argument has been provided as to the how the proposed development meets the objectives of clause 4.3 and how the buildings are compatible with the height, bulk, and scale of the existing and desired future character of a locality. Most importantly the existing and desired future building heights of development within the Estate is likely to remain below the 8.5m height in the foreseeable future.

In considering a clause 4.6 variation, clause 4.6(4) states development consent **must not be granted** for development that contravenes a development standard unless—

- 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 objectives for development within the zone in which the development is proposed to be carried out, and*

The applicant's written request is inadequate in addressing these requirements as the written submission provided by the applicant is **not** considered to satisfy the requirements of clause 4.6(3) and the proposed development is **not** considered to be in the public interest and in this regard the proposed height variation is considered to warrant refusal.

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Appendix B – Chapter G13: Medium Density and Other Residential Development

5 Medium Density Development	
5.1 Principle Controls	
5.1.1 Minimum Lot Size	
<p>P1.1 To promote good built form outcomes and the efficient utilisation of land, lot consolidation/ amalgamation avoids the isolation of smaller lots that would prevent future medium density development on those lots.</p> <p>P1.2 To create lots of an appropriate size for the purpose including:</p> <ul style="list-style-type: none"> • Provision for building footprint, landscaping, car parking, driveway, private recreation areas, manoeuvring on sites, setbacks, services, and the like. • Preservation of the integrity of existing or desired future streetscape and neighbourhood character to enable consistent and visually harmonious development within the locality. • Provision of high quality amenity for residents and neighbours. • Accommodating on-site sewage storage and disposal where a reticulated sewerage scheme is not available. 	<p>Does not meet the objectives of the clause.</p> <p>The site is 1,015m² with the rear 230m² (approximate) unable to be built upon due to asset protection zones and easements, the useable site area is reduced to approximately 785m².</p> <p>Given the minimum lot size for a detached dual occupancy (2 dwellings) is 700m², 785m² is therefore not considered suitable for three (3) dwellings.</p> <p>Due to significant DCP variances within this Chapter, specifically building envelopes, height, and setbacks; solar and daylight access; and private open space, which have compounding impacts on the development, the subject site is not considered an “appropriate size” for multi dwelling housing.</p>
5.1.2 Density	
<p>P2 The bulk and scale of new development, particularly on the perimeter of the development site, or where that locality or development site has heritage significance and/or distinctive character, is:</p> <ul style="list-style-type: none"> • Compatible, consistent, and sympathetic to the bulk and scale of existing development in the locality. • Sympathetic with the streetscape and complements the existing and desired future character of the area. 	<p>Does not meet the objectives of the clause.</p> <p>The proposed development has an FSR of 0.5:1 which is the maximum permissible FSR.</p> <p>However, the proposed development is not considered to be consistent with the surrounding bulk and scale of existing development.</p> <p>Surrounding development comprises of single dwellings on individual allotments. The introduction of multi dwelling housing on a single allotment will be “out of character” for the area.</p> <p>The location of the driveway on a narrow bend raises concerns for access and future streetscape, due to congestion and lack of capacity for on-street parking.</p> <p>Having regard to the Planning Principles, which go to matters such as height, floorspace, site cover etc, it has been concluded that there are</p>

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	<p>various problems with the development and it is this accumulation of issues that is of concern that raises 'character' considerations. Further, the area has an emerging character of low key residential development. Having regard to this context, the proposal is considered dominant. (Note: The character of the area is also foreshadowed in the 88B instrument.)</p> <p><i>Veloshin v Randwick Council</i> [2007] NSWLEC 428</p>
5.1.3 Building Envelope, Heights, and Setbacks	
<p>P3.1 The bulk and scale of development is compatible with the existing or desired future character of the area and minimises adverse amenity impacts on neighbours, the streetscape and public domain.</p> <p>P3.2 Development enables view sharing with neighbours and the public domain.</p>	<p>Non-compliant</p> <p>Due to variances in height and setbacks (further discussed below) the proposed development is not wholly sited within the building envelope.</p> <p>The proposed development is not considered to be consistent with the surrounding bulk and scale of existing development.</p>
<p>P4 The height of development:</p> <ul style="list-style-type: none"> • Is compatible with the existing or desired future character of the area. • Minimises adverse amenity impacts associated with overlooking and overshadowing of adjoining properties. • Relates to the landform, with minimal cut and fill. 	<p>Non-compliant</p> <p>The proposed development exceeds the permissible height restriction. Maximum permissible building Height 8.5m (LEP).</p> <p>The proposed maximum ground to ridge height is:</p> <ul style="list-style-type: none"> – Unit 1 = 7.965m – Unit 2 = 7.975m – Unit 3 = 8.690m <p>Unit 3 exceeds the maximum height by 0.19m.</p>
<p>P5.1 The front setback is generally consistent with adjoining development and does not undermine the integrity of the prevailing building lines.</p> <p>P5.2 The location and siting of the building complements the existing setbacks in proximity to the site, foreshore (if applicable) and the streetscape.</p> <p>P5.3 The proposed development is setback and of a scale that is relative to the street reserve width, in such a way to ensure pedestrians do not feel buildings are overbearing.</p> <p>P5.4 Setbacks avoid loss of view, undue overshadowing, and provide/maintain privacy (visual and acoustic) and traffic safety.</p>	<p>Non-compliant</p> <p>Front setback (ground & upper floor) = 5.32m (to veranda), 6.62m (to dwelling)</p> <p>Side setback (east) = 4.615m</p> <p>Side setback (west) = 2.0m</p> <p>Rear setback = 10.046m</p> <p>The front setback has an upper-level reduced setback for veranda of 0.18m.</p> <p>The average front setback for the surrounding development is 6.2m (as seen in figure 9 below);</p> <p>25 Parker Cres – 6.052m</p> <p>27 Parker Cres – 6.035m</p> <p>17 Parker Cres – 6.9m</p> <p>29 Parker Cres – 6.0m</p>

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<p>P5.5 Setbacks are progressively increased to reduce bulk and overshadowing while maintaining adequate daylight and sunlight.</p> <p>P5.6 Adequate levels of light and ventilation to adjoining buildings, landscaping, services, and infrastructure are protected.</p> <p>P5.7 The proposal maintains adequate provision for on-site car parking.</p>	<p>18 Parker Cres – 6.0m</p> <p>The front setback is not considered to be consistent with adjoining development as it is approximately 1m closer to the frontage than the average street setback. Furthermore, due to the location on the corner the adjoining property to the south-east is setback 9.967m from the shared boundary frontage.</p>
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Figure 15 – Existing front setbacks of adjoining sites

Variations to 5.1.3 Building Envelope, Heights, and Setbacks

Extent of proposed variation

- P3.1 The proposed dwellings are not located within the building envelopes.
Due to non-compliance with the height and setbacks, the proposed dwelling is not located within the building envelope.
- P4 Height exceeding the maximum permissible LEP & DCP height limits.
Unit 3 exceeds the permissible ridge height by 0.19m, a 2.2% variance.
- P5.4 The proposed development does not meet minimum frontage setbacks and is forward of the predominant building line.

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The minimum setback is required to be 4.5m to veranda's and 5.5m to the dwelling for the ground floor and an additional 1.0m to the upper floor. The proposal requires a variation of 0.18m to the upper-level veranda, a variance of 3.3%.

Meeting objectives and performance criteria

The applicant has provided comment in relation to the building envelope requirements:

"The proposed development sits within the building envelope as considered permissible under the provisions of clause 4.6 (Exceptions to development standards) and variation to setbacks as outlined in P5".

The applicant has provided a variation statement for the front setback:

"A variation is requested to the development standard, as the upper-level balcony encroaches the required front setback by 0.18m. This encroachment is considered minor in this case as the proposed balcony primarily addressed the street and will not affect the privacy or solar access of adjacent properties. However, a reduction to the size of the upper-level balcony will result in a decrease to the amenity of future residents and is not considered a desirable outcome for the development. All other proposed setbacks comply or exceed with the requirements of this section".

Comment

It is noted that the plans do not show the building envelope accurately. The plans also fail to show detail on the neighbouring properties (as required by Schedule 1) to enable an appropriate assessment of the impacts of the proposal.

Due to significant DCP variances within this Chapter, specifically solar and daylight access; and private open space, which have compounding impacts on the development, the variation is this instance **cannot** be supported.

5.1.4 Landscaping

P6.1 Sufficiently dimensioned landscaping provides amenity to residents, effective screening and enables tree and large shrub planting.

P6.2 A suitably sized deep soil planting area encourages:

- Mature tree and shrub growth.
- Opportunity for surface water to infiltrate naturally to groundwater.

P6.3 Unpaved or unsealed areas are maximised and are designed to facilitate on-site infiltration of stormwater run-off subject to soil/drainage conditions.

P6.4 Major existing trees are retained wherever practicable through appropriate siting of dwellings, structures, and driveways.

P6.5 Provision is made for appropriate street tree planting having regard to the appearance and role of the street, solar access requirements and utility services.

Consistent

The site is currently cleared of any significant vegetation, there is no vegetation proposed for removal. There are existing street trees which are to be retained. No additional street trees are required.

Formal Landscaping = 153.0 (15.1%)

Total Landscaping = 274.5m² (27.0%)

Deep soil planting = 123.3m² (12.2% of total site or 44.9% of the total landscaped area)

Front setback = 53.1m² (39%)

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P6.6 The visual impact of ancillary landscaping or retaining structures is considered.	
5.2 Siting the Development	
5.2.1 Local Character and Context	
<p>P7 The scale and appearance of new development is compatible with, and sympathetic to, existing and future desired:</p> <ul style="list-style-type: none"> • Development in the locality; and • Amenity and character of the locality; <p>Particularly where the development site or its surrounds has some heritage significance or distinctive character.</p> <p>P8 Existing views from the private or public domain (including heritage or familiar dominant landmarks that are recognised and valued by the community) are not substantially or unreasonably affected where it is possible to design for the sharing of views.</p>	<p>Does not meet the objectives of the clause.</p> <p>The proposed development is not considered sympathetic or compatible with the existing or desired character and amenity of the locality.</p> <p>The subject site is not located within a Heritage Conservation Area however it is within close proximity to the Berry Conservation Area and numerous heritage items of both Local and State significance.</p> <p>The proposed development is located on a prominent ridge line on the southern approach to Berry along the Princes highway. The visual significance of the subject site requires any proposed development to reinforce the historic character of Berry and maintain the existing and desired future character for the area. The proposed development is considered to affect views towards the site as viewed from the southern approach.</p> <p>The Draft Chapter N3 Berry – West of the Princes Highway came into effect on 16 June 2021, which identifies the desired character of the area as follows:</p> <p><i>"Residential land in the south-west of Berry (the Subject Land) is located in a visually sensitive area. It is important for the design of new development to respect the scenic values of the area and enhance the natural features and landscape quality of Berry."</i></p> <p>It is noted that "compatible" does not encourage "sameness" in built form, but rather requires a development to fit comfortably within its urban context. It is considered that the design of the development does not currently achieve this.</p> <p>The proposal is considered to unreasonably affect views from the surrounding properties by extending the development the full length of the useable site and compromising view sharing.</p>

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Figure 16 – Existing approach from South looking towards site (image capture by google street view)

<p>P9 The number, location and distribution of existing and proposed developments do not significantly alter the amenity and character of the area through concentrated localised areas of higher density development.</p>	<p>Consistent</p> <p>There are no other dual occupancies or multi dwellings within the vicinity.</p>
<p>5.2.2 Orientation and Siting</p>	
<p>P10.1 The site analysis informs the site design and layout.</p> <p>P10.2 The site layout integrates with the surrounding environment through:</p> <ul style="list-style-type: none"> • Adequate pedestrian, cycle, and vehicle links to street and open space networks. • Buildings that face and address streets and the public domain. • Buildings, streetscape, and landscape design that relates to the site topography and to the surrounding neighbourhood character. <p>P10.3 The site layout enhances personal safety and minimises potential for crime and vandalism.</p> <p>P11.1 The frontage, entries and habitable room windows of dwellings address the street.</p> <p>P11.2 The design and orientation of the dwellings:</p>	<p>Consistent</p> <p>A suitable Site Analysis Plan has been submitted as part of the application.</p> <p>The proposed development will only have one of the proposed dwellings visible from the street. The proposed dwellings “step-down” the site with the topography. The proposed architectural design is considered to be sympathetic to the surrounding existing development with “like” materials and colours proposed.</p> <p>Proposed dwelling 1 has a habitable room with a window and entrance door facing Parker Cres, enabling casual surveillance.</p> <p>Dwellings 2 and 3 are not considered to be significantly visible from the street. Each dwelling has a clear and identifiable front door, accessible from the shared driveway.</p>


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<ul style="list-style-type: none"> • Enhance the streetscape. • Complement existing development in the vicinity. • Provide visual interest. • Allow casual surveillance of public or communal streets or public domain. 	
5.2.3 Vehicle and Pedestrian Access	
<p>P12.1 Access arrangements are suitable for the development.</p> <p>P12.2 The design of the site and driveways, including manoeuvring areas, has regard to the safety of pedestrians, cyclists, and vehicles.</p> <p>P12.3 Multiple driveways are avoided.</p> <p>P13.1 The visual dominance of driveways is minimised by:</p> <ul style="list-style-type: none"> • The selection of paving materials e.g., decorative paving and brick banding. • Breaking up the appearance of driveways with landscaping and screen planting. <p>P13.2 Driveways are designed to:</p> <ul style="list-style-type: none"> • Minimise the volume of stormwater runoff. • Increase the area available for landscaping. • Retain established trees and vegetation. • Accommodate public services and infrastructure. 	<p>Consistent</p> <p>A single driveway has been provided off Parker Cres.</p> <p>There is a pedestrian footpath on the other side of the street which can provide for safe pedestrian movements.</p> <p>See full assessment under G21 – Car Parking and Traffic.</p>
5.3 Amenity	
5.3.1 Building Separation and Visual/Acoustic Privacy	
<p>P14.1 Adequate separation between buildings is provided in proportion to the height and scale of the building.</p>	<p>Does not meet the objectives of the clause.</p> <p>The proposed dwellings are double storey and sited with appropriate setbacks to reduce any future privacy issues to adjoining properties.</p>
<p>P14.2 Direct overlooking of main internal living areas and private open space of other dwellings and adjoining properties is minimised by building layout, location and design of windows, balconies, screening devices, landscaping, or other effective means.</p>	<p>Does not meet the objectives of the clause.</p> <p>The proposed development is considered to have potential privacy impacts due to the location of private open space on the upper levels, especially of proposed dwellings 2 and 3, and elevation of the site. This is likely to lead to direct overlooking of private open space of the property to the south. The orientation and layout of the proposal is to maximise its views at the expense</p>


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	<p>of view sharing with the neighbours and of privacy for the neighbours.</p> <p><i>Meriton v Sydney City Council [2004] NSWLEC 313</i> sets out the following considerations to be taken into account when assessing the protection of visual privacy:</p> <ul style="list-style-type: none"> – Density - The ease with which privacy can be protected is inversely proportional to the density of development. – Separation - Privacy can be achieved by separation. The required distance depends upon density and whether windows are at the same level and directly facing each other. – Use - The use of a space determines the importance of its privacy. Within a dwelling, the privacy of living areas, including kitchens, is more important than that of bedrooms. – Design - Overlooking of neighbours that arises out of poor design is not acceptable. <p>North-west boundary privacy</p> <p>The proposed development is positioned towards the north-western boundary with a side setback of 2.0m. The identified rooms along the length of this elevation, both ground and upper floors, are bedrooms which are considered to have a lesser use.</p> <p>The property to the north-west has three (3) windows (Figure 17 below) facing the subject site. The identified rooms along this elevation are bedrooms and a bathroom. Again, these rooms are considered of a lesser use. The rear deck is off a bedroom and considered to be of less use than a deck off a high traffic area such as a lounge room. Primary living areas for this property are located on the far side of the dwelling, away from the subject site.</p> <p>The proposed development is not considered to negatively impact on the property to the north-west of the subject site.</p> 
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	<p><i>Figure 17 – windows of adjoining property on north-west elevation.</i></p> <p>South-east boundary privacy</p> <p>The proposed development is positioned a minimum of 4.6m from the south-eastern boundary. The identified rooms on the ground floor of this elevation are predominately non-habitable rooms. The upper levels of all proposed dwellings include the primary living areas and alfresco decks. The potential for overlooking from these areas are increased.</p> <p>The property to the south-east has five (5) windows/doors (figure 12 below) facing the subject site. The identified rooms along this elevation are a garage; laundry; ensuite; bedroom; and home theatre. Again, these rooms are considered of a lesser use. Primary living areas for this property are located on the far side of the dwelling, away from the subject site.</p>  <p><i>Figure 18 – windows of adjoining property on south-east elevation.</i></p>
<p>P15 Site layout and building design protects the amenity of residents and/or adjoining properties by minimising noise transfer and nuisance.</p>	<p>Consistent</p> <p>There is potential for noise impacts to the adjoining properties from the extensive driveway along the south-east boundary. The adjoining property has habitable rooms located adjacent to the driveway with a total separation distance of 3.0m which is within suitable acoustic separation distances.</p> <p>Should the application be determined by way of approval, all noise generating (mechanical) plant and equipment will be conditioned to not exceed LAeq (15min) of 5dB(A) above background noise at the property boundary and will be required to be acoustically screened.</p>
<p>5.3.2 Solar and Daylight Access</p>	

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<p>P16 Dwellings are sited and designed to maximise solar access to living areas and private open space.</p>	<p>Non-compliant</p> <p>Valid BASIX and NatHERS certificates have been submitted as part of the application.</p> <p>The proposed development is double storey and requires shadow diagrams to be submitted. The shadow diagrams do not show the adjoining properties clearly and the impact to neighbouring properties cannot be adequately assessed.</p> <p>There are concerns that the two (2) properties to the south of the subject site could be impacted due to overshadowing. These properties both have solar panels on their roofs which potentially could be negatively impacted due to the bulk of the proposed development.</p>  <p><i>Figure 19 – Solar panels on adjacent dwellings.</i></p>
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Variations to 5.3.2 Solar and Daylight Access

Extent of proposed variation

A16.1 The proposed development has not adequately identified that the proposed dwellings have been sited and designed to ensure that the energy efficiency of existing dwellings on adjoining sites has not unreasonably reduced.

Suitable shadow diagrams were requested to be provided by the applicant which were to clearly show the neighbouring developments. The submitted shadow diagrams do not adequately identify the adjoining sites. As suitable shadow diagrams have not been provided it is difficult to assess the impact on adjoining properties.

Comment

The applicant states that there is no variation and therefore has not provided a 'variation statement' for the variance / alternative solution.

The plans fail to show detail on the neighbouring properties (as required by Schedule 1) to enable an appropriate assessment of the impacts of the proposal. The proposed two storey development is not located to minimise overshadowing on the property to the south.

Due to significant other DCP variances, which have compounding impacts on the development, the variation is this instance **cannot** be supported.

5.3.3 Private Open Space	
P17 Private open space is:	Non-compliant

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<ul style="list-style-type: none">• Functional and useable for residents all year round.• Dimensioned to suit the projected requirements of the residents, and to accommodate outdoor recreational needs and service functions.• Capable of serving as an extension of the function of the dwelling for relaxation, dining, entertainment, active recreation, and children's play.• Located to take advantage of outlook and natural features of the site.• Located to mitigate against external noise.• Designed to take account of the impact of adjoining dwellings on privacy and overshadowing.	<p>Multi dwelling housing requires a minimum 35m² of GFA of Private Open Space.</p> <p>Dwelling 1 = 29.27m²</p> <p>Dwelling 2 = 26.64m²</p> <p>Dwelling 3 = 40.94m²</p> <p>All dwellings include multiple areas of POS comprised of:</p> <table><tr><th></th><th>Ground floor - Covered</th><th>Ground floor - uncovered</th></tr><tr><td>Dwelling 1</td><td>3.39m x 2.25m =7.63m²</td><td>7.3m x 2.0m =14.6m²</td></tr><tr><td>Dwelling 2</td><td>3.37m x 2.23m =7.51m²</td><td>4.1m x 2.0m =8.2m²</td></tr><tr><td>Dwelling 3</td><td>3.36m x 2.23m =7.49m²</td><td>9.5m x 2.0m =19.0m²</td></tr></table> <p>Ground floor POS is accessible via the ground floor rumpus room or all dwellings.</p> <p>The defined hardstand areas are required to have a dimension of 5m x 4m with at least 50% being covered. None of the proposed dwellings meet the minimum dimension for hardstand POS.</p> <table><tr><th></th><th>Upper floor - Covered</th></tr><tr><td>Dwelling 1</td><td>3.37m x 2.09m =7.04m²</td></tr><tr><td>Dwelling 2</td><td>5.18m x 2.11m =10.93m²</td></tr><tr><td>Dwelling 3</td><td>5.0m x 2.89m =14.45m²</td></tr></table> <p>Upper-level POS is accessible directly from the living areas, is covered and complies with the minimum dimensions of 2m x 3m.</p>		Ground floor - Covered	Ground floor - uncovered	Dwelling 1	3.39m x 2.25m =7.63m ²	7.3m x 2.0m =14.6m ²	Dwelling 2	3.37m x 2.23m =7.51m ²	4.1m x 2.0m =8.2m ²	Dwelling 3	3.36m x 2.23m =7.49m ²	9.5m x 2.0m =19.0m ²		Upper floor - Covered	Dwelling 1	3.37m x 2.09m =7.04m ²	Dwelling 2	5.18m x 2.11m =10.93m ²	Dwelling 3	5.0m x 2.89m =14.45m ²
	Ground floor - Covered	Ground floor - uncovered																			
Dwelling 1	3.39m x 2.25m =7.63m ²	7.3m x 2.0m =14.6m ²																			
Dwelling 2	3.37m x 2.23m =7.51m ²	4.1m x 2.0m =8.2m ²																			
Dwelling 3	3.36m x 2.23m =7.49m ²	9.5m x 2.0m =19.0m ²																			
	Upper floor - Covered																				
Dwelling 1	3.37m x 2.09m =7.04m ²																				
Dwelling 2	5.18m x 2.11m =10.93m ²																				
Dwelling 3	5.0m x 2.89m =14.45m ²																				

Variations to 5.3.3 Private Open Space

Extent of proposed variation

- A17.1 Minimum area of private open space has not been provided.

The identified POS on the plans does not meet the minimum requirements to be classed as POS in accordance with the standards identified in the DCP. This results in dwellings 1 and 2 not meeting the required minimum POS.

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Dwelling 1 = provides 29.27m² which is a 16.4% reduction in POS.

Dwelling 2 = provides 26.64m² which is a 23.9% reduction in POS.

– A17.3 Ground floor private open space requirements have not been complied with.

The ground floor POS does not include a 5m x 4m (20m²) hardstand area as required, for any of the proposed dwellings.

Dwelling 1 provides a 3.39m x 2.25m (7.63m²) hardstand area, which is a reduction of 61.85%

Dwelling 2 provides a 3.37m x 2.23m (7.51m²) hardstand area, which is a reduction of 62.45%

Dwelling 3 provides a 3.36m x 2.23m (7.49m²) hardstand area, which is a reduction of 62.55%

(It is however noted that the rear dwelling has a good yard area.)

Comment

The applicant states that there is no variation and therefore has not provided a variation statement for the variance.

There are significant variations from the minimum required open space areas for all of the proposed dwellings. Due to significant other DCP variances, which have compounding impacts on the development, the variation in this instance **cannot** be supported.

5.3.4 Storage and Laundry Facilities											
<p>P18.1 External clothes drying facilities are provided for each dwelling that are:</p> <ul style="list-style-type: none">• Adequate and easily accessible.• Well located.• Visually screened from the public domain. <p>P18.2 A laundry is provided within each dwelling.</p>	<p>Non-compliant</p> <p>A laundry is provided within each proposed dwelling.</p> <p>The submitted plans have not identified any external clothes drying facilities. Due to concerns relating to solar and daylight access it is considered that there would be no suitable location for external clothes drying facilities. Drying facilities could be conditioned however the areas available for drying are compromised.</p>										
<p>P19 Adequate space is provided to accommodate the laundry facilities, vehicle/s, and associated circulation space in a garage.</p>											
<p>P20.1 Adequate, well-designed storage areas are provided for each dwelling.</p> <p>P20.2 Storage areas are sympathetically integrated into the building design.</p>	<p>Non-compliant</p> <p>The proposed dwellings include four (4) bedrooms, as such each dwelling would require a minimum 10m³ of storage to be provided. The dwellings each contain the following storage provisions:</p> <table><tr><th></th><th>Ground floor</th><th>upper floor</th></tr><tr><td>Dwelling 1 = 10.7m³</td><td>Linen = 3.0m³ Store = 2.7m³ Under-stair = 5.0m³</td><td>None provided</td></tr><tr><td>Dwelling 2</td><td>Linen = 3.2m³</td><td>None provided</td></tr></table>			Ground floor	upper floor	Dwelling 1 = 10.7m ³	Linen = 3.0m ³ Store = 2.7m ³ Under-stair = 5.0m ³	None provided	Dwelling 2	Linen = 3.2m ³	None provided
	Ground floor	upper floor									
Dwelling 1 = 10.7m ³	Linen = 3.0m ³ Store = 2.7m ³ Under-stair = 5.0m ³	None provided									
Dwelling 2	Linen = 3.2m ³	None provided									

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	= 7.0m ³	Under-stair = 3.8m ³	
	Dwelling 3 = 7.0m ³	Linen = 3.2m ³ Under-stair = 3.8m ³	None provided

Variations to 5.3.4 Storage and Laundry Facilities

Extent of proposed variation

- P18.1 External clothes drying facilities are provided for each dwelling

No external clothes drying has been identified and no suitable location can be provided.

- P20.1 Adequate, well-designed storage areas are provided for each dwelling.

Proposed dwellings 2 and 3 do not meet the minimum encouraged storage:

Dwelling 2 provides 7.0m³ which is a reduction of 30%

Dwelling 3 provides 7.0m³ which is a reduction of 30%

Meeting objectives and performance criteria

The applicant has provided a variation statement towards the reduced storage facilities:

"A variation is requested in this instance as the proposed design shall support ample storage in bedrooms, laundry, garage, and study to comply with this control".

Comment

No variation has been submitted in relation to P18.1 external clothes drying facilities.

Due to significant other variances, specifically solar and daylight access, which have compounding impacts on the development, the variation in this instance **cannot** be supported.

5.3.5 Car and Bicycle Parking	
P21 Parking is suitable for the development. P22 Car parking arrangements are suitable for, and consider, the surrounding road network.	Consistent The proposed dwellings will include double lock-up garages as part of the structures physical design and an additional off-street visitor space. See full assessment under G21 – Car Parking and Traffic.
5.4 Configuration and Design	
5.4.1 Building Form, Design and Materials	
P23.1 A dual occupancy (attached) appears as a single dwelling. P23.2 Within rural and environmental protection zones, buildings are of a size and bulk that is compatible with the surrounding rural or environmental context in which they are located.	Not applicable to this application.
P24.1 The selection of building materials and design complements existing development	Does not meet the objectives of the clause. A suitable Colour and Materials Schedule has not been submitted as part of the application.

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<p>and is sympathetic to the streetscape and existing landscape.</p> <p>P24.2 Roof treatments are integrated into the building design and make a positive contribution to the streetscape.</p> <p>P24.3 Building walls use modulation and articulation and are limited in length to minimise massing and bulk issues as well as impact on neighbours and the public domain/streetscape.</p> <p>P24.4 The building design, detailing and finish provide an appropriate scale to the street, add visual interest, and enable differentiation between dwellings when viewed from the public domain.</p> <p>P24.5 External metallic wall and roof materials are suitable and minimise reflectivity.</p> <p>P24.6 The development incorporates passive environmental design.</p>	<p>Due to the location of the site, and 88b restrictions over the site, it is considered that a Colour and Materials Schedule is essential for the proposed development.</p> <p>The proposed dwelling utilises articulation along the façade to minimise the impact to the street. There are no unbroken walls facing the frontage.</p> <p>The proposed development is unlikely to generate any significant glare or reflectivity (assuming the use of conventional materials and colours) on adjoining properties or within the neighbourhood.</p>
<p>P25 Garages and parking structures are sited and designed to:</p> <ul style="list-style-type: none"> • Add visual interest. • Provide opportunity for passive surveillance. • Not dominate the street frontage. 	<p>Consistent</p> <p>Proposed dwelling 1 includes a double garage which opens to the street.</p> <p>The proposed double garages for dwellings 2 and 3 open to the side boundary and are not visible from the street.</p>
<p>P26 Mailboxes, numbering and external storage facilities, as well as associated signage, are sited and designed for attractive visual appearance and efficient and convenient use.</p>	<p>Consistent</p> <p>The mailbox location has been identified on the Site Plan along the eastern boundary, adjacent to the driveway.</p>
<p>5.4.2 Fences and Walls</p>	
<p>P27.1 Front fences and walls:</p> <ul style="list-style-type: none"> • Enable some outlook from buildings to the street for safety and surveillance. • Do not impede the safety of pedestrians and cyclists with the movement of vehicles between the property and the roadway. • Avoid negatively impacting on the aesthetic and spatial quality of the street. • Assist in highlighting entrances and in creating a sense of communal identity within the streetscape. • Are designed and detailed to provide visual interest to the streetscape. • Are constructed of materials compatible with the proposed development and with examples 	<p>Consistent</p> <p>There is no front fencing proposed as part of the development.</p> <p>The side fencing to the north-west is existing 1.8m high timber fencing. There is currently no fence along the rear or side south-east.</p> <p>The proposal seeks to install 1.8m high Colourbond fencing to the unfenced boundaries and between the proposed dwellings.</p> <p>The existing materials within Huntingdale Estate are timber fencing as per RATU 4(n). The proposed fencing does not comply however Conditions of Consent can require timber fencing in accordance with Estate guidelines.</p>

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<p>of fences and walls in the streetscape to offer a sense of continuity.</p> <ul style="list-style-type: none"> • Are compatible with facilities in the street frontage area, such as mailboxes and waste collection areas. • Do not impede safe sight distances for road users and pedestrians along the adjoining roadway. <p>P27.2 The use and/or design of fences and walls in streetscapes of significance are appropriate to the heritage or environmental context.</p>	
5.4.3 Universal Design	
<p>P28.1 The required proportion of new Class 1a or 2 dwellings achieve appropriate levels of accessibility or are designed to be 'easily and affordably adaptable'.</p> <p>P28.2 Access is provided from the car parking space located on the premises to the principal entrance of the dwelling and access to and within the following areas:</p> <ul style="list-style-type: none"> • A bedroom • Laundry. • A bathroom that includes a shower, WC, and vanity. • Kitchen. • A living area. • An external private open space. 	<p>Consistent</p> <p>The proposed development includes three (3) dwellings, this requires one (1) of the proposed dwellings to be accessible. Proposed dwelling 1 has been designed to meet the accessible guidelines to a "silver" standard.</p>
5.5 Environment	
5.5.1 Water Management and Conservation	
<p>P29 Stormwater is appropriately accommodated in the design including:</p> <ul style="list-style-type: none"> • Stormwater from roofed areas is collected, stored and/ or conveyed to appropriate discharge points or disposal areas. • Paved areas associated with buildings and driveways are graded and drained to minimise the discharge of surface water onto adjoining land. • Permeable areas are utilised to reduce stormwater runoff. 	<p>Consistent</p> <p>A suitable Stormwater Management Plan has been submitted as part of the application.</p> <p>The proposed residential development will only require a minor system to be installed. The Development Engineer has assessed the viability of the proposed development and provided Conditions of Consent to be applied the Development Consent</p>
5.5.2 Servicing	

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<p>P30.1 Development is adequately and safely serviced.</p> <p>P30.2 The design and provision of public utilities, including sewerage, water, electricity, street lighting, telecommunication/ internet and gas services conform to the cost-effective performance measures of the relevant servicing authority.</p> <p>P30.3 Compatible public utility services are co-ordinated in common trenching in order to minimise construction costs for underground services.</p> <p>P30.4 Water supply for domestic and firefighting purposes is appropriate for the location and development type.</p>	<p>Consistent</p> <p>The proposed development will be connected to all essential services/utilities to meet development needs. There are no anticipated concerns.</p>
<p>5.5.3 Waste Management</p>	
<p>P31.1 Bin storage, presentation, and collection arrangements:</p> <ul style="list-style-type: none"> • Are appropriate for the nature of the development. • Consider site configuration and adequate street frontage, especially lots at the head of cul-de-sacs and battle-axe lots. <p>P31.2 Bin storage is sited and designed for attractive visual appearance and for efficient and convenient use.</p>	<p>Non-compliant</p> <p>The applicant has not demonstrated suitable locations for waste pick-up as required by DCP Chapter G13, 5.5.3 Waste Management.</p>

Variations to 5.5.3 Waste Management

Extent of proposed variation

A31.1 For each dwelling in a development, the kerbside frontage required for waste collection is at least 1m per bin, 0.5m separation between bins and 1m behind each bin.

The proposed development would require a minimum street frontage of 8.5m to adequately provide for safe kerbside collection. The site can only provide a kerbside frontage of approximately 7m.

Comment

The applicant states that there is no variation and therefore has not provided a variation statement for the variance.

Due to the limited street frontage and the number of existing driveways on the bend, the ability of the site to cater for the safe placement and collection of waste bins is not considered suitable.

The variation in this instance cannot be supported.


6 Residential Flat Buildings and Shop Top Housing

Not applicable to this application

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7 Housing for Seniors or People with a Disability
Not applicable to this application
8 Boarding Houses, Group Homes and Hostels
Not applicable to this application

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	Planning Report S4.15 Environmental Planning & Assessment Act 1979
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DA Number	DA21/1370
Property	3 Cumberland Av, SOUTH NOWRA - Lot 2 DP 260264
Applicant(s)	Damien Radburn
Owner(s)	Provadon Pty Ltd

Conflict of interest declaration

I have considered the potential for a conflict of interest under the [Code of Conduct](#) and to the best of my knowledge no pecuniary and/or significant non-pecuniary conflict of interest exists.

NOTE: If you determine that a non-pecuniary conflict of interest is less than significant and does not require further action, you must provide a written explanation of why you consider that the conflict does not require further action in the circumstances. This statement should then be countersigned by the section manager.

Detailed Proposal

The subject development application seeks approval for “alterations and additions to an existing industrial development”.

The submitted Statement of Environmental Effects (SEE) describes the proposed works as: “*Build an attached Steel Colourbond shed to match existing shed already constructed. Floor to be of concrete construction*”.

Based on the information submitted with the application it is unclear whether the shed is an extension of the existing shed, a standalone structure abutting the existing shed, or an extension to the existing shed. Plans submitted to date (refer Attachments 3 and 4) depict the proposed development as being an extension to the existing industrial shed, however the engineering plans depict a standalone shed. The following outlines Council’s present understanding of the development:

- The proposal seeks consent for a 307.2m² (24m long 12.8m wide) extension to the existing industrial building.
- The proposed extension would be located on the western rear elevation of the existing building with a setback of 19.0m to the western rear boundary.
- The extension would be constructed with corrugated steel with a pre-painted finish (‘slate grey’).

Plans submitted to date (Site Plan – Ref No. BS Kerden dated 18.07.2014 and Sketch Plans – Ref No. 0112647076 dated 15.03.2021) depict the proposed development as being an extension to the existing industrial shed. *Figure 1* below provides an excerpt of the submitted Site Plan.

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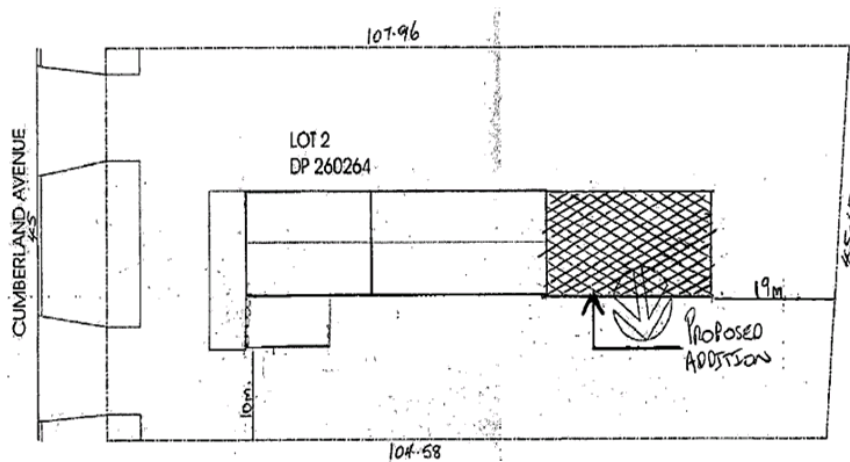


Figure 1 – Proposed Site Plan

However it is noted that the submitted Site Plan and Sketch Plans provide are inadequate in terms of achieving compliance with Schedule 1 of the Environmental Planning and Assessment (EP&A) Regulation 2000. Further discussion regarding the nature of the deficiencies and the information requested is provided in the Report below.

Subject Site and Surrounds

Site Description

The subject site is situated at 3 Cumberland Av, South Nowra, legally described as Lot 2 DP 260264. The site has a 45m frontage to Cumberland Ave with a total site area of 4,782.00m².

The site is currently comprises of a single storey masonry building, approximately 18m x 5m which sits centrally on the lot and setback approximately 14m from Cumberland Avenue and an industrial building approximately 12m x 42m with a height of 5m, providing a covered storage area. The surrounding character is comprised of existing various industrial developments. The site is identified as bushfire prone land (buffer zone).

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Figure 2 – Site Location

Deposited Plan and 88B Instrument

The site is not impacted by any known easements or restrictions. It is acknowledged that there is an easement on the lot behind the subject site for sewer and drainage, which the subject site benefits from.

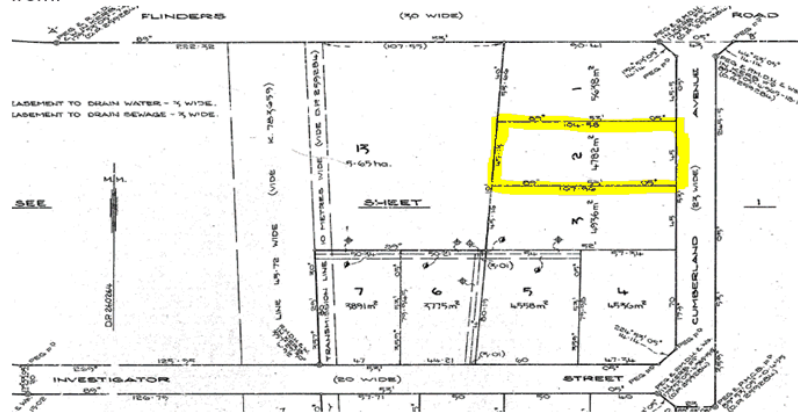


Figure 3 – Deposited Plan

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Site History and Previous Approvals

Darts - since 1st July 2005

Application	Appl. Date	Application Type	Proposal	Status	Completed
DA21/1370	16/04/2021	Development Application	Additions & Alterations to Industrial Development	Incomplete	
DA14/1931	07/08/2014	Development Application	Industrial Additions - extension to existing industrial building	Approved	09/09/2014

DA data prior to the 2nd Sept 1996

Application	Appl. Date	Proposal	Status	Status Date
DA89/2957	1/11/1989	Retail Trade	Approved	29/11/1989
DA88/2743	17/10/1988	Manufacturing (General)	Approved	5/12/1988
DA85/2132	3/07/1985	Take Away Food Store	Approved	18/07/1985
DA84/2860	2/11/1984	Manufacturing (General)	Approved	6/12/1984
DA84/1923	16/05/1984	Offices N.E.C.	Approved	19/02/1984

BA data prior to the 2nd Sept 1996

Application	Appl. Date	Proposal	Status	Status Date
BA96/0155	29/01/1996	COMMERCIAL ADDITIONS	Approved	28/02/1996
BA84/2213	02/11/1984	NEW URBAN DWELLING	Approved	25/01/1985
BA88/4064	22/12/1988	INDUSTRIAL ADDITIONS	Approved	22/05/1989
BA86/0611	27/03/1986	INDUSTRIAL ADDITIONS	Approved	10/04/1986
SD87/2340	30/09/1987			
SD88/4064	22/12/1988			
SD93/1201	04/05/1993			
SD96/0155	29/01/1996			
SD00/7129	02/11/1984			

Post-Lodgement

Date	Comment
16 April 2021	Application Lodged
23 April 2021	<p>Additional Information Requested – given twenty-one (21) days to respond. Information required:</p> <ol style="list-style-type: none"> Owner's consent. The submitted owner's consent would appear to be signed by a single director. If the owner of the property is a company, the application must either: <ol style="list-style-type: none"> be signed by two directors or a director and a company secretary; be signed by an authorised person of the company. The authorised person must demonstrate authority to lodge the development application by providing either minutes of a board meeting resolving to provide such authorisation to that person or by way of a letter signed by two directors or a director and a company secretary providing such authorisation; be signed by a sole director in the case of sole director companies; and the nature of their position of authority must be stated on the form (e.g director, sole director, or company secretary).

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	<ol style="list-style-type: none"> 2. A stormwater concept plans, prepared in accordance with Chapter G2 Sustainable Stormwater Management and Erosion/Sediment Control of Shoalhaven Development control Plan (SDCP) 2014. 3. Amended site plans to provide the following details in accordance with Schedule 1 of the <i>Environmental Planning and Assessment Regulation 2000</i>: <ol style="list-style-type: none"> a) All existing structures and use of structures on the subject site and adjoining site. b) Setbacks of the proposed building addition to all boundaries c) The storage of materials on the site. d) All car parking spaces existing and proposed on the site. 4. Amended floor plans to provide the following details: <ol style="list-style-type: none"> a) floor plans of the existing building showing the extent of the changes or connection of the proposed building to the existing building. b) the fitout and use of the building addition. c) FFL of the existing and proposed building. 5. Amended elevations and sections to provide the following details: <ol style="list-style-type: none"> a) All elevations are to be provided with relevant cardinal directions i.e. southern and northern elevations (front, left and right are not appropriate) b) All elevations and sections are to be provided with finished floor level, finished ground level, and natural ground level, and finished ridge heights 6. A swept path plan to be included to demonstrate the movement of the largest vehicle servicing the site, to and from the service doors. This is required to ensure that the location of the proposed roller door access points are provided with sufficient area to enable the largest vehicle to access these areas without conflicting with the existing storage areas. 7. An amended statement of environmental effects to be prepared to address the following matters: <ol style="list-style-type: none"> a) Clarification of the existing use and extension of that use to the new building. this would include consideration of the broader use of the site. It does not appear that the site has prior approval for the use of the external areas of the site for the storage of industrial goods and material. It would appear that the site is currently being used for the storage of materials external to the building. Clarification is required as to the current approval for the use of these areas for the storage of materials. b) Assessment of the development against the following provisions of the Shoalhaven Development Control Plan 2014: <ol style="list-style-type: none"> i. Chapter G20: Industrial Development ii. Chapter G21: Traffic and Car Parking
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	As sufficient information has been provided by the applicant no notification or referrals have been undertaken.
19 May 2021	Intent to Refuse Issued – given seven (7) days to respond
25 May 2021	Left message with receptionist for applicant to call Council to discuss application as no contact has been made.
09 June 2021	Applicant contacted Council advised information was still 4-6 weeks away. Applicant was advised to withdraw the application and relodge once all the information required had been prepared and that they would receive a 100% refund (of applicable fees). Applicant refused to withdraw. Was advised the application would be put up for refusal.

Consultation and Referrals

As insufficient information has been provided by the applicant, the following referrals were unable to be undertaken:

Internal Referrals		
Referral	Required	Comment
Development Engineer	<input checked="" type="checkbox"/>	<p>Not able to be carried out as insufficient information was provided for a proper assessment to be undertaken. In particular the following information was not provided:</p> <ul style="list-style-type: none"> • A stormwater concept plan, prepared in accordance with Chapter G2 Sustainable Stormwater Management and Erosion/Sediment Control of SDCP 2014. • A swept path plan demonstrating the movement of the largest vehicle servicing the site, to and from the proposed service doors (to ensure that the location of the proposed roller door access points are provided with sufficient area to enable the largest vehicle to access these areas without conflicting with the existing storage areas). • Assessment against applicable SDCP 2014 Chapters including: <ul style="list-style-type: none"> - Chapter G2 – Sustainable Stormwater Management and Erosion/Sediment Control - Chapter G21 – Car Parking and Traffic
Building Surveyor	<input checked="" type="checkbox"/>	<p>An assessment against relevant provisions including the National Construction Code was not able to be carried out as insufficient information was provided for a proper assessment to be undertaken. In particular the following information was not provided:</p> <ul style="list-style-type: none"> • Insufficient sketch plans including: <ul style="list-style-type: none"> - Floor plans of the existing building showing the extent of the changes and/or connection of the proposed building to the existing building. - The fitout of the building addition. - The finished floor level (FFL) of the existing and proposed building. - Elevations with relevant cardinal directions, FFL, finished ground level, natural ground level, and ridge heights.

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Shoalhaven Water	<input checked="" type="checkbox"/>	<p>Not able to be carried out as insufficient information was provided for a proper assessment to be undertaken. In particular the following information was not provided:</p> <ul style="list-style-type: none"> A Site Plan and Sketch Plans accurately depicting the proposed development and in compliance with Schedule 1 of the EP&A Regulation 2000. Clarification regarding the use of the site including whether consent is sought for use of external areas as storage.
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Statutory Considerations

Environmental Planning and Assessment Act 1979

Section 4.46 – Integrated Development

Not applicable to this application

Biodiversity Conservation Act 2016 and Biodiversity Conservation Regulation 2017

A desktop review has been undertaken and it is concluded that the proposed development is unlikely to have a significant impact.

A review of the proposed development against the BOS triggers has concluded that the proposal does not trigger entry into the BOS.

Shoalhaven Contribution Plan 2019

The proposed development is considered to increase the demand for community facilities in accordance with the Shoalhaven Contributions Plan 2019 (the Plan). The development is most aptly characterised as an Industrial development for the purpose of calculating contributions under the Plan.

Noting that the development benefits from existing hardstand areas external to the development, the s7.11 calculation area is based upon the area of the extended building itself (307.2m²) which is reflected in the below calculations:

Non Residential

Note: enter area in m2 and calculator will convert area to ETs.

	Existing	Proposed
Retail (Gross Floor Area m2)	0	0
Commercial Office (Gross Floor Area m2)	0	0
Hotel / Restaurant (Gross Floor Area m2)	0	0
Bulky Goods (Gross Floor Area m2)	0	0
Industrial (Gross m2, include parking/landscape)	0	307.2
Total ET		1.54
Management Project ETs		1.54

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The below contributions would apply in any development consent issued for the development:

Project	Description	Rate	Qty	Total	GST	GST Incl
CW FIRE 2001	Citywide Fire & Emergency services	\$138.13	1.54	\$212.72	\$0.00	\$212.72
CW FIRE 2002	Shoalhaven Fire Control Centre	\$202.07	1.54	\$311.19	\$0.00	\$311.19
CW MGMT 3001	Contributions Management & Administration	\$574.39	1.54	\$52.39	\$0.00	\$52.39
Sub Total:						\$576.30
GST Total:						\$0.00
Estimate Total:						\$576.30

Draft Illawarra-Shoalhaven Regional Plan 2041

The Draft Illawarra Shoalhaven Regional Plan (DISRP) 2041 is a 20-year land use plan prepared in accordance with Section 3.3 of the Environmental Planning and Assessment Act 1979 and applies to the local government areas of Wollongong, Shellharbour, Kiama and Shoalhaven.

It is designed to inform Council's land use planning, private sector, and wider community of the NSW Government's approach to creating a connected, sustainable, innovative and vibrant Illawarra Shoalhaven.

The DISRP lists the following four themes which contain a total of 30 objectives:

- *A productive and innovative region*
- *A sustainable and resilient region*
- *A region that values its people and places*
- *A smart and connected region.*

Were the additional statutory lodgement information submitted as requested, it is likely that the proposed development would be broadly consistent with the DISRP 2041.

Coastal Zone Management Plan 2018

Not applicable to this application

Nowra Bomaderry Structure Plan 2008

Not applicable to this application

Council Policies

Not applicable to this application

4.15 Assessment

The following provides an assessment of the submitted application against the matters for consideration under Section 4.15 of the EP&A Act.

(a) Any planning instrument, draft instrument, DCP and regulations that apply to the land

i) Environmental Planning Instruments

SEPP 55 Remediation of Land

Question	Yes	No
1. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)?	Proceed to Question 3	✓ Proceed to Question 2

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Question	Yes	No
2. Does the proposal result in a change of use (that is the establishment of a new use)?	Proceed to Question 3	✓ Assessment under SEPP 55 and DCP not required.
3. Does the application proposed a new: <ul style="list-style-type: none"> ▪ Child care facility ▪ Educational use ▪ Recreational use ▪ Health care use ▪ Place of public worship ▪ Residential use in a commercial or industrial zone 	Proceed to Question 5	✓ Proceed to Question 4
4. Review the property file and conduct a site inspection of the site and surrounding lands. Is there any evidence that the land has been used for a listed purpose?	Proceed to Question 5	✓ Proposal satisfactory under SEPP 55 and DCP.
5. Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater?	Request contaminated site assessment	✓ Proposal satisfactory under SEPP 55 and DCP.

Shoalhaven LEP 2014

Insufficient information has been provided by the applicant to enable a proper assessment to be carried out against certain provisions of *Shoalhaven Local Environment Plan 2014*, which is detailed as follows:

Land Zoning

The land is zoned IN1 General Industrial under the SLEP 2014.

Characterisation and Permissibility

To date the applicant has described the development as being “an extension to an existing industrial building”. However, the intended use of the new building area was not provided nor was an internal layout provided which would allow for the land use characterisation to be interpreted (i.e. would the use of the existing building be extended to the new building?). Consequently, Council are unable to properly characterise the use within the proposed building.

As such, Council considers the development to be the construction of a ‘building’ which is permissible with the consent of the Council.

A condition would be included in any development consent which requires a First Use Development Application to be lodged, to confirm the use which would be carried out within the building.

Zone objectives

Objective	Comment
<i>To provide a wide range of industrial and warehouse land uses.</i>	Not inconsistent. The approval of a building would pave the way for a future industrial use to be carried out (note: would be subject to a separate consent being issued).
<i>To encourage employment opportunities.</i>	Not inconsistent. The approval of a building has the potential to pave the way for a future use which

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	would provide employment opportunities (note: would be subject to a separate consent being issued).
<i>To support and protect industrial land for industrial uses.</i>	Not inconsistent. The approval of a building would pave the way for a future industrial use to be carried out (note: would be subject to a separate consent being issued).
<i>To minimise any adverse effect of industry on other land uses.</i>	Not inconsistent. The first use of the building and its compatibility with the surrounding industrial estate would be considered as part of a separate application.
<i>To allow a diversity of activities that do not significantly conflict with the operation of existing or proposed development.</i>	Not inconsistent. The consistency of any activities carried out within the building would be subject to the issue of a separate consent.
<i>To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.</i>	Not inconsistent. The first use of the building and its compatibility with the surrounding industrial estate would be considered as part of a separate application.

SLEP 2014 Clauses

Clause	Comments	Complies/ Consistent
Part 7 Additional local provisions		
7.1 Acid sulfate soils	The site is mapped within a class 5 acid sulfate soils area. However given it is not located within 500m of any class 1 to 4 mapped areas, an acid sulfate soils management is not required to be submitted.	Potentially compliant
7.2 Earthworks	Before granting consent to earthworks, the consent authority is required to consider the following: (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development, (b) the effect of the development on the likely future use or redevelopment of the land, (c) the quality of the fill or the soil to be excavated, or both, (d) the effect of the development on the existing and likely amenity of adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	Potentially compliant

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	<p>Given detailed sketch plans identifying the finished floor level, finished floor level, and natural ground level were not provided, the extent of any earthworks carried out at the site could not be quantified.</p> <p>However it is likely that such earthworks would be minor and would be capable of being subject to the implementation of appropriate conditions of consent, which is likely to result in the management of drainage patterns and/or soil stability on the site.</p>	
7.11 Essential services	<p>Given the site is already connected with services including water, sewer, and electricity, an internal augmentation of these services is capable of being achieved to provide these essential services to the extended building as necessary.</p>	Potentially compliant

ii) **Draft Environmental Planning Instrument**

Not applicable to this application

iii) **Any Development Control Plan**

Shoalhaven DCP 2014

Chapter 2 General and Environmental Considerations	
Potentially Contaminated Land	The subject site is not identified as potentially contaminated land
European Heritage	The subject site is not identified as containing any items of historical significance and is not located within a Conservation Area.
Aboriginal Cultural Heritage	The subject site is not identified as containing any items of Aboriginal heritage and is not identified as Cultural Lands.
Crime Prevention Through Environmental Design	Any concerns relating to CPTED are able to be addressed through the implementation of appropriate conditions of consent.

Generic Chapters
G1: Site Analysis, Sustainable Design and Building Materials
<p>The proposed development has been found to be non-compliant with the following acceptable solutions and performance criteria in relation to Chapter G1 of the SDCP 2014:</p> <p>Acceptable Solution A1.1 of Chapter G1, which states the following:</p> <p>A site analysis plan is provided with a development application that shows the following, as appropriate:</p> <ul style="list-style-type: none"> • Constraints (including but not limited to): <ul style="list-style-type: none"> - Location of services such as power, sewer, water and drainage lines. - Existing trees and vegetation within and adjacent to the land being developed. - Natural hazards which are likely to impact upon the development such as bush fire prone land, coastal hazard areas or flood prone land. • Opportunities (including but not limited to): <ul style="list-style-type: none"> - Views from the site. - Solar access. - Existing mature trees and vegetation.

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- *Context information for the site and adjoining/ adjacent development (inc. but not limited to):*
 - *Height and use of buildings.*
 - *Front setbacks.*
 - *Driveways.*
 - *Boundary treatments (including retaining walls).*
 - *Easements.*
 - *Stormwater management.*

The Site Plan / Site Analysis Plan provided insufficient information which also resulted in non-compliance with Schedule 1 of the EP&A Regulation 2000 (further discussion below). In particular, the submitted Plan did not satisfactorily provide details including the height of the building, driveways (swept paths), or stormwater management.

Acceptable Solution A1.2 of Chapter G1, which states the following:

For development other than for a single dwelling house and associated structures, a development application must detail, as appropriate:

- *Topographical features such as slope, existing natural trees and vegetation and opportunities for the creation of views and vistas.*
- *Opportunities to orientate buildings and private open spaces having regard to solar access, winds and views.*
- *The character of the surrounding development, particularly to setbacks and subdivision layout.*
- *The likely impact on surrounding development, particularly with regard to overshadowing, privacy and obstruction of views.*
- *The extent to which driveways and/or parking areas are likely to dominate the appearance of the development.*
- *The visibility, width and design speed of proposed roads and/or driveways.*
- *Bush fire, flooding and drainage constraints, easements for services and extent of contaminated land.*
- *The character of any adjacent public land/reserves, particularly the location of mature trees in relation to the proposed development.*

The Site Plan / Site Analysis Plan provided insufficient information which also resulted in non-compliance with Schedule 1 of the EP&A Regulation 2000 (further discussion below). In particular, the submitted Plan did not satisfactorily provide details including the likely impact on surrounding development (noting that buildings on surrounding properties were not referenced), slope of the land and any required earthworks were not referenced, suitability of the driveway area for the likely vehicle types wasn't able to be clarified.

Acceptable Solution A1.3 which states the following:

The proposed site layout responds to and implements the findings of the site analysis plan prepared in accordance with A1.1 and A1.2.

Having regard for the deficiencies to the submitted Site Plan / Site Analysis Plan, Council cannot clarify if the proposed layout adequately responds to its findings.

Performance Criteria P1.1 to 1.4 of Chapter G1 states the following:

P1.1 The characteristics of the site and its surrounds have been adequately considered through preparation of a thorough site analysis plan.

P1.2 The site analysis informs the site design and layout.

P1.3 The site layout integrates with the surrounding environment through:

- *Adequate pedestrian, cycle and vehicle links to street and open space networks.*
- *Buildings that face and address streets and the public domain.*
- *Buildings, streetscape and landscape design that relates to the site topography and to the surrounding neighbourhood character.*

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P1.4 The site layout enhances personal safety and minimises potential for crime and vandalism.

Chapter 1 – Introduction, Clause 11 of the SDCP 2014 requires that a 'Variation Statement' be prepared which justifies any non-compliance with the acceptable solution.

The applicant failed to submit a Variation Statement as required by Chapter 1, therefore justification has not been provided demonstrating that the development can meet the performance criteria. Council is unable to grant consent to a development where compliance with neither the acceptable solution or performance criteria has been demonstrated by the applicant.

G2: Sustainable Stormwater Management and Erosion/Sediment Control

The proposed development has been found to be non-compliant with the Acceptable Solution A2.1 / Performance Criteria P2 in relation to Chapter G2 of the SDCP 2014:

A2.1 Roof water is to be collected by gutter and downpipe systems, or other equivalent means, and conveyed to an approved discharge point in accordance with the requirements of Part 3.1.2 of the Building Code of Australia and AS 3500.3. This could be:

*a) A gutter or table drain in a road reserve, or
b) A stormwater easement or easement to drain water, or
c) A charged line system where (a) and (b) above are not available and the development site will have no more than two dwellings. Where a charged line system is proposed, the following must be included with the development application:*

- Acknowledgement from adjoining property owners indicating a refusal to grant a drainage easement. The acknowledgement must indicate that a reasonable amount of compensation has been offered for the proposed drainage easement and that the advantages of creating an easement were explained.*
- Demonstrate a minimum of 1.8m of fall between the roof gutters and the front boundary of the site.*
- Demonstrate fall from the front boundary to the kerb line.*
- Detailed design, inclusive of site plan and longitudinal section including all calculations, levels and further details of pits, gutters and maintenance facilities as required*
- d) A disposal/absorption trench, where (a), (b) or (c) above are not available, and soil conditions are suitable, or*
- e) A water tank/on-site detention system with an overflow connected to a disposal method in (a), (b), (c) or (d), above.*

As part of the Further Information Request sent to the applicant, Council requested a Stormwater Concept Plan to identify how runoff from the additional 307.2m² of impervious area (24m x 12.8m extension) would be captured and disposed. This is considered appropriate given the considerable extent of additional roofed area being proposed.

Given no response to Council's request was received, the applicant has not satisfactorily nominated the method of stormwater disposal from the site.

Performance Criteria P2 of Chapter G2 states the following:

Stormwater is appropriately accommodated in the design including:

- Stormwater from roofed areas is collected, stored and/ or conveyed to appropriate discharge points or disposal areas.*
- Paved/impervious areas associated with buildings and driveways are graded and drained to prevent the discharge of surface water onto adjoining land.*
- Permeable areas are utilised to reduce stormwater runoff.*

Chapter 1 – Introduction, Clause 11 of the SDCP 2014 requires that a 'Variation Statement' be prepared which justifies any non-compliance with the acceptable solution.

The applicant failed to submit a Variation Statement as required by Chapter 1, therefore justification has not been provided demonstrating that the development can meet the performance

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criteria. Council is unable to grant consent to a development where compliance with neither the acceptable solution or performance criteria has been demonstrated by the applicant.

G3: Landscaping Design Guidelines

The site benefits from existing landscaping located on the property. Such landscaping includes the following elements:

- Landscaping strip between the internal hardstand and parking areas and the road reserve.
- Landscape strip running parallel to the southern rear boundary (including several existing mature trees).

Based upon the above, it is considered that the existing landscaping provided on site is sufficient and no further landscaping is required. Consequently, a formal detailed landscaping plan was not requested in this instance.

G7: Waste Minimisation and Management Controls

A Waste Management Plan (WMP) was submitted to Council in accordance with the requirements of Chapter G7 of the SDCP 2014.

A condition of consent is capable of being applied, which requires that waste management be carried out in accordance with the provisions of the WMP.

G20: Industrial Development

An assessment has been carried out against the applicable acceptable solutions / performance criteria of Chapter G20 – Industrial Development of the SDCP 2014. The proposed development has been found to be non-compliant with the Acceptable Solution A3.2 / Performance Criteria P3 in relation to Chapter G20 as follows:

A3.2 A drainage plan is submitted with the development application.

Despite Council's Further Information Request requiring the submission of the drainage plan / stormwater concept plan, no response was received. The applicant has therefore not adequately demonstrated that runoff from the additional 307.2m² of roof space can be appropriately managed using existing facilities.

Performance Criteria P3 of Chapter G20 states the following:

P3 Adjoining sites are not be negatively impacted by the proposed development and drainage works.

Chapter 1 – Introduction, Clause 11 of the SDCP 2014 requires that a 'Variation Statement' be prepared which justifies any non-compliance with the acceptable solution.

The applicant failed to submit a Variation Statement as required by Chapter 1, therefore justification has not been provided demonstrating that the development can meet the performance criteria. Council is unable to grant consent to a development where compliance with neither the acceptable solution or performance criteria has been demonstrated by the applicant.

G21: Car Parking and Traffic

An assessment has been carried out against the applicable acceptable solutions / performance criteria of Chapter G21 – Car Parking and Traffic of the SDCP 2014. The assessment has revealed that following non-compliances in relation to Chapter G21 which exist:

Section 5.1 – Car Parking Schedule which states the following:

The proposal has not satisfactorily demonstrated that provision is capable of being made for car parking spaces to be provided, as required in accordance with Section 5.1 – Car Parking Schedule of Chapter G21 of the SDCP 2014. In particular, the following is noted:

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- The applicant has not demonstrated on the submitted Site Plan, the location where any additional parking spaces are capable of being provided (also noting that external areas of the site in the vicinity of the proposed building appear to be used for the storage of materials).
- The applicant has not demonstrated on the submitted Site Plan, the location where any existing parking spaces are provided.
- The applicant has not provided an assessment against Chapter G21 in their submitted Statement of Environmental Effects Report, which discusses car parking or the likely future car parking rate for the development.

Acceptable Solution A12.1 and A12.2 which states the following:

A12.1 The minimum turning paths in Table 2 are achieved.

A12.2 Turning paths for vehicles will be based upon the largest vehicles likely to utilise the premises.

It is noted that the extended building to be constructed in the western rear part of the site would reduce the hardstand area available on the site for manoeuvring of vehicles. As such, Council requested swept paths be provided as part of the Further Information Request, demonstrating that the largest vehicle requiring access to the site, is capable of achieving that access. Council were in particular concerned with access to the roller doors which appear to be located in the western rear elevation with a rear setback of only 19m.

However no response to Council's Further Information Request was received, and as such, the requested swept paths demonstrating manoeuvrability were not provided.

Performance Criteria P12 of Chapter G21 states the following:

P12 Adequate space is provided for the manoeuvring of vehicles, particularly rigid and articulated heavy vehicles.

Chapter 1 – Introduction, Clause 11 of the SDCP 2014 requires that a 'Variation Statement' be prepared which justifies any non-compliance with the acceptable solution.

The applicant failed to submit a Variation Statement as required by Chapter 1, therefore justification has not been provided demonstrating that the development can meet the performance criteria. Council is unable to grant consent to a development where compliance with neither the acceptable solution or performance criteria has been demonstrated by the applicant.

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

Not applicable to this application

iv) Environmental Planning and Assessment Regulation 2000

Clause 49 – Persons who can make Development Applications

Clause 49 – Persons who can make Development Applications of the Environmental Planning and Assessment Regulation 2000 states the following mandatory requirement for the lodgement of a Development Application:

- (1) *A development application may be made—*
- (a) *by the owner of the land to which the development application relates, or*
 - (b) *by any other person, with the consent of the owner of that land.*

Council notes that, whilst one director has signed the owner's consent form, it has not been clarified as to whether they are a sole director or one of several directors within the company. As such, Council requested the following as part of the Further Information Request:

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1. *Owner's consent. The submitted owner's consent would appear to be signed by a single director. If the owner of the property is a company, the application must either:*
 - a) *be signed by two directors or a director and a company secretary;*
 - b) *be signed by an authorised person of the company. The authorised person must demonstrate authority to lodge the development application by providing either minutes of a board meeting resolving to provide such authorisation to that person or by way of a letter signed by two directors or a director and a company secretary providing such authorisation;*
 - c) *be signed by a sole director in the case of sole director companies; and*
 - d) *the nature of their position of authority must be stated on the form (e.g director, sole director, or company secretary).*

As no response was received to Council's request and to the following requests for updates, Council cannot satisfactorily determine if the appropriate owner's consent in accordance with Clause 49 of the EP&A Act 1979 has been provided.

Clause 92 – Additional matters that a Consent Authority must consider

Provision	Response
<i>In the case of a development application for the demolition of a building, the provisions of AS 2601</i>	No demolition work is proposed to be carried out.
<i>In the case of a development application for the carrying out of development on land that is subject to a subdivision order made under Schedule 7 to the Act, the provisions of that order and of any development plan prepared for the land by a relevant authority under that Schedule</i>	The land is not the subject of a subdivision order made under Schedule 7 – Paper Subdivisions of the EP&A Act 1979.

Division 8A – Prescribed Conditions of Development Consent

The Prescribed Conditions of Development Consent listed at Division 8A of the EP&A Regulation 2000 is capable of being incorporated as a condition of any consent.

Schedule 1 – Forms

Schedule 1 – Forms, Part 1 – Development Applications, Clause 2 of the EP&A Regulation 2000 requires that a Site Plan and a sketch of the development be provided as part of any Development Application. In particular, the following is listed as mandatory requirements:

- (2) *The site plan referred to in subclause (1)(a) must indicate the following matters—*
 - (a) *the location, boundary dimensions, site area and north point of the land,*
 - (b) *existing vegetation and trees on the land,*
 - (c) *the location and uses of existing buildings on the land,*
 - (d) *existing levels of the land in relation to buildings and roads,*
 - (e) *the location and uses of buildings on sites adjoining the land*

A revised site plan was requested as part of the Further Information Request that addressed all requirements of Schedule 1 – Forms. However the revised Site Plan was not provided – as such this mandatory information has not been provided.

- (3) *The sketch referred to in subclause (1)(b) must indicate the following matters—*
 - (a) *the location of any proposed buildings or works (including extensions or additions to existing buildings or works) in relation to the land's boundaries and adjoining development,*
 - (b) *floor plans of any proposed buildings showing layout, partitioning, room sizes and intended uses of each part of the building,*

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- (c) elevations and sections showing proposed external finishes and heights of any proposed buildings (other than temporary structures),
- (c1) elevations and sections showing heights of any proposed temporary structures and the materials of which any such structures are proposed to be made (using the abbreviations set out in clause 7 of this Schedule),
- (d) proposed finished levels of the land in relation to existing and proposed buildings and roads,
- (e) proposed parking arrangements, entry and exit points for vehicles, and provision for movement of vehicles within the site (including dimensions where appropriate),
- (f) proposed landscaping and treatment of the land (indicating plant types and their height and maturity),
- (g) proposed methods of draining the land,

Revised Sketch Plans (Floor Plan, Elevations) were requested as part of the Further Information Request that addressed all requirements of Schedule 1 – Forms. However Council notes that, given no response was received to Council's request and to the following requests for updates, the provision of sketch plans compliant with the mandatory requirements of Schedule 1 were not provided.

v) REPEALED

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

Head of Consideration	Comment
Natural Environment	Given no vegetation is proposed for removal from the site, it would be unlikely to have an adverse impact upon the natural environment.
Built Environment	Given the site is located within an industrial area where there are no sensitive land uses (i.e. dwellings) within the immediate surrounding locality, it would be unlikely to have an adverse impact upon the built environment.
Social Impacts	It would be unlikely that the development would have an adverse social impact upon the surrounding locality.
Economic Impacts	It would be unlikely that the development would have an adverse economic impact upon the surrounding locality.

(c) Suitability of the site for the development

The site is **NOT** considered to be suitable for the proposed development for the following reasons:

- The proposal is not compliant with the following provisions of Chapter G1 – Site Analysis, Sustainable Design and Building Materials of the SDCP 2014:
 - Acceptable Solution A1.1 – A1.3 / P1.1-P1.4 – Site Plan / Site Analysis.
- The proposal is not compliant with the following provisions of Chapter G2 – Sustainable Stormwater Management and Erosion/Sediment Control of the SDCP 2014:
 - Acceptable Solution A2.1 / P2 – Stormwater Drainage.
- The proposal is not compliant with the following provisions of Chapter G20 – Industrial Development of the SDCP 2014:
 - Acceptable Solution A3.2 / P3 – Drainage Plan.
- The proposal is not compliant with the following provisions of Chapter G21 – Car Parking and Traffic of the SDCP 2014:

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- Section 5.1 – Car Parking Schedule; and
- Acceptable Solutions A12.1 and A12.2 / P12 – Manoeuvrability.
- It could not be determined as to whether the appropriate owner's consent required by Clause 49 of the EP&A Regulation 2000 was provided.
- The development is non-compliant with the requirements listed under Schedule 1 of the EP&A Regulation 2000, particularly as it relates to the submitted Site Plan and the requirement for sketch plans depicting the development.
- In consideration of the above matters, the proposal is not considered to be within the public interest – in particular as notification according to Clause 77 of the EP&A Regulation 2000 was not able to be undertaken.

(d) Submissions made in accordance with the Act or the regulations

In accordance with Council's Community Consultation Policy, the Development Application is required to be notified for a minimum of fourteen (14) days to property owners within a 100m radius.

However, a Site Plan and Sketch Plans compliant with Schedule 1 of the EP&A Regulation 2000 were not received. As such, the Development Application was unable to be notified according to the provisions of the Community Consultation Policy and the requirements listed under Clause 77 of the EP&A Regulation 1979.

(e) The Public Interest

Given that insufficient information has been provided by the applicant to enable an assessment of the Development Application and community consultation was not able to be carried out as described above, it is considered that the proposal is not within the public interest.

Delegations

The Guidelines for use of Delegated Authority have been reviewed and the assessing officer does not have the Delegated Authority to determine the Development Application.

Given the nature of the recommendation in relation to the application (intent to refuse), it must be determined by the Development and Environment Committee of the Council.

Recommendation

This application has been assessed having regard for Section 4.15 (Matters for consideration) under the Environmental Planning and Assessment Act 1979. As such, it is recommended that Development Application No. DA21/1370 be **refused**.

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DA Number	DA20/2322
Property	16 The Wool Rd, VINCENTIA - Lot 5 DP 539867 14 The Wool Rd, VINCENTIA - Lot 1779 DP 26434 12 The Wool Rd, VINCENTIA - Lot 1780 DP 26434 5 Burton St, VINCENTIA - Lot 1 DP 615796
Applicant(s)	Mintus Properties Pty Ltd c/o PDC Lawyers & Town Planners
Owner(s)	Mintus Properties Pty Ltd

Conflict of interest declaration

I have considered the potential for a conflict of interest under the [Code of Conduct](#) and to the best of my knowledge no pecuniary and/or significant non-pecuniary conflict of interest exists.

NOTE: If you determine that a non-pecuniary conflict of interest is less than significant and does not require further action, you must provide a written explanation of why you consider that the conflict does not require further action in the circumstances. This statement should then be countersigned by the section manager.

Name

Senior Development Planner 14/05/2021

1. Detailed Proposal

Demolition of Existing Structures and Construction of Hotel Accommodation with Ancillary Bar/Bistro and Function Centre

As indicated in the submitted Statement of Environmental Effects (dated 04/06/2021):

"The subject site will be created by subdividing Lot 1 DP 615796 and consolidating all lots within the subject site.

It is proposed for all structures and vegetation within the subject site boundaries to be removed to permit construction of a three and four storey hotel containing:

- *Basement floor:*
 - o 45 standard car spaces
 - o Three accessible car spaces
 - o Two stacked staff parking spaces
 - o One service/courier vehicle space
 - o Store and service rooms
- *Ground floor:*
 - o Bar and Bistro with 165m² floor area
 - o Function Room with 156m² floor area
 - o Service areas, bin storage, circulation spaces etc
 - o Lobby/Reception and office
 - o Eleven studio hotel rooms

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- *First Floor:*
 - o *Twenty-one studio hotel rooms with balconies*
- *Second Floor (fourteen rooms):*
 - o *Four studio hotel room*
 - o *Three interconnecting rooms (capable of being used either as two-bedroom interconnecting units or separately as one studio and one one-bedroom unit)*
 - o *Three one-bedroom hotel room*
 - o *One two storey, five-bedroom penthouse with rooftop garden and balcony. This room spans the second and third floors.*

The bar/bistro and function centre are provided as ancillary to the hotel accommodation. The bar/bistro will be open seven days with breakfast for guests only and lunch/dinner open to the public.

The function centre will operate on an as-booked basis and is available for use by hotel guests and the general public. The function centre has an anticipated maximum capacity of 50-60 people, though it is noted that this is highly variable in light of Government mandated social distancing rules.

The hotel component will employ five staff (2 front desk/admin, 1 general duties and 2 cleaners). There will be staff presence 24 hours a day, however staffing ratios will be higher during normal business hours and drop to one staff member over night.

Vehicular access to the site will be from the car park to the south and includes a port-cochere check-in/drop off bay and basement parking for 51 vehicles (including staff and loading/service bay). The 51 basement parking spaces accommodate all hotel visitors and staff. Additional parking for use by short term users of the site (bistro/bar and function centre) is accommodated within the existing car park. A traffic and parking assessment is provided in this regard.

A service bay is provided on the basement floor near the lifts for use by smaller daily service vehicles. It is anticipated that given the size of the hotel development the daily service vehicles will be the size of a large van. The largest vehicle expected to be required for service of the site generally is likely to be a small rigid vehicle for bin servicing. This vehicle won't actually enter the site as a suitable loading bay is provided within the existing car park area to the east of the port-cochere. Swept path diagrams are provided in the traffic and parking assessment.

Landscaping includes private courtyards for several ground floor studio units, a swimming pool at The Wool Road frontage, dense boundary landscaping and a number of rooftop gardens, as indicated on the submitted plans. Additional landscaping will be provided within the existing car park between the entry and exit points for the proposed hotel."

The following was clarified in the submitted cover letter with additional information response (dated 16/04/2021):

"...It is anticipated breakfast will be available from 6am, Lunch from 11am – 3pm and Dinner from 5pm – 10pm. (in relation to the bar/bistro).

...Function times will depend on individual bookings, though it is anticipated that bookings will occur between 9am and 12am/midnight.

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The bar/bistro will employ approximately five staff (3 chef/cook staff and 2 waiters/waitresses). The function centre will also employ approximately five staff (3 chef/cook staff and 2 waiters/waitresses)."

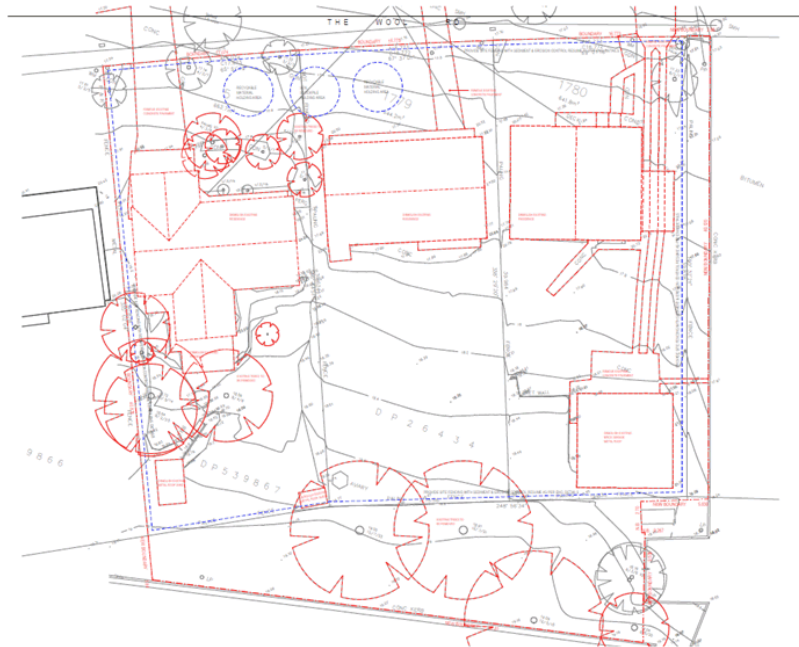


Figure 1 – Demolition Plan

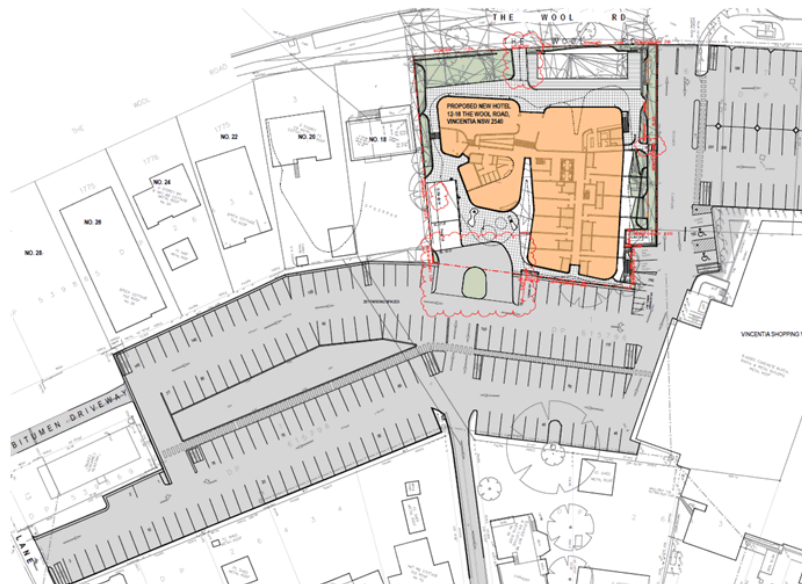


Figure 2 – Site Plan

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Figure 3 – North Elevation (View from Street)

2. Subject Site and Surrounds

- The subject site is located on the southern side of The Wool Road, immediately west of the entrance to the carpark associated with the Vincentia Village shops. The three (3) lots fronting The Wool Road each contain a single dwelling house and ancillary structures. Part of the carpark and a small section of land between the northern edge of the carpark and the southern boundary of the three (3) lots fronting The Wool Road also form part of the site.
- The subject site is zoned R1 General Residential and B2 Local Centre.
- The subject site has existing access to The Wool Road, which is identified as a "local" heritage item – Item No. 218, Colonial road—remnants (former Wool Road).
- The subject site adjoins land comprising the carpark to the east and south associated with the Vincentia Village shops to the southeast (being zoned B2 Local Centre), and low-density residential development to the north and west (being zoned R1 General Residential).



Figure 4 – Location Map

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3. Background

Site History and Previous Approvals

Darts - since 1st July 2005

Application	Appl. Date	Application Type	Proposal	Status	Completed
CO21/1315	06/05/2021	Complying Development	Shop Fit Out (T37&38) for 'King of the Pack'	Approved	29/04/2021
OC21/1021	11/01/2021	Final Occupation Certificate	Change Of Use - Newsagent to Takeaway Shop	Approved	11/01/2021
BC20/1076	08/12/2020	Building Certificate	Building Certificate	Approved	18/01/2021
DA20/2322	08/12/2020	Development Application	New Commercial- Demolition of existing structures, and construction of a 45 room Hotel	Incomplete	
CO20/1602	05/11/2020	Complying Development	Change Of Use - Newsagent to Takeaway Shop	Approved	21/12/2020
CO20/1192	06/05/2020	Complying Development	Fit Out for Laundrette including New Shop Front Doorway (Shops 19&20)	Approved	01/05/2020
CD18/1387	20/07/2018	Complying Development	Shop 36 Internal Alterations	Approved	19/07/2018
DA18/1675	25/06/2018	Development Application	Installation Of Signage	Approved	02/08/2018
OC18/1261	09/03/2018	Final Occupation Certificate	Shops 32-34 Fit Out for Cafe/Take Away	Approved	06/03/2018
CD18/1044	31/01/2018	Complying Development	Shops 32-34 Fit Out for Cafe/Take Away	Approved	19/01/2018
OC17/2255	21/11/2017	Final Occupation Certificate	Alteration to Existing Car Park & Alterations to Existing Shopping Centre	Approved	16/11/2017
TFS17/1047	25/07/2017	Temporary food Stalls	Temporary Food Stall	Approved	25/07/2017
OC17/1282	13/03/2017	Construction Certificate	Alteration to Existing Car Park & Alterations to Existing Shopping Centre	Approved	09/03/2017
OC17/1214	01/03/2017	S138 Approval	Alteration to Existing Car Park & Alterations to Existing Shopping Centre	Approved	24/05/2017
OC16/1604	28/06/2016	Final Occupation Certificate	Amalgamation of Shops 19 & 20	Approved	20/06/2016
DA16/1748	22/06/2016	Development Application	Alteration to Existing Car Park & Alterations to Existing Shopping Centre	Approved	24/08/2016
CD16/1167	06/06/2016	Complying Development	Amalgamation of Shops 19 & 20	Approved	30/05/2016
OC15/1765	05/08/2015	Final Occupation Certificate	Fit Out & Signage for Shop 14 Campbell Page Office	Approved	03/08/2015
CD15/1207	24/07/2015	Complying Development	Fit Out & Signage for Shop 14 Campbell Page Office	Approved	20/07/2015
OC15/1661	30/06/2015	Final Occupation Certificate	Fit Out to Shop 18	Approved	24/06/2015
CD15/1143	01/06/2015	Complying Development	Fit Out to Shop 18	Approved	28/05/2015
OC14/1977	16/10/2014	Final Occupation Certificate	Construct new IT wall to create ATM Bunker	Approved	14/10/2014
CD14/1245	17/09/2014	Complying Development	Construct new IT wall to create ATM Bunker	Approved	15/09/2014
DA14/1776	04/07/2014	Development Application	Business Identification Signage	Approved	22/07/2014
TRP14/1035	11/04/2014	Tree Removal/Pruning	Removal of 4 Eucalypt Trees	Approved	15/04/2014
OC13/2287	24/12/2013	Final Occupation Certificate	Shop Fitout - existing retail to liquor premises	Approved	13/12/2013
OC13/2276	23/12/2013	Final Occupation Certificate	Shop 11 - Liquor Store Signage & Roller Shutter	Approved	13/12/2013
OC13/2228	03/12/2013	Construction Certificate	Shop 11 - Liquor Store Signage & Roller Shutter	Approved	27/11/2013
DA13/2055	09/10/2013	Development Application	Shop 11 - Liquor Store Signage & Roller Shutter	Approved	15/11/2013
OC13/1918	03/10/2013	Final Occupation Certificate	Fit Out for Cignal - Shop 38	Approved	26/09/2013
CD13/1282	23/09/2013	Complying Development	Fitout for Optometrist - Shop 26	Approved	26/09/2013
CD13/1262	11/09/2013	Complying Development	Fit Out for Cignal - Shop 38	Approved	29/08/2013
CD13/1248	26/08/2013	Complying Development	Fitout for change of use to liquor shop	Approved	06/08/2013
CD13/1233	12/08/2013	Complying Development	Shop Fitout - existing retail to liquor premises	Approved	06/08/2013
OC12/2215	04/12/2012	Final Occupation Certificate	Commercial Additions - Coles Fitout	Approved	28/11/2012
OC12/1219	04/10/2012	Complying Development	Commercial Additions - Coles Fitout	Approved	28/09/2012
OC11/1886	05/09/2011	Final Occupation Certificate	Commercial Additions - Change of Use to Ice Creamery	Approved	05/09/2011
OC11/1809	03/06/2011	Interim Occupation Certificate	Change of Use - Tasty Treats Gourmet Ice Creamery	Approved	03/06/2011
DR11/1194	28/03/2011	Sewer Connection (Amended)	Change of Use - Tasty Treats Gourmet Ice Creamery	Approved	09/05/2011
OC11/1297	28/03/2011	Construction Certificate	Commercial Additions - Change of Use to Ice Creamery	Approved	04/05/2011
DA11/1298	28/03/2011	Development Application	Commercial Additions - Change of Use to Ice Creamery	Approved	04/05/2011
OC08/2329	12/12/2008	Interim Occupation Certificate	Take Away Food Shop	Approved	12/12/2008
DR08/1682	08/10/2008	Sewer Connection (Amended)	Sewer Application	Approved	19/12/2008
OC08/2060	01/10/2008	Final Occupation Certificate	Change of use - Seafood Shop	Approved	01/10/2008
DR08/1467	14/07/2008	Sewer Connection (Amended)	Take Away Food Shop	Approved	22/08/2008
DA08/1977	14/07/2008	Development Application	Take Away Food Shop	Approved	22/08/2008
DS08/1223	12/05/2008	Section 96 Amendment	Seafood Shop - Sec 96 1 (a)	Approved	22/05/2008
OC08/1559	12/05/2008	Construction Certificate	Change of Use - Seafood Shop	Approved	22/05/2008
DR08/1187	20/03/2008	Sewer Connection (Amended)	Seafood Shop	Approved	01/05/2008
DA08/1371	20/03/2008	Development Application	Change of use - Seafood Shop	Approved	30/04/2008
DA07/2739	16/10/2007	Development Application	Alterations to Existing Restaurant by combining two smaller shops into one	Approved	12/11/2007
OC05/3604	18/10/2005	Construction Certificate	Installation of an ATM machine in an existing window space	Approved	22/11/2005
DA05/3673	18/10/2005	Development Application	Installation of an ATM machine in an existing window space	Approved	21/11/2005
OC05/2621	05/10/2005	Construction Certificate	Miscellaneous - advertising sign	Approved	11/10/2005
DA05/3572	05/10/2005	Development Application	Miscellaneous - advertising sign	Approved	10/10/2005

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Plain Sailing - since 2nd September 1996

Application	Appl. Date	Proposal	Status	Status Date
DA94-1404	26/02/2004	Advertising Sign/Structure	Approved (T)	03/03/2004
DA88-2319	17/12/2003	Commercial Additions	Approved (T)	17/12/2003
DA88-2319	29/01/2003	Commercial Additions	Approved (T)	26/05/2003
DA01-3510	14/05/2002	Commercial Additions	Approved (T)	09/05/2002
DA01-3510	10/12/2001	Commercial Additions	Approved (T)	05/12/2001
DA01-3510	31/10/2001	Commercial Additions	Approved (T)	30/11/2001
DA01-2469	31/10/2001	Sewer Application (Amended)	Approved (P)	30/11/2001
DA01-1163	13/06/2001	Section 96 Amendment	Approved (O)	12/09/2001
DA03-3445	24/11/2000	Change of Use	Approved (T)	06/12/2000
BC09-1783	02/08/1999	Building Certificate	Certificate Issued (C)	08/10/1999
DA86-2332	16/11/1998	Advertising Sign/Structure	Approved (T)	02/12/1998
DA86-2240	15/10/1998	Commercial	Approved (B)	11/11/1998
DA86-2050	15/10/1998	Sewer Application	Approved (P)	11/11/1998
DA86-1070	10/07/1998	Section 96 Amendment	Approved (O)	03/08/1998
DA86-3734	23/12/1996	Advertising Sign/Structure	Withdrawn (T)	13/01/1997
DA86-3704	12/12/1996	Advertising Sign/Structure	Approved (T)	23/12/1996
DA86-2347	15/11/1996	Commercial Additions	Approved (B)	07/01/1997
DA88-2319	15/08/1988	Commercial Additions	Approved (T)	31/08/1989

Old Applications prior to 2nd Sept 1996

Application	Proposal	Decision	Owner	Original Lot
BA78/0461	Brick Shopping Centre	Approved	Twoco P/L	Lot 11 DP 539868
BA81/0346	Commercial Shops	Approved	Twoco Pty Ltd	Lot 1788 DP 26434
SD10550		Approved	Twoco P/L	Lot 11 DP 539868
SD10971	Chinese Restaurant	Approved	Twoco Pty Ltd	Lot 11 DP 539868

DA data prior to the 2nd Sept 1996

Application	Appl. Date	Proposal	Status	Status Date
DA96/1387	13/08/1996	Advertising Structures	Approved	22/08/1996
DA96/1292	1/07/1996	Advertising Structures	Approved	8/07/1996
DA95/1171	25/05/1995	Retail Trade	Approved	15/06/1995
DA94/1243	28/04/1994	Retail Trade	Approved	5/05/1994
DA94/1174	15/03/1994	Retail Trade	Approved	8/04/1994
DA94/1109	10/01/1994	Retail Trade	Approved	17/01/1994
DA93/1908	13/12/1993	Trade N.E.C.	Approved	15/12/1993
DA93/2999	24/09/1993	Offices N.E.C.	Approved	13/10/1993
DA93/2748	8/05/1993	Retail Trade	Approved	20/09/1993
DA93/2598	12/08/1993	Retail Trade	Approved	27/08/1993
DA93/2547	4/08/1993	Trade N.E.C.	Approved	20/08/1993
DA93/2480	23/07/1993	Finance, Banking & Insurance	Approved	19/08/1993
DA93/2534	3/08/1993	Take Away Food Store	Withdrawn	12/08/1993
DA93/1713	23/04/1993	Trade N.E.C.	Approved	10/06/1993
DA93/1807	5/05/1993	Trade N.E.C.	Approved	10/06/1993
DA88/2600	23/09/1988	Retail Trade	Approved	25/10/1988
DA88/2622	13/09/1988	Other Health Practices	Approved	5/10/1988
DA88/1650	22/04/1988	Retail Trade	Approved	27/05/1988
DA87/2347	20/08/1987	Shopping Complexes	Approved	13/10/1987
DA87/1144	22/01/1987	Restaurants	Approved	9/02/1987
DA85/1238	16/12/1985	Finance, Banking & Insurance	Approved	16/07/1986
DA84/2253	9/07/1984	Veterinary Services	Approved	26/10/1984
DA82/1902	3/06/1982	Veterinary Services	Approved	6/05/1982

BA data prior to the 2nd Sept 1996

Application	Appl. Date	Proposal	Status	Status Date
BA93/2079	06/08/1993	COMMERCIAL ADDITIONS	Approved	31/08/1993
BA93/2108	11/08/1993	NEW COMMERCIAL	Approved	31/08/1993
BA87/2927	24/11/1987	NEW COMMERCIAL	Approved	27/01/1988
BA93/2174	18/08/1993	NEW COMMERCIAL	Approved	24/08/1993
BA88/1227	10/05/1988	COMMERCIAL ADDITIONS	Approved	24/05/1988
BA87/0422	12/02/1987	COMMERCIAL ADDITIONS	Approved	24/02/1987
BA90/3029	15/10/1990	NEW COMMERCIAL	Approved	20/03/1991
BA93/3374	23/12/1993	NEW COMMERCIAL	Cancelled	10/01/1994
BA86/2074	24/10/1986	NEW COMMERCIAL	Approved	03/12/1986
BA84/0486	09/03/1984	COMMERCIAL ADDITIONS	Approved	03/04/1984
BA84/1608	13/08/1984	NEW URBAN DWELLING	Approved	01/11/1984
SD01/1123	13/08/1984			
SD01/1976	24/10/1986			
SD87/2827	24/11/1987			
SD90/3829	15/10/1990			

Post-Lodgement

- This application was lodged on 8 December 2020.

