

Development & Environment Committee

Meeting Date: Tuesday, 05 October, 2021

Location: Teams Meeting

Attachments (Under Separate Cover)

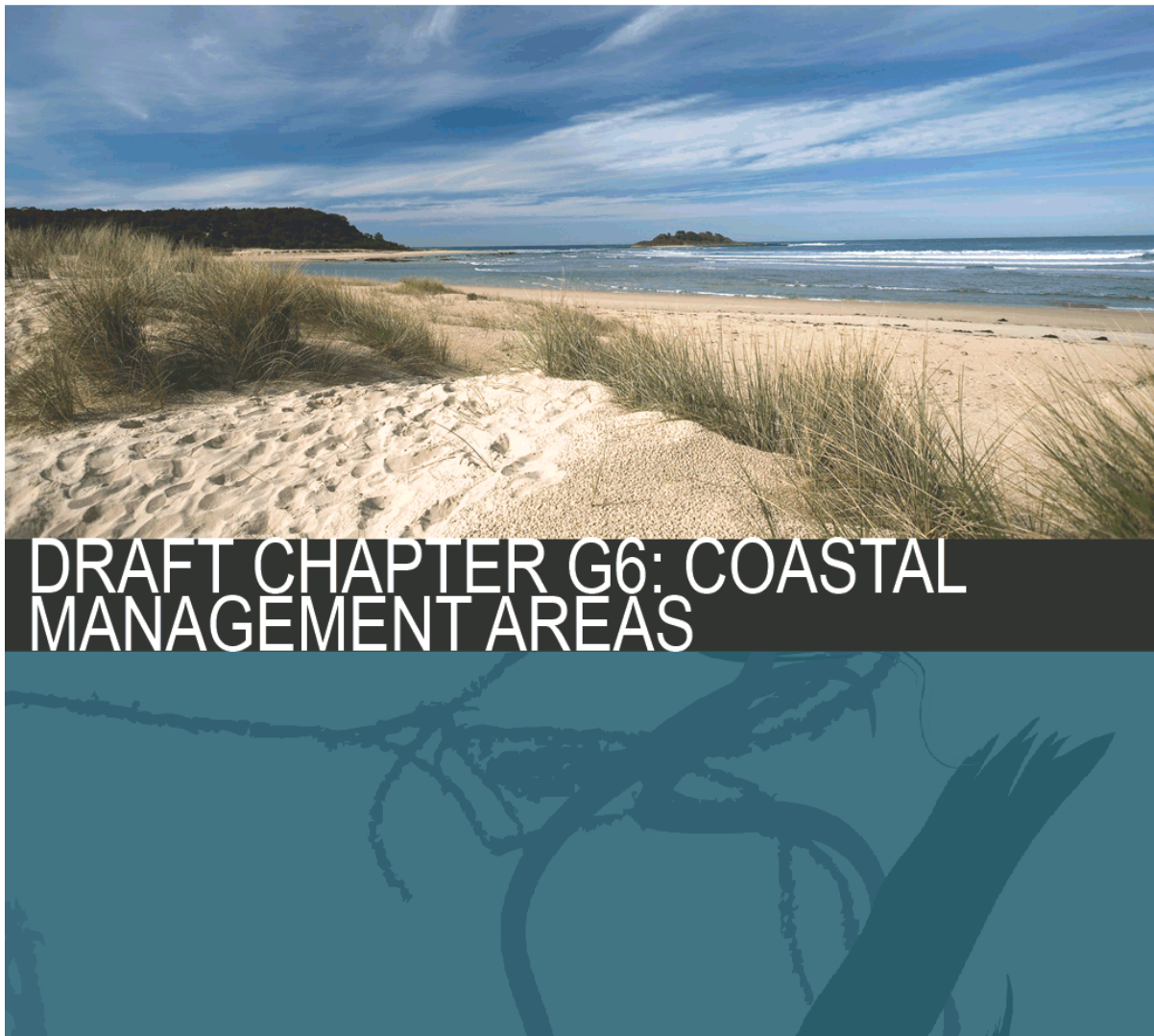
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NOTE: This Chapter should not be read in isolation. You may need to consider other chapters of this DCP when preparing your application.



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Table of Changes

Section	Category	Recommended Change	Reason
3 Context	Editorial	Update Council's website hyperlink to current 'Coastal & Estuary Management Planning' webpage.	To improve useability.
5.1.1	Addition	Insert new provision that requires new development seaward of the 2050 ZRFC to be supported by a coastal engineering report.	To ensure that the coastal hazard risk is properly addressed and mitigated for these developments
5.2.6	Editorial	Update Council's website hyperlink to current 'Native Species Lists' webpage.	To improve useability.
5.2.7	Addition	Insert new acceptable solution that addresses drop edge beams and limited use of retaining walls.	Applications are currently being received which see retaining walls upwards of 1.5m located on the boundary which results in a retaining wall and fence 3.3m high.

DE21.112 - Attachment 1

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Chapter G6: Coastal Management Areas

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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	7 November 2016	30 November 2016	Amendment
4	5 November 2019	27 November 2019	Amendment
5			Draft

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1 Purpose

The purpose of this Chapter is to provide guidelines for areas of coastal management throughout Shoalhaven. This Chapter specifically addresses:

- **Development** in areas of coastal hazard risk;
- **Development** in foreshore areas; and
- **Building** on sand dunes.

Advisory note:

In addition to the provisions outlined in this chapter, you must refer to the:

- Supporting documentation on [Council's website](#); and
- [Shoalhaven Coastal Hazard Interactive Mapping](#).

2 Application

This Chapter applies to areas of Shoalhaven coastline as defined in different Sections of this Chapter.

3 Context

Shoalhaven's **coastal zone** extends 165 km along the NSW south coast, from Shoalhaven Heads to North Durras. It includes over 100 beaches, bays and **headlands**, creeks, lakes and estuaries.

Shoalhaven coastal towns are situated to capture coastal **views** and access to the coast, being located at the mouths of **coastal lakes**, on coastal dunes, and adjacent **headlands**. This pattern of settlement means that there are a number of public and private properties and assets at **risk** from **coastal hazards** such as beach erosion, shoreline recession, coastal entrance instability, sand drift, coastal inundation, storm water erosion, and slope instability; all of which may be exacerbated by climate change.

The Shoalhaven coastline has evolved over the past 120,000 years with beaches and lakes formed by landward sand movement (marine transgression) driven by sea level rise. Coastal dynamics are complicated and unpredictable and will include periods of accretion where dunes grow and where beaches widen then periods of catastrophic storm erosion leading to the whole beach receding landward.

Sand dune systems are nature's buffer strip between the sea and land and they are vital as a defence mechanism against the erosional actions of the sea and the inland drifting of sand caused by wind erosion. Wind can blow away sand from de-vegetated beach-dune systems, cause recession of the shoreline and deplete sand reserves. This and the **removal** of **vegetation** may lead to undermining of **buildings** during extreme storm events.

Human interference with sand dunes by the **removal** of **vegetation** and the construction of **roads** and houses can have a substantial effect on dunal stability. The **removal** of **vegetation** coupled with exposure to the wind can lead to the erosion of the sand dune and can undermine the foundations under **buildings**. Once this action commences, immediate

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engineering works are required to stabilise the situation to prevent possible collapse of a building. Vegetation plays a vital role in keeping sand dunes stable by holding the sand together and shielding it from the wind.

Enabling a balance between the use and protection of foreshore areas, both for the present day and future generations, is important to enabling a sustainable future for Shoalhaven's coastline.

The Shoalhaven Coastal Zone Management Plan (CZMP) 2018 outlines an adaptive management framework that seeks to:

- Manage uncertainty, incomplete data and changing coastal systems.
- Improve and refine management responses over time.
- Reduce known coastal risk.

The CZMP 2018 and further information about coastal management can be found on [Council's website](#).

Council will continue to monitor the condition of the coast and shoreline responses to major storm or extreme water level events. This will ensure that Council and local communities have the best available knowledge to evaluate, review and adapt management actions.