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- As a result of detailed assessment of the application, additional information was requested from the applicant on five (5) occasions – 10 December 2020, 23 December 2020, 22 January 2021, 25 March 2021 and 20 May 2021. The main issues related to the following:

- The submitted clause 4.6 written request in relation to the contravention to the building height limit.

It was considered that the request did not provide sufficient comprehensive assessment as required against the provisions of clause 4.6 *Exceptions to development standards*, SLEP 2014 in order to justify why the contravention to the stated development standard should be considered by Council. The request did not include the environmental planning grounds as to why exceedance is *necessary*, along with the *unique* characteristics and circumstances. The request along with the submitted plans did not clarify the extent of contravention to the height of building limit across the subject site, noting the site is affected by both an 8.5m and 11m limitation.

- The submitted Traffic and Parking Impact Assessment Report.

Council was not supportive of the proposal to rely on existing parking within the Vincentia Shopping Village carpark and surrounding areas.

- The submitted stormwater drainage design. Council required the design to demonstrate extension and connection to the underground stormwater system in The Wool Road.
- Endeavour Energy's objection to the application

- Councillors called in the application in response to considerable public concern on 19 January 2021 (MIN21.15).

- Resident Briefing Meeting was held on 16 March 2021. 17 residents attended. The concerns raised from this meeting for the applicant's consideration included the following:

- The removal of the existing gum trees and the inclusion of additional significant trees as part of the proposed landscaping.
- Environmental management issues such as waste, power and water management and consideration of alternatives, including wastewater collection and recycling, solar power and composting etc. to address climate change. These are considered to be common practices in many hotel/resort, club and shopping mall developments.
- Confirmation of the operating hours of the bar/bistro and function centre.
- Confirmation of the total number of staff to be employed for the development, including the bar/bistro and function centre.
- Confirmation as to the intended use of the penthouse, whether for personal use or as part of the hotel accommodation.

- On 23 February 2021, 2 March 2021, 23 April 2021, 5 May 2021 and 7 June 2021, the applicant submitted additional information via the Planning Portal, which was subsequently referred to the relevant sections of Council and external agencies where necessary for comment.

The applicant addressed the matters raised for consideration, by including a basement level carpark within the footprint of the proposed building, proposing to connect stormwater to the

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existing infrastructure in The Wool Road, proposing to reflect the requirements of Endeavour Energy in the design, and particularly amending the design of the proposed development to comply with the height limit.

4. Consultation and Referrals

Internal Referrals

Referral	Recommendation	Comment
Development Engineer	No objections subject to recommended conditions of consent (dated 22/03/2021). The Engineer recommended reconsideration of the service bay/waste room arrangement to improve the ease of waste collection and allow for vehicles larger than an SRV to service the development. They advised that if the applicant wished to proceed on the basis of only using an SRV, conditions of consent to limit vehicles to this size would be applied (in the event of approval). If so, they should provide evidence from a waste contractor that they can service the site with an SRV sized vehicle.	Conditions to be imposed should the application be determined by approval.
Waste	No objections subject to recommended conditions of consent (dated 15/12/2020).	Conditions to be imposed should the application be determined by approval.
Shoalhaven Water	Notice provided (dated 22/12/2020).	Conditions to be imposed should the application be determined by approval.
Environmental Health Officer	No objections subject to recommended conditions of consent (dated 02/03/2021). The Officer recommended additional kitchen layout detail for the bar/bistro as well as cooking extraction detail be provided at the Construction Certificate stage, as requested by the applicant.	Conditions to be imposed should the application be determined by approval.

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External Referrals

Agency	Recommendation	Comment
Endeavour Energy	No objections subject to recommendations and comments in advice (dated 23/03/2021).	Conditions to be imposed should the application be determined by approval.
NSW Police	No objections subject to recommendations in advice (dated 02/03/2021).	Conditions to be imposed should the application be determined by approval.

5. Statutory Considerations

Environmental Planning and Assessment Act 1979

- Section 4.46 – Integrated Development

Not applicable.

Biodiversity Conservation Act 2016 and Biodiversity Conservation Regulation 2017

The purpose of the Act is to maintain a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future, consistent with the principles of ecologically sustainable development (described in section 6 (2) of the Protection of the Environment Administration Act 1991).

Part 6 of the Act provides tools to avoid, minimise and offset biodiversity impacts from development and clearing through the Biodiversity Offsets Scheme (BOS). The BOS applies to development and clearing when:

- The thresholds under s.7.1 of the Regulation are exceeded;
 - The clearing of native vegetation of an area declared by cl. 7.2
 - The clearing of native vegetation on land included on the Biodiversity Values Map (BV map)
- A proposed development is likely to significantly affect threatened species based on the Test of Significance in section 7.3 of the Act
 - Area of clearing;
 - Biodiversity Values Map and Threshold Tool; and
 - Test of significance.

The proposed area of clearing is based off the minimum lot size. The minimum lot size for the R1 zoned section of the subject site is 500m². Reference to the clearing thresholds provided under s.7.1 of the Regulation the clearing threshold is 0.25ha

As indicated in the submitted Arboricultural Impact Assessment Report:

"On the 8th of October 2020, gummifera assessed 11 trees within the development site. Three trees were located outside the southern boundary of 12-16 The Wool Road within a garden bed between the boundary fence and the Vincentia Shopping Village carpark whilst the remaining 8 trees were located within the boundaries of 12-16 The Wool Road. Five of the 11 trees were native to the area whilst the remaining 6 trees were non-native species. Due to the locations of each tree in relation to the proposed development application it is recommended that all 11 trees will require complete removal as they are either within the construction footprint or are too close to the construction zone to preserve their structural integrity."

The clearing required for the proposed development is approximately 2,400sqm which is under the clearing threshold.

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Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply
Less than 1 ha	0.25ha or more
1ha to less than 40 ha	0.5ha or more
40ha to less than 1000ha	1ha or more
1000ha or more	2ha or more

A valid Biodiversity Offset Scheme Entry Threshold (BOSET) tool has been submitted as part of the application which shows the proposed development does not trigger the Biodiversity Offsets Scheme (BOS).

A site inspection has been undertaken along with a desktop review and it is concluded that the proposed development is unlikely to have a significant impact.

A review of the proposed development against the BOS triggers has concluded that the proposal does not trigger entry into the BOS.

Shoalhaven Contribution Plan 2019

The proposed development is considered to increase the demand for community facilities in accordance with the Shoalhaven Contributions Plan 2019 (the Plan). The development is most aptly characterised as a Caravan Park/Tourist Accommodation, Hotel/Restaurant and Commercial Office development for the purpose of calculating contributions under the Plan.

In relation to the accommodation component, it is noted that there are 45 x 1 bedroom hotel rooms and one (1) x 5 bedroom hotel room (penthouse) proposed, and in accordance with Table 3.7.2, the ETs applied would be 0.4 for those 1 bedroom hotel rooms and 1 for the 5 bedroom hotel room.

Caravan Park/Tourist Accommodation

	Existing	Proposed
1 Bedroom Unit, Relocatable Dwelling, Motel Room, Cabin	0	45
2 Bedroom Unit, Relocatable Dwelling, Motel Room, Cabin	0	0
3 Bedroom Unit, Relocatable Dwelling, Motel Room, Cabin	0	0
4 Bedroom Unit, Relocatable Dwelling, Motel Room, Cabin	0	1
Bed & Breakfast Bedroom	0	0
Total ET		19
		0

As the proposed development is to provide onsite stormwater detention to pre-development flows contribution is not required towards drainage projects. However, there is also no drainage project relating to the subject site.

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The bar/bistro or restaurant use (being 165sqm in floor area) is to be levied as “restaurant” and the function centre use (being 156sqm in floor area) is to be levied as “commercial” in accordance with the Plan.

Non Residential

Note: enter area in m2 and calculator will convert area to ETs.

	Existing	Proposed
Retail (Gross Floor Area m2)	0	0
Commercial Office (Gross Floor Area m2)	0	156
Hotel / Restaurant(Gross Floor Area m2)	0	165
Bulky Goods (Gross Floor Area m2)	0	0
Industrial (Gross m2, include parking/landscape)	0	0
Total ET		12.56
Management Project ETs		1.6

It is considered the development should benefit from a 3ET credit to acknowledge the 1ET credit that each of the existing three (3) residential lots enjoy.

Project	Description	Rate	Qty	Total	GST	GST Incl
03 AREC 0005	Planning Area 3 - Recreation facilities upgrade various locations	\$280.19	16	\$4,483.04	\$0.00	\$4,483.04
03 AREC 3003	Bay and Basin Leisure Centre	\$420.00	16	\$6,720.00	\$0.00	\$6,720.00
03 ROAD 4021	The Wool Road Bypass, St Georges Basin	\$176.11	28.56	\$5,029.70	\$0.00	\$5,029.70
CW AREC 5005	Shoalhaven Community and Recreational Precinct SCArP Cambewarra Road Bomaderry	\$2,506.53	16	\$40,104.48	\$0.00	\$40,104.48
CW FIRE 2001	Citywide Fire & Emergency services	\$138.13	17.6	\$2,431.09	\$0.00	\$2,431.09
CW FIRE 2002	Shoalhaven Fire Control Centre	\$202.07	17.6	\$3,556.43	\$0.00	\$3,556.43
CW MGMT 3001	Contributions Management & Administration	\$574.39	17.6	\$6,232.47	\$0.00	\$6,232.47
				Sub Total:		\$68,557.21
				GST Total:		\$0.00
				Estimate Total:		\$68,557.21

Coastal Zone Management Plan 2018

The Coastal Zone Management Plan 2018 was adopted in October 2018. The proposed development is not considered to be impacted by the provisions of this Plan.

6. 4.15 Assessment

The following provides an assessment of the submitted application against the matters for consideration under Section 4.15 of the EP&A Act.

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(a) Any planning instrument, draft instrument, DCP and regulations that apply to the land

i) Environmental Planning Instruments

Instrument
Shoalhaven LEP 2014
State Environmental Planning Policy (Coastal Management) 2018
State Environmental Planning Policy (Infrastructure) 2007
State Environmental Planning Policy (Koala Habitat Protection) 2021
State Environmental Planning Policy No 55—Remediation of Land

• **SEPP (Coastal Management) 2018**

The subject site is within the coastal environment and coastal use areas and the provisions of clause 13 and 14 have been considered. Accordingly, the development is unlikely to cause any adverse impact on those matters listed under subclause (1). The development has been sited to avoid any adverse impact referred to in subclause (1) and Council is satisfied that the development will not cause any increased risk of coastal hazards on the subject site or other land.

• **SEPP (Infrastructure) 2007**

Clause 45(1)(b)(iii) is applicable and the application referred to the *electricity supply authority for the area* (Endeavour Energy) on 10/12/2020 and 03/03/2021 as required for comment. Comments were received and have been considered (as detailed under the 'Referrals' section of this report).

• **SEPP 55 Remediation of Land**

Question	Yes	No
1. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)?	Proceed to Question 3	✓ Proceed to Question 2
2. Does the proposal result in a change of use (that is the establishment of a new use)?	✓ Proceed to Question 3	Assessment under SEPP 55 and DCP not required.
3. Does the application proposed a new: ▪ Child care facility ▪ Educational use ▪ Recreational use ▪ Health care use ▪ Place of public worship ▪ Residential use in a commercial or industrial zone	Proceed to Question 5	✗ Proceed to Question 4
4. Review the property file and conduct a site inspection of the site and surrounding lands. Is there any evidence that the land has been used for a listed purpose?	Proceed to Question 5	✗ Proposal satisfactory under SEPP 55 and DCP.
5. Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater?	Request contaminated site assessment	Proposal satisfactory under SEPP 55 and DCP.

The site was inspected on 15 March 2021, with there being no evidence of obvious contamination in the area to be developed.

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Accordingly, it is considered that the proposal is satisfactory under SEPP 55 and SDCP 2014.

SEPP (Koala Habitat Protection) 2021

This Policy is required to be addressed for this development as it occurs on a site that has an area of more than 1ha and is within a local government area listed in Schedule 1.

As there is no local population, there is likely to be no impacts on koalas or habitat.

There is also no approved Koala Plan of Management applicable to the subject site.

• Shoalhaven LEP 2014

Land Zoning

The land is zoned R1 General Residential and B2 Local Centre under the SLEP 2014.



Characterisation and Permissibility

The proposal is best characterised as *tourist and visitor accommodation (hotel or motel accommodation)* under the SLEP 2014. The proposal is permitted within the zone with the consent of Council.

“tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following—

- (a) *backpackers’ accommodation,*
- (b) *bed and breakfast accommodation,*
- (c) *farm stay accommodation,*
- (d) *hotel or motel accommodation,*
- (e) *serviced apartments,*

but does not include—

- (f) *camping grounds, or*
- (g) *caravan parks, or*
- (h) *eco-tourist facilities.”*

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“hotel or motel accommodation means a building or place (whether or not licensed premises under the [Liquor Act 2007](#)) that provides temporary or short-term accommodation on a commercial basis and that—

- (a) comprises rooms or self-contained suites, and*
- (b) may provide meals to guests or the general public and facilities for the parking of guests’ vehicles,*

but does not include backpackers’ accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

Note—Hotel or motel accommodation is a type of tourist and visitor accommodation.”

The proposed bar/bistro and function room on the ground floor are proposed to be ancillary to the “hotel or motel accommodation” land use.

As stated by DPIE in Planning Circular PS 13-001:

“An ancillary use is a use that is subordinate or subservient to the dominant purpose. The concept is important when a development involves multiple components on the same land.

To put it simply:

- if a component serves the dominant purpose, it is ancillary to that dominant purpose;*
- if a component serves its own purpose, it is not a component of the dominant purpose but an independent use on the same land. It is a dominant use in its own right. In such circumstances, the development could be described as a mixed use development.”*

Although the bar and bistro (best characterised as “restaurant or café”) and function room (best characterised as “function centre”) are prohibited within the R1 zone, Council is satisfied that these uses would be ancillary to the “hotel or motel accommodation” based on the information provided with this application, particularly noting that they are located within the same building as the accommodation and utilises shared facilities.

The applicant has indicated the following in the submitted Statement of Environmental Effects, along with addressing considerations for characterisation, as specified in Planning Circular PS13-001:

“As the definition states, an area providing for meals to guests or the general public falls within the definition of hotel or motel accommodation. The bar/bistro is therefore part of the principal use of hotel accommodation and permissible with consent in the zone(s).

The proposed function centre is permissible as an ancillary use. Planning Circular PS13-001 defines an ancillary use as a use that is subordinate or subservient to the dominant purpose.”

R1 Zone objectives

The objectives of the R1 zone relate to the dominant use or intention of that zone. However importantly the zone permits a range of uses that are not residential including but not limited to a hotel, place of public worship (eg church), community facilities and more.

It is considered that the proposal is not inconsistent / incompatible with the relevant objectives having regard to the range of uses permitted within the zone.

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Objective	Comment
• To provide for the housing needs of the community.	Not inconsistent with the nominated objective.
• To provide for a variety of housing types and densities.	Not inconsistent with the nominated objective.
• To enable other land uses that provide facilities or services to meet the day to day needs of residents.	Satisfies the nominated objective.
• To identify land suitable for future urban expansion.	Satisfies the nominated objective.

B2 Zone objectives

Objective	Comment
• To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.	Satisfies the nominated objective.
• To encourage employment opportunities in accessible locations.	Satisfies the nominated objective.
• To maximise public transport patronage and encourage walking and cycling.	Not inconsistent with the nominated objective.

SLEP 2014 Clauses

Clause	Comments	Complies/Consistent
Part 2 Permitted or prohibited development		
2.7 Demolition requires development consent	Consent sought as part of this application. The existing dwelling houses and ancillary structures are to be demolished.	Yes
Part 4 Principal development standards		
4.3 Height of buildings	The subject site has a maximum permitted building height of 8.5m (for the R1 zoned section) and 11m as per sub-clause (2A) (for the B2 zoned section). The proposed building does not exceed the height limitations. A condition is recommended with any consent granted (if approved) to require a survey to be undertaken to ensure the development as constructed complies with the maximum height controls for the site.	Yes
Part 5 Miscellaneous provisions		

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5.10 Heritage conservation	The subject site has existing access to The Wool Road, which is identified as a "local" heritage item – Item No. 218, Colonial road—remnants (former Wool Road). However, the proposed development will not affect the heritage significance of this item and a heritage management document is not required.	Yes
Part 7 Additional local provisions		
7.1 Acid sulfate soils	The subject site is identified as Class 5 land. The works proposed to facilitate the development are not likely to lower the watertable below 1m AHD on any adjacent Class 1-4 land, although excavation is required for the basement carpark. Acid sulfate soils management plan not required, however, an 'unexpected finds' condition would be imposed with any consent granted should the application be determined by approval.	N/A
7.2 Earthworks	The provisions of subclause (3) have been considered. The proposed earthworks will have no detrimental effect on use of the subject site or the existing and likely amenity of adjoining properties, subject to recommended conditions of consent should the application be determined by approval. All works must be conducted in accordance with relevant Australian Standards including shoring where required.	Yes
7.11 Essential services	Services are available.	Yes
7.20 Development in the Jervis Bay region	The proposal satisfies the objectives of this clause. The natural and cultural values of the Jervis Bay region are protected.	Yes

ii) Draft Environmental Planning Instrument

None relevant.

The Draft Illawarra Shoalhaven Regional Plan 2041 does not raise any additional matters for consideration as part of the assessment of this application.

iii) Any Development Control Plan

- **Shoalhaven DCP 2014**

Generic Chapters

G1: Site Analysis, Sustainable Design and Building Materials

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The provisions of this chapter have been considered and adequately addressed.

The applicant was requested to address environmental management issues such as waste, power and water management and consideration of alternatives, including wastewater collection and recycling, solar power and composting etc. to address climate change. These are considered to be common practices in many hotel/resort, club and shopping mall developments.

Their response was that the provision of solar panels, recycling facilities, power and water conservation etc. will be considered and where appropriate incorporated into the design at construction/detailed design stage.

G2: Sustainable Stormwater Management and Erosion/Sediment Control

The provisions of this chapter have been considered and Council's Development Engineer has raised no objections subject to conditions of consent being imposed should the application be determined by approval.

It is noted that the DRAINS modelling provided indicates that the post-development flow leaving the site has now been reduced below 55L/s through changes to the OSD system. This is acceptable.

G3: Landscaping Design Guidelines

The provisions of this chapter have been considered and no objections are raised in principle with the submitted landscape design plans.

It is agreed with the applicant that the proposed landscaping is consistent with the local character and suitable for the area. It already includes a number of tree species ranging from 3-7m mature height.

However, it is noted that these plans have not been amended to relate to the amended architectural plan, particularly in relation to levels. Accordingly, amended landscaping design plans will be required prior to the issue of a Construction Certificate should the application be determined by approval.

G4: Tree and Vegetation Management

The provisions of this chapter have been considered and no objections are raised with the submitted Arboricultural Impact Assessment Report.

As indicated in the submitted Report:

"On the 8th of October 2020, gummifera assessed 11 trees within the development site. Three trees were located outside the southern boundary of 12-16 The Wool Road within a garden bed between the boundary fence and the Vincentia Shopping Village carpark whilst the remaining 8 trees were located within the boundaries of 12-16 The Wool Road. Five of the 11 trees were native to the area whilst the remaining 6 trees were non-native species. Due to the locations of each tree in relation to the proposed development application it is recommended that all 11 trees will require complete removal as they are either within the construction footprint or are too close to the construction zone to preserve their structural integrity."

Although all trees are proposed to be removed, the landscaping design will be required to replace these with trees that are native to the region in appropriate locations.

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G5: Biodiversity Impact Assessment
The provisions of this chapter have been considered and no objections are raised with the submitted Arboricultural Impact Assessment Report, which did not find any evidence of hollows, nests or native habitat within the subject site.
G7: Waste Minimisation and Management Controls
The provisions of this chapter have been considered and no objections are raised with the submitted Waste Management Plan subject to conditions of consent being imposed should the application be determined by approval.
G11: Subdivision of Land
<p>The provisions of this chapter have been considered and the proposal consistent with the relevant provisions.</p> <p>The subject allotments (Lot 1780 DP 26434, Lot 1779 DP 26434 and Lot 5 DP 539867) will need to be consolidated into one (1) allotment and the boundary adjoining Lot 1 DP 615796 adjusted as shown on the plan by CD Architects (Job No. J20468, Drawing No. DA 1008, Revision A, dated 03/02/2021) prior to the issue of an Occupation Certificate should the application be determined by approval.</p>
G15: Tourist and Visitor Accommodation
The provisions of this chapter do not apply to hotel or motel accommodation uses.
G17: Business, Commercial and Retail Activities
<p>The provisions of this chapter have been considered and no objections are raised with the submitted design, particularly in relation to waste management, subject to conditions of consent being imposed should the application be determined by approval.</p> <p>It is noted that the bar/bistro and function centre uses are to be ancillary to the hotel accommodation.</p>
G18: Streetscape Design for Town and Village Centres
<p>This chapter is applicable to this development type and also due to the development fronting a street as illustrated on Supporting Map 1.</p> <p>All required streetscape works for the development are to be provided in accordance with the <i>Streetscape Technical Manual</i> as required by this chapter. Crime Prevention Through Environmental Design (CPTED) principles are also to be considered in the provision of these works.</p> <p>Details of this will need to be shown on the engineering plans for approval by Council with the Construction Certificate should the application be determined by approval.</p>
G21: Car Parking and Traffic

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The provisions of this chapter have been considered and Council's Development Engineer has raised no objections subject to conditions of consent being imposed should the application be determined by approval.

While Council raised concern with the development as originally submitted, plans have been revised along with a revised Traffic and Parking Impact Assessment Report. The design now provides for a basement parking level with 51 spaces. This is considered a significant improvement for the development from the previous proposal and has addressed a lot of the previous issues. The basement parking layout complies with AS2890.1 and manoeuvring has been demonstrated with swept paths within the report.

According to the Traffic Consultant's report, the basement carpark meets the DCP parking requirements for the hotel accommodation and staff component, however excess parking demand generated by the restaurant and function centre (32 spaces per the DCP rates including a 25% reduction for co-use) is not catered for within the development site and will continue to rely on the shopping centre carpark.

Also having regard to historic approvals and the floor area of development at the Shopping Centre, the applicant has also submitted the following::

Reference is made to the most recent approval document related to the Vincentia Shopping Village, Development Consent from Shoalhaven City Council (DA16/1748) dated 24 August 2016 in relation to "Proposed alteration to driveway entrance to Stockland Vincentia Shopping Centre car park, alterations to layout of car park and alterations to tenancy". This approval allowed for the alterations and additions to the existing car park, resulting in a net increase of + 34 car parking spaces under future conditions.

Further, reference is made to the Traffic Report of Colston Budd Rogers & Kafes Pty Ltd dated June 2016 (Ref: 10146) for the Vincentia Shopping Village as part of DA16/1748. This report assesses a scale of 3,758m² GLA for the centre (being 3847m² GLA minus a reduction of 89m² GLA associated with the proposal). The report states the net increase of + 34 car parking spaces associated with the shopping centre upon approval of DA16/1748, without any increase in car parking demand.

The use of the shopping centre carpark for patrons of the restaurant and function room is considered to be a more appropriate use than hotel guests, given the more short-term nature of parking and the fact that it will be less likely for vehicles to be left overnight. The report also details that the peak times for restaurant and function use would generally not coincide for peak times at the shopping centre.

An easement for parking will still be required over parking spaces that are required for the use of the development, to ensure the parking needs are met in perpetuity in the event that the hotel is sold off separately to the shopping centre.

The report also includes analysis of intersection treatments required at the carpark entrance off The Wool Road. Based on the traffic data, Austroads suggests a CHR/AUL treatment is necessary. The report refers to alternative published research that provides a lower burden on brownfields sites to provide such intersection treatments, resulting in a requirement of a BAR/BAL treatment. The existing situation complies as a BAR/BAL treatment according to the report, and measurements off aerial photos suggest this is generally correct. However, Austroads is considered the industry standard document and referred to by Council's DCP and Engineering Design Specifications, and given the triggers within that document are exceeded, warrants for provision of a CHR treatment are met and would be conditioned should the application be determined by approval.

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It is noted that the report states the development will be serviced by a vehicle no larger than an SRV, including waste collection by contractors. Many waste collection vehicles are closer to MRV dimensions, and it may prove restrictive to limit servicing to an SRV. It is also noted that the waste storage area is now further from the service bay compared to the previous design, and some of the path between the loading bay and waste room appears quite constrained, and it would be difficult to wheel a 1100L bin through (such as past the raised concrete surrounds around the columns near the turning circle).

The applicant was requested to reconsider the service bay/waste room arrangement to improve the ease of waste collection and allow for vehicles larger than an SRV to service the development. They were advised that if they wish to proceed on the basis of only using an SRV, conditions of consent would be imposed should the application be determined by approval to limit vehicles to this size. If this is the case, they were requested to provide evidence from a waste contractor that they can service the site with an SRV sized vehicle.

The applicant confirmed in advice dated 16/04/2021 that the proposed design has considered the likely size of service vehicles and allowance for a SRV has been made. They are agreeable to a condition of consent being imposed.

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

Nil

iv) Environmental Planning and Assessment Regulation 2000

Clause	Comment
92 What additional matters must a consent authority take into consideration in determining a development application?	
1. For the purposes of section 4.15 (1) (a) (iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application:	
(a) (Repealed)	(a) Noted.
(b) in the case of a development application for the demolition of a building, the provisions of AS 2601,	(b) Considered.
(c) in the case of a development application for the carrying out of development on land that is subject to a subdivision order made under Schedule 5 to the Act, the provisions of that order and of any development plan prepared for the land by a relevant authority under that Schedule.	(c) Not applicable.
2. In this clause:	Noted.

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	AS 2601 means the document entitled Australian Standard AS 2601—1991: <i>The Demolition of Structures</i> , published by Standards Australia, and as in force at 1 July 1993.	
98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989		
1.	For the purposes of section 4.17 (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work: (a) that the work must be carried out in accordance with the requirements of the <i>Building Code of Australia</i> , (b) in the case of residential building work for which the <i>Home Building Act 1989</i> requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.	Noted. Subject to conditions of consent (if approved).
98A Erection of signs		
1.	For the purposes of section 4.17 (11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.	Noted. Subject to conditions of consent (if approved).
2.	A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out: (a) showing the name, address and telephone number of the principal certifying authority for the work, and (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and (c) stating that unauthorised entry to the work site is prohibited.	Subject to condition of consent (if approved).
3.	Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.	Subject to condition of consent (if approved).

v) REPEALED

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

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Head of Consideration	Comment
Natural Environment	Subject to recommended conditions of consent as detailed in this report, should the application be determined by approval, it is considered that there will be no adverse impacts upon the natural environment.
Built Environment	Subject to recommended conditions of consent as detailed in this report, should the application be determined by approval, it is considered that there will be no adverse impacts upon the built environment.
Social Impacts	It is considered that there will be minimal social impacts.
Economic Impacts	It is considered that there will be no adverse economic impacts.

(c) Suitability of the site for the development

It is considered that the site will be suitable for the proposed development.

(d) Submissions made in accordance with the Act or the regulations

The DA was notified in accordance with Council's Community Consultation Policy for Development Applications. 47 submissions were received by Council in relation to the proposal. The concerns raised are outlined below:

Summary of Public Submissions	
Objection Raised	Comment
<p><u>Inconsistency with zone objectives</u></p> <p>The area is zoned R1 General Residential under SLEP 2014. The objectives of this zone are to provide housing and facilities and services for residents etc. not hotels accommodation and bar for tourists.</p> <p>None of the zone objectives are met by this proposal.</p> <p>Vincentia is a low-density residential area. Although it is agreed that Vincentia is a highly sought-after tourist location, there is objection to the statement that there is a "paucity of existing commercial accommodation developments". That is not appropriate in a low-density residential area. Huskisson is the appropriate location for high rise commercial accommodation developments, not Vincentia.</p>	<ul style="list-style-type: none"> ▪ The site is zoned R1 General Residential and B2 Local Centre. The proposal is best characterised as <i>tourist and visitor accommodation (hotel or motel accommodation)</i> under the SLEP 2014 and permitted within the subject R1 and B2 zones with the consent of Council. ▪ The SLEP, clause 2.3(2) states that the consent authority must have <i>regard</i> to the zone objectives. ▪ The objectives of the R1 General Residential zone are: <ul style="list-style-type: none"> ▪ <i>"To provide for the housing needs of the community.</i> ▪ <i>To provide for a variety of housing types and densities.</i> ▪ <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> ▪ <i>To identify land suitable for future urban expansion".</i>

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	<ul style="list-style-type: none"> The objectives of the B2 Local Centre zone are: <ul style="list-style-type: none"> <i>“To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.</i> <i>To encourage employment opportunities in accessible locations.</i> <i>To maximise public transport patronage and encourage walking and cycling”.</i> It is considered that the proposal is not inconsistent with the relevant objectives. While prohibited if proposed independently, the proposed bar/bistro and function room on the ground floor are proposed to be ancillary to the “hotel or motel accommodation” land use. That is, it is a component of the dominant purpose of the “hotel or motel accommodation” and is subservient to that dominant purpose. <p>The land does not need to permit “bar/bistro” or function centres for development consent to be granted because the development when considered as a whole is not for the purpose of a “bar/bistro” or function centre.</p>
<p><u>Non-compliance with building height limit</u></p> <p>The proposal does not comply with the building height restriction of 8.5m along The Wool Road, being almost 12m in height.</p> <p>It is appropriate to approve developments in Vincentia that are in keeping with the existing buildings. The scale, bulk and usage of that proposed is inconsistent with the low-density residential nature of the area. An 8.5m height limit has been widely agreed as sufficient for The Wool Road. Taking a piece of land from 5 Burton Street which has a height limit of 11m (by removing trees and car parking spaces from the Vincentia Village Shopping Centre) to enable a building on The Wool Road go to almost 12 (11.955) metres, is not meeting the spirit/intent of planning rules nor the objectives of the standard. It is completely inappropriate.</p>	<ul style="list-style-type: none"> While the proposal as originally lodged exceeded the maximum height controls under SLEP 2014, through the assessment process the design of the hotel was amended and the height of the building as recommended for complies with the maximum height limits of 8.5m and 11m relevant to the subject site. It is considered that the objectives of this clause are now satisfied. A condition of consent is recommended (if approved) to require a survey certificate during works to ensure compliance.

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<p>The original and revised proposed elevations show the majority of roof is above the LEP maximum height blanket. The applicant has proposed ~10% across the majority of the building (not including the terrace, roof landscaping and glass balustrade which would make it well more than 10%). The elements that protrude above the height limit will impact on views and noise.</p> <p>The applicant indicates that the application demonstrates how the objectives of the height limit control are met despite non-compliance with the numerical standard but does not demonstrate it at all. The applicant does not meet any of the five (5) tests of 'unreasonable' or 'unnecessary'. There is no merit to justify this variation under Clause 4.6. The building is not compatible with the height, bulk or scale of existing buildings. The surrounding buildings are low density residential (2 storey separate dwellings not a 4 storey bulky building). It is not compatible with the height, bulk or scale of future buildings of the future character of the area given the R1 zoning. The three (3) lots fronting The Wool Road are mapped as having a maximum building height of 8.5m. While there may be no public benefit in a boxy hotel, there is no public benefit in the proposal which does not meet requirements. Just because the proposal is not 'box shaped' does not make it compatible with surrounds. There is no guarantee a box shaped proposal would be approved either.</p>	
<p><u>Traffic and parking</u></p> <p>There is concern is the extra traffic movement which will be generated in and out of the complex, in and out of the carpark, and in the nearby streets, including traffic travelling through the roundabout joining Elizabeth Drive and Wool Road which is already very heavily congested in holiday times.</p> <p>The narrow entries and turning areas also cause significant congestion within the carparks themselves. This proposal (with all its contingent deliveries, services and trades, waste removal, guest arrivals and departures) will exacerbate the traffic and congestion in this area.</p> <p>The heavier traffic movement will also add further risk to the safety of pedestrians,</p>	<ul style="list-style-type: none"> ▪ Council's Development Engineer raised no objections subject to recommended conditions of consent (dated 22/03/2021). Should the application be determined by approval, then these conditions would be included. ▪ While Council raised concern with the development as originally submitted, plans have been revised along with a revised Traffic and Parking Impact Assessment Report. The design now provides for a basement parking level with 51 spaces. This is considered a significant improvement for the development from the previous proposal and has addressed a lot of the previous issues. The basement parking layout complies with AS2890.1 and manoeuvring has been demonstrated with swept paths within the report.

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especially school children who walk along The Wool Road and Elizabeth Drive. It is already hazardous for pedestrians along this route especially when trying to cross the driveway entrance into the Vincentia Village Shopping Centre carpark. More traffic will only make things worse.

The submitted plans imply that the car parking spaces that are nearest to the entrance to the shops which are required by the many elderly residents will not be available if the development is approved in this form. It also remains a concern that traffic flow into the proposed hotel will be maximised in peak periods when the flow into the shopping centre is also at its heaviest.

The submitted Traffic and Parking Impact Assessment Report is flawed. The survey was undertaken on 23-24 October 2020, which would not be a true reflection of the parking problems which occur in the holiday times. A more appropriate time would be to undertake this survey in the busiest time when the most tourists are visiting the area.

If this development is approved it must provide for improved traffic management on The Wool Road and the nearby roundabout on Elizabeth Drive, and address safety risks for pedestrians and cyclists on the shared path along the side of The Wool Road.

- According to the Report, the basement carpark meets the DCP parking requirements for the hotel accommodation and staff component, however excess parking demand generated by the restaurant and function centre (32 spaces per the DCP rates including a 25% reduction for co-use) is not catered for within the development site and will continue to rely on the shopping centre carpark.
- The use of the shopping centre carpark for patrons of the restaurant and function room is considered to be a more appropriate use than hotel guests, given the more short-term nature of parking and the fact that it will be less likely for vehicles to be left overnight. The Report also details that the peak times for restaurant and function use would generally not coincide for peak times at the shopping centre.
- An easement for parking will still be required over parking spaces that are required for the use of the development, to ensure the parking needs are met in perpetuity in the event that the hotel is sold off separately to the shopping centre.
- The Report also includes analysis of intersection treatments required at the carpark entrance off The Wool Road. Based on the traffic data, Austroads suggests a CHR/AUL treatment is necessary. The Report refers to alternative published research that provides a lower burden on brownfields sites to provide such intersection treatments, resulting in a requirement of a BAR/BAL treatment. The existing situation complies as a BAR/BAL treatment according to the Report, and measurements off aerial photos suggest this is generally correct. However, Austroads is considered the industry standard document and referred to by Council's DCP and Engineering Design Specifications, and given the triggers within that document are exceeded, warrants for provision of a CHR treatment are met and would be conditioned should the application be determined by approval.

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	<ul style="list-style-type: none"> It is noted that the Report states the development will be serviced by a vehicle no larger than an SRV, including waste collection by contractors. Many waste collection vehicles are closer to MRV dimensions, and it may prove restrictive to limit servicing to an SRV. It is also noted that the waste storage area is now further from the service bay compared to the previous design, and some of the path between the loading bay and waste room appears quite constrained, and it would be difficult to wheel a 1100L bin through (such as past the raised concrete surrounds around the columns near the turning circle). The applicant was requested to reconsider the service bay/waste room arrangement to improve the ease of waste collection and allow for vehicles larger than an SRV to service the development. They were advised that if they wish to proceed on the basis of only using an SRV, conditions of consent would be imposed should the application be determined by approval to limit vehicles to this size. If this is the case, they were requested to provide evidence from a waste contractor that they can service the site with an SRV sized vehicle. The applicant confirmed in advice dated 16/04/2021 that the proposed design has considered the likely size of service vehicles and allowance for a SRV has been made. They are agreeable to a condition of consent being imposed.
<p><u>Insufficient onsite car parking spaces</u></p> <p>The proposal does not provide the 83 car parking spaces required by Shoalhaven Development Control Plan 2014.</p> <p>It is not believed that the proposed onsite parking will be sufficient for users and staff of the proposed development during peak periods. Many visitors to the Vincentia region come to enjoy aquatic activities within Jervis Bay and therefore bring boats, trailers and rooftop kayaks which will not be accommodated within the onsite parking.</p>	<ul style="list-style-type: none"> Council's Development Engineer raised no objections subject to recommended conditions of consent (dated 22/03/2021). Should the application be determined by approval, then these conditions would be included. As addressed above, the proposed onsite parking arrangements are considered acceptable, noting that the application now proposes a basement level carpark comprising 51 parking spaces within the footprint of the proposed building for all hotel visitors and staff and at least 32 parking spaces are to be provided within

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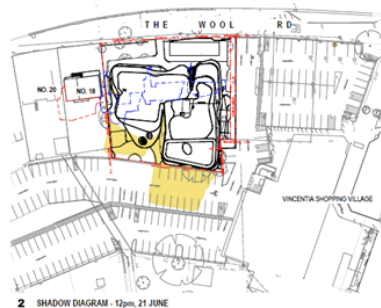
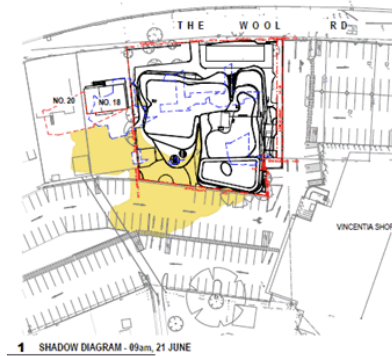
<p>Using ~30 carparks from the Vincentia Village Shopping Centre and still being short four (4) spaces is not acceptable.</p> <p>Coles is the main attractor to the Vincentia Village Shopping Centre area and the proposed development is removing car parking spaces from immediately in front of the entrance to Coles where people with limited mobility need parking spaces. While there are parking spaces further away that is not practical for people with limited mobility.</p> <p>With climate change such a prominent issue it is important they provide bicycle parking facilities.</p> <p>Another suggestion is that an extension of the proposed covered car parking for the existing Coles car parking area could supply defined areas for extra parking, boat storage and then secured parking for the hotel.</p>	<p>close proximity to the development, for the associated bar/bistro and function centre.</p> <ul style="list-style-type: none"> ▪ Bicycle parking has not been proposed as part of the basement carpark design.
<p><u>Tourist bus parking – future demand</u></p> <p>It is not improbable that a hotel of this scale will be promoted to or attract tour operators. The applicant has not described how the parking of coaches, minibuses etc. will be accommodated. Similarly, there is no description on where hotel guests arriving by coach, minibus will alight from these vehicles.</p>	<ul style="list-style-type: none"> ▪ Council's Development Engineer raised no objections to the proposed parking arrangements. ▪ The parking of coaches and minibuses etc. has not been proposed. ▪ It is noted that there is no requirement under the DCP for this. There is considered to be suitable area on street for parking of these vehicles and set down and pick up of passengers.
<p><u>Detrimental impact on adjoining residential amenity</u></p> <p>The proposal would have a detrimental impact on adjoining residential amenity and the amenity of a large section of Vincentia due to:</p> <ul style="list-style-type: none"> - increased traffic (the traffic survey taken in October i.e. outside peak season and during COVID-19 is not sufficient); - overshadowing, - noise from the bar, function centre and rooftop penthouse; - light pollution; and - drunken behaviour from patrons of the bar/function centre. 	<p><u>Traffic impacts:</u></p> <ul style="list-style-type: none"> ▪ As already mentioned, the revised Traffic and Parking Impact Assessment Report was assessed and determined to be acceptable. ▪ In this regard, Council's Development Engineer raised no objections in relation to the matter of increased traffic subject to recommended conditions of consent (dated 22/03/2021). Should the application be determined by approval, then these conditions would be included. ▪ The hotel includes guest rooms for overnight accommodation. It is in the interest of management to ensure that the hotel is operated in a manner to provide

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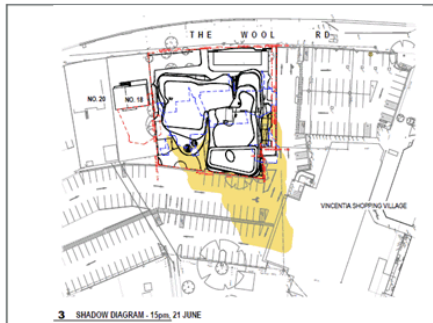
guest amenity and that of neighbouring developments. In the event of anti social behaviour, this is a police matter (see further below).

Overshadowing:

- Overshadowing has been adequately addressed with no unreasonable overshadowing occurring. The site faces a road and there is a car park to the south. The proposed building design is now compliant with the LEP and DCP requirements, particularly noting the (now) reduced height. The impacts of 'shade' can be seen below on 21 June at 9am, noon and 3pm (Winter and the shortest day of the year).



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Noise impacts:

- A condition is recommended to manage noise and lighting of the development.

Antisocial behaviour:

- If there is concern about antisocial behaviour, this is a matter for the Police. Should the application be determined by approval, then conditions would be included to address Police recommendations in advice (dated 02/03/2021).
- The proposal is a permissible use within the zoning and Liquor & Gaming licencing restrictions will apply to any future liquor licence for the hotel and associated bar/ restaurant and function centre.

Out of character

The proposal does not retain the elements of the neighbourhood character i.e. low density residential suburbia, generally characterised by one and two-storey detached dwellings; and as such does not reinforce local identity or sense of place. It is this relaxed, family character that makes Vincentia so desirable and enjoyable in contrast to the overdeveloped and crowded Huskisson.

The building form is also entirely unsuitable for a seaside village. It is massive and brooding and in effect a huge concrete pour with solid balcony

- The design of the development is not considered out of character in this locality.
- It is noted that "compatible" does not encourage "sameness" in built form, but rather requires a development fits comfortably within its urban context. It is considered that the design of the development achieves this.
- Further to this, for a new development to be "compatible", building height, setbacks and landscaping are key. Where there are significant differences in height, compatibility can be achieved by a gradual change as opposed to an abrupt change (see paragraphs 26 – 29) *Project Venture Developments Pty Ltd v Pittwater Council [2005] NSWLEC 191*. The extent of the height

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<p>balustrades and absolutely no lightness of form that invokes a seaside character. Sadly, if it proceeds in its current form, even if ultimately complying it sets an urban tone that the community will have to live with.</p>	<p>differences also depends on the consistency of height in the streetscape.</p> <ul style="list-style-type: none"> ▪ The development is compliant with the relevant requirements of SLEP 2014 and SDCP 2014, noting that the DCP is silent in relation to the design of "hotel or motel accommodation", with no specific setback or floor space ratio controls applying. ▪ As detailed earlier in this report, Chapter G18: Streetscape Design for Town and Village Centres of SDCP 2014 is applicable to this development type and all required streetscape works for the development are to be provided in accordance with the <i>Streetscape Technical Manual</i> as required by this chapter. Crime Prevention Through Environmental Design (CPTED) principles are also to be considered in the provision of these works.
<p><u>Undesirable precedent</u></p> <p>The proposal would set a severely negative and undesirable precedent for building height and car space and noise levels, etc. in future developments. It is important to set the right precedent because this is the start of the re-development of the Vincentia Shops given that this developer owns adjoining properties and other developers may have/acquire adjoining properties.</p>	<ul style="list-style-type: none"> ▪ Any proposed development the subject of a DA is to be assessed against the relevant provisions of section 4.15(1), EP&A Act 1979 and relates to the subject development site only. ▪ Whether or not other developments of a similar nature will follow is unknown and is dependent on a number of factors including the intentions of individual owners. ▪ Each DA is assessed having regard to its particular characteristics, the site attributes and what the relevant planning controls may be. ▪ The development is a permissible use, complies with the applicable development standards. <p>Council needs to be satisfied that the site is suitable for the development. In this regard, it is considered the subject is suitable for the proposed development.</p>
<p><u>No additional tourist accommodation required</u></p> <p>The proposal is not required in order to add to the choice to tourist accommodation at Jervis Bay. In addition to hotels/motels/apartments already in existence at Huskisson, a number of other hotels are being built at Huskisson: Moona Moona Creek, the site of the former Holy Trinity Family Church; and Owen Street.</p>	<ul style="list-style-type: none"> ▪ While section 4.15 of the EP&A Act requires an assessment of economic impacts of a development, Council must be careful not to weigh into commercial and private business decisions. Council must determine that a development will not be broadly adverse, having regard to matters such as jobs, the viability of a commercial area etc. Business competition and the success of a business are not matters for Councils' section 4.15 assessment.

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	<ul style="list-style-type: none"> ▪ The Shoalhaven is a major tourist destination attracting numerous visitors. A counter view to the objection could be that this type of accommodation will provide another dimension and type of accommodation to the caravan and camping facilities, existing motels and air bnb's in the locality. ▪ The references to potential other developments is noted, these are proposals that are yet to become formal development applications. ▪ The success of a business or otherwise and competition between providers is not something that Council typically involves itself in. These are largely private business decisions which Council has no role to play. ▪ A development consent, if issued is valid for a period of 5 years.
<p><u>Economic impact</u></p> <p>The proposal is unlikely to bring economic benefits to the Shoalhaven. It is suggested that its type of construction will require the skills of tradespeople from Sydney, rather than the Shoalhaven. After construction, the number of ongoing jobs will be few, seasonal and low skilled (the good jobs of management, chefs, accounting, legal will likely be provided by people from/in Sydney). The low-skilled seasonal workers may not even be locals (who need a regular income), but foreign working holidaymakers or students seeking holiday jobs, assuming they can find and afford accommodation at peak time of the year.</p>	<ul style="list-style-type: none"> ▪ Section 4.15 of the EP&A Act requires an assessment of economic impacts of a development. See comments above. ▪ In this regard it is considered that there will be no adverse economic impacts warranting refusal of the application. In reaching this conclusion regard has been given to impacts there will be within the locality. There will be short term economic benefits in construction work and hospitality work in the longer term.
<p><u>Impact from excavation for basement carpark</u></p> <p>There is concern resulting from the revised plan and the impact of an excavation at depth to accommodate parking onsite.</p> <p>It is also important to be aware that Vincentia ground is rock. Drainage has been a problem for many in the area and there is concern about how the water will escape and where it will be piped to especially from the basement carpark.</p>	<ul style="list-style-type: none"> ▪ Council's Development Engineer raised no objections subject to recommended conditions of consent (dated 22/03/2021). Should the application be determined by approval, then these conditions would be included. ▪ A dilapidation report will address concerns regarding impact on adjoining land. ▪ The full engineering design will also need to address details at Construction Certificate stage. If rock is encountered or there are additional expenses as a result of unexpected finds, these are matters that the engineering experts will need to resolve having regard to the approval in place, if issued.

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<p><u>Stormwater discharge</u></p> <p>There is concern with the impact on stormwater discharge and the consequences any more stormwater added to existing volumes, in particular, if it is discharged into Jervis Bay and the southern section of Collingwood Beach. Current stormwater discharge is causing safety problems and loss of sand from the southern end of Collingwood Beach.</p> <p>Further to this, The Wool Road system is clearly already inadequate. There are enormous quantities that flow from this area under properties into Garlies Close and Argyle Street and cause localised flooding. This area's stormwater capacity is barely adequate and specific provision should be required.</p>	<ul style="list-style-type: none"> ▪ Council's Development Engineer raised no objections subject to recommended conditions of consent (dated 22/03/2021). Should the application be determined by approval, then these conditions would be included. ▪ The stormwater drainage design meets the requirements of the DCP. It is noted that the DRAINS modelling provided indicates that the post-development flow leaving the site has now been reduced below 55L/s through changes to the OSD system. This is acceptable.
<p><u>Sewage treatment inadequacies</u></p> <p>It is note that Council has claimed there is adequate capacity in the sewage treatment at Vincentia.</p> <p>This does not overcome the fact that from 1953 to about 10 years ago there had never been an algal bloom in Jervis Bay affecting the whole bay. In the last 10 years there have been two (2). The main cause is inadequacy in sewage treatment and may be contributed to by stormwater runoff.</p> <p>No development of this size should be approved in this area, where sewage will be treated at Vincentia, until there is an open ocean outfall from the sewage treatment works.</p>	<ul style="list-style-type: none"> ▪ Council's Shoalhaven Water raised no objections with regard to sewage treatment capacity and have recommended conditions within their provided Notice (dated 22/12/2020).
<p><u>Endeavour Energy</u></p> <p>The Endeavour Energy referral response states:</p> <p><i>"in this instance as shown in the following extracts of the Ground Floor Plan and Google Maps Street View, the proposed location of the infinity pool and deck area / Lounges in proximity of the pole and overhead power lines is not supported by</i></p>	<ul style="list-style-type: none"> ▪ No objections raised by Endeavour Energy subject to recommendations and comments in latest advice dated 23/03/2021. ▪ Noting the recommendations and comments, Council suggested a condition of any consent granted requiring documentary evidence be provided by Endeavour Energy prior to the issue of a Construction Certificate, confirming that satisfactory arrangements have been made for the connection of electricity and the design

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<p><i>Endeavour Energy and represents a risk will encourage people who are wet with bare feet to congregate and/or spend time within the proximity of the electrical infrastructure and if there is a fault it could result in voltages being transferred to the pool area. Please refer to the below point 'Earthing'.</i></p> <p><i>The pad mount substation requires a minimum easement of 2.75 x 5.5 metres and the low voltage and 11 kV high voltage.... the proposed location of the hotel accommodation in proximity of the pad mount substation is likely to require the use of fire rated construction or the erection of a fire screen /wall.</i></p> <p><i>...Due to the foregoing Endeavour Energy objects to the Development Application."</i></p>	<p>requirements for fire rating construction and the pad mount substation. Should the application be determined by approval, then this condition would be included.</p> <ul style="list-style-type: none"> Endeavour Energy confirmed that conditioning this matter in the Council's notice of determination/consent as suggested is satisfactory.
<p>Removal of trees</p> <p>The proposal to remove the remnant existing mature eucalyptus trees from the Vincentia Village Shopping Centre carpark is inappropriate under Chapter G4: Tree and Vegetation Management, SDCP 2014.</p> <p>The two (2) mature brittle gums are of high significance as noted in the Arboricultural Impact Assessment Report (trees labelled '1' and '2'). For this reason, the applicant should consider redesigning the hotel to accommodate the two (2) gums in their landscaped gardens. The trees are beautiful, they are in good condition with no defects, they take a long time to grow to such a spectacular height, and they have a life expectancy of 15-40 years. They provide habitat for native birds and animals and promote health and wellbeing for residents and visitors.</p> <p>The Report has used 'potential for limb shedding' as reason for removal of these 2 x mature Brittle Gums. However, those trees have been in the Vincentia Village Shopping Centre carpark for years and the area has been used by the public for decades. If they really were considered unsafe, they should have been removed years ago. This is just an excuse to remove them to develop the site.</p>	<ul style="list-style-type: none"> The provisions of Chapter G4 have been considered and no objections are raised from assessment with the submitted Arboricultural Impact Assessment Report. As indicated in the submitted Report: <ul style="list-style-type: none"> <i>"On the 8th of October 2020, gummifera assessed 11 trees within the development site. Three trees were located outside the southern boundary of 12-16 The Wool Road within a garden bed between the boundary fence and the Vincentia Shopping Village carpark whilst the remaining 8 trees were located within the boundaries of 12-16 The Wool Road. Five of the 11 trees were native to the area whilst the remaining 6 trees were non-native species. Due to the locations of each tree in relation to the proposed development application it is recommended that all 11 trees will require complete removal as they are either within the construction footprint or are too close to the construction zone to preserve their structural integrity."</i> Although all trees are proposed to be removed, the landscaping design will be required to replace these with trees that are native to the region in appropriate locations. The submitted design proposes substantial landscaping, comprising a number of trees and shrubs, particularly to The Wool Road frontage.

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Similarly, the tree labelled '4' is one (1) x Red Bloodwood with 15-40 years life expectancy in average condition and assessed as medium significance. The justification for moving this tree is that a defect will make it hazardous 'in future years'. It should not be removed until it presents a hazard.

Australian Standards 4970-2009, *Protection of trees on development sites*, was established to provide appropriate guidelines to ensure the long-term viability and stability of trees to be retained on development sites. Instead of removing these three (3) significant local native mature trees for the development (in addition to 8 others >5m tall), the development should be modified to accommodate these three (3) trees as a minimum, based on the tree protection zone and structural root zone required for tree stability as outlined in AS 4970-2009. These trees are visually prominent and visible from a considerable distance. They make a positive contribution to the local amenity and are valued by residents and visitors who shop at the Vincentia Village Shopping Centre and are expected to live for another 15-40 years.



MAST

Taylor

Noise impact

The noise from the operation is likely to be significant and a detriment to neighbourhood amenity, yet no acoustic reports have been provided with this proposal.

The 2 storey, 5 bedroom penthouse with rooftop garden and balcony will generate noise that impacts on homes a long distance from the hotel, due to the expansive outdoor entertaining areas at the extraordinary proposed height. A 5-bedroom penthouse is unusual for a hotel development and is likely to become a party venue. Will this be used by the hotel or is it luxury accommodation for the developer?

Vincentia is a family oriented residential area with a village atmosphere and does

- Ongoing management of noise could be subject to a condition of any consent granted. Should the application be determined by approval, then this condition would be included.
- The applicant clarified in advice dated 16/04/2021 that the penthouse forms part of the hotel accommodation. In this regard the noise impacts of this space can be managed by the hotel operators and conditions of the consent as recommended.
- It is further noted that the proposal is a permissible use within the R1 and B2 zoning it is located.

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<p>not need a public bar which comes with antisocial behaviour.</p>	
<p><u>Disruption during demolition and building</u></p> <p>This proposal will result in a period of disruption for residents, visitors and local businesses during demolition and construction. If this proposal is approved, Council should hold any construction approval until after the Burton Street redevelopment is completed and access to local businesses has returned to normal. Council should also stipulate that demolition and construction should occur outside peak holiday periods.</p>	<ul style="list-style-type: none"> ▪ Council is unable to condition the delay or timing of construction to be contingent on other projects unrelated to the development or where there may be potential development of other sites. ▪ Council can however require a construction management plan to ensure that the impacts are properly managed and the local businesses and residents are not inconvenienced (e.g. access to properties is maintained). Council also generally stipulates hours of construction in its consents. However, it should be noted that the State can specify or legislate to allow extended construction hours such as it has done with the COVID initiatives. <p>https://www.planning.nsw.gov.au/News/2020/Construction-hours-extended-to-support-industry-during-covid-19</p>
<p><u>Lack of notification about this application</u></p> <p>A development of this scale in a residential suburb has a wide impact on the community. It is both surprising and disappointing that this development application was not formally notified to all Vincentia residents. Many may be unaware of the application and have missed out on the opportunity to consider the application and submit their views.</p>	<ul style="list-style-type: none"> ▪ The DA was notified in accordance with Council's Community Consultation Policy for Development Applications, being advertised in the local paper, notified to affected owners within a buffer of 200m and relevant Community Consultation bodies. ▪ As detailed earlier in this report, a Resident Briefing Meeting was also held. ▪ All DAs are available for viewing on DA Tracking. The DA has been digitally viewable since lodgement.
<p><u>Devaluation of Property</u></p> <p>Adjoining land will decrease in value as a result of this development.</p>	<ul style="list-style-type: none"> ▪ Potential loss of property value is not a consideration under section 4.15 of EP&A Act 1979. ▪ A Commissioner of the Court stated: <i>"I pay no regard to the fears about loss of property values as, consistent with the position long taken in the Court, this is not a relevant planning consideration"</i> (<i>Alphatex Australia v The Hills Shire Council (No 2) [2009]</i>). ▪ Neighbouring properties are also zoned R1 General Residential and B2 Local Centre and have the same permissible and arguably 'higher' uses as the subject site.

(e) The Public Interest

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Taking into consideration the above matters it is considered that the proposal is in the public interest.

Delegations

Guidelines for use of Delegated Authority

The Guidelines for use of Delegated Authority have been reviewed and the assessing officer does not have the Delegated Authority to determine the Development Application.

Given the application has been called in by the Councillors in response to considerable public concern, it must be determined by the elected Council.

Recommendation

This application has been assessed having regard for Section 4.15 (Matters for consideration) under the Environmental Planning and Assessment Act 1979. As such, it is recommended that Development Application No. DA20/2322 be approved subject to appropriate conditions of consent.



Bridge Rd, Nowra NSW 2541 | 02 4429 3111
Deering St, Ulladulla NSW 2539 | 02 4429 8999

Address all correspondence to

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council@shoalhaven.nsw.gov.au | DX5323 Nowra | Fax 02 4422 1816

shoalhaven.nsw.gov.au     

**NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION
DEVELOPMENT CONSENT**

Environmental Planning and Assessment Act, 1979
DA20/2322

TO:

Mintus Properties Pty Ltd
PO Box 161
OATLANDS NSW 2117

being the applicant(s) for DA20/2322 relating to:

16 The Wool Rd, VINCENTIA - Lot 5 DP 539867
14 The Wool Rd, VINCENTIA - Lot 1779 DP 26434
12 The Wool Rd, VINCENTIA - Lot 1780 DP 26434
5 Burton St, VINCENTIA - Lot 1 DP 615796

APPROVED USE AND OR DEVELOPMENT:

Demolition of Existing Structures and Construction of Hotel Accommodation with Ancillary Bar/Bistro and Function Centre

DETERMINATION DATE:

Pursuant to the Section 4.18 of the Act, notice is hereby given that the above application has been determined by granting consent, subject to the conditions listed below.

CONSENT TO OPERATE FROM:

CONSENT TO LAPSE ON:

This consent is valid for five years from the date hereon.

In accordance with Section 4.53 of the Act, development consent for the use of the land or the erection of a building does not lapse if building, engineering or construction work relating to the building or work or the use is physically commenced on the land to which the consent applies before the lapse date.

DETAILS OF CONDITIONS:

The conditions of consent and reasons for such conditions are set out as follows:

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PART A: GENERAL CONDITIONS

1. General

The consent relates to **Demolition of Existing Structures and Construction of Hotel Accommodation with Ancillary Bar/Bistro and Function Centre** as documented on the stamped plans/documentation, or as modified by the conditions of this consent. The development must be carried out in accordance with this consent. If there is inconsistency between the stamped plans/documentation and the conditions of consent, the conditions prevail to the extent of that inconsistency.

Stamped plans/documents	Ref/sheet no.	Prepared by	Dated
Site Plan	Job No. J20468 Drawing No. DA 1005	CD Architects	04/06/2021 (Revision C)
Demolition Plan	Job No. J20468 Drawing No. DA 1007	CD Architects	04/09/2020 (Revision A)
Boundary Adjustment Plan	Job No. J20468 Drawing No. DA 1008	CD Architects	03/02/2021 (Revision A)
Basement Floor Plan	Job No. J20468 Drawing No. DA 1101	CD Architects	04/06/2021 (Revision B)
Ground Floor Plan	Job No. J20468 Drawing No. DA 1102	CD Architects	04/06/2021 (Revision C)
Level 01 Floor Plan	Job No. J20468 Drawing No. DA 1103	CD Architects	04/06/2021 (Revision C)
Level 02 Floor Plan	Job No. J20468 Drawing No. DA 1104	CD Architects	04/06/2021 (Revision D)
Level 03 Floor Plan	Job No. J20468 Drawing No. DA 1105	CD Architects	04/06/2021 (Revision D)
Roof Floor Plan	Job No. J20468 Drawing No. DA 1106	CD Architects	04/06/2021 (Revision D)
North Elevation Plan	Job No. J20468 Drawing No. DA 2001	CD Architects	04/06/2021 (Revision D)
South Elevation Plan	Job No. J20468 Drawing No. DA 2002	CD Architects	04/06/2021 (Revision D)
East Elevation Plan	Job No. J20468 Drawing No. DA 2003	CD Architects	04/06/2021 (Revision D)
West Elevation Plan	Job No. J20468 Drawing No. DA 2004	CD Architects	04/06/2021 (Revision D)
Section A Plan	Job No. J20468 Drawing No. DA 3001	CD Architects	04/06/2021 (Revision D)

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Sections Plan	Job No. J20468 Drawing No. DA 3002	CD Architects	03/02/2021 (Revision B)
Finishes Schedule	Job No. J20468 Drawing No. DA 7041	CD Architects	03/02/2021 (Revision B)
Waste Management Plan	-	CD Architects	20/10/2020 (Revision A)
Landscape Design Plans	Drawing No. LA07 & LD01	Taylor Brammer Landscape Architects Pty Ltd	04/11/2020 (Revision A)
Concept Stormwater Drainage Plans	Job No. D20285 Drawing No. ST01-04	Danmor Consulting Engineers	18/02/2021 (Revision D)

Note: Any alteration to the plans and/or documentation must be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under section 4.55 of the Environmental Planning and Assessment Act, or a new development application.

2. **Prescribed Conditions**

The development must comply with the [Prescribed Conditions of Development Consent](#), Division 8A, *Environmental Planning and Assessment Regulation 2000*, as applicable.

3. **Occupation / Use**

The development must not be occupied or used before an Occupation Certificate has been issued by the Certifier. If an Occupation Certificate is not required, the use must not commence until all conditions of development consent have been met or other satisfactory agreements have been made with Council (i.e. a security).

4. **Food Business Notification**

Prior to commencing any food handling operations, a '[Food Business Registration Form](#)' available on Councils' website will need to be submitted to Council as part of the NSW Food Partnership and for the purposes of regular food hygiene inspection.

5. **Food Business Regulations**

Any premises used for the preparation and storage of food for sale to the general public must (where relevant) comply with:

- [Shoalhaven City Council's Food Premises Policy](#)
- [Chapter 3 of the Australia/New Zealand Food Standards Code](#)
- [Food Act 2003 \(NSW\)](#)
- [Food Regulation 2015](#)
- AS 4674 Construction and fit out of food premises
- AS 1668.2 The use of ventilation and airconditioning in buildings-Mechanical ventilation in buildings.

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6. Swimming Pool Barrier

The swimming pool is to be surrounded by a permanent barrier in accordance with the provisions of the *Swimming Pools Act 1992*; *Swimming Pools Regulation 2018*; *AS1926.2 Swimming pool safety - Location of safety barriers for swimming pools* and *AS1926.1 Swimming pool safety-Safety barriers for swimming pools*.

PART B: INTEGRATED DEVELOPMENT AND CONCURRENCE CONDITIONS

NIL

PART C: PRIOR TO THE COMMENCEMENT OF WORKS**7. Construction Certificate**

A Construction Certificate must be obtained from either Council or an accredited certifier before any building work can commence.

8. Appointment of Principal Certifier

Prior to the commencement of building or subdivision work, a Principal Certifier must be appointed.

9. Notice of Commencement

Notice must be given to Council at least two (2) days prior to the commencement of building or subdivision work by completing and returning the form '[Commencement Notice for Building or Subdivision Work and Appointment of Principal Certifying Authority](#)'

10. Toilet Facilities - Temporary

Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must:

- a) be a standard flushing toilet connected to a public sewer, or
- b) have an onsite effluent disposal system approved under the *Local Government Act 1993*, or
- c) be a temporary chemical closet approved under the *Local Government Act 1993*.

11. Public Safety and Protection of Public Property - Hoarding

Prior to the commencement of works a Class A temporary hoarding must be approved under section 138 and erected between the work site and adjoining lands in accordance with SafeWork NSW guidelines and *AS 2601 Demolition of structures*. The hoarding must be kept in place until completion of the works.

12. Construction Traffic Management Plan

Prior to the commencement of works, a Construction Traffic Management Plan detailing the proposed method of dealing with construction traffic and parking must be approved by Council.

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Details must include, but are not limited to:

- a) Stabilised site construction access location
- b) Proposed haulage routes for delivery of materials to the site
- c) Proposed haulage routes for spoil disposal from the site
- d) Traffic control planning for each of the various phases of construction and/or vehicle movements associated with construction
- e) Parking arrangements for construction employees and contractors
- f) Proposed maintenance of the haulage routes and the name of the person responsible for such maintenance
- g) Loading / unloading areas
- h) Requirements for construction or work zones
- i) Pedestrian and cyclist safety
- j) Speed zone restrictions.
- k) Ensuring that surrounding residential access is maintained for pedestrians and vehicles.

13. Run-off and Erosion Controls

Prior to the commencement of site works, run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- a) diverting uncontaminated run-off around cleared or disturbed areas.
- b) erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties.
- c) preventing the tracking of sediment by vehicles onto roads.
- d) stockpiling topsoil, excavated materials, construction and landscaping supplies and debris within the lot.

14. Dilapidation Report

The developer must engage a competent person to prepare a dilapidation report in respect of the neighbouring premises **and** adjacent public infrastructure, including adjacent kerbs, gutters, footpaths (formed or unformed), driveways (formed or unformed), carriageway, reserves and the like to document evidence of any existing damage.

The dilapidation report must consider the impact of any excavation work that extends below the level of the base of the footings of any structure within 0.9metres of the shared boundary.

Before works commence, a copy of the dilapidation report must be provided to the Certifier and Council. The dilapidation report will be the benchmark for necessary repairs to damage caused during the development works. The repairs must be completed by the developer at the developer's cost.

Not less than seven (7) days before works commence, the developer must notify the owner of any affected property of the intention to carry out approved works. The developer must also furnish the owner with details of the approved work.

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15. Works within the Road Reserve

Prior to undertaking any works within an existing road reserve, the developer must obtain the consent of Council under *section 138 of the Roads Act, 1993*.

The following details must be submitted to Council as part of the application:

- a) Any civil works design required by this consent.
- b) Evidence of the contractor's Public Liability Insurance to an amount of \$20 million.
- c) Name and contact information of the person responsible for all relevant works.
- d) A Traffic Control Plan prepared, signed and certified by a person holding the appropriate Transport for NSW (TfNSW) accreditation.
- e) Where the Traffic Control Plan requires a reduction of the speed limit, a 'Application for Speed Zone Authorisation' must be obtained from the relevant road authority.

16. Shoalhaven Water – Prior to the Commencement of Demolition Works

Prior to the Commencement of demolition works, all conditions listed on the Shoalhaven Water Notice of Requirements under the heading "Prior to Commencement of Demolition Works" must be complied with. Written notification must be issued by Shoalhaven Water and provided to the Certifier.

17. Asbestos – Notification of Neighbours

Seven (7) days prior to the commencement of any demolition works involving asbestos, all immediate neighbours must be notified in writing of the intention to carry out asbestos demolition works. Copies of these written notifications should be retained and submitted to Council.

PART D: PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

18. Evidence

A Construction Certificate must not be issued until the Certifier has received notification from, or evidence of, any Council approval that is required Prior to the Commencement of Works.

19. Design Standards – Works Within Road Reserve

Prior to the issue of a Construction Certificate, all works proposed within road reserves must be approved by Council.

20. All required streetscape works for the development are to be provided in accordance with the *Streetscape Technical Manual* as required by Chapter G18, Shoalhaven Development Control Plan 2014. Crime Prevention Through Environmental Design (CPTED) principles are also to be considered in the provision of these works.

Details of this must be shown on the engineering plans for approval by Council with the Construction Certificate.

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21. Local Infrastructure Contributions

This development will generate a need for the additional services and/or facilities described in Shoalhaven Contributions Plan 2019 and itemised in the following table:

Project	Description	Calculation	Amount
03AREC0005	Planning Area 3 - Recreation facilities upgrade various locations	\$280.19 * 16	\$4,483.04
03AREC3003	Bay and Basin Leisure Centre	\$420.00 * 16	\$6,720.00
03ROAD4021	The Wool Road Bypass, St Georges Basin	\$176.11 * 28.56	\$5,029.70
CWAREC5005	Shoalhaven Community and Recreational Precinct SCArP Cambewarra Road Bomaderry	\$2,506.53 * 16	\$40,104.48
CWFIRE2001	Citywide Fire & Emergency services	\$138.13 * 17.6	\$2,431.09
CWFIRE2002	Shoalhaven Fire Control Centre	\$202.07 * 17.6	\$3,556.43
CWMGMT3001	Contributions Management & Administration	\$574.39 * 17.6	\$6,232.47
			\$68,557.21

The total contribution, identified in the above table or as indexed in future years, must be paid to Council prior to the issue of a Construction Certificate. Evidence of payment must be provided to the Certifying Authority.

Contributions Plan 2019 can be accessed on Councils website www.shoalhaven.nsw.gov.au or may be inspected on the public access computers at the libraries and the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.

22. Long Service Levy

Prior to the issue of a Construction Certificate any long service levy payable under the [Building and Construction Industry Long Service Payments Act 1986](#) and prescribed by the [Building and Construction Industry Long Service Payments Regulation 2017](#) must be paid or, where such a levy is payable by instalments, the first instalment of the levy must be paid. Council is authorised to accept payment. Proof of payment must be submitted to the Certifying Authority.

23. Kitchen Layout and Cooking Extraction Details

Prior to the issue of a Construction Certificate, plans indicating the following details must be prepared to the satisfaction of the Certifier.

- Cooking station location and equipment detail
- Refrigeration/cool-room storage
- Details of floor/wall/ceiling treatments to kitchen and bar
- Hand wash and sink provisions to the kitchen and bar area
- Dishwasher provision
- Dry storage
- Preparation benches

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h) Cooking extraction detail in accordance with AS 1668.

24. Lighting Design

Prior to the issue of a Construction Certificate, lighting design plans are to be submitted to Council for approval. Lighting is to be provided to the internal driveway and walkway to the car parking areas, including the car parking areas, in accordance with *AS/NZS 1158.3.1 Lighting for roads and public spaces - Pedestrian area (Category P) lighting - Performance and design requirements*.

Lighting for the on the roof top terrace areas and other external lighting to the development are to be shown on the plans. The details are to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.

25. Landscape Design Standards and Vegetation Clearing

Prior to the issue of a Construction Certificate, amended landscaping design plans and specifications must be prepared by a suitably qualified person and approved by Council.

The amended landscape design plans must:

- a) Relate to the architectural plans approved as part of this consent, particularly in relation to levels.
- b) Provide replacement trees native to the region in appropriate locations for those mature trees or other vegetation to be removed. A minimum of 12 trees are to be provided as replacement planting for those to removed from site.
- c) Provide street trees at the rate of one tree of minimum 60 litre pot size located centrally to each lot, or two trees of minimum 35 litre pot size evenly spaced per allotment where:
 - i) each tree is to be protected by a braced structure comprising 4 timber posts with 75mm x 75mm minimum dimensions and bordered by 100mm x 25mm treated pine edging.
 - ii) root barriers are to be placed between the trees and above or below ground civil infrastructure to a minimum depth of 1.0 metre, at least twice the pot size away from the tree and extend along the service for a minimum length of half the mature drip line.
- d) Include the following details:
 - i) All existing and proposed infrastructure including underground services.
 - ii) Existing site conditions (contours, vegetation, drainage, etc).
 - iii) Approximate location and description of structures and vegetation on adjacent property.
 - iv) All trees and other vegetation in road reserves are to be removed unless specifically identified to be retained.
 - v) Protective fencing.
 - vi) Type of grass seed or turf to be used (Council prefers Australian native grasses in rural developments and adjacent to natural areas in urban developments.
 - vii) Botanic and common names of plantings (and cultivar name if applicable).
 - viii) Size in litres when planted and mature height and spread.
 - ix) Years to maturity (to determine possible restriction to sight distance at intersections and other locations as necessary).
 - x) Hard landscaping details.

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26. Retaining Walls - Design

Prior to the issue of a Construction Certificate, for approved retaining walls exceeding 0.6m in height above ground level (existing) and/or within 1m of a property boundary, detailed design plans must be prepared and submitted to the Certifier for approval. The retaining walls must satisfy the following:

- a) For retaining walls exceeding 0.6m in height above natural ground level (existing) a professional engineer has certified the retaining walls as structurally sound, including in relation to (but not limited to) the ability to withstand the forces of lateral soil load; and
- b) For retaining walls less than 0.6m in height above natural ground level (existing) the Certifier must be satisfied that the retaining walls are structurally sound, including in relation to (but not limited to) the ability to withstand the forces of lateral soil load; and
- c) has been designed so as not to redirect the flow of any surface water or ground water, or cause sediment to be transported, onto an adjoining property; and
- d) has adequate drainage lines connected to the stormwater drainage system for the site; and
- e) does not have a total height measured vertically from the base of the retaining wall or structural support to its uppermost portion that is more than the height of the associated excavation or fill; and
- f) is separated from any other retaining wall or structural support on the site by at least 2m, measured horizontally; and
- g) has been installed in accordance with any manufacturer's specifications

Retaining walls, footings and drainage must be contained wholly within the development site.

Construction within a registered easement is prohibited.

Retaining walls not shown on the approved plan must meet the criteria for Exempt retaining walls and comply with the relevant criteria listed in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, or be approved by way of Complying Development prior to construction and comply with the relevant criteria listed in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

27. Existing Infrastructure

Prior to the issue of a Construction Certificate, all infrastructure, existing and proposed, is to be shown accurately on the engineering plans including longitudinal sections with clearances clearly labelled confirming that the proposed works do not affect any existing infrastructure. Any required alterations to infrastructure will be at the developer's expense.

28. Shoalhaven Water – Prior to the Issue of a Construction Certificate

Prior to the issue of a Construction Certificate, all conditions listed on the Shoalhaven Water Notice of Requirements under the heading "Prior to the Issue of a Construction Certificate" must be complied with and accepted by Shoalhaven Water. Written notification must be issued by Shoalhaven Water and provided to the Certifier.

29. Section 68 Application

Prior to the issue of a Construction Certificate, an application to carry out water supply works, sewerage works, and stormwater drainage works must be obtained from Council under section 68 of the *Local Government Act 1993*.

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30. Satisfactory Arrangements – Electricity

Documentary evidence is to be provided by Endeavour Energy prior to the issue of a Construction Certificate, confirming that satisfactory arrangements have been made for the connection of electricity and the design requirements for fire rating construction and the pad mount substation.

31. Erosion and Sediment Control Plan (ESCP)

Prior to the issue of a Construction Certificate, an Erosion and Sediment Control Plan (ESCP) must be prepared by a Professional Engineer, (as defined in the National Construction Code) in accordance with the Landcom Manual – Soils and Construction, Managing Urban Stormwater, Vol 1, 4th Edition March 2004 to the satisfaction of the Certifier.

All implemented measures must:

- a) not cause water pollution as defined by the [Protection of the Environment Operations Act](#) (POEO).
- b) be maintained at all times.
- c) not be decommissioned until at least 70% revegetation cover has been established.

32. Structural Design – Major Structures

Prior to the issue of a Construction Certificate, a detailed structural design for the following works must be certified professional engineer, (as defined in the National Construction Code) and approved by Council.

- a) Bridges and other major drainage structures, including stormwater pits / detention structures that require steel reinforcement.

The structural design must comply with the Council's Engineering Design Specification – Chapter 3 – Structures/Bridge Design and relevant Australian Standards.

33. Stormwater Drainage Design Standards (Urban)

Prior to the issue of a Construction Certificate, certified engineering design plans, specifications, and DRAINS model (or approved alternative) must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The stormwater drainage design must comply with the following:

- a) Major and minor drainage systems in accordance with Council's Engineering Design Specifications - Section D5 - Stormwater Drainage Design and utilising Australian Rainfall and Runoff (ARR, 2019) Guidelines.
- b) The minor and major systems must be designed for a 10% AEP and 1% Annual Exceedance Probability (AEP) rainfall events, respectively.
- c) Generally, in accordance with concept stormwater drainage plans by Danmor Consulting Engineers (Job No. D20285, Drawing No. ST01-04, Revision D, dated 18/02/2021).

34. On-Site Detention – Infill Subdivision and Development

Prior to the issue of a Construction Certificate, certified engineering design plans and specifications must be prepared by professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

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The on-site stormwater detention (OSD) design must comply with the following:

- a) Generally, in accordance with concept stormwater drainage plans by Danmor Consulting Engineers (Job No. D20285, Drawing No. ST01-04, Revision D, dated 18/02/2021).
- b) Designed such that stormwater runoff from the site for design storm events up to and including the 1% AEP does not exceed the pre-developed conditions.

35. **WSUD Devices – Private Property**

Prior to the issue of a Construction Certificate, detailed design of permanent stormwater quality improvement devices must be certified by a professional engineer, (as defined in the National Construction Code) demonstrating the appropriateness of the proposed design for the site in accordance with Council's Engineering Design and Construction Specifications and approved by the Certifier. Specifications can be found on Council's web site.

The drainage design must also not include any uncoated metal (i.e. Copper etc.) surfaces such as roofs, facades and/or downpipes.

36. **Car Parking Design Standards**

Prior to the issue of a Construction Certificate, certified engineering design plans and specifications must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The at-grade car park, turning circle and access design must comply with the following:

- a) AS2890 for the relevant parking space type and user class.
- b) Constructed in accordance with the following:
 - i) Pavement to cater for the anticipated vehicular loading.
 - ii) with a flexible pavement, surfaced with 30mm of AC10 asphaltic concrete; or
 - iii) with a concrete pavement.
- c) Bordered in accordance with Council's Standard Drawings by:
 - i) concrete kerbing, except where surface runoff is concentrated, in which case concrete integral kerb and gutter must be constructed.

37. **Road Design Standards – The Wool Rd Entrance**

Prior to the issue of a Construction Certificate, certified road design engineering plans must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by Council. The road design must comply with the following:

- a) A linemarked CHR(S) and AUL(S) intersection treatment generally in accordance with Austroads Guide to Road Design Part 4A must be designed for The Wool Road at the carpark entrance. The design must include:
 - i) Relocation of the bus zone on the northern side of The Wool Road approximately 20m to the east.
 - ii) Edge line marking on the northern side of The Wool Road to delineate the through travel lane from the kerbside bus zone/parking lane, providing a chicane to transition from the CHR(S) treatment to the existing roundabout approach.

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Note: Council's Roads Asset Unit should be contacted prior to commencing design plans to provide advice on these requirements.

- b) Any pavement widening required must be designed and constructed in accordance with Councils Engineering Design Specifications Sections D1 – Geometric Road Design and D2 – Flexible Pavement Design.

38. Design Standards – Traffic Committee Referral

Prior to the issue of a Construction Certificate details of proposed traffic management and traffic control devices including signage and line marking must be submitted to the satisfaction of Council for referral and endorsement of the Shoalhaven Traffic Committee.

Note: This process can take six to eight weeks.

39. Waste Storage Room

Prior to the issue of a Construction Certificate, detailed plans must be submitted to the Certifier that demonstrate that the waste storage room has been designed to be constructed in accordance with the [Waste Minimisation and Management Guidelines](#), and that:

- a) the floor to be constructed of concrete at least 75mm thick and adequately graded to drain to a Shoalhaven Water approved drainage fitting.
- b) the floor to be finished so that it is non-slip and has a smooth and even surface covered at all intersections.
- c) the ceilings and walls to be finished with smooth faced non-absorbent material capable of being cleaned.
- d) the room to be provided with artificial light controllable within the room and adequate ventilation.
- e) the room to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.

PART E: PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

NIL

PART F: DURING WORKS

40. Hours for Construction

Construction may only be carried out between 7.00am and 5.00pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday. Proposed changes to hours of construction must be approved by Council in writing.

41. Demolition

Demolition work must be carried out in accordance with AS2601-2 [SafeWork NSW – Code of Practice, Demolition Work \[ISBN 978-0-642-78415-5\]](#) and [SafeWork NSW – Code of Practice, How to Safely Remove Asbestos \[ISBN 978-0-642-33317-9\]](#) as applicable.

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42. Noise

The noise from all demolition and construction activities associated with the approved development must comply with the work practices as outlined in the NSW Department of Environment & Climate Change Interim Construction Noise Guideline. The LA10 level measured over a period of not less than 15 minutes during works must not exceed the background (LA90) noise level by more than 10dB(A) when assessed at any sensitive noise receiver.

43. Acid Sulfate Soils - Unexpected Finds

If acid sulfate soils are encountered during excavation and/or construction works all work must cease and Shoalhaven City Council notified immediately. The extent of acid sulfate soil must be evaluated by a qualified environmental consultant with experience in the assessment of acid sulfate soils and a preliminary assessment provided to Council. Council will determine an appropriate response, including if an Acid Sulfate Soils Management Plan is required to be prepared and implemented, before works can recommence.

44. Aboriginal Objects Discovered During Excavation

If an Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:

All excavation or disturbance of the area must stop immediately.

Additional assessment and approval pursuant to the National Parks and Wildlife Act 1974 may be required prior to works continuing the affected area(s) based on the nature of the discovery.

Work may recommence in the affected area(s) if Heritage NSW advises that additional assessment and/or approval is not required (or once any required assessment has taken place or any required approval has been given).

The Heritage NSW must be advised of the discovery in accordance with section 89A of the [National Parks and Wildlife Act 1974](#).

45. Archaeology Discovered During Excavation

If any object having interest due to its age or association with the past is uncovered during the course of the work:

All work must stop immediately in that area.

Work may recommence in the affected area(s) if Heritage NSW advises that additional assessment and/or approval is not required (or once any required assessment has taken place or any required approval has been given).

In accordance with the *Heritage Act 1997*, the Heritage NSW must be advised of the discovery.

46. Maintenance of Site and Surrounds

During works, the following maintenance requirements must be complied with:

- a) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.

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- c) Where tree or vegetation protection measures are in place, the protected area must be kept clear of materials and / or machinery.
- d) The developer must maintain the approved erosion and sediment control measures to the satisfaction of the Certifier for the life of the construction period and until runoff catchments are stabilised.
- e) During construction:
 - i) all vehicles entering or leaving the site must have their loads covered, and
 - ii) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- f) At the completion of the works, the work site must be left clear of waste and debris.

47. Waste Management Plan

All waste must be contained within the site during construction and then be recycled in accordance with the approved Waste Management Plan (WMP) or removed to an authorised waste disposal facility. Waste must not be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site. Compliance with the WMP must be demonstrated by the submission of tip receipts to the Certifier.

Note: "Waste" is defined in the Dictionary to the Protection of the Environment Operations Act 1997 (POEO Act).

48. Stormwater Connections in Road Reserve

Prior to completion of works, the site supervisor must ensure that stormwater connections between the property boundary and the kerb and gutter are inspected and approved by Council and backfilled as soon as possible. Kerb connections are only to be made using adaptors/convertors approved by Council.

Note: A section 138 approval under the Roads Act 1993 will be required for any works within the road reserve.

49. Earthworks and Excavation

- a) Approved earthworks (including any structural support or other related structure for the purposes of the development):
 - i) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot.
 - ii) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property.
 - iii) that is fill brought to the site, must contain only virgin excavated natural material (VENM) as defined in Part 3 of schedule 1 to the *Protection of the Environment Operations Act 1997 (POEO Act)*
 - iv) that is excavated soil to be removed from the site, must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) Regulation 2005*.
- b) Any excavation must be carried out in accordance with *Excavation Work: Code of Practice* (ISBN 978-0-642-785442), published in July 2012 by Safe Work Australia.

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50. Survey Report – Height

In order to ensure compliance with approved plans and the maximum height limitations of 8.5m and 11m above existing ground level, a Survey Certificate to Australian Height Datum must be prepared by a Registered Surveyor as follows:

- a) At the completion of the basement and first structural floor level indicating the level of that floor and the relationship of the building to the boundaries – to ensure height compliance with the approved plans is capable of being achieved.
- b) At the completed height of the building, prior to the placement of concrete in form work, or the laying of roofing materials.
- c) At completion, the relationship of the building and any penetrations thereto, to the boundaries.
- d) Progress certificates in response to points (a) through to (c) must be provided to the Certifier at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveal discrepancies between the approved plans and the proposed works.

51. Tree Removal

Trees approved for removal must be carefully felled so as not to damage trees to be retained in or beyond the development footprint.

Any hollow-bearing trees must be felled carefully in sections utilising handheld tools to allow the rescue of native fauna. Hollow-bearing sections must be carefully lowered to the ground so as not to injure native fauna.

PART G: PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**52. Compliance**

The Occupation Certificate must not be issued until all relevant conditions of development consent have been met or other satisfactory arrangements have been made with council (i.e. a security).

53. Colours and Materials

The development must be constructed in accordance with the approved schedule of colours and building materials and finishes.

54. Boundary Adjustment and Land Consolidation

Prior to the issue of an Occupation Certificate, the subject allotments (Lot 1780 DP 26434, Lot 1779 DP 26434 and Lot 5 DP 539867) must be consolidated into one (1) allotment and the boundary adjoining Lot 1 DP 615796 adjusted as shown on the plan by CD Architects (Job No. J20468, Drawing No. DA 1008, Revision A, dated 03/02/2021).

Written notification as to the registration of such consolidation and boundary adjustment at NSW Land Registry Services must be submitted to the Certifier.

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55. Private Waste Collection Service

Prior to the issue of an Occupation Certificate, the developer/owner must provide evidence to the Certifier of a formal agreement with a licenced private waste contractor to service the development. A copy of the contract must be forwarded to Council.

The agreement must ensure:

- a) the removal of all waste from the developed property.
- b) the service is functional and meets the operational requirements for the developed property.
- c) the service minimises environmental nuisances including noise and other adverse impacts on the safety and amenity of residents and the public.
- d) the developer/owner indemnifies Council against claims for loss or damages, should Council take over provision of the service at some point in the future.

56. Damage to Public Assets

Prior to the issue of an Occupation Certificate, any infrastructure within the road reserve, along the frontage of the subject site, or in proximity, which has been damaged as a result of construction works, must be repaired by the developer to the satisfaction of Council.

57. Dilapidation Report – Evidence

Prior to the issue of an Occupation Certificate, the developer must provide the Certifier and Council with evidence that any damage to neighbouring premises or adjacent public infrastructure, not previously identified as existing damage in the Dilapidation Report, has been repaired by the developer to the satisfaction of Council.

58. Structural Elements – Certification

Prior to the issue of an Occupation Certificate, the Certifier must be satisfied that all retaining walls and other structural elements including drainage structures have been constructed in accordance with the relevant structural plans and specifications, and in accordance with the requirements of any other conditions of this consent.

59. Redundant Driveways and Crossings

Prior to the issue of an Occupation Certificate all redundant vehicle crossings and lay backs rendered unnecessary by this development must be reconstructed to match the existing kerb and gutter. The verge must be appropriately graded, top soiled and turfed in a manner that conforms with adjoining road reserve. The area forward of the front boundary must be kept smooth, even and free from any trip hazards. All alterations of public infrastructure where necessary are at the developer's expense.

60. Landscaping Compliance

Prior to the issue of an Occupation Certificate, the developer must provide the Certifier with written evidence from a suitably qualified landscape professional that all landscape works have been completed in accordance with the approved landscape plans.

The Certifier must be satisfied that any required Street trees have been installed in accordance with requirements.

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61. Shoalhaven Water – Certificate of Compliance

Prior to the issue of any Occupation Certificate, a Certificate of Compliance under Section 307 of the *Water Management Act 2000* must be obtained from Shoalhaven Water to verify satisfactory compliance with all conditions for the supply of water and sewerage, as listed on the Notice of Requirements.

If the development is to be completed in approved stages, or application is subsequently made for staging of the development, separate Compliance Certificates must be obtained for each stage of the development.

62. Works in the Road Reserve - Evidence of completion

Prior to the issue of an Occupation Certificate, the developer must provide the Certifier with a Completion of Works in Road Reserve Letter provided by Council, confirming compliance with the requirements of section 138 of the *Roads Act 1993*.

63. Works as Executed Plans – Works in the Road Reserve

Prior to the issue of an Occupation Certificate, Works as Executed Plans must be prepared by a registered surveyor / professional engineer, (as defined in the National Construction Code) and approved by Council demonstrating compliance with the approved design plans.

The Works as Executed dimensions and levels must be shown in red on a copy of the approved plans and comply with the following requirements:

- a) Council's Development Engineering Construction Specification.
- b) Show compliance with the approved design plans of all road and drainage works.
- c) Show any retaining walls including footings and agricultural drainage lines.
- d) Show the location of all underground service conduits.
- e) Include all deviations from the approved Civil Engineering Plans.