4 Key objectives

The objectives are to:

- i. Ensure that future development in areas of coastal management considers the risks associated with coastal processes and is sympathetic to the physical constraints.
- ii. Consider local coastal processes and hazards to avoid significant adverse impacts from these processes.
- iii. Consider ecological processes and avoid significant adverse effects on the environment.
- iv. Ensure that future development in the coastal zone considers the risks associated with local coastal hazards such as coastal erosion, shoreline recession, coastal inundation, coastal entrance migration, slope instability and stormwater erosion and their potential increase with projected Sea Level Rise.
- v. Provide correct management techniques for coastal management.
- vi. Preserve the appearance and amenity of the foreshore through consideration of the siting and design of development.

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5 Controls

5.1 Areas of coastal hazard risk

Note: This section is supplementary to Clause 7.4 Coastal Risk Planning in Shoalhaven Local Environmental Plan (LEP) 2014.

This section applies to land affected by **coastal hazard risk**. The main areas of **risk** are identified in **coastal hazard** studies and are shown on the [Shoalhaven Coastal Hazard Interactive Mapping](#).

- Known areas of beach erosion and/or oceanic inundation include:
 - Collers Beach
 - Shoalhaven Heads
 - Culburra Beach
 - Warrain Beach
 - Currarong Beach
 - Callala Beach
 - Collingwood Beach
 - Bendalong Boat Harbour Beach
 - Narrawallee Beach
 - Mollymook Beach
- Known areas of cliff/slope instability include:
 - Penguin Head
 - Plantation Point
 - Hyams Beach
 - Berrara Bluff
 - Inyadda Point
 - Narrawallee
 - Bannisters Point
 - Collers Beach Headland
 - Rennies Beach
 - Racecourse Beach
- Other areas of potential **coastal hazard risk** include:
 - Properties identified but studies not yet undertaken; and
 - Other areas subjected to **coastal hazard risk** not previously identified as high **risk** in previous **coastal hazard** studies.

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Note: If individual site investigations reveal that subsurface conditions are other than sand, the **hazard** lines can be reviewed with geotechnical and coastal engineering advice.

The specific **objectives** are to:

- i. Accommodate existing coastal processes and to avoid significant adverse impacts from those coastal processes.
- ii. Enable safe evacuation of coastal **risk** areas in an emergency.
- iii. Avoid significant adverse effects on the environment.
- iv. Ensure that future **development** in the **coastal zone** considers the **risks** associated with coastal processes such as coastal inundation, slope instability, coastal erosion and wave runup and that the resilience to such events is maximised.
- v. Guide foreshore **development** in areas of **risk** from **coastal hazards** identified in this Chapter.
- vi. Ensure minimal **risk** to **buildings**, private property, other public assets and existing natural features arising from coastal **risks** identified in this Chapter.
- vii. Ensure that the predicted impacts of climate change are recognised, reasonable **risk** management is observed and measures put in place in order to protect lives and assets.

5.1.1 Areas of beach erosion and/or oceanic inundation

The areas identified as being affected by beach erosion and/or oceanic inundation can be broken into four different levels of **risk**:

- Precinct 1 High **Risk** - Foreshore **building** exclusion areas (seaward of the 2030 zone of reduced foundation capacity (ZRFC)), where no new **development** within that part of an **allotment** of land is permitted, except for minor alterations to existing **buildings** or **structures**.
- Precinct 2 Moderate **Risk** – Restricted **development** area (landward of Precinct 1 between the 2030 and the 2100 ZRFC), where prescribed alterations to existing **buildings**, demolition and erection of new replacement **buildings** (where existing **buildings** are **lawful**) and **outbuildings**, located wholly or in part within Precinct 2, may be considered.
- Precinct 3 Low **Risk** – Sites landward of Precinct 2 (landward of 2100 ZRFC), limited restrictions.
- Precinct 4 – Sites outside of Precinct 1-3 at **risk** of oceanic inundation, below wave runup levels.

These precincts are shown by the mapped **hazard** lines on the [Shoalhaven Coastal Hazard Interactive Mapping](#).

Where **buildings** lie partly in both high **risk** and moderate **risk** areas, the controls that relate to that particular **risk** area will apply to that part of the **building** within that area. A summary of the controls for various **risk** areas is shown in **Figure 1**.

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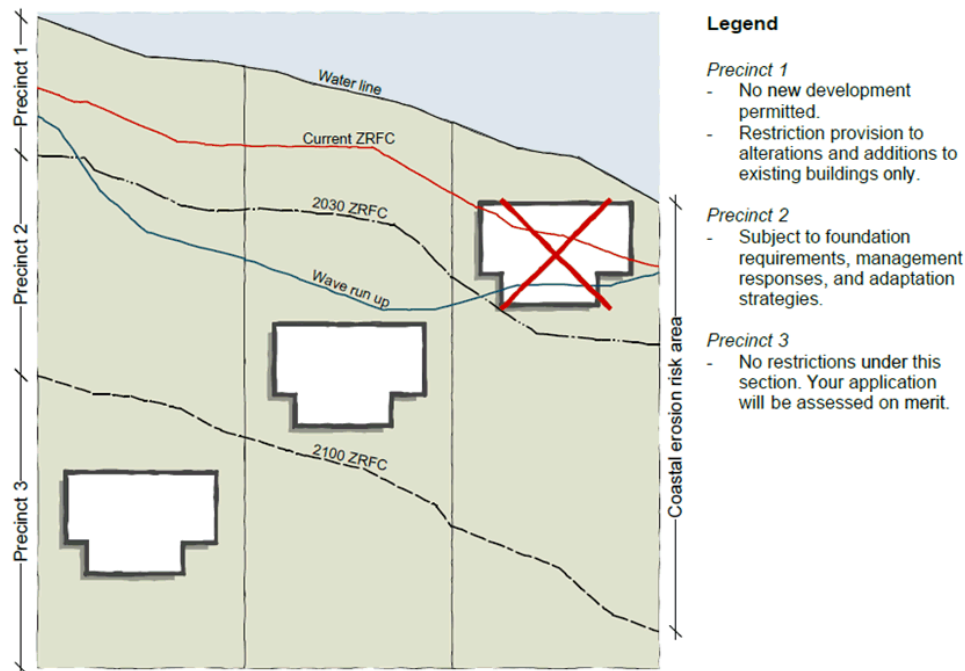


Figure 1: Summary of acceptable solutions for beach erosion and/or oceanic inundation areas

Performance Criteria	Acceptable Solutions
P1.1 Development avoids or minimises exposure to immediate coastal risks within the immediate hazard area.	Precinct 1 High Risk – Seaward of the 2030 ZRFC
P1.2 Development provides for the safety of residents, workers or other occupants on-site from risks associated with coastal processes.	A1.1 No new development is permitted.
P1.3 Development does not increase coastal risks to properties adjoining or within the locality of the site.	A1.2 Development that includes internal fit outs; and/or minor alterations; and/or additions or extensions to existing buildings or structures that are landward of the seaward alignment of existing buildings or structures (refer to Figure 2) must:
P1.4 Infrastructure, services and utilities on-site maintain their function and achieve their intended design performance.	<ul style="list-style-type: none"> • Demonstrate how the proposal meets performance criteria P1.1-P1.7.
P1.5 Development accommodates natural coastal processes including those associated with projected sea level rise.	<ul style="list-style-type: none"> • Include a coastal engineering report that has been prepared by a suitably qualified person (e.g. coastal engineer). The report is to also address the development application information requirements outlined in Section 6.1 of this Chapter.
P1.6 Coastal ecosystems are protected from development impacts.	