64. On-site Detention System & WSUD Elements

Prior to the issue of the Occupation Certificate, the developer must:

- a) create a restriction on use under the *Conveyancing Act 1919* over the on-site detention system and WSUD elements and provide it to the Certifier as follows:
 - i) The registered proprietor of the lot burdened must not make or permit or suffer the making of any alterations to any on-site stormwater detention system on the lot(s) burdened without the prior consent in writing of the authority benefited. The expression 'on-site stormwater detention system' must include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater as well as all surfaces graded to direct stormwater to those structures. Name of the authority having the power to release, vary or modify the restriction referred to is Shoalhaven City Council.
 - ii) The registered proprietor must not make or permit or suffer the making of any alterations to any stormwater treatment measures/ water sensitive urban design (WSUD) elements which is, or must be, constructed on the lot(s) burdened without the prior consent in writing of Shoalhaven City Council.

The expression "stormwater treatment measures/ water sensitive urban design elements" means the infiltration systems, porous pavement, sediment basins, bio-retention swales, bioretention basins, rain gardens, landscaped or vegetated swales, vegetated buffers,

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swale/ buffer systems, sand filter, wetlands, ponds, retarding basins, aquifer storage and recovery, rainwater reuse tanks, stormwater reuse tanks, gross pollutant traps, pit inserts, silt/ oil arrestors or other proprietary products including all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins or surfaces graded to direct stormwater to the stormwater treatment measures/ water sensitive urban design elements.

- b) create a positive covenant under the *Conveyancing Act 1919*, requiring the property owner(s) to undertake maintenance in accordance with the Construction Certificate approved On-Site Stormwater Detention System and Maintenance Schedule.
- c) provide a certificate from a professional engineer, (as defined in the National Construction Code) to verify the structural adequacy of the on-site detention facility and that the facility has been constructed in accordance with the approved Construction Certificate plans.

65. Restrictions – Easements and Restrictions on Use of Land

Prior to the issue of an Occupation Certificate:

- a) An Easement for Parking must be registered over at least 32 parking spaces within Lot 1 DP 615796, within close proximity to the development, to ensure the ongoing access to the parking spaces required for the development in perpetuity. The terms of the easement shall include any maintenance responsibilities and financial apportionments, where necessary.

These spaces are to be signposted to restrict use of these spaces to users of the bar/bistro and function centre.
- b) A Right of Way must be registered over the driveway and carpark area within Lot 1 DP 615796 and Lot 6 DP 539867 to allow for ongoing legal and practical access to the development in perpetuity. The terms of the easement shall include any maintenance responsibilities and financial apportionments, where necessary.
- c) Waste disposal is via private contractual arrangement.
- d) All existing easements must be acknowledged on the final subdivision plan.
- e) All existing restriction on the use of land must be acknowledged on the final subdivision plan.
- f) A minimum one (1) metre wide easement to drain water must be created over any encroaching drainage pipes.
- g) A minimum one (1) metre wide easement for services must be created over any encroaching utility service.

The Instrument must contain a provision that it cannot be varied, modified or released without the consent of the relevant parties as appropriate and without the consent of the Shoalhaven City Council. A draft 88B Instrument must be submitted to the Certifier for approval before an Occupation Certificate is issued.

66. CCTV

Installation of CCTV camera system at the premises must be:

- a) installed in public areas of the development, inside and out;
- b) of such quality that it would aide in the identification of offender or offences if required by Police.
- c) Easily downloadable, should Police request information;
- d) Positioned to cover the car park area and able to record in low night and/or night time.

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- e) In accordance with Australian Standards and allow for safe passage of pedestrian traffic from carpark to the building.

67. Commercial Pool and Spa - Notification

Prior to the issue of an Occupation Certificate, a completed [Commercial Pools and Spa Notification Form](#) must be provided to Council by the owner or occupier of the premises in accordance with the Public Health Act 2010.

68. Registration of Swimming Pool

The swimming pool must be registered on the NSW Swimming Pool Register when it is capable of holding water and prior to the issue of an Occupation Certificate. The swimming pool is to be registered at www.swimmingpoolregister.nsw.gov.au.

Note: Penalties may apply if a swimming pool is not registered. If you are unable to access the internet, Shoalhaven pool owners can contact Council during business hours on (02) 4429 3111 or alternatively, register in person at Council's Nowra or Ulladulla Office and our Customer Service Officers will assist you to register your pool. There is a fee for this service.

69. Warning Notice Swimming Pools

Prior to the issue of an Occupation Certificate, a Warning Notice (sign) must be erected in a prominent position in the immediate vicinity of the swimming pool as required by section 17(1) of the *Swimming Pools Act 1992*. The sign must comply with part 3, clauses 10 and 11 of the *Swimming Pools Regulation 2018*. Details must be provided to the Certifier for approval.

70. Management Plan

Prior to the issue of an Occupation Certificate, a Management Plan must be developed to ensure that the approved development is managed appropriately for the life of the development and submitted to Council for its records. The Management Plan must address as a minimum guest behaviour, how complaints are to be dealt with, management of the approved development and parking within the site inclusive of parking within Lot 1 DP 615796.

PART H: PRIOR TO THE ISSUE OF A SUBDIVISION / STRATA CERTIFICATE

NIL

PART I: ONGOING USE OF THE DEVELOPMENT

71. Operational Requirements

The use of the approved development is restricted as follows:

- a) The bar/bistro and function centre uses are to be ancillary to the hotel accommodation use. If the hotel accommodation use ceases to operate, the bar/bistro and function centre operations must not continue without the approval of Council.
- b) **Bar/bistro use:** 6:00am to 10:00pm, Monday to Sunday unless otherwise approved by Council in writing.

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- c) **Function centre use:** 9:00am to 12:00am/midnight, Monday to Sunday unless otherwise approved by Council in writing. This approval is based on a maximum of five (5) employees for the hotel accommodation component and a maximum capacity of 60 people for the function centre component.

72. CCTV

Ongoing maintenance of CCTV camera system at the premises to ensure:

- a) installed in public areas of the development, inside and out;
- b) quality that it would aid in the identification of offender or offences if required by Police.
- c) Easily downloadable, should Police request information;
- d) Positioned to cover the car park area and able to record in low night and/or night time.
- e) In accordance with Australian Standards and allow for safe passage of pedestrian traffic from carpark to the building.

73. Service Vehicle Access – Restriction

The registered proprietor must ensure that no vehicle larger than a Small Rigid Vehicle (SRV) as defined by AS/NZS 2890.2 is permitted to access or service the development, in compliance with the approved Traffic and Parking Impact Assessment. Details of the waste arrangement are to be submitted to the Certifier. (Reference is made to an earlier condition concerning private waste collection and restriction to be emplaced on title.)

74. Site Maintenance - Commercial/Industrial Development

The owner or operator must at all times be responsible for on-going site management and maintenance in accordance with the following:

- a) loading and unloading in relation to the use of the premises must occur in the designated loading areas.
- b) goods or machinery must be stored, and all activities must occur, inside the building(s) and not in the carpark or driveway areas.
- c) maintenance and replacement (if necessary) of all landscaping in accordance with the approved landscape plan.
- d) maintenance of vehicular movement areas including driveways, carparking, manoeuvring areas, line marking, pedestrian facilities, lighting, to the standard specified by this consent.
- e) ongoing waste and recycling must be managed in accordance with the approved Waste Management Plan. Waste bins are not to be stored within the loading area/space that is visible from a public place.
- f) maintenance of stormwater drainage pipes and systems to ensure efficient discharge of stormwater in accordance with the approved stormwater drainage plan.
- g) maintenance of buildings, fencing, signage/markings to the standards specified in this consent.
- h) the removal of all graffiti within a maximum of 14 days of being notified by Council.

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75. On-Site Collection Point (waste & recycling bins)

The nominated on-site collection point is to be utilised to facilitate the collection of waste and recycling bins for the developed property. The on-site collection point is to be kept clear of obstructions at all times so not to restrict the collection of waste and recycling bins.

76. Commercial Pool and Spa – Maintenance

Public Swimming Pool & Spas must be maintained in accordance with [Schedule 1 of Public Health Regulation 2012](#).

77. Noise

The use of the approved development must not give rise to transmission of unacceptable vibration or an offensive noise to any place of different occupancy or the public in accordance with the NSW Environment Protection Authority's *Noise Policy for Industry* and *Noise Guide for Local Government* (guideline) and the *Protection of the Environment Operations Act 1997 (POEO Act)*.

PART J: OTHER COUNCIL APPROVALS AND CONSENTS

NIL

PART K: REASONS FOR CONDITIONS

The application has been assessed as required by section 4.15 of the *Environmental Planning and Assessment Act 1979* and has been determined by the granting of conditional development consent.

Statutory requirements

The development proposal, subject to the recommended conditions, is consistent with:

- a) the objects of the Environmental Planning and Assessment Act, 1979.
- b) the aims, objectives and provisions of the applicable environmental planning instruments,
- c) the aims, objectives and provisions of Shoalhaven Development Control Plan 2014 (SDCP 2014).
- d) the aims, objectives and provisions of relevant Council policies.

Public notification

The application was publicly notified in accordance with the *Environmental Planning and Assessment Regulation 2000* and Council's Community Consultation Policy for Development Applications (Including Subdivision) and the Formulation of Development Guidelines and Policies (POL 16/230).

Submissions

Any submissions received during the public notification period are available on [DA Tracking](#)

Community views

Issues and concerns raised by the community in submissions have been considered in the assessment of the application and, where appropriate, conditions have been included in the determination to mitigate any impacts.

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Suitability of the Site

The application has been approved because the development proposal is considered to be suitable for the site.

The relevant public authorities and the water supply authority have been consulted and their requirements met, or arrangements made for the provision of services to the satisfaction of those authorities.

The increased demand for public amenities and services attributable to the development has been addressed by the requirement to pay contributions in accordance with section 7.11 of the *Environmental Planning and Assessment Act 1979* and Council's Contribution Plan 2019. Contributions under Section 307 of the Water Management Act 2000 have been applied as required.

Impacts of the Development

The application was considered to be suitable for approval. Conditions have been imposed to ensure that:

- a) the development will not result in unacceptable adverse impacts on the natural and built environments.
- b) the amenity and character of land adjoining and in the locality of the development is protected.
- c) any potential adverse environmental, social or economic impacts of the development are minimised.
- d) all traffic, car parking and access arrangements for the development will be satisfactory.
- e) the development does not conflict with the public interest.

PART L: RIGHTS OF REVIEW AND APPEAL

Determination under Environmental Planning and Assessment Act, 1979

Division 8.2 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination a right to request the council to review its determination. The request and determination of the review must be undertaken within the prescribed period.

Division 8.3 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised within the prescribed period.

PART M: GENERAL ADVICE

In this consent the term developer means any person or corporation who carries out the development pursuant to that consent.

Disability Discrimination Act 1992

This application has been assessed in accordance with the *Environmental Planning & Assessment Act, 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references *Australian Standard AS1428.1 - "Design for Access and Mobility"*.

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Disclaimer –Conveyancing Act 1919 – Division 4 – Restrictions on the Use of Land

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.


Under Clause 1.9A of *Shoalhaven Local Environmental Plan 2014* agreements, covenants or instruments that restrict the carrying out of the proposed development do not apply to the extent necessary to enable the carrying out of that development, other than where the interests of a public authority is involved.

DBYD Enquiry - 'Dial Before You Dig'

In order to avoid risk to life and property it is advisable that an enquiry be made with "Dial Before You Dig" on 1100 or www.dialbeforeyoudig.com.au prior to any excavation works taking place to ascertain the location of underground services. You must also contact your Local Authority for locations of Water and Sewer Mains.

SIGNED on behalf of Shoalhaven City Council:

Planning Report – S4.15 Assessment - 252 Princes Hwy, ULLADULLA - Lot 1 DP 784732

	Planning Report S4.15 Environmental Planning & Assessment Act 1979
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DA Number	DA19/1102
Property	252 Princes Hwy, ULLADULLA - Lot 1 DP 784732
Applicant(s)	Mark Lindsay
Owner(s)	Ocean Point Assets Pty Ltd

Conflict of interest declaration

I have considered the potential for a conflict of interest under the [Code of Conduct](#) and to the best of my knowledge no pecuniary and/or significant non-pecuniary conflict of interest exists.

NOTE: If you determine that a non-pecuniary conflict of interest is less than significant and does not require further action, you must provide a written explanation of why you consider that the conflict does not require further action in the circumstances. This statement should then be countersigned by the section manager.

Name

1. Detailed Proposal

Demolition of existing dwelling and associated structures and construction of a Manufactured Home Estate comprising 49 dwelling sites, community building, BBQ area, outdoor exercise equipment area, lawn bowling green, waste storage area, parking, landscaping and associated civil infrastructure that includes:

- Kerb & gutter & associated drainage for the full frontage of Pitman Ave and the Princes Highway.
- Street tree & landscape planting.
- Roundabout at the intersection of the Princes Highway and Pitman Ave with connected 1.5m wide pedestrian pathways and pedestrian refuge serving upgraded bus stop on the Princes Highway.

Planning Report – S4.15 Assessment - 252 Princes Hwy, ULLADULLA - Lot 1 DP 784732

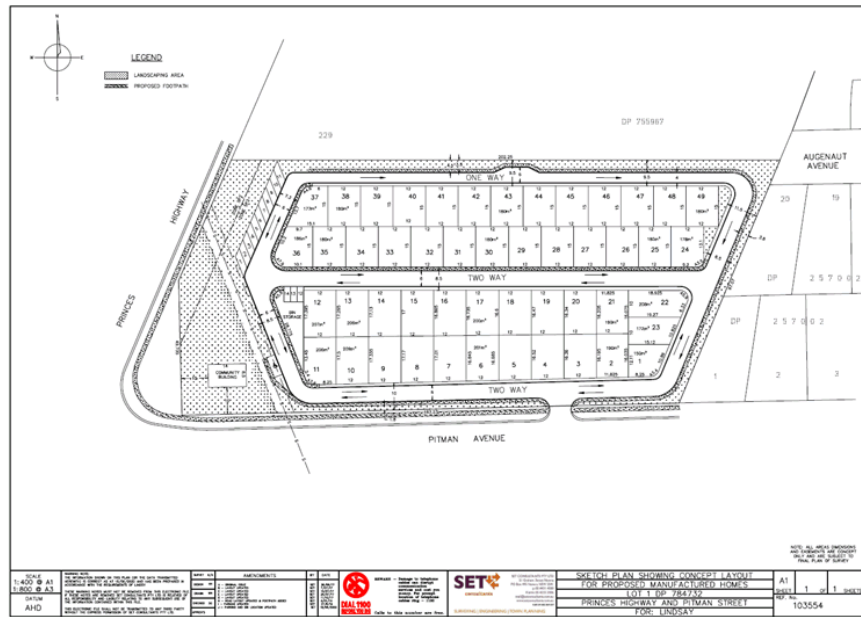


Figure 1 - MHE Layout Plan.

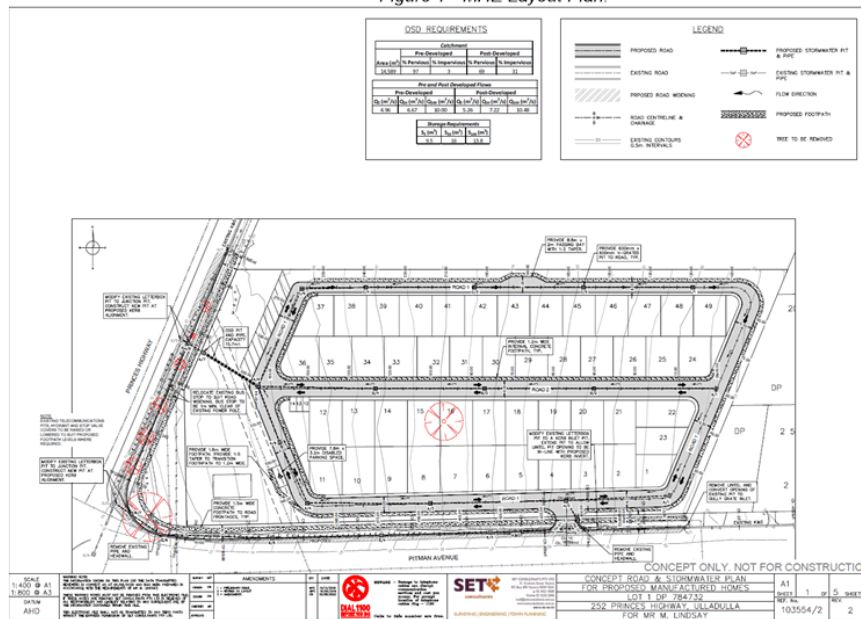


Figure 2 - MHE Concept Road and Stormwater Plan.

DE21.82 - Attachment 1

Planning Report – S4.15 Assessment - 252 Princes Hwy, ULLADULLA - Lot 1 DP 784732

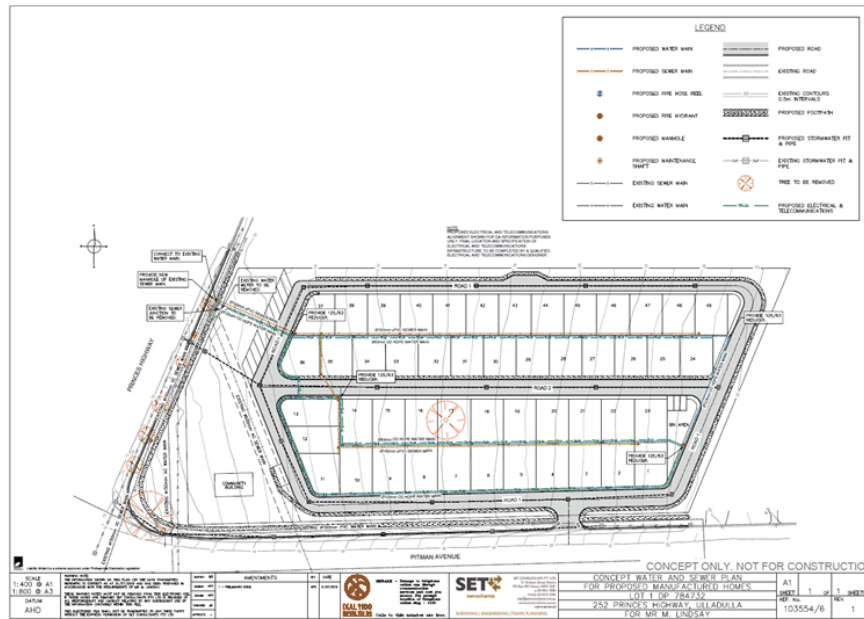


Figure 3 - MHE Concept Water and Sewer Plan.



Figure 4 - MHE Landscape Plan.

Planning Report – S4.15 Assessment - 252 Princes Hwy, ULLADULLA - Lot 1 DP 784732

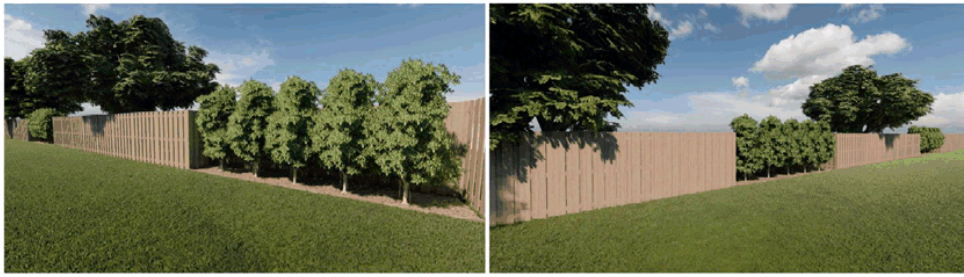


Figure 5 - MHE Landscape features to North boundary Fence.

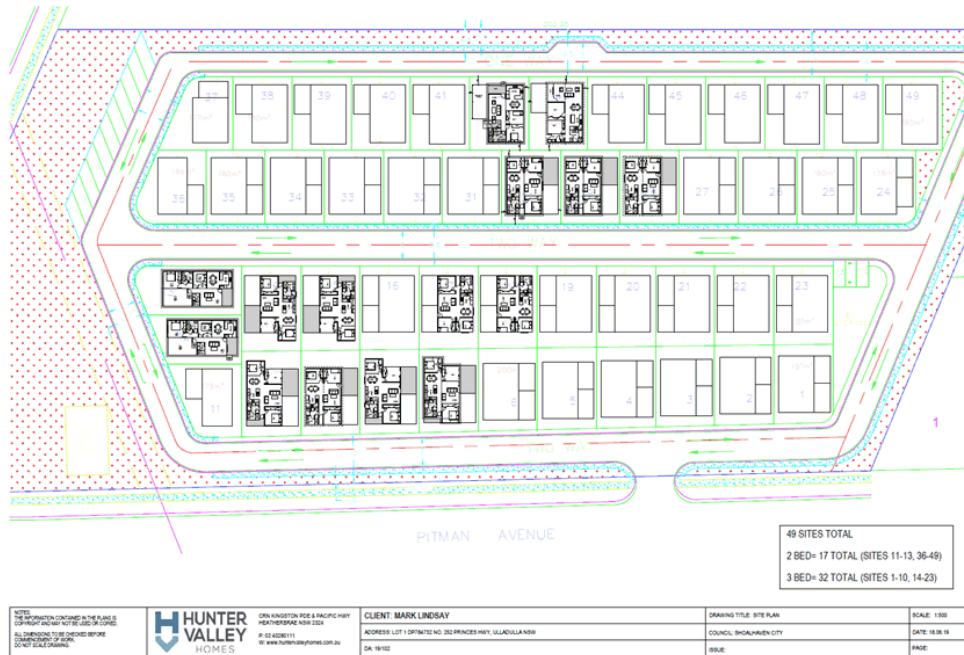
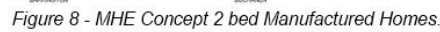


Figure 6 - MHE Typical Dwelling Arrangement.



Figure 7 - MHE Concept 3 bed Manufactured Homes.

DE21.82 - Attachment 1



Planning Report – S4.15 Assessment - 252 Princes Hwy, ULLADULLA - Lot 1 DP 784732

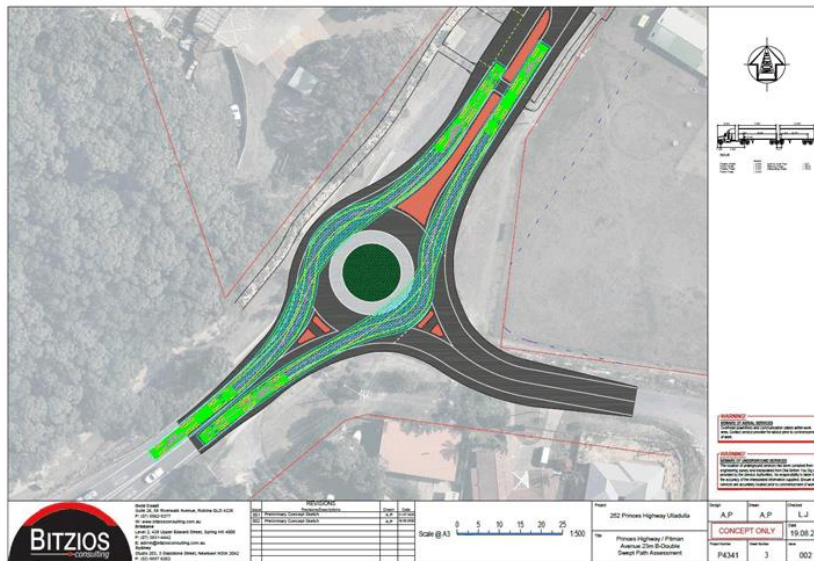


Figure 11 - Princes Highway / Pitman Ave 23m B-Double Swept Path Assessment.



Figure 12 - Princes Highway / Pitman Ave 19m AV Swept Path Assessment.

DE21.82 - Attachment 1

DE21.82 - Attachment 1



Planning Report – S4.15 Assessment - 252 Princes Hwy, ULLADULLA - Lot 1 DP 784732

2. Subject Site and Surrounds

The subject site is located approx 1.7 km south of the Ulladulla Town Centre on the north east corner of the Princes Highway and Pitman Ave. The subject site is described and legally identified as Lot 1 DP 784732 – 252 Princes Highway Ulladulla.

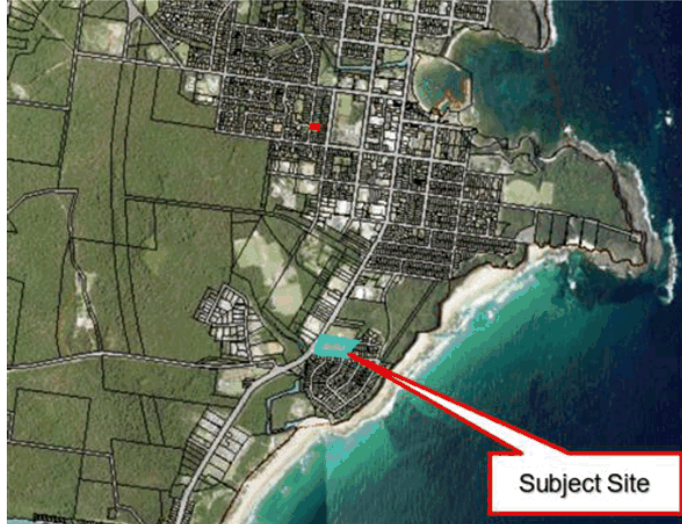


Figure 15 - Site Locality Map.



Figure 16 - Site Surrounding Development Map.

The subject site is an irregular shaped lot with a frontage of 98m to the Princes Highway and 183m to Pitman Ave. The site falls gently from the eastern boundary (23.5m AHD) to the Princes Highway (13-14.5m AHD).

Planning Report – S4.15 Assessment - 252 Princes Hwy, ULLADULLA - Lot 1 DP 784732

An existing dwelling and associated structures occupy the north west corner of the subject site with the remainder of the land used for equine grazing. The site is burdened by an existing sewer main that transects the western end adjacent the Princes Highway & SP2 zoned strip of land for Arterial Road Widening.



Figure 17 - Site Constraints Map - site identified by yellow border with sewer main indicated by broken blue line & SP2 Zoned land indicated west of solid blue line.

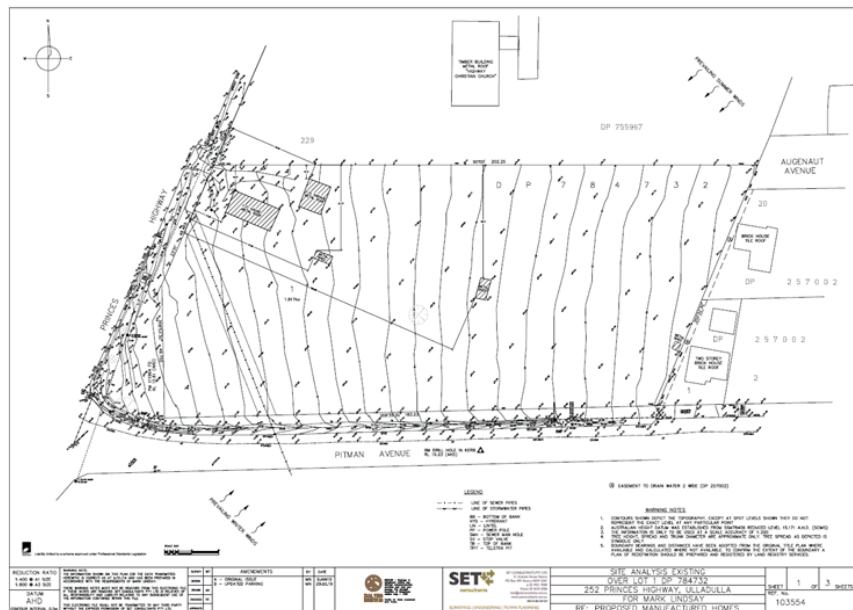


Figure 18 - Site Analysis Plan Existing.

Surrounding development is characterised as follows:

- North – Place of public worship – Highway Church.

Planning Report – S4.15 Assessment - 252 Princes Hwy, ULLADULLA - Lot 1 DP 784732

- West – South Ulladulla industrial land, Princes Highway and Racecourse Creek.
- East and South – low density residential comprising a mix of 1 & 2 storey dwellings.



Figure 19 - Pitman Ave Looking west from 22 Pitman Ave. Site approximated by red border.



Figure 20 - Pitman Ave intersection with Princes Highway looking south.



Figure 21 - Princes Highway northbound approx. 80m south of intersection with Pitman Ave.

Planning Report – S4.15 Assessment - 252 Princes Hwy, ULLADULLA - Lot 1 DP 784732



Figure 22 - Princes Highway northbound approx. 20m south of intersection with Pitman Ave.



Figure 23 - Princes Highway northbound adjacent subject site.



Figure 24 - Princes Highway southbound looking south east adjacent dwelling identified for demolition.

Planning Report – S4.15 Assessment - 252 Princes Hwy, ULLADULLA - Lot 1 DP 784732



Figure 25 - Princes Highway looking east to Highway Church (240) and adjacent dwelling (252) identified for demolition.

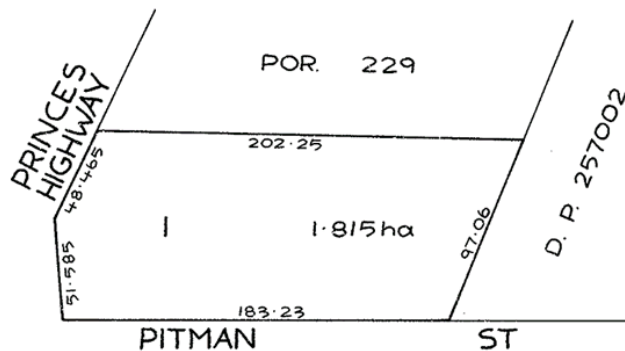


Figure 26 - Deposited Plan and 88B Instrument.

3. Background

Post-Lodgement

30/05/2019 stop the clock issued by council.

Requested Information	Applicant Response
Improved proximity of disabled parking to community facilities	<p>6/08/19</p> <p>The proposed disabled parking space have been relocated to be closer to the Community Building. The disabled parking space is 7.8m x 3.2m in size and considered compliant with accessibility requirements.</p> <p>A Community Centre Plans for the proposed community building have been submitted with this development application. A continuous pathway will be provided between the disabled parking and building entrance in accordance with AS 1428.1:2019.</p>

Planning Report – S4.15 Assessment - 252 Princes Hwy, ULLADULLA - Lot 1 DP 784732

Setbacks for the community building - need 10m minimum setback to both Princes Highway and Pitman Ave boundaries. Setback dimensions for the community building to be included on site plans.	6/08/19 <i>An Amended Site Layout Plan has been submitted showing the proposed Community Building has 10m setbacks to Pitman Avenue and the Princes Highway. The Community Building has been re-orientated to allow for community recreation areas to be positioned adjacent to the Community structure.</i>
Detailed Architectural & access plans for the community building, associated parking and landscaping for revised location	6/08/19 <i>A Floor Plan of the proposed Community building, along with an Amended Landscape Plan and Lot Layout Plan, and Site Analysis Plans have been submitted with this RFI response. The Community building has been shifted to have the required setbacks to the surrounding boundaries.</i>
Request a s82 variation request for lightweight construction	6/08/2019 <i>It is noted that the Community building is not constructed out of a masonry material as required by Clause 35 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. (LG Regs). An application is made under Section 82 of the Local Government Act and seeks variation to Clause 35 of the (LG Regs).</i> <i>A Section 82 Variation Letter has been submitted with this RFI Response letter which provides justification for the variation to the Regulations.</i> S82 Objection (D19/282407) <i>The proposed community building is to be constructed or a similar material to the moveable dwellings. The proposed structure is considered in keeping with the rest of the proposed caravan park. Amenities buildings which contain shower and laundry facilities which are also required to be masonry buildings do not form part of this application. It is noted that amenities buildings (shower and laundry) facilities are not required as the proposed future dwellings will be provided with individual amenities. The community building would be the only structure onsite to be of masonry construction if Clause 35 were enforced under the regulations. There is no foreseeable significant impact in enforcing the structure to be masonry, and it is considered reasonable to allow the building to utilise different materials. Allowing the use of a movable structure as the community building would be ensuring the structures onsite are consistent with the future dwellings in the park. The building will be constructed in accordance with accessibility requirements, and to the Bushfire recommendations. The community building has been positioned to allow other community facilities to be located adjacent to the building and landscaping to enhance the visual amenity of the park.</i>

Planning Report – S4.15 Assessment - 252 Princes Hwy, ULLADULLA - Lot 1 DP 784732

	<i>The proposed variation is not likely to have a significant impact on the surrounding developments, and would not have any foreseeable benefits being constructed of masonry materials as opposed to other construction materials. – S82 variations for lightweight construction later confirmed by EHO as unnecessary.</i>
An acoustic report to address the potential impact of road noise and existing church	9/08/19 <i>An Acoustic Report (D21/152950) prepared Harwood Acoustics was submitted. The report includes recommendations which are incorporated in the draft conditions to ensure the development will not be impacted by noise generated by the surrounding uses.</i>
Details on total dwelling types for each site	<i>A Unit Map has been prepared by Hunter Valley Homes which indicate the proposed future dwellings over the site. There is a total of 49 dwelling sites across the park. There will be a total of 17 two bedroom dwellings to be located on sites 11-13 and 36-49. There will be 32 three bedroom dwellings located on sites 1-10 and 14-23.</i>
Confirm proposed parking allocation for the MHE	<i>Each dwelling site is provided with an onsite parking space. 14 carparking spaces have been provided for visitor parking. There is also one additional parking space design as a disabled parking space, located adjacent to the Community Building. There will be a total of 64 parking spaces across the site.</i>
Is there any intent for 2 story manufactured homes to be installed on the land?	<i>There are no proposed two story manufactured homes to be installed on the proposed dwelling sites.</i>
Detail actual area of site reserved for recreation or other communal activities. If the area is below 10% of then you will need to provide detail on the type and range of amenities to be provided to justify the reduced area?	<i>The approximate area of the provided recreation space is 2000m² which includes the proposed community building. The subject site is approximately 18200m², this would equate to 10.98% of the site being provided as areas for recreation or community activities. An amended Landscape Concept Plan prepared by Captivate Landscaping Design provides additional details on the proposed recreational areas provided. In addition to the community building, a BBQ area, tennis court and boles green are proposed on the western portion of the site. The subject site is also located approximately 250m to the west of the nearest foreshore access to the beach. The proposed recreation areas is deemed to provide a range of types for use of residence of the park.</i>
Passing Bay – needs to be sized to suit the largest vehicle likely to travel through the road and needs suitable taper on entry and exit. Passing bay needs to be fully dimensioned.	<i>The proposed passing bay has been increased in size, and dimensions added to the plans. Refer to the Amended Concept Road & Stormwater Plan submitted with this RFI Response letter.</i>
Detailed design of the bin storage/service area in accord with AS 2890.2-2002.	<i>The amended Landscape Concept Plan prepared by Captivate Landscaping Design provides additional design details for the proposed bin storage area. The bin storage area will comply with the AS 2890.2-2002 requirements.</i>

Planning Report – S4.15 Assessment - 252 Princes Hwy, ULLADULLA - Lot 1 DP 784732

Landscaping improved details	<p>a) The northern boundary fence - Type 1 lapped and capped timber fence has been provided with a number of landscaped indents that are 1.2m x 6m to provide planting to soften the fence when viewed from the north.</p> <p>b) The north western - Type 2 Modular Wall has been extended along the northern boundary to finish in line with the parking space located adjacent to the northern boundary (No. 11). The fence has also been extended along the southern boundary to finish at the western edge of the sewer easement.</p> <p>c) A portion of the aluminium slat fence has been replaced with the Modular Wall with Lily Pillys' to be planted along the southern side of the modular wall. The slat fence is now provided with landscaping on both sides of the fence. On the southern side of the fence, both Lily Pillys' and Spiny-headed Mat-Rush are provided. These plants have a mature height of 1.5m and 0.75- 0.9m (refer to the Landscape Concept Plan for more details). The proposed fencing is considered to be provided with an adequate level of landscaping to soften the boundary when viewed from the street.</p>
Asbestos demolition report for the existing dwelling and outbuildings with recommendations.	<p>The applicant's consultants requested this matter be addressed by condition which is acceptable.</p> <p>A condition requiring a Demolition Plan prior to work commencing on site is included in the draft conditions.</p>
Detailed fire main and hydrant plan.	Concept fire services plan included on water and sewer plan
Detailed services plan.	31/07/2019 - Concept water and sewer plan (D19/282386) provided

- 2/09/2019 Council provided briefing on the development to the Milton Ulladulla Community forum.
- 3/09/2019 Councils D&E Committee subsequently resolved DE19/93

DE19.93 → Additional Item -- Intersection of Pitman Avenue and Princes Highway, Ulladulla

RESOLVED (Cllr Findley / Cllr Gash) → MIN19.625

That the Chief Executive Officer undertake an investigation into historical correspondence in respect to the Pitman Ave and Princes Hwy intersection treatment. The purpose of the investigation is to give background to the Roads and Maritime Service to build their understanding of the community's desires for a safe and passable intersection with some consideration for a roundabout or other treatment that makes access and egress from Pitman Ave timely and safe.

FOR: → Cllr Findley, Cllr Gash, Cllr White, Cllr Wells, Cllr Levett, Cllr Digiglio, Cllr Aldrick, Cllr Gartner, Cllr Pakes, Cllr Watson, Cllr Proudfoot and Stephen Dunshea

AGAINST: → Nil

CARRIED

- 12/09/2019 RMS issued a request for further information.
- 7/11/2019 Bitzios Consulting responded to RMS (D19/395095)
- 6/04/2020 Council requested.

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Requested Information	Applicant Response
<ul style="list-style-type: none"> Entrance details into the development off Pitman Ave including long section. Princes Highway and Pitman Ave Kerb and gutter details including longsection's and footpath details. Stormwater details in and off the site. Services will need to be checked and shown on the plans. New street tree locations will need to be identified. 	<p>5/08/2020</p> <p><i>An amended set of Concept Road and Drainage Plans have been prepared by SET Consultants and included with this response. In addition, a new Landscape Plan has been prepared by Captivate Landscape Design. This plan includes the location of planted trees along the street frontage.</i></p>
<p>Response to Public Submissions and SP2 Limitations</p>	<p>5/08/2020</p> <p><i>A review of the public submissions made towards the application was undertaken, with some changes to the application proposed in response. Notably the location of the internal waste storage area has been located to the western side of the park. This provides a greater separation distance between the adjoining neighbour to the east and the waste storage area.</i></p> <p><i>The original application included a fence, landscaping and recreation land within the part of the site zoned SP2. This has been amended to shift the front fence to be within the SP3 portion of the site, and reconfiguration of the recreation land and landscaping.</i></p> <p><i>Landscaping is still proposed on the SP2 portion of the site, but can be removed if acquisition of the portion of the site is proposed.</i></p> <p><i>The Landscape Plan also includes details regarding the indented landscaping provide along the northern boundary which provides visual relief to the length of the northern fenced boundary.</i></p> <p><i>Landscaping is also proposed on the southern side of Pitman Avenue opposite to the access/egress point to the site. This is proposed to reduce the impact on potential lights from vehicles exiting the site facing towards dwellings located to the south of Pitmans Avenue.</i></p>

28/01/2020 SET responded to RFS information request (D20/31644)
28/02/2020 RMS requested more information from the traffic consultant and acknowledged pending advice from council on historical traffic information for the area in accord with DE19.93

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- 7/04/2020** RFS issued General Terms of Approval and Bush Fire Safety Authority
- 26/05/2020** RMS requested more information on proposed intersection and removal of MHE infrastructure from SP2 zoned land and acknowledge receipt of historical traffic issues information in accord with Resolution DE 19.93 (**D20/196826**)
- 10/06/2020** Bitzios Consulting and RMS had a meeting to resolve highway intersection requirements for the MHE proposal
- 8/07/2020** RMS provided Geometric Design Method' information on roundabout design to the applicant.
- 21/07/2020** Applicant provided concept roundabout sketch and commentary to RMS for consideration.
- 21/07/2020** Bitzios Consulting provided concept roundabout design to RMS
- 13/08/2020** RMS requested more information on the concept roundabout design works
- 20/08/2020** Bitzios Consulting provided updated concept roundabout design (D20/375125) and responses to information request made by RMS on 13/08/2020.
- 21/01/2020** SET provided updated SEE, Bushfire reports and revised Princes Highway / Pitman Ave Roundabout Design Report and advised council that their client have instructed SET to lodge a separate development application, for the same development with the intention to lodge a deemed refusal after waiting the required time for the new application.
- 4/05/2021** Council referred both applications back to the RFS to review conditions of consent for consistency under Planning for Bushfire 2019 standard and to address evacuation requirements.
- 26/05/2021** RFS provided revised General Terms of Approval and Bush Fire Safety Authority (DA19/1102) and recommended conditions of consent (DA21/1304).
- 31/05/2021** SET provided response to request for additional information addressing – management of the MHE, demographics of expected tenants, tenancy model, confirmation not seeking affordable housing and parking.

Site History and Previous Approvals

Old Applications prior to 2nd Sept 1996

Application	Proposal	Decision	Owner	Original Lot
BA73/0206	Fibro Garage	Approved	Day HL	DP 755967 Por 230
BA80/0700	Dwelling Additions	Approved	Day HL	DP 755967 Por 230
SD7631		Approved	Day HL	DP 755967 Por 230

4. Consultation and Referrals


Referral	Recommendation
Development Engineer	<p>^{1st}</p> <p>Additional information will be required in the following areas:</p> <ul style="list-style-type: none"> Entrance details into the development off Pitman Ave including long section. Princes Highway and Pitman Ave Kerb and gutter details including long section's and footpath details. Stormwater details in and off the site. Services will need to be checked and shown on the plans. New street tree locations will need to be identified. <p>^{2nd} Referral (2/02/2021)</p>

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	Conditions provided for draft consent
Traffic & Transport Unit	Recommended Conditions of consent provided (D21/37327)
Environmental Health Officer	<p>1st Referral No objection to this proposal.</p> <p>A section 82 application (under the Local Government Act) was submitted with this application requesting a variation from Clause 35. The applicant read this clause to state that a community building must be made from masonry. However, on reading this clause it does not refer to such. Therefore a section 82 application is not required. There is no requirement to construct the proposed community building out of masonry.</p> <p>Recommended Conditions of Consent:</p> <ul style="list-style-type: none"> • Garbage removal is by private contractor • Compliance with requirements of the Local Government (Manufactured home estates, caravan parks, camping grounds and moveable dwellings) Regulations 2005. • This development is not to be occupied prior to Operational Approval being issued under section 68 of the Local Government Act 1993.
Waste	Recommended Conditions of consent provided (D19/283250)
Shoalhaven Water	Shoalhaven Water Notice to be issued with Consent
Building Surveyor	<p>The proposal will be required to meet full compliance with the Disability Discrimination Act 1992 (DDA) & Disability (Access to Premises – Buildings) Standards 2010. This will include, without limitation, carparking, landscaping, all pathways, general access areas and from the principal pedestrian entrance of the property through to and within the community complex.</p> <p>The submitted plans do not meet the minimum requirements of the DDA & Disability (Access to Premises – Buildings) Standards 2010, without limitation in the following areas;</p> <ol style="list-style-type: none"> 1. community building plans, 2. unisex accessible toilet/s 3. designated accessible carparking space/s, 4. continuous accessible pathways with kerb ramps and tactile ground surface indicators etc, 5. outdoor facilities <p>Disability (Access to Premises – Buildings) Standards 2010 The Disability (Access to Premises – Buildings) Standards 2010, were introduced alongside an updated Building Code of Australia (BCA) on 1st May 2011. These Standards are now legislated as the minimum requirements for new buildings and buildings undergoing significant upgrade in Australia. The aim of these Standards is to provide the building and design industry with detailed information regarding the</p>

DE21.82 - Attachment 1

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	<p>required access provisions associated with the design and construction of new buildings and upgrade to existing buildings.</p> <p>The manufactured home estate requirements will not be commented on and will be subject to a referral to the EHO's.</p> <p>Council has not been nominated for the CC or as the PC. In this regard, NO National Construction Code assessment has been completed for the proposal. The proposal may be subject to performance base solutions provisions of the NCC.</p> <p>Recommended conditions are detailed in the referral response.</p>
Agency	Recommendation
Traffic for NSW	<p>12/09/2019 Interim TfNSW response (D19/316169) – additional information was requested in regard to SIDRA Modelling.</p> <p>28/02/2020 Interim RMS response (D20/71364) - TfNSW acknowledged that Council will be providing further information as per a resolution of Council's Development and Environment Committee on 3 September 2019 (i.e. Item Number: DE19.93).</p> <p>26/05/2020 Interim TfNSW response (D20/196826) - TfNSW acknowledged receipt of SIDRA files & history of correspondence collated by Council on the Pitman Ave Princes Highway intersection as per a resolution of Council's Development and Environment Committee on 3 September 2019 (i.e. Item Number: DE19.93).</p> <p>TfNSW requested that the development be removed from SP2 zoned land fronting the highway identified as arterial road widening under the Shoalhaven Local Environmental Plan 2014 (SLEP 2014) and that a strategic design be prepared to identify how the development would address safety and efficiency impacts the DA will have on the Princes Highway at its intersection with Pitman Avenue.</p> <p></p> <p>13/08/2020 Interim TfNSW response (D20/362324) – acknowledged receipt of concept roundabout & additional information and confirmed that supportive of a roundabout to address the impacts that the DA will have on the safety and efficiency of the Princes Highway at this intersection.</p>

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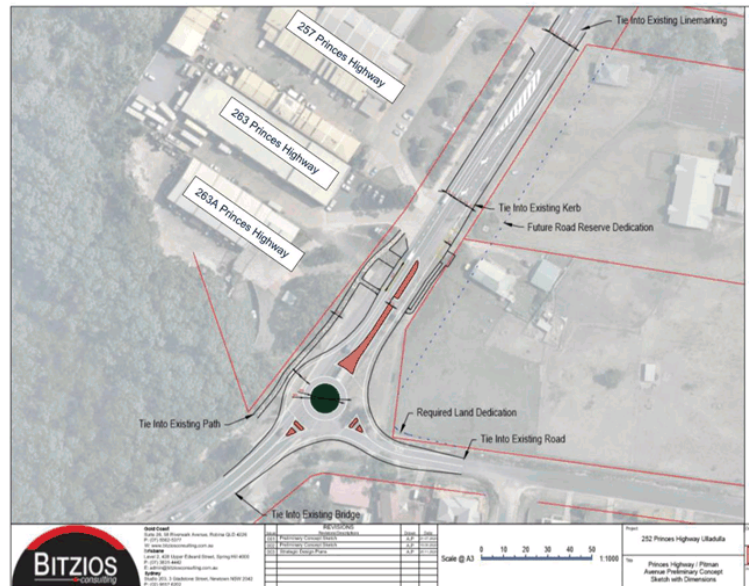
TfNSW also, identified some design issues with the submitted concept roundabout to address including, dimensions, geometric design, design vehicle requirements, access to properties, splitter islands, pedestrian refuges and paths, crossing site distance (bus stops), drainage, environmental impacts of any works that are proposed within the Princes Highway Road reserve as part of this DA.

31/08/2020 Interim TfNSW response (D20/390086) - TfNSW advised that it is satisfied that the updated concept sketches while still waiting for further information on sight distance assessment, design report, updated/more detailed strategic design.

17/12/2020 Interim TfNSW response (D20/559109) – acknowledged the Bitzios Design Report P434.001R Version 1 dated 27 November 2020 and concept sketches with reference Project No. P4341, Sheets 1 to 6, Issue 003 dated 26.11.20) which provided detail the provision of a single lane roundabout at the intersection of the Princes Highway and Pitman Avenue with associated works (refer image below).

Transport for NSW
Level 4, 50 Crown St, Wollongong NSW 2500 | PO Box 477, Wollongong NSW 2500 | ABN 18 804 239 002

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TfNSW requested additional information to address issues with the Bitzios concept design:

1. *Splitter island size.*
2. *Splitter island offsets.*
3. *Swept path analysis* - An updated swept path assessment is required to demonstrate that an Austroads 25m B-Double as listed in the *Austroads Design Vehicles and Turn Path Templates Guide* can undertake the through movements.
4. *Drawing dimensions corrections*
5. *Pavement cross falls.*

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	<p>6. <i>Scope of works</i> - TfNSW advises that it would be supportive of a reduced scope of works north of the proposed roundabout which still demonstrates compliance with applicable requirements (e.g. footpath providing connectivity to the bus stop, pedestrian/cyclist access across the roundabouts northern splitter island, etc).</p> <p>7. <i>Sight Distances</i> will need to be confirmed during detail design once levels have been applied to the design (i.e. as part of the Works Authorisation Deed (WAD) process).</p> <p>8. <i>Street Lighting</i>: Where required, lighting is to be upgraded and/or provided in accordance with Australian Standard (AS) 1158. Details on any new lighting and/or upgrades to ensure compliance with the above AS are to be included on the detailed design plans submitted as part of the WAD.</p> <p>9. <i>Environmental impacts</i> of any road works have been addressed by the applicant.</p> <p>10. <i>SP2 Zoned Land</i>: As detailed in the TfNSW letter dated 26 May 2020 the development site (Lot 1 DP 787732) is subject to a 10m wide arterial road widening SP2 zone under the Shoalhaven Local Environmental Plan 2014. Updated plans are required that show built structures (i.e. boles green, tennis court and 2.2m high modular wall) have been removed from encroaching into the identified SP2 Zoned portion of the development site.</p> <p>15/03/2021 Final TfNSW response STH16/00155/10 (D21/152953)</p> <ul style="list-style-type: none"> • The DA is proposing works within the Princes Highway road reserve (i.e. a new roundabout at the intersection of the Princes Highway/Pitman Avenue, associated splitter islands, etc. – refer to Attachment 1). Concurrence from TfNSW is required under Section 138 of the <i>Roads Act 1993</i> for this work; and • A portion of the development site that adjoins the Princes Highway is zoned SP2 and is identified as arterial road widening under the <i>Shoalhaven Local Environmental Plan 2014</i> (SLEP 2014). <p>Having regard to the above, TfNSW will not object to the DA subject to conditions outlined in (their) Attachment 2 being included in any development consent issued.</p> <p>Attachment 2</p> <p>1. Prior to the issuing of the Construction Certificate, the developer must:</p> <p>a) Enter into a Works Authorisation Deed (WAD) with the TfNSW for all works on the Princes Highway (i.e. the works as generally shown in Attachment 1 and as detailed in the Design Report prepared by Bitzios consulting dated 13 January 2021 with Ref: P4341.002R).</p> <p><i>Notes:</i></p> <ul style="list-style-type: none"> - A WAD is a legally binding contract between TfNSW and the developer, authorising the developer to undertake works on a State road and/or install traffic signals. - To progress the WAD, the developer needs to email a copy of the conditions of development consent to development.southern@rms.nsw.gov.au. - All roadworks and traffic control facilities must be undertaken by a pre-qualified contractor. A copy of prequalified contractors can be found on the TfNSW website at: http://www.rta.nsw.gov.au/doingbusinesswithus/tenderscontracts/prequalifiedcontractors.htm
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<p>- Any new services or modifications to existing services associated with this development application that involve works on, over or under the Princes Highway (as defined the area from kerb to kerb) must be incorporated into and managed under, the Works Authorisation Deed for the project. Note: It is the developer's responsibility to identify these works to the TfNSW project manager.</p> <p>- More information on WADs can be found at: www.rms.nsw.gov.au/documents/projects/factsheet-development-process.pdf</p> <p>b) Provide detailed design plans for all works within the Princes Highway road reserve to TfNSW. The detailed design plans must include, but not be limited to, details to address the following:</p> <ul style="list-style-type: none"> i. Show existing legal property boundaries, clarify property adjustments and dedication required to achieve the proposed arrangements (i.e. public road reserve dedications) as well as existing and proposed levels; ii. Ensure the pavement cross falls where the alignment of the northbound lane of the Princes Highway shifts across the existing centreline is considered and addressed; iii. Look at opportunities to increase the splitter islands on the Princes Highway south of the roundabout and Pitman Avenue (i.e. would be desirable but may not be possible); iv. Ensure any drainage works required are in accordance with TfNSW requirements; v. Ensure pavement design on the Princes Highway is in accordance with Austroads standards; vi. Ensure the sight distances comply with the applicable requirements in <i>Austroads Guide to Road Design Part 4B</i>, Section 3 (i.e. Criterion 1, 2 and 3); vii. Ensure the design for the works complies with the applicable requirements in <i>Austroads Guide to Road Design</i>, including associated supplements; viii. Where required, street lighting is to be upgraded and/or provided in accordance with Australian Standard AS/NZS1158. Details on any new lighting and/or upgrades to ensure compliance with the above AS are to be detailed; and ix. Provide a detailed pavement marking and signposting plan in compliance with TfNSW delineation guidelines and other relevant standards. <p>c) Demonstrate to the satisfaction of the Council the post-development stormwater discharge from the subject site that is going to the Princes Highway drainage system, does not exceed the pre-development application discharge.</p> <p>2. Prior to commencing works within the Princes Highway Road reserve, the developer must:</p> <p>a) Obtain Section 138 consent under the <i>Roads Act 1993</i> for the works associated with the WAD from TfNSW;</p> <p><i>Notes:</i></p> <p>- TfNSW will be exercising its powers under Section 64 of the <i>Roads Act, 1993</i> to become the roads authority for works associated with the WAD and therefore responsible for issuing the Section 138 consent for those specific works.</p> <p>b) Develop and implement a community information strategy about the works, in consultation with, and to the satisfaction of TfNSW; and</p>

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<p>c) Apply for, and obtain a Road Occupancy Licence (ROL) from the TfNSW Traffic Operations Unit (TOU) prior to commencing roadworks on the Princes Highway or any other works that impact a travel lane of the Princes Highway.</p> <p><i>Notes:</i></p> <ul style="list-style-type: none"> - For information on the ROL process and to lodge an ROL application, please visit https://myrta.com/oplinc2/pages/security/oplincLogin.jsf - The applicant will need to create an account (this may take a few days to register), prior to submitting the ROL application. The applicant must submit the ROL application 10 business days prior to commencing work. It should be noted that receiving approval for the ROL within this 10 business day period is dependent upon TfNSW receiving an accurate and compliant TMP. - The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Speed Zone Authorisation will also be required from the TOU. - An approved ROL does not constitute an approval to commence works until an authorisation letter for the works has been issued by TfNSW Project Manager. <p>3. Prior to the issuing of the Occupation Certificate the developer must:</p> <p>a) Have upgraded the junction of the Princes Highway and Pitman Avenue to a single lane roundabout to the satisfaction of TfNSW and in accordance with <i>Austrroads Guide to Road Design</i> and other relevant standards. Written confirmation must be provided from TfNSW that the works have been completed in accordance with the approvals issued.</p> <p><i>Notes:</i></p> <ul style="list-style-type: none"> - The pavement design on the Princes highway must be in accordance with <i>Austrroads standards</i>. - Where required, the developer must upgrade/provide lighting in accordance with <i>Australian Standard AS/NZS1158</i>. - All works need to be completed at no cost to TfNSW. <p>b) Physically close any other existing direct access points to/from the Princes Highway to the development site by fencing them and revegetating to TfNSW' satisfaction (e.g. the access point adjacent to the northern property boundary).</p> <p>c) Ensure any additional land that is outside the existing Princes Highway and Pitman Avenue road reserves and is required as public road reserve as a result of the construction of the roundabout is dedicated as public road.</p> <p>d) Provide a survey that has been undertaken by a registered surveyor to the certifier and TfNSW (email to TfNSW via development.southern@rms.nsw.gov.au) that confirms that all structures (e.g. fencing along the eastern development boundary) are located outside the land that is zoned SP2 (i.e. 10m from the existing Princes Highway road boundary).</p> <p><i>Note:</i></p> <p>TfNSW does not object to the proposed landscaping that is shown within the SP2 zoned land along the development sites Princes Highway frontage subject to it no impacting upon required sight distances. Should this land be used for road</p>

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	<i>widening/infrastructure in the future the landscaping will be removed at no cost to TfNSW.</i>
Endeavour Energy	<p>Endeavour Energy Response</p> <p>As shown in the below site plans from Endeavour Energy's G/Net master facility model (and extracts from Google Maps Street View and SIX Maps) there are:</p> <ul style="list-style-type: none"> • No easements over the site benefitting Endeavour Energy (active easements are indicated by red hatching). • Low voltage and 11,000 volt / 11 kilovolt (kV) high voltage overhead power lines to the Princes Highway road verge / roadway. • An extended low voltage overhead service conductor coming from the pole on the Princes Highway road verge to a customer owned pole (indicated by the green circle) providing the customer connection point for the existing dwelling on the site (which will become redundant assets if the development proceeds). <p>Please note the location, extent and type of any electricity infrastructure, boundaries etc. shown on the plan is indicative only. Generally (depending on the scale and/or features selected), low voltage (normally not exceeding 1,000 volts) is indicated by blue lines and high voltage (normally exceeding 1,000 volts but for Endeavour Energy's network not exceeding 132,000 volts / 132 kV) by red lines (these lines can appear as solid or dashed and where there are multiple lines / cables only the higher voltage may be shown). This plan only shows the Endeavour Energy network and does not show electricity infrastructure belonging to other authorities or customers owned electrical equipment beyond the customer connection point / point of supply to the property. This plan is not a 'Dial Before You Dig' plan under the provisions of Part 5E 'Protection of underground electricity power lines' of the <i>Electricity Supply Act 1995</i> (NSW).</p> <p>Subject to the following recommendations and comments Endeavour Energy has no objection to the Development Application.</p> <ul style="list-style-type: none"> • Network Capacity / Connection <p>Endeavour Energy has noted that the Statement of Environmental Effects does not appear to address in detail the suitability of the site for the development in regard to whether utility services are available and adequate for the development.</p> <p>The availability of electricity supply to a site is based on a wide range of factors eg. the age and design of the network; other development in the locality utilising previously spare capacity within the local network; the progress of nearby / surrounding sites including electricity infrastructure works eg. a smaller and isolated development that may not of its own accord require a distribution substation may require a substation to facilitate the development and from which the spare capacity is made available to subsequent nearby development. Older / above ground areas of the network utilising pole mounted substations (indicated by the symbol on the site plan from Endeavour Energy's G/Net master facility model) have comparatively limited capacity of 25 kilovolt amperes (kVA) up to a maximum of 400 kVA where as a newer padmount can accommodate loads from 315 kVA up to 1,500 kVA (typically 500 kVA) ie. there is a significant variation in the number and type of premises able to be connected to a substation.</p> <p>Applicants should not automatically assume that the presence of existing electricity infrastructure or nearby similar development means that adequate supply is</p>

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<p>immediately available to facilitate their proposed development. The two closest existing distribution substations are:</p> <ul style="list-style-type: none"> o Pole mounted substation no. 72070 located approximately 130 metres to the north on the Princes Highway which currently has 16 customer connection points servicing 51 premises. o Pole mounted substation no. 72389 located approximately 145 metres to the south east in Martin Avenue which currently has 133 customer connection points servicing 135 premises – which is at upper end of the capacity / number of premises able to be serviced by a pole mounted substation. <p>Both of these pole mounted substations are unlikely to have sufficient spare capacity to service a significant urban tourist / residential development. Given the large size of the proposed development (49 dwelling sites), an extension and/or augmentation of the existing local network is likely to be required. However the full extent of the work required to the local network to facilitate the proposed development will not be determined until the final load assessment is completed. Endeavour Energy's preference is to alert proponents / applicants (and Council) of the potential matters that may arise as redevelopment of urban areas continues to occur.</p> <p>In due course the applicant for the future proposed development of the site will need to submit an application for connection of load via Endeavour Energy's Network Connections Branch to carry out the final load assessment and the method of supply will be determined (also taking into consideration the potential further development / electricity load of the residue allotments).</p> <p>Depending on the outcome of the assessment, any required padmount substation will need to be located within the property (in a suitable and accessible location) and be protected (including any associated cabling) by an easement and associated restrictions benefiting and gifted to Endeavour Energy.</p> <p>Please refer to Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights'. Further details are available by contacting Endeavour Energy's Network Connections Branch via Head Office enquiries on telephone: 133 718 or (02) 9853 6666 from 8am - 5:30pm or on Endeavour Energy's website under 'Home > Residential and business > Connecting to our network' via the following link: http://www.endeavourenergy.com.au/.</p> <p>Advice on the electricity infrastructure required to facilitate the proposed development can be obtained by submitting a Technical Review Request to Endeavour Energy's Network Connections Branch, the form for which FPJ6007 is attached and further details (including the applicable charges) are available from Endeavour Energy's website under 'Our connection services'. The response to these enquiries is based upon a desktop review of corporate information systems, and as such does not involve the engagement of various internal stakeholders in order to develop a 'Connection Offer'. It does provide details of preliminary connection requirements which can be considered by the applicant prior to lodging a formal application for connection of load.</p> <p>Alternatively the applicant should engage a Level 3 Accredited Service Provider (ASP) approved to design distribution network assets, including underground or</p>

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<p>overhead. The ASP scheme is administered by NSW Planning, & Environment and details are available on their website via the following link or telephone 13 77 88: https://energysaver.nsw.gov.au/households/you-and-energy-providers/installing-or-altering-your-electricity-service .</p> <p>Endeavour Energy is urging applicants /customers to engage with an Electrical Consultant prior to finalising plans to in order to assess and incorporate any required electricity infrastructure. In so doing the consideration can also be given to its impact on the other aspects of the proposed development. This can assist in avoiding the making of amendments to the plan or possibly the need to later seek modification of an approved development application.</p> <ul style="list-style-type: none"> • Urban Network Design <p>Endeavour Energy's Company Policy 9.2.5 'Network Asset Design', includes the following requirements for electricity connections to new urban subdivision / development:</p> <p>5.11 Reticulation policy</p> <p>5.11.1 Distribution reticulation</p> <p>In order to improve the reliability performance of and to reduce the operating expenditure on the network over the long term the company has adopted the strategy of requiring new lines to be either underground cables or where overhead is permitted, to be predominantly of covered or insulated construction. Notwithstanding this strategy, bare wire overhead construction is appropriate and permitted in some situations as detailed below.</p> <p>In areas with the potential for significant overhanging foliage, CCT is used to provide increased reliability as it is less susceptible to outages from wind-blown branches and debris than bare conductors. CCT must only be used in treed² areas as the probability of a direct lightning strike is low. In open areas where the line is not shielded from a direct lightning strike, bare conductors must generally be used for 11kV and 22kV reticulation.</p> <p>Non-metallic Screened High Voltage Aerial Bundled Cable (NMSHVABC) must be used in areas which are heavily treed and where it is not practicable to maintain a tree clearing envelope around the conductors.</p> <p>² A "treed" area is one with a substantial number of trees adjacent to the line, in each span. In these situations CCT is used to provide increased reliability as it is less susceptible to outages from wind-blown</p> <p>5.11.1.1 Urban areas</p> <p>Reticulation of new residential subdivisions will be underground. In areas of low bushfire consequence, new lines within existing overhead areas can be overhead, unless underground lines are cost justified or required by either environmental or local council requirements.</p> <p>Where underground reticulation is required on a feeder that supplies a mixture of industrial, commercial and/or residential loads, the standard of underground construction will apply to all types of load within that development.</p> <p>Where ducting is used, adequate spare ducts and easements must be provided at the outset to cover the final load requirements of the entire development plan.</p> <p>Extensions to the existing overhead 11kV/22kV network must generally be underground. Bare wire will be used for conductor replacements and augmentations except in treed areas where CCT or NMSHVABC must be used.</p> <p>Extensions to the existing overhead LV network and augmentations must either be underground or ABC. Conductor replacements greater than 100m in route length must utilise aerial bundled cable.</p> <ul style="list-style-type: none"> • Earthing <p>The construction of any building or structure (including fencing, signage, flag poles, hoardings etc.) whether temporary or permanent that is connected to or in close proximity to Endeavour Energy's electrical network is required to comply with Australian/New Zealand Standard AS/NZS 3000:2018 'Electrical installations' as</p>

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updated from time to time. This Standard sets out requirements for the design, construction and verification of electrical installations, including ensuring there is adequate connection to the earth. Inadequate connection to the earth to allow a leaking/fault current to flow into the grounding system and be properly dissipated places persons, equipment connected to the network and the electricity network itself at risk from electric shock, fire and physical injury.

• Network Access

It is imperative that the access to the existing electrical infrastructure on and in proximity of the site be maintained at all times. To ensure that supply electricity is available to the community, access to the electricity infrastructure may be required at any time. Restricted access to electricity infrastructure by maintenance workers causes delays in power restoration and may have severe consequences in the event of an emergency.

• Bushfire

Endeavour Energy has noted that the Statement of Environmental Effects indicate that 'Shoalhaven City Council's Bushfire Prone Land Map indicates the subject site is bushfire prone'. The accompanying Bushfire Risk Assessment provides the following advice on electricity services to the site having regards to NSW Rural Fire Service 'Planning for Bush Fire Protection 2006'.

Table 3: Provides the performance criteria and acceptable solutions for water, electricity and gas for special fire protection purposes in accordance with sections 4.2.7 (2) of PBP 2006.

Performance Criteria	Acceptable Solutions	Compliance
Electricity Services <ul style="list-style-type: none"> Location of electricity services limits the possibility of ignition of surrounding bushland or the fabric of buildings Regular inspection of lines is undertaken to ensure they are not fouled by branches. 	<ul style="list-style-type: none"> where practicable, electrical transmission lines are underground. 	<p>Where practicable, electrical transmission lines are to be underground</p> <p>Where overhead electrical transmission lines are proposed:</p> <ul style="list-style-type: none"> Lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and No part of a tree is closer to a power line than the distance set out in accordance with the specification in Vegetation Safety Clearances issued by Energy Australia (NS179, April 2002).

The following is an extract of Endeavour Energy's Company Policy 9.1.1 Bushfire Risk Management:

9.1.1 BUSHFIRE RISK MANAGEMENT

1.0 POLICY STATEMENT

The company is committed to the application of prudent asset management strategies to reduce the risk of bushfires caused by network assets and aerial consumer mains to as low as reasonably practicable (ALARP) level. The company is also committed to mitigating, the associated risk to network assets and customer supply reliability during times of bushfire whilst achieving practical safety, reliability, quality of supply, efficient investment and environmental outcomes. The company is committed to compliance with relevant acts, regulations and codes.

Accordingly the network required to service the proposed development must be fit for purpose and meet the technical specifications, design, construction and commissioning standards based on Endeavour Energy's risk assessment associated with the implementation and use of the network connection /

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	<p>infrastructure for a bushfire prone site. In assessing bushfire risk, Endeavour Energy has traditionally focused on the likelihood of its network starting a bushfire, which is a function of the condition of the network. Risk control has focused on reducing the likelihood of fire ignition by implementing good design and maintenance practices. However safety risks associated with the loss of electricity supply are also considered.</p> <p>• Prudent Avoidance</p> <p>The electricity network is operational 24/7/365 ie. all day, every day of the year. The electricity industry has adopted a policy of prudent avoidance by doing what can be done without undue inconvenience and at modest expense to avert the possible risk to health from exposure to emissions from electricity infrastructure such as electric and magnetic fields (EMF) and noise (both overhead power lines and transformers can produce an audible sound or buzz as a side effect of carrying electricity) which generally increase the higher the voltage ie. Endeavour Energy's network ranges from low voltage (normally not exceeding 1,000 volts) to high voltage (normally exceeding 1,000 volts but not exceeding 132,000 volts / 132 kV).</p> <p>In practical terms this means that when designing new transmission and distribution facilities, consideration is given to locating them where exposure to the more sensitive uses is reduced and increasing separation distances. Noise levels can vary and people perceive sounds differently so to minimise any potential exposure to intrusive noise, the siting towards the electricity infrastructure of less susceptible uses such as garages, nonhabitable or rooms not regularly occupied in the dwelling / building is recommended. This will also assist in reducing exposure to EMF.</p> <p>Where development is proposed in the vicinity of electricity infrastructure, Endeavour Energy is not responsible for any amelioration measures for such emissions that may impact on the nearby proposed development. Endeavour Energy believes that likewise applicants and Council should also adopt a policy of prudent avoidance by the siting of more sensitive uses away from any electricity infrastructure – including any possible future electricity infrastructure required to facilitate the proposed development.</p> <p>Please find attached a copy of Energy Networks Association's 'Electric & Magnetic Fields – What We Know' which can also be accessed via their website at https://www.energynetworks.com.au/electric-and-magneticfields and provides the following advice:</p> <p><i>Electric fields are strongest closest to their source, and their strength diminishes rapidly as we move away from the source.</i></p> <p><i>The level of a magnetic field depends on the amount of the current (measured in amps) and decreases rapidly once we move away from the source.</i></p> <p>Typical magnetic field measurements associated with Endeavour Energy's activities and assets given the required easement widths, safety clearances etc. and having a maximum voltage of 132,000 volt / 132 kV, will with the observance of these separation distances not exceed the recommended magnetic field public exposure limits.</p> <p>• Vegetation Management</p>
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The planting of large trees in the vicinity of electricity infrastructure is not supported by Endeavour Energy. Suitable planting needs to be undertaken in proximity of electricity infrastructure (including any new electricity infrastructure required to facilitate the proposed development). Larger trees should be planted well away from electricity infrastructure and even with underground cables, be installed with a root barrier around the root ball of the plant.

Landscaping that interferes with electricity infrastructure could become a potential safety risk, restrict access, reduce light levels from streetlights or result in the interruption of supply may become subject to Endeavour Energy's Vegetation Management program and/or the provisions of the *Electricity Supply Act 1995* (NSW) Section 48 'Interference with electricity works by trees' by which under certain circumstances the cost of carrying out such work may be recovered.

Endeavour Energy has noted that as shown in the following extracts of the landscape Plan that trees are proposed to be planted to the Princes Highway building setback in proximity of the existing overhead power lines.

Endeavour Energy's recommendation is that existing street trees which are of low ecological significance in proximity of overhead power lines be replaced and any proposed planting of new trees within the proximity of overhead power lines be replaced by an alternative smaller planting to ensure appropriate clearances are maintained whilst minimising the need for future pruning.



Planting Schedule				
ID	Qty	Common Name	Botanical Name	Scheduled Size
Trees				
CUP	7	Tuckeroo	<i>Cupressus anacardioidea</i>	7500
FEA	4	Gutter Ash	<i>Fraxinus excelsior 'Aurea'</i>	7500
HTR	7	Red Cottonwood	<i>Populus nigra 'Rubra'</i>	4000
LA	13	Colombiana Palm	<i>Levobasis australis</i>	10000
LOP	7	Brush Box	<i>Lophostemon confertus</i>	4000
TLL	8	Luscious Water Gum	<i>Tetrastemon laurina 'Luscious'</i>	7500

In regard to the future padmount substation possibly required to facilitate the proposed development, please find attached for the applicant's reference a copy Endeavour Energy's 'Guide to Fencing, Retaining Walls and Maintenance Around Padmount Substations'.

- Dial Before You Dig

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	<p>Before commencing any underground activity the applicant is required to obtain advice from the Dial Before You Dig 1100 service in accordance with the requirements of the <i>Electricity Supply Act 1995</i> (NSW) and associated Regulations. This should be obtained by the applicant not only to identify the location of any underground electrical and other utility infrastructure across the site, but also to identify them as a hazard and to properly assess the risk.</p> <ul style="list-style-type: none"> • Removal of Electricity Supply <p>Approval for the permanent disconnection and removal of supply must be obtained from Endeavour Energy's Network Connections Branch (contact via Head Office enquiries on telephone: 133 718 or (02) 9853 6666 from 8am - 5:30pm) by Accredited Service Providers (ASP) with the relevant class of Authorisation for the type of work being carried out. The work could involve:</p> <ul style="list-style-type: none"> • The disconnection and removal of an underground service cable or overhead service line, • Removal of metering equipment. <p>The written request must be submitted to Endeavour Energy using Form FPJ4603 'Permission to Remove Service / Metering by Authorised Level 2 Accredited Service Provider' which must be accompanied by Notification of Service Works (NOSW) forms provided as a result of service work activity performed by a Level 2 ASP. The retailer must also provide written agreement for the permanent removal of supply. For details of the ASP scheme please refer to the above point 'Network Capacity / Connection'.</p> <ul style="list-style-type: none"> • Demolition <p>Demolition work is to be carried out in accordance with Australian Standard AS 2601—2001: 'The demolition of structures' as updated from time to time. All electric cables or apparatus which are liable to be a source of danger, other than a cable or apparatus used for the demolition works shall be disconnected ie. the existing customer service lines will need to be isolated and/or removed during demolition. Appropriate care must be taken to not otherwise interfere with any electrical infrastructure on or in the vicinity of the site eg. streetlight columns, power poles, overhead power lines and underground cables etc.</p> <ul style="list-style-type: none"> • Public Safety <p>Workers involved in work near electricity infrastructure run the risk of receiving an electric shock and causing substantial damage to plant and equipment. I have attached Endeavour Energy's public safety training resources, which were developed to help general public / workers to understand why you may be at risk and what you can do to work safely. The public safety training resources are also available via Endeavour Energy's website via the following link:</p> <p>http://www.endeavourenergy.com.au/wps/wcm/connect/ee/nsw/nsw+homepage/communitynav/safety/safety+brochures .</p>
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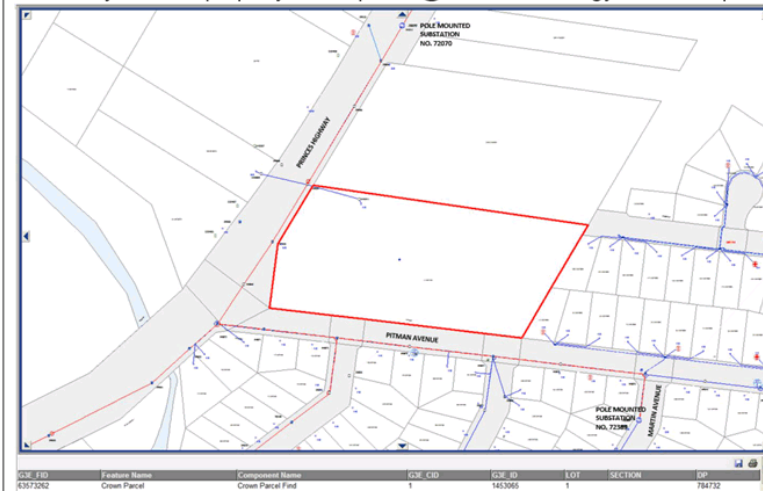
If the applicant has any concerns over the proposed works in proximity of the Endeavour Energy's electricity infrastructure to the road verge / roadway, as part of a public safety initiative Endeavour Energy has set up an email account that is accessible by a range of stakeholders across the company in order to provide more effective lines of communication with the general public who may be undertaking construction activities in proximity of electricity infrastructure such as builders, construction industry workers etc. The email address is Construction.Works@endeavourenergy.com.au.

• Emergency Contact

In case of an emergency relating to Endeavour Energy's electrical network, the applicant should note the **Emergencies Telephone is 131 003** which can be contacted 24 hours/7 days. Endeavour Energy's contact details should be included in the any risk or safety management plan.

I appreciate that not all the foregoing issues may be directly or immediately relevant or significant to the Development Application eg. if a padmount substation is not required. However, Endeavour Energy's preference is to alert proponents / applicants of the potential matters that may arise should development within closer proximity of the existing and/or required electricity infrastructure needed to facilitate the proposed development on or in the vicinity of the site occur.

Could you please pass on a copy of this submission and the attached resources to the applicant? Should you wish to discuss this matter, or have any questions, please do not hesitate to contact me or the contacts identified above in relation to the various matters. Due to the high number of development application / planning proposal notifications submitted to Endeavour Energy, to ensure a response contact by email to property.development@endeavourenergy.com.au is preferred.



5. Other Approvals

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Agency	Recommendation
Rural Fire Service	<p>30/09/2019 Interim RFS response (D19/340884)</p> <p>7/04/2020 Interim RFS response RFS issued General Terms of Approval (GTAs) and Bush Fire Safety Authority (BFSA) (D20/507728) in error as it identified the development as a subdivision and not a Manufactured Home Estate.</p> <p>26/11/20 Re-referred to RFS. Issues with terminology used in the SEE and Bushfire report and GTAs issued by the RFS.</p> <p>8/02/21 Re-referred to RFS with corrected SEE and Bushfire Report.</p> <p>1/04/2021 RFS issued GTAs and BFSA (D21/132786). Unfortunately, this response did not align with the response for DA21/1304 or Planning for Bushfire 2019 standard, did not correctly classify the development as a MHE (referring to subdivision requirements that were not appropriate) and failed to address evacuation management.</p> <p>26/05/2021 RFS issued revised GTAs and BFSA (D21/217089) as detailed below:</p> <p>DA-2019-03129-CL55-(none)</p> <p>The New South Wales Rural Fire Service (NSW RFS) has reviewed the submitted amended information. General Terms of Approval are now re-issued, under Division 4.8 of the <i>Environmental Planning and Assessment Act 1979</i>, and a Bush Fire Safety Authority, under section 100B of the <i>Rural Fires Act 1997</i>, are now issued subject to the following conditions.</p> <p>Asset Protection Zones <i>The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:</i></p> <p>1. From commencement of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire site must be managed as an inner protection area (IPA). The IPA must comprise:</p> <ul style="list-style-type: none"> • Minimal fine fuel at ground level; • Grass mowed or grazed; • Trees and shrubs retained as clumps or islands and do not take up more than 20% of the area; • Trees and shrubs located far enough from buildings so that they will not ignite the building; • Garden beds with flammable shrubs not located under trees or within 10 metres of any windows or doors; • Minimal plant species that keep dead material or drop large quantities of ground fuel; • Tree canopy cover not more than 15%; • Tree canopies not located within 2 metres of the building; • Trees separated by 2-5 metres and do not provide a continuous canopy from the hazard to the building; and, • Lower limbs of trees removed up to a height of 2 metres above the ground.

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	<p>Construction Standards <i>The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:</i></p> <p>2. Prior to construction of any manufactured home, associated structure or the community facility, a suitably worded instrument shall be created over the proposed land pursuant to section 88 of the 'Conveyancing Act 1919' which requires:</p> <ul style="list-style-type: none"> • All manufactured homes and associated structures within Lots 37 to 49 to comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and Section 7.5 of 'Planning for Bush Fire Protection 2019'. • All other manufactured homes, associated structures and the community facility within the site to comply with section 3 and section 5 (BAL 12.5) Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and Section 7.5 of 'Planning for Bush Fire Protection 2019'. <p>Access - Internal Roads <i>The intent of measures is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:</i></p> <p>3. Access roads for special fire protection purpose (SFPP) developments must comply with following requirements of Table 6.8b of <i>Planning for Bush Fire Protection 2019</i>:</p> <ul style="list-style-type: none"> • SFPP access roads are two-wheel drive, all-weather roads; • access is provided to all structures; • traffic management devices are constructed to not prohibit access by emergency services vehicles; • access roads must provide suitable turning areas in accordance with Appendix 3; and • one way only public access roads are no less than 3.5 metres wide and have designated parking bays with hydrants located outside of these areas to ensure accessibility to reticulated water for fire suppression. • hydrants are located outside of parking reserves and road carriageways to ensure accessibility to reticulated water for fire suppression; • hydrants are provided in accordance with the relevant clauses of AS 2419.1:2005; and • there is suitable access for a Category 1 fire appliances to within 4m of the static water supply where no reticulated supply is available. <p>Water and Utility Services <i>The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.</i></p> <p>4. The provision of water, electricity and gas must comply the specifications and requirements of Table 6.8c of <i>Planning for Bush Fire Protection 2019</i>.</p> <p>Landscaping Assessment</p>
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<p><i>The intent of measures is for landscaping. To achieve this, the following conditions shall apply:</i></p> <p>5.</p> <p>Landscaping within the required asset protection zone shall comply with Appendix 4 of 'Planning for Bush Fire Protection 2019'. In this regard, the following principles are to be incorporated:</p> <ul style="list-style-type: none"> • A minimum 1 metre wide area, suitable for pedestrian traffic, shall be provided around the immediate curtilage of buildings; • Planting is limited in the immediate vicinity of buildings; • Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters); • Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA) and trees do not touch or overhang buildings; • Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies; • Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown; • Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter); • Avoid climbing species to walls and pergolas; • Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building; • Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and • Low flammability vegetation species are used. <p>Emergency and Evacuation Planning Assessment <i>Intent of measures: to provide suitable emergency and evacuation arrangements for occupants of SFPP developments.</i></p> <p>6.</p> <p>Prior to occupation of any manufactured home, bush fire emergency management and evacuation planning shall comply with the acceptable solution requirements of Table 6.8d of <i>Planning for Bush Fire Protection 2019</i> and part 3.7 of the Bushfire Assessment Report by SET Consultants dated 21 January 2021 and be maintained for the life of the development.</p> <p>General Advice – Consent Authority to Note</p> <ul style="list-style-type: none"> • The name of authority empowered to release, vary or modify the instruments outlined above shall be Shoalhaven City Council. <p>This letter is in response to an assessment of the application based on the submitted further information and supersedes our previous general terms of approval dated 01/04/2021.</p>
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6. Statutory Considerations

This report assesses the proposed development/use against relevant State, Regional and Local Environmental Planning Instruments and policies in accordance with Section 4.15 (1) of the Environmental Planning and Assessment Act 1979 (EP&A Act). The following planning instruments and controls apply to the proposed development:

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Instrument	Relevant
Shoalhaven LEP 2014	<input checked="" type="checkbox"/>
Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005	<input checked="" type="checkbox"/>
State Environmental Planning Policy No 55 - Remediation of Land	<input checked="" type="checkbox"/>
State Environmental Planning Policy (Infrastructure) 2007	<input checked="" type="checkbox"/>
State Environmental Planning Policy No 36 – Manufactured Home Estates	<input checked="" type="checkbox"/>
State Environmental Planning Policy – (Coastal Management) 2018	<input checked="" type="checkbox"/>
Rural Fires Act 1997 and Rural Fires Regulation 2013	<input checked="" type="checkbox"/>

Additional information on the proposal's compliance with the above planning instruments is detailed below in Section 7 (Statement of Compliance/Assessment) of this report.

7. Statement of Compliance/Assessment

The following provides an assessment of the submitted application against the matters for consideration under Section 4.15 of the EP&A Act.

(a) Any planning instrument, draft instrument, DCP and regulations that apply to the land

Environmental Planning and Assessment Act 1979

Section 4.46 – Integrated Development			
Act	Provision	Approval	Relevant
Rural Fires Act 1997	100B	Authorisation under section 100B in respect of bush fire safety for development of land for special fire protection purposes	<input checked="" type="checkbox"/>

i) Environmental planning instrument

Rural Fires Act 1997



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Figure 27 – Bushfire Map

The provisions of the **Rural Fires Act 1997** (RF Act) have been considered in the assessment of the development application.

Under s100B of the RF Act, a person must obtain a **Bush Fire Safety Authority** (BFSA) before developing bush fire prone land for a **special fire protection purpose** (SFPP). Manufactured Home Estates are called up as a SFPP by clause 46 of the RF Regs.

In accordance with s4.47(2) of the EP & A Act 1979, the application was initially referred to the RFS in 2019 who issued **General terms of Approval** (GTAs) in 2020 in error that relied on information in the SEE and Bushfire Report that described the development incorrectly.

The application was re-referred to the RFS with revised SEE and Bushfire Report on 8/02/2021. The RFS issued updated GTAs and a BFSA on 1 April 2021. Unfortunately, these responses did not align with each other and planning for bushfire 2019 standard, did not correctly classify the development as a MHE (referring to subdivision requirements that were not appropriate) and failed to address evacuation management.

On 26 May 2021 RFS issued revised General Terms of Approval and Bush Fire Safety Authority which are referenced to the recommended conditions of consent.

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

community amenity means a space or facility that is required (by this Regulation or otherwise) to be provided within a manufactured home estate, caravan park or camping ground that is used or intended to be used—

- (a) for the purposes of administration or servicing of that manufactured home estate, caravan park or camping ground, or
- (b) for recreational or other communal purposes serving the interests of the occupiers of manufactured homes within a manufactured home estate or moveable dwellings within a caravan park or camping ground, but does not include any car parking space.

community building means a building (such as a shower block, toilet block or laundry block) that is used or intended to be used in connection with a community amenity, and includes a building that is to be used as a manager's or caretaker's office or residence.

dwelling site—

- (a) in relation to a manufactured home estate—means an area of land within the manufactured home estate that is designated as a dwelling site by the approval for the manufactured home estate

major access road means an access road serving more than 30 dwelling sites within a manufactured home estate.

installation means—

- (a) in relation to a manufactured home or a relocatable home—the process of connecting together the major sections of the manufactured home or relocatable home, and any associated structures forming part of the manufactured home or relocatable home, and attaching them to footings, or
- (b) in relation to an associated structure—the process of constructing or assembling the components of the associated structure, and (if appropriate) attaching them to footings, and includes the connection of gas, electricity, telephone, water, sewerage and drainage services.

relocatable home means—

- (a) a manufactured home, or
- (b) any other moveable dwelling (whether or not self-contained) that comprises one or more major sections, including any associated structure that forms part of the dwelling,

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but does not include a tent, caravan or campervan or any moveable dwelling that is a vehicle of a kind that is capable of being registered within the meaning of the [Road Transport Act 2013](#).

Compliance against Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005		
Cl.12	Min' size of estate 1 ha	1.82 ha
Cl.13	Community amenities	✓
Cl.14	Dwelling sites min 130m2	✓
cl.15	Site ID	Prior to Operational approval
Cl.16	sites have road frontage	✓
cl.17	10m Setback from boundary	10m from boundary sth ,9.99m from western boundary.
Cl.18	Setbacks from roads.	✓
Cl.20	Roads	✓
Cl.21	Width of roads	✓
Cl.22	Speed Restrictions	Prior to Operational approval
Cl.23 & 24	Visitor Parking/Disable parking	✓ 12 needed 15 proposed including 1 disabled space
Cl 25	Road surfaces	All weather seal proposed.
Cl 26	Lighting	Prior to Operational approval
CL27	Water Supply	Reticulated water available. Check Prior to Operational approval
Cl28	Sewerage	Sewer Available
Cl 29	Drainage	Check Prior to Operational approval
Cl 30	Electricity	Check Prior to Operational approval
Cl 31	Telephone	To be provided
Cl 33	Garbage removal	Private contractor within the subject site
Cl 34	Fire Hydrant	Check Prior to Operational approval
Cl 38	Access to approval and Community Map	The documents subject to this clause shall be provided within the Community Building, or another physical location within the estate.

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SEPP (Coastal Management) 2018

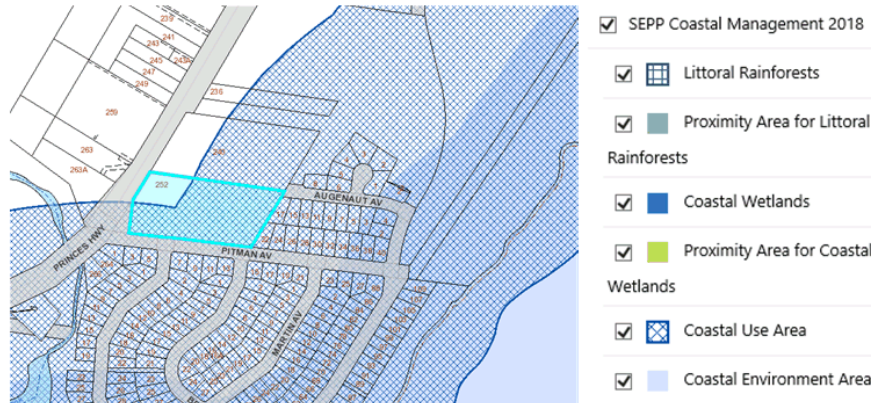


Figure 28 - SEPP (Coastal Management) 2018 Map.

The subject site is Located within the coastal use area of the SEPP.

Division 4 Coastal use area 14 Development on land within the coastal use area	Comment
(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—	
(a) has considered whether the proposed development is likely to cause an adverse impact on the following—	
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	NA as site is remote from the foreshore, beach, headland or rock platform
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	NA as site is remote from the foreshore, beach, headland or rock platform
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	NA as site is remote from the foreshore, beach, headland or rock platform
(iv) Aboriginal cultural heritage, practices and places,	Site not identified as having any cultural significance
(v) cultural and built environment heritage, and	NA
(b) is satisfied that—	
(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or	satisfied
(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	NA

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(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and	NA
(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.	Noted – it is acknowledged that the proposed development has a higher density than the surrounding R2 zoned land, while retaining single storey dwellings of a 2 and 3 bedroom layout.

SEPP (Infrastructure) 2007

Considerations	Comments
Classified Roads	
101 Development with frontage to classified road (1) The objectives of this clause are— (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads. (2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that— (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—	<p>The Princes Highway is a classified state road. The development application was referred to TfNSW for approval under the provisions of Schedule 3 off SEPP (Infrastructure) 2007 as a traffic generating development with a new intersection proposed on the Princes Highway.</p> <ul style="list-style-type: none"> Subclause 101(2)(a) ('where practicable and safe, vehicular access to the land is provided by a road other than the classified road'), is relevant because the site has frontage to Pitman Ave (unclassified at this location) and Princes Highway (regional classified road at this location). <p>The applicant has submitted concept plans (refer to Figures 2 & 9) for an upgraded roundabout intersection treatment at the junction of Pitman Ave and the Princes Highway that has been accepted by TfNSW and Council's traffic engineers as providing a practicable and safe, vehicular access to the land that can be provided by a road (Pitman Ave) other than the classified road.</p> <p>In accord with the test of practicability established by the case of <i>Modern Motels Pty Ltd v Fairfield City Council</i> [2013] NSWLEC 138, the desired outcome is for access to the land to be via the unclassified local road – Pitman Ave, which will ensure that the development does not compromise the effective and ongoing operation and function of the classified road (Princes Highway).</p> <ul style="list-style-type: none"> Subclause 101(2)(b) (the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development) is relevant due to the proposed highway intersection upgrade design for a roundabout with Pitman Ave and associated pedestrian paths, refuges and bus shelter upgrades. <p>A Traffic Impact Assessment (TIA) prepared by <i>Bitzios Consulting</i> concluded that:</p> <ul style="list-style-type: none"> The Princes Highway / Pitman Avenue intersection operates within acceptable performance limits in the PM peak with or without the proposed development at the year 2020.

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(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

However, with development traffic, the intersection does not operate within acceptable performance limits in the AM peak at the year 2020.

- o The Princes Highway / Pitman Avenue intersection is expected to operate significantly outside acceptable performance limits by the year 2030 with or without the proposed development and would fail to operate within acceptable performance limits by the year 2021 without the proposed development.
- o The proposed roundabout generally operates within acceptable performance limits at the year 2030 with or without the proposed development. It is also noted that development generated trips have a minimal impact on intersection operations.
- o The roundabout treatment has been designed to accommodate up to a 23m B-Double for north/south highway traffic movement and up to 19m articulated vehicle (AV) for the Pitman Ave leg.
- o The proposed roundabout is expected to act as a traffic calming device for northbound traffic entering Ulladulla and provide significant safety benefits at the Princes Highway / Pitman Avenue intersection. The proposed roundabout is therefore considered an appropriate upgrade, mitigating short and long-term intersection safety and operational issues.

Year	Intersection Type	Level of Service	Delay in seconds accessing the Princes Highway from Pitman Ave	Queue Length m in Pitman Ave on Approach to Princes Highway
2020	Existing Give Way Layout			
	No development	E	63	17
	With MHE development	F	118	41
2030 10-year Design Horizon	No development	F	1522	232
	With MHE development	F	2259	341
2030 10-year Design Horizon	Roundabout Intersection Upgrade			

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		No development	A	3	5
		With MHE development	A	11	7
	<p><i>Figure 29 - Summary of SIDRA Survey and Modelling for the intersection of the Princes Highway and Pitman Ave.</i></p> <p>It is clear that the introduction of the proposed roundabout treatment at the intersection of the Princes Highway and Pitman Ave with associated pedestrian crossings and pathways will improve the safety, efficiency and ongoing operation of the classified road (Princes Highway).</p> <ul style="list-style-type: none"> Subclause 2(c) (the development is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road) applies to the development as it proposes residential use in proximity to a classified road. <p>A Traffic Noise Intrusion Assessment prepared by Harwood Acoustics was submitted with the application. The report includes recommendations which are incorporated in the draft conditions to ensure the development will not be impacted by noise generated by the surrounding uses if approved.</p>				
102 Impact of road noise or vibration on non-road development	NA Princes Highway in location has an AADT < 20 000 vehicles and therefore the provision does not apply.				

SEPP 55 Remediation of Land

The site is not identified in council's records as being potentially contaminated. The demolition of the existing structures will require an asbestos demolition report which is included in the recommended conditions of consent.

Question	Yes	No
1. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)?	Proceed to Question 3	x Proceed to Question 2
2. Does the proposal result in a change of use (that is the establishment of a new use)?	x Proceed to Question 3	
3. Does the application proposed a new: <ul style="list-style-type: none"> Child care facility Educational use Recreational use Health care use Place of public worship Residential use in a commercial or industrial zone 	x Proceed to Question 5	Proceed to Question 4

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Question	Yes	No
4. Review the property file and conduct a site inspection of the site and surrounding lands. Is there any evidence that the land has been used for a listed purpose?	Proceed to Question 5	x Proposal satisfactory under SEPP 55 and DCP.
5. Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater?	Request contaminated site assessment	x Site is not identified on councils PCL register. The site currently consists of a residential dwelling and auxiliary structures that support small scale horse grazing on site. Given the current use of the site, there is no reason to suspect that this property is subject to any contamination. Proposal satisfactory under SEPP 55 and DCP.

SEPP 36 – Manufactured Home Estates

manufactured home means a self-contained dwelling (that is, a dwelling that includes at least 1 kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities), being a dwelling—
(a) that comprises 1 or more major sections that are each constructed, and assembled, away from the manufactured home estate and transported to the estate for installation on the estate, and
(b) that is not capable of being registered under the [Traffic Act 1909](#),
and includes any associated structures that form part of the dwelling.

manufactured home estate means land on which manufactured homes are, or are to be, erected.

3 Land to which this Policy applies

(1) This Policy applies ... to all other areas in the State that are outside the Sydney region.

4 Relationship to other environmental planning instruments

(1) In the event of an inconsistency between this Policy and any other environmental planning instrument whether made before or after this Policy, this Policy prevails to the extent of the inconsistency.

6 Where development for the purposes of a manufactured home estate may be carried out

Development for the purposes of a manufactured home estate may be carried out pursuant to this Policy on any land on which development for the purposes of a caravan park may be carried out, except—

(a) land within one or more of the categories described in Schedule 2, or	NA
(b) land dedicated or reserved under the National Parks and Wildlife Act 1974 , or	NA
(c) land within a Crown reserve.	NA

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Schedule 2 Categories of excluded land		Comment
1 Land which the council, after taking into account the principles set out in the Coastline Management Manual published by the New South Wales Government in September 1990, considers is unsuitable for residential development because of coastal erosion, tidal inundation, slip, dunal movement or any other risk of a similar nature.		NA
2 Land which the council, after taking into account the principles set out in the Floodplain Development Manual published by the New South Wales Government in December 1986, considers is unsuitable for residential development because of flooding.		NA site is not flood prone land
3 Land which is within a water catchment area identified by a water supply authority.		NA
4 Land which, in the opinion of the council, is affected to an unacceptable level by an offensive or hazardous industry or any form of pollution.		NA
5 Land which is identified in an environmental planning instrument, or in any planning strategy of the Department or the council approved for the time being by the Director, by words which are cognate with or a description consistent with any one or more of the following— extractive resources, services corridors, airport/industry buffer area, habitat corridor, containing significant remnant vegetation, littoral rainforest, water catchment, wetlands.		NA
6 Land which under any environmental planning instrument is within an area or zone identified in that instrument by the description— <ul style="list-style-type: none">• open space, other than open space (private recreation)• environmental protection• scenic protection• rural (where the land is not adjacent to or adjoining land zoned for urban use).		NA subject site is zoned SP3 Tourist
7 Land that is within the following coastal local government areas, being land that is not zoned or reserved under an environmental planning instrument for urban use and is not identified as suitable for urban development under the Coastal Urban Planning Strategies or Residential Strategies approved for the time being by the Director— Shoalhaven		NA site is zoned SP3 Tourist
7 Development consent required for manufactured home estates		Comment
(1) Development for the purposes of a manufactured home estate permitted to be carried out by this Policy may be carried out only with the development consent of the council.		
(2) A council must not consent to any such development unless it imposes, as a condition of the consent, a requirement that an approval to operate a manufactured home estate on the land on which the development is to be carried out must be obtained under Part 1 of Chapter 7 of the Local Government Act 1993 .		Condition to be incorporated into draft conditions
8 Subdivision of manufactured home estates		Comment
(1) Land on which development for the purposes of a manufactured home estate may be lawfully carried out (whether or not because of a development consent granted pursuant to this Policy) may be subdivided—		No subdivision proposed for the current application
9 Matters to be considered by councils		Comment
(1) A council may grant a development consent pursuant to this Policy allowing development for the purposes of a manufactured home estate only if it is satisfied—		

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(a) that each of the sites on which a manufactured home is or will be installed within the manufactured home estate is or will be adequately provided with reticulated water, a reticulated sewerage system, drainage and electricity, and

Water, sewer, drainage and power infrastructure is available to serve the development.

Complies

(b) that the manufactured home estate is or will be provided with adequate transport services, and

Applicant - The proposed site has vehicle access from Pitman Avenue to the south of site. The access being provided will ensure safe access on and off the site. Public transport is also available to the site, with two bus stops located on Princes Highway west of the site. A pedestrian footpath will be constructed, linking the site to these existing bus stops.

Ulladulla Bus lines have 2 routes that serve the site – route 740B Ulladulla to Burrill Lake & Return operates 4x/day Monday to Friday and 3 x on weekends & route 741 Ulladulla to Kioloa & Return operates 3 x /day.

[Ulladulla to Burrill Lake & Return](#) [Ulladulla to Kioloa & Return](#)

740B		741	
ULLADULLA TO BURRILL LAKE		ROUTE 740B	
		via Kings Point	
		Monday to Friday	
		Saturday	
ULLADULLA TO BURRILL LAKE		via Kings Point	
		am	
11 Ulladulla Martin Hotel - Princes Hwy	9:25	11:30	2:40
13 Kings Point - James Crescent	-	-	-
8 Princes Hwy - Opp Kings Point Dr	9:28	11:33	2:43
9 Burrill Lake - Princes Hwy opp (145) Dolphin Point Rd	9:34	11:39	2:44
14 Burrill Lake - Wyoming Ave opp Woodlawn Av	9:36	11:41	2:46
10 Burrill Lake - Princes Hwy opp Walleray Dr	9:37	11:42	2:47
12 Burrill Lake - Princes Hwy at Putt Putt	9:40	11:45	2:50
Burrill Lake to Ulladulla		via Kings Point	
		am	
10 Burrill Lake - Princes Hwy opp Walleray Dr	9:37	11:42	2:47
12 Burrill Lake - Princes Hwy at Putt Putt	9:40	11:45	2:50
13 Kings Point - James Crescent	-	-	-
9 Princes Hwy - opp (past) Kings Point Dr	9:42	11:47	2:52
1 Ulladulla Plaza - Princes Hwy	9:45	11:50	3:00
741		ROUTE 741	
		via Burrill Lake, Tabourie, Terrell Bay Point	
		Monday to Friday	
		Saturday	
ULLADULLA TO KIOLOA		via Burrill Lake, Tabourie, Terrell Bay Point	
		am	
15 Bus Depot - Desiring St	7:25	-	-
1 Ulladulla Martin Hotel - Princes Hwy	7:28	9:20	3:40
8 Princes Hwy - Opp Kings Point Dr	7:28	9:23	3:58
9 Burrill Lake - Princes Hwy opp (145) Dolphin Point Rd	7:30	9:25	4:00
16 Lake Tabourie - Princes Hwy opp Tucker Box Store	7:35	9:30	4:06
17 Terrell - Bus Stop opp Service Station	7:45	9:35	4:12
18 Bawley Point - Bus Stop	7:50	9:45	4:18
19 Kioloa - Forest Rd opp Golden Beaches Dr	7:55	9:55	4:25
KIOLOA TO ULLADULLA		via Burrill Lake, Tabourie, Terrell Bay Point	
		am	
19 Kioloa - Forest Rd opp Golden Beaches Dr	8:00	9:55	4:30
18 Bawley Point - Bus Stop	8:05	10:00	4:35
17 Terrell - Bus Stop at Service Station	8:10	10:05	4:40
16 Lake Tabourie - Princes Hwy opp Tucker Box Store	8:20	10:15	4:45
10 Burrill Lake - Princes Hwy opp Walleray Dr	8:25	10:20	4:50
12 Burrill Lake - Princes Hwy at Putt Putt	8:30	10:20	4:50
8 Princes Hwy - opp Kings Point Dr	8:35	10:22	4:55
11 Ulladulla Plaza - Princes Hwy	8:45	10:25	5:00

Notes:

- No Service Sunday - Public Holidays
- Fare must be paid and ticket will be issued from boarding machine
- Adult - Concession - Child and RED ticket available
- Routes as marked will generally be serviced by a fully wheelchair accessible bus. Periodic maintenance may affect availability, please check prior to journey.

For more information visit www.ullbuslines.com.au or call 02 4455 1674

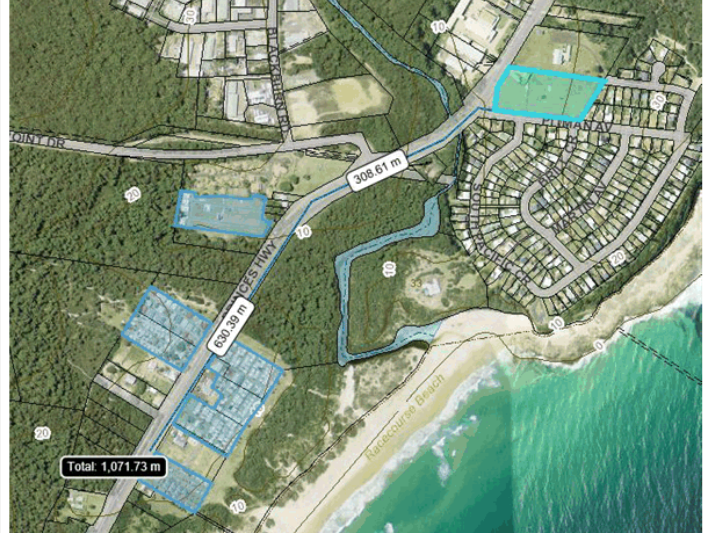
Figure 30 – Bus Schedule.

Premier Motor Service provides bus and shuttle services past the site between Eden and Sydney daily. Uber and taxi services are available in Ulladulla, as well as a courtesy bus operated by the various clubs. Complies

(c) that sufficient community facilities and services, whether situated within or outside the estate, are or will be available and reasonably

The proposed development includes community building, BBQ area, outdoor gym and bowls

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<p>accessible to the residents of the manufactured home estate, and</p> <p><i>Applicant - This manufacture home estate includes the location of a future community building. The subject site is also located a short walk to the foreshore east of the site, and located approximately 1.5km north of the site is the Ulladulla town centre.</i></p>	<p>area. The foreshore is located approx 260m east and beach approx 500m walk south.</p> <p>The Exservos club is located approx 500m walk north along the Princes Highway.</p> <p>General shopping and services are located 1.5km north along the Princes Highway that is readily accessible by car, taxi, bus or by walking/bike. Complies</p>
<p>(d) that the development will not have an adverse effect on any—</p> <ul style="list-style-type: none"> • conservation area • heritage item • waterway or land having special landscape, scenic or ecological qualities, which is identified in an environmental planning instrument applicable to the land concerned. 	<p>The development does not impact any conservation area, heritage item, waterway or land with special landscape, scenic or ecological qualities identified by an EPI.</p>
<p>(2) A council may grant a development consent pursuant to this Policy allowing development for the purposes of a manufactured home estate only after it has considered the following—</p>	
<p>(a) the cumulative impact of the proposed development and other manufactured home estates in the locality,</p> <p><i>Applicant - The cumulative impacts of the proposed manufactured home estate have been considered and addressed throughout this report. The cumulative impacts are considered minimal, as the subject site is situated in an appropriate location, where it is close to public transport and the foreshore to the east.</i></p>	
<p>There are no other MHE located in the vicinity. There are however 4 caravan parks located within 1.1km south of the proposed MHE that incorporate manufactured homes for long term occupation. Typical occupancy of LT sites in the above parks are predominantly comprised of 1-2 retirees per dwelling with 1 car.</p>	
	

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Figure 31 – Caravan Parks in proximity to subject development 252 Princes Highway Ulladulla.

Caravan Park	Long Term Sites
Kings Point Retreat	53
Gateway Lifestyle Suncoast	52
Gateway Lifestyle Ulladulla	38
Beachside Caravan Park	Nil
Proposed MHE	49
Total	192 dwellings

Figure 32 – Table of nearby caravan parks with manufactured dwellings (Long Term).

Kings Point Retreat (309m south) is the only caravan park development within view of the proposed MHE development. The other caravan parks are sufficiently remote and located out of sight around a bend in the highway that they do not warrant consideration as neighbouring development. The Long Term (LT) portion of Kings Point Retreat is located (approx. 500m south) of the proposed MHE development and is partially screened from view by vegetation and a number of dwellings fronting the highway and is therefore considered that it does not add to cumulative impact for the proposed development.

The subject site forms the southern gateway to Ulladulla which already suffers from an unattractive light industrial strip west side of highway which could only be improved by the subject proposal.

In *Davies v Penrith City Council* [2013] NSWLEC 1141 Senior commissioner Tim Moore provided **Revised planning principle: criteria for assessing impact on neighbouring properties**. The following questions are relevant to the assessment of impacts on neighbouring properties:

How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?	NA
How reasonable is the proposal causing the impact?	No impact
How vulnerable to the impact is the property receiving the impact? Would it require the loss of reasonable development potential to avoid the impact?	NA
Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?	No
Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal?	Yes



In *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191 Senior Commissioner Dr John Roseth established **Planning principle: compatibility in the urban environment**.

There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve. Where compatibility between a building and its surroundings is desirable, its two major aspects are physical impact and visual impact. In order to test whether a proposal is compatible with its context, two questions should be asked.

Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

Noise Overlooking Overshadowing	The existing character of Pitman Ave in the vicinity of the proposed development comprises 1 and 2 storey single dwellings.
---------------------------------------	---

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Constraining Development Potential	There is no evidence that the proposed development will constrain development or result in any overlooking or overshadowing impacts. There is the potential for some light glare impact to the residential premises immediately adjacent to the entry driveway for the proposed facility when vehicles leave the site at night and a slight increase in road noise associated with additional traffic movements.
<p><i>Is the proposal's appearance in harmony with the buildings around it and the character of the street?</i></p> <p><i>For a new development to be visually compatible with its context, it should contain, or at least respond to, the essential elements that make up the character of the surrounding urban environment. The most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by building height, setbacks and landscaping.</i></p>	
Building height	<p>Existing built form for the surrounding estate ranges from 1-2 storey residential dwellings. Existing residential properties adjacent to the subject site comprises 8 single storey and 2 double storey dwellings. Pitman Ave contains 14 double storey and 11 single storey dwellings.</p>  <p><i>Figure 33 – Two (2) storey dwellings in pitman Ave represented by blue dot. Subject site identified by yellow border.</i></p>
setbacks	<p>The proposed development is 1 storey high – compatible.</p> <p>Setbacks for existing dwellings in Pitman Ave adjacent range from 4-13m from the front boundary.</p>  <p><i>Figure 34 – Variable setback represented by broken blue line.</i></p> <p>The proposed development provides a setback of 10m for MHE dwelling sites from Pitman Ave. Cl 44 of the LG Regs requires a further setback of 1m to a</p>

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road reserve providing a minimum setback of 11m to Pitman Ave for the built form. Front setback is considered compatible with surrounding built form.



Figure 35 – Eave lines of buildings represented by broken blue line.

Existing side setbacks are variable ranging from 1.8m to 8+m approx.



Figure 36 – Eave lines of buildings represented by broken blue line.

Clause 47 of the LG Regs requires a minimum side setback of 1m to the boundary of an adjoining dwelling site for a MHE development. This in effect provides a minimum separation of 2m between manufactured homes.

When viewed from Pitman Ave looking north, the MHE proposal would present as (10 x 3 bed) and (2 x 2 bed) dwellings of uniform spacing (12 in total) with a detached community building on the SW corner.

In contrast, the street scape looking south from Pitman Ave is broken up by South Pacific Crescent and presents as (7) dwellings between the highway and Brill Crescent.

It is acknowledged that side setbacks for the proposed development are uniformly smaller than the existing side setbacks of surrounding residential development. While the proposed development would appear denser in the local context, it is not considered to be incompatible.

landscaping

The existing character of landscaping in Pitman Ave is informal with very few trees and occasional low set front fences (1.2m max) of variable design and materials.

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The proposed development incorporates formal landscaping incorporating (3) different types of boundary fencing, perimeter plantings and street trees.



Figure 37 – Proposed fencing comprises:



Fence Type 1 - Capped and lapped 1.8m high timber fence with indented landscape bays along north boundary with Highway Church.



Fence Type 2 – Modular Wall – Estate Wall 2.2m High proposed along the highway frontage with return in Pitman Ave east of the proposed BBQ area.

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Fence Type 3 – Aluminium Slat Fence 1.2m high



Figure 38 – Pitman Ave Streetscape – Sectional Elevation of fence and landscaping.

Landscaping & 1.2m high fencing facing Pitman Ave were proposed in response to existing context of low set fences and generally open front yards.

Neighbour submissions from surrounding residents suggest that the proposed MHE dwelling forms are not adequately screened from Pitman Ave by a 1.2m high slatted aluminium fence.

Comment - the proposed fencing height along the Pitman Ave frontage is appropriate and compatible with the existing context.

To address the visual screening concern, it is recommended that a suitable hedge planting is provided on the development side off the Pitman Ave boundary fence that is grown and maintained to a height of 2.0 m. This would effectively screen the development from the street and minimise light spill from vehicle lights at night.

The development seeks to retain the existing eastern boundary fence without alteration. Neighbour submissions have identified the need to upgrade this boundary fence to minimise vehicle light spill / noise amenity impacts from the development to adjoining neighbours. It is recommended that a 1.8m high capped and lapped acoustic hard wood fence be provided along the eastern boundary of the site from the north east corner adjacent 17 Augenaut Ave to the front building alignment of 22 Pitman Ave.

The subject site is commercial and faces industrial zoned land on the highway West and commercial land to the North. Proposed fencing typologies for those

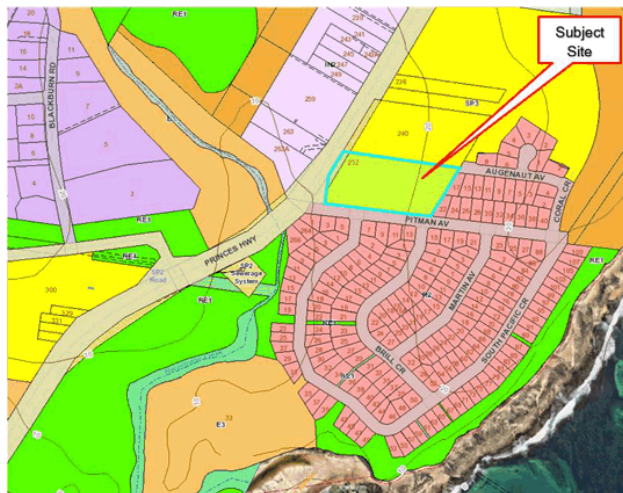
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	two frontages are considered to be appropriate for screening and sound attenuation and compatible with existing and future context.
<p>Traffic Movements The provision of the proposed roundabout upgrade to the intersection of the Princes Highway and Pitman Ave is considered by TfNSW and council traffic engineers to provide a net public benefit to the existing community who currently access the highway from Pitman Ave that improves accessibility and safety for motorists during normal and peak traffic loadings and will reduce the delay times for residents to access the highway.</p> <p>Bushfire The RFS have issued GTAs (DA19/1102 & DA21/1304) and a Bush Fire Safety Authority (DA19/1102) for the proposal as they consider the development to be acceptable.</p> <p>While it is acknowledged that the surrounding residents do not support the proposal, the evidence indicates that the cumulative impacts of the proposal on the surrounding locality is considered minimal.</p>	
(b) any relevant guidelines issued by the Director, <i>Applicant - There are no known relevant guidelines issued by the Director on the subject site.</i>	NA
(c) the provisions of the <i>Local Government (Manufactured Home Estates) Transitional Regulation 1993</i> .	These have been superseded by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 that are addressed elsewhere in this report.

Shoalhaven LEP 2014

Land Zoning

At the time of lodgement (21/05/2019) the land was zoned SP3 Tourist and SP2 Infrastructure under the SLEP 2014. Initially the development covered both zones until TfNSW objected to the SP2 land being burdened by development as this land is identified for future road works. The application was subsequently revised by moving all of the physical development into the SP3 zone.



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Figure 39 – SLEP 2014 Zoning Map.

<p>3 Permitted with consent <u>Aquaculture; Building identification signs; Business identification signs; Camping grounds; Caravan parks; Charter and tourism boating facilities; Dwelling houses; Environmental facilities; Environmental protection works; Food and drink premises; Function centres; Helipads; Heliports; Information and education facilities; Kiosks; Recreation areas; Recreation facilities (indoor); Roads; Sewerage systems; Shop top housing; Tourist and visitor accommodation; Water recreation structures; Water supply systems</u></p> <p>4 Prohibited <u>Any development not specified in item 2 or 3</u></p>
--

Characterisation and Permissibility

The proposal is best characterised as an innominate use Manufactured Home Estate (MHE) under the SLEP 2014. While Manufactured Home Estates are not a nominated permitted use within the SP3 zone, caravan parks are permitted use with consent in the zone.

Permissibility for MHE at the subject site is enabled by the application of clause 6(6) of SEPP 36 — Manufactured Home Estates that allows the development of an MHE on any land on which development for the purposes of a caravan park may be carried out. Refer to SEPP 36 assessment comments above.

Zone objectives


Objective	Comment
• To provide for a variety of tourist-oriented development and related uses.	Manufactured homes enable both permanent accommodation and short term rental accommodation in accord with clause 7.13 of the SLEP2014 without the need for further consent - complies
• To enable compatible residential and recreational uses.	The development proposes 49 dwellings that may be used for residential purposes and ancillary recreational facilities in the form of bowling green, outdoor gym, BBQ area, garden and walking paths - complies
• To provide for dwelling houses that form an integral part of tourist-oriented development.	NA Note – this objective was removed from the SLEP 2014 on 27 September 2019.

SLEP 2014 Clauses

Clause	Relevant	Comments	Complies/Consistent
Part 2 Permitted or prohibited development			
2.7	<input checked="" type="checkbox"/>	Demolition requires development consent The application includes the demolition of existing structures.	Noted
Part 4 Principal development standards			
4.3	<input checked="" type="checkbox"/>	Height of buildings The height of buildings map provides a maximum height of 10.0m for the site. The proposed community building is single storey construction well below 10m. Proposed manufactured homes are not buildings however are to be single storey construction below 10m.	complies

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4.4	<input type="checkbox"/>	Floor space ratio - No FSR applies to the site	NA								
Part 5 Miscellaneous provisions											
5.1A	<input checked="" type="checkbox"/>	<p>Development on land intended to be acquired for public purposes</p>  <p>Figure 40 – Map of SP2 zoned land (yellow).</p> <p>No building development proposed within the SP2 zone (yellow strip fronting highway). Only soft landscaping is proposed in this area that is easily removed.</p>	complies								
Part 7 Additional local provision											
7.1	<input checked="" type="checkbox"/>	Acid sulfate soils – subject site is identified as class 5 land >10m AHD and located more than 500m from another class	complies								
7.2	<input checked="" type="checkbox"/>	<p>Earthworks – The proposed development will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p> <p><i>(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:</i></p> <table><tr><td>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</td><td>Nil</td></tr><tr><td>(b) the effect of the development on the likely future use or redevelopment of the land,</td><td>Nil</td></tr><tr><td>(c) the quality of the fill or the soil to be excavated, or both,</td><td>Condition</td></tr><tr><td>(d) the effect of the development on the existing and likely amenity of adjoining properties,</td><td>Some short term impact may be associated with site works – excavation and transport of fill to or from the site – condition</td></tr></table>	(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,	Nil	(b) the effect of the development on the likely future use or redevelopment of the land,	Nil	(c) the quality of the fill or the soil to be excavated, or both,	Condition	(d) the effect of the development on the existing and likely amenity of adjoining properties,	Some short term impact may be associated with site works – excavation and transport of fill to or from the site – condition	complies
(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,	Nil										
(b) the effect of the development on the likely future use or redevelopment of the land,	Nil										
(c) the quality of the fill or the soil to be excavated, or both,	Condition										
(d) the effect of the development on the existing and likely amenity of adjoining properties,	Some short term impact may be associated with site works – excavation and transport of fill to or from the site – condition										

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			for erosion and dust control and dilapidation report for surrounding development.	
		(e) the source of any fill material and the destination of any excavated material,	Condition	
		(f) the likelihood of disturbing relics,	Conditions imposed addressing potential aboriginal heritage	
		(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,	The site is located approx. 90m from Racecourse Creek. Suitable conditions addressing potential for soil erosion of the site are included in the draft conditions of consent.	
		(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	Refer to draft conditions of consent	
7.11	<input checked="" type="checkbox"/>	Essential services – adequate essential services are available or can be augmented for the proposed development		complies
7.13	<input type="checkbox"/>	<p>Short-term rental accommodation</p> <p><i>(1) The objective of this clause is to ensure that residential accommodation may be used as tourist and visitor accommodation for a short term without requiring development consent.</i></p> <p><i>(2) Despite any other provision of this Plan, development consent is not required for the use of residential accommodation for the purposes of tourist and visitor accommodation (except backpackers accommodation or bed and breakfast accommodation) if the use is only short-term and does not interfere generally with the amenity of the neighbourhood in any way, including by noise or traffic generation.</i></p> <p><i>(3) In this clause, short-term means for a maximum period of 45 consecutive days in any 12 month period.</i></p> <p>This clause permits manufactured homes within the MHE to be occupied under the SLEP 2014 for short term tourist use provided such use does not impact the amenity of the surrounding neighbourhood.</p> <p>Condition MHE dwellings for a maximum period of 45 consecutive days in any 12 month period for short term tourist use & an amenity management plan limiting the number of visitors/short term renters per dwelling and their vehicle to 1 per dwelling.</p>		noted
7.27		<p>Dwelling houses on land in Zone SP3</p> <p><i>(1) The objective of this clause is to ensure dwelling houses form an integral part of development for the purposes of tourism.</i></p> <p><i>(2) Development consent must not be granted to development for the purposes of a dwelling house on land</i></p>		Complies

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		<p><i>in Zone SP3 Tourist unless the consent authority is satisfied that the dwelling house—</i></p> <p><i>(a) forms an integral part of development for the purposes of tourism on the site, or</i></p> <p><i>(b) will not conflict with the use of the site for the purposes of tourism.</i></p> <p>In the current application council is being asked to consider approval of an MHE which is a separate definition to a dwelling house. That being said, the MHE does not conflict with the use of the site for the purposes of tourism as permitted under clause 7.27 above.</p>	
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ii) **Draft Environmental Planning Instrument**

Nil applicable

iii) **Any Development Control Plan**

Shoalhaven DCP 2014

Generic Chapters	Relevant
G1: Site Analysis, Sustainable Design and Building Materials in Rural and Coastal Areas - complies	<input checked="" type="checkbox"/>
G2: Sustainable Stormwater Management and Erosion/Sediment Control	<input checked="" type="checkbox"/>
Council stormwater engineers have reviewed the proposal and provided conditions of consent that include water quality, retention and reuse – complies.	
G3: Landscaping Design Guidelines	<input checked="" type="checkbox"/>
Refer to SEPP 36 comments above which recommend:	
<ul style="list-style-type: none"> • 1.8m high hedge along Pitman Ave frontage to screen the development from the street more effectively • 1.8m high capped and lapped HW fence along east boundary to screen vehicle headlights and attenuate vehicle noise to surrounding neighbours. • The northern boundary fence be constructed to an acoustic standard to attenuate road and church noise for future residents. 	
Condition	
G7: Waste Minimisation and Management Controls	<input checked="" type="checkbox"/>
Council's Waste Officer has provided conditions of consent to address the various stages of the proposal.	
G18: Streetscape Design for Town Centres	<input checked="" type="checkbox"/>
The subject site falls within the boundaries of the SCC - Town Street Tree Planting Strategy which recommends the planting of Cupaniopsis anacardioides Tuckaroo trees at 10m centres along the highway frontage.	
	
Figure 41 – Habit – spreading crown up to 10m, 4-6m high.	

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Alternate species Hibiscus tiliaceus



Figure 42 – Habit – dense rounded crown 3.5-5m, 7m high.

A8.3 Tree species are to be selected and installed in accordance with the Streetscape Technical Manual.

A8.4 The location of street trees must consider potential impacts to overhead and underground services (including easements), kerbs and footpaths.

The submitted landscape plan includes Tuckaroos along Pitman Ave north side and on south side in the vicinity of the MHE access driveway.

Condition - Hibiscus tiliaceus be specified as street trees on the southern side of Pitman Ave.

The Princes Highway frontage has already been provided with street trees (Crepe Myrtles) north of the proposed outdoor gym in accordance with the policy.

Recommend (3) additional (Crepe Myrtles) be planted to break up the blank modular fence adjacent the highway side of the proposed community centre.

G21: Car Parking and Traffic



Parking numbers for MHEs are dictated by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 which specifies:

CI 23 – 12 visitor parking spaces required – 15 proposed – complies

CI 45 – requires the provision of 1 parking space per dwelling site retained within each site or provided elsewhere in the estate – 49 proposed with 1 space on each dwelling site - complies

The **total parking requirement** for the development is $49 + 12 = 61$ spaces.

Parking proposed = 49 resident spaces + 15 visitor = **64 spaces** – complies

The application was supported by a Traffic Impact Assessment prepared by *Bitzios Consulting*.

The Traffic Impact assessment estimated the development would generate 32 peak hour vehicle trips. These rates were based off medium-density residential developments under the RMS Guide to Traffic Generating Developments (2002), as manufactured home estates are not specifically listed as a land use, and medium-density developments are the closest relevant land use in this case.

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The latest Bitzios traffic report from 7 November 2019 indicates the intersection currently operates satisfactorily today, but would fail with the development traffic added.

Referring to Figure 29 – Summary of SIDRA Survey and Modelling for the intersection of the Princes Highway and Pitman Ave.

2020 Existing Give Way layout – Traffic Model Results

No development - Level of Service E, 63 second delay, 17m queue

With development – would be Level of Service F, 118 second delay, 41m queue

2030 10-year Design Horizon Existing Give Way Layout

No development – Level of Service F, 1522 second delay, 232m queue

With development – Level of Service F, 2259 second delay, 341m queue

2030 10-year Design Horizon with Roundabout

No development - Level of Service A, 3 second delay, 5m queue

With development – Level of Service A, 11 second delay, 7m queue

It is clear that the introduction of an upgraded roundabout treatment at the intersection of the Princes Highway and Pitman Ave with associated pedestrian crossings and pathways will significantly reduce queue length and delays accessing the highway for residents while improving safety for all motorists and pedestrians interacting at this intersection.

[G22: Advertising Signs and Structures](#)

☐

None applied for with the current application

DCP Chapter	Comment
<p><input checked="" type="checkbox"/> S10: South Ulladulla</p> <p>3 Context</p> <p>The desired future character for this area is:</p> <p><input type="checkbox"/> An attractive entrance to the Ulladulla Town Centre with well-designed developments located within an attractive landscaped setting.</p>	Complies
<p>4 Objectives</p> <p>The objectives are to encourage development which:</p> <p>i. Maintains the efficiency of the Princes Highway by reducing the number of driveways having direct access to the highway.</p> <p>iv. Allows traffic movements to and from the Princes Highway that are safe and convenient for vehicles, cyclists and pedestrians.</p> <p>v. Provides landscaping at a height and density that softens the development from the Princes Highway and which may include planting on the Princes Highway footpath reserve.</p>	<p>The proposed development does not increase the number of access points to the highway, provides for an upgraded intersection treatment (roundabout) and associated pedestrian paths and refuges to improve Traffic Safety for all users.</p> <p>Appropriate landscaping is proposed for the development subject to recommended conditions to break up and soften the development as viewed from the highway and Pitman Ave - complies</p>
<p>5.2.3 Setbacks</p> <p><i>Tourist Accommodation Area (east of Highway)</i></p>	Complies

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If your lot has frontage to the Princes Highway, your development is to be setback 10m (after road widening) from that frontage.	
5.5 Stormwater Management 5.5.2 Design solutions OSDs will be required for all developments except for extensions where the proposed roof or paved area is less than thirty (30) square metres.	OSD incorporated into recommended conditions of consent – complies
5.7 Utility Services As part of your development , you are to provide for the undergrounding of electricity and telephone services within the boundary of your site. Any extension of supply shall be placed underground at the applicant's expense. You are to locate and design site and waste facilities to have an attractive visual appearance that complements the townscape character when viewed from a public street or place.	Condition undergrounding of electricity and phone/internet infrastructure Condition suitable screening be provided around the bin enclosure area.

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

iv) **Environmental Planning and Assessment Regulation 2000**

Clause	Comment
CI 92 Additional matters that consent authority must consider (1) For the purposes of section 4.15(1)(a)(iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application— (b) in the case of a development application for the demolition of a building, the provisions of AS 2601,	Condition compliance with AS 2601
CI 98A Erection of signs	Condition signage on site detailing principle certifier/contractor and entry arrangements

v) Any [coastal zone management plan](#)

NA to subject site

Council Policies

Shoalhaven Contribution Plan 2019

The proposed development is considered to increase the demand for community facilities in accordance with the Shoalhaven Contributions Plan 2019 (the Plan). The development is most aptly

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characterised as a Manufactured Home Estate development for the purpose of calculating contributions under the Plan.

Section 94 ET Calculations - DA19/1102 (UPN: 73685)

Close Reset Print Return Calc

☒ Residential ☐ Non-Residential

Calculation Type: Medium Density/Dual Occupancy

Medium Density/Dual Occupancy

Proposed:

0	1 Bedroom Units
17	2 Bedroom Units
32	3 Bedroom Units
0	4 Bedroom Units

Existing:

1	Lots/Dwellings
0	1 Bedroom Units
0	2 Bedroom Units
0	3 Bedroom Units
0	4 Bedroom Units

Total ETs: 34.8

NOTE:
Prior to the issue of development consent which requires contributions in accordance with this Plan, credit of the respective ETs or m2 is given to recognise the original approved land use of the development site (i.e. dwelling / building / subdivision).

Figure 43 – ET Calculation.

Project	Description	Rate	Qty	Total	GST	GST Incl
05 AREC 0005	Planning Area 5 - Active recreation facility upgrades various locations	\$1,045.12	34.8	\$36,370.18	\$0.00	\$36,370.18
05 CFAC 2010	Southern Shoalhaven Branch Library	\$525.90	34.8	\$18,301.32	\$0.00	\$18,301.32
CW AREC 0005	Shoalhaven Community and Recreational Precinct SCArP Cambewarra Road Bomaderry	\$929.11	34.8	\$32,333.03	\$0.00	\$32,333.03
CW CFAC 0007	Shoalhaven Regional Gallery	\$72.29	34.8	\$2,515.69	\$0.00	\$2,515.69
CW CFAC 2002	Shoalhaven Multi Purpose Cultural & Convention Centre	\$650.76	34.8	\$22,646.45	\$0.00	\$22,646.45
CW CFAC 2006	Shoalhaven City Library Extensions, Berry Street, Nowra	\$867.56	34.8	\$30,191.09	\$0.00	\$30,191.09
CW FIRE 2001	Citywide Fire & Emergency services	\$138.13	34.8	\$4,806.92	\$0.00	\$4,806.92
CW FIRE 2002	Shoalhaven Fire Control Centre	\$202.07	34.8	\$7,032.04	\$0.00	\$7,032.04
CW MGMT 3001	Contributions Management & Administration	\$574.39	34.8	\$15,419.67	\$0.00	\$15,419.67
Sub Total:						\$169,616.38
GST Total:						\$0.00
Estimate Total:						\$169,616.38

Figure 44 – Contribution Calculation.

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

Head of Consideration	Comment
Natural Environment	<p>The subject site is currently used as grazing land that does not contain any flora or fauna requiring preservation.</p> <p>The site falls towards Racecourse Creek which flows across the Princes Highway to Racecourse Beach.</p> <p>Recommended conditions of consent imposed by Council Development Engineers address the potential for soil erosion, dust generation, storm water discharge volume (OSD) and stormwater</p>

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Head of Consideration	Comment
	quality (GPT), to protect Racecourse Creek and associated vegetation.
Built Environment	Refer to earlier discussion under SEPP 36 Recommended conditions have been imposed addressing vehicle noise and light spill to surrounding residential receivers.
Social Impacts	<p><u>Positive Impacts</u></p> <ul style="list-style-type: none"> • Transformational impact - Improved safer access to the Highway from upgraded intersection reducing travel and wait times. • Transformational impact - Improved safer pedestrian pathway links from the estate to Ulladulla/Burrill Lake. • Moderate impact – noticeable reduction of highway noise impacting residents along Pitman Ave due to noise shielding affects of the proposed development. • Moderate impact – Improved Aesthetics of the civil upgrade improvements to the intersection of the highway with formalised landscaping/street tree planting. <p><u>Negative Impacts</u></p> <ul style="list-style-type: none"> • Minor impact - Short term traffic, dust and vibration impact during construction • Moderate impact - Some localised light spill amenity impact to residents immediately adjacent to the proposed entry driveway for the development that have been conditioned for additional street tree plantings on the southern side of Pitman Ave.
Economic Impacts	<p>There were a number of submissions concerned that local building trades would not benefit from the development as manufactured homes are constructed outside the Shoalhaven area.</p> <p>The proposal will provide additional employment and positive economic multiplier benefits for the supply of labour & materials during construction of the site and associated civil works.</p> <p>The installation of manufactured homes within the completed development will generate additional employment for traffic control and assembly of building components and connection to services for each site.</p>

(c) Suitability of the site for the development

The site is appropriately zoned SP3 Tourist which permits a Manufactured Home Estate with consent under SEPP 36 among other uses.

The site is appropriately sized and located to accommodate the submitted MHE in accord with the requirements of State Environmental Planning Policy No 36—Manufactured Home Estates and the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

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The site is considered to be suitably located with good public transport access and close links to shopping and other services in Ulladulla a short distance north. The site is appropriately serviced for water, sewer and power with provision for internet connectivity.

(d) Submissions made in accordance with the Act or the regulations

The DA was notified in accordance with Council's Community Consultation Policy for Development Applications. Submissions were received by Council objecting to the proposal. The concerns raised are outlined below:

Summary of Public Submissions	
Objection Raised	Comment
Amenity Impacts	
Concern that the boundary fence proposed adjacent to the eastern boundary relies on an inadequate existing fence compared to 1.8 metre high capped and lapped fence along the northern boundary of the site	Recommended conditions require a 1.8 metre high capped and lapped hard wood fence along this boundary to be installed from the north east corner adjacent 17 Augenaut Ave to the front building alignment of 22 Pitman Ave.
Questioned the fencing type proposed for the highway frontage?	Perimeter fencing along the highway frontage is proposed to be a 2.2 metre high modular fence comprising solid infill in the bottom 2/3 and permeable horizontal slats in the top third
Concern regarding potential light spill and vehicle noise amenity impact generated by car headlights leaving the development at night impacting general amenity, health and causing sleep disturbance at night.	This issue is of particular relevance to the existing residents leaving opposite the location of the proposed MHE access driveway.
Concern the proposed landscaping does not adequately screen the development from Pitman Ave. Suggests a high fence and a dense hedge to screen the entire frontage of the site.	To minimise light spill, the applicants have agreed to provide for additional Street tree planting on both sides of Pitman Ave in the vicinity of their entry driveway. After considering the submissions it is considered reasonable for council to condition the provision and maintenance of a 1.8m high screening hedge behind the Type 3 Fence proposed for Pitman Ave frontage.
Request that the northern boundary fence with the Highway Church needs to prevent children access and afford sound attenuation	The proposed boundary fence is of a suitable design and height to prevent child access across the boundary and provide some sound attenuation benefits to future residents.
Concern with long timber fence along northern boundary viewable from the highway would be unattractive	Revised landscape plan provides for articulation and planting to break up the visual appearance of this fence when viewed from the highway
Concern with potential amenity impacts to adjoining neighbours East of the site - road noise, waste disposal area (odour)	The applicant revised the plans and moved the waste disposal area to the western end of the site away from adjoining residents.

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	<p>It is acknowledged that the existing eastern dividing fence is not of a suitable standard to reduce vehicle noise to nearby residents. The landscape plan incorporates appropriate screening planning along this boundary that will adequately address light spill once established.</p> <p>In the interim period, it is reasonable for council to condition a requirement for the installation of a 1.8 metre high hardwood capped and lapped acoustic fence along the eastern boundary off the subject site from the north east corner adjacent 17 Augenaut Ave to the front building alignment of 22 Pitman Ave..</p>
Concern that the development will rely on waste servicing of 98 bins along Pitman Ave	All waste servicing is proposed to be carried out within the development and not from the Pitman Ave kerbside.
Concern over the impact of construction period, would Council set a maximum period of construction once commenced?	Condition maximum period
Concern location of proposed community facilities and recreation area adjacent to the highway will result in poor amenity for future residents of the estate	Do not agree, given that the community facilities and recreation area are contained within modular fencing and are appropriately landscaped to provide privacy and amenity.
Traffic and Parking	
Concern with existing safety and wait time at the intersection of Pitman Ave and the Princes Highway particularly during peak holiday periods	Existing Traffic Safety and lack of access onto the highway would be improved by the provision of a roundabout and provide a net public benefit.
Concern that additional traffic generated by the proposed development would exacerbate existing problems for access to and from the highway.	<p>The proposed roundabout would address safety concerns and improve equity of access to and from the highway.</p> <p>Existing and additional traffic generated by the development have been assessed by TfNSW as acceptable for the subject development.</p>
<p>Need for a commitment to a roundabout at the intersection of Princes Highway and Pitman Ave prior to any development consent being issued.</p> <p>Belief that the roundabout is a distraction and not genuinely being offered by the developer</p>	<p>After consultation with council engineers and TfNSW, the developer modified their proposed intersection treatment to include a roundabout upgrade incorporating pedestrian paths/refuges/crossings. The roundabout design has been thoroughly assessed and approved by TfNSW.</p> <p>Provision of the roundabout and associated infrastructure is a mandatory requirement to be met prior to occupation of the development.</p>

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Concern the proposed roundabout design does not address regular flooding of Princes Highway from Racecourse Creek – suggests new bridge and associated road raising with new roundabout	The roundabout design has been thoroughly assessed and approved by TfNSW.
Southbound traffic turning left into Pitman Ave from the highway are using the road verge to move out of the fast moving traffic to avoid rear end collisions	Proposed roundabout resolves this issue
Concerned that there is inadequate parking for residents & visitors which will lead to an increase of on street parking.	Proposed parking for the manufactured home estate exceeds the State Government parking requirements under the local government regulations for this form of development.
Lack of safe walking path for students walking to UHS or older residents who walk to the bus stop on the highway.	The development provides roundabout intersection upgrade works on the highway that include pedestrian pathways for the full frontage of the site and links to bus shelter/stops, pedestrian refuges crossing the highway and Pitman Ave.
Princes Highway bypass needed ASAP	Agree
Concerned that TfNSW are not fully aware of the objections to the development and traffic implications of the proposed development	TfNSW were provided with details of past objections to development associated with the intersection of Pitman Ave and the Princes Highway in accord with council resolution as well as the submissions received for the current 2019 application.
Concern the submitted Traffic Impact Assessment was inadequate	Council and TfNSW requested and received multiple addendums to the Traffic Impact Assessment that led to an approved for a roundabout at the intersection of Pitman Ave and the Princes Highway
Concern regarding traffic and safety impact generated by construction and the transport of manufactured home sections to the site from their place of construction	Recommended conditions include the requirement for a Traffic Control Plan and Construction Management Plan prior to commencing work that address safety and traffic issues related to construction and installation of manufactured homes.
Concerned with the safety impact on road maintenance as a result of heavy vehicle use during construction and transport of manufactured homes to the site	Recommended conditions include a dilapidation survey of potentially impacted properties & Council's civil assets which would be required to be repaired/rectified at the developers cost in the event of any damage occurring.
Object to the access point for the development coming from Pitman Ave suggest alternative access directly off the highway	Direct access to the site from the Princes Highway is not supported by state policy SEPP Infrastructure or TfNSW
Concern with the width of Pitman Ave to enable vehicles to pass safely when cars are parked on the side of the road	Recommended conditions for the roundabout and pitman Ave require kerb and gutter and street drainage that will widen Pitman Ave to enable vehicles to pass safely.
Suggest connecting Coral Cres prior to a roundabout on the highway	The land located between the broken sections of Coral Crescent is owned by the

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	Ulladulla Local Aboriginal Land Council and not currently offered for a road connection.
Alternative suggestion for traffic lights at the intersection of Princes Highway and Pitman Ave	Not supported by TfNSW or council traffic engineers as would be less efficient than a roundabout
Ulladulla Forum suggested that the priority location for a roundabout would be at the intersection of Kings Point Drive and the highway	This suggestion related to an TfNSW survey which identified a number of potential roundabout locations along the highway prior to consideration of the current application.
Safety concern with increased parking demand from the MHE at Racecourse Beach and potential impact on pedestrians	Given that council does not know the makeup or intentions of future residents it is not possible to critically analyse this question. Parking demand for council reserves is reviewed on a needs basis.
Suitability of Proposal for Site	
Manufactured housing estate is inconsistent with the zoning of the neighbourhood	The SP3 Zoning of the subject site permits caravan park use. Sepp 36 Manufactured Home Estates permits the development of a Manufactured Homes Estate on land where a caravan park is permitted. The surrounding residential neighbourhood is zoned R2 low density residential which permits single dwellings that are proposed in a compressed form within the subject development.
Concerned that the density of the proposed development is not in keeping with the character of surrounding land use (over development of the site)	Proposed density is appropriate for the SP3 tourist zone of the subject site which is different to the R2 low density zone for surrounding residential land.
Concern zoning is not appropriate for the area and that the land should be zoned low density residential in keeping with the surrounding estate.	<p>The land owner (applicant) is not currently seeking a rezoning of the land. The application was submitted in accord with the current zoning adopted by council in 2014.</p> <p>The subject site was previously zoned 2(d) under SLEP1985 which permitted tourist use including caravan parks.</p> <p>Permissibility for MHE of the site was enabled by the gazettal of SEPP 36 on 3/10/1997.</p>
Question if the development is intended to provide over 55 accommodation.	<p>The Caravan Industry Association of Australia prepared the Census 2016 Social Trends Report based on data gathered from NSW and Queensland from the previous three collections of census data. The report found that the average age of residence is 58 years old, of which 5% are unemployed and 30% are employed part-time or full time.</p> <p>While the proposal may be attractive to a segment of the older population, the</p>

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	application has not been submitted as a Housing for Seniors development under SEPP (Housing for Seniors or People with a Disability) 2004.
Concerned that the proposed development does not comply or provide appropriate affordable housing	While the application may discuss affordability of dwellings within the manufactured home estate it is important to note that this application has not been lodged as an affordable housing development under SEPP (Affordable Rental Housing) 2009.
Question the need for the proposal given the lack of employment and social infrastructure in the local area	The development of land is a commercial business decision of the applicant.
Concern 25% increase of residents will lead to water shortages and failure of infrastructure	There is adequate infrastructure capacity in the locality to service the additional demand
Aesthetics/Social	
Concerned that the proposed development is visually intrusive and aesthetically unappealing given the location at southern gateway to Ulladulla.	<p>The site is located at the interchange between a commercial SP3 tourist zone, low density R2 residential zone and IN2 light industrial zone.</p> <p>Existing developed character of the site is an open paddock with a single dwelling and associated outbuildings. There is no kerb and gutter or footpaths and stormwater is presently collected and drained along Pitman Ave via a deep open drain.</p> <p>The proposed design will provide a single storey built form contained within formalised landscaping, kerb and gutter, drainage, & pathways to pedestrian refuges that connect with a new roundabout treatment on the highway that will improve the aesthetics of the southern gateway.</p>
Concern the development not in keeping with existing residential area and will devalue the overall quiet feel of the neighbourhood and change the image of the area to a low cost housing precinct	<p>The subject site is zoned for a commercial purpose that permits a higher density than the adjoining low density residential precinct.</p> <p>Refer to SEPP 36 comments in relation to Planning Principle: compatibility in the urban environment which show the proposal is compatible with the character of the surrounding urban environment with respect to building height, front setback and landscaping. It is acknowledged that side setbacks for the proposed development are uniformly smaller than the existing side setbacks of surrounding residential development. While the proposed development would appear</p>

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	denser in the local context, it is not considered to be incompatible. There is no evidence that the proposed MHE would change the image of the area to a low cost housing precinct.
The proposed development will devalue surrounding properties land value	Not a relevant matter for consideration
Concern that the area is being overdeveloped generally and that there are too many MHE developments in close proximity.	Refer to SEPP 36 comments.
Concern that unattractive advertising signage could be installed along the face of the development	No advertising signage has been requested with the current application.
Inadequacy of proposed landscaping and open space	Landscaping is addressed under SEPP 36 and DCP Chapter G3 comments above.
Concern that the development will deteriorate overtime adding to the negative image for the local community	Recommended conditions require the ongoing maintenance of those features of the development that visually screen and soften the development.
Concern with potential negative social issues associated with higher density living such as increased mental health issues, higher levels of domestic violence, drug use, alcoholism, increased levels of crime & antisocial behaviour	There's no evidence to support this assertion for the proposed application
Employment opportunity - Object to the development using manufactured homes that are built outside the city that deny local builders employment and lack of sustainable design.	There are no manufactured home construction companies located in the local area. Under the requirements of the local government regulations, manufactured homes are not permitted to be constructed in situ it must be erected as completed sections constructed off-site
Lack of public notification and consultation of the proposal.	Do not support this argument. DA19/1102 was notified in writing and in the Milton Ulladulla Times Newspaper from 28/08/2019 to 27/09/2019 and 9/09/2020 to 9/10/2020 and council staff spoke at Ulladulla Community Forum 2/09/2019. DA21/1304 was notified in writing and in the Milton Ulladulla Times Newspaper from 14/04/21 to 28/04/21
Issues within the Development	
Concern that the internal Road may not be wide enough for the turning movements of trucks or larger vehicles to manoeuvre safely	Proposed road widths are compliant with the Local Government regulations for a MHE
Queried the typical design size for manufactured homes for this proposal	Concept dwelling plans were provided for two and three bedroom dwelling types. The proposal is for 17 x 2 bed homes and 32 x 3 bed dwellings
Queried the land size for each home	Proposed dwelling sites range from 150 m ² to 209m ² in accord with cl 14 LG Regs that specifies a minimum area of 130m ² .

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Concern proposed one way Street within the development will affect efficient circulation, manoeuvring and parking of vehicles		Internal Road complies with the local government regulations.
Is BASIX required for MHE development?	No - Under the LG Regulation 2005, 'relocatable home' means: (a) a manufactured home, or (b) any other moveable dwelling (whether or not self-contained) that comprises one or more major sections, including any associated structure that forms part of the dwelling, but does not include a tent, caravan or campervan or any moveable dwelling that is capable of being registered under the Road Transport (Vehicle Registration) Act 1997. The definition of 'building' in section 4(1) of the EP&A Act specifically excludes 'a manufactured home, a moveable dwelling or associated structure or part of a manufactured home, a moveable dwelling or associated structure'. As a relocatable home is not within the definition of building under the EP&A Act, a BASIX certificate is not required for that type of home.	
Concern future residents adjacent the eastern side of the site will have two Storey dwellings impacting their privacy	Only (1) two storey dwelling (22 Pitman Ave) adjoins the eastern boundary of the subject site. This dwelling only has one window facing the MHE at first floor level which has its sightlines obscured by existing vegetation.	
Drainage		
Concern with lack of kerb and gutter and deep drain along the side of Pitman Ave that is considered dangerous particularly in wet weather	The proposed development would remove this drain and replace with curb and gutter and formalised drainage for the full frontage of the development.	
Concern with drainage infrastructure capacity to cope with additional hard stand area	Council Development engineers have imposed suitable conditions addressing OSD and storm water quality for the development.	
Management and Use of MHE		
How will the MHE be managed?	Condition - Amenity Management Plan to addresses noise and parking use of the site.	
Will the MHE be gated or open to the public?	Condition - Facilities provided within the MHE are for the use of residents and their guests subject to compliance with the approved Amenity Management Plan.	
Will the homes will be owner occupied or permit private rentals ? Proposed park rules to protect amenity	Future tenants are required to sign strict Terms of Agreements prior to taking residence within the manufactured home estate.	
Will purchases on the land freehold or rent a site for a fee from the owners of the park? Land tenure.	The applicant has advised that the manufactured home is fully owned by the resident (in most cases), and the land is owned by the operator and leased to the tenant.	
Bushfire		
Confusion that due to bushfire prone land status the site is unsuitable for a Manufactured Homes Estate	The RFS has considered both applications and provided recommended conditions of consent.	
Concern with effective and efficient evacuation in extreme bushfire situations to the Princes Highway being made worse by the proposal.	The current access to the Princes Highway provides limited opportunity for residents to break into continuous traffic flows on the highway during normal and peak flow periods. The proposed roundabout would act to significantly improve access/safety to	

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	the highway both in normal flow and peak flow times including emergency events.
Need for an Evacuation Management Plan.	This has been addressed by the RFS General terms of Approval dated 26/05/2021.
Suggested firebreak be required between the manufactured home estate and surrounding residences	There is no requirement for such a firebreak in current planning legislation. There is an effective firebreak between the development and they're joining dwellings to the East via the perimeter Road which is considered acceptable and reasonable
Questioned if the perimeter fence would comply with Planning for Bushfire legislation?	Fence construction type is controlled by the conditions issued by the RFS
Questioned if the Manufactured Homes would-be built-in accord with RFS requirements for new dwellings.	Yes – required by conditions imposed by the RFS
Questioned adequacy of bushfire reports given the recent bushfire season of 2019/20 and the need for a revised bushfire assessment.	They have been revised and reviewed by the RFS post the 2019/20 bushfire event and found to be acceptable by the RFS.
Questions regarding the requirement for Bushfire Evacuation Plan	Bushfire evacuation plans are required to be prepared as a condition imposed by the RFS prior to occupation of the development.
Environmental Impact	
Concern of potential ecological impacts to flora and fauna to Racecourse Beach from an increased population	There is no evidence supporting this argument. The development will have suitable servicing for sewer reticulation and comprehensive system to collect, control the rate of flow and quality of stormwater discharged to Racecourse Creek.
Concern regarding potential dust generation from the construction site impacting surrounding residents.	There is potential for dust to be generated during siteworks that would be managed if approved under suitable conditions of consent.
Queried if trees would be planted to provide shade, home for fauna and aesthetic appeal	Proposed landscape plan includes the planting of landscape trees within and outside the site.
Additional environmental impact in the form of carbon emissions and noise generated by additional traffic movements for the proposal.	Manufactured homes typically have a smaller carbon footprint than insitu-built homes as they are set on pier foundations, which use less concrete than insitu-built homes which typically have either strip footings with piers or slab on ground that is pre-dominant in Australia. Delivery distance is the largest single factor that contributes to carbon emissions in the Manufactured Home Industry. Noise impact is addressed by recommended conditions of consent.

(e) The Public Interest

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The proposed MHE development is permitted with consent at the subject site in accord with SEPP 36. The proposal will provide 49 dwellings in a mix of 2 and 3 bedroom forms at a lower buy in cost than comparable dwellings in the relatively expensive local real estate market.

The completed development would provide an upgraded roundabout intersection treatment to the junction of the Princes Highway and Pitman Ave incorporating kerb and gutter, subsoil drainage, street tree planting, footpath links to pedestrian refuges and bus shelter. Civil upgrade works in Pitman Ave would provide a wider road with replacement of the open drain with subsoil drainage behind formalised kerb and gutter with connecting footpath for the full frontage of the subject site.

The above civil upgrade works provide for a much safer improved access to and from the highway for motorists and pedestrians that is in the public interest.

Recommendation


This s. 4.15 Assessment Report provides an assessment of the proposal to demolish existing buildings and construct a Manufactured Home Estate comprising 49 dwelling sites incorporating 17 x 2 bed manufactured homes and 32 x 3 bed manufactured homes, a community building, BBQ area, outdoor recreation facilities and associated infrastructure on land identified as 252 Princes Highway and roundabout and associated civil infrastructure to the intersection of Princes Highway and Pitman Ave Ulladulla under **DA19/1102**.

The proposed development has been assessed against all relevant environmental planning instruments. The application has received recommended conditions of consent from the RFS (Planning for Bushfire 2019), Endeavour Energy and TfNSW (roundabout upgrade intersection for Pitman Ave & Princes Highway) and Council engineers.

It is acknowledged that while the application has received a significant number of objections from nearby residents and interested parties, the issues raised are considered to have been satisfactorily addressed by the submitted application and recommended conditions of consent.

Application **DA19/1102** is recommended for conditional approval.

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	Planning Report S4.15 Environmental Planning & Assessment Act 1979
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DA Number	DA21/1304
Property	252 Princes Hwy, ULLADULLA - Lot 1 DP 784732
Applicant(s)	Mark Lindsay
Owner(s)	Ocean Point Assets Pty Ltd

Conflict of interest declaration

I have considered the potential for a conflict of interest under the [Code of Conduct](#) and to the best of my knowledge no pecuniary and/or significant non-pecuniary conflict of interest exists.

NOTE: If you determine that a non-pecuniary conflict of interest is less than significant and does not require further action, you must provide a written explanation of why you consider that the conflict does not require further action in the circumstances. This statement should then be countersigned by the section manager.

Name

1. Detailed Proposal

Demolition of existing dwelling and associated structures and construction of a Manufactured Home Estate comprising 49 dwelling sites, community building, BBQ area, outdoor exercise equipment area, lawn bowling green, waste storage area, parking, landscaping and associated civil infrastructure that includes:

- Kerb & gutter & associated drainage for the full frontage of Pitman Ave and the Princes Highway.
- Street tree & landscape planting.
- Roundabout at the intersection of the Princes Highway and Pitman Ave with connected 1.5m wide pedestrian pathways and pedestrian refuge serving upgraded bus stop on the Princes Highway.

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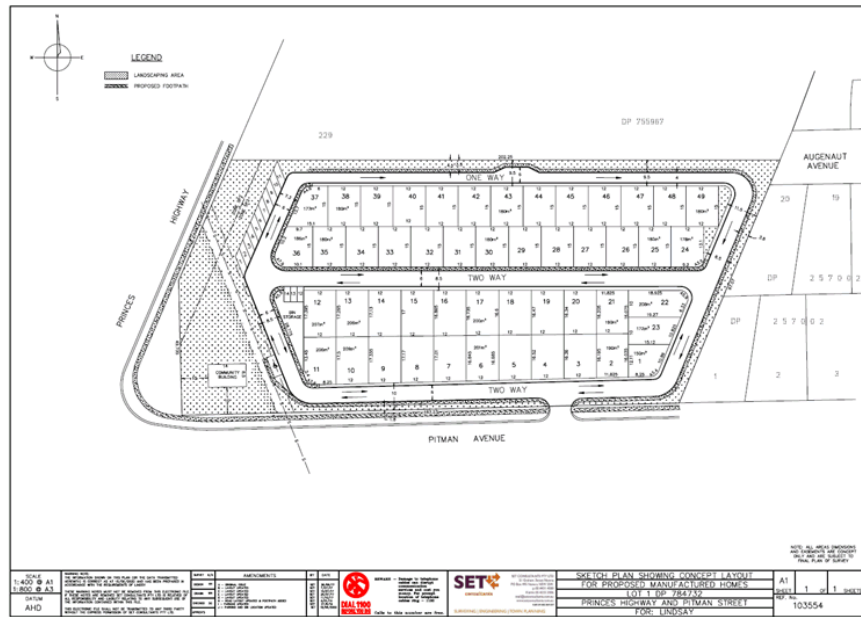


Figure 1 - MHE Layout Plan.

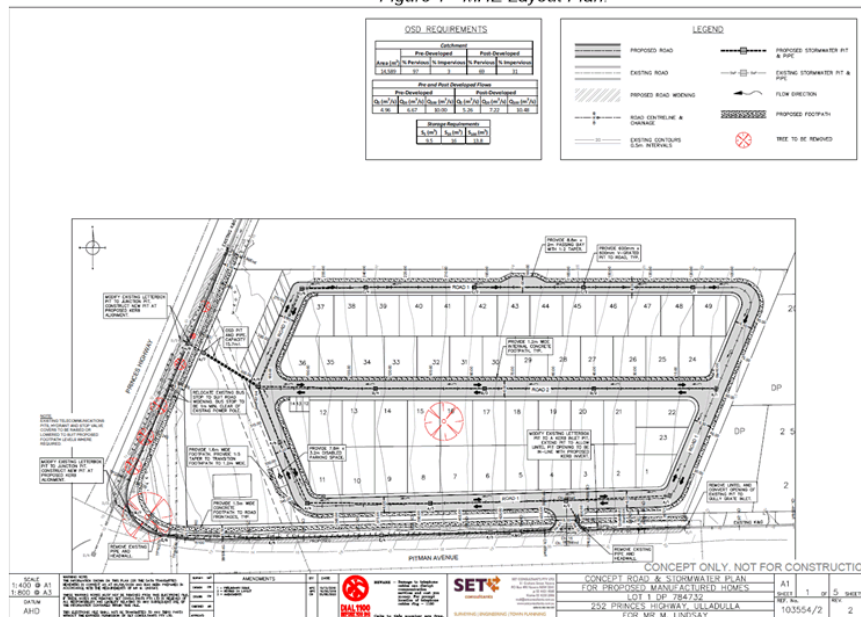


Figure 2 - MHE Concept Road and Stormwater Plan.

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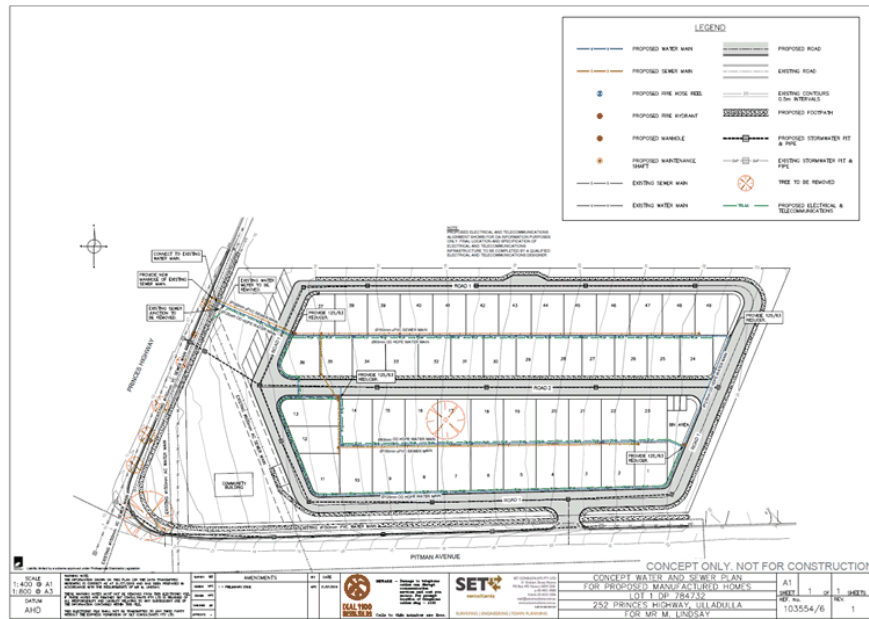


Figure 3 - MHE Concept Water and Sewer Plan.



Figure 4 - MHE Landscape Plan.

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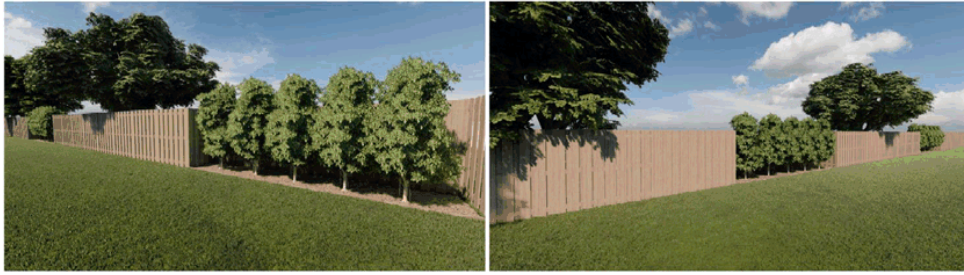


Figure 5 - MHE Landscape features to North boundary Fence.

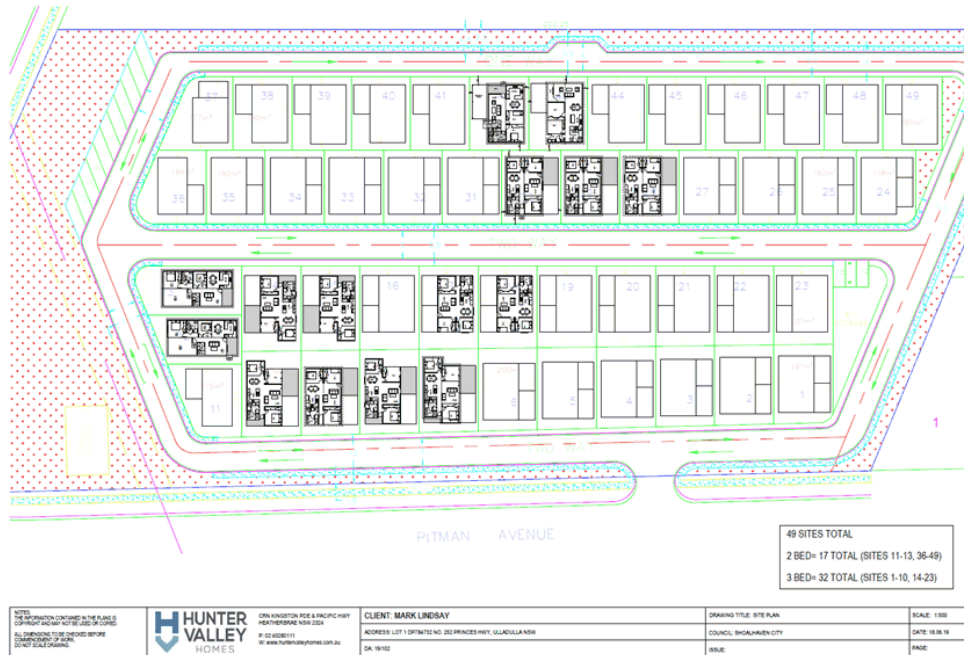


Figure 6 - MHE Typical Dwelling Arrangement.



Figure 7 - MHE Concept 3 bed Manufactured Homes.

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Figure 8 - MHE Concept 2 bed Manufactured Homes.



Figure 9 - MHE Community Centre.

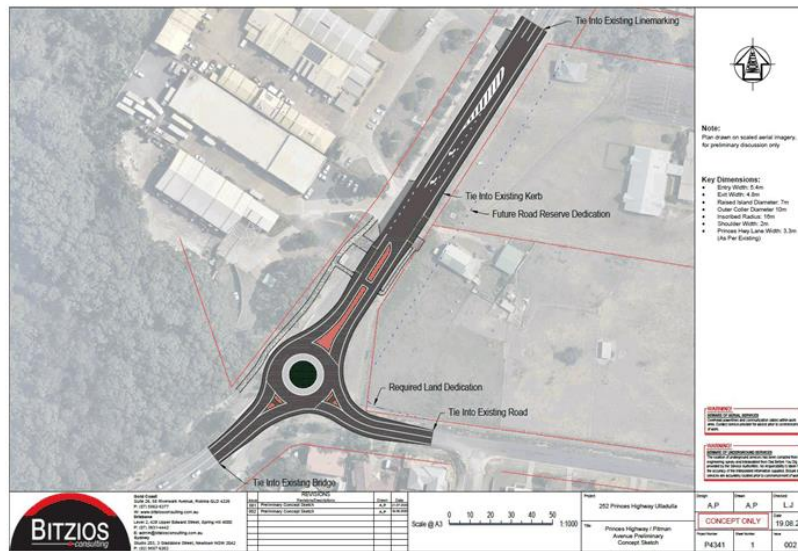


Figure 10 - Princes Highway / Pitman Ave Upgrade Concept Design.

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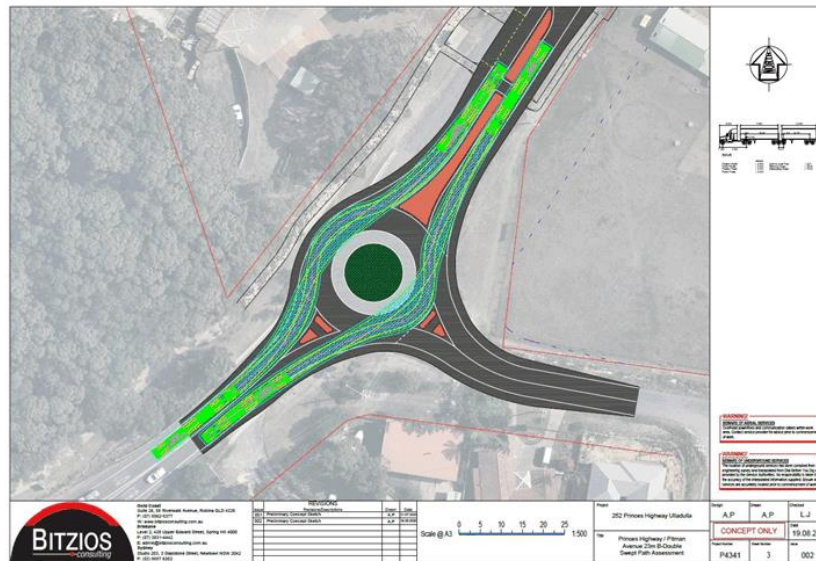


Figure 11 - Princes Highway / Pitman Ave 23m B-Double Swept Path Assessment.



Figure 12 - Princes Highway / Pitman Ave 19m AV Swept Path Assessment.

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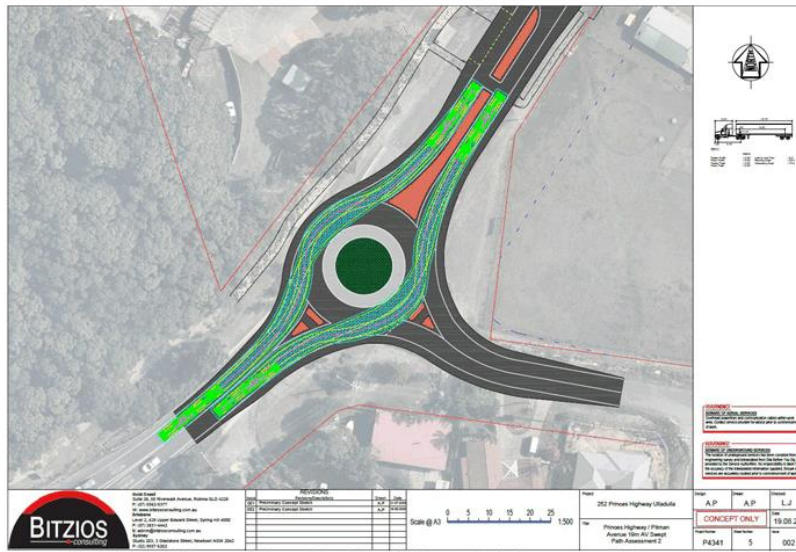


Figure 13 - Princes Highway / Pitman Ave 19m AV Swept Path Assessment 2.



Figure 14 - Princes Highway / Pitman Ave 12.5m HRV Swept Path Assessment.

DE21.82 - Attachment 2

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2. Subject Site and Surrounds

The subject site is located approx 1.7 km south of the Ulladulla Town Centre on the north east corner of the Princes Highway and Pitman Ave. The subject site is described and legally identified as Lot 1 DP 784732 – 252 Princes Highway Ulladulla.



Figure 15 - Site Locality Map.



Figure 16 - Site Surrounding Development Map.

The subject site is an irregular shaped lot with a frontage of 98m to the Princes Highway and 183m to Pitman Ave. The site falls gently from the eastern boundary (23.5m AHD) to the Princes Highway (13-14.5m AHD).

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An existing dwelling and associated structures occupy the north west corner of the subject site with the remainder of the land used for equine grazing. The site is burdened by an existing sewer main that transects the western end adjacent the Princes Highway & SP2 zoned strip of land for Arterial Road Widening.



Figure 17 - Site Constraints Map - site identified by yellow border with sewer main indicated by broken blue line & SP2 Zoned land indicated west of solid blue line.

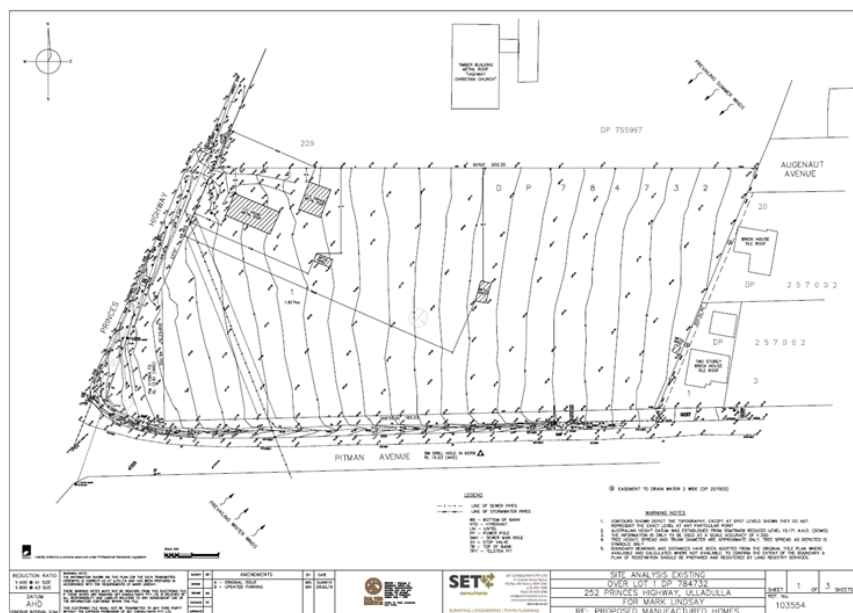


Figure 18 - Site Analysis Plan Existing.

Surrounding development is characterised as follows:

- North – Place of public worship – Highway Church.

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- West – South Ulladulla industrial land, Princes Highway and Racecourse Creek.
- East and South – low density residential comprising a mix of 1 & 2 storey dwellings.



Figure 19 - Pitman Ave Looking west from 22 Pitman Ave. Site approximated by red border.



Figure 20 - Pitman Ave intersection with Princes Highway looking south.



Figure 21 - Princes Highway northbound approx. 80m south of intersection with Pitman Ave.

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Figure 22 - Princes Highway northbound approx. 20m south of intersection with Pitman Ave.



Figure 23 - Princes Highway northbound adjacent subject site.



Figure 24 - Princes Highway southbound looking south east adjacent dwelling identified for demolition.

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Figure 25 - Princes Highway looking east to Highway Church (240) and adjacent dwelling (252) identified for demolition.

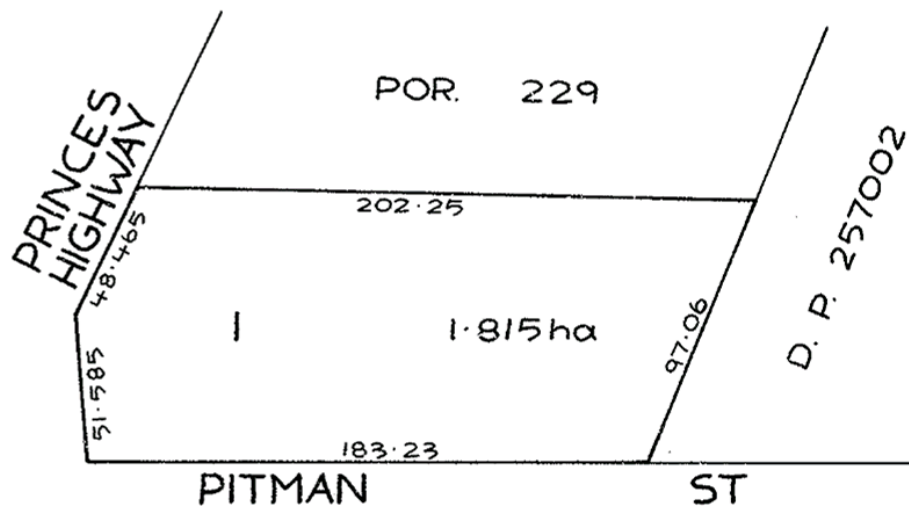


Figure 26 - Deposited Plan and 88B Instrument.

3. Background

This report addresses the second of two separate identical development applications lodged by the applicant for the same proposal. The initial application **DA19/1102** was lodged in May 2019 as **Integrated Development** with the RFS that provided for a 60 day deemed refusal trigger enabling an Appeal to the Land & Environment Court in accord with s8.11 of the EPA Act.

Due to the time period involved in sorting out the intersection roundabout upgrade design for Pitman Ave and the Princes Highway with TfNSW, the deemed refusal period subsequently lapsed. This means that the applicant is prevented from lodging an appeal for **DA19/1102** until such time as Council determines this application.

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The second application **DA21/1304** was lodged with the NSW Planning Portal on 25 March 2021 as a **non Integrated Development** application with the RFS to secure a shorter deemed refusal period enabling an appeal after 40 days from lodgement.

Under this referral path, the RFS can only issue recommended conditions and no Bush Fire Safety Authority (BFSA). The applicant is running the risk that they can still obtain a BFSA required by s100(B)(3) Rural Fires Act 1997 after obtaining development consent. In the event that Council were to approve **DA21/1304**, a Deferred Commencement condition would be the appropriate mechanism to address this matter given that the RFS have previously issued a BFSA for the identical development under **DA19/1102**.

Post-Lodgement

- **25 March 2021**, Non-Integrated DA (PAN-64368) lodged through the NSW Planning Portal for an identical application over the same parcel of land. The applicants indicated that the second application was lodged to enable a 40 day deemed refusal period as the deemed refusal window for DA19/1102 had already lapsed.
- **31 March 2021**, application referred to RFS as Non-integrated development in accord with applicants request.
- **31 March 2021**, application referred to Endeavour Energy, Transport for NSW, Shoalhaven Water, Development Engineer, Environmental Health Officer, Building Surveyor.
- **14 April 2021**, application was notified to surrounding residents and in the Milton Ulladulla Times Newspaper. Notification to close 28 April 2021.
- **14 April 2021**, RFS provided recommended conditions of consent.
- **14 April 2021**, TfNSW issued approval conditions for the construction of a roundabout upgrade and associated infrastructure to the intersection of the Princes Highway and Pitman Ave.
- **20 April 2021**, Shoalhaven Water requested an application for a Certificate of Compliance via the NSW Planning Portal.
- **4 May 2021** application referred back to RFS for a review of conditions under Planning for Bushfire 2019 standard.
- **26 May 2021** RFS provided revised recommended conditions of consent.
- **31/05/2021** SET provided response to request for additional information addressing – management of the MHE, demographics of expected tenants, tenancy model, confirmation not seeking affordable housing and parking.