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Performance Criteria	Acceptable Solutions
P1.7 Existing public beach, foreshore or waterfront access and amenity is maintained.	<ul style="list-style-type: none"> Not include a net increase in floor area for that part of the building in the high-risk area of greater than 10% (refer to Figure 3) with no increase in floor area seaward of current ZRFC. <p>Note: In some circumstances it may not be possible to increase the floor area due to the specific site risks.</p>
	<p>A1.3 A management response and adaption strategy relevant to the proposal is to be submitted with the development application that addresses this Chapter's objectives and the NSW Coastal Planning Guideline: Adapting to Sea Level Rise August 2010 (eg. planned retreat, relocatable structures, lightweight materials/construction etc.).</p>
	<p>A1.4 A current condition report is to be submitted for the existing building prepared by a suitably qualified person that addresses:</p> <ul style="list-style-type: none"> The general condition of the building. The presence of any building defects associated with or due to deterioration of building members or materials or pests such as subterranean termites. Any non-compliances with current Building Code of Australia requirements, including footings, slabs, termite barriers, subfloor, walls and roof framework, structural steel, and any other structural elements such as posts or columns. <p>Note: The current condition report is to specifically address those parts of the existing building that are proposed to be retained.</p>
	<p>A1.5 Where the development is below the level of wave runup as shown on the Shoalhaven Coastal Hazard Interactive Mapping, an inundation management plan shall be provided that includes:</p> <ul style="list-style-type: none"> No new habitable floor areas below the level of wave runup.

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Performance Criteria	Acceptable Solutions
	<ul style="list-style-type: none"> No increase in the obstruction to wave runup. Wave runup hazard mitigation measures for any existing habitable floor area below wave runup level.
A1.6	<p>A development application for the purpose of public infrastructure on public land, including community facilities (e.g. surf clubs), shall:</p> <ul style="list-style-type: none"> Specify any coastal hazard protection works required. Specify the community benefit of maintaining and redeveloping the infrastructure. Include an economic assessment of the proposal in relation to the initial capital costs and the likely long-term costs of maintaining and protecting the infrastructure, considering the particular coastal hazard risks at the location.
<i>Precinct 2 Moderate Risk – Land between the 2030 and 2100 ZRFC</i>	
A1.7	<p>All new development seaward of the 2050 ZRFC must be supported by a coastal engineering report that has been prepared by a suitably qualified person (e.g. coastal engineer). The report must address the development application information requirements outlined in Section 6.1 of this Chapter.</p>
A1.8	<p>Foundations for new development are to be designed by a professional structural engineer to carry all foundation loads into the 2100 Safe Foundation Zone (SFZ) except where inappropriate due to management responses and adaption strategies incorporated into the design.</p>
A1.9	<p>All new development must be designed with a floor level above wave runup level and no obstructions to wave runup.</p>
A1.10	<p>A management response and adaption strategy relevant to the proposal is to be submitted with the development application that addresses this</p>

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Performance Criteria	Acceptable Solutions
	Chapter's objectives and the NSW Coastal Planning Guideline: Adapting to Sea Level Rise August 2010 (e.g. relocatable structures , lightweight materials /construction etc.).
	A1.11 Development applications will be assessed on their merits against the performance criteria P1.1-P1.7 for internal fit outs, minor alterations, additions or extensions to existing buildings or structures .
	Note: Additional coastal engineering studies are unlikely to be required for development landward of 2050 ZRFC. This will be at the discretion of Council .
	A1.12 A development application for the purpose of public infrastructure on public land , including community facilities (e.g. surf clubs), shall:
	A1.13 Specify any coastal hazard protection works required when the proposed infrastructure is partially or fully seaward of the 2050 ZRFC.
	A1.14 Specify the community benefit of maintaining and redeveloping the infrastructure.
	A1.15 Include an economic assessment of the proposal in relation to the initial capital costs and the likely long-term costs of maintaining and protecting the infrastructure, considering the particular coastal hazard risks at the location.
	<i>Precinct 3 Low Risk – Land beyond the 2100 ZRFC</i>
	A1.16 All development is to be designed to have all floor levels above wave runup levels and not to deflect or displace wave runup. A development application will be assessed on merit.

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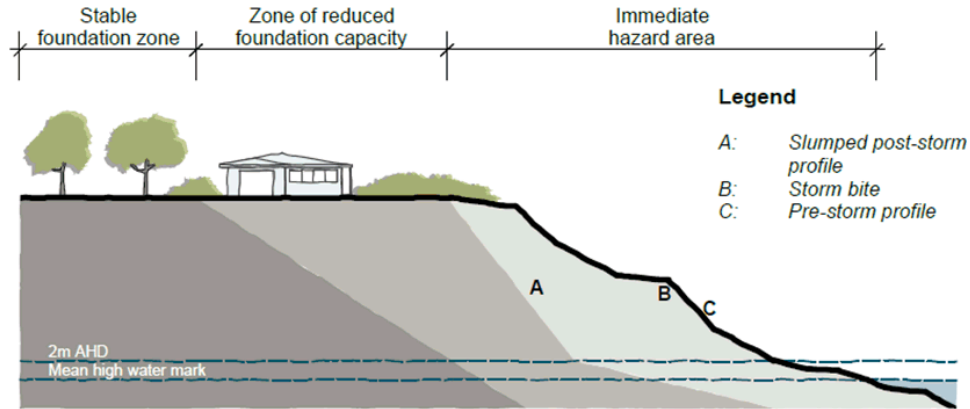


Figure 2: A typical cross-section of a sand dune
(Based on the Coastal Risk Management Guide, Department of Environment, Climate Change and Water NSW 2010)

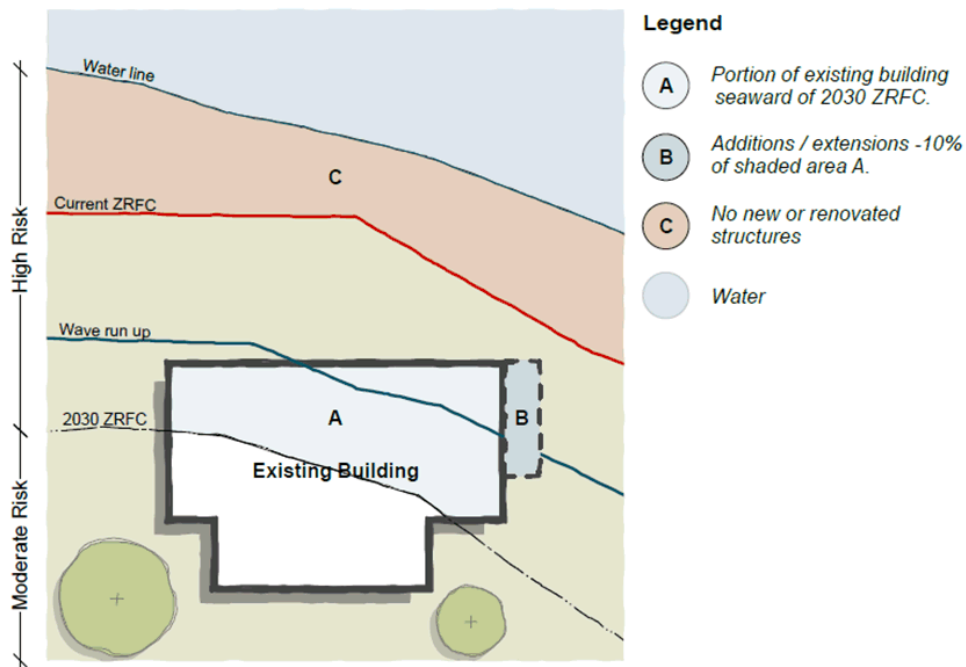


Figure 3: Plan indicating acceptable solutions area of building in high risk area

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5.1.2 Areas of cliff/slope instability

The areas identified as being affected by cliff/slope instability are identified on the [Shoalhaven Coastal Hazard Interactive Mapping](#).