Site History and Previous Approvals

Old Applications prior to 2nd Sept 1996

Application	Proposal	Decision	Owner	Original Lot
BA73/0206	Fibro Garage	Approved	Day HL	DP 755967 Por 230
BA80/0700	Dwelling Additions	Approved	Day HL	DP 755967 Por 230
SD7631		Approved	Day HL	DP 755967 Por 230

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4. Consultation and Referrals

Referral	Recommendation
Building Surveyor	<p>The proposal will be required to meet full compliance with the Disability Discrimination Act 1992 (DDA) & Disability (Access to Premises – Buildings) Standards 2010. This will include, without limitation, carparking, landscaping, all pathways, general access areas and from the principal pedestrian entrance of the property through to and within the community complex.</p> <p>The submitted plans do not meet the minimum requirements of the DDA & Disability (Access to Premises – Buildings) Standards 2010, without limitation in the following areas;</p> <ol style="list-style-type: none"> 1. community building plans, 2. unisex accessible toilet/s 3. designated accessible carparking space/s, 4. continuous accessible pathways with kerb ramps and tactile ground surface indicators etc, 5. outdoor facilities <p>Disability (Access to Premises – Buildings) Standards 2010 The Disability (Access to Premises – Buildings) Standards 2010, were introduced alongside an updated Building Code of Australia (BCA) on 1st May 2011. These Standards are now legislated as the minimum requirements for new buildings and buildings undergoing significant upgrade in Australia. The aim of these Standards is to provide the building and design industry with detailed information regarding the required access provisions associated with the design and construction of new buildings and upgrade to existing buildings.</p> <p>The manufactured home estate requirements will not be commented on and will be subject to a referral to the EHO's.</p> <p>Council has not been nominated for the CC or as the PC. In this regard, NO National Construction Code assessment has been completed for the proposal. The proposal may be subject to performance base solutions provisions of the NCC. Recommended conditions attached.</p>
Development Engineer	<p>As discussed with the assessing officer, it is understood that this application is identical to DA19/1102. As such, please refer to D21/37327 for referral comments and conditions.</p>

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<p>Traffic & Transport Unit</p>	<p>Following an assessment of the report and proposal traffic advise that as there is no planned upgrade to the intersection and that a roundabout (based on the numbers that the developer has provided) will be required should the development go ahead. Without the proposed development, Council would be applying for grant funding to provide the required infrastructure.</p> <p>This is not taking the highest hour traffic modelling into account. Which traffic would approximate would bring the roundabout to LOS A/B.</p> <p>It is accepted that the existing intersection will be at LOS F in 2030 without the development, however with the development there is a 150% increase relative to the time delay and queueing.</p> <p>Given that the solution without development would be a smaller roundabout or modifications, slip lanes etc the proposed roundabout in the Bitzios report should be wholly funded by the developer of this lot.</p> <p>Prior to approval we should be provided with concept drainage and road plans to ensure that there are minimal surprises going forward.</p> <p>Recommended Conditions of consent provided (D21/37327)</p>
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Agency	Recommendation
Traffic for NSW	<p>14/04/2021 TfNSW response STH16/00155/12 (CNR-20176) (D21/148466) – advised TfNSW will not object to the DA subject to conditions outlined in Attachment 2 being included in any development consent issued.</p> <p>TfNSW highlights that in determining the DA under Part 4 of the <i>Environmental Planning and Assessment Act 1979</i>, it is the consent authority's responsibility to consider the environmental impacts of any road works which are ancillary to the development. This includes any works which form part of the proposal and/or any works which are deemed necessary to include as requirements in the conditions of development consent (i.e. the proposed roundabout).</p> <p>Depending on the level of environmental assessment undertaken to date and the nature of the works, the consent authority may require the developer to undertake further environmental assessment for any ancillary road works.</p> <p>Upon determination of this matter, it would be appreciated if the Council could send a copy of the Notice of Determination to 'development.southern@transport.nsw.gov.au'.</p> <p>Attachment 1</p>

DE21.82 - Attachment 2

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<p>the Design Report prepared by Bitzios consulting dated 13 January 2021 with Ref: P4341.002R).</p> <p><i>Notes:</i></p> <ul style="list-style-type: none"> - A WAD is a legally binding contract between TfNSW and the developer, authorising the developer to undertake works on a State road and/or install traffic signals. - To progress the WAD, the developer needs to email a copy of the conditions of development consent to development.southern@rms.nsw.gov.au. - All roadworks and traffic control facilities must be undertaken by a pre-qualified contractor. A copy of prequalified contractors can be found on the TfNSW website at: http://www.rta.nsw.gov.au/doingbusinesswithus/tenderscontracts/prequalifiedcontractors.htm - Any new services or modifications to existing services associated with this development application that involve works on, over or under the Princes Highway (as defined the area from kerb to kerb) must be incorporated into and managed under, the Works Authorisation Deed for the project. Note: It is the developer's responsibility to identify these works to the TfNSW project manager. - More information on WADs can be found at: www.rms.nsw.gov.au/documents/projects/factsheet-development-process.pdf <p>b) Provide detailed design plans for all works within the Princes Highway road reserve to TfNSW. The detailed design plans must include, but not be limited to, details to address the following:</p> <ol style="list-style-type: none"> i. Show existing legal property boundaries, clarify property adjustments and dedication required to achieve the proposed arrangements (i.e. public road reserve dedications) as well as existing and proposed levels; ii. Ensure the pavement cross falls where the alignment of the northbound lane of the Princes Highway shifts across the existing centreline is considered and addressed; iii. Look at opportunities to increase the splitter islands on the Princes Highway south of the roundabout and Pitman Avenue (i.e. would be desirable but may not be possible); iv. Ensure any drainage works required are in accordance with TfNSW requirements; v. Ensure pavement design on the Princes Highway is in accordance with Austroads standards; vi. Ensure the sight distances comply with the applicable requirements in <i>Austroads Guide to Road Design Part 4B</i>, Section 3 (i.e. Criterion 1, 2 and 3); vii. Ensure the design for the works complies with the applicable requirements in <i>Austroads Guide to Road Design</i>, including associated supplements; viii. Where required, street lighting is to be upgraded and/or provided in accordance with Australian Standard AS/NZS1158. Details on any new lighting and/or upgrades to ensure compliance with the above AS are to be detailed; and ix. Provide a detailed pavement marking and signposting plan in compliance with TfNSW delineation guidelines and other relevant standards. <p>c) Demonstrate to the satisfaction of the Council the post-development stormwater discharge from the subject site that is going to the Princes Highway drainage system, does not exceed the pre-development application discharge.</p>
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<p>2. Prior to commencing works within the Princes Highway Road reserve, the developer must:</p> <p>a) Obtain Section 138 consent under the <i>Roads Act 1993</i> for the works associated with the WAD from TfNSW;</p> <p><i>Notes:</i></p> <ul style="list-style-type: none"> - TfNSW will be exercising its powers under Section 64 of the <i>Roads Act, 1993</i> to become the roads authority for works associated with the WAD and therefore responsible for issuing the Section 138 consent for those specific works. <p>b) Develop and implement a community information strategy about the works, in consultation with, and to the satisfaction of TfNSW; and</p> <p>c) Apply for, and obtain a Road Occupancy Licence (ROL) from the TfNSW Traffic Operations Unit (TOU) prior to commencing roadworks on the Princes Highway or any other works that impact a travel lane of the Princes Highway.</p> <p><i>Notes:</i></p> <ul style="list-style-type: none"> - For information on the ROL process and to lodge an ROL application, please visit https://myrta.com/oplinc2/pages/security/oplincLogin.jsf - The applicant will need to create an account (this may take a few days to register), prior to submitting the ROL application. The applicant must submit the ROL application 10 business days prior to commencing work. It should be noted that receiving approval for the ROL within this 10 business day period is dependent upon TfNSW receiving an accurate and compliant TMP. - The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Speed Zone Authorisation will also be required from the TOU. - An approved ROL does not constitute an approval to commence works until an authorisation letter for the works has been issued by TfNSW Project Manager. <p>3. Prior to the issuing of the Occupation Certificate the developer must:</p> <p>a) Have upgraded the junction of the Princes Highway and Pitman Avenue to a single lane roundabout to the satisfaction of TfNSW and in accordance with <i>Austrorads Guide to Road Design</i> and other relevant standards. Written confirmation must be provided from TfNSW that the works have been completed in accordance with the approvals issued.</p> <p><i>Notes:</i></p> <ul style="list-style-type: none"> - The pavement design on the Princes highway must be in accordance with <i>Austrorads standards</i>. - Where required, the developer must upgrade/provide lighting in accordance with <i>Australian Standard AS/NZS1158</i>. - All works need to be completed at no cost to TfNSW. <p>b) Physically close any other existing direct access points to/from the Princes Highway to the development site by fencing them and revegetating to TfNSW' satisfaction (e.g. the access point adjacent to the northern property boundary).</p> <p>c) Ensure any additional land that is outside the existing Princes Highway and Pitman Avenue road reserves and is required as public road reserve as a result of the construction of the roundabout is dedicated as public road.</p>

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	<p>d) Provide a survey that has been undertaken by a registered surveyor to the certifier and TfNSW (email to TfNSW via development.southern@rms.nsw.gov.au) that confirms that all structures (e.g. fencing along the eastern development boundary) are located outside the land that is zoned SP2 (i.e. 10m from the existing Princes Highway road boundary).</p> <p><i>Note:</i> <i>TfNSW does not object to the proposed landscaping that is shown within the SP2 zoned land along the development sites Princes Highway frontage subject to it no impacting upon required sight distances. Should this land be used for road widening/infrastructure in the future the landscaping will be removed at no cost to TfNSW.</i></p>
Endeavour Energy	<p>Endeavour Energy Response</p> <p>As shown in the below site plans from Endeavour Energy's G/Net master facility model (and extracts from Google Maps Street View and SIX Maps) there are:</p> <ul style="list-style-type: none"> • No easements over the site benefitting Endeavour Energy (active easements are indicated by red hatching). • Low voltage and 11,000 volt / 11 kilovolt (kV) high voltage overhead power lines to the Princes Highway road verge / roadway. • An extended low voltage overhead service conductor coming from the pole on the Princes Highway road verge to a customer owned pole (indicated by the green circle) providing the customer connection point for the existing dwelling on the site (which will become redundant assets if the development proceeds). <p>Please note the location, extent and type of any electricity infrastructure, boundaries etc. shown on the plan is indicative only. Generally (depending on the scale and/or features selected), low voltage (normally not exceeding 1,000 volts) is indicated by blue lines and high voltage (normally exceeding 1,000 volts but for Endeavour Energy's network not exceeding 132,000 volts / 132 kV) by red lines (these lines can appear as solid or dashed and where there are multiple lines / cables only the higher voltage may be shown). This plan only shows the Endeavour Energy network and does not show electricity infrastructure belonging to other authorities or customers owned electrical equipment beyond the customer connection point / point of supply to the property. This plan is not a 'Dial Before You Dig' plan under the provisions of Part 5E 'Protection of underground electricity power lines' of the <i>Electricity Supply Act 1995</i> (NSW).</p> <p>Subject to the following recommendations and comments Endeavour Energy has no objection to the Development Application.</p> <ul style="list-style-type: none"> • Network Capacity / Connection <p>Endeavour Energy has noted that the Statement of Environmental Effects does not appear to address in detail the suitability of the site for the development in regard to whether utility services are available and adequate for the development.</p> <p>The availability of electricity supply to a site is based on a wide range of factors eg. the age and design of the network; other development in the locality utilising previously spare capacity within the local network; the progress of nearby / surrounding sites including electricity infrastructure works eg. a smaller and isolated development that may not of its own accord require a distribution substation may require a substation to facilitate the development and from which the spare capacity is made available to subsequent nearby development. Older / above ground areas of the network utilising</p>

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<p>pole mounted substations (indicated by the symbol on the site plan from Endeavour Energy's G/Net master facility model) have comparatively limited capacity of 25 kilovolt amperes (kVA) up to a maximum of 400 kVA where as a newer padmount can accommodate loads from 315 kVA up to 1,500 kVA (typically 500 kVA) ie. there is a significant variation in the number and type of premises able to be connected to a substation.</p> <p>Applicants should not automatically assume that the presence of existing electricity infrastructure or nearby similar development means that adequate supply is immediately available to facilitate their proposed development. The two closest existing distribution substations are:</p> <ul style="list-style-type: none"> o Pole mounted substation no. 72070 located approximately 130 metres to the north on the Princes Highway which currently has 16 customer connection points servicing 51 premises. o Pole mounted substation no. 72389 located approximately 145 metres to the south east in Martin Avenue which currently has 133 customer connection points servicing 135 premises – which is at upper end of the capacity / number of premises able to be serviced by a pole mounted substation. <p>Both of these pole mounted substations are unlikely to have sufficient spare capacity to service a significant urban tourist / residential development. Given the large size of the proposed development (49 dwelling sites), an extension and/or augmentation of the existing local network is likely to be required. However the full extent of the work required to the local network to facilitate the proposed development will not be determined until the final load assessment is completed. Endeavour Energy's preference is to alert proponents / applicants (and Council) of the potential matters that may arise as redevelopment of urban areas continues to occur.</p> <p>In due course the applicant for the future proposed development of the site will need to submit an application for connection of load via Endeavour Energy's Network Connections Branch to carry out the final load assessment and the method of supply will be determined (also taking into consideration the potential further development / electricity load of the residue allotments).</p> <p>Depending on the outcome of the assessment, any required padmount substation will need to be located within the property (in a suitable and accessible location) and be protected (including any associated cabling) by an easement and associated restrictions benefiting and gifted to Endeavour Energy.</p> <p>Please refer to Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights'. Further details are available by contacting Endeavour Energy's Network Connections Branch via Head Office enquiries on telephone: 133 718 or (02) 9853 6666 from 8am - 5:30pm or on Endeavour Energy's website under 'Home > Residential and business > Connecting to our network' via the following link: http://www.endeavourenergy.com.au/.</p> <p>Advice on the electricity infrastructure required to facilitate the proposed development can be obtained by submitting a Technical Review Request to Endeavour Energy's Network Connections Branch, the form for which FPJ6007 is attached and further details (including the applicable charges) are available from Endeavour Energy's website under 'Our connection services'. The response to these enquiries is based upon a desktop review of corporate information systems, and as such does not involve the engagement of various internal stakeholders in order to develop a 'Connection</p>
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	<p>Offer'. It does provide details of preliminary connection requirements which can be considered by the applicant prior to lodging a formal application for connection of load.</p> <p>Alternatively the applicant should engage a Level 3 Accredited Service Provider (ASP) approved to design distribution network assets, including underground or overhead. The ASP scheme is administered by NSW Planning, & Environment and details are available on their website via the following link or telephone 13 77 88: https://energysaver.nsw.gov.au/households/you-and-energy-providers/installing-or-altering-your-electricity-service .</p> <p>Endeavour Energy is urging applicants /customers to engage with an Electrical Consultant prior to finalising plans to in order to assess and incorporate any required electricity infrastructure. In so doing the consideration can also be given to its impact on the other aspects of the proposed development. This can assist in avoiding the making of amendments to the plan or possibly the need to later seek modification of an approved development application.</p> <ul style="list-style-type: none"> • Urban Network Design <p>Endeavour Energy's Company Policy 9.2.5 'Network Asset Design', includes the following requirements for electricity connections to new urban subdivision / development:</p> <p>5.11 Reticulation policy</p> <p>5.11.1 Distribution reticulation</p> <p>In order to improve the reliability performance of and to reduce the operating expenditure on the network over the long term the company has adopted the strategy of requiring new lines to be either underground cables or where overhead is permitted, to be predominantly of covered or insulated construction. Notwithstanding this strategy, bare wire overhead construction is appropriate and permitted in some situations as detailed below.</p> <p>In areas with the potential for significant overhanging foliage, CCT is used to provide increased reliability as it is less susceptible to outages from wind-blown branches and debris than bare conductors. CCT must only be used in treed² areas as the probability of a direct lightning strike is low. In open areas where the line is not shielded from a direct lightning strike, bare conductors must generally be used for 11kV and 22kV reticulation.</p> <p>Non-metallic Screened High Voltage Aerial Bundled Cable (NMSHVABC) must be used in areas which are heavily treed and where it is not practicable to maintain a tree clearing envelope around the conductors.</p> <p><small>² A "treed" area is one with a substantial number of trees adjacent to the line, in each span. In these situations CCT is used to provide increased reliability as it is less susceptible to outages from wind-blown</small></p> <p>5.11.1.1 Urban areas</p> <p>Reticulation of new residential subdivisions will be underground. In areas of low bushfire consequence, new lines within existing overhead areas can be overhead, unless underground lines are cost justified or required by either environmental or local council requirements.</p> <p>Where underground reticulation is required on a feeder that supplies a mixture of industrial, commercial and/or residential loads, the standard of underground construction will apply to all types of load within that development.</p> <p>Where ducting is used, adequate spare ducts and easements must be provided at the outset to cover the final load requirements of the entire development plan.</p> <p>Extensions to the existing overhead 11kV/22kV network must generally be underground. Bare wire will be used for conductor replacements and augmentations except in treed areas where CCT or NMSHVABC must be used.</p> <p>Extensions to the existing overhead LV network and augmentations must either be underground or ABC. Conductor replacements greater than 100m in route length must utilise aerial bundled cable.</p> <ul style="list-style-type: none"> • Earthing
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The construction of any building or structure (including fencing, signage, flag poles, hoardings etc.) whether temporary or permanent that is connected to or in close proximity to Endeavour Energy's electrical network is required to comply with Australian/New Zealand Standard AS/NZS 3000:2018 'Electrical installations' as updated from time to time. This Standard sets out requirements for the design, construction and verification of electrical installations, including ensuring there is adequate connection to the earth. Inadequate connection to the earth to allow a leaking/fault current to flow into the grounding system and be properly dissipated places persons, equipment connected to the network and the electricity network itself at risk from electric shock, fire and physical injury.

• Network Access

It is imperative that the access to the existing electrical infrastructure on and in proximity of the site be maintained at all times. To ensure that supply electricity is available to the community, access to the electricity infrastructure may be required at any time. Restricted access to electricity infrastructure by maintenance workers causes delays in power restoration and may have severe consequences in the event of an emergency.

• Bushfire

Endeavour Energy has noted that the Statement of Environmental Effects indicate that 'Shoalhaven City Council's Bushfire Prone Land Map indicates the subject site is bushfire prone'. The accompanying Bushfire Risk Assessment provides the following advice on electricity services to the site having regards to NSW Rural Fire Service 'Planning for Bush Fire Protection 2006'.

Table 3: Provides the performance criteria and acceptable solutions for water, electricity and gas for special fire protection purposes in accordance with sections 4.2.7 (2) of PBP 2006.

Performance Criteria	Acceptable Solutions	Compliance
Electricity Services <ul style="list-style-type: none"> Location of electricity services limits the possibility of ignition of surrounding bushland or the fabric of buildings Regular inspection of lines is undertaken to ensure they are not fouled by branches. 	<ul style="list-style-type: none"> where practicable, electrical transmission lines are underground. 	<p>Where practicable, electrical transmission lines are to be underground</p> <p>Where overhead electrical transmission lines are proposed:</p> <ul style="list-style-type: none"> Lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and No part of a tree is closer to a power line than the distance set out in accordance with the specification in Vegetation Safety Clearances issued by Energy Australia (NS179, April 2002).

The following is an extract of Endeavour Energy's Company Policy 9.1.1 Bushfire Risk Management:

9.1.1 BUSHFIRE RISK MANAGEMENT

1.0 POLICY STATEMENT

The company is committed to the application of prudent asset management strategies to reduce the risk of bushfires caused by network assets and aerial consumer mains to as low as reasonably practicable (ALARP) level. The company is also committed to mitigating the associated risk to network assets and customer supply reliability during times of bushfire whilst achieving practical safety, reliability, quality of supply, efficient investment and environmental outcomes. The company is committed to compliance with relevant acts, regulations and codes.

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	<p>Accordingly the network required to service the proposed development must be fit for purpose and meet the technical specifications, design, construction and commissioning standards based on Endeavour Energy's risk assessment associated with the implementation and use of the network connection / infrastructure for a bushfire prone site. In assessing bushfire risk, Endeavour Energy has traditionally focused on the likelihood of its network starting a bushfire, which is a function of the condition of the network. Risk control has focused on reducing the likelihood of fire ignition by implementing good design and maintenance practices. However safety risks associated with the loss of electricity supply are also considered.</p> <ul style="list-style-type: none"> • Prudent Avoidance <p>The electricity network is operational 24/7/365 ie. all day, every day of the year. The electricity industry has adopted a policy of prudent avoidance by doing what can be done without undue inconvenience and at modest expense to avert the possible risk to health from exposure to emissions from electricity infrastructure such as electric and magnetic fields (EMF) and noise (both overhead power lines and transformers can produce an audible sound or buzz as a side effect of carrying electricity) which generally increase the higher the voltage ie. Endeavour Energy's network ranges from low voltage (normally not exceeding 1,000 volts) to high voltage (normally exceeding 1,000 volts but not exceeding 132,000 volts / 132 kV).</p> <p>In practical terms this means that when designing new transmission and distribution facilities, consideration is given to locating them where exposure to the more sensitive uses is reduced and increasing separation distances. Noise levels can vary and people perceive sounds differently so to minimise any potential exposure to intrusive noise, the siting towards the electricity infrastructure of less susceptible uses such as garages, nonhabitable or rooms not regularly occupied in the dwelling / building is recommended. This will also assist in reducing exposure to EMF.</p> <p>Where development is proposed in the vicinity of electricity infrastructure, Endeavour Energy is not responsible for any amelioration measures for such emissions that may impact on the nearby proposed development. Endeavour Energy believes that likewise applicants and Council should also adopt a policy of prudent avoidance by the siting of more sensitive uses away from any electricity infrastructure – including any possible future electricity infrastructure required to facilitate the proposed development.</p> <p>Please find attached a copy of Energy Networks Association's 'Electric & Magnetic Fields – What We Know' which can also be accessed via their website at https://www.energynetworks.com.au/electric-and-magneticfields and provides the following advice:</p> <p><i>Electric fields are strongest closest to their source, and their strength diminishes rapidly as we move away from the source.</i></p> <p><i>The level of a magnetic field depends on the amount of the current (measured in amps) and decreases rapidly once we move away from the source.</i></p> <p>Typical magnetic field measurements associated with Endeavour Energy's activities and assets given the required easement widths, safety clearances etc. and having a maximum voltage of 132,000 volt / 132 kV, will with the observance of these separation distances not exceed the recommended magnetic field public exposure limits.</p>
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• Vegetation Management

The planting of large trees in the vicinity of electricity infrastructure is not supported by Endeavour Energy. Suitable planting needs to be undertaken in proximity of electricity infrastructure (including any new electricity infrastructure required to facilitate the proposed development). Larger trees should be planted well away from electricity infrastructure and even with underground cables, be installed with a root barrier around the root ball of the plant.

Landscaping that interferes with electricity infrastructure could become a potential safety risk, restrict access, reduce light levels from streetlights or result in the interruption of supply may become subject to Endeavour Energy's Vegetation Management program and/or the provisions of the *Electricity Supply Act 1995* (NSW) Section 48 'Interference with electricity works by trees' by which under certain circumstances the cost of carrying out such work may be recovered.

Endeavour Energy has noted that as shown in the following extracts of the landscape Plan that trees are proposed to be planted to the Princes Highway building setback in proximity of the existing overhead power lines.

Endeavour Energy's recommendation is that existing street trees which are of low ecological significance in proximity of overhead power lines be replaced and any proposed planting of new trees within the proximity of overhead power lines be replaced by an alternative smaller planting to ensure appropriate clearances are maintained whilst minimising the need for future pruning.



ID	Qty	Common Name	Botanical Name	Scheduled Size	Mature Hgt
Trees					
CUP	7	Tuckeroo	<i>Cupressus anacardoides</i>	750	
FEA	4	Gelder Ash	<i>Fraxinus excelsior 'nana'</i>	750	15+
HTR	7	Red Cottonwood	<i>Hibiscus tiliaceus 'Rubra'</i>	450	
LA	13	Callagymne Palm	<i>Callistene australis</i>	1300	15+
LOP	7	Brush Box	<i>Lophosolenia corymbosa</i>	450	20+
TLL	8	Luscious Water Gum	<i>Tetrastemon laevis 'Luscious'</i>	750	

In regard to the future padmount substation possibly required to facilitate the proposed development, please find attached for the applicant's reference a copy Endeavour Energy's 'Guide to Fencing, Retaining Walls and Maintenance Around Padmount Substations'.

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<p>• Dial Before You Dig</p> <p>Before commencing any underground activity the applicant is required to obtain advice from the Dial Before You Dig 1100 service in accordance with the requirements of the <i>Electricity Supply Act 1995</i> (NSW) and associated Regulations. This should be obtained by the applicant not only to identify the location of any underground electrical and other utility infrastructure across the site, but also to identify them as a hazard and to properly assess the risk.</p> <p>• Removal of Electricity Supply</p> <p>Approval for the permanent disconnection and removal of supply must be obtained from Endeavour Energy's Network Connections Branch (contact via Head Office enquiries on telephone: 133 718 or (02) 9853 6666 from 8am - 5:30pm) by Accredited Service Providers (ASP) with the relevant class of Authorisation for the type of work being carried out. The work could involve:</p> <ul style="list-style-type: none"> • o The disconnection and removal of an underground service cable or overhead service line, • o Removal of metering equipment. <p>The written request must be submitted to Endeavour Energy using Form FPJ4603 'Permission to Remove Service / Metering by Authorised Level 2 Accredited Service Provider' which must be accompanied by Notification of Service Works (NOSW) forms provided as a result of service work activity performed by a Level 2 ASP. The retailer must also provide written agreement for the permanent removal of supply. For details of the ASP scheme please refer to the above point 'Network Capacity / Connection'.</p> <p>• Demolition</p> <p>Demolition work is to be carried out in accordance with Australian Standard AS 2601—2001: 'The demolition of structures' as updated from time to time. All electric cables or apparatus which are liable to be a source of danger, other than a cable or apparatus used for the demolition works shall be disconnected ie. the existing customer service lines will need to be isolated and/or removed during demolition. Appropriate care must be taken to not otherwise interfere with any electrical infrastructure on or in the vicinity of the site eg. streetlight columns, power poles, overhead power lines and underground cables etc.</p> <p>• Public Safety</p> <p>Workers involved in work near electricity infrastructure run the risk of receiving an electric shock and causing substantial damage to plant and equipment. I have attached Endeavour Energy's public safety training resources, which were developed to help general public / workers to understand why you may be at risk and what you can do to work safely. The public safety training resources are also available via Endeavour Energy's website via the following link:</p> <p>http://www.endeavourenergy.com.au/wps/wcm/connect/ee/nsw/nsw+homepage/communitynav/safety/safety+brochures .</p> <p>If the applicant has any concerns over the proposed works in proximity of the Endeavour Energy's electricity infrastructure to the road verge / roadway, as part of a public safety initiative Endeavour Energy has set up an email account that is</p>

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accessible by a range of stakeholders across the company in order to provide more effective lines of communication with the general public who may be undertaking construction activities in proximity of electricity infrastructure such as builders, construction industry workers etc. The email address is Construction.Works@endeavourenergy.com.au.

• Emergency Contact

In case of an emergency relating to Endeavour Energy's electrical network, the applicant should note the **Emergencies Telephone is 131 003** which can be contacted 24 hours/7 days. Endeavour Energy's contact details should be included in the any risk or safety management plan.

I appreciate that not all the foregoing issues may be directly or immediately relevant or significant to the Development Application eg. if a padmount substation is not required. However, Endeavour Energy's preference is to alert proponents / applicants of the potential matters that may arise should development within closer proximity of the existing and/or required electricity infrastructure needed to facilitate the proposed development on or in the vicinity of the site occur.

Could you please pass on a copy of this submission and the attached resources to the applicant? Should you wish to discuss this matter, or have any questions, please do not hesitate to contact me or the contacts identified above in relation to the various matters. Due to the high number of development application / planning proposal notifications submitted to Endeavour Energy, to ensure a response contact by email to property.development@endeavourenergy.com.au is preferred.

Yours faithfully

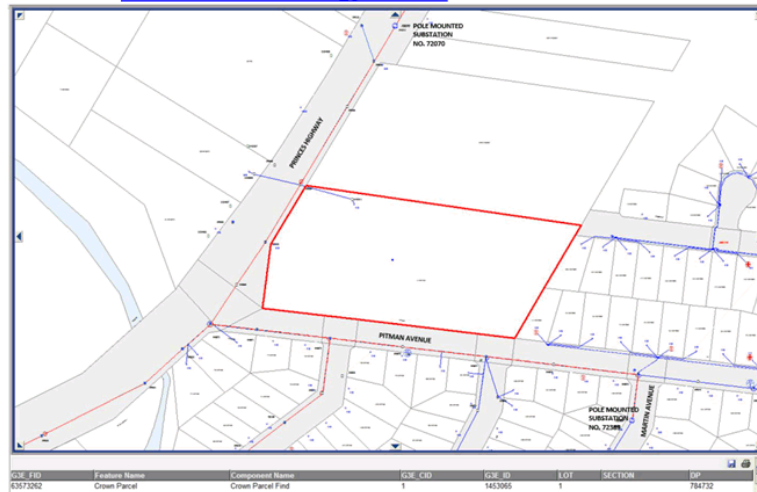
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5. Other Approvals

Agency	Recommendation
Rural Fire Service	<p>14/04/2021 RFS issued recommended conditions. Unfortunately, this response did not align with (DA19/1102) response and planning for bushfire 2019 standard, did not correctly classify the development as a MHE (referring to subdivision requirements that were not appropriate) and failed to address evacuation management.</p> <p>26/05/2021 RFS issued revised recommended conditions as detailed below:</p> <p>DA20210401001319-CL55-1</p> <p>s4.14 – Other – Community Facility 252 PRINCES HIGHWAY ULLADULLA NSW, 1//DP784732 I refer to your correspondence dated 04/05/2021 seeking advice regarding bush fire protection for the above Development Application in accordance with Clause 55(1) of the <i>Environmental Planning and Assessment Regulation 2000</i>.</p> <p>The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and provides the following recommended conditions:</p> <p>General Conditions</p> <p>1. The applicant is required to obtain a Bush Fire Safety Authority prior to the commencement of building works.</p> <p>Asset Protection Zones <i>The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:</i></p> <p>2. From commencement of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire site must be managed as an inner protection area (IPA). The IPA must comprise:</p> <ul style="list-style-type: none"> • Minimal fine fuel at ground level; • Grass mowed or grazed; • Trees and shrubs retained as clumps or islands and do not take up more than 20% of the area; • Trees and shrubs located far enough from buildings so that they will not ignite the building; • Garden beds with flammable shrubs not located under trees or within 10 metres of any windows or doors; • Minimal plant species that keep dead material or drop large quantities of ground fuel; • Tree canopy cover not more than 15%; • Tree canopies not located within 2 metres of the building; • Trees separated by 2-5 metres and do not provide a continuous canopy from the hazard to the building; and, • Lower limbs of trees removed up to a height of 2 metres above the ground. <p>Construction Standards</p>

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	<p><i>The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:</i></p> <p>3. Prior to construction of any manufactured home, associated structure or the community facility a suitably worded instrument shall be created over the proposed land pursuant to section 88 of the 'Conveyancing Act 1919' which requires:</p> <ul style="list-style-type: none"> • All manufactured homes and associated structures within Lots 37 to 49 to comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and Section 7.5 of 'Planning for Bush Fire Protection 2019'. • All other manufactured homes, associated structures and the community facility within the site to comply with section 3 and section 5 (BAL 12.5) Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and Section 7.5 of 'Planning for Bush Fire Protection 2019'. <p>Access - Internal Roads <i>The intent of measures is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:</i></p> <p>4. Access roads for special fire protection purpose (SFPP) developments must comply with following requirements of Table 6.8b of <i>Planning for Bush Fire Protection 2019</i>:</p> <ul style="list-style-type: none"> • SFPP access roads are two-wheel drive, all-weather roads; • access is provided to all structures; • traffic management devices are constructed to not prohibit access by emergency services vehicles; • access roads must provide suitable turning areas in accordance with Appendix 3; and • one way only public access roads are no less than 3.5 metres wide and have designated parking bays with hydrants located outside of these areas to ensure accessibility to reticulated water for fire suppression. • hydrants are located outside of parking reserves and road carriageways to ensure accessibility to reticulated water for fire suppression; • hydrants are provided in accordance with the relevant clauses of AS 2419.1:2005; and • there is suitable access for a Category 1 fire appliances to within 4m of the static water supply where no reticulated supply is available. <p>Water and Utility Services <i>Intent of measures: to provide adequate services of water for the protection of building during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.</i></p> <p>5. The provision of water, electricity and gas must comply the specifications and requirements of Table 6.8c of <i>Planning for Bush Fire Protection 2019</i>.</p> <p>Landscaping Assessment <i>The intent of measures is for landscaping. To achieve this, the following conditions shall apply:</i></p>
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<p>6. Landscaping within the required asset protection zone shall comply with Appendix 4 of 'Planning for Bush Fire Protection 2019'. In this regard, the following principles are to be incorporated:</p> <ul style="list-style-type: none"> • A minimum 1 metre wide area, suitable for pedestrian traffic, shall be provided around the immediate curtilage of buildings; • Planting is limited in the immediate vicinity of buildings; • Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters); • Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA) and trees do not touch or overhang buildings; • Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies; • Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown; • Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter); • Avoid climbing species to walls and pergolas; • Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building; • Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and • Low flammability vegetation species are used. <p>Emergency Management Planning <i>Intent of measures: to provide suitable emergency and evacuation arrangements for occupants of SFPP developments.</i></p> <p>7. Prior to occupation of any manufactured home, bush fire emergency management and evacuation planning shall comply with the acceptable solution requirements of Table 6.8d of <i>Planning for Bush Fire Protection 2019</i> and part 3.7 of the Bushfire Assessment Report by SET Consultants dated 21 January 2021 and be maintained for the life of the development.</p> <p>General Advice – Consent Authority to Note</p> <ul style="list-style-type: none"> • The name of authority empowered to release, vary or modify the instruments outlined above shall be Shoalhaven City Council.
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6. Statutory Considerations

This report assesses the proposed development/use against relevant State, Regional and Local Environmental Planning Instruments and policies in accordance with Section 4.15 (1) of the Environmental Planning and Assessment Act 1979 (EP&A Act). The following planning instruments and controls apply to the proposed development:

Instrument	Relevant
Shoalhaven LEP 2014	<input checked="" type="checkbox"/>
Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005	<input checked="" type="checkbox"/>
State Environmental Planning Policy No 55 - Remediation of Land	<input checked="" type="checkbox"/>

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Instrument	Relevant
State Environmental Planning Policy (Infrastructure) 2007	<input checked="" type="checkbox"/>
State Environmental Planning Policy No 36 – Manufactured Home Estates	<input checked="" type="checkbox"/>
State Environmental Planning Policy – (Coastal Management) 2018	<input checked="" type="checkbox"/>
Rural Fires Act 1997 and Rural Fires Regulation 2013	<input checked="" type="checkbox"/>

Additional information on the proposal's compliance with the above planning instruments is detailed below in Section 7 (Statement of Compliance/Assessment) of this report.

7. Statement of Compliance/Assessment

The following provides an assessment of the submitted application against the matters for consideration under Section 4.15 of the EP&A Act.

(a) Any planning instrument, draft instrument, DCP and regulations that apply to the land

Environmental Planning and Assessment Act 1979

Section 4.46 – Integrated Development			
Act	Provision	Approval	Relevant
Rural Fires Act 1997	100B	NA as application lodged as non integrated	<input checked="" type="checkbox"/>

i) Environmental planning instrument

Rural Fires Act 1997



Figure 27 – Bushfire Map

The provisions of the **Rural Fires Act 1997** (RF Act) have been considered in the assessment of the development application.

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Under s100B of the RF Act, a person must obtain a **Bush Fire Safety Authority** (BFSA) before developing bush fire prone land for a **special fire protection purpose** (SFPP). Manufactured Home Estates are called up as a SFPP by clause 46 of the RF Regs.

DA21/1304 was lodged with the NSW Planning Portal on 25 March 2021 as a **non Integrated Development** application with the RFS to secure a shorter deemed refusal period enabling an appeal after 40 days from lodgement.

Under this referral path, the RFS can only issue recommended conditions and no Bush Fire Safety Authority (BFSA). The applicant is running the risk that they can still obtain a BFSA required by s100(B)(3) Rural Fires Act 1997 after obtaining development consent. In the event that Council were to approve **DA21/1304**, a Deferred Commencement condition would be the appropriate mechanism to address this matter given that the RFS have previously issued a BFSA for the identical development under **DA19/1102**.

On 26 May 2021 RFS issued revised recommended conditions which are referenced to the recommended conditions of consent.

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

community amenity means a space or facility that is required (by this Regulation or otherwise) to be provided within a manufactured home estate, caravan park or camping ground that is used or intended to be used—
(a) for the purposes of administration or servicing of that manufactured home estate, caravan park or camping ground, or
(b) for recreational or other communal purposes serving the interests of the occupiers of manufactured homes within a manufactured home estate or moveable dwellings within a caravan park or camping ground, but does not include any car parking space.

community building means a building (such as a shower block, toilet block or laundry block) that is used or intended to be used in connection with a community amenity, and includes a building that is to be used as a manager's or caretaker's office or residence.

dwelling site—

(a) in relation to a manufactured home estate—means an area of land within the manufactured home estate that is designated as a dwelling site by the approval for the manufactured home estate

major access road means an access road serving more than 30 dwelling sites within a manufactured home estate.

installation means—

(a) in relation to a manufactured home or a relocatable home—the process of connecting together the major sections of the manufactured home or relocatable home, and any associated structures forming part of the manufactured home or relocatable home, and attaching them to footings, or
(b) in relation to an associated structure—the process of constructing or assembling the components of the associated structure, and (if appropriate) attaching them to footings, and includes the connection of gas, electricity, telephone, water, sewerage and drainage services.

relocatable home means—

(a) a manufactured home, or
(b) any other moveable dwelling (whether or not self-contained) that comprises one or more major sections, including any associated structure that forms part of the dwelling, but does not include a tent, caravan or campervan or any moveable dwelling that is a vehicle of a kind that is capable of being registered within the meaning of the Road Transport Act 2013.

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Compliance against Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005		
Cl.12	Min' size of estate 1 ha	1.82 ha
Cl.13	Community amenities	✓
Cl.14	Dwelling sites min 130m2	✓
cl.15	Site ID	Prior to Operational approval
Cl.16	sites have road frontage	✓
cl.17	10m Setback from boundary	10m from boundary sth ,9.99m from western boundary.
Cl.18	Setbacks from roads.	✓
Cl.20	Roads	✓
Cl.21	Width of roads	✓
Cl.22	Speed Restrictions	Prior to Operational approval
Cl.23 & 24	Visitor Parking/Disable parking	✓ 12 needed 15 proposed including 1 disabled space
Cl 25	Road surfaces	All weather seal proposed.
Cl 26	Lighting	Prior to Operational approval
CL27	Water Supply	Reticulated water available. Check Prior to Operational approval
Cl28	Sewerage	Sewer Available
Cl 29	Drainage	Check Prior to Operational approval
Cl 30	Electricity	Check Prior to Operational approval
Cl 31	Telephone	To be provided
Cl 33	Garbage removal	Private contractor within the subject site
Cl 34	Fire Hydrant	Check Prior to Operational approval
Cl 38	Access to approval and Community Map	The documents subject to this clause shall be provided within the Community Building, or another physical location within the estate.

SEPP (Coastal Management) 2018



Figure 28 - SEPP (Coastal Management) 2018 Map.

The subject site is Located within the coastal use area of the SEPP.

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Division 4 Coastal use area 14 Development on land within the coastal use area	Comment
(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—	
(a) has considered whether the proposed development is likely to cause an adverse impact on the following—	
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	NA as site is remote from the foreshore, beach, headland or rock platform
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	NA as site is remote from the foreshore, beach, headland or rock platform
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	NA as site is remote from the foreshore, beach, headland or rock platform
(iv) Aboriginal cultural heritage, practices and places,	Site not identified as having any cultural significance
(v) cultural and built environment heritage, and	NA
(b) is satisfied that—	
(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or	satisfied
(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	NA
(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and	NA
(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.	Noted – it is acknowledged that the proposed development has a higher density than the surrounding R2 zoned land, while retaining single storey dwellings of a 2 and 3 bedroom layout.

SEPP (Infrastructure) 2007

Considerations	Comments
Classified Roads	
101 Development with frontage to classified road	
(1) The objectives of this clause are—	
(a) to ensure that new development does not	The Princes Highway is a classified state road. The development application was referred to TfNSW for approval under the provisions of Schedule 3 off SEPP (Infrastructure) 2007 as a traffic generating development with a new intersection proposed on the Princes Highway.

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<p>compromise the effective and ongoing operation and function of classified roads, and (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.</p> <p>(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—</p> <p>(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and</p> <p>(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—</p> <p>(i) the design of the vehicular access to the land, or</p> <p>(ii) the emission of smoke or dust from the development, or</p> <p>(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and</p> <p>(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.</p>	<ul style="list-style-type: none"> • Subclause 101(2)(a) ('where practicable and safe, vehicular access to the land is provided by a road other than the classified road'), is relevant because the site has frontage to Pitman Ave (unclassified at this location) and Princes Highway (regional classified road at this location). <p>The applicant has submitted concept plans (refer to Figures 2 & 9) for an upgraded roundabout intersection treatment at the junction of Pitman Ave and the Princes Highway that has been accepted by TfNSW and Council's traffic engineers as providing a practicable and safe, vehicular access to the land that can be provided by a road (Pitman Ave) other than the classified road.</p> <p>In accord with the test of practicability established by the case of <i>Modern Motels Pty Ltd v Fairfield City Council</i> [2013] NSWLEC 138, the desired outcome is for access to the land to be via the unclassified local road – Pitman Ave, which will ensure that the development does not compromise the effective and ongoing operation and function of the classified road (Princes Highway).</p> <ul style="list-style-type: none"> • Subclause 101(2)(b) (the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development) is relevant due to the proposed highway intersection upgrade design for a roundabout with Pitman Ave and associated pedestrian paths, refuges and bus shelter upgrades. <p>A Traffic Impact Assessment (TIA) prepared by <i>Bitzios Consulting</i> concluded that:</p> <ul style="list-style-type: none"> o The Princes Highway / Pitman Avenue intersection operates within acceptable performance limits in the PM peak with or without the proposed development at the year 2020. However, with development traffic, the intersection does not operate within acceptable performance limits in the AM peak at the year 2020. o The Princes Highway / Pitman Avenue intersection is expected to operate significantly outside acceptable performance limits by the year 2030 with or without the proposed development and would fail to operate within acceptable performance limits by the year 2021 without the proposed development. o The proposed roundabout generally operates within acceptable performance limits at the year 2030 with or without the proposed development. It is also noted that development generated trips have a minimal impact on intersection operations. o The roundabout treatment has been designed to accommodate up to a 23m B-Double for north/south highway traffic movement and up to 19m articulated vehicle (AV) for the Pitman Ave leg.
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<p>o The proposed roundabout is expected to act as a traffic calming device for northbound traffic entering Ulladulla and provide significant safety benefits at the Princes Highway / Pitman Avenue intersection. The proposed roundabout is therefore considered an appropriate upgrade, mitigating short and long-term intersection safety and operational issues.</p>				
Year	Intersection Type	Level of Service	Delay in seconds accessing the Princes Highway from Pitman Ave	Queue Length m in Pitman Ave on Approach to Princes Highway
2020	Existing Give Way Layout			
	No development	E	63	17
	With MHE development	F	118	41
2030 10-year Design Horizon	No development	F	1522	232
	With MHE development	F	2259	341
2030 10-year Design Horizon	Roundabout Intersection Upgrade			
	No development	A	3	5
	With MHE development	A	11	7

Figure 29 - Summary of SIDRA Survey and Modelling for the intersection of the Princes Highway and Pitman Ave.

It is clear that the introduction of the proposed roundabout treatment at the intersection of the Princes Highway and Pitman Ave with associated pedestrian crossings and pathways will improve the safety, efficiency and ongoing operation of the classified road (Princes Highway).

- Subclause 2(c) (the development is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road) applies to the development as it proposes residential use in proximity to a classified road.

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	A Traffic Noise Intrusion Assessment prepared by Harwood Acoustics was submitted with the application. The report includes recommendations which are incorporated in the draft conditions to ensure the development will not be impacted by noise generated by the surrounding uses if approved.
102 Impact of road noise or vibration on non-road development	NA Princes Highway in location has an AADT < 20 000 vehicles and therefore the provision does not apply.

SEPP 55 Remediation of Land

The site is not identified in council's records as being potentially contaminated. The demolition of the existing structures will require an asbestos demolition report which is included in the recommended conditions of consent.

Question	Yes	No
1. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)?	Proceed to Question 3	x Proceed to Question 2
2. Does the proposal result in a change of use (that is the establishment of a new use)?	x Proceed to Question 3	
3. Does the application proposed a new: <ul style="list-style-type: none"> Child care facility Educational use Recreational use Health care use Place of public worship Residential use in a commercial or industrial zone 	x Proceed to Question 5	Proceed to Question 4
4. Review the property file and conduct a site inspection of the site and surrounding lands. Is there any evidence that the land has been used for a listed purpose?	Proceed to Question 5	x Proposal satisfactory under SEPP 55 and DCP.
5. Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater?	Request contaminated site assessment	x Site is not identified on councils PCL register. The site currently consists of a residential dwelling and auxiliary structures that support small scale horse grazing on site. Given the current use of the site, there is no reason to suspect that this property is subject to any contamination.

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Question	Yes	No
		Proposal satisfactory under SEPP 55 and DCP.

SEPP 36 – Manufactured Home Estates

<p>manufactured home means a self-contained dwelling (that is, a dwelling that includes at least 1 kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities), being a dwelling—</p> <p>(a) that comprises 1 or more major sections that are each constructed, and assembled, away from the manufactured home estate and transported to the estate for installation on the estate, and</p> <p>(b) that is not capable of being registered under the Traffic Act 1909, and includes any associated structures that form part of the dwelling.</p> <p>manufactured home estate means land on which manufactured homes are, or are to be, erected.</p>

3 Land to which this Policy applies

(1) This Policy applies ... to all other areas in the State that are outside the Sydney region.

4 Relationship to other environmental planning instruments

(1) In the event of an inconsistency between this Policy and any other environmental planning instrument whether made before or after this Policy, this Policy prevails to the extent of the inconsistency.

6 Where development for the purposes of a manufactured home estate may be carried out

Development for the purposes of a manufactured home estate may be carried out pursuant to this Policy on any land on which development for the purposes of a caravan park may be carried out, except—

(a) land within one or more of the categories described in Schedule 2, or	NA
(b) land dedicated or reserved under the National Parks and Wildlife Act 1974 , or	NA
(c) land within a Crown reserve.	NA

Schedule 2 Categories of excluded land

	Comment
1 Land which the council, after taking into account the principles set out in the Coastline Management Manual published by the New South Wales Government in September 1990, considers is unsuitable for residential development because of coastal erosion, tidal inundation, slip, dunal movement or any other risk of a similar nature.	NA
2 Land which the council, after taking into account the principles set out in the Floodplain Development Manual published by the New South Wales Government in December 1986, considers is unsuitable for residential development because of flooding.	NA site is not flood prone land
3 Land which is within a water catchment area identified by a water supply authority.	NA
4 Land which, in the opinion of the council, is affected to an unacceptable level by an offensive or hazardous industry or any form of pollution.	NA
5 Land which is identified in an environmental planning instrument, or in any planning strategy of the Department or the council approved for the time being by the Director, by words which are cognate with or a description consistent with any one or more of the following— extractive resources, services corridors, airport/industry buffer area, habitat corridor, containing significant remnant vegetation, littoral rainforest, water catchment, wetlands.	NA

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<p>6 Land which under any environmental planning instrument is within an area or zone identified in that instrument by the description—</p> <ul style="list-style-type: none"> • open space, other than open space (private recreation) • environmental protection • scenic protection • rural (where the land is not adjacent to or adjoining land zoned for urban use). 	<p>NA subject site is zoned SP3 Tourist</p>
<p>7 Land that is within the following coastal local government areas, being land that is not zoned or reserved under an environmental planning instrument for urban use and is not identified as suitable for urban development under the Coastal Urban Planning Strategies or Residential Strategies approved for the time being by the Director— Shoalhaven</p>	<p>NA site is zoned SP3 Tourist</p>
7 Development consent required for manufactured home estates	Comment
(1) Development for the purposes of a manufactured home estate permitted to be carried out by this Policy may be carried out only with the development consent of the council.	
(2) A council must not consent to any such development unless it imposes, as a condition of the consent, a requirement that an approval to operate a manufactured home estate on the land on which the development is to be carried out must be obtained under Part 1 of Chapter 7 of the Local Government Act 1993 .	<p>Condition to be incorporated into draft conditions</p>
8 Subdivision of manufactured home estates	Comment
(1) Land on which development for the purposes of a manufactured home estate may be lawfully carried out (whether or not because of a development consent granted pursuant to this Policy) may be subdivided—	<p>No subdivision proposed for the current application</p>
9 Matters to be considered by councils	Comment
(1) A council may grant a development consent pursuant to this Policy allowing development for the purposes of a manufactured home estate only if it is satisfied—	
(a) that each of the sites on which a manufactured home is or will be installed within the manufactured home estate is or will be adequately provided with reticulated water, a reticulated sewerage system, drainage and electricity, and	<p>Water, sewer, drainage and power infrastructure is available to serve the development.</p> <p>Complies</p>
(b) that the manufactured home estate is or will be provided with adequate transport services, and <i>Applicant - The proposed site has vehicle access from Pitman Avenue to the south of site. The access being provided will ensure safe access on and off the site. Public transport is also available to the site, with two bus stops located on Princes Highway west of the site. A pedestrian footpath will be constructed, linking the site to these existing bus stops.</i>	
<p>Ulladulla Bus lines have 2 routes that serve the site – route 740B Ulladulla to Burrill Lake & Return operates 4x/day Monday to Friday and 3 x on weekends & route 741 Ulladulla to Kioloa & Return operates 3 x /day.</p>	

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Ulladulla to Burrill Lake & Return		Ulladulla to Kioloa & Return	
740B		741	
ULLADULLA TO BURRILL LAKE		via Kings Point. ROUTE 740B	
		Monday to Friday	Saturday
ULLADULLA TO BURRILL LAKE via Kings Point		am	pm
11 Ulladulla Martin Hotel - Princes Hwy	9:25	11:30	2:40
13 Kings Point - James Crescent	-	-	3:50
8 Princes Hwy - Opp Kings Point Dr	9:28	11:33	2:43
9 Burrill Lake - Princes Hwy opp (1st) Dolphin Point Rd	9:34	11:39	2:44
14 Burrill Lake - Wyoming Ave opp Woodlawn Av	9:36	11:41	2:46
10 Burrill Lake - Princes Hwy opp Wallerly Dr	9:37	11:42	2:47
12 Burrill Lake - Princes Hwy at Putt Putt	9:40	11:45	2:50
BURRILL LAKE TO ULLADULLA via Kings Point		am	pm
10 Burrill Lake - Princes Hwy opp Wallerly Dr	9:37	11:42	2:47
12 Burrill Lake - Princes Hwy at Putt Putt	9:40	11:45	2:50
13 Kings Point - James Crescent	-	-	3:50
9 Princes Hwy - opp (past) Kings Point Dr	9:42	11:47	2:52
1 Ulladulla Plaza - Princes Hwy	9:45	11:50	3:00
ULLADULLA TO KIOLOA via Burrill Lake-Lake Tabourie-Termell-Bawley Point		Monday to Friday	Saturday
ULLADULLA TO KIOLOA via Burrill Lake-Lake Tabourie-Termell-Bawley Point		am	pm
15 Bus Depot - Deering St	7:25	-	-
1 Ulladulla Martin Hotel - Princes Hwy	7:28	9:20	3:40
8 Princes Hwy - Opp Kings Point Dr	7:28	9:23	3:58
9 Burrill Lake - Princes Hwy opp (1st) Dolphin Point Rd	7:30	9:25	4:00
16 Lake Tabourie - Princes Hwy opp Tucker Box Store	7:35	9:30	4:05
17 Termell - Bus Stop opp Service Station	7:45	9:35	4:12
18 Bawley Point - Bus Stop	7:50	9:45	4:18
19 Kioloa - Forest Rd opp Golden Beaches Dr	7:55	9:55	4:25
KIOLOA TO ULLADULLA via Bawley Point-Termell-Lake Tabourie-Burrill Lake		am	pm
19 Kioloa - Forest Rd opp Golden Beaches Dr	8:00	9:55	4:30
18 Bawley Point - Bus Stop	8:05	10:00	4:35
17 Termell - Bus Stop at Service Station	8:10	10:05	4:40
16 Lake Tabourie - Princes Hwy opp Tucker Box Store	8:20	10:15	4:45
15 Burrill Lake - Princes Hwy opp Wallerly Dr	8:25	10:20	4:50
12 Burrill Lake - Princes Hwy at Putt Putt	8:30	10:25	4:55
8 Princes Hwy - opp Kings Point Dr	8:35	10:22	4:55
1 Ulladulla Plaza - Princes Hwy	8:45	10:25	5:00

Notes:

- No Service Sunday - Public Holidays
- Fares must be paid and tickets will be issued from boarding machine
- Adult - Concession - Child and RED tickets available
- Rollies are not used and generally be serviced by a fully wheelchair accessible bus. Periodic maintenance stop when available please check prior to journey.

For more information visit
www.ullbuslines.com.au or call 02 4455 1874

Effective 1 June 2019
Version 1

Figure 30 – Bus Schedule.

Premier Motor Service provides bus and shuttle services past the site between Eden and Sydney daily. Uber and taxi services are available in Ulladulla, as well as a courtesy bus operated by the various clubs. Complies

(c) that sufficient community facilities and services, whether situated within or outside the estate, are or will be available and reasonably accessible to the residents of the manufactured home estate, and

Applicant - This manufacture home estate includes the location of a future community building. The subject site is also located a short walk to the foreshore east of the site, and located approximately 1.5km north of the site is the Ulladulla town centre.

(d) that the development will not have an adverse effect on any—

- conservation area
- heritage item
- waterway or land having special landscape, scenic or ecological qualities,

The proposed development includes community building, BBQ area, outdoor gym and bowls area. The foreshore is located approx 260m east and beach approx 500m walk south.

The Exservos club is located approx 500m walk north along the Princes Highway.

General shopping and services are located 1.5km north along the Princes Highway that is readily accessible by car, taxi, bus or by walking/bike. Complies

The development does not impact any conservation area, heritage item, waterway or land with special landscape, scenic or ecological qualities identified by an EPI.

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which is identified in an environmental planning instrument applicable to the land concerned.

(2) A council may grant a development consent pursuant to this Policy allowing development for the purposes of a manufactured home estate only after it has considered the following—

(a) the cumulative impact of the proposed development and other manufactured home estates in the locality,

Applicant - The cumulative impacts of the proposed manufactured home estate have been considered and addressed throughout this report. The cumulative impacts are considered minimal, as the subject site is situated in an appropriate location, where it is close to public transport and the foreshore to the east.

There are no other MHE located in the vicinity. There are however 4 caravan parks located within 1.1km south of the proposed MHE that incorporate manufactured homes for long term occupation. Typical occupancy of LT sites in the above parks are predominantly comprised of 1-2 retirees per dwelling with 1 car.



Figure 31 – Caravan Parks in proximity to subject development 252 Princes Highway Ulladulla.

Caravan Park	Long Term Sites
Kings Point Retreat	53
Gateway Lifestyle Suncoast	52
Gateway Lifestyle Ulladulla	38
Beachside Caravan Park	Nil
Proposed MHE	49
Total	192 dwellings

Figure 32 – Table of nearby caravan parks with manufactured dwellings (Long Term).

Kings Point Retreat (309m south) is the only caravan park development within view of the proposed MHE development. The other caravan parks are sufficiently remote and located out of sight around a bend in the highway that they do not warrant consideration as neighbouring development. The Long Term (LT) portion of Kings Point Retreat is located (approx. 500m south) of the proposed MHE development and is partially screened from view by vegetation and a number

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of dwellings fronting the highway and is therefore considered that it does not add to cumulative impact for the proposed development.

The subject site forms the southern gateway to Ulladulla which already suffers from an unattractive light industrial strip west side of highway which could only be improved by the subject proposal.

In *Davies v Penrith City Council* [2013] NSWLEC 1141 Senior commissioner Tim Moore provided **Revised planning principle: criteria for assessing impact on neighbouring properties**. The following questions are relevant to the assessment of impacts on neighbouring properties:

How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?	NA
How reasonable is the proposal causing the impact?	No impact
How vulnerable to the impact is the property receiving the impact? Would it require the loss of reasonable development potential to avoid the impact?	NA
Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?	No
Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal?	Yes

In *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191 Senior Commissioner Dr John Roseth established **Planning principle: compatibility in the urban environment**.

There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve. Where compatibility between a building and its surroundings is desirable, its two major aspects are physical impact and visual impact. In order to test whether a proposal is compatible with its context, two questions should be asked.




Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

Noise	The existing character of Pitman Ave in the vicinity of the proposed development comprises 1 and 2 storey single dwellings.
Overlooking	
Overshadowing	
Constraining Development Potential	There is no evidence that the proposed development will constrain development or result in any overlooking or overshadowing impacts. There is the potential for some light glare impact to the residential premises immediately adjacent to the entry driveway for the proposed facility when vehicles leave the site at night and a slight increase in road noise associated with additional traffic movements.

Is the proposal's appearance in harmony with the buildings around it and the character of the street?

For a new development to be visually compatible with its context, it should contain, or at least respond to, the essential elements that make up the character of the surrounding urban environment. The most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by building height, setbacks and landscaping.

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Building height	<p>Existing built form for the surrounding estate ranges from 1-2 storey residential dwellings. Existing residential properties adjacent to the subject site comprises 8 single storey and 2 double storey dwellings. Pitman Ave contains 14 double storey and 11 single storey dwellings.</p>  <p><i>Figure 33 – Two (2) storey dwellings in pitman Ave represented by blue dot. Subject site identified by yellow border.</i></p>
setbacks	<p>The proposed development is 1 storey high – compatible.</p> <p>Setbacks for existing dwellings in Pitman Ave adjacent range from 4-13m from the front boundary.</p>  <p><i>Figure 34 – Variable setback represented by broken blue line.</i></p> <p>The proposed development provides a setback of 10m for MHE dwelling sites from Pitman Ave. Cl 44 of the LG Regs requires a further setback of 1m to a road reserve providing a minimum setback of 11m to Pitman Ave for the built form. Front setback is considered compatible with surrounding built form.</p>  <p><i>Figure 35 – Eave lines of buildings represented by broken blue line.</i></p> <p>Existing side setbacks are variable ranging from 1.8m to 8+m approx.</p>

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Figure 36 – Eave lines of buildings represented by broken blue line.

Clause 47 of the LG Regs requires a minimum side setback of 1m to the boundary of an adjoining dwelling site for a MHE development. This in effect provides a minimum separation of 2m between manufactured homes.

When viewed from Pitman Ave looking north, the MHE proposal would present as (10 x 3 bed) and (2 x 2 bed) dwellings of uniform spacing (12 in total) with a detached community building on the SW corner.

In contrast, the street scape looking south from Pitman Ave is broken up by South Pacific Crescent and presents as (7) dwellings between the highway and Brill Crescent.

It is acknowledged that side setbacks for the proposed development are uniformly smaller than the existing side setbacks of surrounding residential development. While the proposed development would appear denser in the local context, it is not considered to be incompatible.

landscaping

The existing character of landscaping in Pitman Ave is informal with very few trees and occasional low set front fences (1.2m max) of variable design and materials.

The proposed development incorporates formal landscaping incorporating (3) different types of boundary fencing, perimeter plantings and street trees.

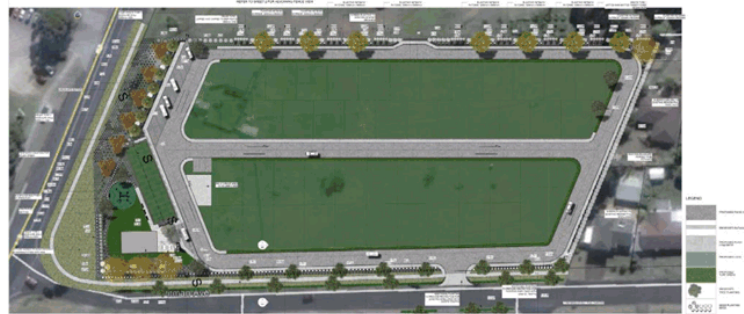


Figure 37 – Proposed fencing comprises:

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Fence Type 1 - Capped and lapped 1.8m high timber fence with indented landscape bays along north boundary with Highway Church.



Fence Type 2 – Modular Wall – Estate Wall 2.2m High proposed along the highway frontage with return in Pitman Ave east of the proposed BBQ area.



Fence Type 3 – Aluminium Slat Fence 1.2m high



Figure 38 – Pitman Ave Streetscape – Sectional Elevation of fence and landscaping.

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	<p>Landscaping & 1.2m high fencing facing Pitman Ave were proposed in response to existing context of low set fences and generally open front yards.</p> <p>Neighbour submissions from surrounding residents suggest that the proposed MHE dwelling forms are not adequately screened from Pitman Ave by a 1.2m high slatted aluminium fence.</p> <p>Comment - the proposed fencing height along the Pitman Ave frontage is appropriate and compatible with the existing context.</p> <p>To address the visual screening concern, it is recommended that a suitable hedge planting is provided on the development side off the Pitman Ave boundary fence that is grown and maintained to a height of 2.0 m. This would effectively screen the development from the street and minimise light spill from vehicle lights at night.</p> <p>The development seeks to retain the existing eastern boundary fence without alteration. Neighbour submissions have identified the need to upgrade this boundary fence to minimise vehicle light spill / noise amenity impacts from the development to adjoining neighbours. It is recommended that a 1.8m high capped and lapped acoustic hard wood fence be provided along the eastern boundary of the site from the north east corner adjacent 17 Augenaut Ave to the front building alignment of 22 Pitman Ave.</p> <p>The subject site is commercial and faces industrial zoned land on the highway West and commercial land to the North. Proposed fencing typologies for those two frontages are considered to be appropriate for screening and sound attenuation and compatible with existing and future context.</p>
	<p><u>Traffic Movements</u> The provision of the proposed roundabout upgrade to the intersection of the Princes Highway and Pitman Ave is considered by TfNSW and council traffic engineers to provide a net public benefit to the existing community who currently access the highway from Pitman Ave that improves accessibility and safety for motorists during normal and peak traffic loadings and will reduce the delay times for residents to access the highway.</p> <p><u>Bushfire</u> The RFS have issued recommended conditions of consent for the proposal as they consider the development to be acceptable.</p> <p>While it is acknowledged that the surrounding residents do not support the proposal, the evidence indicates that the cumulative impacts of the proposal on the surrounding locality is considered minimal.</p>
	<p>(b) any relevant guidelines issued by the Director, <i>Applicant - There are no known relevant guidelines issued by the Director on the subject site.</i></p>
	<p>(c) the provisions of the <i>Local Government (Manufactured Home Estates) Transitional Regulation 1993</i>.</p>
	<p>NA</p>
	<p>These have been superseded by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 that are addressed elsewhere in this report.</p>

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Shoalhaven LEP 2014

Land Zoning

At the time of lodgement for DA21/1304 the physical development was contained to the SP3 zone.

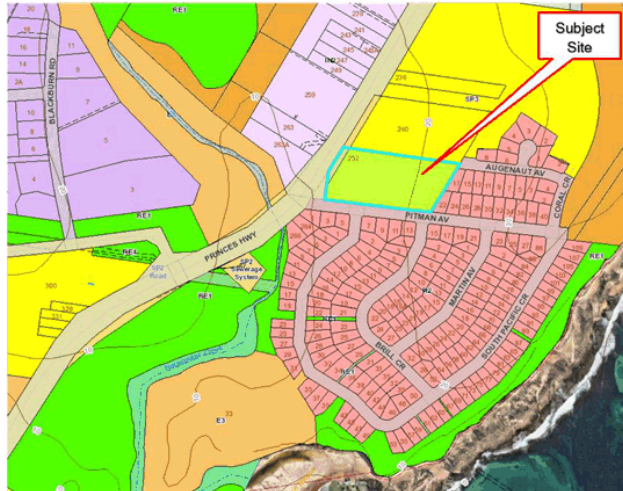


Figure 39 – SLEP 2014 Zoning Map.

3 Permitted with consent

Aquaculture; Building identification signs; Business identification signs; Camping grounds; Caravan parks; Charter and tourism boating facilities; Dwelling houses; Environmental facilities; Environmental protection works; Food and drink premises; Function centres; Helipads; Heliports; Information and education facilities; Kiosks; Recreation areas; Recreation facilities (indoor); Roads; Sewerage systems; Shop top housing; Tourist and visitor accommodation; Water recreation structures; Water supply systems

4 Prohibited

Any development not specified in item 2 or 3

Characterisation and Permissibility

The proposal is best characterised as an innominate use Manufactured Home Estate (MHE) under the SLEP 2014. While Manufactured Home Estates are not a nominated permitted use within the SP3 zone, caravan parks are permitted use with consent in the zone.

Permissibility for MHE at the subject site is enabled by the application of clause 6(6) of SEPP 36 — Manufactured Home Estates that allows the development of an MHE on any land on which development for the purposes of a caravan park may be carried out. Refer to SEPP 36 assessment comments above.


Zone objectives

Objective	Comment
<ul style="list-style-type: none"> To provide for a variety of tourist-oriented development and related uses. 	Manufactured homes enable both permanent accommodation and short term rental accommodation in accord with clause 7.13 of the SLEP2014 without the need for further consent - complies

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• To enable compatible residential and recreational uses.	The development proposes 49 dwellings that may be used for residential purposes and ancillary recreational facilities in the form of bowling green, outdoor gym, BBQ area, garden and walking paths - complies
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SLEP 2014 Clauses

Clause	Relevant	Comments	Complies/Consistent
Part 2 Permitted or prohibited development			
2.7	<input checked="" type="checkbox"/>	Demolition requires development consent The application includes the demolition of existing structures.	Noted
Part 4 Principal development standards			
4.3	<input checked="" type="checkbox"/>	Height of buildings The height of buildings map provides a maximum height of 10.0m for the site. The proposed community building is single storey construction well below 10m. Proposed manufactured homes are not buildings however are to be single storey construction below 10m.	complies
4.4	<input type="checkbox"/>	Floor space ratio - No FSR applies to the site	NA
Part 5 Miscellaneous provisions			
5.1A	<input checked="" type="checkbox"/>	Development on land intended to be acquired for public purposes  <i>Figure 40 – Map of SP2 zoned land (yellow).</i> No building development proposed within the SP2 zone (yellow strip fronting highway). Only soft landscaping is proposed in this area that is easily removed.	complies
Part 7 Additional local provision			
7.1	<input checked="" type="checkbox"/>	Acid sulfate soils – subject site is identified as class 5 land >10m AHD and located more than 500m from another class	complies
7.2	<input checked="" type="checkbox"/>	Earthworks – The proposed development will not have a detrimental impact on environmental functions and	complies

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		<p>processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p> <p><i>(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:</i></p> <table><tr><td>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</td><td>Nil</td></tr><tr><td>(b) the effect of the development on the likely future use or redevelopment of the land,</td><td>Nil</td></tr><tr><td>(c) the quality of the fill or the soil to be excavated, or both,</td><td>Condition</td></tr><tr><td>(d) the effect of the development on the existing and likely amenity of adjoining properties,</td><td>Some short term impact may be associated with site works – excavation and transport of fill to or from the site – condition for erosion and dust control and dilapidation report for surrounding development.</td></tr><tr><td>(e) the source of any fill material and the destination of any excavated material,</td><td>Condition</td></tr><tr><td>(f) the likelihood of disturbing relics,</td><td>Conditions imposed addressing potential aboriginal heritage</td></tr><tr><td>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</td><td>The site is located approx. 90m from Racecourse Creek. Suitable conditions addressing potential for soil erosion of the site are included in the draft conditions of consent.</td></tr><tr><td>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</td><td>Refer to draft conditions of consent</td></tr></table>	(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,	Nil	(b) the effect of the development on the likely future use or redevelopment of the land,	Nil	(c) the quality of the fill or the soil to be excavated, or both,	Condition	(d) the effect of the development on the existing and likely amenity of adjoining properties,	Some short term impact may be associated with site works – excavation and transport of fill to or from the site – condition for erosion and dust control and dilapidation report for surrounding development.	(e) the source of any fill material and the destination of any excavated material,	Condition	(f) the likelihood of disturbing relics,	Conditions imposed addressing potential aboriginal heritage	(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,	The site is located approx. 90m from Racecourse Creek. Suitable conditions addressing potential for soil erosion of the site are included in the draft conditions of consent.	(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	Refer to draft conditions of consent	
(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,	Nil																		
(b) the effect of the development on the likely future use or redevelopment of the land,	Nil																		
(c) the quality of the fill or the soil to be excavated, or both,	Condition																		
(d) the effect of the development on the existing and likely amenity of adjoining properties,	Some short term impact may be associated with site works – excavation and transport of fill to or from the site – condition for erosion and dust control and dilapidation report for surrounding development.																		
(e) the source of any fill material and the destination of any excavated material,	Condition																		
(f) the likelihood of disturbing relics,	Conditions imposed addressing potential aboriginal heritage																		
(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,	The site is located approx. 90m from Racecourse Creek. Suitable conditions addressing potential for soil erosion of the site are included in the draft conditions of consent.																		
(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	Refer to draft conditions of consent																		
7.11	<input checked="" type="checkbox"/>	Essential services – adequate essential services are available or can be augmented for the proposed development	complies																
7.13	<input type="checkbox"/>	Short-term rental accommodation <i>(1) The objective of this clause is to ensure that residential accommodation may be used as tourist and visitor accommodation for a short term without requiring development consent.</i> <i>(2) Despite any other provision of this Plan, development consent is not required for the use of residential accommodation for the purposes of tourist and visitor accommodation (except backpackers accommodation or bed and breakfast accommodation) if the use is only short-term and does not</i>	noted																

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		<p><i>interfere generally with the amenity of the neighbourhood in any way, including by noise or traffic generation.</i></p> <p><i>(3) In this clause, short-term means for a maximum period of 45 consecutive days in any 12 month period.</i></p> <p>This clause permits manufactured homes within the MHE to be occupied under the SLEP 2014 for short term tourist use provided such use does not impact the amenity of the surrounding neighbourhood.</p> <p>Condition MHE dwellings for a maximum period of 45 consecutive days in any 12 month period for short term tourist use & an amenity management plan limiting the number of visitors/short term renters per dwelling and their vehicle to 1 per dwelling.</p>	
7.27		<p>Dwelling houses on land in Zone SP3</p> <p><i>(1) The objective of this clause is to ensure dwelling houses form an integral part of development for the purposes of tourism.</i></p> <p><i>(2) Development consent must not be granted to development for the purposes of a dwelling house on land in Zone SP3 Tourist unless the consent authority is satisfied that the dwelling house—</i></p> <p><i>(a) forms an integral part of development for the purposes of tourism on the site, or</i></p> <p><i>(b) will not conflict with the use of the site for the purposes of tourism.</i></p> <p>In the current application council is being asked to consider approval of an MHE which is a separate definition to a dwelling house. That being said, the MHE does not conflict with the use of the site for the purposes of tourism as permitted under clause 7.27 above.</p>	Complies

ii) **Draft Environmental Planning Instrument**

Nil applicable

iii) **Any Development Control Plan**

Shoalhaven DCP 2014

Generic Chapters	Relevant
<u>G1</u> : Site Analysis, Sustainable Design and Building Materials in Rural and Coastal Areas - complies	<input checked="" type="checkbox"/>
<u>G2</u> : Sustainable Stormwater Management and Erosion/Sediment Control	<input checked="" type="checkbox"/>
Council stormwater engineers have reviewed the proposal and provided conditions of consent that include water quality, retention and reuse – complies.	
<u>G3</u> : Landscaping Design Guidelines	<input checked="" type="checkbox"/>
Refer to SEPP 36 comments above which recommend:	
<ul style="list-style-type: none"> 1.8m high hedge along Pitman Ave frontage to screen the development from the street more effectively 1.8m high capped and lapped HW fence along east boundary to screen vehicle headlights and attenuate vehicle noise to surrounding neighbours. 	

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<ul style="list-style-type: none"> The northern boundary fence be constructed to an acoustic standard to attenuate road and church noise for future residents. 	
Condition	
G7: Waste Minimisation and Management Controls	<input checked="" type="checkbox"/>
Council's Waste Officer has provided conditions of consent to address the various stages of the proposal.	
G18: Streetscape Design for Town Centres	<input checked="" type="checkbox"/>
<p>The subject site falls within the boundaries of the SCC - Town Street Tree Planting Strategy which recommends the planting of Cupaniopsis anacardioides Tuckaroo trees at 10m centres along the highway frontage.</p> <div style="display: flex; justify-content: space-around;">   </div> <p>Figure 41 – Habit – spreading crown up to 10m, 4-6m high.</p> <p>Alternate species Hibiscus tiliaceus</p> <div style="display: flex; justify-content: space-around;">   </div> <p>Figure 42 – Habit – dense rounded crown 3.5-5m, 7m high.</p> <p><i>A8.3 Tree species are to be selected and installed in accordance with the Streetscape Technical Manual.</i></p> <p><i>A8.4 The location of street trees must consider potential impacts to overhead and underground services (including easements), kerbs and footpaths.</i></p> <p>The submitted landscape plan includes Tuckaroos along Pitman Ave north side and on south side in the vicinity of the MHE access driveway.</p> <p>Condition - Hibiscus tiliaceus be specified as street trees on the southern side of Pitman Ave.</p> <p>The Princes Highway frontage has already been provided with street trees (Crepe Myrtles) north of the proposed outdoor gym in accordance with the policy.</p> <p>Recommend (3) additional (Crepe Myrtles) be planted to break up the blank modular fence adjacent the highway side of the proposed community centre.</p>	
G21: Car Parking and Traffic	<input type="checkbox"/>
<p>Parking numbers for MHEs are dictated by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 which specifies:</p> <p>CI 23 – 12 visitor parking spaces required – 15 proposed – complies</p>	

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CI 45 – requires the provision of 1 parking space per dwelling site retained within each site or provided elsewhere in the estate – 49 proposed with 1 space on each dwelling site - complies

The **total parking requirement** for the development is $49 + 12 = 61$ spaces.

Parking proposed = 49 resident spaces + 15 visitor = **64 spaces** – complies

The application was supported by a Traffic Impact Assessment prepared by *Bitzios Consulting*.

The Traffic Impact assessment estimated the development would generate 32 peak hour vehicle trips. These rates were based off medium-density residential developments under the TFNSW Guide to Traffic Generating Developments (2002), as manufactured home estates are not specifically listed as a land use, and medium-density developments are the closest relevant land use in this case.

The latest Bitzios traffic report from 7 November 2019 indicates the intersection currently operates satisfactorily today, but would fail with the development traffic added.

Referring to Figure 29 – Summary of SIDRA Survey and Modelling for the intersection of the Princes Highway and Pitman Ave.

2020 Existing Give Way layout – Traffic Model Results

No development - Level of Service E, 63 second delay, 17m queue

With development – would be Level of Service F, 118 second delay, 41m queue

2030 10-year Design Horizon Existing Give Way Layout

No development – Level of Service F, 1522 second delay, 232m queue

With development – Level of Service F, 2259 second delay, 341m queue

2030 10-year Design Horizon with Roundabout

No development - Level of Service A, 3 second delay, 5m queue

With development – Level of Service A, 11 second delay, 7m queue

It is clear that the introduction of an upgraded roundabout treatment at the intersection of the Princes Highway and Pitman Ave with associated pedestrian crossings and pathways will significantly reduce queue length and delays accessing the highway for residents while improving safety for all motorists and pedestrians interacting at this intersection.

[G22: Advertising Signs and Structures](#)

☐

None applied for with the current application

DCP Chapter	Comment
<input checked="" type="checkbox"/> S10: South Ulladulla 3 Context The desired future character for this area is: <input type="checkbox"/> An attractive entrance to the Ulladulla Town Centre with well-designed developments located within an attractive landscaped setting.	Complies
4 Objectives The objectives are to encourage development which:	The proposed development does not increase the number of access points to the highway, provides for an upgraded intersection treatment

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<p>i. Maintains the efficiency of the Princes Highway by reducing the number of driveways having direct access to the highway.</p> <p>iv. Allows traffic movements to and from the Princes Highway that are safe and convenient for vehicles, cyclists and pedestrians.</p> <p>v. Provides landscaping at a height and density that softens the development from the Princes Highway and which may include planting on the Princes Highway footpath reserve.</p>	<p>(roundabout) and associated pedestrian paths and refuges to improve Traffic Safety for all users.</p> <p>Appropriate landscaping is proposed for the development subject to recommended conditions to break up and soften the development as viewed from the highway and Pitman Ave - complies</p>
<p>5.2.3 Setbacks <i>Tourist Accommodation Area (east of Highway)</i> If your lot has frontage to the Princes Highway, your development is to be setback 10m (after road widening) from that frontage.</p>	<p>Complies</p>
<p>5.5 Stormwater Management 5.5.2 Design solutions OSDs will be required for all developments except for extensions where the proposed roof or paved area is less than thirty (30) square metres.</p>	<p>OSD incorporated into recommended conditions of consent – complies</p>
<p>5.7 Utility Services As part of your development, you are to provide for the undergrounding of electricity and telephone services within the boundary of your site. Any extension of supply shall be placed underground at the applicant's expense. You are to locate and design site and waste facilities to have an attractive visual appearance that complements the townscape character when viewed from a public street or place.</p>	<p>Condition undergrounding of electricity and phone/internet infrastructure</p> <p>Condition suitable screening be provided around the bin enclosure area.</p>

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

NA

iv) Environmental Planning and Assessment Regulation 2000

Clause	Comment
<p>CI 92 Additional matters that consent authority must consider</p> <p>(1) For the purposes of section 4.15(1)(a)(iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application—</p> <p>(b) in the case of a development application for the demolition of a building, the provisions of AS 2601,</p>	<p>Condition compliance with AS 2601</p>

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CI 98A Erection of signs	Condition signage on site detailing principle certifier/contractor and entry arrangements
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v) Any [coastal zone management plan](#)

NA to subject site

Council Policies

Shoalhaven Contribution Plan 2019

The proposed development is considered to increase the demand for community facilities in accordance with the Shoalhaven Contributions Plan 2019 (the Plan). The development is most aptly characterised as a Manufactured Home Estate development for the purpose of calculating contributions under the Plan.

Developer Contributions - Internet Explorer

Section 7.11 ET Calculations - DA21/1304 (UPN: 73685)

Close Reset Print Return Calc

☒ Residential ☐ Non-Residential

Calculation Type:
Medium Density/Dual Occupancy

Medium Density/Dual Occupancy

	Existing	Proposed
1 Bedroom Dwelling (Affordable Rental Housing SEPP)	0	0
2 Bedroom Dwelling (Affordable Rental Housing SEPP)	0	17
3 Bedroom Dwelling (Affordable Rental Housing SEPP)	0	32
4 Bedroom Dwelling (Affordable Rental Housing SEPP)	0	0
Lots/Dwellings (not via Affordable Rental Housing SEPP)	1	0
Boarding House Bedrooms	0	0
Total ET		34.8
		0

NOTE:

Prior to the issue of development consent which requires contributions in accordance with this Plan, credit of the respective ETs or m2 is given to recognise the original approved land use of the development site (i.e. dwelling / building / subdivision).

Figure 43 – ET Calculation.

Project	Description	Rate	Qty	Total	GST	GST Incl
05AREC0005	Planning Area 5 - Active recreation facility upgrades various locations	\$1,045.12	34.8	\$36,370.18	\$0.00	\$36,370.18
05CFAC2010	Southern Shoalhaven Branch Library	\$525.90	34.8	\$18,301.32	\$0.00	\$18,301.32
CWAREC5005	Shoalhaven Community and Recreational Precinct SCaRP Cambewarra Road Bomaderry	\$1,094.57	34.8	\$38,091.04	\$0.00	\$38,091.04
CWCFAC5002	Shoalhaven Entertainment Centre (Bridge Road Nowra)	\$827.26	34.8	\$28,788.65	\$0.00	\$28,788.65
CWCFAC5006	Shoalhaven City Library Extensions (Berry Street, Nowra)	\$1,280.53	34.8	\$44,562.44	\$0.00	\$44,562.44
CWCFAC5007	Shoalhaven Regional Gallery	\$70.30	34.8	\$2,446.44	\$0.00	\$2,446.44
CWFIRE2001	Citywide Fire & Emergency services	\$138.13	34.8	\$4,806.92	\$0.00	\$4,806.92
CWFIRE2002	Shoalhaven Fire Control Centre	\$202.07	34.8	\$7,032.04	\$0.00	\$7,032.04
CWMGMT3001	Contributions Management & Administration	\$574.39	34.8	\$18,039.90	\$0.00	\$18,039.90
				Sub Total:		\$198,438.92
				GST Total:		\$0.00
				Estimate Total:		\$198,438.92

Figure 44 – Contribution Calculation.

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

Head of Consideration	Comment
Natural Environment	<p>The subject site is currently used as grazing land that does not contain any flora or fauna requiring preservation.</p> <p>The site falls towards Racecourse Creek which flows across the Princes Highway to Racecourse Beach.</p> <p>Recommended conditions of consent imposed by Council Development Engineers address the potential for soil erosion, dust generation, storm water discharge volume (OSD) and stormwater quality (GPT), to protect Racecourse Creek and associated vegetation.</p>
Built Environment	<p>Refer to earlier discussion under SEPP 36</p> <p>Recommended conditions have been imposed addressing vehicle noise and light spill to surrounding residential receivers.</p>
Social Impacts	<p><u>Positive Impacts</u></p> <ul style="list-style-type: none"> • Transformational impact - Improved safer access to the Highway from upgraded intersection reducing travel and wait times. • Transformational impact - Improved safer pedestrian pathway links from the estate to Ulladulla/Burrill Lake. • Moderate impact – noticeable reduction of highway noise impacting residents along Pitman Ave due to noise shielding affects of the proposed development. • Moderate impact – Improved Aesthetics of the civil upgrade improvements to the intersection of the highway with formalised landscaping/street tree planting. <p><u>Negative Impacts</u></p> <ul style="list-style-type: none"> • Minor impact - Short term traffic, dust and vibration impact during construction • Moderate impact - Some localised light spill amenity impact to residents immediately adjacent to the proposed entry driveway for the development that have been conditioned for additional street tree plantings on the southern side of Pitman Ave.
Economic Impacts	<p>There were a number of submissions concerned that local building trades would not benefit from the development as manufactured homes are constructed outside the Shoalhaven area.</p> <p>The proposal will provide additional employment and positive economic multiplier benefits for the supply of labour & materials during construction of the site and associated civil works.</p> <p>The installation of manufactured homes within the completed development will generate additional employment for traffic control</p>

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Head of Consideration	Comment
	and assembly of building components and connection to services for each site.

(c) Suitability of the site for the development

The site is appropriately zoned SP3 Tourist which permits a Manufactured Home Estate with consent under SEPP 36 among other uses.

The site is appropriately sized and located to accommodate the submitted MHE in accord with the requirements of State Environmental Planning Policy No 36—Manufactured Home Estates and the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

The site is considered to be suitably located with good public transport access and close links to shopping and other services in Ulladulla a short distance north. The site is appropriately serviced for water, sewer and power with provision for internet connectivity.

(d) Submissions made in accordance with the Act or the regulations

The DA was notified in accordance with Council's Community Consultation Policy for Development Applications. Submissions were received by Council objecting to the proposal. The concerns raised are outlined below:

Summary of Public Submissions	
Objection Raised	Comment
Amenity Impacts	
Concern that the boundary fence proposed adjacent to the eastern boundary relies on an inadequate existing fence compared to 1.8 metre high capped and lapped fence along the northern boundary of the site	Recommended conditions require a 1.8 metre high capped and lapped hard wood fence along this boundary to be installed from the north east corner adjacent 17 Augenaut Ave to the front building alignment of 22 Pitman Ave.
Questioned the fencing type proposed for the highway frontage?	Perimeter fencing along the highway frontage is proposed to be a 2.2 metre high modular fence comprising solid infill in the bottom 2/3 and permeable horizontal slats in the top third
Concern regarding potential light spill and vehicle noise amenity impact generated by car headlights leaving the development at night impacting general amenity, health and causing sleep disturbance at night.	This issue is of particular relevance to the existing residents leaving opposite the location of the proposed MHE access driveway.
Concern the proposed landscaping does not adequately screen the development from Pitman Ave. Suggests a high fence and a dense hedge to screen the entire frontage of the site.	To minimise light spill, the applicants have agreed to provide for additional Street tree planting on both sides of Pitman Ave in the vicinity of their entry driveway. After considering the submissions it is considered reasonable for council to condition the provision and maintenance of

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	a 1.8m high screening hedge behind the Type 3 Fence proposed for Pitman Ave frontage.
Request that the northern boundary fence with the Highway Church needs to prevent children access and afford sound attenuation	The proposed boundary fence is of a suitable design and height to prevent child access across the boundary and provide some sound attenuation benefits to future residents.
Concern with long timber fence along northern boundary viewable from the highway would be unattractive	Revised landscape plan provides for articulation and planting to break up the visual appearance of this fence when viewed from the highway
Concern with potential amenity impacts to adjoining neighbours East of the site - road noise, waste disposal area (odour)	<p>The applicant revised the plans and moved the waste disposal area to the western end of the site away from adjoining residents.</p> <p>It is acknowledged that the existing eastern dividing fence is not of a suitable standard to reduce vehicle noise to nearby residents. The landscape plan incorporates appropriate screening planning along this boundary that will adequately address light spill once established.</p> <p>In the interim period, it is reasonable for council to condition a requirement for the installation of a 1.8 metre high hardwood capped and lapped acoustic fence along the eastern boundary off the subject site from the north east corner adjacent 17 Augenaut Ave to the front building alignment of 22 Pitman Ave.</p>
Concern that the development will rely on waste servicing of 98 bins along Pitman Ave	All waste servicing is proposed to be carried out within the development and not from the Pitman Ave kerbside.
Concern over the impact of construction period, would Council set a maximum period of construction once commenced?	Condition maximum period
Concern location of proposed community facilities and recreation area adjacent to the highway will result in poor amenity for future residents of the estate	Do not agree, given that the community facilities and recreation area are contained within modular fencing and are appropriately landscaped to provide privacy and amenity.
Traffic and Parking	
Concern with existing safety and wait time at the intersection of Pitman Ave and the Princes Highway particularly during peak holiday periods	Existing Traffic Safety and lack of access onto the highway would be improved by the provision of a roundabout and provide a net public benefit.
Concern that additional traffic generated by the proposed development would exacerbate existing problems for access to and from the highway.	The proposed roundabout would address safety concerns and improve equity of access to and from the highway.

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	Existing and additional traffic generated by the development have been assessed by TfNSW as acceptable for the subject development.
Need for a commitment to a roundabout at the intersection of Princes Highway and Pitman Ave prior to any development consent being issued. Belief that the roundabout is a distraction and not genuinely being offered by the developer	After consultation with council engineers and TfNSW, the developer modified their proposed intersection treatment to include a roundabout upgrade incorporating pedestrian paths/refuges/crossings. The roundabout design has been thoroughly assessed and approved by TfNSW. Provision of the roundabout and associated infrastructure is a mandatory requirement to be met prior to occupation of the development.
Concern the proposed roundabout design does not address regular flooding of Princes Highway from Racecourse Creek – suggests new bridge and associated road raising with new roundabout	The roundabout design has been thoroughly assessed and approved by TfNSW.
Southbound traffic turning left into Pitman Ave from the highway are using the road verge to move out of the fast moving traffic to avoid rear end collisions	Proposed roundabout resolves this issue
Concerned that there is inadequate parking for residents & visitors which will lead to an increase of on street parking.	Proposed parking for the manufactured home estate exceeds the State Government parking requirements under the local government regulations for this form of development.
Lack of safe walking path for students walking to UHS or older residents who walk to the bus stop on the highway.	The development provides roundabout intersection upgrade works on the highway that include pedestrian pathways for the full frontage of the site and links to bus shelter/stops, pedestrian refuges crossing the highway and Pitman Ave.
Princes Highway bypass needed ASAP	Agree
Concerned that TFNSW are not fully aware of the objections to the development and traffic implications of the proposed development	TFNSW were provided with details of past objections to development associated with the intersection of Pitman Ave and the Princes Highway in accord with council resolution as well as the submissions received for the current 2019 application.
Concern the submitted Traffic Impact Assessment was inadequate	Council and TFNSW requested and received multiple addendums to the Traffic Impact Assessment that led to an approved for a roundabout at the intersection of Pitman Ave and the Princes Highway
Concern regarding traffic and safety impact generated by construction and the transport of manufactured home sections to the site from their place of construction	Recommended conditions include the requirement for a Traffic Control Plan and Construction Management Plan prior to commencing work that address safety and traffic issues related to construction and installation of manufactured homes.

Planning Report – S4.15 Assessment - 252 Princes Hwy, ULLADULLA - Lot 1 DP 784732

Concerned with the safety impact on road maintenance as a result of heavy vehicle use during construction and transport of manufactured homes to the site	Recommended conditions include a dilapidation survey of potentially impacted properties & Council's civil assets which would be required to be repaired/rectified at the developers cost in the event of any damage occurring.
Object to the access point for the development coming from Pitman Ave suggest alternative access directly off the highway	Direct access to the site from the Princes Highway is not supported by state policy SEPP Infrastructure or TFNSW
Concern with the width of Pitman Ave to enable vehicles to pass safely when cars are parked on the side of the road	Recommended conditions for the roundabout and pitman Ave require kerb and gutter and street drainage that will widen Pitman Ave to enable vehicles to pass safely.
Suggest connecting Coral Cres prior to a roundabout on the highway	The land located between the broken sections of Coral Crescent is owned by the Ulladulla Local Aboriginal Land Council and not currently offered for a road connection.
Alternative suggestion for traffic lights at the intersection of Princes Highway and Pitman Ave	Not supported by TfNSW or council traffic engineers as would be less efficient than a roundabout
Ulladulla Forum suggested that the priority location for a roundabout would be at the intersection of Kings Point Drive and the highway	This suggestion related to an TfNSW survey which identified a number of potential roundabout locations along the highway prior to consideration of the current application.
Safety concern with increased parking demand from the MHE at Racecourse Beach and potential impact on pedestrians	Given that council does not know the makeup or intentions of future residents it is not possible to critically analyse this question. Parking demand for council reserves is reviewed on a needs basis.
Suitability of Proposal for Site	
Manufactured housing estate is inconsistent with the zoning of the neighbourhood	The SP3 Zoning of the subject site permits caravan park use. Sepp 36 Manufactured Home Estates permits the development of a Manufactured Homes Estate on land where a caravan park is permitted. The surrounding residential neighbourhood is zoned R2 low density residential which permits single dwellings that are proposed in a compressed form within the subject development.
Concerned that the density of the proposed development is not in keeping with the character of surrounding land use (over development of the site)	Proposed density is appropriate for the SP3 tourist zone of the subject site which is different to the R2 low density zone for surrounding residential land.
Concern zoning is not appropriate for the area and that the land should be zoned low density residential in keeping with the surrounding estate.	The land owner (applicant) is not currently seeking a rezoning of the land. The application was submitted in accord with the current zoning adopted by council in 2014.

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	<p>The subject site was previously zoned 2(d) under SLEP1985 which permitted tourist use including caravan parks.</p> <p>Permissibility for MHE of the site was enabled by the gazettal of SEPP 36 on 3/10/1997.</p>
Question if the development is intended to provide over 55 accommodation.	<p>The Caravan Industry Association of Australia prepared the Census 2016 Social Trends Report based on data gathered from NSW and Queensland from the previous three collections of census data. The report found that the average age of residence is 58 years old, of which 5% are unemployed and 30% are employed part-time or full time.</p> <p>While the proposal may be attractive to a segment of the older population, the application has not been submitted as a Housing for Seniors development under SEPP (Housing for Seniors or People with a Disability) 2004.</p>
Concerned that the proposed development does not comply or provide appropriate affordable housing	<p>While the application may discuss affordability of dwellings within the manufactured home estate it is important to note that this application has not been lodged as an affordable housing development under SEPP (Affordable Rental Housing) 2009.</p>
Question the need for the proposal given the lack of employment and social infrastructure in the local area	<p>The development of land is a commercial business decision of the applicant.</p>
Concern 25% increase of residents will lead to water shortages and failure of infrastructure	<p>There is adequate infrastructure capacity in the locality to service the additional demand</p>
Aesthetics/Social	
Concerned that the proposed development is visually intrusive and aesthetically unappealing given the location at southern gateway to Ulladulla.	<p>The site is located at the interchange between a commercial SP3 tourist zone, low density R2 residential zone and IN2 light industrial zone.</p> <p>Existing developed character of the site is an open paddock with a single dwelling and associated outbuildings. There is no kerb and gutter or footpaths and stormwater is presently collected and drained along Pitman Ave via a deep open drain.</p> <p>The proposed design will provide a single storey built form contained within formalised landscaping, kerb and gutter, drainage, & pathways to pedestrian refuges that connect with a new roundabout</p>

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	treatment on the highway that will improve the aesthetics of the southern gateway.
Concern the development not in keeping with existing residential area and will devalue the overall quiet feel of the neighbourhood and change the image of the area to a low cost housing precinct	<p>The subject site is zoned for a commercial purpose that permits a higher density than the adjoining low density residential precinct.</p> <p>Refer to SEPP 36 comments in relation to Planning Principle: compatibility in the urban environment which show the proposal is compatible with the character of the surrounding urban environment with respect to building height, front setback and landscaping. It is acknowledged that side setbacks for the proposed development are uniformly smaller than the existing side setbacks of surrounding residential development. While the proposed development would appear denser in the local context, it is not considered to be incompatible.</p> <p>There is no evidence that the proposed MHE would change the image of the area to a low cost housing precinct.</p>
The proposed development will devalue surrounding properties land value	Not a relevant matter for consideration
Concern that the area is being overdeveloped generally and that there are too many MHE developments in close proximity.	Refer to SEPP 36 comments.
Concern that unattractive advertising signage could be installed along the face of the development	No advertising signage has been requested with the current application.
Inadequacy of proposed landscaping and open space	Landscaping is addressed under SEPP 36 and DCP Chapter G3 comments above.
Concern that the development will deteriorate overtime adding to the negative image for the local community	Recommended conditions require the ongoing maintenance of those features of the development that visually screen and soften the development.
Concern with potential negative social issues associated with higher density living such as increased mental health issues, higher levels of domestic violence, drug use, alcoholism, increased levels of crime & antisocial behaviour	There's no evidence to support this assertion for the proposed application
Employment opportunity - Object to the development using manufactured homes that are built outside the city that deny local builders employment and lack of sustainable design.	There are no manufactured home construction companies located in the local area. Under the requirements of the local government regulations, manufactured homes are not permitted to be constructed in situ it must be erected as completed sections constructed off-site
Lack of public notification and consultation of the proposal.	Do not support this argument. DA19/1102 was notified in writing and in the Milton Ulladulla Times Newspaper from

Planning Report – S4.15 Assessment - 252 Princes Hwy, ULLADULLA - Lot 1 DP 784732

	28/08/2019 to 27/09/2019 and 9/09/2020 to 9/10/2020 and council staff spoke at Ulladulla Community Forum 2/09/2019. DA21/1304 was notified in writing and in the Milton Ulladulla Times Newspaper from 14/04/21 to 28/04/21
Issues within the Development	
Concern that the internal Road may not be wide enough for the turning movements of trucks or larger vehicles to manoeuvre safely	Proposed road widths are compliant with the Local Government regulations for a MHE
Queried the typical design size for manufactured homes for this proposal	Concept dwelling plans were provided for two and three bedroom dwelling types. The proposal is for 17 x 2 bed homes and 32 x 3 bed dwellings
Queried the land size for each home	Proposed dwelling sites range from 150 m ² to 209m ² in accord with cl 14 LG Regs that specifies a minimum area of 130m ² .
Concern proposed one way Street within the development will affect efficient circulation, manoeuvring and parking of vehicles	Internal Road complies with the local government regulations.
Is BASIX required for MHE development?	No - Under the LG Regulation 2005, 'relocatable home' means: (a) a manufactured home, or (b) any other moveable dwelling (whether or not self-contained) that comprises one or more major sections, including any associated structure that forms part of the dwelling, but does not include a tent, caravan or campervan or any moveable dwelling that is capable of being registered under the Road Transport (Vehicle Registration) Act 1997. The definition of 'building' in section 4(1) of the EP&A Act specifically excludes 'a manufactured home, a moveable dwelling or associated structure or part of a manufactured home, a moveable dwelling or associated structure'. As a relocatable home is not within the definition of building under the EP&A Act, a BASIX certificate is not required for that type of home.
Concern future residents adjacent the eastern side of the site will have two Storey dwellings impacting their privacy	Only (1) two storey dwelling (22 Pitman Ave) adjoins the eastern boundary of the subject site. This dwelling only has one window facing the MHE at first floor level which has its sightlines obscured by existing vegetation.
Drainage	
Concern with lack of kerb and gutter and deep drain along the side of Pitman Ave that is considered dangerous particularly in wet weather	The proposed development would remove this drain and replace with curb and gutter and formalised drainage for the full frontage of the development.
Concern with drainage infrastructure capacity to cope with additional hard stand area	Council Development engineers have imposed suitable conditions addressing OSD and storm water quality for the development.
Management and Use of MHE	
How will the MHE be managed?	Condition an Amenity Management Plan to addresses noise and parking use of the site
Will the MHE be gated or open to the public?	Condition - Facilities provided within the MHE are for the use of residents and their guests subject to compliance with the approved Amenity Management Plan

Planning Report – S4.15 Assessment - 252 Princes Hwy, ULLADULLA - Lot 1 DP 784732

Question whether the homes will be owner occupied or permit private rentals ? Proposed park rules to protect amenity	Future tenants are required to sign strict Terms of Agreements prior to taking residence within the manufactured home estate.
Will purchases on the land freehold or rent a site for a fee from the owners of the park? Land tenure.	The applicant has advised that the manufactured home is fully owned by the resident (in most cases), and the land is owned by the operator and leased to the tenant.
Bushfire	
Confusion that due to bushfire prone land status the site is unsuitable for a Manufactured Homes Estate	The RFS have considered both applications and provided recommended conditions of consent.
Concern with effective and efficient evacuation in extreme bushfire situations to the Princes Highway being made worse by the proposal.	The current access to the Princes Highway provides limited opportunity for residents to break into continuous traffic flows on the highway during normal and peak flow periods. The proposed roundabout would act to significantly improve access/safety to the highway both in normal flow and peak flow times including emergency events.
Need for an Evacuation Management Plan.	This has been addressed by the RFS GTAs dated 26/05/2021.
Suggested firebreak be required between the manufactured home estate and surrounding residences	There is no requirement for such a firebreak in current planning legislation. There is an effective firebreak between the development and they're joining dwellings to the East via the perimeter Road which is considered acceptable and reasonable
Questioned if the perimeter fence would comply with Planning for Bushfire legislation?	Fence construction type is controlled by the conditions issued by the RFS
Questioned if the Manufactured Homes would-be built-in accord with RFS requirements for new dwellings.	Yes – required by conditions imposed by the RFS
Questioned adequacy of bushfire reports given the recent bushfire season of 2019/20 and the need for a revised bushfire assessment.	They have been revised and reviewed by the RFS post the 2019/20 bushfire event and found to be acceptable by the RFS.
Questions regarding the requirement for Bushfire Evacuation Plan	Bushfire evacuation plans are required to be prepared as a condition imposed by the RFS prior to occupation of the development.
Environmental Impact	
Concern of potential ecological impacts to flora and fauna to Racecourse Beach from an increased population	There is no evidence supporting this argument. The development will have suitable servicing for sewer reticulation and comprehensive system to collect, control the rate of flow and quality of stormwater discharged to Racecourse Creek.
Concern regarding potential dust generation from the construction site impacting surrounding residents.	There is potential for dust to be generated during siteworks that would be managed if approved under suitable conditions of consent.

Planning Report – S4.15 Assessment - 252 Princes Hwy, ULLADULLA - Lot 1 DP 784732

Queried if trees would be planted to provide shade, home for fauna and aesthetic appeal	Proposed landscape plan includes the planting of landscape trees within and outside the site.
Additional environmental impact in the form of carbon emissions and noise generated by additional traffic movements for the proposal.	<p>Manufactured homes typically have a smaller carbon footprint than insitu-built homes as they are set on pier foundations, which use less concrete than insitu-built homes which typically have either strip footings with piers or slab on ground that is pre-dominant in Australia.</p> <p>Delivery distance is the largest single factor that contributes to carbon emissions in the Manufactured Home Industry.</p> <p>Noise impact is addressed by recommended conditions of consent.</p>

(e) The Public Interest

The proposed MHE development is permitted with consent at the subject site in accord with SEPP 36. The proposal will provide 49 dwellings in a mix of 2 and 3 bedroom forms at a lower buy in cost than comparable dwellings in the relatively expensive local real estate market.

The completed development would provide an upgraded roundabout intersection treatment to the junction of the Princes Highway and Pitman Ave incorporating kerb and gutter, subsoil drainage, street tree planting, footpath links to pedestrian refuges and bus shelter. Civil upgrade works in Pitman Ave would provide a wider road with replacement of the open drain with subsoil drainage behind formalised kerb and gutter with connecting footpath for the full frontage of the subject site.

The above civil upgrade works provide for a much safer improved access to and from the highway for motorists and pedestrians that is in the public interest.

Recommendation

This s. 4.15 Assessment Report provides an assessment of the proposal to demolish existing buildings and construct a Manufactured Home Estate comprising 49 dwelling sites incorporating 17 x 2 bed manufactured homes and 32 x 3 bed manufactured homes, a community building, BBQ area, outdoor recreation facilities and associated infrastructure on land identified as 252 Princes Highway and roundabout and associated civil infrastructure to the intersection of Princes Highway and Pitman Ave Ulladulla under **DA21/1304**.

The proposed development has been assessed against all relevant environmental planning instruments. The application has received recommended conditions of consent from the RFS (Planning for Bushfire 2019), endeavour Energy and TfNSW (roundabout upgrade intersection for Pitman Ave & Princes Highway) and Council engineers.

It is acknowledged that while the application has received a significant number of objections from nearby residents and interested parties, the issues raised are considered to have been satisfactorily addressed by the submitted application and recommended conditions of consent.

Application **DA21/1304** is recommended for approval in accordance with the draft determination document.



Bridge Rd, Nowra NSW 2541 | 02 4429 3111
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Address all correspondence to

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council@shoalhaven.nsw.gov.au | DX5323 Nowra | Fax 02 4422 1816

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ATTACHMENT 3

NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION DEVELOPMENT CONSENT

Environmental Planning and Assessment Act, 1979
DA19/1102

TO:

Mark Lindsay
26 Burraneer Bay Road
CRONULLA NSW 2230

being the applicant(s) for DA19/1102 relating to:

252 Princes Hwy, ULLADULLA - Lot 1 - DP 784732

APPROVED USE AND OR DEVELOPMENT:

Demolition of existing dwelling and associated structures and construction of a Manufactured Home Estate comprising: 49 dwelling sites, community building, waste storage area, parking, landscaping and associated infrastructure.

DETERMINATION DATE: TBA

Pursuant to the Section 4.18 of the Act, notice is hereby given that the above application has been determined by granting consent, subject to the conditions listed below.

CONSENT TO OPERATE FROM: TBA

CONSENT TO LAPSE ON: TBA

This consent is valid for five years from the date hereon.

In accordance with Section 4.53 of the Act, development consent for the use of the land or the erection of a building does not lapse if building, engineering or construction work relating to the building or work or the use is physically commenced on the land to which the consent applies before the lapse date.

DETAILS OF CONDITIONS:

The conditions of consent and reasons for such conditions are set out as follows:

DE21.82 - Attachment 3

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PART A: GENERAL CONDITIONS

1. General

The consent relates to (Demolition of existing dwelling and associated structures and construction of a Manufactured Home Estate comprising: 49 dwelling sites, community building, waste storage area, parking, landscaping and associated infrastructure) as documented on the stamped plans/documentation, or as modified by the conditions of this consent. The development must be carried out in accordance with this consent. If there is inconsistency between the stamped plans/documentation and the conditions of consent, the conditions prevail to the extent of that inconsistency.

Stamped plans/documents	Ref/sheet no.	Prepared by	Dated
Statement of Environmental Effects	L103554 D21/28037	SET Consultants Pty Ltd	21/01/21
Proposed Princes Highway / Pitman Avenue Roundabout Design Report	P4341 Ver 002 D21/27955	Bitzios Consulting	13/01/21
Bushfire Assessment Report	L103554 D21/27806	SET Consultants Pty Ltd	21/01/21
Concept Layout Plan	103554 Sheet 1 of 1 Rev J D20/352262	SET Consultants Pty Ltd	18/06/2020
Concept Road & Stormwater Plans	103554/2 Sheets 1-5 Rev 3 D20/352241	SET Consultants Pty Ltd	5/08/20
Concept Water & Sewer Plan	103554/6 Rev 1 D19/282386	SET Consultants Pty Ltd	31/07/19
Landscape Concept Plan	1465/2 Sheets 1-2 Rev B D20/352211	Captivate Landscape Design	14/07/20
Site Analysis Plan - Existing	103554 Sheets 1-3 Rev B D19/282405	SET Consultants Pty Ltd	29/07/19
RFI Response Letter	L103554 D20/352251	SET Consultants Pty Ltd	5/08/20
RFI Response Letter	L103554 D19/282409	SET Consultants Pty Ltd	6/08/19
Community Centre Floor Plan and Isometric Image	D19/282395	Hunter Valley Homes	undated
Manufactured Home Type Site Map	D19/282393	Hunter Valley Homes	18/06/19
Traffic Noise Intrusion Assessment	1906011T-R D21/15290	Harwood Acoustics	9/08/19
Traffic Impact Assessment	P3359 Rev 3 D19/	Bitzios Consulting	11/12/18
Rural Fire Service General terms of Approval & Bush Fire Safety Authority	DA-2019-03129-CL55-(none) D21/217089	NSW RFS	26/05/21

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Transport for NSW referral response to proposed Princes Highway / pitman Ave intersection upgrade (Roundabout)	TH16/00155/10 (CNR-17683) D21/152953	TfNSW	15/03/21
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Note: Any alteration to the plans and/or documentation must be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under section 4.55 of the Environmental Planning and Assessment Act, or a new development application.

2. **Prescribed Conditions**

The development must comply with the [Prescribed Conditions of Development Consent](#), Division 8A, *Environmental Planning and Assessment Regulation 2000*, as applicable.

3. **Occupation / Use**

The development must not be occupied or used before an Approval to Operate under s68 of the Local Government Act 1993 has been issued by Shoalhaven City Council and all conditions of development consent have been met or other satisfactory agreements have been made with Council (i.e. a security).

4. **Amendments**

The design of the development is to be modified as set out in the following table. Amended plans and specifications incorporating the following design amendments must be incorporated in the plans and specifications submitted with the application for a Construction Certificate:

Design Amendment	Reason for Amendment
A suitable hedge planting on the development side of the Pitman Ave Boundary fence must grown and maintained to a height of 2.0 m for the life of the development	To improve visual screening of the development from Pitman Ave and minimise light spill amenity impact to residents in Pitman Ave from internal vehicle movement at night.
A 1.8m high capped and lapped acoustic hard wood fence be provided along the eastern boundary of the site from the north east corner adjacent 17 Augenaut Ave to the front building alignment of 22 Pitman Ave.	To minimise light spill/vehicle noise amenity impact to residents adjoining the eastern boundary of the development
Hibiscus tiliaceus be specified as street trees on the southern side of Pitman Ave.	More appropriate growth habit for subject location.
(3) additional (Crepe Myrtles) be planted adjacent the highway side of the proposed community centre.	To break up/screen the blank modular fence in subject location.

PART B: INTEGRATED DEVELOPMENT AND CONCURRENCE CONDITIONS

5. **NSW Rural Fire Service**

The conditions of the General Terms of Approval issued by the NSW Rural Fire Service, Reference No: DA-2019-03129-CL55-(none), dated 26 May 2021 are included as conditions of this consent and must be complied with. Refer **APPENDIX (A)** attached to this consent.

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6. **Transport for NSW**

The conditions of the General Terms of Approval issued by Transport for NSW (TfNSW), Reference No: STH16/00155/10 (CNR-17683) dated, 15 March 2021 are included as conditions of this consent and must be complied with. Refer **APPENDIX (A)** attached to this consent.

PART C: PRIOR TO THE COMMENCEMENT OF WORKS

7. **Appointment of Principal Certifier**

Prior to the commencement of building or subdivision work, a Principal Certifier must be appointed.

8. **Notice of Commencement**

Notice must be given to Council at least two (2) days prior to the commencement of building or subdivision work by completing and returning the form '[Commencement Notice for Building or Subdivision Work and Appointment of Principal Certifying Authority](#)'

9. **Toilet Facilities - Temporary**

Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must:

- a) be a standard flushing toilet connected to a public sewer, or
- b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- c) be a temporary chemical closet approved under the *Local Government Act 1993*.

10. **Community Buildings and Community Amenities**

All community buildings and community amenities will require a Construction Certificate, the appointment of a Principal Certifier, and the issue of an Occupation Certificate in accordance with [Division 6.3 Building work and certificates relating to building](#) under the Environmental Planning and Assessment Act 1979.

11. **Public Safety and Protection of Public Property - Hoarding**

Prior to the commencement of works a Class A temporary hoarding must approved under section 138 and erected between the work site and adjoining lands in accordance with SafeWork NSW guidelines and AS 2601 *Demolition of structures*. The hoarding must be kept in place until completion of the works.

12. **Dilapidation Report**

Prior to the commencement of work, the developer must engage a competent person to prepare a dilapidation report in respect of the neighbouring premises (1-15 & 22 Pitman Ave & 17 Augenaut Ave) and adjacent public infrastructure, including adjacent kerbs, gutters, footpaths (formed or unformed), driveways (formed or unformed), carriageway, reserves and the like to document evidence of any existing damage.

The dilapidation report must consider the impact of any excavation work that extends below the level of the base of the footings of any structure within 0.9metres of the shared boundary. Before works commence, a copy of the dilapidation report must be provided to the Certifier and Council. The dilapidation report will be the benchmark for necessary repairs to damage caused

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during the development works. All repairs must be completed by the developer at the developer's cost.

Not less than seven (7) days before works commence, the developer must notify the owner of any affected property of the intention to carry out approved works. The developer must also furnish the owner with details of the approved work.

However, if the occupier or owner of any neighbouring dwelling does not permit reasonable access for the purposes for the preparation of the dilapidation report, written evidence of the efforts taken to secure access may be submitted to the Principal Certifier and the Principal Certifier may waive the requirement in relation to the relevant property.

13. **Waste Management Plan Prior to Demolition**

A Waste Management Plan (WMP) must be prepared in accordance with Chapter G7 of Shoalhaven Development Control Plan 2014. The WMP must be approved by Council or the Certifier prior to any demolition or vegetation clearing works commencing.

14. **Demolition - Decommissioning of Services**

Prior to the commencement of demolition work:

- a) all existing internal sewer drainage pipework must be flushed, disconnected from the existing sewer junction and the sewer junction must be temporarily capped off.
- b) internal water lines must be disconnected from the existing water meter currently servicing the property.
- c) the capped off sewer junction and disconnected water lines must be inspected by Shoalhaven Water. For all inspections contact Shoalhaven Water on 4429 3547.
- d) the developer must provide the Certifier with evidence of compliance with the above requirements.

15. **Works within the Road Reserve**

Prior to undertaking any works within an existing road reserve, the developer must obtain the consent of Council under *section 138 of the Roads Act, 1993*.

The following details must be submitted to Council as part of the application:

- a) Any civil works design required by this consent.
- b) Evidence of the contractor's Public Liability Insurance to an amount of \$20 million.
- c) Name and contact information of the person responsible for all relevant works.
- d) A Traffic Control Plan prepared, signed and certified by a person holding the appropriate Transport for NSW (TfNSW) accreditation.
- e) Where the Traffic Control Plan requires a reduction of the speed limit, a 'Application for Speed Zone Authorisation' must be obtained from the relevant road authority.

16. **Runoff and Erosion Controls**

Prior to the commencement of site works, runoff and erosion controls must be implemented and maintained during construction to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- a) diverting uncontaminated runoff around cleared or disturbed areas.

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- b) erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties.
- c) Wetting down or covering soil stockpiles as necessary to minimise the generation of dust.
- d) preventing the tracking of sediment by vehicles onto roads.
- e) stockpiling topsoil, excavated materials, construction and landscaping supplies and debris within the lot.

17. Construction Traffic Management Plan

Prior to the commencement of works, a Construction Traffic Management Plan detailing the proposed method of dealing with construction traffic and parking must be approved by Council. Details must include, but are not limited to:

- a) Stabilised site construction access location
- b) Proposed haulage routes for delivery of materials to the site
- c) Proposed haulage routes for spoil disposal from the site
- d) Traffic control planning for each of the various phases of construction and/or vehicle movements associated with construction
- e) Parking arrangements for construction employees and contractors
- f) Proposed maintenance of the haulage routes and the name of the person responsible for such maintenance
- g) Loading / unloading areas
- h) Requirements for construction or work zones
- i) Pedestrian and cyclist safety
- j) Speed zone restrictions.
- k) Gant chart detailing the scheduling the construction period arranged to minimise amenity impact to surrounding residents and road users.

PART D: PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

18. Evidence

A Construction Certificate must not be issued until the Certifier has received notification from, or evidence of, any Council approval that is required Prior to the Commencement of Works.

19. Long Service Levy

Prior to the issue of a Construction Certificate any long service levy payable under the [Building and Construction Industry Long Service Payments Act 1986](#) and prescribed by the [Building and Construction Industry Long Service Payments Regulation 2017](#) must be paid or, where such a levy is payable by instalments, the first instalment of the levy must be paid. Council is authorised to accept payment. Proof of payment must be submitted to the Certifying Authority.

20. Local Infrastructure Contributions

This development will generate a need for the additional services and/or facilities described in Shoalhaven Contributions Plan 2019 and itemised in the following table:

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Project	Description	Rate	Qty	Total	GST	GST Incl
05 AREC 0005	Planning Area 5 - Active recreation facility upgrades various locations	\$1,045.12	34.8	\$36,370.18	\$0.00	\$36,370.18
05 CFAC 2010	Southern Shoalhaven Branch Library	\$525.90	34.8	\$18,301.32	\$0.00	\$18,301.32
CW AREC 0005	Shoalhaven Community and Recreational Precinct SCArP Cambewarra Road Bomaderry	\$929.11	34.8	\$32,333.03	\$0.00	\$32,333.03
CW CFAC 0007	Shoalhaven Regional Gallery	\$72.29	34.8	\$2,515.69	\$0.00	\$2,515.69
CW CFAC 2002	Shoalhaven Multi Purpose Cultural & Convention Centre	\$650.76	34.8	\$22,646.45	\$0.00	\$22,646.45
CW CFAC 2006	Shoalhaven City Library Extensions, Berry Street, Nowra	\$867.56	34.8	\$30,191.09	\$0.00	\$30,191.09
CW FIRE 2001	Citywide Fire & Emergency services	\$138.13	34.8	\$4,806.92	\$0.00	\$4,806.92
CW FIRE 2002	Shoalhaven Fire Control Centre	\$202.07	34.8	\$7,032.04	\$0.00	\$7,032.04
CW MGMT 3001	Contributions Management & Administration	\$574.39	34.8	\$15,419.67	\$0.00	\$15,419.67
Sub Total:						\$169,616.38
GST Total:						\$0.00
Estimate Total:						\$169,616.38

The total contribution, identified in the above table or as indexed in future years, must be paid to Council prior to the issue of a Construction Certificate. Evidence of payment must be provided to the Certifying Authority.

Contributions Plan 2019 can be accessed on Councils website www.shoalhaven.nsw.gov.au or may be inspected on the public access computers at the libraries and the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.

21. **Shoalhaven Water – Prior to the Issue of a Construction Certificate**

Prior to the issue of a Construction Certificate, all conditions listed on the Shoalhaven Water Notice of Requirements under the heading "Prior to the Issue of a Construction Certificate" must be complied with and accepted by Shoalhaven Water. Written notification must be issued by Shoalhaven Water and provided to the Certifier.

22. **Existing Infrastructure**

Prior to the issue of a Construction Certificate, all infrastructure, existing and proposed, is to be shown accurately on the engineering plans including longitudinal sections with clearances clearly labelled confirming that the proposed works do not affect any existing infrastructure. Any required alterations to infrastructure will be at the developer's expense.

23. **Hydraulic Engineering Details for Water, Sewer & Drainage**

A hydraulic detail designed by a professional engineer (as defined by the National Construction Code) for water, sewerage and drainage for the development, is to be provided to Council, prior to the issue of construction certificate.

24. **Section 68 of the Local Government Act 1993 Requirements**

Prior to the issue of a Construction Certificate, an application to install the demountable building and to carry out water supply works, sewerage works, and stormwater drainage works must be obtained from Council under Section 68 of the Local Government Act 1993.

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25. Soil and Water Management Plans (SWMP)

Prior to the issue of a Construction Certificate, a Soil and Water Management Plan must be prepared by a Professional Engineer, (as defined in the National Construction Code) to the satisfaction of the Certifier. All implemented measures must:

- a) ensure not to cause water pollution as defined by the [Protection of the Environment Operations Act](#) (POEO).
- b) be maintained at all times.
- c) not be decommissioned until at least 70% revegetation cover has been established.

26. Road Design Standards – Pitman Avenue

Prior to the issue of a Construction Certificate, certified road design engineering plans must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by Council. The road design must comply with the following:

- a) Concrete integral kerb and gutter with either a minimum 30mm thick 10mm asphaltic concrete on a primer seal or 2 coat bitumen seal with 14mm & 7mm aggregate surfaced shoulder (to match the existing seal) and associated drainage must be designed across the frontage of the entire development.
- b) The kerb and gutter must have a standard upright profile.
- c) The alignment must be 4.9m from the property boundary on Pitman Avenue to kerb invert or an alternative alignment as approved by Council.
- d) The shoulder crossfall to the lip of the gutter must be no less than 2% and no greater than 5%. A minimum width of 1m is to be constructed adjacent to the lip of the gutter to facilitate compaction of the new pavement.
- e) The shoulder seal is to overlap the existing pavement by a minimum of 300mm with the existing seal to be saw cut and the exposed pavement is to have a tack coat or prime seal if finished with AC.
- f) The kerb and gutter must have a minimum grade of 0.5% and the longitudinal design must extend a minimum of 30 metres each end of the development and at least 60m if the grade is <0.5% or ≥ 0.3%. This is to ensure the proposed works will be compatible with the existing longitudinal pavement grade and allow future extension of the kerb without unnecessary modification of existing works.
- g) The road shoulder pavement must be designed in accordance with Council's Engineering Design Specifications Chapter D2.
- h) The road table drain either side of the proposed development is to be reconstructed as required to match the kerb and gutter and to prevent ponding of water, including any adjustment or reconstruction of nearby driveways.
- i) Subsoil drainage is to be provided behind the kerb line where an outlet to existing underground drainage (or other alternative suitable to Council) is available. Subsoil drainage is to be placed on the high side of the road or both sides if the cross-fall is neutral.
- j) Where roadway widening (shoulder construction) is not required, the thickness of the pavement for the new kerb and gutter may be designed using an adopted CBR of 3.0. If a higher CBR value is used, it must be determined by geotechnical testing in accordance with Council's Engineering Design Specification.

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27. **Access Driveway Standards**

Prior to the issue of a Construction Certificate, certified engineering design plans must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by Council. The access driveway and layback design must comply with the following:

- a) A concrete crossover and layback is to be constructed at the entry to the site at the location shown on the plan prepared by SET Consultants – Concept Road & Stormwater Plan reference 103554/2 Rev. 2, dated 05/08/2020. The width is to be determined by the largest vehicle expected to enter the site with a minimum width of 5.8 metres. Constructed using 20 MPa reinforced concrete, reinforced with SL72 mesh, on a 75mm compacted fine crushed rock base and minimum 100mm depth.
- b) The internal road pavement is to be designed in accordance with Council's Engineering Design Standard Drawings.
- c) Removal of sufficient width of existing road seal and pavement to allow placing of formwork and laying/compaction of suitable pavement material for the driveway layback with a minimum 300mm offset to the kerb lip line.

28. **Car Parking and Internal Road Design Standards**

Prior to the issue of a Construction Certificate, certified engineering design plans and specifications must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The car parking and internal road design must comply with the following:

- a) Generally in accordance with the plan prepared by SET Consultants – Concept Road & Stormwater Plan reference 103554/2 Rev. 2, dated 05/08/2020. Constructed in accordance with the following:
 - i. for light vehicular loading
 - ii. with a flexible pavement, surfaced with 30mm of AC10 asphaltic concrete OR
 - iii. to a coloured, patterned or stamped concrete standard
- b) Bordered in accordance with Council's Standard Drawings by:
 - i. concrete kerbing, except where surface runoff is concentrated, in which case concrete integral kerb and gutter must be constructed.
 - ii. a concrete edge strip (min 150mm wide and 300mm deep).

29. **Lighting Design - Internal Driveway and Carparking**

Prior to the issue of a Construction Certificate, lighting design plans are to be submitted to Council for approval. Lighting is to be provided to the internal driveway and car parking area in accordance with AS/NZS 1158.3.1 *Lighting for roads and public spaces - Pedestrian area (Category P) lighting - Performance and design requirements*.

30. **Design Standards – Traffic Committee Referral**

Prior to the issue of a Construction Certificate details of proposed traffic management and traffic control devices must be submitted to the satisfaction of Council for referral and endorsement of the Shoalhaven Traffic Committee.

Note: This process can take six to eight weeks.

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31. Stormwater Drainage Design Standards (Urban)

Prior to the issue of a Construction Certificate, certified engineering design plans, specifications, and DRAINS model (or approved alternative) must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier and Council. The stormwater drainage design must comply with the following:

- a) Major and minor drainage systems in accordance with Council's Engineering Design Specifications - Section D5 - Stormwater Drainage Design and utilising Australian Rainfall and Runoff (ARR, 2019) Guidelines.
- b) The minor and major systems must be designed for a 18.13% AEP and 1% Annual Exceedance Probability (AEP) rainfall events, respectively.
- c) Generally, in accordance with concept stormwater drainage plan 103554/2 prepared by SET Consultants on 05/08/2020.
- d) The existing stormwater drainage system is to be adjusted to suit the new works. In this regard the following is required:
 - a. all relevant calculations are to be noted on the drainage plans to confirm the adequacy of the existing system, or the upgraded design.
 - e) Design of stormwater drainage is to include piping, swales and easements to facilitate future development of the site.
 - f) The design is to include water quality improvement devices and address the pollutant load reduction requirements as set out in Council's DCP chapter G2 for large scale developments.

32. On-Site Detention – Infill Subdivision and Development

Prior to the issue of a Subdivision Works Certificate, certified engineering design plans and specifications must be prepared by professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The on-site stormwater detention (OSD) design must be designed such that stormwater runoff from the site for design storm events up to and including the 1% AEP does not exceed the pre-developed conditions.

33. WSUD Measures – Water Quality, Retention and Reuse

Prior to the issue of a Construction Certificate, a detailed design of permanent water quality, retention and reuse devices must be certified by a professional engineer, (as defined in the National Construction Code) who can demonstrate the appropriateness of the proposed design for the site in accordance with Council's Engineering Design and Construction Specifications and is to be approved by Council. Specifications can be found on Council's website.

The stormwater treatment, retention and reuse design must comply with the following:

- a) Rainwater tanks in accordance with BASIX requirements.
- b) The WSUD strategy must be able to remove 80% of Total Suspended Solids (TSS), 45% of Total Nitrogen (TN) and 65% of Total Phosphorus (TP) for the total site area as demonstrated using MUSIC software. The detailed MUSIC model must be provided to Council for acceptance.
- c) In addition to the above TSS, TN and TP reduction targets, the WSUD strategy must be able to demonstrate that the post-development residual pollutant concentrations must not exceed the ecological trigger values listed in the latest version of the Australian and New Zealand

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Guidelines for Fresh and Marine Water Quality (ANZECC) as demonstrated using MUSIC software. The detailed MUSIC model must be provided to Council for acceptance.

- d) The WSUD strategy must have appropriate stormwater retention storage that is equal to or greater than 9mm for increases in all impervious surfaces compared to the pre-development condition.

34. **Water Sensitive Urban Design (WSUD) Devices – Private Domain**

Prior to the issue of a Construction Certificate, detailed design of permanent stormwater quality improvement devices must be certified by a professional engineer, (as defined in the National Construction Code) demonstrating the appropriateness of the proposed design for the site in accordance with Council's Engineering Design and Construction Specifications and approved by the Certifier. Specifications can be found on Council's web site.

The drainage design must also not include any uncoated metal (i.e. Copper etc.) surfaces such as roofs, facades and/or downpipes.

35. **Cycleway and Footpath Design Standards**

Prior to the issue of a Construction Certificate, certified engineering design plans must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier. The cycleway and footpath design must comply with the following:

- a) Councils Engineering Design Specifications Section D8 – Cycleway and Footpath Design.
- b) A 2.0 metre-wide concrete shared path is to be designed for the Pitman Avenue frontage of the development through to the proposed pedestrian refuge on the Princes Highway with a 1.5 metre-wide concrete footpath to be designed for remainder of the Princes Highway frontage of the development with:
 - i) cross section design provided from road centreline to the internal road at the driveway access point.
 - ii) 3% cross fall from the boundary to top of kerb.
 - iii) Match existing footpath levels of adjoining property frontages and be a uniform grade over the length of the development site frontage, or where this cannot be achieved, a longitudinal section must be designed.
 - iv) kerb ramps at intersections and pedestrian crossing points in accordance with Council's Engineering Design Specifications.

36. **Waste Management**

Further details are to be provided regarding the waste management of the development. These details are to form an addendum to Waste Management Plan and must be submitted prior to the issue of the Construction Certificate.

These details are to include:

- a) Details of the number of bins that can be held within the bin storage area to efficiently service the whole estate, providing the bin types and sizes.
- b) Confirm the weekly collection point for the Private Contractor.

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PART E: PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

NIL

PART F: DURING WORKS**37. Hours for Construction**

Construction may only be carried out between 7.00am and 5.00pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday. Proposed changes to hours of construction must be approved by Council in writing.

38. Archaeology Discovered During Excavation

If any object having interest due to its age or association with the past is uncovered during the course of the work:

- a) All work must stop immediately in that area.
- b) Work may recommence in the affected area(s) if Heritage NSW advises that additional assessment and/or approval is not required (or once any required assessment has taken place or any required approval has been given).

In accordance with the *Heritage Act 1997*, the Heritage NSW must be advised of the discovery.

39. Aboriginal Objects Discovered During Excavation

If an Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:

- a) All excavation or disturbance of the area must stop immediately.
- b) Additional assessment and approval pursuant to the National Parks and Wildlife Act 1974 may be required prior to works continuing the affected area(s) based on the nature of the discovery.
- c) Work may recommence in the affected area(s) if Heritage NSW advises that additional assessment and/or approval is not required (or once any required assessment has taken place or any required approval has been given).
- d) The Heritage NSW must be advised of the discovery in accordance with section 89A of the [National Parks and Wildlife Act 1974](#).

40. Waste Management Plan

Requirements of the approved Waste Management Plan shall be complied with during all site preparation works, demolition, construction works and throughout the ongoing use of the development.

When implementing the Waste Management Plan the developer is to ensure:

- a) The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the Protection of Environment Operations Act 1997.
- b) All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the Protection of Environment Operations Act 1997.

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- c) Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW.
- d) All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it.
- e) Records are retained regarding the details and location of the disposal of all demolition and construction waste (including excavated material) and are to be kept on site as evidences of lawful disposal. Records are to include receipts and weighbridge dockets which verify material types and volumes, time and date of disposal and confirmation of the waste disposal facility.
- f) All materials and resources that are to be stored on site during construction works are contained on the site. The provisions of the Protection of Environment Operations Act 1997 must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses.
- g) The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works.

41. **Asbestos Removal**

Asbestos removal must be carried out in accordance with AS2601-2 [SafeWork NSW – Code of Practice, Demolition Work \[ISBN 978-0-642-78415-5\]](#) and [SafeWork NSW – Code of Practice, How to Safely Remove Asbestos \[ISBN 978-0-642-33317-9\]](#) as applicable, by a person holding the relevant licence issued by SafeWork NSW.

A licence is not required to remove less than 10m² of non-friable asbestos, provided that the total amount of non-friable asbestos removed from the lot does not exceed 10m².

Asbestos must be taken for disposal to the licensed Waste Management Facility identified in the approved Waste Management Plan.

Post asbestos removal and prior to further work on the site, the following must be submitted to the Certifier:

- a) A clearance certificate issued by a licensed asbestos assessor or competent person as required by the Work, Health and Safety Regulation 2017 for the specific type of asbestos removal work confirming that the area has been cleaned satisfactorily and is safe to be re-occupied for normal use.
- b) A clearance certificate is required if the removal work involved any quantity of friable asbestos, or if it involved removal of more than a total of 10 square metres of non-friable asbestos from the lot.
- c) Documentary evidence of the legitimate disposal of all asbestos in the form of tip receipts from an approved waste management facility.

42. **Demolition Work (Asbestos Contractor)**

Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Demolition License or a current WorkCover Class 2 (Restricted) Asbestos License.

43. **Asbestos – Notification of Neighbours**

Seven (7) days prior to the commencement of any demolition works involving asbestos, all immediate neighbours must be notified in writing of the intention to carry out asbestos demolition works. Copies of these written notifications should be retained and submitted to Council.

44. **Maintenance of Site and Surrounds**

During works, the following maintenance requirements must be complied with:

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- a) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- c) Where tree or vegetation protection measures are in place, the protected area must be kept clear of materials and / or machinery.
- d) The developer must maintain the approved [soil water management /erosion and sediment control] measures to the satisfaction of the Certifier for the life of the construction period and until runoff catchments are stabilised.
- e) During construction:
 - i. all vehicles entering or leaving the site must have their loads covered, and
 - ii. all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- f) At the completion of the works, the work site must be left clear of waste and debris.

45. **Earthworks and Excavation**

Approved earthworks (including any structural support or other related structure for the purposes of the development):

- a. Must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot.
- b. Must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property.
- c. Where fill brought to the site, must contain only virgin excavated natural material (VENM) or excavated natural material (ENM) as defined in Part 3 of schedule 1 to the *Protection of the Environment Operations Act 1997 (POEO Act)*.
- b) Documentation must be provided to the Certifier certifying that imported fill material is not contaminated and does not contain contaminants such as asbestos, chemicals or building waste.
 - a. That includes excavated soil to be removed from the site, must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) Regulation 2005*.

Any excavation must be carried out in accordance with Excavation Work: Code of Practice (*ISBN 978-0-642-78544-2*) published by Safe Work Australia in October 2018

PART G: PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

46. **Compliance**

The Occupation Certificate must not be issued until all relevant conditions of development consent have been met or other satisfactory arrangements have been made with council (i.e. a security).

47. **Fire Safety**

Prior to the issue of an Occupation Certificate the Certifier must be provided with a Final Fire Safety Certificate showing compliance with the Fire Safety Schedule.

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48. **Prior to the Issue of an Occupation Certificate**

Prior to the issue of an occupation certificate, all the conditions under Section 68 of the LG Act will be required to be complied with.

49. **Shoalhaven Water – Certificate of Compliance**

Prior to the issue of any Occupation Certificate, a Certificate of Compliance under section 307 of the *Water Management Act 2000* must be obtained from Shoalhaven Water to verify satisfactory compliance with all conditions for the supply of water and sewerage, as listed on the Notice of Requirements.

50. **Works in the Local Road Reserve - Evidence of Completion**

Prior to the issue of an Occupation Certificate, the developer must provide the Certifier with a Completion of Works in Road Reserve Letter provided by Council, confirming compliance with the requirements of section 138 of the *Roads Act 1993*.

51. **Works as Executed Plans**

Prior to the issue of an Occupation Certificate, Works as Executed Plans must be prepared by a registered surveyor / professional engineer, (as defined in the National Construction Code) and be submitted to Council and the Certifier demonstrating compliance with the approved design plans. The Works as Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans and approved works in the road reserve plans and comply with the following requirements:

- a) Council's Development Engineering Construction Specification.
- b) Show compliance with the approved design plans of all road and drainage works
- c) Certify that all storm water pipes, and other services are wholly within an appropriate easement.
- d) Show the extent, depth and final levels of filling.
- e) Show any retaining walls including footings and agricultural drainage lines.
- f) Show the location of all underground service conduits.
- g) Include all deviations from the approved Civil Engineering Plans.

52. **On-site Detention System**

Prior to the issue of the Occupation Certificate, the developer must create a restriction on use under the *Conveyancing Act 1919* over the on-site detention system and provide it to the Certifier as follows:

- a) The registered proprietor of the lot burdened must not make or permit or suffer the making of any alterations to any on-site stormwater detention system on the lot(s) burdened without the prior consent in writing of the authority benefited. The expression 'on-site stormwater detention system' must include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater as well as all surfaces graded to direct stormwater to those structures. Name of the authority having the power to release, vary or modify the restriction referred to is Shoalhaven City Council.

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- b) Create a positive covenant under the *Conveyancing Act 1919*, requiring the property owner(s) to undertake maintenance in accordance with the Construction Certificate approved On-Site Stormwater Detention System and Maintenance Schedule.
- c) Provide a certificate from a professional engineer, (as defined in the National Construction Code) to verify the structural adequacy of the on-site detention facility and that the facility has been constructed in accordance with the approved Construction Certificate plans.

53. **Water Sensitive Urban Design (WSUD) Device - Operation and Maintenance Manual**

A WSUD Management, Operation, Maintenance and Monitoring Manual/s for the permanent water quality facilities must be submitted to the Certifier prior to issue of any Occupation Certificate. The manuals must be prepared by a suitably qualified professional in accordance with the approved plans.

54. **Water Sensitive Urban Design Elements**

Prior to the issue of the Occupation Certificate, the developer must create a restriction on use under the *Conveyancing Act 1919* over the WSUD system and provide it to the Certifier as follows:

The registered proprietor must not make or permit or suffer the making of any alterations to any stormwater treatment measures/ water sensitive urban design (WSUD) elements which is, or must be, constructed on the lot(s) burdened without the prior consent in writing of Shoalhaven City Council.

Note: The expression "stormwater treatment measures/ water sensitive urban design elements" means the infiltration systems, porous pavement, sediment basins, bio-retention swales, bioretention basins, rain gardens, landscaped or vegetated swales, vegetated buffers, swale/ buffer systems, sand filter, wetlands, ponds, retarding basins, aquifer storage and recovery, rainwater reuse tanks, stormwater reuse tanks, gross pollutant traps, pit inserts, silt/ oil arrestors or other proprietary products including all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins or surfaces graded to direct stormwater to the stormwater treatment measures/ water sensitive urban design elements.

55. **Dilapidation Report – Evidence**

Prior to the issue of an Occupation Certificate, the developer must provide the Certifier and Council with evidence that any damage to neighbouring premises or adjacent public infrastructure, not previously identified as existing damage in the Dilapidation Report, has been repaired by the developer to the satisfaction of Council.

56. **Waste Collection**

Prior to entering into an agreement for a private waste collection service, the developer is to ensure that:

- a. The service is functional and meets the operational needs of the development
- b. The service minimises environmental nuisances including noise and other adverse impacts on the safety and amenity of residents and the public.
- b) Council has been provided with indemnity against claims for loss or damage, should they take over the service at some point in the future.

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PART H: PRIOR TO THE ISSUE OF A SUBDIVISION / STRATA CERTIFICATE

NIL

PART I: ONGOING USE OF THE DEVELOPMENT**57. Water Sensitive Urban Design Maintenance**

The owner must maintain all stormwater quality treatment components in accordance with the approved Water Sensitive Urban Design Operation and Maintenance Manual for the life of the development.

58. Waste Storage Container

No waste storage containers are to be located or placed outside the approved waste storage area at any time except for collection purposes.

59. Waste Signage

Adequate signage is to be provided and maintained on how to use the waste management system and what materials are acceptable for recycling within all waste storage areas of the development. Signage is also to be provided and maintained which clearly identifies which bins (and containers) are to be used for general waste and recycling and what materials can be placed in each bin.

60. Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

The Manufactured Home Estate must be operated in compliance with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 for the life of the development.

61. Short-term Rental Accommodation – Leasing Arrangements

Manufactured Homes may be used for the purposes of tourist and visitor accommodation in accord with clause 7.13 of the Shoalhaven Local Environmental Plan 2014 provided the use is only short-term and does not interfere generally with the amenity of the neighbourhood in any way, including by noise or traffic generation.

Note: Short-term means for a maximum period of 45 consecutive days in any 12-month period.

The landlord must maintain a current record of all short term tourist leases for manufactured homes in the development viewable upon request by Council development staff from 9.00am to 5.00pm Monday to Friday excluding public holidays.

The landlord must include provisions within each long term lease addressing the rules for short-term tourist use of manufactured homes to ensure that such use does not interfere with the amenity of the surrounding neighbourhood and other permanent tenants.

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62. Community Facilities

The use of community facilities within the development is restricted to residents and their guests for the life of the development.

**63. Operate a Manufactured Home Estate (MHE)
Section 68 Approval to Operate (Local Government Act 1993)**

An approval to operate a manufactured home estate on the land on which the development is to be carried out must be obtained under Part 1 of Chapter 7 of the [Local Government Act 1993](#) prior to occupation and maintained for the life of the development.

64. Parking

Car parking for residents and visitors must be provided on-site, and wholly within the property boundaries, for a minimum of **(64)** vehicles as follows: -

- a) Forty-Nine **(49)** spaces for residents with 1 compliant space within each dwelling site.
- b) Fifteen **(15)** spaces for visitors.
- c) One **(1)** accessible parking space must be provided within the visitor parking area.

65. Overland Stormwater Flow, Redirecting and/or Concentrating Stormwater

All excavation, backfilling and landscaping works must not result in:

- a) Any change to the overland stormwater flow path on the property and or a neighbouring property. If any change to the overland flow path occurs on a property, the stormwater runoff shall be collected and directed to a legal point of discharge.
- b) The redirection and/or concentration of stormwater flows onto neighbouring properties.

66. Noise

The development is to be constructed and maintained for the life of the development in accord with the building construction recommendations in part 5.2, boundary acoustic fence recommendations in part 5.3 and Appendix A of the Traffic Noise Intrusion Assessment prepared by Harwood Acoustics (Ref: 1906011T-R) dated, 9 August 2019.

67. Fire Safety – Annual Statement - Community Buildings and Community Amenities

A building owner must ensure that an annual fire safety statement prepared by a competent fire safety practitioner is issued each year and that a copy of the statement is provided to the Shoalhaven City Council and the Commissioner of Fire and Rescue NSW. An [application form](#) is available on Council's website.

Note: An annual fire safety statement is a declaration by, or on behalf of a building owner that a competent fire safety practitioner (CFSP) has:

- a) assessed, inspected and verified the performance of each existing essential fire safety measure that applies to the building
- a) inspected the exit systems serving the building and found that the exit systems within the building do not contravene the provisions of Division 7 of Part 9 of the Environmental Planning and Assessment Regulation 2000

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Failure to give Council an annual fire safety statement by the due date constitutes a separate offence for each week beyond that date for which the failure continues. Substantial penalties for non-compliance apply under the Environmental Planning and Assessment Act 1979.

**PART J: OPERATE A MANUFACTURED HOME ESTATE (MHE) - PRIOR TO ISSUE SECTION 68
APPROVAL TO OPERATE (LOCAL GOVERNMENT ACT 1993)**

68. Prior to Issue of Approval to Operate MHE

Prior to Issue of an Approval to Operate the MHE, the developer must provide council with:

- a) Certification prepared by a BPAD Level 3 Bushfire Practitioner demonstrating that the Bushfire requirements for the development have been achieved.
- b) Certification that all community amenities and community buildings have a valid Construction Certificate and Occupation Certificate.
- c) Evidence demonstrating that Council and Transport for NSW have accepted all civil infrastructure required to be installed for the development.
- d) Evidence from a suitably qualified and experienced acoustic consultant that all noise recommendations in the Traffic Noise Intrusion Assessment prepared by Harwood Acoustics (Ref: 1906011T-R) dated, 9 August 2019 have been achieved.
- e) Evidence that the provision of underground electricity to service the development in accordance with the requirements of Endeavour Energy have been met.
- f) The submission of evidence from an approved telecommunications carrier that satisfactory arrangements have been made for the provision of telecommunication services to all MHE dwelling sites and the community facilities building.

PART K: REASONS FOR CONDITIONS

The application has been assessed as required by section 4.15 of the *Environmental Planning and Assessment Act 1979* and has been determined by the granting of conditional development consent.

Statutory requirements

The development proposal, subject to the recommended conditions, is consistent with:

- a) the objects of the Environmental Planning and Assessment Act, 1979.
- b) the aims, objectives and provisions of the applicable environmental planning instruments,
- c) the aims, objectives and provisions of Shoalhaven Development Control Plan 2014 (SDCP 2014).
- d) the aims, objectives and provisions of relevant Council policies.

Public notification

The application was publicly notified in accordance with the *Environmental Planning and Assessment Regulation 2000* and Council's Community Consultation Policy for Development Applications (Including Subdivision) and the Formulation of Development Guidelines and Policies (POL 16/230).

Submissions

Any submissions received during the public notification period are available on [DA Tracking](#)

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Community views

Issues and concerns raised by the community in submissions have been considered in the assessment of the application and, where appropriate, conditions have been included in the determination to mitigate any impacts.

Suitability of the Site

The application has been approved because the development proposal is considered to be suitable for the site.

The relevant public authorities and the water supply authority have been consulted and their requirements met, or arrangements made for the provision of services to the satisfaction of those authorities.

The increased demand for public amenities and services attributable to the development has been addressed by the requirement to pay contributions in accordance with section 7.11 of the *Environmental Planning and Assessment Act 1979* and Council's Contribution Plan 2019. Contributions under Section 307 of the Water Management Act 2000 have been applied as required.

Impacts of the Development

The application was considered to be suitable for approval. Conditions have been imposed to ensure that:

- a) the development will not result in unacceptable adverse impacts on the natural and built environments.
- b) the amenity and character of land adjoining and in the locality of the development is protected.
- c) any potential adverse environmental, social or economic impacts of the development are minimised.
- d) all traffic, car parking and access arrangements for the development will be satisfactory.
- e) the development does not conflict with the public interest.

PART L: RIGHTS OF REVIEW AND APPEAL**Determination under Environmental Planning and Assessment Act, 1979**

Division 8.2 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination a right to request the council to review its determination. The request and determination of the review must be undertaken within the prescribed period.

Division 8.3 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised within the prescribed period.

An appeal under Division 8.3 of the EP&A Act, 1979 by an objector may be made only within the prescribed period.

Approvals under Local Government Act, 1993

Section 100 of the Local Government Act, 1993 provides that an applicant may request Council to review its determination of an application.

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Section 176 of the Local Government Act, 1993 provides that an applicant who is dissatisfied with the determination of the Council may appeal to the Land and Environment Court. The appeal must be made within the prescribed period.

PART M: GENERAL ADVICE

In this consent the term developer means any person or corporation who carries out the development pursuant to that consent.

Disability Discrimination Act 1992

This application has been assessed in accordance with the *Environmental Planning & Assessment Act, 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS1428.1 - "*Design for Access and Mobility*".

Disclaimer –Conveyancing Act 1919 – Division 4 – Restrictions on the Use of Land

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

Under Clause 1.9A of *Shoalhaven Local Environmental Plan 2014* agreements, covenants or instruments that restrict the carrying out of the proposed development do not apply to the extent necessary to enable the carrying out of that development, other than where the interests of a public authority is involved.

DBYD Enquiry - 'Dial Before You Dig'

In order to avoid risk to life and property it is advisable that an enquiry be made with "Dial Before You Dig" on 1100 or www.dialbeforeyoudig.com.au prior to any excavation works taking place to ascertain the location of underground services. You must also contact your Local Authority for locations of Water and Sewer Mains.

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APPENDIX A

INTEGRATED DEVELOPMENT AND CONCURRENCE CONDITIONS

DE21.82 - Attachment 3

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NSW RURAL FIRE SERVICE

Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

Your reference: (CNR-17683) DA19/1102
Our reference: DA-2019-03129-CL55-(none)

ATTENTION: Peter Johnston

Date: Wednesday 26 May 2021

Dear Sir/Madam,

Integrated Development Application
s100B – SFPP – Manufactured Home Estate
252 PRINCES HIGHWAY ULLADULLA NSW, (none)

I refer to your correspondence dated 04/05/2021 seeking general terms of approval for the above Integrated Development Application.

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

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1.

From commencement of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire site must be managed as an inner protection area (IPA). The IPA must comprise:

- Minimal fine fuel at ground level;
- Grass mowed or grazed;
- Trees and shrubs retained as clumps or islands and do not take up more than 20% of the area;
- Trees and shrubs located far enough from buildings so that they will not ignite the building;
- Garden beds with flammable shrubs not located under trees or within 10 metres of any windows or doors;
- Minimal plant species that keep dead material or drop large quantities of ground fuel;
- Tree canopy cover not more than 15%;
- Tree canopies not located within 2 metres of the building;

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au

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- Trees separated by 2-5 metres and do not provide a continuous canopy from the hazard to the building; and,
- Lower limbs of trees removed up to a height of 2 metres above the ground.

Construction Standards

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

2.

Prior to construction of any manufactured home, associated structure or the community facility, a suitably worded instrument shall be created over the proposed land pursuant to section 88 of the 'Conveyancing Act 1919' which requires:

- All manufactured homes and associated structures within Lots 37 to 49 to comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas - 2014' as appropriate and Section 7.5 of 'Planning for Bush Fire Protection 2019'.
- All other manufactured homes, associated structures and the community facility within the site to comply with section 3 and section 5 (BAL 12.5) Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas - 2014' as appropriate and Section 7.5 of 'Planning for Bush Fire Protection 2019'.

Access - Internal Roads

The intent of measures is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

3.

Access roads for special fire protection purpose (SFPP) developments must comply with following requirements of Table 6.8b of *Planning for Bush Fire Protection 2019*:

- SFPP access roads are two-wheel drive, all-weather roads;
- access is provided to all structures;
- traffic management devices are constructed to not prohibit access by emergency services vehicles;
- access roads must provide suitable turning areas in accordance with Appendix 3; and
- one way only public access roads are no less than 3.5 metres wide and have designated parking bays with hydrants located outside of these areas to ensure accessibility to reticulated water for fire suppression.
- hydrants are located outside of parking reserves and road carriageways to ensure accessibility to reticulated water for fire suppression;
- hydrants are provided in accordance with the relevant clauses of AS 2419.1:2005; and
- there is suitable access for a Category 1 fire appliances to within 4m of the static water supply where no reticulated supply is available.

Water and Utility Services

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

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4.

The provision of water, electricity and gas must comply the specifications and requirements of Table 6.8c of *Planning for Bush Fire Protection 2019*.

Landscaping Assessment

The intent of measures is for landscaping. To achieve this, the following conditions shall apply:

5.

Landscaping within the required asset protection zone shall comply with Appendix 4 of '*Planning for Bush Fire Protection 2019*'. In this regard, the following principles are to be incorporated:

- A minimum 1 metre wide area, suitable for pedestrian traffic, shall be provided around the immediate curtilage of buildings;
- Planting is limited in the immediate vicinity of buildings;
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
- Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA) and trees do not touch or overhang buildings;
- Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

Emergency and Evacuation Planning Assessment

Intent of measures: to provide suitable emergency and evacuation arrangements for occupants of SFPP developments.

6.

Prior to occupation of any manufactured home, bush fire emergency management and evacuation planning shall comply with the acceptable solution requirements of Table 6.8d of *Planning for Bush Fire Protection 2019* and part 3.7 of the Bushfire Assessment Report by SET Consultants dated 21 January 2021 and be maintained for the life of the development.

General Advice – Consent Authority to Note

- The name of authority empowered to release, vary or modify the instruments outlined above shall be Shoalhaven City Council.

This letter is in response to an assessment of the application based on the submitted further information and supersedes our previous general terms of approval dated 01/04/2021.

For any queries regarding this correspondence, please contact Anna Jones on 1300 NSW RFS.

Yours sincerely,

Alan Bawden



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Transport
for NSW

Our ref: STH16/00155/10
Contact: Andrew Lissenden 0418 962 703
Council ref: DA19/1102 (CNR-17683)

15 March 2021

Peter Johnston
Shoalhaven City Council
BY EMAIL: council@shoalhaven.nsw.gov.au

DEVELOPMENT APPLICATION 19/1102 (CNR-17683) – LOT 1 DP 784732, (NO.252) PRINCES HIGHWAY,
ULLADULLA – DEMOLITION OF EXISTING BUILDINGS AND CONSTRUCTION OF 49 SITE MANUFACTURED
HOME ESTATE

Dear Peter

Transport for NSW (TfNSW) refers to the notification it received on 24 February 2021 regarding the above development application (DA).

TfNSW has reviewed the additional information provided while focussing on the impact to the state road network. TfNSW notes for this DA:

- The key state road is the Princes Highway to which the site has access via Pitman Avenue;
- Council is seeking advice to assist in its assessment under Clause 101 of *State Environmental Planning Policy (Infrastructure) 2007*;
- The DA is proposing works within the Princes Highway road reserve (i.e. a new roundabout at the intersection of the Princes Highway/Pitman Avenue, associated splitter islands, etc. – refer to Attachment 1). Concurrence from TfNSW is required under Section 138 of the *Roads Act 1993* for this work; and
- A portion of the development site that adjoins the Princes Highway is zoned SP2 and is identified as arterial road widening under the *Shoalhaven Local Environmental Plan 2014* (SLEP 2014).

Having regard to the above, TfNSW will not object to the DA subject to conditions outlined in Attachment 2 being included in any development consent issued.

TfNSW highlights that in determining the DA under Part 4 of the *Environmental Planning and Assessment Act 1979*, it is the consent authority's responsibility to consider the environmental impacts of any road works which are ancillary to the development. This includes any works which form part of the proposal and/or any works which are deemed necessary to include as requirements in the conditions of development consent (i.e. the proposed roundabout). Depending on the level of environmental assessment undertaken to date and the nature of the works, the consent authority may require the developer to undertake further environmental assessment for any ancillary road works.

Upon determination of this matter, it would be appreciated if the Council could send a copy of the Notice of Determination to 'development.southern@rms.nsw.gov.au'.

If you have any questions please contact Andrew Lissenden on 0418 962 703.

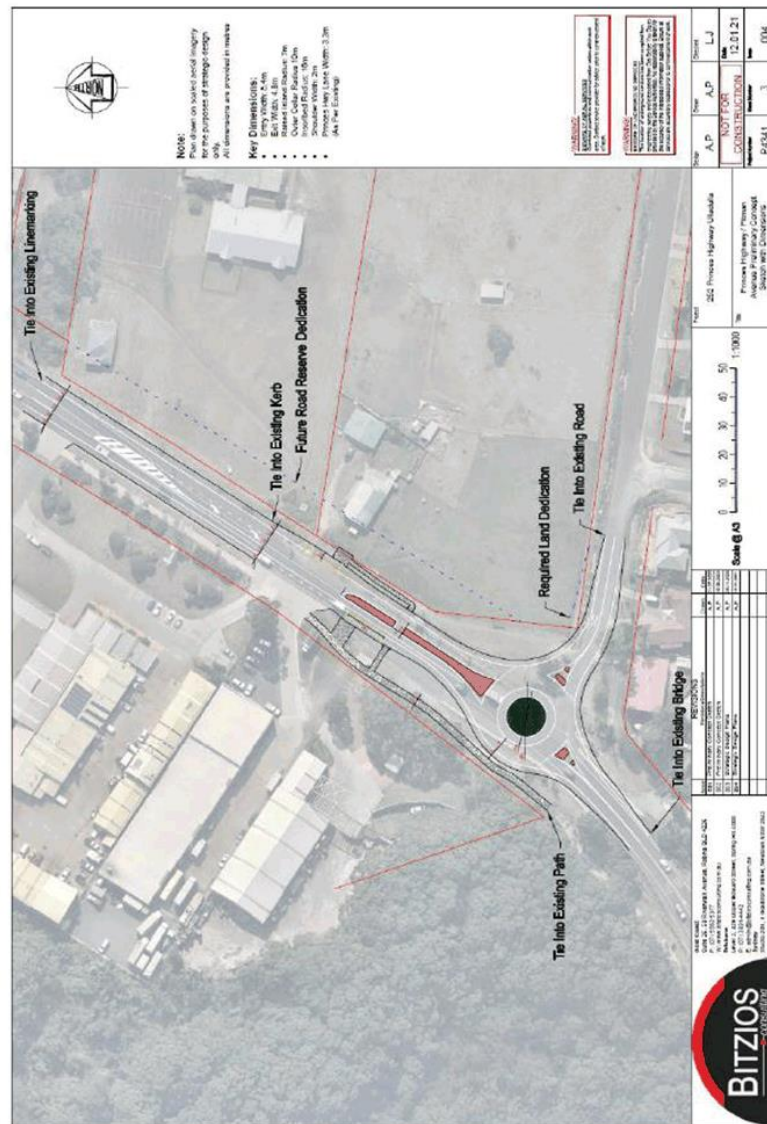
Yours faithfully



Chris Millet
Manager, Development Services
South Region

Cc: peter.johnston@shoalhaven.nsw.gov.au

Attachment 1



DE21.82 - Attachment 3

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Attachment 2

1. Prior to the issuing of the Construction Certificate, the developer must:

- a) Enter into a Works Authorisation Deed (WAD) with the TfNSW for all works on the Princes Highway (i.e. the works as generally shown in Attachment 1 and as detailed in the Design Report prepared by Bitzios consulting dated 13 January 2021 with Ref: P4341.002R).

Notes:

- A WAD is a legally binding contract between TfNSW and the developer, authorising the developer to undertake works on a State road and/or install traffic signals.
- To progress the WAD, the developer needs to email a copy of the conditions of development consent to development.southern@rms.nsw.gov.au.
- All roadworks and traffic control facilities must be undertaken by a pre-qualified contractor. A copy of prequalified contractors can be found on the TfNSW website at: <http://www.rta.nsw.gov.au/doingbusinesswithus/tenderscontracts/prequalifiedcontractors.htm>
- Any new services or modifications to existing services associated with this development application that involve works on, over or under the Princes Highway (as defined the area from kerb to kerb) must be incorporated into and managed under, the Works Authorisation Deed for the project. Note: It is the developer's responsibility to identify these works to the TfNSW project manager.
- More information on WADs can be found at: www.rms.nsw.gov.au/documents/projects/factsheet-development-process.pdf

- b) Provide detailed design plans for all works within the Princes Highway road reserve to TfNSW. The detailed design plans must include, but not be limited to, details to address the following:

- i. Show existing legal property boundaries, clarify property adjustments and dedication required to achieve the proposed arrangements (i.e. public road reserve dedications) as well as existing and proposed levels;
- ii. Ensure the pavement cross falls where the alignment of the northbound lane of the Princes Highway shifts across the existing centreline is considered and addressed;
- iii. Look at opportunities to increase the splitter islands on the Princes Highway south of the roundabout and Pitman Avenue (i.e. would be desirable but may not be possible);
- iv. Ensure any drainage works required are in accordance with TfNSW requirements;
- v. Ensure pavement design on the Princes Highway is in accordance with Austroads standards;
- vi. Ensure the sight distances comply with the applicable requirements in *Austroads Guide to Road Design Part 4B*, Section 3 (i.e. Criterion 1, 2 and 3);
- vii. Ensure the design for the works complies with the applicable requirements in *Austroads Guide to Road Design*, including associated supplements;
- viii. Where required, street lighting is to be upgraded and/or provided in accordance with Australian Standard AS/NZS1158. Details on any new lighting and/or upgrades to ensure compliance with the above AS are to be detailed; and
- ix. Provide a detailed pavement marking and signposting plan in compliance with TfNSW delineation guidelines and other relevant standards.

- c) Demonstrate to the satisfaction of the Council the post-development stormwater discharge from the subject site that is going to the Princes Highway drainage system, does not exceed the pre-development application discharge.

2. Prior to commencing works within the Princes Highway Road reserve, the developer must:

- a) Obtain Section 138 consent under the *Roads Act 1993* for the works associated with the WAD from TfNSW;

Notes:

- TfNSW will be exercising its powers under Section 64 of the *Roads Act, 1993* to become the roads authority for works associated with the WAD and therefore responsible for issuing the Section 138 consent for those specific works.

- b) Develop and implement a community information strategy about the works, in consultation with, and to the satisfaction of TfNSW; and

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Attachment 2

- c) Apply for, and obtain a Road Occupancy Licence (ROL) from the TNSW Traffic Operations Unit (TOU) prior to commencing roadworks on the Princes Highway or any other works that impact a travel lane of the Princes Highway.

Notes:

- For information on the ROL process and to lodge an ROL application, please visit <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>
- The applicant will need to create an account (this may take a few days to register), prior to submitting the ROL application. The applicant must submit the ROL application 10 business days prior to commencing work. It should be noted that receiving approval for the ROL within this 10 business day period is dependent upon TNSW receiving an accurate and compliant TMP.
- The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Speed Zone Authorisation will also be required from the TOU.
- An approved ROL does not constitute an approval to commence works until an authorisation letter for the works has been issued by TNSW Project Manager.

3. Prior to the issuing of the Occupation Certificate the developer must:

- a) Have upgraded the junction of the Princes Highway and Pitman Avenue to a single lane roundabout to the satisfaction of TNSW and in accordance with *Austroads Guide to Road Design* and other relevant standards. Written confirmation must be provided from TNSW that the works have been completed in accordance with the approvals issued.

Notes:

- The pavement design on the Princes highway must be in accordance with *Austroads* standards.
- Where required, the developer must upgrade/provide lighting in accordance with Australian Standard AS/NZS1158.
- All works need to be completed at no cost to TNSW.

- b) Physically close any other existing direct access points to/from the Princes Highway to the development site by fencing them and revegetating to TNSW' satisfaction (e.g. the access point adjacent to the northern property boundary).

- c) Ensure any additional land that is outside the existing Princes Highway and Pitman Avenue road reserves and is required as public road reserve as a result of the construction of the roundabout is dedicated as public road.

- d) Provide a survey that has been undertaken by a registered surveyor to the certifier and TNSW (email to TNSW via development.southern@rms.nsw.gov.au) that confirms that all structures (e.g. fencing along the eastern development boundary) are located outside the land that is zoned SP2 (i.e. 10m from the existing Princes Highway road boundary).

Note:

TNSW does not object to the proposed landscaping that is shown within the SP2 zoned land along the development sites Princes Highway frontage subject to it no impacting upon required sight distances. Should this land be used for road widening/infrastructure in the future the landscaping will be removed at no cost to TNSW.

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APPENDIX B

Endeavour Energy Response

DE21.82 - Attachment 3

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The General Manager
Shoalhaven City Council

2 September 2019

ATTENTION: Melodee Hill

I refer to the below email of 20 August 2019 from NSW Planning, Industry & Environment regarding NSW Government concurrence and referral request CNR-1293 for Shoalhaven City Council's development application DA117/19 at 252 PRINCES HIGHWAY ULLADULLA 2539 (Lot 1 DP 784732) for 'Demolition of existing dwelling and associated structures and construction of a Manufactured Home Estate comprising: 49 dwelling sites, community building, waste storage area, parking, landscaping and associated infrastructure'. Submissions need to be made to Council by 10 September 2019.

As shown in the below site plans from Endeavour Energy's G/Net master facility model (and extracts from Google Maps Street View and SIX Maps) there are:

- No easements over the site benefitting Endeavour Energy (active easements are indicated by red hatching).
- Low voltage and 11,000 volt / 11 kilovolt (kV) high voltage overhead power lines to the Princes Highway road verge / roadway.
- An extended low voltage overhead service conductor coming from the pole on the Princes Highway road verge to a customer owned pole (indicated by the green circle) providing the customer connection point for the existing dwelling on the site (which will become redundant assets if the development proceeds).

Please note the location, extent and type of any electricity infrastructure, boundaries etc. shown on the plan is indicative only. Generally (depending on the scale and/or features selected), low voltage (normally not exceeding 1,000 volts) is indicated by blue lines and high voltage (normally exceeding 1,000 volts but for Endeavour Energy's network not exceeding 132,000 volts / 132 kV) by red lines (these lines can appear as solid or dashed and where there are multiple lines / cables only the higher voltage may be shown). This plan only shows the Endeavour Energy network and does not show electricity infrastructure belonging to other authorities or customers owned electrical equipment beyond the customer connection point / point of supply to the property. This plan is not a 'Dial Before You Dig' plan under the provisions of Part 5E 'Protection of underground electricity power lines' of the Electricity Supply Act 1995 (NSW).

Subject to the following recommendations and comments Endeavour Energy has no objection to the Development Application.



51 Huntingwood Drive, Huntingwood, NSW 2148
PO Box 811, Seven Hills, NSW 1730
T: 133 718

endeavourenergy.com.au

ABN 11 247 365 823

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- Network Capacity / Connection

Endeavour Energy has noted that the Statement of Environmental Effects does not appear to address in detail the suitability of the site for the development in regard to whether utility services are available and adequate for the development.

5.4 Utilities

The site has access to reticulated water, telecommunications, sewer and electricity infrastructure. The necessary connections to these services will be constructed at the developer's cost. The proposed development will not place an unexpected additional demand upon existing services. The proposed manufactured home estate can be readily serviced through the augmentation of the existing services, and will not have a negative impact on existing services.


4.3.1 Shoalhaven Local Environmental Plan 2014

Clause 7.11 – Essential Services

- 1) *Development consent must not be granted for development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:*
 - a) *The supply of water.*
 - b) *The supply of electricity*
 - c) *The disposal and management of sewerage*

Infrastructure in the form of electricity, sewer, reticulated water and telecommunications are available to the site. The existing services are capable of augmentation to service the proposed subdivision.

Connections to electricity, sewer, water and telecommunications will be made to the appropriate service provider during the construction of the proposed manufactured homes estate.

The availability of electricity supply to a site is based on a wide range of factors eg. the age and design of the network; other development in the locality utilising previously spare capacity within the local network; the progress of nearby / surrounding sites including electricity infrastructure works eg. a smaller and isolated development that may not of its own accord require a distribution substation may require a substation to facilitate the development and from which the spare capacity is made available to subsequent nearby development. Older / above ground areas of the network utilising pole mounted substations (indicated by the symbol  on the site plan from Endeavour Energy's G/Net master facility model) have comparatively limited capacity of 25 kilovolt amperes (kVA) up to a maximum of 400 kVA where as a newer padmount can accommodate loads from 315 kVA up to 1,500 kVA (typically 500 kVA) ie. there is a significant variation in the number and type of premises able to be connected to a substation.

Applicants should not automatically assume that the presence of existing electricity infrastructure or nearby similar development means that adequate supply is immediately available to facilitate their proposed development. The two closest existing distribution substations are:

- Pole mounted substation no. 72070 located approximately 130 metres to the north on the Princes Highway which currently has 16 customer connection points servicing 51 premises.
- Pole mounted substation no. 72389 located approximately 145 metres to the south east in Martin Avenue which currently has 133 customer connection points servicing 135 premises – which is at upper end of the capacity / number of premises able to be serviced by a pole mounted substation.

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Both of these pole mounted substations are unlikely to have sufficient spare capacity to service a significant urban tourist / residential development. Given the large size of the proposed development (49 dwelling sites), an extension and/or augmentation of the existing local network is likely to be required. However the full extent of the work required to the local network to facilitate the proposed development will not be determined until the final load assessment is completed. Endeavour Energy's preference is to alert proponents / applicants (and Council) of the potential matters that may arise as redevelopment of urban areas continues to occur.

In due course the applicant for the future proposed development of the site will need to submit an application for connection of load via Endeavour Energy's Network Connections Branch to carry out the final load assessment and the method of supply will be determined (also taking into consideration the potential further development / electricity load of the residue allotments). Depending on the outcome of the assessment, any required padmount substation will need to be located within the property (in a suitable and accessible location) and be protected (including any associated cabling) by an easement and associated restrictions benefiting and gifted to Endeavour Energy. Please refer to Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights'. Further details are available by contacting Endeavour Energy's Network Connections Branch via Head Office enquiries on telephone: 133 718 or (02) 9853 6666 from 8am - 5:30pm or on Endeavour Energy's website under 'Home > Residential and business > Connecting to our network' via the following link:

<http://www.endeavourenergy.com.au/>.

Advice on the electricity infrastructure required to facilitate the proposed development can be obtained by submitting a Technical Review Request to Endeavour Energy's Network Connections Branch, the form for which FPJ6007 is attached and further details (including the applicable charges) are available from Endeavour Energy's website under 'Our connection services'. The response to these enquiries is based upon a desktop review of corporate information systems, and as such does not involve the engagement of various internal stakeholders in order to develop a 'Connection Offer'. It does provide details of preliminary connection requirements which can be considered by the applicant prior to lodging a formal application for connection of load.

Alternatively the applicant should engage a Level 3 Accredited Service Provider (ASP) approved to design distribution network assets, including underground or overhead. The ASP scheme is administered by NSW Planning, & Environment and details are available on their website via the following link or telephone 13 77 88:

<https://energysaver.nsw.gov.au/households/you-and-energy-providers/installing-or-altering-your-electricity-service>.

Endeavour Energy is urging applicants /customers to engage with an Electrical Consultant prior to finalising plans to in order to assess and incorporate any required electricity infrastructure. In so doing the consideration can also be given to its impact on the other aspects of the proposed development. This can assist in avoiding the making of amendments to the plan or possibly the need to later seek modification of an approved development application.

- Urban Network Design

Endeavour Energy's Company Policy 9.2.5 'Network Asset Design', includes the following requirements for electricity connections to new urban subdivision / development:

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5.11 Reticulation policy

5.11.1 Distribution reticulation

In order to improve the reliability performance of and to reduce the operating expenditure on the network over the long term the company has adopted the strategy of requiring new lines to be either underground cables or where overhead is permitted, to be predominantly of covered or insulated construction. Notwithstanding this strategy, bare wire overhead construction is appropriate and permitted in some situations as detailed below.

In areas with the potential for significant overhanging foliage, CCT is used to provide increased reliability as it is less susceptible to outages from wind-blown branches and debris than bare conductors. CCT must only be used in treed² areas as the probability of a direct lightning strike is low. In open areas where the line is not shielded from a direct lightning strike, bare conductors must generally be used for 11kV and 22kV reticulation.

Non-metallic Screened High Voltage Aerial Bundled Cable (NMSHVABC) must be used in areas which are heavily treed and where it is not practicable to maintain a tree clearing envelope around the conductors.

² A "treed" area is one with a substantial number of trees adjacent to the line, in each span. In these situations CCT is used to provide increased reliability as it is less susceptible to outages from wind-blown

5.11.1.1 Urban areas

Reticulation of new residential subdivisions will be underground. In areas of low bushfire consequence, new lines within existing overhead areas can be overhead, unless underground lines are cost justified or required by either environmental or local council requirements.

Where underground reticulation is required on a feeder that supplies a mixture of industrial, commercial and/or residential loads, the standard of underground construction will apply to all types of load within that development.

Where ducting is used, adequate spare ducts and easements must be provided at the outset to cover the final load requirements of the entire development plan.

Extensions to the existing overhead 11kV/22kV network must generally be underground. Bare wire will be used for conductor replacements and augmentations except in treed areas where CCT or NMSHVABC must be used.

Extensions to the existing overhead LV network and augmentations must either be underground or ABC. Conductor replacements greater than 100m in route length must utilise aerial bundled cable.

- **Earthing**

The construction of any building or structure (including fencing, signage, flag poles, hoardings etc.) whether temporary or permanent that is connected to or in close proximity to Endeavour Energy's electrical network is required to comply with Australian/New Zealand Standard AS/NZS 3000:2018 'Electrical installations' as updated from time to time. This Standard sets out requirements for the design, construction and verification of electrical installations, including ensuring there is adequate connection to the earth. Inadequate connection to the earth to allow a leaking/fault current to flow into the grounding system and be properly dissipated places persons, equipment connected to the network and the electricity network itself at risk from electric shock, fire and physical injury.

- **Network Access**

It is imperative that the access to the existing electrical infrastructure on and in proximity of the site be maintained at all times. To ensure that supply electricity is available to the community, access to the electricity infrastructure may be required at any time. Restricted access to electricity infrastructure by maintenance workers causes delays in power restoration and may have severe consequences in the event of an emergency.

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- Bushfire

Endeavour Energy has noted that the Statement of Environmental Effects indicate that 'Shoalhaven City Council's Bushfire Prone Land Map indicates the subject site is bushfire prone'. The accompanying Bushfire Risk Assessment provides the following advice on electricity services to the site having regards to NSW Rural Fire Service 'Planning for Bush Fire Protection 2006'.

3.5 SITING AND ADEQUACY OF WATER ELECTRICITY AND GAS SUPPLIES

The performance criteria and acceptable solutions for water, electricity and gas for special fire protection purposes in accordance with PBP 2006 are provided in Table 3. The intent of the measures are to provide adequate water services for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to buildings.

Table 3: Provides the performance criteria and acceptable solutions for water, electricity and gas for special fire protection purposes in accordance with sections 4.2.7 (2) of PBP 2006.

Performance Criteria	Acceptable Solutions	Compliance
Electricity Services <ul style="list-style-type: none"> • Location of electricity services limits the possibility of ignition of surrounding bushland or the fabric of buildings • Regular inspection of lines is undertaken to ensure they are not fouled by branches. 	<ul style="list-style-type: none"> • where practicable, electrical transmission lines are underground. 	<p>Where practicable, electrical transmission lines are to be underground</p> <p>Where overhead electrical transmission lines are proposed:</p> <ul style="list-style-type: none"> • Lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and • No part of a tree is closer to a power line than the distance set out in accordance with the specification in Vegetation Safety Clearances issued by Energy Australia (NS179, April 2002).

The following is an extract of Endeavour Energy's Company Policy 9.1.1 Bushfire Risk Management:

9.1.1 BUSHFIRE RISK MANAGEMENT

1.0 POLICY STATEMENT

The company is committed to the application of prudent asset management strategies to reduce the risk of bushfires caused by network assets and aerial consumer mains to as low as reasonably practicable (ALARP) level. The company is also committed to mitigating, the associated risk to network assets and customer supply reliability during times of bushfire whilst achieving practical safety, reliability, quality of supply, efficient investment and environmental outcomes. The company is committed to compliance with relevant acts, regulations and codes.

Accordingly the network required to service the proposed development must be fit for purpose and meet the technical specifications, design, construction and commissioning standards based on Endeavour Energy's risk assessment associated with the implementation and use of the network connection / infrastructure for a bushfire prone site. In assessing bushfire risk, Endeavour Energy has traditionally focused on the likelihood of its network starting a bushfire, which is a function of the condition of the network. Risk control has focused on reducing the likelihood of fire ignition by implementing good design and maintenance practices. However safety risks associated with the loss of electricity supply are also considered.

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- Prudent Avoidance

The electricity network is operational 24/7/365 ie. all day, every day of the year. The electricity industry has adopted a policy of prudent avoidance by doing what can be done without undue inconvenience and at modest expense to avert the possible risk to health from exposure to emissions from electricity infrastructure such as electric and magnetic fields (EMF) and noise (both overhead power lines and transformers can produce an audible sound or buzz as a side effect of carrying electricity) which generally increase the higher the voltage ie. Endeavour Energy's network ranges from low voltage (normally not exceeding 1,000 volts) to high voltage (normally exceeding 1,000 volts but not exceeding 132,000 volts / 132 kV).

In practical terms this means that when designing new transmission and distribution facilities, consideration is given to locating them where exposure to the more sensitive uses is reduced and increasing separation distances. Noise levels can vary and people perceive sounds differently so to minimise any potential exposure to intrusive noise, the siting towards the electricity infrastructure of less susceptible uses such as garages, nonhabitable or rooms not regularly occupied in the dwelling / building is recommended. This will also assist in reducing exposure to EMF.

Where development is proposed in the vicinity of electricity infrastructure, Endeavour Energy is not responsible for any amelioration measures for such emissions that may impact on the nearby proposed development. Endeavour Energy believes that likewise applicants and Council should also adopt a policy of prudent avoidance by the siting of more sensitive uses away from any electricity infrastructure – including any possible future electricity infrastructure required to facilitate the proposed development.

Please find attached a copy of Energy Networks Association's 'Electric & Magnetic Fields – What We Know' which can also be accessed via their website at <https://www.energynetworks.com.au/electric-and-magneticfields> and provides the following advice:

Electric fields are strongest closest to their source, and their strength diminishes rapidly as we move away from the source.

The level of a magnetic field depends on the amount of the current (measured in amps) and decreases rapidly once we move away from the source.

Typical magnetic field measurements associated with Endeavour Energy's activities and assets given the required easement widths, safety clearances etc. and having a maximum voltage of 132,000 volt / 132 kV, will with the observance of these separation distances not exceed the recommended magnetic field public exposure limits.

- Vegetation Management

The planting of large trees in the vicinity of electricity infrastructure is not supported by Endeavour Energy. Suitable planting needs to be undertaken in proximity of electricity infrastructure (including any new electricity infrastructure required to facilitate the proposed development). Larger trees should be planted well away from electricity infrastructure and even with underground cables, be installed with a root barrier around the root ball of the plant.

Landscaping that interferes with electricity infrastructure could become a potential safety risk, restrict access, reduce light levels from streetlights or result in the interruption of supply may become subject to Endeavour Energy's Vegetation Management program and/or the provisions of the Electricity Supply Act 1995 (NSW) Section 48 'Interference with electricity works by trees' by which under certain circumstances the cost of carrying out such work may be recovered.

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Endeavour Energy has noted that as shown in the following extracts of the landscape Plan that trees are proposed to be planted to the Princes Highway building setback in proximity of the existing overhead power lines. Endeavour Energy's recommendation is that existing street trees which are of low ecological significance in proximity of overhead power lines be replaced and any proposed planting of new trees within the proximity of overhead power lines be replaced by an alternative smaller planting to ensure appropriate clearances are maintained whilst minimising the need for future pruning.



ID	Qty	Common Name	Botanical Name	Scheduled Size	Mature Height	Mature Spread	Notes
Trees							
CLP	7	Tuckeroo	Cupressus macrocarpa	75L	8m	8m (L)	
PER	4	Golden Ash	Fraxinus australis	75L	15-20m	10-15m (L)	
PER	7	Red Cottonwood	Populus monilifera	45L	8m	8m (L)	
LA	13	Callagrasia Palm	Livistona australis	100L	15-20m	8-10m (L)	
LOP	7	Brush Box	Lophosiphon carolinianus	45L	20-25m	8-10m (L)	
TLL	8	Luxuriosa Weeping Gum	Tectaria laevis	75L	8m	8m (L)	

In regard to the future padmount substation possibly required to facilitate the proposed development, please find attached for the applicant's reference a copy Endeavour Energy's 'Guide to Fencing, Retaining Walls and Maintenance Around Padmount Substations'.

- Dial Before You Dig

Before commencing any underground activity the applicant is required to obtain advice from the *Dial Before You Dig 1100* service in accordance with the requirements of the *Electricity Supply Act 1995* (NSW) and associated Regulations. This should be obtained by the applicant not only to identify the location of any underground electrical and other utility infrastructure across the site, but also to identify them as a hazard and to properly assess the risk.

- Removal of Electricity Supply

Approval for the permanent disconnection and removal of supply must be obtained from Endeavour Energy's Network Connections Branch (contact via Head Office enquiries on telephone: 133 718 or (02) 9853 6666 from 8am - 5:30pm) by Accredited Service Providers (ASP) with the relevant class of Authorisation for the type of work being carried out. The work could involve:

- The disconnection and removal of an underground service cable or overhead service line,
- Removal of metering equipment.

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The written request must be submitted to Endeavour Energy using Form FPJ4603 'Permission to Remove Service / Metering by Authorised Level 2 Accredited Service Provider' which must be accompanied by Notification of Service Works (NOSW) forms provided as a result of service work activity performed by a Level 2 ASP. The retailer must also provide written agreement for the permanent removal of supply.

For details of the ASP scheme please refer to the above point 'Network Capacity / Connection'.

- Demolition

Demolition work is to be carried out in accordance with Australian Standard AS 2601—2001: 'The demolition of structures' as updated from time to time. All electric cables or apparatus which are liable to be a source of danger, other than a cable or apparatus used for the demolition works shall be disconnected ie. the existing customer service lines will need to be isolated and/or removed during demolition. Appropriate care must be taken to not otherwise interfere with any electrical infrastructure on or in the vicinity of the site eg. streetlight columns, power poles, overhead power lines and underground cables etc.

- Public Safety

Workers involved in work near electricity infrastructure run the risk of receiving an electric shock and causing substantial damage to plant and equipment. I have attached Endeavour Energy's public safety training resources, which were developed to help general public / workers to understand why you may be at risk and what you can do to work safely. The public safety training resources are also available via Endeavour Energy's website via the following link:

<http://www.endeavourenergy.com.au/wps/wcm/connect/ee/nsw/nsw+homepage/communitynav/safety/safety+brochures>.

If the applicant has any concerns over the proposed works in proximity of the Endeavour Energy's electricity infrastructure to the road verge / roadway, as part of a public safety initiative Endeavour Energy has set up an email account that is accessible by a range of stakeholders across the company in order to provide more effective lines of communication with the general public who may be undertaking construction activities in proximity of electricity infrastructure such as builders, construction industry workers etc. The email address is Construction.Works@endeavourenergy.com.au.

- Emergency Contact

In case of an emergency relating to Endeavour Energy's electrical network, the applicant should note the Emergencies Telephone is 131 003 which can be contacted 24 hours/7 days. Endeavour Energy's contact details should be included in the any risk or safety management plan.

I appreciate that not all the foregoing issues may be directly or immediately relevant or significant to the Development Application eg. if a padmount substation is not required. However, Endeavour Energy's preference is to alert proponents / applicants of the potential matters that may arise should development within closer proximity of the existing and/or required electricity infrastructure needed to facilitate the proposed development on or in the vicinity of the site occur.

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Could you please pass on a copy of this submission and the attached resources to the applicant? Should you wish to discuss this matter, or have any questions, please do not hesitate to contact me or the contacts identified above in relation to the various matters. Due to the high number of development application / planning proposal notifications submitted to Endeavour Energy, to ensure a response contact by email to property.development@endeavourenergy.com.au is preferred.

Yours faithfully

Cornelis Duba

Development Application Specialist

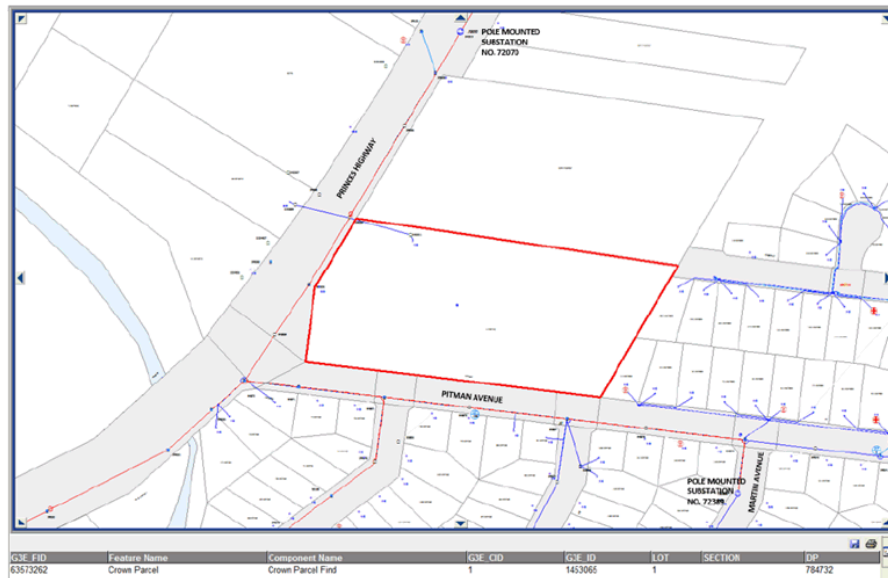
Network Environment & Assessment

T: 9853 7896

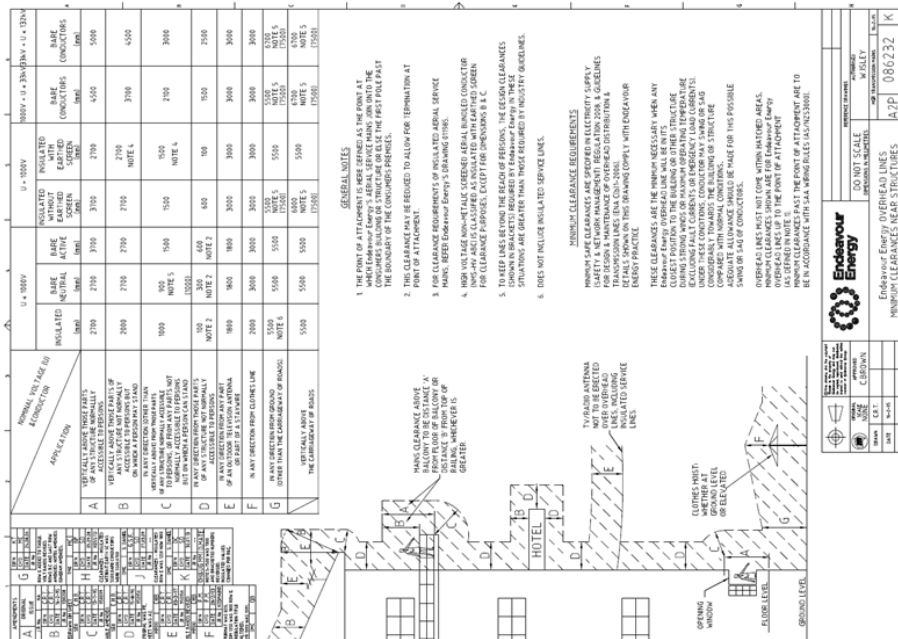
E: cornelis.duba@endeavourenergy.com.au 51

Huntingwood Drive, Huntingwood NSW 2148

www.endeavourenergy.com.au



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Use of Fencing for security and the reduction of visual impact of a Padmount substation:

- Appropriate screening made of metal, timber, plastic or masonry fencing is allowable outside the easement.
- No sail clothes, covers or tarps of any kind are allowable in the easement.
- Carport posts, metallic clothes hoists poles or posts cannot be located inside the padmount substation easement area nor encroach into it.
- Dial before You Dig (DBYD) service plans are required prior to any property excavation. Contact **1100**. Note: DBYD service plans do not indicate underground electrical service mains.
- Ground excavation must be done manually or by a toothless mechanical scraping device within the easement with an approved safety observer at all times.
- Easement dimensions must not be reduced by any structures e.g. fences, retaining walls, brick walls, terrace work or vegetation etc.
- Ongoing clear entry and exit access around the substation easement area is paramount for Work Health & Safety (WH&S) requirements.
- No trees, shrubs or bushes nor planter boxes or pot plants or decorative features are allowed in the easement.
- No slip or trip hazards allowed in the easement. Tree stumps must be cut to ground level or below.
- Ventilation is required around and through the base of the substation.
- No placing of Council bins or stock piling of any materials is allowed in the easement.
- If the substation is fenced out or gated, ongoing maintenance of the easement area is still the responsibility of the owner of the property.
- If the substation is enclosed and gated and locked, it must open outwards towards the street, and have an Endeavour Energy locking system installed for 24hr 7days access. Contact Integrity locking on **1300 366 488** for assistance.
- Endeavour Energy will provide the appropriate reflective signage for the asset when contacted.

NOTE: The easement must be maintained on a regular basis for work health and safety WH&S regulations. The following suggestions are provided to property owners who may find it onerous to maintain the easement on a regular basis. The property owner may install the following within the easement at their cost:

- Remove or spray all vegetation with a non-toxic grass and weed deterrent;
- Remove all foreign objects leaving the easement in an approved and level state;
- Form up the easement perimeter with treated timber minimum 75-100mm deep;
- Followed with the laying of a suitable porous weed mat; and
- Then covering the easement with 20mm min. size blue metal or coloured stones, wood bark/chips, asphalt or install pavers that are easily lifted. Alternately, lay lawn and maintain periodically.

The above suggestions, if employed correctly, will require less ongoing maintenance ensuring a clear firm footing for staff to carry out electrical maintenance or emergency works. This will also ensure an approved aesthetic state for your local community.

Retaining Walls

The final height of a retaining wall should comply with the Local Council and not exceed 1m.

The finished ground surface of the uphill of the retaining wall should batter down and finish below the top of the wall's capping to mitigate direct water flow into the substation easement.

The finished wall should be completely constructed in the same type of brick or concrete blocks / material for safety as well as aesthetic reasons.

The finished wall should not trap or promote pooling of water in the easement.

The wall should comply with all relevant building and council codes e.g. drainage material inclusion behind the retaining wall to include min. 100mm ag-line, aggregate and geo tech fabric.