Performance Criteria	Acceptable Solutions
P2.1 Development avoids or minimises exposure to immediate coastal risks within the immediate hazard area or floodway .	A2.1 A geotechnical report prepared by a professional geotechnical engineer is to be submitted with the development application. The report is to:
P2.2 Development provides for the safety of residents, workers or other occupants on-site from risks associated with coastal processes.	a. Analyse the existing site stability and the suitability of the proposed development and its likely impact on that site stability. The report is to make reference to:
P2.3 Development does not increase coastal risks to properties adjoining or within the locality of the site.	i. Shoalhaven City Council Coastal Zone Management Study and Plan – Coastal Slope Instability Hazard Study Final Report (SMEC August 2008); and
P2.4 Infrastructure, services and utilities on-site maintain their function and achieve their intended design performance.	ii. Douglas Partners Report – Supplementary Geotechnical Observations Project 72051-1 July 2011; and
P2.5 Development accommodates natural coastal processes including those associated with projected sea level rise.	iii. Douglas Partners Report – Scoping Study and Stability Assessment Project 78319 – Dec 2011; and
P2.6 Coastal ecosystems are protected from development impacts.	iv. Douglas Partners Report – Surfer Avenue/Bannister Head Road/Tallwood Avenue, Geotechnical Scoping Study and Stability Assessment; and
P2.7 Existing public beach, foreshore or waterfront access and amenity is maintained.	v. Royal Haskoning DHV Report – Shoalhaven Coastal Cliffs and Slopes Risk Management Program – 2018.
	b. Provide recommendations for engineering design of the proposal. This is to include building foundation design and stormwater drainage design and be prepared in accordance with the Guideline for Landslide Susceptibility, Hazard and Risk Zoning for Land Use Planning Accompanying Commentaries and Practice Note (Australian Geomechanics Society, 2007).

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Performance Criteria	Acceptable Solutions
	<p>A2.2 Stormwater from adjoining development shall be managed via interallotment drainage and discharged directly into a stormwater facility of Council (pit, drain, channel, pipe etc.).</p> <p>A2.3 Piping of stormwater through/over Council foreshore land to a stable location on the top of the slope will be only be considered where:</p> <ul style="list-style-type: none"> • The proposed development will not result in an increase in geotechnical risk; and • Other options for stormwater disposal have been exhausted (e.g. charged system, use of stormwater pump); and • The applicant is able to demonstrate that the discharge of collected stormwater from their property through the community land will not compromise the core objectives of the plan of management applying to the land. <div style="background-color: #f0f0f0; padding: 10px; margin-top: 10px;"> <p>Note:</p> <ul style="list-style-type: none"> • For additional information, refer to Council's Generic Community Lands Plan of Management – Natural Areas and Foreshore Reserves Policy. • Council may require that stormwater arrangements be maintained as a condition of consent. </div>

5.1.3 Other areas of potential coastal hazard risk

Note: Other areas of potential coastal hazard risk are those areas which may be at **risk** of coastal hazards but are outside of those areas that have been studied and therefore included on the [Shoalhaven Coastal Hazard Interactive Mapping](#). An example would be a **headland** in a non-urban zone.

If the site is located in an area of potential **coastal hazard risk**, a site specific **coastal hazard** study and/ or **geotechnical report** must be carried out to identify the **coastal hazard risks** and to enable the relevant development standards of this Section to be applied.

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Performance Criteria	Acceptable Solutions
P3.1 Development avoids or minimises exposure to immediate coastal risks within the immediate hazard area or floodway .	A3.1 A site specific coastal hazard study and/or geotechnical report is to be submitted with a development application that: <ul style="list-style-type: none"> Identifies the coastal hazard risks. Addresses performance criteria P3.1-P3.7 for assessment based on merit.
P3.2 Development provides for the safety of residents, workers or other occupants on-site from risks associated with coastal processes.	
P3.3 Development does not increase coastal risks to properties adjoining or within the locality of the site.	A3.2 Stormwater from adjoining development shall be managed via interallotment drainage and discharged directly into a stormwater facility of Council (pit, drain, channel, pipe etc.).
P3.4 Infrastructure, services and utilities on-site maintain their function and achieve their intended design performance.	
P3.5 Development accommodates natural coastal processes including those associated with projected sea level rise.	A3.3 Piping of stormwater through/over Council foreshore land to a stable location on the top of the slope will only be considered where: <ul style="list-style-type: none"> The proposed development will not result in an increase in geotechnical risk. Other options for stormwater disposal have been exhausted (e.g. charged system, use of stormwater pump). The applicant is able to demonstrate that the discharge of collected stormwater from their property through the community land will not compromise the core objectives of the plan of management applying to the land.
P3.6 Coastal ecosystems are protected from development impacts.	
P3.7 Existing public beach, foreshore or waterfront access and amenity is maintained.	
Note: <ul style="list-style-type: none"> For additional information, refer to Council's Generic Community Lands Plan of Management – Natural Areas and Foreshore Reserves Policy. Council may require, as a condition of consent, that stormwater arrangements are to be maintained. 	

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5.2 Development in Foreshore Areas

This section applies to all **development** located on land that is the first lot back from a **waterfront**, including lots on the landward side of an unformed road (**Figure 4**).

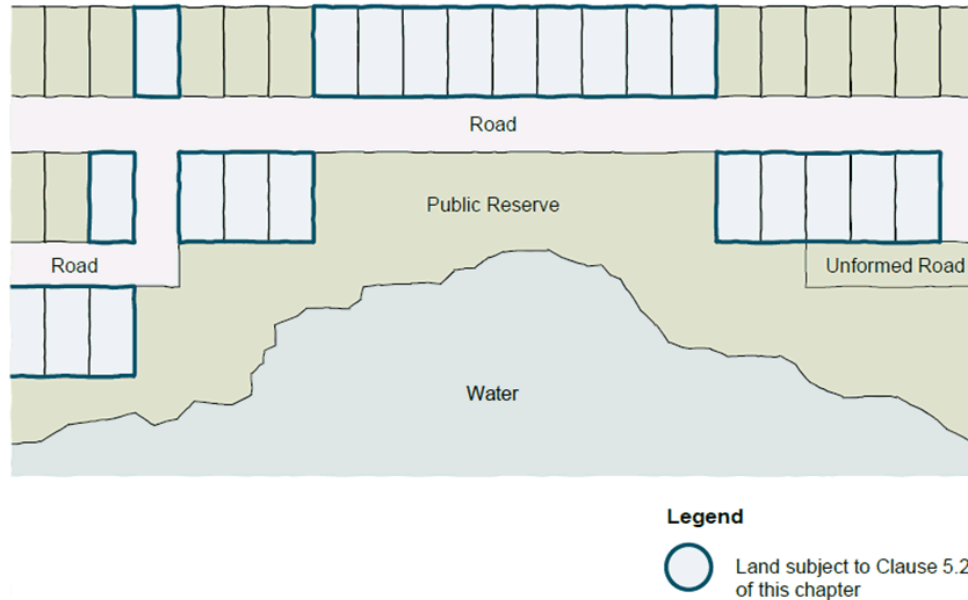


Figure 4: Example of land where Section 5.2 applies

The specific **objectives** are to:

- i. Preserve the appearance and amenity of the foreshore, including solar access, through the careful consideration of siting, height, bulk and **scale**.
- ii. Ensure that **development** is sympathetic to the physical constraints encountered along foreshore areas.
- iii. Encourage innovative design which reflects the need to preserve the amenity of foreshore areas, whilst having due regard to the physical constraints encountered in these areas.
- iv. Set appropriate environmental criteria for **development** in foreshore areas.
- v. Provide a comprehensive design-oriented approach to **development** in foreshore areas.
- vi. Achieve a site layout that provides a pleasant, attractive, manageable and resource efficient living environment.
- vii. Encourage **development** that considers the environmental attributes of a subject site.
- viii. Ensure that **development** integrates with the landscape.
- ix. Encourage the use of **building** materials and colours that complement the natural landscape and foreshore environment.

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- x. Ensure that materials are suitable to withstand coastal weather conditions.
- xi. Preserve, where possible, **trees** and **vegetation** along foreshore areas.
- xii. Minimise excessive **clearing of vegetation** along foreshore areas.
- xiii. Provide essential stability and **groundcover** to highly erodible and unstable soils.
- xiv. Improve the appearance of **development** in foreshore areas through landscape works.