The side walls can be extended minimally in order to accommodate a raised surrounding ground level.

Any future wall extension would need to be properly footed.

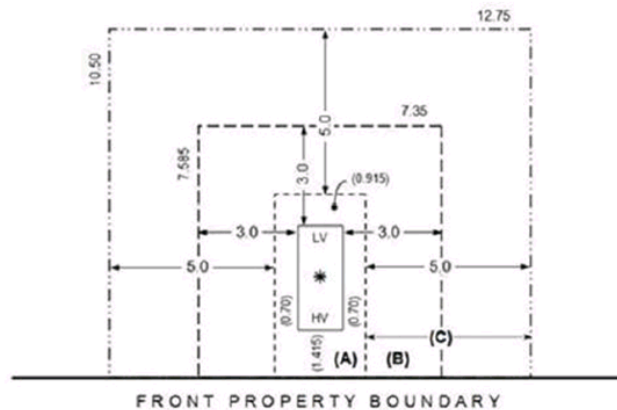
Dial before You Dig (DBYD) service plans are required before excavating for retaining wall footings and fence posts. Contact DBYD on 1100 for assistance.

Retaining walls must be constructed outside of and not encroach the electricity easement.

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**Easement and Restriction Sites for Padmount Substations
- Common Earthing, Residential -**



- No building must be erected or permitted to remain within the restriction site marked (B) unless:
 - the external surface of the building erected within 1.5 metres from the substation footing has a 120/120/120 fire rating; and
 - the external surface of the building erected between 1.5 metres and 3.0 metres from the substation footing has a 60/60/60 fire rating; and
 - the owner provides Endeavour Energy with an engineer's certificate to this effect.
- No swimming pool or spa must be erected or permitted to remain within the restriction site marked (C).

The foregoing easement and restrictions apply to a padmount substation with a common earth system where the high voltage and low voltage equipment, the local neutral and other metallic parts are electrically bonded together and connected to one earth grid. Common earthing must be used where a new earthing installation is being established and interconnected to 5 or more other substations through the neutral conductor. If the conditions for a common earthing system cannot be achieved economically eg. in non-urban areas, then two separate and distinct earthing systems, one for the high voltage and the other for low voltage must be used. Substation separate earthing changes the dimensions of the restriction sites.

- No fencing must be erected or permitted to remain within 4 metres from the substation footing.
- No swimming pool or spa must be erected or permitted to remain within 30 metres from the substation footing.

For further details refer to Endeavour Energy's Mains Design Instruction Document No: MDI 0044 'Easements and Property Tenure' or contact Endeavour Energy's Head Office enquiries on telephone: 133 718 or (02) 9853 6666 from 8am – 5:30pm.



Bridge Rd, Nowra NSW 2541 | 02 4429 3111
Deering St, Ulladulla NSW 2539 | 02 4429 8999

Address all correspondence to

The Chief Executive Officer, PO Box 42, Nowra NSW 2541 Australia
council@shoalhaven.nsw.gov.au | DX5323 Nowra | Fax 02 4422 1816

shoalhaven.nsw.gov.au     

ATTACHMENT 4

NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION DEVELOPMENT CONSENT

Environmental Planning and Assessment Act, 1979
DA21/1304

TO:

Mark Lindsay
26 Burraneer Bay Road
CRONULLA NSW 2230

being the applicant(s) for DA19/1102 relating to:

252 Princes Hwy, ULLADULLA - Lot 1 - DP 784732

APPROVED USE AND OR DEVELOPMENT:

Demolition of existing dwelling and associated structures and construction of a Manufactured Home Estate comprising: 49 dwelling sites, community building, waste storage area, parking, landscaping and associated infrastructure.

DETERMINATION DATE: TBA

Pursuant to the Section 4.18 of the Act, notice is hereby given that the above application has been determined by granting consent, subject to the conditions listed below.

CONSENT TO OPERATE FROM: TBA

CONSENT TO LAPSE ON: TBA

This consent is valid for five years from the date hereon.

In accordance with Section 4.53 of the Act, development consent for the use of the land or the erection of a building does not lapse if building, engineering or construction work relating to the building or work or the use is physically commenced on the land to which the consent applies before the lapse date.

DETAILS OF CONDITIONS:

The conditions of consent and reasons for such conditions are set out as follows:

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DEFERRED COMMENCEMENT

DEFERRED COMMENCEMENT

Pursuant to s 4.16(3) of the *Environmental Planning and Assessment Act 1979*, the applicant must satisfy the following deferred commencement condition of consent prior to this development consent becoming operative:

- a) Provide evidence to council that the NSW RFS have issued a valid Bush Fire Safety Authority for the development in accord with Planning for Bushfire 2019 requirements.

Evidence that will sufficiently enable Council to be satisfied as to the compliance of these matters must be submitted to Council within 12 months of the date of determination of this deferred commencement consent, failing which, this deferred development consent will lapse pursuant to s 4.53(6), of the *Environmental Planning and Assessment Act 1979*.

This development consent will not become operative until such time that the Council notifies the applicant in writing that the requirements of deferred commencement have been satisfied.

PART A: GENERAL CONDITIONS

1. General

The consent relates to (Demolition of existing dwelling and associated structures and construction of a Manufactured Home Estate comprising: 49 dwelling sites, community building, waste storage area, parking, landscaping and associated infrastructure) as documented on the stamped plans/documentation, or as modified by the conditions of this consent. The development must be carried out in accordance with this consent. If there is inconsistency between the stamped plans/documentation and the conditions of consent, the conditions prevail to the extent of that inconsistency.

Stamped plans/documents	Ref/sheet no.	Prepared by	Dated
Statement of Environmental Effects	L103554 D21/120190	SET Consultants Pty Ltd	21/01/21
Proposed Princes Highway / Pitman Avenue Roundabout Design Report and Traffic impact Assessment	P4341 Ver 002 D21/120187	Bitzios Consulting	13/01/21
Bushfire Assessment Report	L103554 D21/120175	SET Consultants Pty Ltd	21/01/21
Concept Layout Plan	103554 Sheet 1 of 1 Rev J D21/120056	SET Consultants Pty Ltd	18/06/2020
Concept Road & Stormwater Plans	103554/2 Sheets 1-5 Rev 3 D20/352241	SET Consultants Pty Ltd	5/08/20
Concept Water & Sewer Plan	103554/6 Rev 1 D21/120059	SET Consultants Pty Ltd	31/07/19
Landscape Concept Plan	1465/2 Sheets 1-2 Rev B D21/12019	Captivate Landscape Design	14/07/20
Community Centre Floor Plan and Isometric Image	D21/120051	Hunter Valley Homes	undated

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Manufactured Home Type Site Map	D21/120162	Hunter Valley Homes	18/06/19
Traffic Noise Intrusion Assessment	1906011T-R D21/120184	Harwood Acoustics	9/08/19
Rural Fire Service Recommended Conditions	DA20210401001319-CL55-1 D21/217083	NSW RFS	26/05/21
Transport for NSW referral response to proposed Princes Highway / pitman Ave intersection upgrade (Roundabout)	STH16/00155/12 (CNR-20176) D21/148466	TfNSW	14/04/2021

Note: Any alteration to the plans and/or documentation must be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under section 4.55 of the Environmental Planning and Assessment Act, or a new development application.

2. **Prescribed Conditions**

The development must comply with the [Prescribed Conditions of Development Consent](#), Division 8A, *Environmental Planning and Assessment Regulation 2000*, as applicable.

3. **Occupation / Use**

The development must not be occupied or used before an Approval to Operate under s68 of the Local Government Act 1993 has been issued by Shoalhaven City Council and all conditions of development consent have been met or other satisfactory agreements have been made with Council (i.e. a security).

4. **Design Changes: Amended plans required**

The design of the development is to be modified as set out in the following table. Amended plans and specifications incorporating the following design amendments must be incorporated in the plans and specifications submitted with the application for a Construction Certificate:

Design Amendment	Reason for Amendment
A suitable hedge planting on the development side of the Pitman Ave Boundary fence must grown and maintained to a height of 2.0 m for the life of the development	To improve visual screening of the development from Pitman Ave and minimise light spill amenity impact to residents in Pitman Ave from internal vehicle movement at night.
A 1.8m high capped and lapped acoustic hard wood fence be provided along the eastern boundary of the site from the north east corner adjacent 17 Augenaut Ave to the front building alignment of 22 Pitman Ave.	To minimise light spill/vehicle noise amenity impact to residents adjoining the eastern boundary of the development
Hibiscus tiliaceus be specified as street trees on the southern side of Pitman Ave.	More appropriate growth habit for subject location.
(3) additional (Crepe Myrtles) be planted adjacent the highway side of the proposed community centre.	To break up/screen the blank modular fence in subject location.

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PART B: INTEGRATED DEVELOPMENT AND CONCURRENCE CONDITIONS

5. NSW Rural Fire Service

The recommended conditions of consent issued by the NSW Rural Fire Service, Reference No: DA20210401001319-CL55-1, dated 26 May 2021 are included as conditions of this consent and must be complied with. Refer **APPENDIX (A)** attached to this consent.

6. Transport for NSW

The conditions of the General Terms of Approval issued by Transport for NSW (TfNSW), Reference No: STH16/00155/12 (CNR-20176) dated, 15 March 2021 are included as conditions of this consent and must be complied with. Refer **APPENDIX (A)** attached to this consent.

PART C: PRIOR TO THE COMMENCEMENT OF WORKS

7. Appointment of Principal Certifier

Prior to the commencement of building or subdivision work, a Principal Certifier must be appointed.

8. Notice of Commencement

Notice must be given to Council at least two (2) days prior to the commencement of building or subdivision work by completing and returning the form '[Commencement Notice for Building or Subdivision Work and Appointment of Principal Certifying Authority](#)'

9. Toilet Facilities - Temporary

Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must:

- a) be a standard flushing toilet connected to a public sewer, or
- b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- c) be a temporary chemical closet approved under the *Local Government Act 1993*.

10. Community Buildings and Community Amenities

All community buildings and community amenities will require a Construction Certificate, the appointment of a Principal Certifier, and the issue of an Occupation Certificate in accordance with [Division 6.3 Building work and certificates relating to building](#) under the Environmental Planning and Assessment Act 1979.

11. Public Safety and Protection of Public Property - Hoarding

Prior to the commencement of works a Class A temporary hoarding must approved under section 138 and erected between the work site and adjoining lands in accordance with SafeWork NSW guidelines and AS 2601 *Demolition of structures*. The hoarding must be kept in place until completion of the works.

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12. **Dilapidation Report**

Prior to the commencement of work, the developer must engage a competent person to prepare a dilapidation report in respect of the neighbouring premises (1-15 & 22 Pitman Ave & 17 Augenaut Ave) and adjacent public infrastructure, including adjacent kerbs, gutters, footpaths (formed or unformed), driveways (formed or unformed), carriageway, reserves and the like to document evidence of any existing damage.

The dilapidation report must consider the impact of any excavation work that extends below the level of the base of the footings of any structure within 0.9metres of the shared boundary. Before works commence, a copy of the dilapidation report must be provided to the Certifier and Council. The dilapidation report will be the benchmark for necessary repairs to damage caused during the development works. All repairs must be completed by the developer at the developer's cost.

Not less than seven (7) days before works commence, the developer must notify the owner of any affected property of the intention to carry out approved works. The developer must also furnish the owner with details of the approved work.

However, if the occupier or owner of any neighbouring dwelling does not permit reasonable access for the purposes for the preparation of the dilapidation report, written evidence of the efforts taken to secure access may be submitted to the Principal Certifier and the Principal Certifier may waive the requirement in relation to the relevant property.

13. **Waste Management Plan Prior to Demolition**

A Waste Management Plan (WMP) must be prepared in accordance with Chapter G7 of Shoalhaven Development Control Plan 2014. The WMP must be approved by Council or the Certifier prior to any demolition or vegetation clearing works commencing.

14. **Demolition - Decommissioning of Services**

Prior to the commencement of demolition work:

- a) all existing internal sewer drainage pipework must be flushed, disconnected from the existing sewer junction and the sewer junction must be temporarily capped off.
- b) internal water lines must be disconnected from the existing water meter currently servicing the property.
- c) the capped off sewer junction and disconnected water lines must be inspected by Shoalhaven Water. For all inspections contact Shoalhaven Water on 4429 3547.
- d) the developer must provide the Certifier with evidence of compliance with the above requirements.

15. **Works within the Road Reserve**

Prior to undertaking any works within an existing road reserve, the developer must obtain the consent of Council under *section 138 of the Roads Act, 1993*.

The following details must be submitted to Council as part of the application:

- a) Any civil works design required by this consent.
- b) Evidence of the contractor's Public Liability Insurance to an amount of \$20 million.
- c) Name and contact information of the person responsible for all relevant works.

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- d) A Traffic Control Plan prepared, signed and certified by a person holding the appropriate Transport for NSW (TfNSW) accreditation.
- e) Where the Traffic Control Plan requires a reduction of the speed limit, a 'Application for Speed Zone Authorisation' must be obtained from the relevant road authority.

16. Runoff and Erosion Controls

Prior to the commencement of site works, runoff and erosion controls must be implemented and maintained during construction to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- a) diverting uncontaminated runoff around cleared or disturbed areas.
- b) erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties.
- c) Wetting down or covering soil stockpiles as necessary to minimise the generation of dust.
- d) preventing the tracking of sediment by vehicles onto roads.
- e) stockpiling topsoil, excavated materials, construction and landscaping supplies and debris within the lot.

17. Construction Traffic Management Plan

Prior to the commencement of works, a Construction Traffic Management Plan detailing the proposed method of dealing with construction traffic and parking must be approved by Council. Details must include, but are not limited to:

- a) Stabilised site construction access location
- b) Proposed haulage routes for delivery of materials to the site
- c) Proposed haulage routes for spoil disposal from the site
- d) Traffic control planning for each of the various phases of construction and/or vehicle movements associated with construction
- e) Parking arrangements for construction employees and contractors
- f) Proposed maintenance of the haulage routes and the name of the person responsible for such maintenance
- g) Loading / unloading areas
- h) Requirements for construction or work zones
- i) Pedestrian and cyclist safety
- j) Speed zone restrictions.
- k) Gant chart detailing the scheduling the construction period arranged to minimise amenity impact to surrounding residents and road users.

PART D: PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

18. Evidence

A Construction Certificate must not be issued until the Certifier has received notification from, or evidence of, any Council approval that is required Prior to the Commencement of Works.

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19. **Long Service Levy**

Prior to the issue of a Construction Certificate any long service levy payable under the [Building and Construction Industry Long Service Payments Act 1986](#) and prescribed by the [Building and Construction Industry Long Service Payments Regulation 2017](#) must be paid or, where such a levy is payable by instalments, the first instalment of the levy must be paid. Council is authorised to accept payment. Proof of payment must be submitted to the Certifying Authority.

20. **Local Infrastructure Contributions**

This development will generate a need for the additional services and/or facilities described in Shoalhaven Contributions Plan 2019 and itemised in the following table:

Project	Description	Rate	Qty	Total	GST	GST Incl
05AREC0005	Planning Area 5 - Active recreation facility upgrades various locations	\$1,045.12	34.8	\$36,370.18	\$0.00	\$36,370.18
05CFAC2010	Southern Shoalhaven Branch Library	\$525.90	34.8	\$18,301.32	\$0.00	\$18,301.32
CWAREC5005	Shoalhaven Community and Recreational Precinct SCArP Cambewarra Road Bomaderry	\$1,094.57	34.8	\$38,091.04	\$0.00	\$38,091.04
CWCFAC5002	Shoalhaven Entertainment Centre (Bridge Road Nowra)	\$827.26	34.8	\$28,788.65	\$0.00	\$28,788.65
CWCFAC5006	Shoalhaven City Library Extensions (Berry Street, Nowra)	\$1,280.53	34.8	\$44,562.44	\$0.00	\$44,562.44
CWCFAC5007	Shoalhaven Regional Gallery	\$70.30	34.8	\$2,446.44	\$0.00	\$2,446.44
CWFIRE2001	Citywide Fire & Emergency services	\$138.13	34.8	\$4,806.92	\$0.00	\$4,806.92
CWFIRE2002	Shoalhaven Fire Control Centre	\$202.07	34.8	\$7,032.04	\$0.00	\$7,032.04
CWMGMT3001	Contributions Management & Administration	\$574.39	34.8	\$18,039.90	\$0.00	\$18,039.90
Sub Total:						\$198,438.92
GST Total:						\$0.00
Estimate Total:						\$198,438.92

The total contribution, identified in the above table or as indexed in future years, must be paid to Council prior to the issue of a Construction Certificate. Evidence of payment must be provided to the Certifying Authority.

Contributions Plan 2019 can be accessed on Councils website www.shoalhaven.nsw.gov.au or may be inspected on the public access computers at the libraries and the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.

21. **Shoalhaven Water – Prior to the Issue of a Construction Certificate**

Prior to the issue of a Construction Certificate, all conditions listed on the Shoalhaven Water Notice of Requirements under the heading “Prior to the Issue of a Construction Certificate” must be complied with and accepted by Shoalhaven Water. Written notification must be issued by Shoalhaven Water and provided to the Certifier.

22. **Existing Infrastructure**

Prior to the issue of a Construction Certificate, all infrastructure, existing and proposed, is to be shown accurately on the engineering plans including longitudinal sections with clearances clearly labelled confirming that the proposed works do not affect any existing infrastructure. Any required alterations to infrastructure will be at the developer's expense.

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23. Hydraulic Engineering Details for Water, Sewer & Drainage

A hydraulic detail designed by a professional engineer (as defined by the National Construction Code) for water, sewerage and drainage for the development, is to be provided to Council, prior to the issue of construction certificate.

24. Section 68 of the Local Government Act 1993 Requirements

Prior to the issue of a Construction Certificate, an application to install the demountable building and to carry out water supply works, sewerage works, and stormwater drainage works must be obtained from Council under Section 68 of the Local Government Act 1993.

25. Soil and Water Management Plans (SWMP)

Prior to the issue of a Construction Certificate, a Soil and Water Management Plan must be prepared by a Professional Engineer, (as defined in the National Construction Code) to the satisfaction of the Certifier. All implemented measures must:

- a) ensure not to cause water pollution as defined by the [Protection of the Environment Operations Act](#) (POEO).
- b) be maintained at all times.
- c) not be decommissioned until at least 70% revegetation cover has been established.

26. Road Design Standards – Pitman Avenue

Prior to the issue of a Construction Certificate, certified road design engineering plans must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by Council. The road design must comply with the following:

- a) Concrete integral kerb and gutter with either a minimum 30mm thick 10mm asphaltic concrete on a primer seal or 2 coat bitumen seal with 14mm & 7mm aggregate surfaced shoulder (to match the existing seal) and associated drainage must be designed across the frontage of the entire development.
- b) The kerb and gutter must have a standard upright profile.
- c) The alignment must be 4.9m from the property boundary on Pitman Avenue to kerb invert or an alternative alignment as approved by Council.
- d) The shoulder crossfall to the lip of the gutter must be no less than 2% and no greater than 5%. A minimum width of 1m is to be constructed adjacent to the lip of the gutter to facilitate compaction of the new pavement.
- e) The shoulder seal is to overlap the existing pavement by a minimum of 300mm with the existing seal to be saw cut and the exposed pavement is to have a tack coat or prime seal if finished with AC.
- f) The kerb and gutter must have a minimum grade of 0.5% and the longitudinal design must extend a minimum of 30 metres each end of the development and at least 60m if the grade is <0.5% or ≥ 0.3%. This is to ensure the proposed works will be compatible with the existing longitudinal pavement grade and allow future extension of the kerb without unnecessary modification of existing works.

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- g) The road shoulder pavement must be designed in accordance with Council's Engineering Design Specifications Chapter D2.
- h) The road table drain either side of the proposed development is to be reconstructed as required to match the K&G and to prevent ponding of water, including any adjustment or reconstruction of nearby driveways.
- i) Subsoil drainage is to be provided behind the kerb line where an outlet to existing underground drainage (or other alternative suitable to Council) is available. Subsoil drainage is to be placed on the high side of the road or both sides if the cross-fall is neutral.
- j) Where roadway widening (shoulder construction) is not required, the thickness of the pavement for the new kerb and gutter may be designed using an adopted CBR of 3.0. If a higher CBR value is used, it must be determined by geotechnical testing in accordance with Council's Engineering Design Specification.

27. Access Driveway Standards

Prior to the issue of a Construction Certificate, certified engineering design plans must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by Council. The access driveway and layback design must comply with the following:

- a) A concrete crossover and layback is to be constructed at the entry to the site at the location shown on the plan prepared by SET Consultants – Concept Road & Stormwater Plan reference 103554/2 Rev. 2, dated 05/08/2020. The width is to be determined by the largest vehicle expected to enter the site with a minimum width of 5.8 metres. Constructed using 20 MPa reinforced concrete, reinforced with SL72 mesh, on a 75mm compacted fine crushed rock base and minimum 100mm depth.
- b) The internal road pavement is to be designed in accordance with Council's Engineering Design Standard Drawings.
- c) Removal of sufficient width of existing road seal and pavement to allow placing of formwork and laying/compaction of suitable pavement material for the driveway layback with a minimum 300mm offset to the kerb lip line.

28. Car Parking and Internal Road Design Standards

Prior to the issue of a Construction Certificate, certified engineering design plans and specifications must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The car parking and internal road design must comply with the following:

- a) Generally in accordance with the plan prepared by SET Consultants – Concept Road & Stormwater Plan reference 103554/2 Rev. 2, dated 05/08/2020. Constructed in accordance with the following:
 - i. for light vehicular loading
 - ii. with a flexible pavement, surfaced with 30mm of AC10 asphaltic concrete OR
 - iii. to a coloured, patterned or stamped concrete standard
- b) Bordered in accordance with Council's Standard Drawings by:
 - i. concrete kerbing, except where surface runoff is concentrated, in which case concrete integral kerb and gutter must be constructed.
 - ii. a concrete edge strip (min 150mm wide and 300mm deep).

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29. **Lighting Design - Internal Driveway and Carparking**

Prior to the issue of a Construction Certificate, lighting design plans are to be submitted to Council for approval. Lighting is to be provided to the internal driveway and car parking area in accordance with AS/NZS 1158.3.1 *Lighting for roads and public spaces - Pedestrian area (Category P) lighting - Performance and design requirements*.

30. **Design Standards – Traffic Committee Referral**

Prior to the issue of a Construction Certificate details of proposed traffic management and traffic control devices must be submitted to the satisfaction of Council for referral and endorsement of the Shoalhaven Traffic Committee.

Note: This process can take six to eight weeks.

31. **Stormwater Drainage Design Standards (Urban)**

Prior to the issue of a Construction Certificate, certified engineering design plans, specifications, and DRAINS model (or approved alternative) must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier and Council. The stormwater drainage design must comply with the following:

- a) Major and minor drainage systems in accordance with Council's Engineering Design Specifications - Section D5 - Stormwater Drainage Design and utilising Australian Rainfall and Runoff (ARR, 2019) Guidelines.
- b) The minor and major systems must be designed for a 18.13% AEP and 1% Annual Exceedance Probability (AEP) rainfall events, respectively.
- c) Generally, in accordance with concept stormwater drainage plan 103554/2 prepared by SET Consultants on 05/08/2020.
- d) The existing stormwater drainage system is to be adjusted to suit the new works. In this regard the following is required:
- e) all relevant calculations are to be noted on the drainage plans to confirm the adequacy of the existing system, or the upgraded design.
- f) Design of stormwater drainage is to include piping, swales and easements to facilitate future development of the site.
- g) The design is to include water quality improvement devices and address the pollutant load reduction requirements as set out in Council's DCP chapter G2 for large scale developments.

32. **On-Site Detention – Infill Subdivision and Development**

Prior to the issue of a Subdivision Works Certificate, certified engineering design plans and specifications must be prepared by professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The on-site stormwater detention (OSD) design must be designed such that stormwater runoff from the site for design storm events up to and including the 1% AEP does not exceed the pre-developed conditions.

33. **WSUD Measures – Water Quality, Retention and Reuse**

Prior to the issue of a Construction Certificate, a detailed design of permanent water quality, retention and reuse devices must be certified by a professional engineer, (as defined in the National

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Construction Code) who can demonstrate the appropriateness of the proposed design for the site in accordance with Council's Engineering Design and Construction Specifications and is to be approved by Council. Specifications can be found on Council's website.

The stormwater treatment, retention and reuse design must comply with the following:

- a) Rainwater tanks in accordance with BASIX requirements.
- b) The WSUD strategy must be able to remove 80% of Total Suspended Solids (TSS), 45% of Total Nitrogen (TN) and 65% of Total Phosphorus (TP) for the total site area as demonstrated using MUSIC software. The detailed MUSIC model must be provided to Council for acceptance.
- c) In addition to the above TSS, TN and TP reduction targets, the WSUD strategy must be able to demonstrate that the post-development residual pollutant concentrations must not exceed the ecological trigger values listed in the latest version of the Australian and New Zealand Guidelines for Fresh and Marine Water Quality (ANZECC) as demonstrated using MUSIC software. The detailed MUSIC model must be provided to Council for acceptance.
- d) The WSUD strategy must have appropriate stormwater retention storage that is equal to or greater than 9mm for increases in all impervious surfaces compared to the pre-development condition.

34. **WSUD Devices – Private Property**

Prior to the issue of a Construction Certificate, detailed design of permanent stormwater quality improvement devices must be certified by a professional engineer, (as defined in the National Construction Code) demonstrating the appropriateness of the proposed design for the site in accordance with Council's Engineering Design and Construction Specifications and approved by the Certifier. Specifications can be found on Council's web site.

The drainage design must also not include any uncoated metal (i.e. Copper etc.) surfaces such as roofs, facades and/or downpipes.

35. **Cycleway and Footpath Design Standards**

Prior to the issue of a Construction Certificate, certified engineering design plans must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier. The cycleway and footpath design must comply with the following:

- a) Council's Engineering Design Specifications Section D8 – Cycleway and Footpath Design.
- b) A 2.0 metre-wide concrete shared path is to be designed for the Pitman Avenue frontage of the development through to the proposed pedestrian refuge on the Princes Highway with a 1.5 metre-wide concrete footpath to be designed for remainder of the Princes Highway frontage of the development with:
 - i) cross section design provided from road centreline to the internal road at the driveway access point.
 - ii) 3% cross fall from the boundary to top of kerb.
 - iii) match existing footpath levels of adjoining property frontages and be a uniform grade over the length of the development site frontage, or where this cannot be achieved, a longitudinal section must be designed.
 - iv) kerb ramps at intersections and pedestrian crossing points in accordance with Council's Engineering Design Specifications.

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36. Waste Management

Further details are to be provided regarding the waste management of the development. These details are to form an addendum to Waste Management Plan and must be submitted prior to the issue of the Construction Certificate.

These details are to include:

- (a) Detail the number of bins that can be held within the bin storage area to efficiently service the whole estate, providing the bin types and sizes.
- (b) Confirm the weekly collection point for the Private Contractor.

PART E: PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

NIL

PART F: DURING WORKS

37. Hours for Construction

Construction may only be carried out between 7.00am and 5.00pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday. Proposed changes to hours of construction must be approved by Council in writing.

38. Archaeology Discovered During Excavation

If any object having interest due to its age or association with the past is uncovered during the course of the work:

- a) All work must stop immediately in that area.
- b) Work may recommence in the affected area(s) if Heritage NSW advises that additional assessment and/or approval is not required (or once any required assessment has taken place or any required approval has been given).

In accordance with the *Heritage Act 1997*, the Heritage NSW must be advised of the discovery.

39. Aboriginal Objects Discovered During Excavation

If an Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:

- a) All excavation or disturbance of the area must stop immediately.
- b) Additional assessment and approval pursuant to the National Parks and Wildlife Act 1974 may be required prior to works continuing the affected area(s) based on the nature of the discovery.
- c) Work may recommence in the affected area(s) if Heritage NSW advises that additional assessment and/or approval is not required (or once any required assessment has taken place or any required approval has been given).
- d) The Heritage NSW must be advised of the discovery in accordance with section 89A of the [National Parks and Wildlife Act 1974](#).

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40. **Waste Management Plan**

Requirements of the approved Waste Management Plan shall be complied with during all site preparation works, demolition, construction works and throughout the ongoing use of the development.

When implementing the Waste Management Plan the developer is to ensure:

- a) The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the Protection of Environment Operations Act 1997.
- b) All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the Protection of Environment Operations Act 1997.
- c) Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW.
- d) All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it.
- e) Records are retained regarding the details and location of the disposal of all demolition and construction waste (including excavated material) and are to be kept on site as evidences of lawful disposal. Records are to include receipts and weighbridge dockets which verify material types and volumes, time and date of disposal and confirmation of the waste disposal facility.
- f) All materials and resources that are to be stored on site during construction works are contained on the site. The provisions of the Protection of Environment Operations Act 1997 must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses.
- g) The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works.

41. **Asbestos Removal**

Asbestos removal must be carried out in accordance with AS2601-2 [SafeWork NSW – Code of Practice, Demolition Work \[ISBN 978-0-642-78415-5\]](#) and [SafeWork NSW – Code of Practice, How to Safely Remove Asbestos \[ISBN 978-0-642-33317-9\]](#) as applicable, by a person holding the relevant licence issued by SafeWork NSW.

A licence is not required to remove less than 10m² of non-friable asbestos, provided that the total amount of non-friable asbestos removed from the lot does not exceed 10m².

Asbestos must be taken for disposal to the licensed Waste Management Facility identified in the approved Waste Management Plan.

Post asbestos removal and prior to further work on the site, the following must be submitted to the Certifier:

- a) A clearance certificate issued by a licensed asbestos assessor or competent person as required by the Work, Health and Safety Regulation 2017 for the specific type of asbestos removal work confirming that the area has been cleaned satisfactorily and is safe to be re-occupied for normal use.
- b) A clearance certificate is required if the removal work involved any quantity of friable asbestos, or if it involved removal of more than a total of 10 square metres of non-friable asbestos from the lot.
- c) Documentary evidence of the legitimate disposal of all asbestos in the form of tip receipts from an approved waste management facility.

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42. Demolition Work (Asbestos Contractor)

Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Demolition License or a current WorkCover Class 2 (Restricted) Asbestos License.

43. Asbestos – Notification of Neighbours

Seven (7) days prior to the commencement of any demolition works involving asbestos, all immediate neighbours must be notified in writing of the intention to carry out asbestos demolition works. Copies of these written notifications should be retained and submitted to Council.

44. Maintenance of Site and Surrounds

During works, the following maintenance requirements must be complied with:

- a) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- c) Where tree or vegetation protection measures are in place, the protected area must be kept clear of materials and / or machinery.
- d) The developer must maintain the approved [soil water management /erosion and sediment control] measures to the satisfaction of the Certifier for the life of the construction period and until runoff catchments are stabilised.
- e) During construction:
 - i. all vehicles entering or leaving the site must have their loads covered, and
 - ii. all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- f) At the completion of the works, the work site must be left clear of waste and debris.

45. Earthworks and Excavation

Approved earthworks (including any structural support or other related structure for the purposes of the development):

- a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot.
- b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property.
- c) that is fill brought to the site, must contain only virgin excavated natural material (VENM) or excavated natural material (ENM) as defined in Part 3 of schedule 1 to the *Protection of the Environment Operations Act 1997 (POEO Act)*.
- d) Documentation must be provided to the Certifier certifying that imported fill material is not contaminated and does not contain contaminants such as asbestos, chemicals or building waste.
- e) that is excavated soil to be removed from the site, must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) Regulation 2005*.

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Any excavation must be carried out in accordance with Excavation Work: Code of Practice (*ISBN 978-0-642-78544-2*) published by Safe Work Australia in October 2018

PART G: PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

46. **Compliance**
The Occupation Certificate must not be issued until all relevant conditions of development consent have been met or other satisfactory arrangements have been made with council (i.e. a security).
47. **Fire Safety**
Prior to the issue of an Occupation Certificate the Certifier must be provided with a Final Fire Safety Certificate showing compliance with the Fire Safety Schedule.
48. **Prior to the Issue of an Occupation Certificate**
Prior to the issue of an occupation certificate, all the conditions under Section 68 of the LG Act will be required to be complied with.
49. **Shoalhaven Water – Certificate of Compliance**
Prior to the issue of any Occupation Certificate, a Certificate of Compliance under section 307 of the *Water Management Act 2000* must be obtained from Shoalhaven Water to verify satisfactory compliance with all conditions for the supply of water and sewerage, as listed on the Notice of Requirements.
50. **Works in the Local Road Reserve - Evidence of Completion**
Prior to the issue of an Occupation Certificate, the developer must provide the Certifier with a Completion of Works in Road Reserve Letter provided by Council, confirming compliance with the requirements of section 138 of the *Roads Act 1993*.
51. **Works as Executed Plans**
Prior to the issue of an Occupation Certificate, Works as Executed Plans must be prepared by a registered surveyor / professional engineer, (as defined in the National Construction Code) and be submitted to Council and the Certifier demonstrating compliance with the approved design plans. The Works as Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans and approved works in the road reserve plans and comply with the following requirements:
 - a) Council's Development Engineering Construction Specification.
 - b) Show compliance with the approved design plans of all road and drainage works
 - c) Certify that all storm water pipes, and other services are wholly within an appropriate easement.
 - d) Show the extent, depth and final levels of filling.
 - e) Show any retaining walls including footings and agricultural drainage lines.
 - f) Show the location of all underground service conduits.

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- g) Include all deviations from the approved Civil Engineering Plans.

52. On-site Detention System

Prior to the issue of the Occupation Certificate, the developer must:
create a restriction on use under the *Conveyancing Act 1919* over the on-site detention system
and provide it to the Certifier as follows:

- a) The registered proprietor of the lot burdened must not make or permit or suffer the making of any alterations to any on-site stormwater detention system on the lot(s) burdened without the prior consent in writing of the authority benefited. The expression 'on-site stormwater detention system' must include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater as well as all surfaces graded to direct stormwater to those structures. Name of the authority having the power to release, vary or modify the restriction referred to is Shoalhaven City Council.
- b) Create a positive covenant under the *Conveyancing Act 1919*, requiring the property owner(s) to undertake maintenance in accordance with the Construction Certificate approved On-Site Stormwater Detention System and Maintenance Schedule .
- c) Provide a certificate from a professional engineer, (as defined in the National Construction Code) to verify the structural adequacy of the on-site detention facility and that the facility has been constructed in accordance with the approved Construction Certificate plans.

53. Water Sensitive Urban Design Operation and Maintenance Manual

A WSUD Management, Operation, Maintenance and Monitoring Manual/s for the permanent water quality facilities must be submitted to the Certifier prior to issue of any Occupation Certificate. The manuals must be prepared by a suitably qualified professional in accordance with the approved plans.

54. Water Sensitive Urban Design Elements

Prior to the issue of the Occupation Certificate, the developer must create a restriction on use under the *Conveyancing Act 1919* over the WSUD system and provide it to the Certifier as follows:

The registered proprietor must not make or permit or suffer the making of any alterations to any stormwater treatment measures/ water sensitive urban design (WSUD) elements which is, or must be, constructed on the lot(s) burdened without the prior consent in writing of Shoalhaven City Council.

Note: The expression "stormwater treatment measures/ water sensitive urban design elements" means the infiltration systems, porous pavement, sediment basins, bio-retention swales, bioretention basins, rain gardens, landscaped or vegetated swales, vegetated buffers, swale/ buffer systems, sand filter, wetlands, ponds, retarding basins, aquifer storage and recovery, rainwater reuse tanks, stormwater reuse tanks, gross pollutant traps, pit inserts, silt/ oil arrestors or other proprietary products including all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins or surfaces graded to direct stormwater to the stormwater treatment measures/ water sensitive urban design elements.

55. Dilapidation Report – Evidence

Prior to the issue of an Occupation Certificate, the developer must provide the Certifier and Council with evidence that any damage to neighbouring premises or adjacent public

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infrastructure, not previously identified as existing damage in the Dilapidation Report, has been repaired by the developer to the satisfaction of Council.

56. **Waste Collection**

Prior to entering into an agreement for a private waste collection service, the developer is to ensure that:

- a) The service is functional and meets the operational needs of the development
- b) The service minimises environmental nuisances including noise and other adverse impacts on the safety and amenity of residents and the public.
- c) Council has been provided with indemnity against claims for loss or damage, should they take over the service at some point in the future.

PART H: PRIOR TO THE ISSUE OF A SUBDIVISION / STRATA CERTIFICATE

NIL

PART I: ONGOING USE OF THE DEVELOPMENT

57. **Water Sensitive Urban Design Maintenance**

The owner must maintain all stormwater quality treatment components in accordance with the approved Water Sensitive Urban Design Operation and Maintenance Manual for the life of the development.

58. **Waste Storage Container**

No waste storage containers are to be located or placed outside the approved waste storage area at any time except for collection purposes.

59. **Waste Signage**

Adequate signage is to be provided and maintained on how to use the waste management system and what materials are acceptable for recycling within all waste storage areas of the development. Signage is also to be provided and maintained which clearly identifies which bins (and containers) are to be used for general waste and recycling and what materials can be placed in each bin.

60. **Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005**

The Manufactured Home Estate must be operated in compliance with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 for the life of the development.

61. **Short-term Rental Accommodation – Leasing Arrangements**

Manufactured Homes may be used for the purposes of tourist and visitor accommodation in accord with clause 7.13 of the Shoalhaven Local Environmental Plan 2014 provided the use is only short-

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term and does not interfere generally with the amenity of the neighbourhood in any way, including by noise or traffic generation.

Note: Short-term means for a maximum period of 45 consecutive days in any 12-month period.

The landlord must maintain a current record of all short term tourist leases for manufactured homes in the development viewable upon request by Council development staff from 9.00am to 5.00pm Monday to Friday excluding public holidays.

The landlord must include provisions within each long term lease addressing the rules for short-term tourist use of manufactured homes to ensure that such use does not interfere with the amenity of the surrounding neighbourhood and other permanent tenants.

62. **Community Facilities**

The use of community facilities within the development is restricted to residents and their guests for the life of the development.

63. **Operate a Manufactured Home Estate**

Section 68 Approval to Operate (Local Government Act 1993)

An approval to operate a manufactured home estate on the land on which the development is to be carried out must be obtained under Part 1 of Chapter 7 of the [Local Government Act 1993](#) prior to occupation and maintained for the life of the development.

64. **Parking**

Car parking for residents and visitors must be provided on-site, and wholly within the property boundaries, for a minimum of **(64)** vehicles as follows: -

Forty-Nine **(49)** spaces for residents with 1 compliant space within each dwelling site.

Fifteen **(15)** spaces for visitors.

One **(1)** accessible parking space must be provided within the visitor parking area.

65. **Noise**

The development is to be constructed and maintained for the life of the development in accord with the building construction recommendations in part 5.2, boundary acoustic fence recommendations in part 5.3 and Appendix A of the Traffic Noise Intrusion Assessment prepared by Harwood Acoustics (Ref: 1906011T-R) dated, 9 August 2019.

66. **Fire Safety – Annual Statement - Community Buildings and Community Amenities**

A building owner must ensure that an annual fire safety statement prepared by a competent fire safety practitioner is issued each year and that a copy of the statement is provided to the Shoalhaven City Council and the Commissioner of Fire and Rescue NSW. An [application form](#) is available on Council's website.

Note: An annual fire safety statement is a declaration by, or on behalf of a building owner that a competent fire safety practitioner (CFSP) has:

a) assessed, inspected and verified the performance of each existing essential fire safety measure that applies to the building

a) inspected the exit systems serving the building and found that the exit systems within the building do not contravene the provisions of Division 7 of Part 9 of the Environmental Planning and Assessment Regulation 2000

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Failure to give Council an annual fire safety statement by the due date constitutes a separate offence for each week beyond that date for which the failure continues. Substantial penalties for non-compliance apply under the Environmental Planning and Assessment Act 1979.

**PART J: OPERATE A MANUFACTURED HOME ESTATE - PRIOR TO ISSUE SECTION 68
APPROVAL TO OPERATE (LOCAL GOVERNMENT ACT 1993)**

67. Prior to Issue of Approval to Operate MHE

Prior to Issue of an Approval to Operate the MHE, the developer must provide council with:

- a) Certification prepared by a BPAD Level 3 Bushfire Practitioner demonstrating that the Bushfire requirements for the development have been achieved.
- b) Certification that all community amenities and community buildings have a valid Construction Certificate and Occupation Certificate.
- c) Evidence demonstrating that Council and Transport for NSW have accepted all civil infrastructure required to be installed for the development.
- d) Evidence from a suitably qualified and experienced acoustic consultant that all noise recommendations in the Traffic Noise Intrusion Assessment prepared by Harwood Acoustics (Ref: 1906011T-R) dated, 9 August 2019 have been achieved.
- e) Evidence that the provision of underground electricity to service the development in accordance with the requirements of Endeavour Energy have been met.
- f) The submission of evidence from an approved telecommunications carrier that satisfactory arrangements have been made for the provision of telecommunication services to all MHE dwelling sites and the community facilities building.

PART K: REASONS FOR CONDITIONS

The application has been assessed as required by section 4.15 of the *Environmental Planning and Assessment Act 1979* and has been determined by the granting of conditional development consent.

Statutory requirements

The development proposal, subject to the recommended conditions, is consistent with:

- a) the objects of the Environmental Planning and Assessment Act, 1979.
- b) the aims, objectives and provisions of the applicable environmental planning instruments,
- c) the aims, objectives and provisions of Shoalhaven Development Control Plan 2014 (SDCP 2014).
- d) the aims, objectives and provisions of relevant Council policies.

Public notification

The application was publicly notified in accordance with the *Environmental Planning and Assessment Regulation 2000* and Council's Community Consultation Policy for Development Applications (Including Subdivision) and the Formulation of Development Guidelines and Policies (POL 16/230).

Submissions

Any submissions received during the public notification period are available on [DA Tracking](#)

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Community views

Issues and concerns raised by the community in submissions have been considered in the assessment of the application and, where appropriate, conditions have been included in the determination to mitigate any impacts.

Suitability of the Site

The application has been approved because the development proposal is considered to be suitable for the site.

The relevant public authorities and the water supply authority have been consulted and their requirements met, or arrangements made for the provision of services to the satisfaction of those authorities.

The increased demand for public amenities and services attributable to the development has been addressed by the requirement to pay contributions in accordance with section 7.11 of the *Environmental Planning and Assessment Act 1979* and Council's Contribution Plan 2019. Contributions under Section 307 of the Water Management Act 2000 have been applied as required.

Impacts of the Development

The application was considered to be suitable for approval. Conditions have been imposed to ensure that:

- a) the development will not result in unacceptable adverse impacts on the natural and built environments.
- b) the amenity and character of land adjoining and in the locality of the development is protected.
- c) any potential adverse environmental, social or economic impacts of the development are minimised.
- d) all traffic, car parking and access arrangements for the development will be satisfactory.
- e) the development does not conflict with the public interest.

PART L: RIGHTS OF REVIEW AND APPEAL**Determination under Environmental Planning and Assessment Act, 1979**

Division 8.2 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination a right to request the council to review its determination. The request and determination of the review must be undertaken within the prescribed period.

Division 8.3 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised within the prescribed period.

An appeal under Division 8.3 of the EP&A Act, 1979 by an objector may be made only within the prescribed period.

Approvals under Local Government Act, 1993

Section 100 of the Local Government Act, 1993 provides that an applicant may request Council to review its determination of an application.

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Section 176 of the Local Government Act, 1993 provides that an applicant who is dissatisfied with the determination of the Council may appeal to the Land and Environment Court. The appeal must be made within the prescribed period.

PART M: GENERAL ADVICE

In this consent the term developer means any person or corporation who carries out the development pursuant to that consent.

Disability Discrimination Act 1992

This application has been assessed in accordance with the *Environmental Planning & Assessment Act, 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS1428.1 - "*Design for Access and Mobility*".

Disclaimer –Conveyancing Act 1919 – Division 4 – Restrictions on the Use of Land

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

Under Clause 1.9A of *Shoalhaven Local Environmental Plan 2014* agreements, covenants or instruments that restrict the carrying out of the proposed development do not apply to the extent necessary to enable the carrying out of that development, other than where the interests of a public authority is involved.

DBYD Enquiry - 'Dial Before You Dig'

In order to avoid risk to life and property it is advisable that an enquiry be made with "Dial Before You Dig" on 1100 or www.dialbeforeyoudig.com.au prior to any excavation works taking place to ascertain the location of underground services. You must also contact your Local Authority for locations of Water and Sewer Mains.

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APPENDIX A

INTEGRATED DEVELOPMENT AND CONCURRENCE CONDITIONS

DE21.82 - Attachment 4

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NSW RURAL FIRE SERVICE

Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

Your reference: (CNR-20176) DA21/1304
Our reference: DA20210401001319-CL55-1

ATTENTION: Peter Johnston

Date: Wednesday 26 May 2021

Dear Sir/Madam,

Development Application
s4.14 - Other - Community Facility
252 PRINCES HIGHWAY ULLADULLA NSW, 1//DP784732

I refer to your correspondence dated 04/05/2021 seeking advice regarding bush fire protection for the above Development Application in accordance with Clause 55(1) of the *Environmental Planning and Assessment Regulation 2000*.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and provides the following recommended conditions:

General Conditions

1.

The applicant is required to obtain a Bush Fire Safety Authority prior to the commencement of building works.

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

2.

From commencement of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire site must be managed as an inner protection area (IPA). The IPA must comprise:

- Minimal fine fuel at ground level;
- Grass mowed or grazed;
- Trees and shrubs retained as clumps or islands and do not take up more than 20% of the area;
- Trees and shrubs located far enough from buildings so that they will not ignite the building;

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au

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- Garden beds with flammable shrubs not located under trees or within 10 metres of any windows or doors;
- Minimal plant species that keep dead material or drop large quantities of ground fuel;
- Tree canopy cover not more than 15%;
- Tree canopies not located within 2 metres of the building;
- Trees separated by 2-5 metres and do not provide a continuous canopy from the hazard to the building; and,
- Lower limbs of trees removed up to a height of 2 metres above the ground.

Construction Standards

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

3.

Prior to construction of any manufactured home, associated structure or the community facility a suitably worded instrument shall be created over the proposed land pursuant to section 88 of the 'Conveyancing Act 1919' which requires:

- All manufactured homes and associated structures within Lots 37 to 49 to comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and Section 7.5 of 'Planning for Bush Fire Protection 2019'.
- All other manufactured homes, associated structures and the community facility within the site to comply with section 3 and section 5 (BAL 12.5) Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and Section 7.5 of 'Planning for Bush Fire Protection 2019'.

Access - Internal Roads

The intent of measures is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

4.

Access roads for special fire protection purpose (SFPP) developments must comply with following requirements of Table 6.8b of *Planning for Bush Fire Protection 2019*:

- SFPP access roads are two-wheel drive, all-weather roads;
- access is provided to all structures;
- traffic management devices are constructed to not prohibit access by emergency services vehicles;
- access roads must provide suitable turning areas in accordance with Appendix 3; and
- one way only public access roads are no less than 3.5 metres wide and have designated parking bays with hydrants located outside of these areas to ensure accessibility to reticulated water for fire suppression.
- hydrants are located outside of parking reserves and road carriageways to ensure accessibility to reticulated water for fire suppression;
- hydrants are provided in accordance with the relevant clauses of AS 2419.1:2005; and
- there is suitable access for a Category 1 fire appliances to within 4m of the static water supply where no reticulated supply is available.

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Water and Utility Services

Intent of measures: to provide adequate services of water for the protection of building during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

5.

The provision of water, electricity and gas must comply the specifications and requirements of Table 6.8c of *Planning for Bush Fire Protection 2019*.

Landscaping Assessment

The intent of measures is for landscaping. To achieve this, the following conditions shall apply:

6.

Landscaping within the required asset protection zone shall comply with Appendix 4 of 'Planning for Bush Fire Protection 2019'. In this regard, the following principles are to be incorporated:

- A minimum 1 metre wide area, suitable for pedestrian traffic, shall be provided around the immediate curtilage of buildings;
- Planting is limited in the immediate vicinity of buildings;
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
- Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA) and trees do not touch or overhang buildings;
- Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

Emergency Management Planning

Intent of measures: to provide suitable emergency and evacuation arrangements for occupants of SFPP developments.

7.

Prior to occupation of any manufactured home, bush fire emergency management and evacuation planning shall comply with the acceptable solution requirements of Table 6.8d of *Planning for Bush Fire Protection 2019* and part 3.7 of the Bushfire Assessment Report by SET Consultants dated 21 January 2021 and be maintained for the life of the development.

General Advice – Consent Authority to Note

- The name of authority empowered to release, vary or modify the instruments outlined above shall be Shoalhaven City Council.

For any queries regarding this correspondence, please contact Anna Jones on 1300 NSW RFS.

Yours sincerely,

Alan Bawden

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Transport
for NSW

Our ref: STH16/00155/12
Contact: Andrew Lissenden 0418 962 703
Council ref: DA21/1304 (CNR-20176)

14 April 2021

Peter Johnston
Shoalhaven City Council
BY EMAIL: Development@shoalhaven.nsw.gov.au

DEVELOPMENT APPLICATION 21/1304 (CNR-20176) – LOT 1 DP 784732, (NO.252) PRINCES HIGHWAY, ULLADULLA – DEMOLITION OF EXISTING BUILDINGS AND CONSTRUCTION OF 49 SITE MANUFACTURED HOME ESTATE

Dear Peter,

Transport for NSW (TfNSW) refers to the notification it received on 31 March 2021 regarding the above development application (DA).

TfNSW has reviewed the information provided while focussing on the impact to the state road network. TfNSW notes for this DA:

- The key state road is the Princes Highway to which the site has access via Pitman Avenue;
- Council is seeking advice to assist in its assessment under Section 101 of *State Environmental Planning Policy (Infrastructure) 2007*;
- The DA is proposing works within the Princes Highway road reserve (i.e. a new roundabout at the intersection of the Princes Highway/Pitman Avenue, associated splitter islands, etc. – refer to Attachment 1). Concurrence from TfNSW is required under Section 138 of the *Roads Act 1993* for this work; and
- A portion of the development site that adjoins the Princes Highway is zoned SP2 and is identified as arterial road widening under the *Shoalhaven Local Environmental Plan 2014* (SLEP 2014).

Having regard to the above, TfNSW will not object to the DA subject to conditions outlined in Attachment 2 being included in any development consent issued.

TfNSW highlights that in determining the DA under Part 4 of the *Environmental Planning and Assessment Act 1979*, it is the consent authority's responsibility to consider the environmental impacts of any road works which are ancillary to the development. This includes any works which form part of the proposal and/or any works which are deemed necessary to include as requirements in the conditions of development consent (i.e. the proposed roundabout). Depending on the level of environmental assessment undertaken to date and the nature of the works, the consent authority may require the developer to undertake further environmental assessment for any ancillary road works.

Upon determination of this matter, it would be appreciated if the Council could send a copy of the Notice of Determination to 'development.southern@transport.nsw.gov.au'.

If you have any questions please contact Andrew Lissenden on 0418 962 703.

Yours faithfully

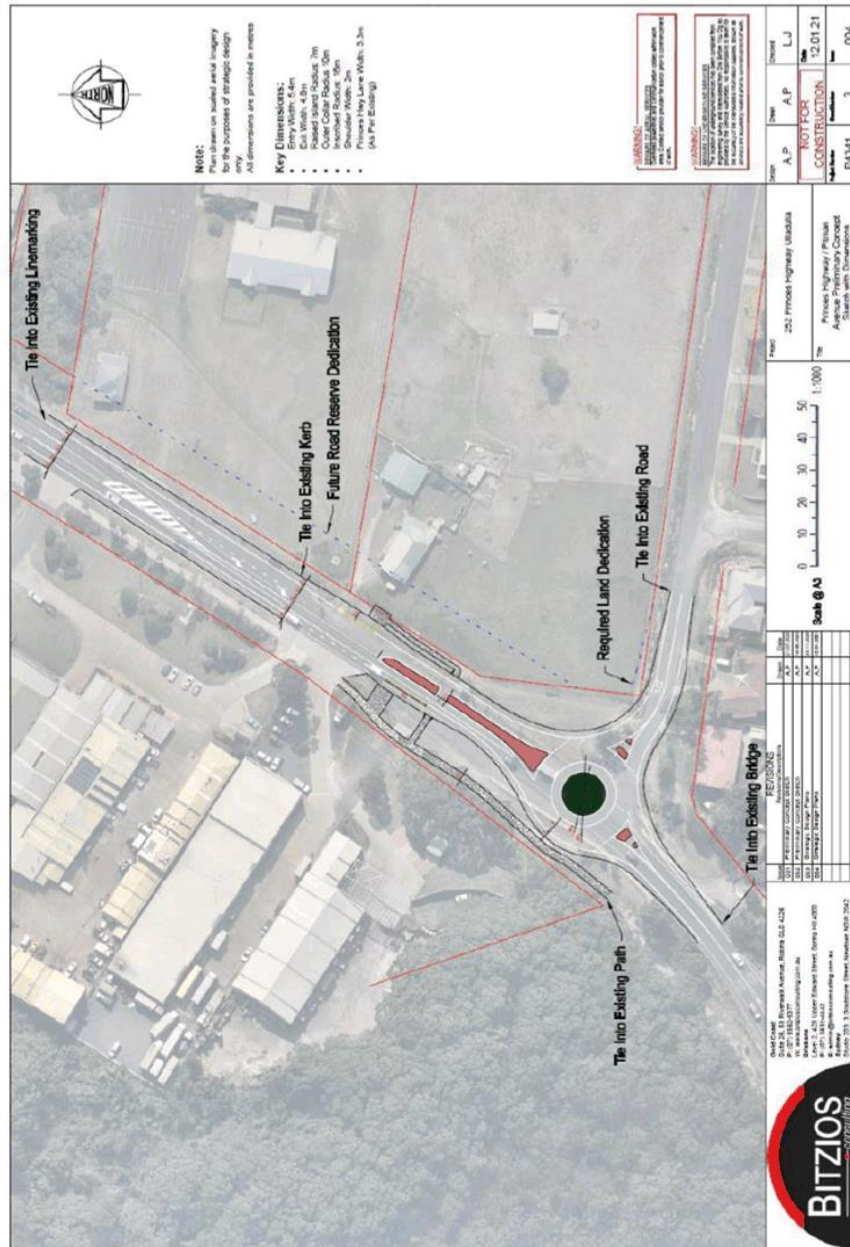


Chris Millet
Manager, Development Services
South Region

Cc: peter.johnston@shoalhaven.nsw.gov.au

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Attachment 1



DE21.82 - Attachment 4

Attachment 2

1. Prior to the issuing of the Construction Certificate, the developer must:

- a) Enter into a Works Authorisation Deed (WAD) with the TfNSW for all works on the Princes Highway (i.e. the works as generally shown in Attachment 1 and as detailed in the Design Report prepared by Bitzios consulting dated 13 January 2021 with Ref: P4341.002R).

Notes:

- A WAD is a legally binding contract between TfNSW and the developer, authorising the developer to undertake works on a State road and/or install traffic signals.
- To progress the WAD, the developer needs to email a copy of the conditions of development consent to development.southern@transport.nsw.gov.au.
- All roadworks and traffic control facilities must be undertaken by a pre-qualified contractor. A copy of prequalified contractors can be found on the TfNSW website at: <http://www.rta.nsw.gov.au/doingbusinesswithus/tenderscontracts/prequalifiedcontractors.htm>
- Any new services or modifications to existing services associated with this development application that involve works on, over or under the Princes Highway (as defined the area from kerb to kerb) must be incorporated into and managed under, the Works Authorisation Deed for the project. Note: It is the developer's responsibility to identify these works to the TfNSW project manager.
- More information on WADs can be found at: www.rms.nsw.gov.au/documents/projects/factsheet-development-process.pdf

- b) Provide detailed design plans for all works within the Princes Highway road reserve to TfNSW. The detailed design plans must include, but not be limited to, details to address the following:

- i. Show existing legal property boundaries, clarify property adjustments and dedication required to achieve the proposed arrangements (i.e. public road reserve dedications) as well as existing and proposed levels;
- ii. Ensure the pavement cross falls where the alignment of the northbound lane of the Princes Highway shifts across the existing centreline is considered and addressed;
- iii. Look at opportunities to increase the splitter islands on the Princes Highway south of the roundabout and Pitman Avenue (i.e. would be desirable but may not be possible);
- iv. Ensure any drainage works required are in accordance with TfNSW requirements;
- v. Ensure pavement design on the Princes Highway is in accordance with Austroads standards;
- vi. Ensure the sight distances comply with the applicable requirements in *Austroads Guide to Road Design Part 4B*, Section 3 (i.e. Criterion 1, 2 and 3);
- vii. Ensure the design for the works complies with the applicable requirements in *Austroads Guide to Road Design*, including associated supplements noting that the size of the roundabout is being based on RTA Roundabouts - Geometric Design Method guide;
- viii. Where required, street lighting is to be upgraded and/or provided in accordance with Australian Standard AS/NZS1158. Details on any new lighting and/or upgrades to ensure compliance with the above AS are to be detailed; and
- ix. Provide a detailed pavement marking and signposting plan in compliance with TfNSW delineation guidelines and other relevant standards.

- c) Demonstrate to the satisfaction of the Council and TfNSW that the post-development stormwater discharge from the subject site that is going to the Princes Highway drainage system does not exceed the pre-development application discharge.

2. Prior to commencing works within the Princes Highway Road reserve, the developer must:

- a) Obtain Section 138 consent under the *Roads Act 1993* for the works associated with the WAD from TfNSW;

Notes:

- TfNSW will be exercising its powers under Section 64 of the *Roads Act, 1993* to become the roads authority for works associated with the WAD and therefore responsible for issuing the Section 138 consent for those specific works.

- b) Develop and implement a community information strategy about the works, in consultation with, and to the satisfaction of TfNSW; and

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Attachment 2

- c) Apply for, and obtain a Road Occupancy Licence (ROL) from the TfNSW Traffic Operations Unit (TOU) prior to commencing roadworks on the Princes Highway or any other works that impact a travel lane of the Princes Highway.

Notes:

- For information on the ROL process and to lodge an ROL application, please visit <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>
- The applicant will need to create an account (this may take a few days to register), prior to submitting the ROL application. The applicant must submit the ROL application 10 business days prior to commencing work. It should be noted that receiving approval for the ROL within this 10 business day period is dependent upon TfNSW receiving an accurate and compliant TMP.
- The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Speed Zone Authorisation will also be required from the TOU.
- An approved ROL does not constitute an approval to commence works until an authorisation letter for the works has been issued by TfNSW Project Manager.

3. Prior to the issuing of the Occupation Certificate the developer must:

- a) Have upgraded the junction of the Princes Highway and Pitman Avenue to a single lane roundabout to the satisfaction of TfNSW and in accordance with *Austroads Guide to Road Design* and other relevant standards. Written confirmation must be provided from TfNSW that the works have been completed in accordance with the approvals issued.

Notes:

- The pavement design on the Princes highway must be in accordance with *Austroads* standards.
- Where required, the developer must upgrade/provide lighting in accordance with Australian Standard AS/NZS1158.
- All works need to be completed at no cost to TfNSW.

- b) Physically close any other existing direct access points to/from the Princes Highway to the development site by fencing them and revegetating to TfNSW's satisfaction (e.g. the access point adjacent to the northern property boundary).
- c) Ensure any additional land that is outside the existing Princes Highway and Pitman Avenue road reserves and is required as public road reserve as a result of the construction of the roundabout is dedicated as public road.
- d) Provide a survey to the certifier and TfNSW (email to TfNSW via development.southern@transport.nsw.gov.au) that has been undertaken by a registered surveyor to confirm that all structures associated with the development (e.g. fencing along the development sites western boundary, bowling green, exercise equipment) are located outside the land that is zoned SP2 (i.e. 10m from the existing Princes Highway road boundary).

Note:

TfNSW does not object to the proposed landscaping that is shown within the SP2 zoned land along the development sites Princes Highway frontage subject to it no impacting upon required sight distances. Should this land be used for road widening/infrastructure in the future the landscaping will be removed at no cost to TfNSW.

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APPENDIX B

Endeavour Energy Response

DE21.82 - Attachment 4

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The General Manager
Shoalhaven City Council

2 September 2019

ATTENTION: Melodee Hill

I refer to the below email of 20 August 2019 from NSW Planning, Industry & Environment regarding NSW Government concurrence and referral request CNR-1293 for Shoalhaven City Council's development application DA117/19 at 252 PRINCES HIGHWAY ULLADULLA 2539 (Lot 1 DP 784732) for 'Demolition of existing dwelling and associated structures and construction of a Manufactured Home Estate comprising: 49 dwelling sites, community building, waste storage area, parking, landscaping and associated infrastructure'. Submissions need to be made to Council by 10 September 2019.

As shown in the below site plans from Endeavour Energy's G/Net master facility model (and extracts from Google Maps Street View and SIX Maps) there are:

- No easements over the site benefitting Endeavour Energy (active easements are indicated by red hatching).
- Low voltage and 11,000 volt / 11 kilovolt (kV) high voltage overhead power lines to the Princes Highway road verge / roadway.
- An extended low voltage overhead service conductor coming from the pole on the Princes Highway road verge to a customer owned pole (indicated by the green circle) providing the customer connection point for the existing dwelling on the site (which will become redundant assets if the development proceeds).

Please note the location, extent and type of any electricity infrastructure, boundaries etc. shown on the plan is indicative only. Generally (depending on the scale and/or features selected), low voltage (normally not exceeding 1,000 volts) is indicated by blue lines and high voltage (normally exceeding 1,000 volts but for Endeavour Energy's network not exceeding 132,000 volts / 132 kV) by red lines (these lines can appear as solid or dashed and where there are multiple lines / cables only the higher voltage may be shown). This plan only shows the Endeavour Energy network and does not show electricity infrastructure belonging to other authorities or customers owned electrical equipment beyond the customer connection point / point of supply to the property. This plan is not a 'Dial Before You Dig' plan under the provisions of Part 5E 'Protection of underground electricity power lines' of the Electricity Supply Act 1995 (NSW).

Subject to the following recommendations and comments Endeavour Energy has no objection to the Development Application.



51 Huntingwood Drive, Huntingwood, NSW 2148
PO Box 811, Seven Hills, NSW 1730
T: 133 718

endeavourenergy.com.au

ABN 11 247 365 823

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- Network Capacity / Connection

Endeavour Energy has noted that the Statement of Environmental Effects does not appear to address in detail the suitability of the site for the development in regard to whether utility services are available and adequate for the development.

5.4 Utilities

The site has access to reticulated water, telecommunications, sewer and electricity infrastructure. The necessary connections to these services will be constructed at the developer's cost. The proposed development will not place an unexpected additional demand upon existing services. The proposed manufactured home estate can be readily serviced through the augmentation of the existing services, and will not have a negative impact on existing services.


4.3.1 Shoalhaven Local Environmental Plan 2014

Clause 7.11 – Essential Services

- 1) *Development consent must not be granted for development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:*
 - a) *The supply of water.*
 - b) *The supply of electricity*
 - c) *The disposal and management of sewerage*

Infrastructure in the form of electricity, sewer, reticulated water and telecommunications are available to the site. The existing services are capable of augmentation to service the proposed subdivision.

Connections to electricity, sewer, water and telecommunications will be made to the appropriate service provider during the construction of the proposed manufactured homes estate.

The availability of electricity supply to a site is based on a wide range of factors eg. the age and design of the network; other development in the locality utilising previously spare capacity within the local network; the progress of nearby / surrounding sites including electricity infrastructure works eg. a smaller and isolated development that may not of its own accord require a distribution substation may require a substation to facilitate the development and from which the spare capacity is made available to subsequent nearby development. Older / above ground areas of the network utilising pole mounted substations (indicated by the symbol  on the site plan from Endeavour Energy's G/Net master facility model) have comparatively limited capacity of 25 kilovolt amperes (kVA) up to a maximum of 400 kVA where as a newer padmount can accommodate loads from 315 kVA up to 1,500 kVA (typically 500 kVA) ie. there is a significant variation in the number and type of premises able to be connected to a substation.

Applicants should not automatically assume that the presence of existing electricity infrastructure or nearby similar development means that adequate supply is immediately available to facilitate their proposed development. The two closest existing distribution substations are:

- Pole mounted substation no. 72070 located approximately 130 metres to the north on the Princes Highway which currently has 16 customer connection points servicing 51 premises.
- Pole mounted substation no. 72389 located approximately 145 metres to the south east in Martin Avenue which currently has 133 customer connection points servicing 135 premises – which is at upper end of the capacity / number of premises able to be serviced by a pole mounted substation.

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Both of these pole mounted substations are unlikely to have sufficient spare capacity to service a significant urban tourist / residential development. Given the large size of the proposed development (49 dwelling sites), an extension and/or augmentation of the existing local network is likely to be required. However the full extent of the work required to the local network to facilitate the proposed development will not be determined until the final load assessment is completed. Endeavour Energy's preference is to alert proponents / applicants (and Council) of the potential matters that may arise as redevelopment of urban areas continues to occur.

In due course the applicant for the future proposed development of the site will need to submit an application for connection of load via Endeavour Energy's Network Connections Branch to carry out the final load assessment and the method of supply will be determined (also taking into consideration the potential further development / electricity load of the residue allotments). Depending on the outcome of the assessment, any required padmount substation will need to be located within the property (in a suitable and accessible location) and be protected (including any associated cabling) by an easement and associated restrictions benefiting and gifted to Endeavour Energy. Please refer to Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights'. Further details are available by contacting Endeavour Energy's Network Connections Branch via Head Office enquiries on telephone: 133 718 or (02) 9853 6666 from 8am - 5:30pm or on Endeavour Energy's website under 'Home > Residential and business > Connecting to our network' via the following link:

<http://www.endeavourenergy.com.au/>.

Advice on the electricity infrastructure required to facilitate the proposed development can be obtained by submitting a Technical Review Request to Endeavour Energy's Network Connections Branch, the form for which FPJ6007 is attached and further details (including the applicable charges) are available from Endeavour Energy's website under 'Our connection services'. The response to these enquiries is based upon a desktop review of corporate information systems, and as such does not involve the engagement of various internal stakeholders in order to develop a 'Connection Offer'. It does provide details of preliminary connection requirements which can be considered by the applicant prior to lodging a formal application for connection of load.

Alternatively the applicant should engage a Level 3 Accredited Service Provider (ASP) approved to design distribution network assets, including underground or overhead. The ASP scheme is administered by NSW Planning, & Environment and details are available on their website via the following link or telephone 13 77 88:

<https://energysaver.nsw.gov.au/households/you-and-energy-providers/installing-or-altering-your-electricity-service>.

Endeavour Energy is urging applicants /customers to engage with an Electrical Consultant prior to finalising plans to in order to assess and incorporate any required electricity infrastructure. In so doing the consideration can also be given to its impact on the other aspects of the proposed development. This can assist in avoiding the making of amendments to the plan or possibly the need to later seek modification of an approved development application.

- Urban Network Design

Endeavour Energy's Company Policy 9.2.5 'Network Asset Design', includes the following requirements for electricity connections to new urban subdivision / development:

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5.11 Reticulation policy

5.11.1 Distribution reticulation

In order to improve the reliability performance of and to reduce the operating expenditure on the network over the long term the company has adopted the strategy of requiring new lines to be either underground cables or where overhead is permitted, to be predominantly of covered or insulated construction. Notwithstanding this strategy, bare wire overhead construction is appropriate and permitted in some situations as detailed below.

In areas with the potential for significant overhanging foliage, CCT is used to provide increased reliability as it is less susceptible to outages from wind-blown branches and debris than bare conductors. CCT must only be used in treed² areas as the probability of a direct lightning strike is low. In open areas where the line is not shielded from a direct lightning strike, bare conductors must generally be used for 11kV and 22kV reticulation.

Non-metallic Screened High Voltage Aerial Bundled Cable (NMSHVABC) must be used in areas which are heavily treed and where it is not practicable to maintain a tree clearing envelope around the conductors.

² A "treed" area is one with a substantial number of trees adjacent to the line, in each span. In these situations CCT is used to provide increased reliability as it is less susceptible to outages from wind-blown

5.11.1.1 Urban areas

Reticulation of new residential subdivisions will be underground. In areas of low bushfire consequence, new lines within existing overhead areas can be overhead, unless underground lines are cost justified or required by either environmental or local council requirements.

Where underground reticulation is required on a feeder that supplies a mixture of industrial, commercial and/or residential loads, the standard of underground construction will apply to all types of load within that development.

Where ducting is used, adequate spare ducts and easements must be provided at the outset to cover the final load requirements of the entire development plan.

Extensions to the existing overhead 11kV/22kV network must generally be underground. Bare wire will be used for conductor replacements and augmentations except in treed areas where CCT or NMSHVABC must be used.

Extensions to the existing overhead LV network and augmentations must either be underground or ABC. Conductor replacements greater than 100m in route length must utilise aerial bundled cable.

• **Earthing**

The construction of any building or structure (including fencing, signage, flag poles, hoardings etc.) whether temporary or permanent that is connected to or in close proximity to Endeavour Energy's electrical network is required to comply with Australian/New Zealand Standard AS/NZS 3000:2018 'Electrical installations' as updated from time to time. This Standard sets out requirements for the design, construction and verification of electrical installations, including ensuring there is adequate connection to the earth. Inadequate connection to the earth to allow a leaking/fault current to flow into the grounding system and be properly dissipated places persons, equipment connected to the network and the electricity network itself at risk from electric shock, fire and physical injury.

• **Network Access**

It is imperative that the access to the existing electrical infrastructure on and in proximity of the site be maintained at all times. To ensure that supply electricity is available to the community, access to the electricity infrastructure may be required at any time. Restricted access to electricity infrastructure by maintenance workers causes delays in power restoration and may have severe consequences in the event of an emergency.

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- Bushfire

Endeavour Energy has noted that the Statement of Environmental Effects indicate that 'Shoalhaven City Council's Bushfire Prone Land Map indicates the subject site is bushfire prone'. The accompanying Bushfire Risk Assessment provides the following advice on electricity services to the site having regards to NSW Rural Fire Service 'Planning for Bush Fire Protection 2006'.

3.5 SITING AND ADEQUACY OF WATER ELECTRICITY AND GAS SUPPLIES

The performance criteria and acceptable solutions for water, electricity and gas for special fire protection purposes in accordance with *PBP 2006* are provided in Table 3. The intent of the measures are to provide adequate water services for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to buildings.

Table 3: Provides the performance criteria and acceptable solutions for water, electricity and gas for special fire protection purposes in accordance with sections 4.2.7 (2) of *PBP 2006*.

Performance Criteria	Acceptable Solutions	Compliance
Electricity Services <ul style="list-style-type: none"> • Location of electricity services limits the possibility of ignition of surrounding bushland or the fabric of buildings • Regular inspection of lines is undertaken to ensure they are not fouled by branches. 	<ul style="list-style-type: none"> • where practicable, electrical transmission lines are underground. 	<p>Where practicable, electrical transmission lines are to be underground</p> <p>Where overhead electrical transmission lines are proposed:</p> <ul style="list-style-type: none"> • Lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and • No part of a tree is closer to a power line than the distance set out in accordance with the specification in Vegetation Safety Clearances issued by Energy Australia (NS179, April 2002).

The following is an extract of Endeavour Energy's Company Policy 9.1.1 Bushfire Risk Management:

9.1.1 BUSHFIRE RISK MANAGEMENT

1.0 POLICY STATEMENT

The company is committed to the application of prudent asset management strategies to reduce the risk of bushfires caused by network assets and aerial consumer mains to as low as reasonably practicable (ALARP) level. The company is also committed to mitigating, the associated risk to network assets and customer supply reliability during times of bushfire whilst achieving practical safety, reliability, quality of supply, efficient investment and environmental outcomes. The company is committed to compliance with relevant acts, regulations and codes.

Accordingly the network required to service the proposed development must be fit for purpose and meet the technical specifications, design, construction and commissioning standards based on Endeavour Energy's risk assessment associated with the implementation and use of the network connection / infrastructure for a bushfire prone site. In assessing bushfire risk, Endeavour Energy has traditionally focused on the likelihood of its network starting a bushfire, which is a function of the condition of the network. Risk control has focused on reducing the likelihood of fire ignition by implementing good design and maintenance practices. However safety risks associated with the loss of electricity supply are also considered.

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- Prudent Avoidance

The electricity network is operational 24/7/365 ie. all day, every day of the year. The electricity industry has adopted a policy of prudent avoidance by doing what can be done without undue inconvenience and at modest expense to avert the possible risk to health from exposure to emissions from electricity infrastructure such as electric and magnetic fields (EMF) and noise (both overhead power lines and transformers can produce an audible sound or buzz as a side effect of carrying electricity) which generally increase the higher the voltage ie. Endeavour Energy's network ranges from low voltage (normally not exceeding 1,000 volts) to high voltage (normally exceeding 1,000 volts but not exceeding 132,000 volts / 132 kV).

In practical terms this means that when designing new transmission and distribution facilities, consideration is given to locating them where exposure to the more sensitive uses is reduced and increasing separation distances. Noise levels can vary and people perceive sounds differently so to minimise any potential exposure to intrusive noise, the siting towards the electricity infrastructure of less susceptible uses such as garages, nonhabitable or rooms not regularly occupied in the dwelling / building is recommended. This will also assist in reducing exposure to EMF.

Where development is proposed in the vicinity of electricity infrastructure, Endeavour Energy is not responsible for any amelioration measures for such emissions that may impact on the nearby proposed development. Endeavour Energy believes that likewise applicants and Council should also adopt a policy of prudent avoidance by the siting of more sensitive uses away from any electricity infrastructure – including any possible future electricity infrastructure required to facilitate the proposed development.

Please find attached a copy of Energy Networks Association's 'Electric & Magnetic Fields – What We Know' which can also be accessed via their website at <https://www.energynetworks.com.au/electric-and-magneticfields> and provides the following advice:

Electric fields are strongest closest to their source, and their strength diminishes rapidly as we move away from the source.

The level of a magnetic field depends on the amount of the current (measured in amps) and decreases rapidly once we move away from the source.

Typical magnetic field measurements associated with Endeavour Energy's activities and assets given the required easement widths, safety clearances etc. and having a maximum voltage of 132,000 volt / 132 kV, will with the observance of these separation distances not exceed the recommended magnetic field public exposure limits.

- Vegetation Management

The planting of large trees in the vicinity of electricity infrastructure is not supported by Endeavour Energy. Suitable planting needs to be undertaken in proximity of electricity infrastructure (including any new electricity infrastructure required to facilitate the proposed development). Larger trees should be planted well away from electricity infrastructure and even with underground cables, be installed with a root barrier around the root ball of the plant.

Landscaping that interferes with electricity infrastructure could become a potential safety risk, restrict access, reduce light levels from streetlights or result in the interruption of supply may become subject to Endeavour Energy's Vegetation Management program and/or the provisions of the Electricity Supply Act 1995 (NSW) Section 48 'Interference with electricity works by trees' by which under certain circumstances the cost of carrying out such work may be recovered.

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Endeavour Energy has noted that as shown in the following extracts of the landscape Plan that trees are proposed to be planted to the Princes Highway building setback in proximity of the existing overhead power lines. Endeavour Energy's recommendation is that existing street trees which are of low ecological significance in proximity of overhead power lines be replaced and any proposed planting of new trees within the proximity of overhead power lines be replaced by an alternative smaller planting to ensure appropriate clearances are maintained whilst minimising the need for future pruning.



Planting Schedule						
ID	Qty	Common Name	Botanical Name	Scheduled Size	Mature Height	Mature Spread
Trees						
CLP	7	Tuckeroo	Cupressus macrocarpa	75L	8m	8m(G)
PEA	4	Golden Ash	Fraxinus australis	75L	15-20m	10-15m(G)
PER	7	Red Cottonwood	Populus monilifera	45L	8m	8m(G)
LA	13	Callagrasia Palm	Livistona australis	100L	15-20m	8-10m(G)
LOP	7	Brush Box	Lophospermum carolinianum	45L	20-25m	8-10m(G)
TLJ	8	Luxuriosa Weier Gum	Trochodendron laurifolium	75L	8m	8m(G)

In regard to the future padmount substation possibly required to facilitate the proposed development, please find attached for the applicant's reference a copy Endeavour Energy's 'Guide to Fencing, Retaining Walls and Maintenance Around Padmount Substations'.

- Dial Before You Dig

Before commencing any underground activity the applicant is required to obtain advice from the *Dial Before You Dig 1100* service in accordance with the requirements of the *Electricity Supply Act 1995* (NSW) and associated Regulations. This should be obtained by the applicant not only to identify the location of any underground electrical and other utility infrastructure across the site, but also to identify them as a hazard and to properly assess the risk.

- Removal of Electricity Supply

Approval for the permanent disconnection and removal of supply must be obtained from Endeavour Energy's Network Connections Branch (contact via Head Office enquiries on telephone: 133 718 or (02) 9853 6666 from 8am - 5:30pm) by Accredited Service Providers (ASP) with the relevant class of Authorisation for the type of work being carried out. The work could involve:

- o The disconnection and removal of an underground service cable or overhead service line,
- o Removal of metering equipment.

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The written request must be submitted to Endeavour Energy using Form FPJ4603 'Permission to Remove Service / Metering by Authorised Level 2 Accredited Service Provider' which must be accompanied by Notification of Service Works (NOSW) forms provided as a result of service work activity performed by a Level 2 ASP. The retailer must also provide written agreement for the permanent removal of supply.

For details of the ASP scheme please refer to the above point 'Network Capacity / Connection'.

- Demolition

Demolition work is to be carried out in accordance with Australian Standard AS 2601—2001: 'The demolition of structures' as updated from time to time. All electric cables or apparatus which are liable to be a source of danger, other than a cable or apparatus used for the demolition works shall be disconnected ie. the existing customer service lines will need to be isolated and/or removed during demolition. Appropriate care must be taken to not otherwise interfere with any electrical infrastructure on or in the vicinity of the site eg. streetlight columns, power poles, overhead power lines and underground cables etc.

- Public Safety

Workers involved in work near electricity infrastructure run the risk of receiving an electric shock and causing substantial damage to plant and equipment. I have attached Endeavour Energy's public safety training resources, which were developed to help general public / workers to understand why you may be at risk and what you can do to work safely. The public safety training resources are also available via Endeavour Energy's website via the following link:

<http://www.endeavourenergy.com.au/wps/wcm/connect/ee/nsw/nsw+homepage/communitynav/safety/safety+brochures>.

If the applicant has any concerns over the proposed works in proximity of the Endeavour Energy's electricity infrastructure to the road verge / roadway, as part of a public safety initiative Endeavour Energy has set up an email account that is accessible by a range of stakeholders across the company in order to provide more effective lines of communication with the general public who may be undertaking construction activities in proximity of electricity infrastructure such as builders, construction industry workers etc. The email address is Construction.Works@endeavourenergy.com.au.

- Emergency Contact

In case of an emergency relating to Endeavour Energy's electrical network, the applicant should note the Emergencies Telephone is 131 003 which can be contacted 24 hours/7 days. Endeavour Energy's contact details should be included in the any risk or safety management plan.

I appreciate that not all the foregoing issues may be directly or immediately relevant or significant to the Development Application eg. if a padmount substation is not required. However, Endeavour Energy's preference is to alert proponents / applicants of the potential matters that may arise should development within closer proximity of the existing and/or required electricity infrastructure needed to facilitate the proposed development on or in the vicinity of the site occur.

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Could you please pass on a copy of this submission and the attached resources to the applicant? Should you wish to discuss this matter, or have any questions, please do not hesitate to contact me or the contacts identified above in relation to the various matters. Due to the high number of development application / planning proposal notifications submitted to Endeavour Energy, to ensure a response contact by email to property.development@endeavourenergy.com.au is preferred.

Yours faithfully

Cornelis Duba

Development Application Specialist

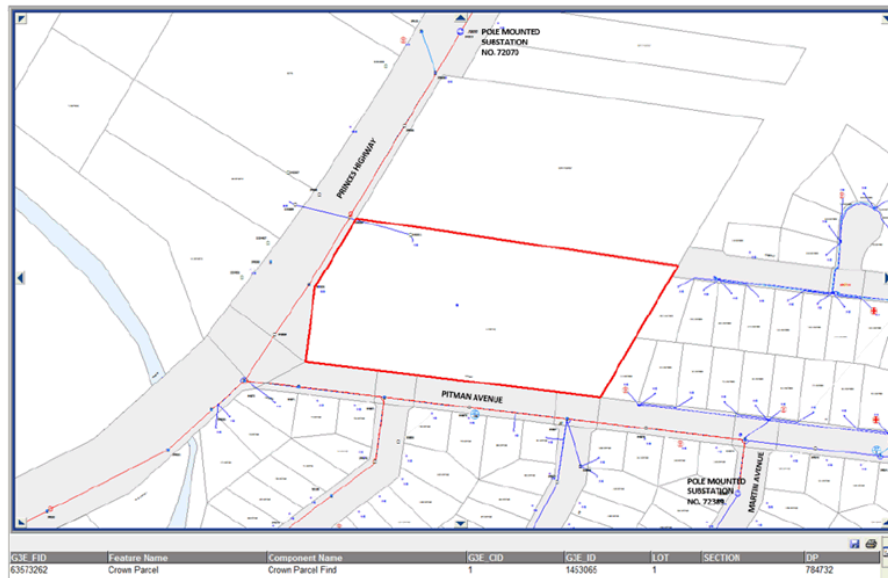
Network Environment & Assessment

T: 9853 7896

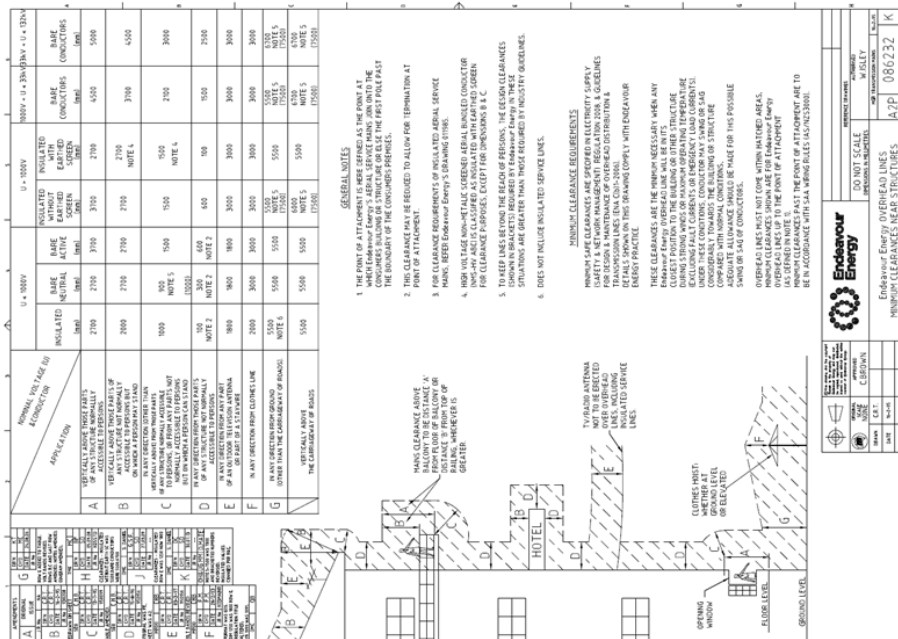
E: cornelis.duba@endeavourenergy.com.au 51

Huntingwood Drive, Huntingwood NSW 2148

www.endeavourenergy.com.au



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Use of Fencing for security and the reduction of visual impact of a Padmount substation:

- Appropriate screening made of metal, timber, plastic or masonry fencing is allowable outside the easement.
- No sail clothes, covers or tarps of any kind are allowable in the easement.
- Carport posts, metallic clothes hoists poles or posts cannot be located inside the padmount substation easement area nor encroach into it.
- Dial before You Dig (DBYD) service plans are required prior to any property excavation. Contact **1100**. Note: DBYD service plans do not indicate underground electrical service mains.
- Ground excavation must be done manually or by a toothless mechanical scraping device within the easement with an approved safety observer at all times.
- Easement dimensions must not be reduced by any structures e.g. fences, retaining walls, brick walls, terrace work or vegetation etc.
- Ongoing clear entry and exit access around the substation easement area is paramount for Work Health & Safety (WH&S) requirements.
- No trees, shrubs or bushes nor planter boxes or pot plants or decorative features are allowed in the easement.
- No slip or trip hazards allowed in the easement. Tree stumps must be cut to ground level or below.
- Ventilation is required around and through the base of the substation.
- No placing of Council bins or stock piling of any materials is allowed in the easement.
- If the substation is fenced out or gated, ongoing maintenance of the easement area is still the responsibility of the owner of the property.
- If the substation is enclosed and gated and locked, it must open outwards towards the street, and have an Endeavour Energy locking system installed for 24hr 7days access. Contact Integrity locking on **1300 366 488** for assistance.
- Endeavour Energy will provide the appropriate reflective signage for the asset when contacted.

NOTE: The easement must be maintained on a regular basis for work health and safety WH&S regulations. The following suggestions are provided to property owners who may find it onerous to maintain the easement on a regular basis. The property owner may install the following within the easement at their cost:

- Remove or spray all vegetation with a non-toxic grass and weed deterrent;
- Remove all foreign objects leaving the easement in an approved and level state;
- Form up the easement perimeter with treated timber minimum 75-100mm deep;
- Followed with the laying of a suitable porous weed mat; and
- Then covering the easement with 20mm min. size blue metal or coloured stones, wood bark/chips, asphalt or install pavers that are easily lifted. Alternately, lay lawn and maintain periodically.

The above suggestions, if employed correctly, will require less ongoing maintenance ensuring a clear firm footing for staff to carry out electrical maintenance or emergency works. This will also ensure an approved aesthetic state for your local community.

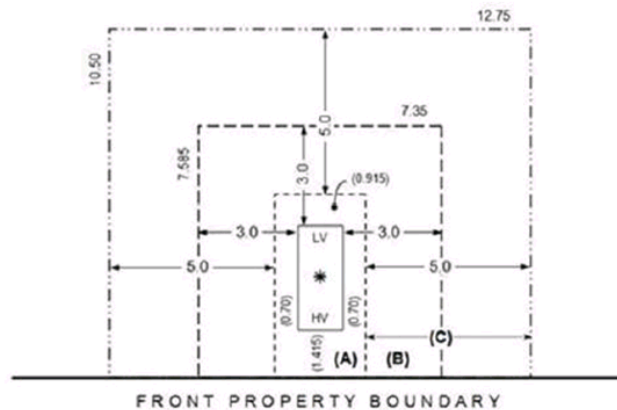
Retaining Walls

The final height of a retaining wall should comply with the Local Council and not exceed 1m.
The finished ground surface of the uphill of the retaining wall should batter down and finish below the top of the wall's capping to mitigate direct water flow into the substation easement.
The finished wall should be completely constructed in the same type of brick or concrete blocks / material for safety as well as aesthetic reasons.
The finished wall should not trap or promote pooling of water in the easement.
The wall should comply with all relevant building and council codes e.g. drainage material inclusion behind the retaining wall to include min. 100mm ag-line, aggregate and geo tech fabric.
The side walls can be extended minimally in order to accommodate a raised surrounding ground level.
Any future wall extension would need to be properly footed.
Dial before You Dig (DBYD) service plans are required before excavating for retaining wall footings and fence posts. Contact DBYD on 1100 for assistance.
Retaining walls must be constructed outside of and not encroach the electricity easement.

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**Easement and Restriction Sites for Padmount Substations
- Common Earthing, Residential -**




- No building must be erected or permitted to remain within the restriction site marked (B) unless:
 - the external surface of the building erected within 1.5 metres from the substation footing has a 120/120/120 fire rating; and
 - the external surface of the building erected between 1.5 metres and 3.0 metres from the substation footing has a 60/60/60 fire rating; and
 - the owner provides Endeavour Energy with an engineer's certificate to this effect.
- No swimming pool or spa must be erected or permitted to remain within the restriction site marked (C).

The foregoing easement and restrictions apply to a padmount substation with a common earth system where the high voltage and low voltage equipment, the local neutral and other metallic parts are electrically bonded together and connected to one earth grid. Common earthing must be used where a new earthing installation is being established and interconnected to 5 or more other substations through the neutral conductor. If the conditions for a common earthing system cannot be achieved economically eg. in non-urban areas, then two separate and distinct earthing systems, one for the high voltage and the other for low voltage must be used. Substation separate earthing changes the dimensions of the restriction sites.

- No fencing must be erected or permitted to remain within 4 metres from the substation footing.
- No swimming pool or spa must be erected or permitted to remain within 30 metres from the substation footing.

For further details refer to Endeavour Energy's Mains Design Instruction Document No: MDI 0044 'Easements and Property Tenure' or contact Endeavour Energy's Head Office enquiries on telephone: 133 718 or (02) 9853 6666 from 8am – 5:30pm.

Planning Report – S4.15 Assessment - 60 Macleay St, NARRAWALLEE - Lot 145 DP 718994

	Planning Report S4.15 Environmental Planning & Assessment Act 1979
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DA Number	DA20/2061
Property	60 Macleay St, NARRAWALLEE - Lot 145 DP 718994
Applicant(s)	Smyth & Smyth Pty Ltd
Proposal	New two storey dwelling, carport and swimming pools
Zone	R2 Low Density Residential
Date of Application	13 October 2020
Recommendation	Conditional Approval
Responsible Officer	

Conflict of interest declaration

I have considered the potential for a conflict of interest under the [Code of Conduct](#) and to the best of my knowledge no pecuniary and/or significant non-pecuniary conflict of interest exists.