5.2.1 Site Planning and Layout

Performance Criteria	Acceptable Solutions
P4.1 The site layout integrates with the surrounding environment through buildings , streetscape and landscape design relating to topography and to the surrounding neighbourhood character.	<p>A4.1 A detailed site plan should be prepared that addresses the issues outlined within this Chapter and reflects the site analysis plan.</p> <p>Note: Refer to Chapter G1: Site Analysis, Sustainable Design and Building Materials in Rural, Coastal and Environmental Areas for information on the preparation of a site analysis plan.</p>
P4.2 The site layout takes into account on-site features identified by the site analysis.	
P4.3 Where proposed, dwelling s are sited and designed to maximise solar access to living areas .	

5.2.2 Building Envelope and Siting

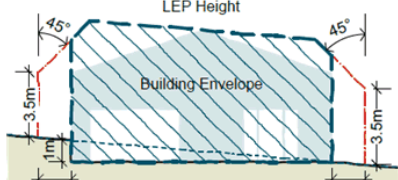
Performance Criteria	Acceptable Solutions
<p>P5.1 Buildings are located, and are of such length, bulk and height, that there is no significant loss of amenity to foreshore areas, and adjoining development. This can be achieved through:</p> <ul style="list-style-type: none"> • Building siting and height that are related to land form, with minimal cut and fill. • Building bulk that is low profile and generally distributed to reduce impact on foreshore areas, adjoining properties and the public road. 	<p>A5.1 Buildings are sited within a building envelope determined by the following method: planes are projected at 45 degrees from a height of 3.5m above ground level (existing) at the front, side and rear boundary. See Figure 5.</p> 

Figure 5: Building envelope

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<ul style="list-style-type: none"> • Building heights similar to those in the public streetscape, with higher components of buildings setback, and out of direct view from the street and foreshore area. • Building forms that enable a sharing of views with neighbours. • Walls, limited in length and height, to minimise the impacts on foreshore areas, adjoining development and public road. 	<p>Note:</p> <ol style="list-style-type: none"> 1. Exemptions to building envelope encroachments include gutter, fascias, downpipes, eaves up to 0.6m, aerials and masonry chimneys. 2. For site slopes greater than 10%, or involving cut, fill or site excavations, the ground level (existing) and proposed building levels must be clearly identified on the plans and verified by a registered surveyor.
<p>P5.2 To make provision for innovative design, as well as giving consideration to difficulties that may arise in connection with steeply sloping properties, buildings only encroach outside of the general building envelope where it is demonstrated that the proposal will not adversely affect the visual amenity of the area in general.</p>	<p>A5.2 Where there is mature tree cover on or adjacent to the site, no structure shall be higher than the tree canopy.</p> <p>A5.3 Despite A5.1, variations will be considered where minimum floor levels are required in flood prone land. Where such levels may necessitate two storey construction or elevated construction, consideration will still be required to be given to issues of privacy, overshadowing, and visual impact.</p>
<p>P5.3 The proposed development does not adversely impact on adjoining development and has regard to privacy, overshadowing and/or solar access.</p>	<p>A5.4 Any proposed two storey building will require the following additional detail:</p> <ul style="list-style-type: none"> • A visual analysis, including a photographic assessment, that outlines how the proposal will not be visually prominent from the foreshore, or adversely affect the visual amenity of the locality.
<p>P5.4 The development does not result in the overshadowing of beaches or adjacent waterfront reserves.</p>	<ul style="list-style-type: none"> • Details outlining how the proposal will not adversely affect the privacy of adjoining development. • Details, including a shadow diagram, outlining that excessive overshadowing is not likely to occur as a result of the proposal. In this regard, it would be expected that living areas as well as useable open space areas of neighbouring dwellings receive at least 3 hours of direct sunlight between 9am and 3pm on June 21. <p>Note: Where a two storey building is proposed, it is recommended that preliminary consultation is undertaken with Council. Applicants are urged also to consult with adjoining land owners likely to be affected by their proposal prior to lodging a development application with Council. Such</p>

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consultation will allow the concerns of affected parties to be taken into account during the design process and may thereby minimise the delays in the processing of the application.

5.2.3 Side Setbacks

The provisions in this subsection do not apply to foreshore blocks that are located on the landward side of a **road** that is opposite a **waterfront** reserve, as shown in **Figure 6**, the exception being lots landward side of an unformed road.

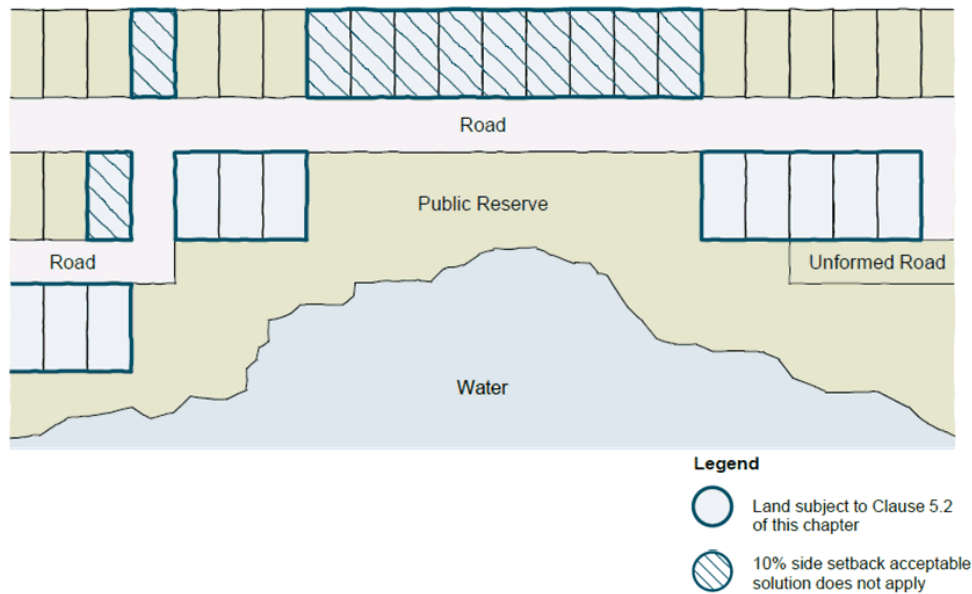


Figure 6: Example of land where side setback controls do not apply

Performance Criteria	Acceptable Solutions
P6.1 Buildings are located and are of a width that provides opportunities for intermittent views from the public road through to the water.	A6.1 The building is to be sited to provide one minimum side setback equivalent to 10% of the width of the allotment , and up to a maximum of 3.5m in any case (Refer to Figure 7).

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Performance Criteria	Acceptable Solutions
	<p>Note: In cases where allotments are irregular in shape and the width varies, the width of the allotment for the purposes of calculating the side setback is the average width of the allotment over the length of the building.</p> <p>A6.2 Where possible, side setbacks should be provided along a side boundary with an adjoining building which has a similar corresponding side setback, so as to maximise the view corridor. This side setback is not to be built out with any structure.</p>

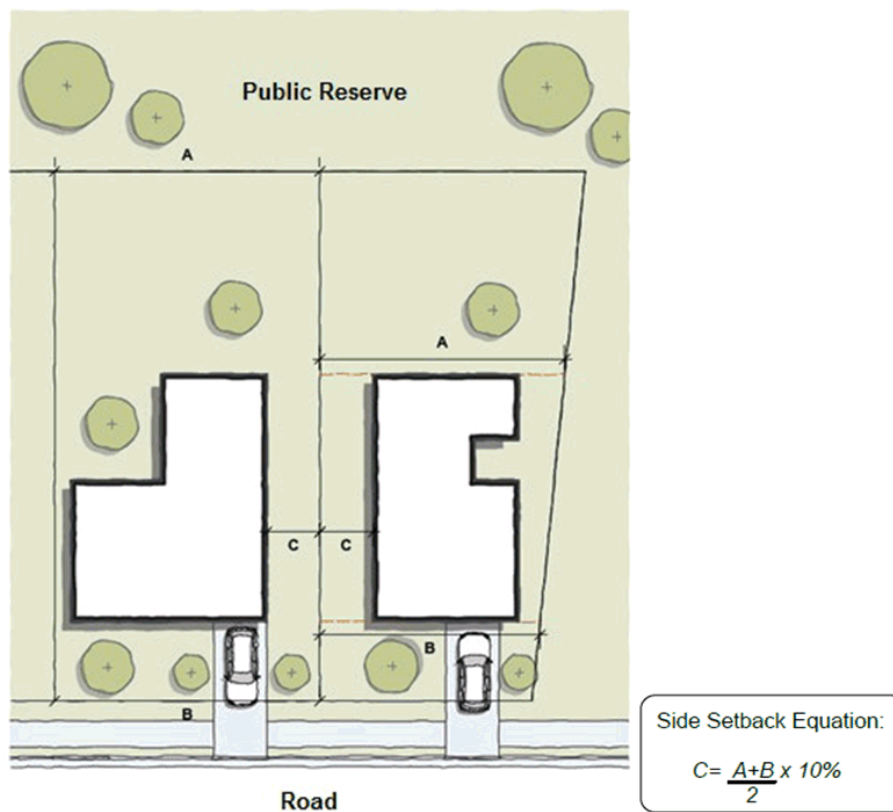


Figure 7: Side setback calculation

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5.2.4 Building Materials

Performance Criteria	Acceptable Solutions
P7.1 All materials and colours used are appropriate to the local landscape.	A7.1 Details of the intended materials and colours to be used for a proposed development shall be submitted with the development application.
P7.2 Where development is located in essentially native bushland situations, consideration is given to utilising materials and colours that reflect the characteristics of the native vegetation that surround the development site.	<p>Note: Highly reflective materials are not acceptable in most situations.</p>
P7.3 Materials are salt tolerant.	A7.2 In locations with a high quality natural landscape value, structures should not strongly contrast with the background, whether by location, colour or choice of materials.

5.2.5 Trees and Vegetation

Note:

- Refer to Chapter G1: Site Analysis, Sustainable Design and Building Materials in Rural, Coastal and Environmental Areas and Chapter G4: Tree and Vegetation Management for more information on site analysis and **tree** management.
- No clearing of the site is to be undertaken until such time as plans and specifications have been approved.

Performance Criteria	Acceptable Solutions
P8.1 Development is sited in a manner which minimises the removal of trees and native vegetation on the site.	A8.1 Details are to be provided with any development application outlining existing vegetation on the site, and indicating what vegetation will be removed and retained
P8.2 No vegetation located on public land is damaged, disturbed or removed.	A8.2 Measures including the use of fencing should be utilised for the protection of vegetation during construction phase.
P8.3 All vegetation that is classified as marine vegetation in Part 7 of the <i>Fisheries Management Act 1994</i> is protected in its natural state.	

5.2.6 Landscaping

Note: The controls in this section are in addition to those detailed in the following Chapters:

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- Chapter G3: Landscaping Design Guidelines;
- Chapter G4: Tree and Vegetation Management; and
- Chapter G5: Threatened Species Impact Assessment.

Performance Criteria	Acceptable Solutions
P9.1 Exotic species of vegetation are limited to feature trees or shrubs within a native setting.	A9.1 A concept landscape plan shall be submitted with the development application, particularly where it is proposed to develop sites which have been undeveloped and consist largely of native bushland foreshore vegetation .
P9.2 Access to public land by members of the public is preserved.	<p>Note: Council has prepared suitable Shoalhaven Tree Species Lists for the various towns and villages within Shoalhaven. Advice regarding these lists is available from Council.</p> <p>A9.2 Following construction, any exposed areas must be stabilised by the use of ground covering plants or mulches to minimise the effects of erosion. This information shall be included on the concept landscape plan.</p> <p>A9.3 All work associated with a proposal are to be confined on private property.</p> <p>A9.4 Access to public foreshore reserves by the public is not to be restricted by the extension of landscaping, or other works, onto public land from private property.</p>

5.2.7 Site Stability, Excavation and Soil and Water Management

Note: The controls in this Section are in addition to those outlined in Chapter G2: Sustainable Stormwater Management and Erosion/Sediment Control and Chapter G26: Acid Sulfate Soils and Geotechnical (Site Stability) Guidelines of this DCP.

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Performance Criteria	Acceptable Solutions
P10.1 Development is designed to utilise construction techniques that reflect the slope of the land and does not introduce measures that require excessive disturbance to the natural slope of a site.	A10.1 Maximum cut and fill permitted for a site is 1m. Details of cut and fill must be provided as part of the development application, indicating how cut and fill areas will be stabilised. Refer to Figure 8 .
P10.2 Development is designed and constructed to reflect specific geotechnical difficulties that may exist in an area.	A10.2 Excavated fill or other material is not to be placed or fall onto adjoining lands.
P10.3 Measures are utilised, both during and after construction, to control erosion and sedimentation of local water courses and drainage systems.	A10.3 Buildings and structures must be constructed with a site responsive design that incorporates: <ul style="list-style-type: none"> • Drop edge beams (where required) – retaining soil within the footprint of the dwelling. • Limited retaining walls located on the site boundaries.
	A10.4 All stormwater quality controls are to be contained within the development site, and discharge is not to be concentrated onto adjoining lands.

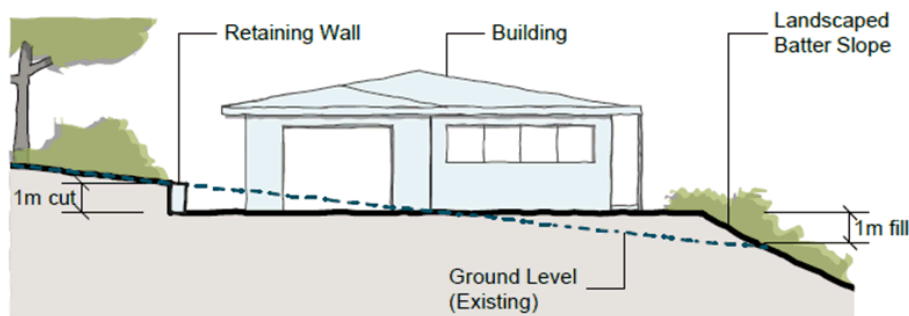


Figure 8: Cut and fill

5.3 Building on Sand Dunes

This Section applies to all land on a sand dune area where **development** is permissible with development **consent**.

The specific **objectives** are to:

- Make people aware of the problems and **risks** associated with sand dunes.
- Outline the importance of sand dune systems to the coastal environment.

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- iii. Provide details for the placement of houses on sand dunes.
- iv. Detail the correct management techniques for the short and long-term stability of sand dune systems.

5.3.1 General

Performance Criteria	Acceptable Solutions
P11.1 Development has a minimal effect on the dune and adjoining properties.	A11.1 Bare dune areas should be replanted with recommended species and other vegetation that is not appropriate (bitou bush, asparagus fern, lantana etc) should be gradually removed.
P11.2 Areas of dunal vegetation are protected and replanted.	<p>Note: Refer to the NSW Coastal Dune Management Manual for correct techniques for revegetation and stabilisation of dunes</p> <p>This work should only be done in consultation with Council's Environmental Services Section and the NSW Office of Environment and Heritage.</p> <p>A11.2 Buildings should be sited in an area which will have minimal effect on the dune and adjoining properties. Sufficient space should be left between the building and the dividing boundary to allow vegetation to assist in stabilising the dune.</p> <p>A11.3 Batters should not exceed 1:4.</p> <p>A11.4 Reshaping of dunes is not permitted unless you have obtained approval from Council and the NSW Office of Environment and Heritage.</p> <p>Note: Only pathways set aside by Council should be used for access to the beach. Additional access points should not be cut into the dune as this will destabilise the dune and cause sand to drift inland.</p> <p>Reshaping dunes can lead to an increased risk of coastal inundation from wave runup.</p> <p>A11.5 Access roads should be kept to an absolute minimum and access ways should be shared where practical.</p>

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Performance Criteria	Acceptable Solutions
	A11.6 New and innovative building designs which may be more compatible with the topography and risk should be considered in the design of new buildings/structures .
	Note: Buildings using pole or demountable construction are suggested.