NOTE: If you determine that a non-pecuniary conflict of interest is less than significant and does not require further action, you must provide a written explanation of why you consider that the conflict does not require further action in the circumstances. This statement should then be countersigned by the section manager.

Name

Choose an item.

[Click here to enter a date.](#)

1. Subject Site and Surrounds

The subject site is located on the northern side of the Macleay Street cul-de-sac side and located at the end of an access handle which currently services two (2) existing dwellings, in Narrawallee. The site is irregular in shape yielding an overall site area of approximately 3.18 hectares.

The site is accessed via an access handle which extends to the south. An existing driveway extends to the south along the access handle and is shared with properties known as No. 62 and 64 Macleay Street.

The lot is currently vacant of development, and mostly consists of vegetated land, with an area of cleared land located adjacent to the access handle which is nominated as the building envelope.

Immediate surrounding area

The site is in a predominantly residential area. There are two single storey dwellings which share the access handle with the subject site and there is a two storey dwelling with frontage to Macleay Street located at the southern end of the access handle.

The surrounding built form is a mix of single and double storey dwellings.

Beyond the immediate surrounds are predominantly residential dwellings with Narrawallee Inlet located to the immediate north and east of the site.

Planning Report – S4.15 Assessment - 60 Macleay St, NARRAWALLEE - Lot 145 DP 718994

Aerial Photo / Locality Plan



Photo 1: View looking north-west near southern boundary to cleared area of dwelling envelope.

DE21.83 - Attachment 1

Planning Report – S4.15 Assessment - 60 Macleay St, NARRAWALLEE - Lot 145 DP 718994



Photo2: View looking west along southern boundary where the proposed dwelling is to be sited.



Photo 3: View looking south to shared southern boundary with 62 Macleay Street.

Planning Report – S4.15 Assessment - 60 Macleay St, NARRAWALLEE - Lot 145 DP 718994



Photo4: View looking south to shared southern boundary with 62 Macleay Street.



Photo 5: View looking south to current access handle.

Planning Report – S4.15 Assessment - 60 Macleay St, NARRAWALLEE - Lot 145 DP 718994



Photo 6: View looking north to E2 zoned land.



Photo 7: View looking north from 62 Macleay Street to subject site.

Planning Report – S4.15 Assessment - 60 Macleay St, NARRAWALLEE - Lot 145 DP 718994



Photo 8: View looking to eastern boundary with 56 Macleay Street in background.



Photo 9: View looking east along the southern boundary of the site to existing dwelling at 62 & 56 Macleay Street.

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Planning Report – S4.15 Assessment - 60 Macleay St, NARRAWALLEE - Lot 145 DP 718994

2. Background and History

Pre-application discussions

There have been no pre-application discussions prior to lodgement of the application.

Amendments during the process

No amendments occurred during the application process.

Planning Application History

The following applications, listed as considered relevant to the current proposal, have previously been considered for the subject site and/or adjoining sites:

DA number	Description of Proposal	Decision & Date of Decision	Officer Comment
DA00/3615	New dwelling and partial filling of land	Approved 13/3/01	Consent has lapsed.

3. Proposal

Proposed Development

The application seeks consent for a new two storey dwelling, carport, sauna and swimming pools. The dwelling essentially comprises two detached buildings linked via a breezeway. The dwelling comprises nine (9) bedrooms each with their own ensuite. One building will contain the living areas and the main bedroom and the second building will contain the remainder of the bedroom.

Further details of the proposal are as follows:

Ground Floor

- Ground level to accommodate open-plan kitchen, meals and living area which open out to the deck areas on the northern and western elevations.
- Four bedrooms each with an ensuite & plunge pool.
- Detached laundry, plant and store room.
- Carport, sauna & communal plunge pool.
- A green roof is proposed above laundry/store area and the breezeway.

First Floor

- Master suite, walk-in-robe, ensuite, study and balcony area.
- Four bedrooms each with an ensuite.

The application also proposes:

- Overall height of 7.45 metres.
- The dwelling would be composed of a mix of materials including metal cladding, glass and brick.
- A one (1) metre rear setback is proposed to the shared southern boundary.
- The dwelling includes a double carport to be directly accessed off the existing right of way access handle.
- A swimming pool is proposed to the north-western corner of the dwelling.
- No vegetation removal is required.

Planning Report – S4.15 Assessment - 60 Macleay St, NARRAWALLEE - Lot 145 DP 718994

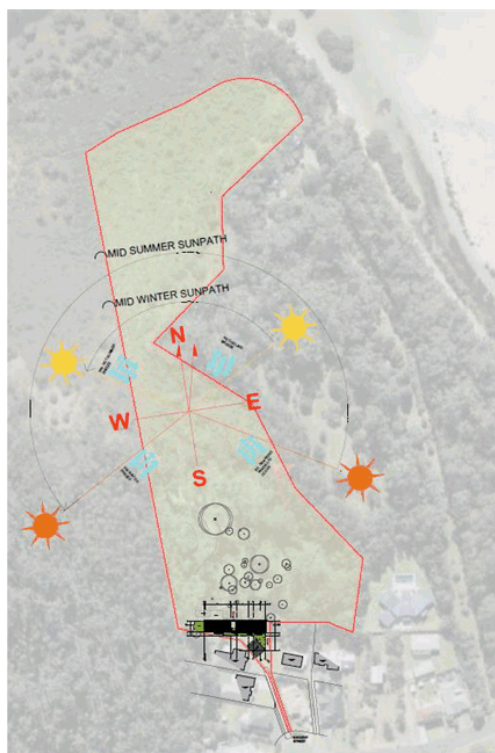
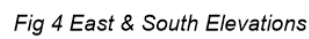


Fig 2 Site Analysis Plan



Fig 3 North & West Elevations

DE21.83 - Attachment 1



Planning Report – S4.15 Assessment - 60 Macleay St, NARRAWALLEE - Lot 145 DP 718994

4. Referrals

Internal Referrals

The application was referred internally to the following Council areas:

Referral	Recommendation	Comment
Threatened Species		Onsite discussion advised that proposal does not trigger biodiversity or require referral given the existing cleared area and the minimal clearing proposed on the site
Shoalhaven Water	No objection subject to compliance with Shoalhaven Water Notice.	

External Referrals

The application was referred externally to the following external authorities:

Agency	Recommendation	Comment
Rural Fire Service	General terms of approval issued	

4. Assessment

The development application has been assessed in accordance with the relevant matters of consideration prescribed by Section 4.15 of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000, as follows:

Section 4.15(1)(a)(1) – Any Environmental Planning Instrument

Biodiversity Conservation Act 2016 and Biodiversity Conservation Regulation 2017

Projects assessed under Part 4 of the EP&A Act are required to address the requirements of the BC Act which includes provisions for offsetting once certain thresholds are met.

The Proposal is located on cleared land and will not impact on any threatened species, populations or threatened ecological communities listed under the act. An assessment against section 7.3 of the Biodiversity Conservation Act concludes the following:

- No impact on threatened species
- It is unlikely to have an adverse effect on an endangered or critically endangered ecological community;
- No impacts on habitats of a threatened species or ecological community;
- No impact on any area of outstanding biodiversity value
- The proposed development is not part of a key threatening process.

Given the above no further consideration of biodiversity or ecological issues under the Act is required.

Planning Report – S4.15 Assessment - 60 Macleay St, NARRAWALLEE - Lot 145 DP 718994

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

The BASIX Certificate has been submitted with the development application. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.

State Environmental Planning Policy (Coastal Management) 2018

The Coastal Management SEPP gives effect to the objectives of the Coastal Management Act 2016 from a land use planning perspective, by specifying how development proposals are to be assessed if they fall within the coastal zone.

The proposed site is located in a coastal zone and identified to be located in the following coastal management area(s):

- a) the coastal wetlands area,
- b) the coastal environment area, and
- c) the coastal use area.

It is considered that the proposal is generally consistent with the provisions of the management areas. The proposal is considered to be consistent with the matters for consideration outlined because it will not contradict the aims of the policy or result in any significant impacts on the coastal environment having regard to scenic qualities, access, archaeological significance, ecosystems, coastal processes, wildlife corridors; water quality; or result in conflict between land-based and water-based coastal activities.

State Environmental Planning Policy 55

The subject site is not identified as potentially contaminated land and there is no indication that the land has been used for a purpose which would require remediation prior to the construction. The proposal is satisfactory with regard for the provisions of SEPP 55.

Shoalhaven Local Environmental Plan 2014

The land where the dwelling is proposed site is zoned R2 Low Density Residential under *Shoalhaven LEP 2014*. The proposed development is defined as a dwelling which is permissible with consent. The objectives of the zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide an environment primarily for detached housing and to ensure that other development is compatible with that environment.*

The proposed development is considered consistent with the zone objectives.

The relevant matters to be considered under Shoalhaven Local Environmental Plan 2014 for the proposed development are outlined below.

Development Standard	Comment	Compliance
4.3 Height of Buildings	The property is situated within an area where a maximum building height of 8.5m applies as per the height of Buildings Map specified at cl.4.3. The proposal is a maximum height of 7.45m and as such is consistent with the 8.5m height limit.	Yes
Miscellaneous	Comment	Compliance

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Planning Report – S4.15 Assessment - 60 Macleay St, NARRAWALLEE - Lot 145 DP 718994

Provisions		
5.10 Heritage Conservation	The site is not an identified heritage item, is not situated in the immediate vicinity of an item, or is situated in a heritage conservation area and as such the provisions of cl.5.10 do not apply to the proposal.	Yes
5.16 Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones	Part of the development intrudes outside the dwelling envelope being the swimming and decking area and plunge pools and landscaping. It is considered that the intrusion outside the dwelling envelope is acceptable. The area is already cleared and the proposal does not propose to remove additional vegetation. The proposal is sited to avoid any significant adverse environmental impacts on the existing fauna & flora.	Satisfactory. A condition could be imposed requiring amendment to the 88B instrument.
Additional Provisions	Local Comment	Compliance
7.1 Acid Sulphate Soils	The site is mapped as being Class 3 meaning that development consent is required for any works more than 1 metre below the natural ground surface require an acid sulfate soils management plan has been prepared for the proposed works. A condition of consent will be imposed in this regard.	Yes
7.2 Earthworks	The proposed dwelling has been appropriately sited to minimise cut and fill with site disturbance being limited to the amount required to accommodate footings and services. The proposal is satisfactory in regard the objectives and provisions of cl.7.2	Yes
7.5 Terrestrial Biodiversity	The proposed building is adjacent to in an area identified as terrestrial biodiversity. The siting of the dwelling with the exception of the swimming pool and deck is within the nominated building envelope. The area is already cleared and the proposal does not propose to remove additional vegetation. The proposal is sited to avoid any significant adverse environmental impacts. The proposal is satisfactory with regard for the objectives of Clause 7.5.	Yes
7.6 Riparian land and water courses	Riparian lands exist to the north. The works are well removed from the area, and well outside the required buffer distance. Subject to standard stormwater and sedimentation conditions the proposal is assessed as satisfactory with regard for the objectives and provisions of cl.7.6 of SLEP 2014.	Yes
7.11 Essential Services	The proposed development will be connected to all essential services	Yes

Planning Report – S4.15 Assessment - 60 Macleay St, NARRAWALLEE - Lot 145 DP 718994

Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

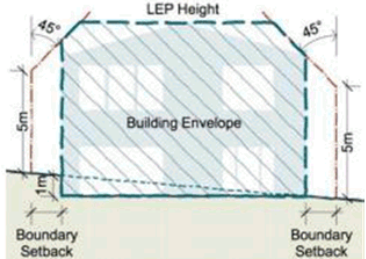
Shoalhaven Development Control Plan 2014

The relevant matters to be considered under Shoalhaven Development Control Plan 2014 for the proposed development are outlined below.

- a) **Chapter G1 – Site Analysis, Sustainable Design and Building Materials in Rural and Coastal Areas:** Chapter G1 defines the controls in relation to the management of the built and natural environment in particular in relation to site analysis, energy efficiency and solar access, as well as building materials in rural and coastal areas. The proposal is considered consistent against the relevant Performance Criteria of this Chapter.
- b) **Chapter G2 – Sustainable Stormwater Management and Erosion/Sediment Control:** Chapter G2 gives applicants guidance about how to implement sustainable stormwater management in the development application process, provide design principles for stormwater management that assist development and outline controls for the management of stormwater (including water quality, waterway stability, detention, erosion and sediment control). A stormwater plan has been submitted as part of the application. Collected water will be recycled for use in the toilets, laundry, and external yard, as per requirements of the BASIX certificate. Any overflow from the tank plus any additional residential roof stormwater will be conveyed to the proposed stormwater pit. This will be a stormwater infiltration trench which will be conditioned to be constructed in accordance with council requirements.
- c) **Chapter G7 – Waste Minimisation and Management Controls:** The provisions of Chapter G7 apply to the proposed development. A Waste Minimisation and Management Plan (WMMP) was provided with the application. Any consent issued should include standard conditions requiring compliance with this WMMP.
- d) **Chapter G12 – Dwelling Houses and Other Low Density Residential Development**
The proposal has been assessed against the provisions of Chapter G12. The compliance table below highlights an assessment that has been completed against the full chapter.

DCP COMPLIANCE TABLE		
5 General Controls		
5.1 Building Envelope		
The specific objectives are to:		
<ol style="list-style-type: none"> i. Provide practical building envelopes for development to ensure that the height and scale of new development is not excessive, relates well to the local context/ streetscape and is compatible with the existing or desired future environmental character within the locality. ii. Minimise the visual impacts of elements of the development that exaggerate the built form and impacts negatively on desired future streetscapes. 		
<ul style="list-style-type: none"> The bulk and scale of the proposed development is compatible with the surrounding development. Vertical building envelope of 45 degrees at 5m (See figure 1). 	Complies	Within building envelope.

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<p>Figure 1: Building envelope <i>Note: Exemptions to building envelope encroachments include gutter, fascia's, downpipes, eaves up to 0.6m, aerials and masonry chimneys. Slopes greater than 10% require detail survey.</i></p>		
<p>5.2 Orientation and Siting</p>		
<p>The specific objectives are to:</p> <ol style="list-style-type: none"> Allow flexibility in the siting of dwellings and other buildings/structures. Ensure that design and site placement of dwellings and other buildings/structures is compatible with and enhances the existing and future streetscape. Locate dwellings and other buildings/structures to ensure minimal loss of amenity (e.g. privacy, views, overshadowing, solar access or the like) to adjoining development. Achieve a site layout that provides a pleasant, attractive, manageable and resource efficient living environment. Ensure that development reflects the physical constraints prevalent on the site to minimise site disturbance. 		
<p>A site analysis plan is submitted with the development application in accordance with A2.1.</p>	<p>Complies</p>	
<p>The proposed development is site responsive and considers the following.</p> <ul style="list-style-type: none"> The natural slope of the land. Minimises excessive earthworks and the need for structural retaining walls above 1m. Cut and fill is limited to 1m (refer to Figure 2). Retaining walls do not impact upon the adjoining properties in relation to amenity and stormwater disposal. <p>Note: The development application must take into consideration the visual impact of retaining walls and fencing.</p>	<p>Complies</p>	
<p>5.3 Local Character and Context</p>		
<p>The specific objectives are to:</p> <ol style="list-style-type: none"> Ensure that development enhances and makes a positive contribution to the character of existing buildings and streetscapes. Ensure that development is sensitive to the landscape, built form and environmental conditions of the locality, particularly where there is a distinctive character, view or heritage significance. Minimise adverse impacts on the existing visual amenity and character of residential 		

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<p>areas when relocating second-hand dwellings.</p> <p>iv. Retain, incorporate and sympathetically treat existing dwellings or buildings that contribute to streetscape character (including items of heritage significance or conservation significance).</p> <p>v. Encourage the sharing of views, while not restricting the reasonable development potential of a site.</p>		
<ul style="list-style-type: none"> The scale and visual appearance of the development contributes to the existing and future character. Heritage or conservation significance are retained and sympathetically treated. 	Complies	The proposed dwelling has been designed to be responsive of the constraints of the site, and surrounding environment. Whilst the building is large, having regard to the site and modern building designs, the proposal is not considered to be unacceptable.
<ul style="list-style-type: none"> Existing or future views are not substantially or unreasonably affected (refer to planning principle). 	Complies	The dwelling to the immediate south (62 Macleay St) currently has a view across its side boundary through to the subject site. The value of the view is essentially of the subject site and not to the Narrawallee Inlet as it is not visible. The proposal will limit current views through the site. The Land & Environment Court have provided guidance in these matters and acknowledge that protection of views across a side boundary is difficult to preserve. The constraints on the block regarding fauna & flora and the dwelling envelope limit areas where the proposal can be sited and the view is reliant on the subject land for its view rather than a public view such as water/coast or iconic building/structure. Hence the loss of views is considered appropriate in this case.
<p>5.4 Building Form, Design and Materials</p> <p>The specific objectives are to:</p> <p>i. Ensure the provision of low-maintenance development that will retain an attractive appearance.</p> <p>ii. Ensure the materials used in construction are sound and suitable for the intended use.</p> <p>iii. Ensure that new development enhances and makes a positive contribution to the character of existing buildings and streetscapes and reinforces the built form and environmental conditions of the locality.</p> <p>iv. Ensure that in rural/environmental areas and scenic protection area, buildings complement the existing landscape value rather than detracting from it, particularly where visible from public vantage points.</p>		
<ul style="list-style-type: none"> The selection of building materials provides visual interest from the streetscape and the roof design is integrated into the overall built form. Development incorporates passive 	Complies	The proposal maintains the predominantly single detached dwelling and pitched roof character of the surrounding area. The proposed location at the end of a battle axe driveway ensures the building does

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<p>environmental design (BASIX).</p> <ul style="list-style-type: none"> • Articulation is provided to minimise the length of unbroken walls and glazed areas. • In rural, environmental, foreshore and scenic protection areas, external materials and colours shall blend with the surrounding landscape. 		<p>not dominate the streetscape or disrupt the existing streetscape rhythm.</p> <p>The proposal is well articulated and utilises a variety of materials and design features to create interest and articulation.</p>
5.5 Visual and Acoustic Privacy		
<p>The specific objectives are to:</p> <ul style="list-style-type: none"> i. Ensure the design of the site and buildings minimises impacts on the amenity of future and adjoining/adjacent living areas and principal private open space in relation to visual privacy, overlooking and noise. ii. Reduce the impacts of freestanding privacy screens on surrounding development. iii. Ensure the thoughtful location of noise generating plant, equipment and sources. 		
<p>The visual privacy of indoor living areas and private open space is protected (Refer figure 3 and 4).</p>	Complies	<p>Visual privacy maintained. The living areas and rooms are designed with all fenestrations facing north such that no opportunities for overlooking to the dwellings to the south.</p>
<p>Freestanding privacy screens shall meet the following minimum standards:</p> <ul style="list-style-type: none"> • A maximum of two (2) freestanding privacy screens are permitted on each lot; • Located behind the primary and secondary building line; • Not attached to a common boundary fence; • Maximum height of 2.4m; • Maximum length of 6m; • Consistent colour and design; • Does not produce excessive glare; • Does not cause overshadowing. 	Not applicable	
<p>All noise generating (mechanical) plant and equipment must be:</p> <ul style="list-style-type: none"> • Well ventilated acoustic screening around air-conditioning units; • Sited to minimise noise impacts and located at least 3m away from bedroom windows. 	Complies	<p>Conditioned on the consent</p>
5.6 Solar and Daylight Access		
<p>The specific objectives are to:</p> <ul style="list-style-type: none"> i. Ensure that opportunities for passive solar design for energy efficiency are maximised. ii. Minimise overshadowing impacts and reductions in the solar access of adjoining properties. iii. Protect and maintain solar access to solar collectors and limit impacts on the solar access of north-facing roof areas on adjoining and neighbouring properties. 		

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<p>The dwelling design ensures that adjoining properties retain at least 3 hours of direct sunlight between 9am and 3pm during the winter solstice.</p> <ul style="list-style-type: none"> • 10m² of private open space; and • 50% of windows and glazed doors of north facing living areas. 	Complies	Adjoining dwelling will retain more than 3 hours of direct sunlight.
5.7 Vehicle and Pedestrian Access		
<p>The specific objectives are to:</p> <ol style="list-style-type: none"> Encourage driveway design that minimises visual impact, stormwater runoff and retains established trees and vegetation. Encourage an approach to access design that considers the site and its elements holistically (e.g. landscaping). Provide adequate and safe vehicular and pedestrian access from the street to the site, development and parking spaces. Ensure the safety of pedestrians and bicycle riders in proximity to the driveway area. 		
<p>Access arrangements are suitable for the development and provide an all-weather access for vehicles;</p> <ul style="list-style-type: none"> • Driveways minimise stormwater runoff and increase landscaping; • Retain established trees within the road reserve. • Use of appropriate all-weather materials; • Provide a continuous path of travel from the street to the dwelling. • Setback a minimum of 0.5m from the side and/or rear boundary. • Grade no greater than 1:4 with transitions; • Achieve minimum sight lines for pedestrian safety in accordance with AS2890.1 (Figure 3.3). • Vehicle crossover width no greater than 6m. <p>Note: All works in the road reserve require approval by Council (section 138 of the Roads Act 1993). Vehicular access (driveway and associated footpath crossing) must be designed in accordance with the relevant Australian Standards.</p>	Complies	The proposal will utilise the existing access handle and driveway.
5.8 Trees and Vegetation		
<p>The specific objectives are to:</p> <ol style="list-style-type: none"> Retain, protect and incorporate as many mature shade trees as possible within and adjacent to the development. Improve the amenity and energy efficiency of new development and reduce the heat island effect by retaining (or replanting) mature shade trees. Encourage the planting of replacement semi-mature trees. Incorporate landscaped areas that are sufficient for the retention and planting of mature trees. 		

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v. To ensure appropriate landscaping in bushfire prone areas to reduce the likelihood of building loss during a bushfire event.		
<ul style="list-style-type: none"> Retain existing mature/canopy trees wherever practicable. The development shall provide appropriate setbacks from the root zone of existing mature trees. Mature shade tree proposed to be removed shall be replaced with a semi-mature tree with at least a 75L pot size. 	Complies	No removal of trees proposed. The proposal will not adversely impact any existing biodiversity.
5.9 Servicing		
The specific objective is to:		
i. Ensure residential areas are provided with essential services in a timely, cost effective and efficient manner.		
<p>Development is adequately serviced.</p> <ul style="list-style-type: none"> Services including electricity, gas, water, sewer, roads and drainage must be available to cater for the development. Where connection to the above services is not available, the development application must provide alternatives to Council's satisfaction. 	Complies	Will be connected to proposed stormwater, sewerage, electricity and gas services.
5.10 Water Management and Conservation		
The specific objectives are to:		
i. Ensure the protection of public health, surrounding land and the natural environment including soils, groundwater and surface waters. ii. Encourage harvesting of rainwater and the incorporation of pervious areas. iii. Protect the integrity of services, utilities, pipelines and associated infrastructure located within an easement.		
<ul style="list-style-type: none"> Stormwater from roofed areas is collected and conveyed to an appropriate discharge point. Hardstand areas are graded to minimise the discharge of surface water onto adjoining land. Permeable areas are utilised to reduce stormwater runoff. Impervious areas do not exceed 65% of the site area. 	Complies	Stormwater will be conveyed to water tank, with any overflow to the proposed stormwater pit/ infiltration trench.
5.11 Waste Management – Demolition and Construction		
The specific objective is to:		
i. Minimise the impact of the demolition and construction of buildings on residents, adjoining		

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land, pedestrians and the environment.		
A Waste Management Plan is required to be submitted with the development application. <ul style="list-style-type: none"> Demolition and asbestos removal shall comply with relevant Australian Standards and Council's Asbestos Policy. 	Complies	Conditioned on the consent
6 Dwelling Houses, Rural Worker's Dwellings and Associated Development		
6.1 Principal Controls		
6.1.1 Density		
The specific objective is to: i. Ensure that the bulk and scale of new development is compatible with the existing streetscape amenity and the existing or desired future character of the area.		
The maximum floor space ratio for the site is 0.5:1, where the site is located in the following zones: <ul style="list-style-type: none"> R1 General Residential; R2 Low Density Residential; R5 Large Lot Residential, where the site area is less than 2000m²; RU5 Village; SP3 Tourist. 	Complies	Site area is 3.18ha. Proposed is 429m ² . FSR: 0.013:1
6.1.2 Height and Setbacks		
The specific objectives are to: i. Minimise the visual impacts of elements of the development that exaggerate the built form and impacts negatively on desired future streetscapes. ii. Encourage design that creates desirable living conditions and ensures that the amenity of surrounding properties is properly considered and not adversely impacted. iii. Allow adequate separation between buildings to promote natural light, solar access, ventilation, landscaping and privacy. iv. Retain the amenity of the public domain.		
<ul style="list-style-type: none"> The height of development must comply with Clause 4.3 of Shoalhaven LEP 2014 or Shoalhaven LEP (Jerberra Estate) 2014. 	Complies	Height: 7.45m
<ul style="list-style-type: none"> The front setback is generally consistent with adjoining development or complies with Table 1. Side Setbacks comply with Table 2. <p>Note: Additional building line and setback controls are included in Chapter G6: Coastal Management Areas, Chapter V2: Building Lines, Chapter V3: Miscellaneous Site Specific Issues, and other area specific chapters.</p>	Complies	The proposal is a battle axe lot and proposes a minimum front setback of 50 metres from Macleay Street.
6.2 Amenity		
6.2.1 Landscaping		

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<p>The specific objectives are to:</p> <ul style="list-style-type: none"> i. Ensure that landscaping maximises amenity for residents, neighbouring dwellings and the public domain. ii. Ensure the provision of adequate and appropriate landscaping that is sympathetic to the local character. iii. To ensure appropriate landscaping in bushfire prone areas to reduce the likelihood of building loss during a bushfire event. 		
<p>A minimum landscaped area is provided in accordance with Table 3.</p> <p>Note: The landscaped area excludes any encroachments (i.e. any part of a building or structure), hardstand areas and any areas used for storage, clothes drying, and water tanks.</p>	Complies	Limit new landscaping due to Flame Zone bushfire constraints.
<p>6.2.2 Private Open Space</p> <p>The specific objectives are to:</p> <ul style="list-style-type: none"> i. Ensure that the private open space provided for a dwelling is useable and meets user requirements for privacy, safety, access, active and passive outdoor recreational activities and landscaping. ii. Locate private open space to take account of outlook, natural features of the site, solar access and neighbouring buildings or the public domain without compromising the amenity or privacy of adjoining dwellings. 		
<p>A private open space area of 50m² must be:</p> <ul style="list-style-type: none"> • Located behind the front building line; • Have a gradient no steeper than 1:20. • Minimum dimension of 2m in any direction. • Direct access from a living area. 	Complies	>50m ² POS (located to the west and north as part of alfresco and pool area). Open area north of the dwelling
<p>6.2.3 Storage and Laundry Facilities</p> <p>The specific objectives are to:</p> <ul style="list-style-type: none"> i. Improve the functionality of dwellings by ensuring adequate storage areas are provided of an appropriate size. ii. Ensure that the location of storage areas do not impact on amenity, accessibility or the functionality of other spaces associated with the dwelling. iii. Ensure laundry and clothes drying facilities are integrated into the development, can be conveniently reached, require minimal maintenance and do not detrimentally impact the streetscape. 		
<p>Separate laundry and external clothes drying facilities shall be provided.</p> <p>External clothes drying facilities are to be:</p> <ul style="list-style-type: none"> • Provided at a rate of 16m of line per dwelling. • Located behind the front building line. • Screened from view from the public domain. 	Complies	
<ul style="list-style-type: none"> • Laundry facilities proposed in a garage must be in accordance with Figure 7. 	Not applicable	

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6.2.4 Car Parking		
The specific objective is to:		
i. Provide convenient, accessible and safe parking to meet the needs of residents and visitors.		
Car parking shall be provided in accordance with Chapter G21: Car Parking and Traffic of this Development Control Plan.	Complies	2 car spaces proposed in carport and 3 additional car spaces proposed adjacent the eastern boundary.
6.3 Configuration and Design		
6.3.1 Building Form, Design and Materials		
The specific objectives are to:		
i. Ensure that new development enhances and makes a positive contribution to the character of existing buildings and streetscapes and reinforces the built form and environmental conditions of the locality.		
ii. Ensure opportunities for passive surveillance of the public domain and entrance to the development.		
The dwelling shall: • Address the street by having a front door facing the street at the ground level. • Ensure that any walls facing a street frontage (including secondary frontages) include a window to a habitable room on each level. • Ensure upper level windows, balconies or terraces overlook the public domain. • Provide surveillance of the street and entrance to the development.	Non-compliant	Front door not visible from the street Front elevation is designed essentially as entry and to maintain privacy for the owner and surrounding existing development. The rear elevation has been designed to benefit the views to the northern portion of the block and utilise the north-facing
The front door must address the street at the ground level.	Not applicable	Battle-axe lot hence the front door will not be visible from the street as it will be minimum of 50 metres from the street frontage.
Attached garages and parking structures shall be compatible with the design of the building. The width of garage facades addressing the street shall not exceed 9m or 50% of the length of the frontage, whichever is the lesser.	Complies	The proposed carport is designed to be consistent with the design of the dwelling in form and materials.
6.3.2 Detached Habitable Rooms and Studios		
The specific objectives are to:		
i. Ensure detached habitable rooms/studios provide an option for a dwelling to have detached living spaces/bedrooms without being fully self-contained.		
ii. Ensure detached habitable rooms/studios function/operate as part of the principal dwelling and are linked by a continuously roofed or all-weather hard-stand connection.		
iii. Ensure detached habitable rooms/studios fit with the appearance of the principal dwelling.		
iv. Ensure there are no adverse impacts on the amenity, privacy or solar access of adjoining/neighbouring properties.		
Detached habitable rooms;	Not	

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<ul style="list-style-type: none"> Function as a part of the principal dwelling, and not as a separate dwelling. Rely on the principal dwelling for either a laundry, bathroom, or kitchen. Provide an all-weather connection between the detached habitable room and principal dwelling. 	applicable	
6.3.3 Relocation of Second-Hand Dwellings		
The specific objectives are to:		
<ul style="list-style-type: none"> i. Minimise adverse visual amenity and character impacts when relocating second-hand dwellings. ii. Ensure construction materials are sound and suitable for the intended use. iii. Ensure that renovations are completed in a reasonable time frame. 		
<p>The dwelling being relocated is compatible with the existing and future character of the area.</p> <ul style="list-style-type: none"> Capable of being restored prior to occupation; An asbestos clearance certificate must be submitted; All renovations are to be completed within six months of relocating the dwelling to the proposed site. 	Not applicable	
6.3.4 Fences and Walls		
The specific objective is to:		
<ul style="list-style-type: none"> i. Ensure boundary fencing is of a high quality, promotes safety and surveillance and does not detract from the streetscape or public domain. 		
<ul style="list-style-type: none"> Front fences and walls along the primary frontage shall be no higher than 1.2m. The secondary frontage shall be no higher than 1.8m. Fencing does not exceed 10m in length without providing articulation for visual interest. 50% transparency or for colourbond fencing, landscape screening shall be provided within a 1.5m for the full extent of the fence; A front fence higher than 1.2m will only be supported on a classified road; Maintains appropriate sight distances in accordance with the relevant Australian Standards; 	Not applicable	

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<ul style="list-style-type: none"> • Solid metal fencing shall not be erected along a primary or secondary frontage; 		
6.3.5 Universal Design		
The specific objectives are to:		
<ul style="list-style-type: none"> i. Ensure that where an accessible or adaptable dwelling is proposed, the layout and design features accommodate the changing access and mobility requirements of residents and visitors. ii. Promote ageing in place by extending the usability of dwellings to meet 'whole of life' needs of the community. 		
Access is provided from the car parking space to the entrance of the dwelling.	Not applicable	
6.3.6 Waste Management – Bin Storage, Presentation and Collection		
The specific objectives are to:		
<ul style="list-style-type: none"> i. Ensure waste storage and recycling areas are designed to be conveniently reached and require minimal maintenance. ii. Ensure waste storage and recycling areas are attractive and compliment the streetscape. iii. Ensure appropriate kerbside frontage is provided for bin presentation and collection. 		
<ul style="list-style-type: none"> • Bin storage areas must be identified on the site plan and located behind the front building line. 	Not applicable	Bins can be located in the carport area. Whilst not behind the building line it is considered acceptable due to the battle-axe nature of the lot.
8 Ancillary Structures and Non-Habitable Structures on Vacant Land		
Sections 8.1 - 8.3 apply to ancillary structures which includes carports, garages, sheds, freestanding pergolas, swimming pools, tennis courts and the like.		
The objectives of Sections 8.1 – 8.3 are to:		
<ul style="list-style-type: none"> i. Minimise the impacts of ancillary structures on adjoining properties. ii. Ensure that residents have access to ancillary buildings and structures that are consistent with domestic needs. 		
8.1 Density, Height and Setbacks		
Refer to the Swimming Pool Act 1992 and associated regulations for information relating to swimming pool safety fencing and gate requirements.	Complies	Conditions of consent have been imposed.
8.3 Building form & design		
The specific objective is to: Ensure that new development enhances and makes a positive contribution to the character of existing buildings and streetscapes and reinforces the built form and		
Ancillary structures are compatible with the design of the principal dwelling.	Complies	
The width of garage facades addressing the street shall not exceed 9m or 50% of the length of the frontage, whichever is the lesser.		
8.3 Swimming Pools		
The specific objective is to:		
Ensure the design of the swimming pool is safe and minimises impacts on the amenity of future		

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and adjoining/adjacent living areas and principal private open space in relation to noise.		
Refer to the Swimming Pool Act 1992 and associated regulations for information relating to swimming pool safety fencing and gate requirements.	Complies	Conditions of consent have been imposed.
9 Advisory Information		
9.1 Other legislation or policies you may need to check		
Council Policies & Guidelines	<ul style="list-style-type: none"> • Shoalhaven Contributions Plan • Asbestos Policy • The Shoalhaven Plant Species List 	
External Policies & Guidelines	<ul style="list-style-type: none"> • Building Code of Australia • Livable Housing Design Guidelines • NSW Land & Environment Court Planning Principles • Relevant Australia Standards • Planning for Bushfire Protection 	
Legislation	<ul style="list-style-type: none"> • Roads Act 1993 • Swimming Pool Act 1992 (and associated regulations) • State Environmental Planning Policy (Affordable Rental Housing) 2009 • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 • Shoalhaven Local Environmental Plan 2014 • Shoalhaven Local Environmental Plan (Jerberra Estate) 2014 	

Alternative Solutions / Justification Statement

The application seeks an alternative solution to Chapter G12 of Council Development Control Plans. A written request has been submitted to Council in accordance with Chapter 1 of the Shoalhaven DCP 2014 seeking to justify the variation of the control.

The applicant has sought a performance-based solution to the requirement for the front elevations to have entries and habitable room windows of dwellings addressing the street.

6.3.1 Building form, design and materials

The dwelling

Front elevation is designed essentially as entry and to maintain privacy for the owner and to surrounding existing development. It is considered that given the nature of the lots siting as a battle-axe lot setback a minimum of 50 metres from the street frontage. The sizeable nature of the lot and the constraints of the building envelope allow for consideration of the variation which is not strictly complaint with the acceptable solutions however the benefits of a north-facing dwelling far outweigh requiring a redesign of the southern elevation to comply with a DCP provision which is silent on battle-axe allotments.

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It is considered that the proposed front elevation is considered acceptable and appropriate within the existing setting.

- e) **Chapter G21 – Car Parking and Traffic:** The provisions of Chapter G21 apply to the proposed development. The parking spaces are substantially over the 2 spaces minimum for dwellings; however, it is acceptable due to the scale of the dwelling. Both car spaces are both forward of the building line. It is considered that the constraints of the block limit development to within an existing dwelling envelope located at the southern boundary of the lot. The proposed car parking area will be located at the front of the of the subject site and forward of the building line. With respect to the car parking forward of the building line, this is considered to be an efficient use of the land given the constraints of the dwelling envelope, E2 zoning and biodiversity matters in the northern portion of the lot.

ISSUES

Concern raised in regard to the use of the dwelling as an alternative form of accommodation prohibited under the current zone.

The main area of contention is the **intended** use of the dwelling.

The large number of bedrooms each with their own ensuite and the multiple plunge pools proposed raises concerns that the intent is to use the development for tourist accommodation.

Applicant's Submission

In regard to the matters raised above the applicant responded with the following:

- *This application is proposing a two storey dwelling house swimming pools, and landscaping. The application is not for a tourist facility, boarding house or hotel/motel accommodation. Dwelling houses are listed as being permissible in the R2 zone. It is acknowledged that the proposed floor plan provides a unique design. The owner engaged Smyth & Smyth to design a dwelling house which will satisfy the needs of the owner (sic) and their family. A Statutory Declaration has been provided by the owner which confirms the following:*

'To confirm our current permanent place of residence is in Wagga Wagga NSW, and we intend to use this dwelling as a family holiday home initially and then retire here in the future. We engaged Architects Smyth and Smyth Pty Ltd to design a high quality dwelling which will satisfy the needs of our family. We have a large extended family with older children who also have their own families, the proposed dwelling has been designed to reflect the needs of our family situation. The design allows for our family to come together while still maintaining the privacy and separation which we require. We confirm that the proposal is not for a tourist facility boarding house or hotel.'

Discussion

The main area of disagreement is the foreshadowed use of the building as tourist accommodation, as result of the multiple bedrooms and ensuites and multiple plunge pools. Hence in deciding whether a building is a dwelling, regard should be given to the intention of the owner to use the building as a dwelling, not just the potential capability of the building to be used as tourist and visitor accommodation (the group term is prohibited in the zone).

Pursuant to the Shoalhaven LEP 2014, a "dwelling" is defined as follows:

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dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

The proposal is consistent with the definition, and the definition does not limit a dwelling by the number of bedroom and ensuites. The subject site is also identified as bushfire prone land and a tourist facility would be considered a special fire protection purpose under Planning for Bushfire Protection 2019 which requires a Bushfire Attack Level (BAL) that must not exceed BAL-29. The RFS have deemed that the proposed dwelling must be constructed to BAL Flame Zone hence a tourist facility would find it difficult to gain a consent with a Flame Zone rating.

At present, there is insufficient evidence that the building (as opposed to the 'capability' of the building) is to be utilised as tourist accommodation, nor any clear evidence that this is the intended future use.

In the assessment of an application, Council cannot foreshadow what might happen in the future, future changes or additional development. It can only assess what is before it and decide to conditionally approve or refuse, with reasons based on planning considerations such as impacts on amenity and the like.

Further, if an approval is forthcoming conditions cannot be imposed preventing further DAs or types of development, as these may be permissible (or prohibited) and the correct avenue to reach a conclusion on a development is via a planning assessment pursuant to section 4.15 of the Environmental Planning and Assessment Act 1979.

Conditions imposed to prevent future development or relying on a promise and capturing those in a condition of consent would not satisfy Newbury criteria in that *"the conditions imposed must be for a planning purpose and not for any ulterior one, andthey must fairly and reasonable relate to the development permitted. Also they must not be so unreasonable that no reasonable planning authority could have imposed them."* (LEC of NSW, Judicial Newsletter, October 2020).

Having regard to *Jonah Pt Limited v Pittwater Council* [2006] NSWLEC 99 At paragraph 35, Justice Preston specifically noted:

"...it is irrelevant to enquire as to who is the current owner /operator or who might be the future owner / operator, or whether the present owner / operator has in the past acted or used the land unlawfully, or whether the future owner / operator is likely in the future to act or carry out any approved use unlawfully."

Whilst this decision was in reference to a modification application, the principle still has relevance to the making of a development application.

The applicant has responded to the concerns regarding intended use by providing a statement of the anticipated use of the dwelling and also provided a signed statutory declaration confirming the same. The consent, if issued will be for a dwelling. No other approval will be given or implied for anything else other than a dwelling.

With regard to the design of the dwelling, the proposal is considered to provide a design that adequately responds to the surrounding neighbourhood character context given:

- a) The height of the proposal is comparable to heights within the surrounding area.
- b) The proposal provides a pitched roof form which is considered to appropriately reflect roof forms in the surrounding area.
- c) Site coverage (relative to the size of the land) is minimal.
- d) The height, massing and appearance of the building would not be incongruent to the existing residential character of the surrounding area whilst minimising impacts on remainder of the E2 Environmental Conservation land.

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- e) Visual interest is provided by setbacks and the articulation of the facades with a variety of materials and colours.
- f) The proposal accords with strategic planning objectives to increase housing density and diversity in an established area with good access to services.

Short Term Rental Accommodation (STRA)

Despite the discussion above, this does not prevent the owner (or indeed other owners of dwellings) utilising the short-term rental accommodation provisions at clause 7.13 of the Shoalhaven LEP 2014 which states:

- (1) *The objective of this clause is to ensure that residential accommodation may be used as tourist and visitor accommodation for a short term without requiring development consent.*
- (2) *Despite any other provision of this Plan, development consent is not required for the use of residential accommodation for the purposes of tourist and visitor accommodation (except backpackers accommodation or bed and breakfast accommodation) if the use is only short-term and does not interfere generally with the amenity of the neighbourhood in any way, including by noise or traffic generation.*

It is noted that amendments have been made to SEPP (Affordable Rental Housing) 2009 and the Environment Planning & Assessment Regulation to introduce new policy framework for STRA that will commence on the 1st November 2021.

Regardless, even if the owner were to utilise the STRA provisions the mandatory Code of Conduct which is part of the recently amended regulatory framework to manage short-term rental accommodation must be complied with.

Breaches of the code of conduct may result in the dwelling being registered on the Exclusion Register which lists guests and host who have been excluded from participating in the short-term rental accommodation industry.

Section 4.15(1)(a)(iiia) –Any Planning Agreement or Draft Planning Agreement

There are no draft environmental planning instruments that are on exhibition or have been exhibited but not yet gazetted that apply to the site or that relate to the proposed works.

Section 4.15(1)(a)(iv) –The Regulations

The Environmental Planning and Assessment Regulation 2000 requires the consent authority to consider the provisions of Regulations. Accordingly, appropriate conditions of consent will be imposed.

Section 4.15(1)(b) – The Likely Impacts of the Development

The proposed development will not cause any unacceptable amenity impacts to neighbouring properties or visual impacts to the streetscape. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

The variation to the allow the swimming pool and deck outside the dwelling envelope is supported for approval.

Natural Environment

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Impacts on the natural environment have been assessed as part of the development application. It was found that the proposal is unlikely to create a detrimental impact on the natural environment surrounding the subject site, or to any endangered and non-endangered species of flora and fauna.

Built Environment

The proposed development is unlikely to create any adverse impacts on the surrounding built environment. The proposed development is considered to be of an appropriate scale and unlikely to create any detrimental impacts on the adjoining properties or the locality as a whole. The proposal will facilitate residential development consistent with the surrounding built form and the desired future built character of the locality.

Social Impacts and Economic Impacts

The proposal would result in a positive economic impact in the locality through the capital investment value of the development and is unlikely to generate any identifiable detrimental social impacts, being consistent with the desired dwelling type in the locality, rather resulting in a benefit to the community by providing additional housing choice

Planning for Bushfire Protection

The application was referred to RFS for comment. General terms of approval have been received from the RFS and will be appended as a condition of the consent.

Section 4.15(1)(c) – The Suitability of the Site for the Development

The proposal is deemed to be a suitable development of the site and is not considered to give rise to any adverse amenity impacts to the adjoining properties or visual impacts to the streetscape.

Section 4.15(1)(d) – Any Submissions made in relation to the Development

Community Consultation

The proposal was notified by way of letter to surrounding neighbours for a period of 14 days. The application received five (5) objections. Key issues raised as a result of the notification are provided below.

Issue

The proposal is intended to be used as motel/tourist accommodation.

This has been addressed in the preceding sections of the report.

Issue

The building envelope is not large enough to accommodate a development of this size. This is apparent by the applicants request to vary the 88B.

Comment

A condition of consent will require a variation to the existing 88b to vary the building envelope to include the intrusions outside of the building envelope for the swimming pool and decking area.

Issue

The proposal is out of character and excessive in size and scale.

Comment

The proposed building is considered appropriate in this context. The proposed dwelling is contemporary in its design expression and references the traditional pitched roof character in the street. It will also utilise a blend of brickwork, timber cladding and metal roofing finishes commonly

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utilised in the immediate area, albeit in a modern interpretation of the older housing stock in the street. Further it is generally acceptable in terms of height, scale and massing.

The proposal respects the preferred neighbourhood character of the area. This is achieved through conforming to the single and double storey building scale and form of the streetscape. The proposal aligns satisfactorily with the preferred character of the surrounding area and balances the need to protect the existing character with growth in housing.

Issue

Overshadowing of adjoining properties.

Comment:

Additional overshadowing by the proposed development would not adversely impact upon the surrounding properties, including the adjacent dwelling to the immediate south. The shadow diagrams submitted with the application show that additional overshadowing caused by the proposal would not adversely impact the adjacent site and satisfies the standard in the DCP by providing a minimum of at least 3 hours of direct sunlight to at least 10m² of private open space.

Issue

Inadequate car parking/lack of manoeuvring to allow vehicles to exit in a forward direction.

Comment

Council's DCP requires that only 2 car spaces are required for dwellings with 3 or more bedrooms. Whilst the proposal satisfies the provision, the applicant has also submitted plans that allow for 3 additional car spaces along the eastern boundary. There is adequate room along this boundary for the provision of these car spaces and the area in front of the proposed building also allows for adequate manoeuvring to allow vehicles to turn around and exist the site in a forward direction. Further, a condition of consent will require that the site is configured to allow all vehicles to be driven onto and off the site in a forward direction.

Issue

The proposal will increase noise and impact on existing residential amenity.

Comment

Concerns have been raised regarding the potential noise generated from the dwelling after occupancy. Most of the outdoor living areas that could potentially generate noise amenity impact are located on the northern side of the proposed dwelling away from neighbouring premises with the exception of the larger plunge pool and sauna located between the dwelling and carport. Given that the use of this area could generate amenity noise impact to adjoining residents, it is recommended that a condition be imposed requiring a solid fence be installed along the southern boundary in proximity to these facilities.

Residential noise associated with a dwelling is considered normal and reasonable in an urban setting. Any future issues of amenity and anti-social behaviour, if they arise should be pursued as a civil matter or with the NSW Police (as is the case with any other dwelling in a .

Issue

The proposal exceeds height limit.

Comment

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The property is situated within an area where a maximum building height of 8.5m applies as per the height of Buildings Map specified at cl.4.3 of the Shoalhaven LEP 2014. The proposal has a maximum height of 7.45m and as such is consistent with the 8.5m height limit.

Issue

Increased traffic utilising shared access driveway and potential traffic safety issues.

Comment

There may be more vehicles utilising the access driveway once the development is completed however it would generally be limited to peak holiday periods. It is not uncommon for households to have more than one or two vehicles, particularly if older children reside in the family home, or if it's a shared house.

Issue

Lack of separation between the proposal and existing dwelling to the immediate south.

Comment

A minimum 1 metre setback is proposed between the proposed dwelling and the existing dwelling to the south. Chapter G12 of the Shoalhaven DCP 2014 requires a 7.5m front setback to the primary road frontage. The application is located on a battle-axe lot approximately 50 metres from the road frontage. The DCP is silent regarding a battle-axe lot and front setbacks hence if the proposal is assessed based on the current DCP requirement it satisfies the acceptable solution.

Further the lot is constrained by the dwelling envelope which can limit design options. In this instance it is considered that separation between the dwellings is considered satisfactory.

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

It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

5. Developer Contributions

Section 7.11 Contributions

Shoalhaven Contribution Plan 2019

The proposed development is not considered to increase the demand for community facilities in accordance with the Shoalhaven Contributions Plan 2019 (the Plan).

6. Delegations

Guidelines for use of Delegated Authority

The Guidelines for use of Delegated Authority have been reviewed and the assessing officer does not have the Delegated Authority to determine the Development Application.

Given the application has been called-in to Council the application must be determined by Council.

7. Conclusion

Subject to the conditions of consent the proposal is considered to be consistent with regard to the Matters for Consideration under Section 4.15(1) of the *Environmental Planning and Assessment*

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Act 1979. The proposed development is consistent with relevant SEPPs, and the provisions of *Shoalhaven LEP 2014* and *Shoalhaven DCP 2014* because the proposal will not generate any significant adverse impacts to surrounding neighbours or the environment. Accordingly the proposal is recommended for approval.

8. Recommendation

This application has been assessed having regard for section 4.15 (Matters for consideration) under the *Environmental Planning and Assessment Act 1979*. As such, it is recommended that Development Application No. DA20/2061 for a New two storey dwelling, sauna, carport and swimming pools at 60 Macleay Street NARRAWALLEE (Lot 145 DP718994) be approved subject to the conditions outlined in the development consent.

Development Planner
City Development
[Click here to enter a date.](#)



Bridge Rd, Nowra NSW 2541 | 02 4429 3111
Deering St, Ulladulla NSW 2539 | 02 4429 8999

Address all correspondence to

The Chief Executive Officer, PO Box 42, Nowra NSW 2541 Australia
council@shoalhaven.nsw.gov.au | DX5323 Nowra | Fax 02 4422 1816

shoalhaven.nsw.gov.au     

NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION DEVELOPMENT CONSENT

Environmental Planning and Assessment Act, 1979
DA20/2061

TO:

Smyth & Smyth Pty Ltd
306/77 Dunning Avenue
ROSEBERY NSW 2018

being the applicant(s) for DA20/2061 relating to:

60 Macleay St, NARRAWALLEE - Lot 145 - DP 718994

APPROVED USE AND OR DEVELOPMENT:

New Urban Dwelling - New Two Storey Dwelling, Carport and Swimming Pools

DETERMINATION DATE: TBA

Pursuant to the Section 4.18 of the Act, notice is hereby given that the above application has been determined by granting consent, subject to the conditions listed below.

CONSENT TO OPERATE FROM: TBA

CONSENT TO LAPSE ON: TBA

This consent is valid for five years from the date hereon.

In accordance with Section 4.53 of the Act, development consent for the use of the land or the erection of a building does not lapse if building, engineering or construction work relating to the building or work or the use is physically commenced on the land to which the consent applies before the lapse date.

DETAILS OF CONDITIONS:

The conditions of consent and reasons for such conditions are set out as follows:

PART A: GENERAL CONDITIONS

1. General

The consent relates to New Urban Dwelling - New Two Storey Dwelling, Carport and Swimming Pools as documented on the stamped plans/documentation, or as modified by the conditions of this consent. The development must be carried out in accordance with this consent. If there is inconsistency between the stamped plans/documentation and the conditions of consent, the conditions prevail to the extent of that inconsistency.

Stamped plans/documents	Ref/sheet no.	Rev	Prepared by	Dated
Site Plan	Project No. 933 Sheet DA01	A	Smyth & Smyth	July 2020
Ground Floor Plan	Project No. 933 Sheet DA03	B	Smyth & Smyth	2/7/20
First Floor Plan	Project No. 933 Sheet DA04	A	Smyth & Smyth	2/7/20
Roof Plan	Project No. 933 Sheet DA02	A	Smyth & Smyth	2/7/20
Elevations Plan (North/West)	Project No. 933 Sheet DA05	A	Smyth & Smyth	2/7/20
Elevations Plan (East/South)	Project No. 933 Sheet DA06	A	Smyth & Smyth	2/7/20
Sections	Project No. 933 Sheet DA07	A	Smyth & Smyth	2/7/20
Colour and materials schedule	Project No. 933 Sheet DA10	A	Smyth & Smyth	July 2020

Note: Any alteration to the plans and/or documentation must be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under section 4.55 of the Environmental Planning and Assessment Act, or a new development application.

2. Prescribed Conditions

The development must comply with the [Prescribed Conditions of Development Consent](#), Division 8A, *Environmental Planning and Assessment Regulation 2000*, as applicable.

3. Occupation / Use

The development must not be occupied or used before an Occupation Certificate has been issued by the Principal Certifier. If an Occupation Certificate is not required, the use must not commence until all conditions of development consent have been met or other satisfactory agreements have been made with Council (i.e. a security).

4. Use of Dwelling

The single dwelling as shown on the approved plans has been approved as a dwelling as defined in the Shoalhaven Local Environment Plan. No other use is approved or implied.

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5. **Vehicles Access**

The site must be configured to allow all vehicles to be driven onto and off the site in a forward direction.

6. **Shoalhaven Water - Certificate of Compliance**

A Certificate of Compliance must be obtained to verify that all necessary requirements for matters relating to water supply and sewerage (where applicable) for the development have been made with Shoalhaven Water. A Certificate of Compliance must be obtained from Shoalhaven Water after satisfactory compliance with all conditions as listed on the Notice of Requirements and prior to the issue of an Occupation Certificate, Subdivision Certificate or Caravan Park Approval, as the case may be.

7. **Fence – noise attenuation**

Prior to the occupation of the dwelling a 1.8-metre-high solid barrier must be provided between the sauna / plunge pool area and the adjoining property to the south.

8. **Bushfire - Asset Protection Zone**

From the start of building works and in perpetuity, a defendable space of a minimum 10 metres is to be provided around the dwelling to inner protection area (IPA) standards. The IPA must comprise:

- Minimal fine fuel at ground level;
- Grass mowed or grazed;
- Trees and shrubs retained as clumps or islands and do not take up more than 20% of the area;
- Trees and shrubs located far enough from buildings so that they will not ignite the building;
- Garden beds with flammable shrubs not located under trees or within 10 metres of any windows or doors;
- Minimal plant species that keep dead material or drop large quantities of ground fuel;
- Tree canopy cover not more than 15%;
- Tree canopies not located within 2 metres of the building;
- Trees separated by 2-5 metres and do not provide a continuous canopy from the hazard to the building; and,
- Lower limbs of trees removed up to a height of 2 metres above the ground.

9. **Bushfire - Building works**

New construction must comply with:

- a) AS3959 Construction of Buildings in Bushfire Prone Areas
- b) BAL Flame Zone
- c) Planning for Bush Fire Protection 2019
- d) The recommendation in the report submitted by SET Consultants Pty Ltd dated 2 October 2020

PART B: INTEGRATED DEVELOPMENT AND CONCURRENCE CONDITIONS

NIL

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PART C: PRIOR TO THE COMMENCEMENT OF WORKS**10. Construction Certificate**

A Construction Certificate must be obtained from either Council or an accredited certifier before any building work can commence.

11. Appointment of Principal Certifier

Prior to the commencement of building or subdivision work, a Principal Certifier must be appointed.

12. Notice of Commencement

Notice must be given to Council at least two (2) days prior to the commencement of building or subdivision work by completing and returning the form [‘Commencement Notice for Building or Subdivision Work and Appointment of Principal Certifying Authority’](#)

13. Toilet Facilities - Temporary

Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must:

- a) be a standard flushing toilet connected to a public sewer, or
- b) have an onsite effluent disposal system approved under the *Local Government Act 1993*, or
- c) be a temporary chemical closet approved under the *Local Government Act 1993*.

14. Run-off and Erosion Controls

Prior to the commencement of site works, run-off and erosion controls must be implemented and maintained during construction to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- a) diverting uncontaminated run-off around cleared or disturbed areas.
- b) erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties.
- c) preventing the tracking of sediment by vehicles onto roads.
- d) stockpiling topsoil, excavated materials, construction and landscaping supplies and debris within the lot.

15. Shoalhaven Water – Prior to the Commencement of Any Works

Prior to the Commencement of any works, all conditions listed on the Shoalhaven Water Notice of Requirements under the heading “Prior to the Commencement of Any Works” must be complied with. Written notification must be issued by Shoalhaven Water and provided to the Certifier.

PART D: PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**16. Evidence**

A Construction Certificate must not be issued until the Certifier has received notification from, or evidence of, any Council approval that is required Prior to the Commencement of Works.

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17. Section 88B Instrument

Prior to the issue of a Construction Certificate, the person benefitting from this development consent is to modify the restrictions on the Section 88B Instrument. Specifically, the dwelling envelope must be modified to be consistent with the footprint of the approved ground floor plans.

The appropriate Land Registry Service Office (LRS) property dealing form is required to be submitted to Council, detailing the above variation to the Section 88B instrument, for approval by the Director – City Development.

The relevant form is available at the NSW LRS website - <http://www.nswlrs.com.au/>

The signed document shall be returned to the applicant for lodgement with the LRS. This document shall be registered and evidence thereof provided to Council.

18. Long Service Levy

Prior to the issue of a Construction Certificate any long service levy payable under the [Building and Construction Industry Long Service Payments Act 1986](#) and prescribed by the [Building and Construction Industry Long Service Payments Regulation 2017](#) must be paid or, where such a levy is payable by instalments, the first instalment of the levy must be paid. Council is authorised to accept payment. Proof of payment must be submitted to the Certifying Authority.

19. Retaining Walls - Design

Prior to the issue of a Construction Certificate:

- a) detailed design plans for approved retaining walls exceeding 0.6m in height above ground level (existing) must be prepared and submitted to the Certifier for approval.
- b) where an approved retaining wall exceeds 1m in height, engineering plans and specifications must be prepared by a suitably qualified professional engineer, (as defined in the National Construction Code and submitted to the Certifier for approval.

Retaining walls, footings and drainage must be contained wholly within the development site.

Construction within a registered easement is prohibited

Retaining walls not shown on the approved plan must meet the criteria for Exempt retaining walls and comply with the relevant criteria listed in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, or be approved by way of Complying Development prior to construction and comply with the relevant criteria listed in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

20. Shoalhaven Water – Prior to the Issue of a Construction Certificate

Prior to the issue of a Construction Certificate, all conditions listed on the Shoalhaven Water Notice of Requirements under the heading "Prior to the Issue of a Construction Certificate" must be complied with and accepted by Shoalhaven Water. Written notification must be issued by Shoalhaven Water and provided to the Certifier.

21. Stormwater - New Urban Dwellings

Prior to the issue of a Construction Certificate stormwater plans must be prepared by a Licensed Plumber or professional engineer (as defined in the National Construction Code) and submitted to Council for approval under s68 of the *Local Government Act 1993*.

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- a) Drainage must be designed and constructed in accordance with:
 - i) the approved concept plans prepared by SET consultants dated 28 September 2020
 - ii) the National Construction Code
 - iii) Council's [Engineering Design Specifications](#)
 - iv) [Development Control Plan G2](#)
- b) Stormwater must be conveyed to the street gutter or registered drainage easement, as appropriate for the site conditions.

PART E: PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

NIL

PART F: DURING WORKS

22. Hours for Construction

Construction may only be carried out between 7.00am and 5.00pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday. Proposed changes to hours of construction must be approved by Council in writing.

23. Excavation

Excavation must be carried out in accordance with *Excavation Work: Code of Practice* (ISBN 978-0-642-78544-2) published by Safe Work Australia in October 2018.

24. Noise

The noise from all demolition and construction activities associated with the approved development must comply with the work practices as outlined in the NSW Department of Environment & Climate Change Interim Construction Noise Guideline. The LA10 level measured over a period of not less than 15 minutes during works must not exceed the background (LA90) noise level by more than 10dB(A) when assessed at any sensitive noise receiver.

25. Aboriginal Objects Discovered During Excavation

If an Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:

All excavation or disturbance of the area must stop immediately.

Additional assessment and approval pursuant to the National Parks and Wildlife Act 1974 may be required prior to works continuing the affected area(s) based on the nature of the discovery.

Work may recommence in the affected area(s) if Heritage NSW advises that additional assessment and/or approval is not required (or once any required assessment has taken place or any required approval has been given).

The Heritage NSW must be advised of the discovery in accordance with section 89A of the [National Parks and Wildlife Act 1974](#).

26. Archaeology Discovered During Excavation

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If any object having interest due to its age or association with the past is uncovered during the course of the work:

All work must stop immediately in that area.

Work may recommence in the affected area(s) if Heritage NSW advises that additional assessment and/or approval is not required (or once any required assessment has taken place or any required approval has been given).

In accordance with the *Heritage Act 1997*, the Heritage NSW must be advised of the discovery.

27. Swimming Pool Safety During Construction

A child-resistant barrier must be erected during the construction of the swimming pool. The barrier shall comply with the requirements of the *Swimming Pools Act 1992*; *Swimming Pools Regulation 2018*; *AS1926.2 Swimming pool safety - Location of safety barriers for swimming pools* and *AS1926.1 Swimming pool safety-Safety barriers for swimming pools*.

In addition to any signage that may be required under the Environmental Planning and Assessment Act 1979, or any other Act, the occupier of any premises in or on which a swimming pool (not including a spa pool) is being constructed must ensure that a sign is erected and maintained that:

- i) bears a notice containing the words "This swimming pool is not to be occupied or used".
- ii) is located in a prominent position in the immediate vicinity of that swimming pool.

continues to be erected and maintained until a relevant occupation certificate or a certificate of compliance has been issued for that swimming pool.

28. Maintenance of Site and Surrounds

During works, the following maintenance requirements must be complied with:

- a) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- c) Where tree or vegetation protection measures are in place, the protected area must be kept clear of materials and / or machinery.
- d) The developer must maintain the approved erosion and sediment control measures to the satisfaction of the Certifier for the life of the construction period and until runoff catchments are stabilised.
- e) During construction:
 - i) all vehicles entering or leaving the site must have their loads covered, and
 - ii) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- f) At the completion of the works, the work site must be left clear of waste and debris.

29. Waste Management Plan

All waste must be contained within the site during construction and then be recycled in accordance with the approved Waste Management Plan (WMP) or removed to an authorised waste disposal facility. Waste must not be placed in any location or in any manner that would allow it to fall,

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descend, blow, wash, percolate or otherwise escape from the site. Compliance with the WMP must be demonstrated by the submission of tip receipts to the Certifier.

Note: "Waste" is defined in the Dictionary to the Protection of the Environment Operations Act 1997 (POEO Act).

30. Imported Fill - VENM or ENM Only

Where fill is imported to the site it must be characterised as virgin excavated natural material (VENM) or excavated natural material (ENM) as defined in Part 3 of schedule 1 of the *Protection of the Environment Operations Act 1997 (POEO Act)*.

Documentation must be provided to the Certifier certifying that imported fill material is not contaminated and does not contain contaminants such as asbestos, chemicals or building waste.

31. Earthworks and Excavation

a) Approved earthworks (including any structural support or other related structure for the purposes of the development):

- i) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot.
- ii) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property.
- iii) that is fill brought to the site, must contain only virgin excavated natural material (VENM) as defined in Part 3 of schedule 1 to the *Protection of the Environment Operations Act 1997 (POEO Act)*.
- iv) that is excavated soil to be removed from the site, must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) Regulation 2005*.

b) Any excavation must be carried out in accordance with Excavation Work: Code of Practice (ISBN 978-0-642-785442), published in July 2012 by Safe Work Australia.

32. Acid Sulfate Soils - Unexpected Finds

The development site is located within an area of land shown as Class 1-5 on the Acid Sulfate Soils Map under Shoalhaven Local Environmental Plan 2014.

If acid sulfate soils are encountered during excavation and/or construction works all work must cease and Shoalhaven City Council notified immediately. The extent of acid sulfate soil must be evaluated by a qualified environmental consultant with experience in the assessment of acid sulfate soils and a preliminary assessment provided to Council. Council will determine an appropriate response, including if an Acid Sulfate Soils Management Plan is required to be prepared and implemented, before works can recommence.

PART G: PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

33. Variation to S88B instrument

The appropriate Property Registry dealing form must be submitted to Council, detailing the variation to the Section 88B instrument as detailed in condition 16 of this consent, for the signature of the relevant delegate of Council. (The signed document will be returned to the applicant for lodgement with the Property Registry.) See: <http://www.propertyregistry.com.au>

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This document must be registered and evidence thereof provided to Council **prior to issue of final Occupation Certificate**

34. Air-Conditioning Systems - Noise controls

Prior to the Issue of an Occupation Certificate, air conditioning must be installed in accordance with manufacturer's instructions and operated at all times so as not to cause "Offensive Noise" as defined by the *Protection of the Environment Operations Act 1997 (POEO Act)*

Domestic air conditioners must not emit noise that can be heard within any room in any other residential premises (that is not a garage, storage area, bathroom, laundry, toilet or pantry) whether or not any door or window to that room is open—

- a) before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
- b) before 7 am or after 10 pm on any other day.

35. BASIX

Prior to the issue of an Occupation Certificate, documentary evidence prepared by a suitably qualified person must be submitted to the Certifier confirming that all commitments listed in the BASIX Certificate(s) are fulfilled in accordance with Clause 97A of the *Environmental Planning and Assessment Regulation 2000*.

36. Colours and Materials

The development must be constructed in accordance with the approved schedule of colours and building materials and finishes.

37. Letter Boxes

A letterbox structure(s) must be provided and be designed to comply with the requirements of Australia Post, located close to the major pedestrian entry to the site, and built from materials that are non-reflective and blend in with the approved development.

38. Retaining Walls - Certification

Prior to the issue of an Occupation Certificate, certification must be provided to the Certifier prepared by a professional engineer, (as defined in the National Construction Code), certifying that retaining walls exceeding 1m in height above ground level (existing) are constructed in accordance with the approved engineering design plans.

39. Compliance

The Occupation Certificate must not be issued until all relevant conditions of development consent have been met or other satisfactory arrangements have been made with council (i.e. a security).

40. Shoalhaven Water – Certificate of Compliance

Prior to the issue of any Occupation Certificate, a Certificate of Compliance under section 307 of the Water Management Act 2000 must be obtained from Shoalhaven Water to verify satisfactory compliance with all conditions for the supply of water and sewerage, as listed on the Notice of Requirements.

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If the development is to be completed in approved stages, or application is subsequently made for staging of the development, separate Compliance Certificates must be obtained for each stage of the development.

41. Registration of Swimming Pool

The swimming pool must be registered on the NSW Swimming Pool Register when it is capable of holding water and Prior to the issue of an Occupation Certificate, The swimming pool is to be registered at www.swimmingpoolregister.nsw.gov.au

Note: Penalties may apply if a swimming pool is not registered. If you are unable to access the internet, Shoalhaven pool owners can contact Council during business hours on (02) 4429 3111 or alternatively, register in person at Council's Nowra or Ulladulla Office and our Customer Service Officers will assist you to register your pool. There is a fee for this service.

42. Warning Notice Swimming Pools

Prior to the issue of an Occupation Certificate, a Warning Notice (sign) must be erected in a prominent position in the immediate vicinity of the swimming pool as required by section 17(1) of the *Swimming Pools Act 1992*. The sign must comply with part 3, clauses 10 and 11 of the *Swimming Pools Regulation 2018*. Details must be provided to the Certifier for approval.

PART H: PRIOR TO THE ISSUE OF A SUBDIVISION / STRATA CERTIFICATE

NIL

PART I: ONGOING USE OF THE DEVELOPMENT

43. Overland Stormwater Flow, Redirecting and/or Concentrating Stormwater

All excavation, backfilling and landscaping works must not result in:

- a) any change to the overland stormwater flow path on your property and or a neighbouring property. If any change to the overland flow path occurs on a property, the stormwater runoff shall be collected and directed to a legal point of discharge.
- b) the redirection and/or concentration of stormwater flows onto neighbouring properties.

44. Noise

The use of the approved development must not give rise to transmission of unacceptable vibration or an offensive noise to any place of different occupancy or the public in accordance with the NSW Environment Protection Authority's *Noise Policy for Industry* and *Noise Guide for Local Government* (guideline) and the *Protection of the Environment Operations Act 1997 (POEO Act)*.

45. Swimming Pool – Noise Control Requirements

Pool plant and equipment must not emit 'Offensive Noise' as defined in the *Protection of the Environment Operations Act 1997 (POEO Act)*.

46. Swimming Pool - Ongoing use

The approved swimming pool and associated structures must be maintained in accordance with:

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- a) The Building Code of Australia
- b) Swimming Pools Act, 1992
- c) Swimming Pools Regulation 2018.

PART J: OTHER COUNCIL APPROVALS AND CONSENTS

47. Approval to Connect to the Reticulated Sewerage System

Approval for Sewerage, Plumbing and Stormwater Drainage is granted subject to the following conditions:

- a) All plumbing and drainage work must comply with the Plumbing Code of Australia and AS/NZS 3500 *Plumbing and drainage*
- b) In accordance with the Plumbing and Drainage Act 2011, plumbers and drainers must submit the following documents to Shoalhaven City Council and to the person for whom the work was carried out.
 - i) Notice of Work no later than two (2) business days prior to the commencement of any work.
 - ii) a Certificate of Compliance for drainage works must be provided within seven days (7) after the external drainage works have been completed.
- c) A sewer service diagram, one for each dwelling, must be provided within seven days (7) of the drainage works have been completed.

48. Yard Gully

A minimum height of 150mm must be maintained between the top of the overflow yard gully riser and the lowest fixture connected to the drain. The height must be measured vertically from the overflow level of the gully riser, or from the invert level of the overflow pipe, to the appropriate point given in National Construction Code. The minimum height between the top of the overflow yard gully riser, or the invert of the overflow pipe, and the surrounding ground surface level must be 75mm, except where the gully riser is located in a path or a paved area where it must be finished at a level so as to prevent the ponding and ingress of water into the drainage system.

49. Rainwater Facility

Water stored in the tank must be plumbed into the dwelling such that it is supplied to each of the fixtures listed in the BASIX Certificate for the property. Plumbing must be in accordance with the current edition of AS/NZS 3500 *Plumbing and Drainage*

It will be necessary to install, maintain and repair the facility so that it functions in a safe and efficient manner in accordance with the current editions of AS/NZS 3500 *Plumbing and Drainage*, the New South Wales Code of Practice Plumbing and Drainage and in accordance with the following:

- a) The tank inlet must be located a minimum of 500mm below the outlet of the eave gutter.
- b) The tank is to be installed on a firm flat and stable platform in accordance with manufacturer's recommendations. Tanks located over fill material should be placed on a concrete slab.
- c) Pumps must be located and installed to minimize any potential noise nuisance to surrounding residents, and in the case of a permanent electric pump, must be installed by a licensed electrician. Pump performance must achieve a minimum 300 Kpa output.
- d) Overflow from the tank must be directed into the approved storm water system.

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- e) Any town water top-up of the tank must be by indirect connection by means of a visible “air gap”, external to the rainwater tank, in accordance with the provisions of the National Plumbing and Drainage Code, *AS/NZS 3500 Plumbing and Drainage* – Minimum air gap requirements.
- f) Marking and labelling of rainwater services must be in accordance with AS 1345 – Identification of the contents of pipes, conduits and ducts, including distribution pipes, rainwater pipes and tank outlets.
- g) The charged line to the above ground rainwater tank is to have a flush point installed at the lowest reduced level (RL) into a 450mm x 450mm pit to enable the line to be flushed. This is to prevent the line becoming blocked.
- h) For subsurface or semi subsurface rainwater tanks, the property owner is required to have a non-testable vented dual check valve backflow prevention device installed at the boundary water meter. The backflow prevention device must be installed by a licensed plumber in accordance with *AS/NZS 3500 Plumbing and Drainage*.

50. **Stormwater**

Stormwater runoff from all buildings and structures are to be disposed of via an onsite absorption/infiltration disposal system must be design and installed with the National Construction Code. The absorption trench is to comply with the following:

- a) Runoff from all buildings and structures will be directed to an onsite absorption/infiltration disposal system. Any absorption system must be a minimum distance of 3 metres to any building on the lot or adjacent lots.
- b) Collection, diversion and disposal of stormwater will not result in surface water being concentrated onto adjoining property either above or below ground.
- c) Stormwater will be captured in rainwater tank(s), pipes and/or pits and the like and overland flows will be equivalent to predevelopment overland flows.
- d) trench(s) will have sufficient capacity to store the inflow of a one in three months average recurrence interval design storm, with an emptying time of less than 24 hours.
- e) The design of the trench must include a documented maintenance program, copies of which are to be submitted to Council in hardcopy and PDF format with the design plans for the onsite stormwater disposal system.
- f) The trench is not to require excavation beneath the drip-line of any trees to be retained unless approved by a qualified arborist certifying that such excavation will not affect the longevity of the subject tree(s).
- g) Trench design must include a documented maintenance program, copies of which are to be submitted to Council for approval in hardcopy and PDF format with the design plans for the onsite stormwater disposal system.

PART K: REASONS FOR CONDITIONS

The application has been assessed as required by section 4.15 of the *Environmental Planning and Assessment Act 1979* and has been determined by the granting of conditional development consent.

Statutory requirements

The development proposal, subject to the recommended conditions, is consistent with:

- a) the objects of the Environmental Planning and Assessment Act, 1979.

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- b) the aims, objectives and provisions of the applicable environmental planning instruments,
- c) the aims, objectives and provisions of Shoalhaven Development Control Plan 2014 (SDCP 2014).
- d) the aims, objectives and provisions of relevant Council policies.

Public notification

The application was publicly notified in accordance with the *Environmental Planning and Assessment Regulation 2000* and Council's Community Consultation Policy for Development Applications (Including Subdivision) and the Formulation of Development Guidelines and Policies (POL 16/230).

Submissions

Any submissions received during the public notification period are available on [DA Tracking](#)

Community views

Issues and concerns raised by the community in submissions have been considered in the assessment of the application and, where appropriate, conditions have been included in the determination to mitigate any impacts.

Suitability of the Site

The application has been approved because the development proposal is considered to be suitable for the site.

The relevant public authorities and the water supply authority have been consulted and their requirements met, or arrangements made for the provision of services to the satisfaction of those authorities.

The increased demand for public amenities and services attributable to the development has been addressed by the requirement to pay contributions in accordance with section 7.11 of the *Environmental Planning and Assessment Act 1979* and Council's Contribution Plan 2019. Contributions under Section 307 of the Water Management Act 2000 have been applied as required.

Impacts of the Development

The application was considered to be suitable for approval. Conditions have been imposed to ensure that:

- a) the development will not result in unacceptable adverse impacts on the natural and built environments.
- b) the amenity and character of land adjoining and in the locality of the development is protected.
- c) any potential adverse environmental, social or economic impacts of the development are minimised.
- d) all traffic, car parking and access arrangements for the development will be satisfactory.
- e) the development does not conflict with the public interest.

PART L: RIGHTS OF REVIEW AND APPEAL

Determination under Environmental Planning and Assessment Act, 1979

Division 8.2 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination a right to request the council to review its determination. The request and determination of the review must be undertaken within the prescribed period.

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Division 8.3 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised within the prescribed period.

An appeal under Division 8.3 of the EP&A Act, 1979 by an objector may be made only within the prescribed period.

Review of Modification Decision

An application for a review under section 8.3 of the Act is to be made within the prescribed period.

Approvals under Local Government Act, 1993

Section 100 of the Local Government Act, 1993 provides that an applicant may request Council to review its determination of an application.

Section 176 of the Local Government Act, 1993 provides that an applicant who is dissatisfied with the determination of the Council may appeal to the Land and Environment Court. The appeal must be made within the prescribed period.

PART M: GENERAL ADVICE

In this consent the term developer means any person or corporation who carries out the development pursuant to that consent.

Disability Discrimination Act 1992

This application has been assessed in accordance with the *Environmental Planning & Assessment Act, 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS1428.1 - "Design for Access and Mobility".

Disclaimer –Conveyancing Act 1919 – Division 4 – Restrictions on the Use of Land

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

Under Clause 1.9A of *Shoalhaven Local Environmental Plan 2014* agreements, covenants or instruments that restrict the carrying out of the proposed development do not apply to the extent necessary to enable the carrying out of that development, other than where the interests of a public authority is involved.

DBYD Enquiry - 'Dial Before You Dig'

In order to avoid risk to life and property it is advisable that an enquiry be made with "Dial Before You Dig" on 1100 or www.dialbeforeyoudig.com.au prior to any excavation works taking place to ascertain the location of underground services. You must also contact your Local Authority for locations of Water and Sewer Mains.

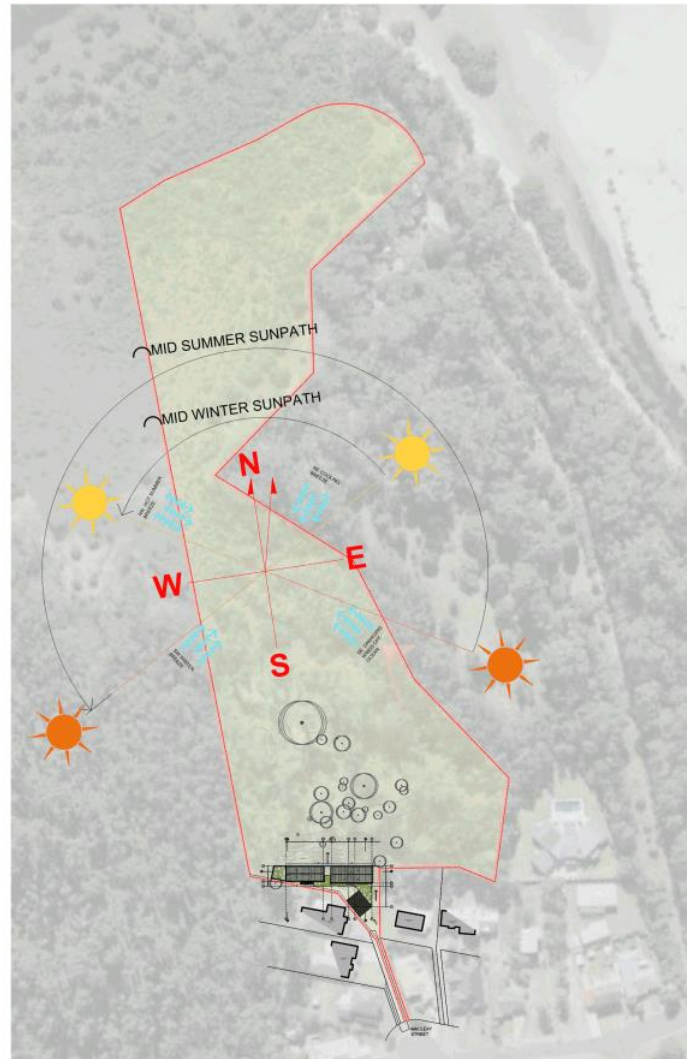
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SIGNED on behalf of Shoalhaven City Council:

Choose an item.

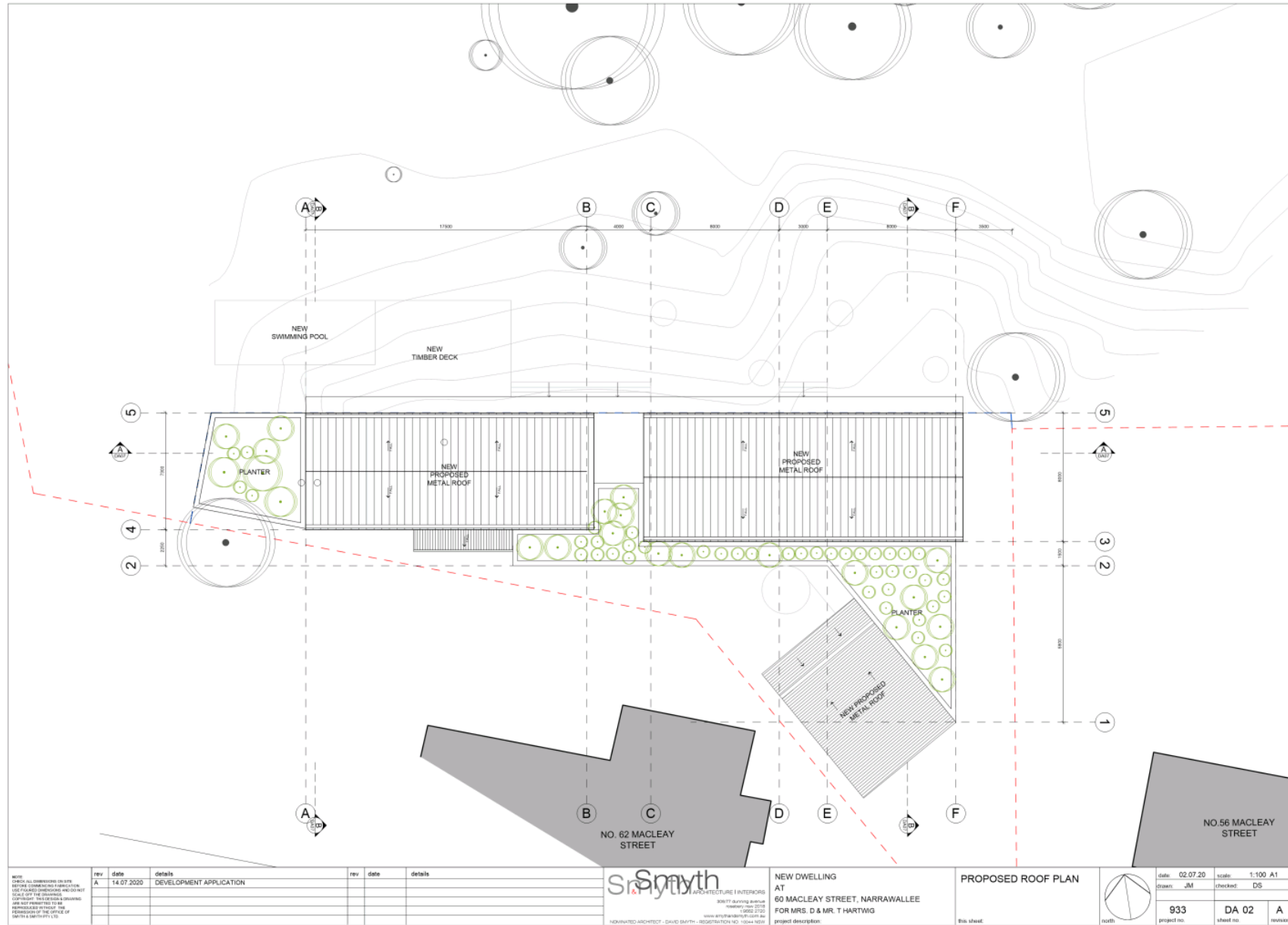
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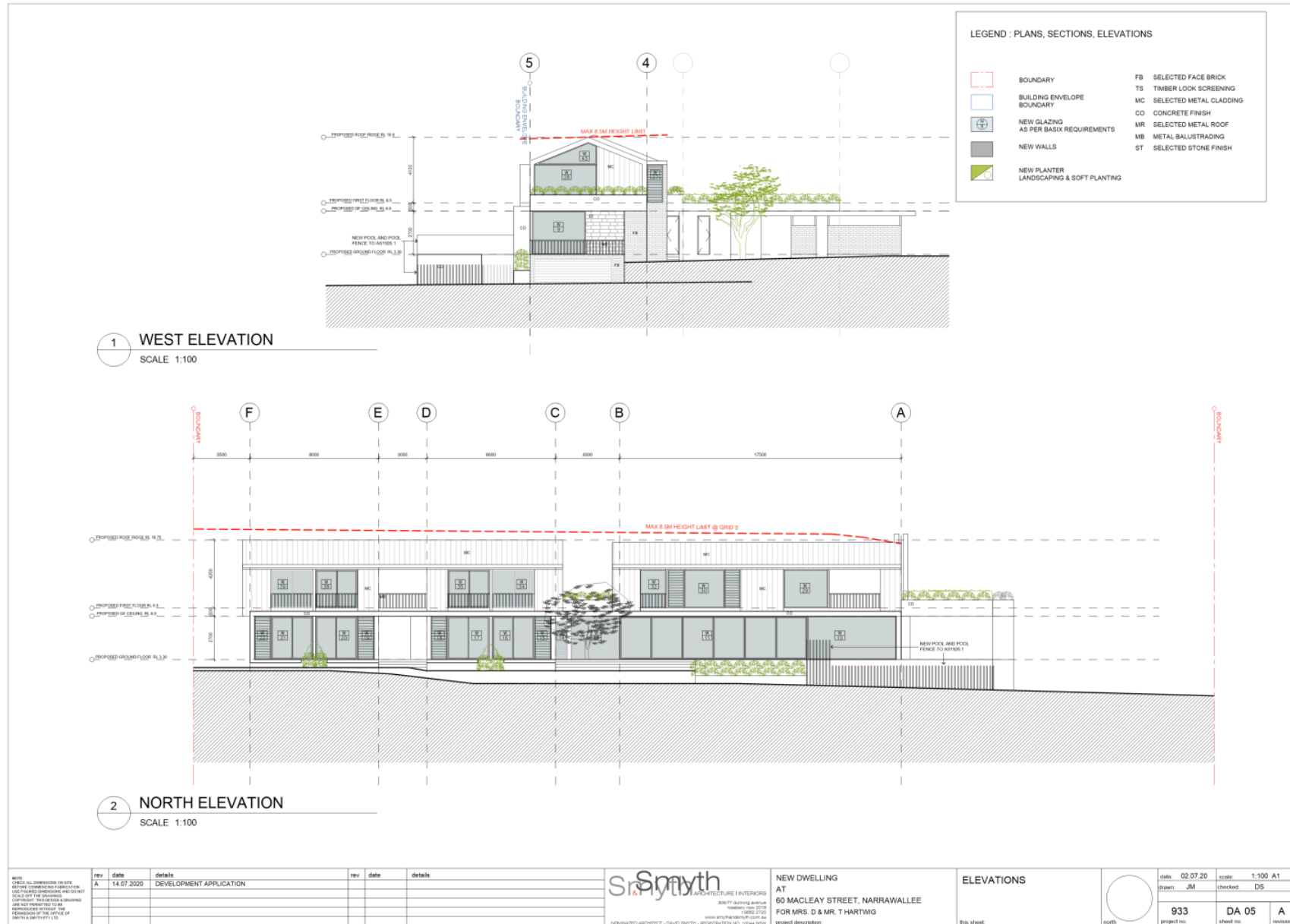
Planning, Environment & Development Group



1 SITE PLAN
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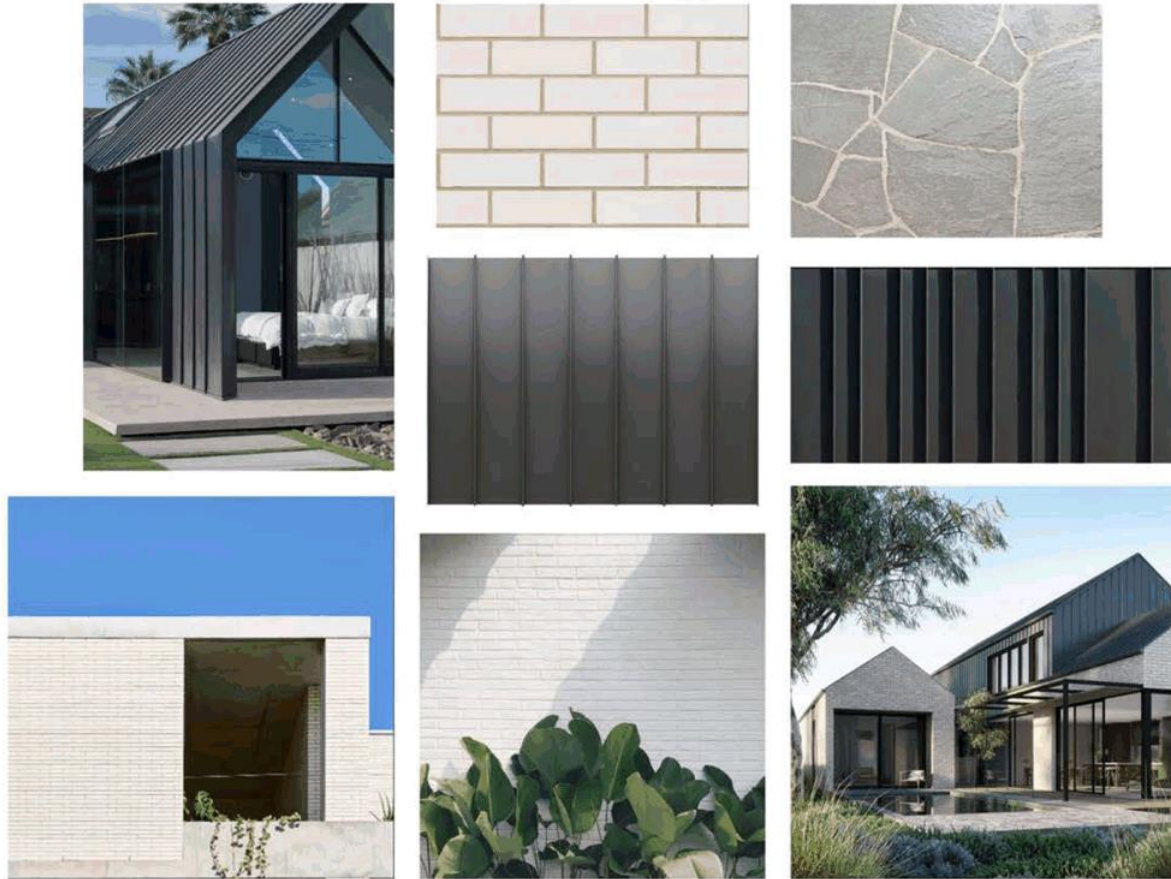
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<p>NEW DWELLING AT 60 MACLEAY ST NARRAWALLEE FOR MRS D & MR T HARTWIG</p> <p>project description:</p>			
<p>SCHEDULE OF COLOURS AND FINISHES</p> <p>sheet contents:</p>			
<p>date: July 20 scale: NTS drawn: JM checked: DS</p>			
<p>933 DA 10 A project no. sheet no. revision</p>			