5.3.2 Species Recommended for Planting on Sand Dunes

The **vegetation** between **development** and the beach (usually within a reserve) is particularly vital for dune stabilisation and care should be taken not to disturb this area. Replanting of bare areas on the dune is recommended for dune stability and habitat protection.

Council recommends the following species when planting or replanting a sand dune area.

Table 1: Recommended species for planting or replanting

Primary (Plant First)	Secondary Planting (Plant Second)	Tertiary Planting (Plant Last)
<i>Carpobrotus glaucescens</i> (Pig Face)	<i>Acacia longifolia</i> subsp. <i>Longifolia</i> (Sydney Golden Wattle)	<i>Casuarina glauca</i> (Casuarina)
<i>Dianella caerulea</i> (Native Lily)	<i>Correa alba</i> (White Correa)	<i>Leptospermum leavigatum</i> (Coastal Tea Tree)
<i>Ficinia nodosa</i> (Knobby Club Rush)	<i>Acacia longifolia</i> subsp. <i>sophorae</i> (Coastal Wattle)	<i>Banksia integrifolia</i> (Coastal Banksia)
<i>Lomandra longifolia</i> (Spiny Matt Rush)	<i>Myoporum acuminatum</i> (Boobialla)	<i>Glochidion ferdinandi</i> (Cheese Tree)
<i>Spinifex sericus</i> (Spinifix Grass)	<i>Rhagodia candolleana</i> (Seablite)	<i>Eucalyptus botryoides</i> (Southern Mahogany)

6 Advisory Information

6.1 Development Application requirements

In addition to application requirements outlined throughout this Chapter, an application for **development** in a **coastal hazard** area must also show that:

- The proposal meets the **objectives** of this Chapter; and

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- Complies with the *NSW Coastal Planning Guideline: Adapting to Sea Level Rise* August 2010.

Applications for **development** in areas of **coastal hazard** must show that the proposal satisfies the relevant **performance criteria** in this Chapter. In order to do so, the following information is to be submitted with the development application, as part of the Statement of Environmental Effects, as appropriate to the **scale** and location of the proposal:

1. Information outlining the type of proposed **development** including:
 - Nature, bulk, **scale** and location of proposed **development**.
 - Proposed use and occupation of **buildings**, and those on adjoining land.
2. Plans illustrating the position and configuration of the proposed **development** in relation to coastal **risks** including:
 - Position of the 2100, 2050 and 2030 ZRFC lines and wave run-up lines in relation to the property boundaries prepared by a registered Land Surveyor.
 - Position of the existing and proposed **buildings**.
 - Existing ground levels related to **Australian Height Datum (AHD)** around the perimeter of the **building**.
 - Existing or proposed floor levels related to **AHD**.
 - Foundation type.
 - Topographic levels of the site to an accuracy of 0.1m, and **structures** to an accuracy of 0.01m, showing relative levels related to **AHD**.
3. A report on the following **hazards** (if relevant) at the site and their potential increase in the future due to projected sea level rise:
 - Projected increase in sea level rise and its influence (if any) on the local tidal range.
 - Soft coast erosion – beach and fore dune loss and/or migration, shoreline recession, beach realignment.
 - Coastal **flooding**.
 - Coastal entrance behaviour.
 - Reconfiguration of intermittently open and closed lakes and lagoons.
 - Cliff and slope instability.
 - Ground water elevation and/or salinisation.

The report should also demonstrate whether the **development** proposal:

- Is consistent with the relevant coastline or **flood risk management plan**;
- Is consistent with any relevant section of this plan that relates to coastal or **flood** issues;
- Meets the coastal protection and **flood risk** management requirements of Shoalhaven LEP 2014; and
- Incorporates appropriate management responses and adaptation strategies.

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6.2 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

Council Planning Studies, Policies & Guidelines

- SMEC, August 2008, Shoalhaven City Council Coastal Slope Instability Hazard Study – Final Report
- Umwelt, August 2008, Draft Shoalhaven Coastal Zone Management Plan – Priorities for a Sustainable Shoalhaven Coastline
- SMEC, December 2007, Shoalhaven Coastal Hazard Study – Summary Report -Report No. 3001209-018
- SMEC, January 2008, Shoalhaven Coastal Hazard Study – Summary Report
- SMEC, 2003, Callala Beach Erosion Study
- Shoalhaven Coastal Zone Management Plan: Coastal Hazard Study Summary Report (July 2009)
- SMEC 2009 Coastal Hazards Maps
- Report on Scoping Study and Stability Assessment on Various Lots Surfers Ave, Tallwood Ave and Bannister Head Rd Narrawallee -Douglas Partners – 78319 January 2012
- Report on Supplementary Geotechnical Observations – Coastal Slope Instability Hazard Study Various Sites Shoalhaven City Council LGA – Douglas Partners – Project 72051-1 July 2011
- Council's adopted sea level rise position MIN15.39612
- Royal Haskoning DHV Report – Shoalhaven Coastal Cliffs and Slopes Risk Management Program – 2018
- Advisian Report – Shoalhaven Coastal Hazard Mapping Review - 2016
- Council's Generic Community Lands Plan of Management – Natural Areas and Foreshore Reserves Policy
- [Shoalhaven Tree Species Lists](#).
- Shoalhaven Coastal Zone Management Plan 2018.

External Policies & Guidelines

- NSW Coastal Planning Guidelines: Adapting to Sea Level Rise (August 2010)
- NSW Coastal Policy 2009
- Guideline for Landslide Susceptibility, Hazard and Risk Zoning for Land Use Planning Accompanying Commentaries and Practice Note (Australian Geomechanics Society, 2007)
- [NSW Coastal Dune Management Manual](#)

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Legislation

- Coastal Management Act 2016
 - Shoalhaven Local Environmental Plan 2014
 - Fisheries Management Act 1994
-

DE21.112 - Attachment 1

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 V2: BUILDING LINES



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Draft Chapter V2: Building Lines

Table of Changes

Old Section	New Section	Category	Recommended Change	Reason
Throughout		Editorial – renumbering	Update the numbering of sections and provisions following the addition, relocation and/or deletion of provisions.	To provide updated, correct numbering.
		Editorial – typographic	Minor changes to punctuation, spelling, grammar, structure, formatting and acronyms.	To correct errors and enhance readability, without altering the intent.
		Editorial	Transfer the content of a number of existing acceptable solutions to note boxes.	Content is more appropriate as a note as it is not a development standard.
			Rephrase commentary, performance and acceptable solutions.	To ensure consistency with the broader DCP approach.
			Rationalise provisions to remove duplication and redundant information / terminology.	
			Change the font colour of terms defined in the DCP Dictionary to green and LEP Dictionary terms to blue. Ensure consistency in identification of terms.	To indicate the location of a defined term and check for thoroughness and consistency.
Section 1	Section 1	Addition	Where there are objectives, add "The objectives are to:"	For consistency with the broader DCP approach.
			Expand note box to specifically identify the supporting maps.	To provide greater clarification for readers.
Section 4	Section 1	Relocation/ Amendment	Relocate third paragraph from Section 4 to the note box, change "Residential Accommodation Chapters" to "generic chapters" and make other changes to wording to outline the procedure if there is an inconsistency between this Chapter and a Generic Chapter in the DCP.	The paragraph better relates to this section and amendments provide clarification for readers.
Section 3	Section 3, Section 5.2	Amendment	Consolidate objectives iv-vii and move objectives iii and viii-xi to Section 5.2.	To enhance readability and to relocate objectives that relate to specific sections.
Section 5.1	Section 5.1	Reformat	Reformat as Objectives, Performance Criteria and Acceptable Solutions. Most of	For consistency with the broader DCP approach.

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Draft Chapter V2: Building Lines

Old Section	New Section	Category	Recommended Change	Reason
			the existing content is now in the related new Table 1.	
-	Section 5.1	Addition	Include objective. Include performance criteria.	For consistency with the broader DCP approach and to enhance readability.
Section 5.4	Section 5.1	Relocation, Reformat and Addition	Relocate to prominent section, reformat as objectives (new) and mandatory control (existing 5.4(1)).	For consistency with the broader DCP approach.
Section 5.2	-	Deletion	Delete 'Mapped Building Lines' heading and first paragraph.	No longer relevant. Is a duplication of the LEP definition which is not required.
Section 5.2	Section 5.2	Relocation/ Addition	Relocate second paragraph from old section 5.2 to new note box in new section 5.3.	For consistency with the broader DCP approach and to enhance readability.
Section 5.3	Section 5.2	Reformat	Reformat as Objectives, Performance Criteria and Acceptable Solutions.	For consistency with the broader DCP approach.
Section 5.3	Section 5.3	Addition	Include new performance criteria.	For consistency with the broader DCP approach and to enhance readability.
Section 5.3	Section 5.3	Reposition/ Reformat	Relocate existing controls to acceptable solutions column.	For consistency with the broader DCP approach.
5.3	5.3	Amendment	Detail that only unlawful buildings or works will be required to be removed.	For consistency with Council's longstanding approach.
Section 5.3	-	Deletion	Delete clause 5.3 (4).	Clause 4.6 of Shoalhaven LEP 2014 does not apply to DCP provisions

Old Map	New Map	Recommended Change	Reason
Throughout		Update Supporting Maps to be in standard Shoalhaven DCP 2014 mapping format.	Provides consistency across the broader Shoalhaven DCP 2014 Chapters.
		Use of different colours to differentiate between building lines.	Improves clarity and enhances user readability.
		Highlight land affected by the building line (i.e. land not to be developed on).	Clearly presents the land affected by the building line and enhances user readability.
		Update the names of the building lines to include descriptive words (i.e. references to 'Foreshore Building Line,' 'Eastern	Enhances user interpretation and readability.

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Draft Chapter V2: Building Lines

Old Map	New Map	Recommended Change	Reason
		Building Line' and building lines specific to streets.	
Currarong Map 1	-	Remove Map.	The building line was originally intended to provide visual protection. A number of complying development approvals have been issued that do not adhere to the building line. The building line can no longer be reinforced.
Greenwell Point Map 1	Greenwell Point Map 1	Reduce Building Line affecting lots between Lot 14 Sec G DP 24386 and Lot 3 DP 55629 from 15.24m to a 7.5m Foreshore Building Line.	The majority of approved development on the subject land has been built to less than the stipulated 15.24m. Reducing the building line to reflect the development will not detrimentally affect the intent of the building line.
Kangaroo Valley Map 2	-	Remove Map.	The map details a Building Envelope, which is not the purpose of the building line map. MIN03.409 details the variation of the Section 88B Restriction and the SF7469 file details the location of the building envelope for future development.
Kangaroo Valley Map 3	Kangaroo Valley Map 2	Rename Kangaroo Valley Map 3 to Kangaroo Valley Map 2.	Existing Kangaroo Valley Map 2 is to be removed, renaming Map 3 to Map 2 will improve consistency and useability.
Ulladulla Map 1	-	Remove Map.	Shoalhaven DCP 2014 Chapter S8: Ulladulla Town Centre details a more appropriate building line for the subject land, that provides further protection of Millards Creek and is more appropriate to the context. Removing the subject map will eliminate duplication/confusion.

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Draft Chapter V2: Building Lines

Draft Chapter V2: Buildings Lines

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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			Draft

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Draft Chapter V2: Building Lines

1 Purpose

The purpose of this Chapter is to provide controls for various **building lines** to specify the distance a **building** must be set back from property boundaries (front, side and rear) and other features, such as **building lines** along main **roads** and foreshore **building lines**.

Advisory Note: In addition to the provisions outlined in this Chapter, you must refer to Supporting Map 1: Building Lines:

The **building lines** in this Chapter and any other area specific chapter in the **Shoalhaven DCP 2014** will prevail over any building lines in a generic Chapter, to the extent of the inconsistency.

2 Application

This Chapter applies to various areas across the Shoalhaven that are identified on the supporting maps or as otherwise specified.

3 Objectives

The **objectives** are to:

- i. Identify **Council's building lines** for **development**.
- ii. Require areas around **buildings** for environmental improvement and protection.
- iii. Ensure new **development**:
 - Is functional and attractive;
 - Relates to its setting and prevailing environmental conditions;
 - Contributes positively to the quality and character of its locality; and
 - Takes into account the impact on adjoining and nearby **development**.

4 Context

Building lines form an important element of building and urban design. The siting of **buildings** relative to each other, the public domain and natural features affect issues of health (**solar access** and ventilation), safety, privacy, noise amelioration, views, streetscape, provision of services, retention of **vegetation** and the protection of sensitive areas such as wetlands, lakes and foreshores.

The **building lines** referred to in this Chapter and/or identified on the supporting maps are generated from **Council's** previous **Shoalhaven Local Environmental Plan 1985** and **Council** resolutions/policies.

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Draft Chapter V2: Building Lines

5 Controls

5.1 Building Lines Generally

The specific **objective** is to:

- i. Ensure **development** is appropriately sited with regard to landscape, built form and environmental considerations.

Mandatory Controls

1. The siting and construction of **buildings** must comply with the **building lines** identified on the supporting maps.

5.2 Buildings Lines Along Main Roads

The **development** controls in this Section relate to any **allotment** of land in certain rural and environmental zones.

The specific **objective** is to:

- i. Provide **setback** controls to minimise adverse impacts on the streetscape and rural/environmental setting, including the preservation of visual amenity when viewed from the public domain.

Performance Criteria	Acceptable Solutions
P1 Setbacks for development with a frontage to a main road is appropriate for the type of development proposed and preserves the amenity of the rural and environmental area.	A1.1 Setbacks shall comply with the provisions in Table 1 , where the site is located in the following zones and has frontage to a main road: <ul style="list-style-type: none"> • RU1 Primary Production. • RU2 Rural Landscape. • E2 Environmental Conservation. • E3 Environmental Management.

Table 1: Setbacks along main roads

Land use	Setback	
	Main road > 40m in width (Setback measured to nearest road alignment)	Main road < 40m in width (Setback measured from the centreline of the road)
Caravan Park	90m	110m
Hotel or motel	45m	65m
Rural or extractive industry	30m	50m
Any other	20m	40m

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5.3 Foreshore building lines

The **development** controls in this Section relate to any **allotment** of land which is identified as having a 'building line' as indicated on the supporting maps.

The specific **objectives** are to:

- i. Control the visual impact of **buildings** and other **structures** on waterfront and public reserve areas.
- ii. Preserve and enhance the natural features and **vegetation** of the area near where land meets water.
- iii. Restore the land below the foreshore **building line**, so far as practicable, to a natural state, with a minimum intrusion of artificial structures.
- iv. Conserve the waterfront **development** of heritage value.
- v. Avoid pollution of, or adverse ecological effects on, waterways.

Performance Criteria	Acceptable Solutions
P2 Development is sited at an appropriate distance from the foreshore.	<p>A2.1 A person must not erect a building, undertake development or carry out a work or activity on land between a foreshore building line and the tidal water in respect of which the foreshore building line is fixed.</p> <p>A2.2 Council must not consent to development on an allotment of land having a foreshore building line, unless it is satisfied that:</p> <ol style="list-style-type: none"> a) Any unlawful building or works on the allotment between the foreshore building line and the mean high water mark at the date of commencement of this provision will be removed before, or within a reasonable time after, the development is carried out, or b) It would be inconsistent with any of the objectives of this Section to require the removal of any building or works on the allotment between the foreshore building line and the mean high water mark. <p>A2.3 Despite A2.1 and A2.2 above, the following development may be considered within a foreshore building line area:</p> <ol style="list-style-type: none"> a) Single storey boat sheds.

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Performance Criteria	Acceptable Solutions
	<ul style="list-style-type: none"> b) Boat launching ramp and slipping facilities. c) Below-ground swimming pools. d) Works, including mechanical works, to enable pedestrian access. e) Landscaping. f) Barbeque facilities, including modest shade structures (no greater than 5m²). g) Jetties. h) Swimming enclosures.

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

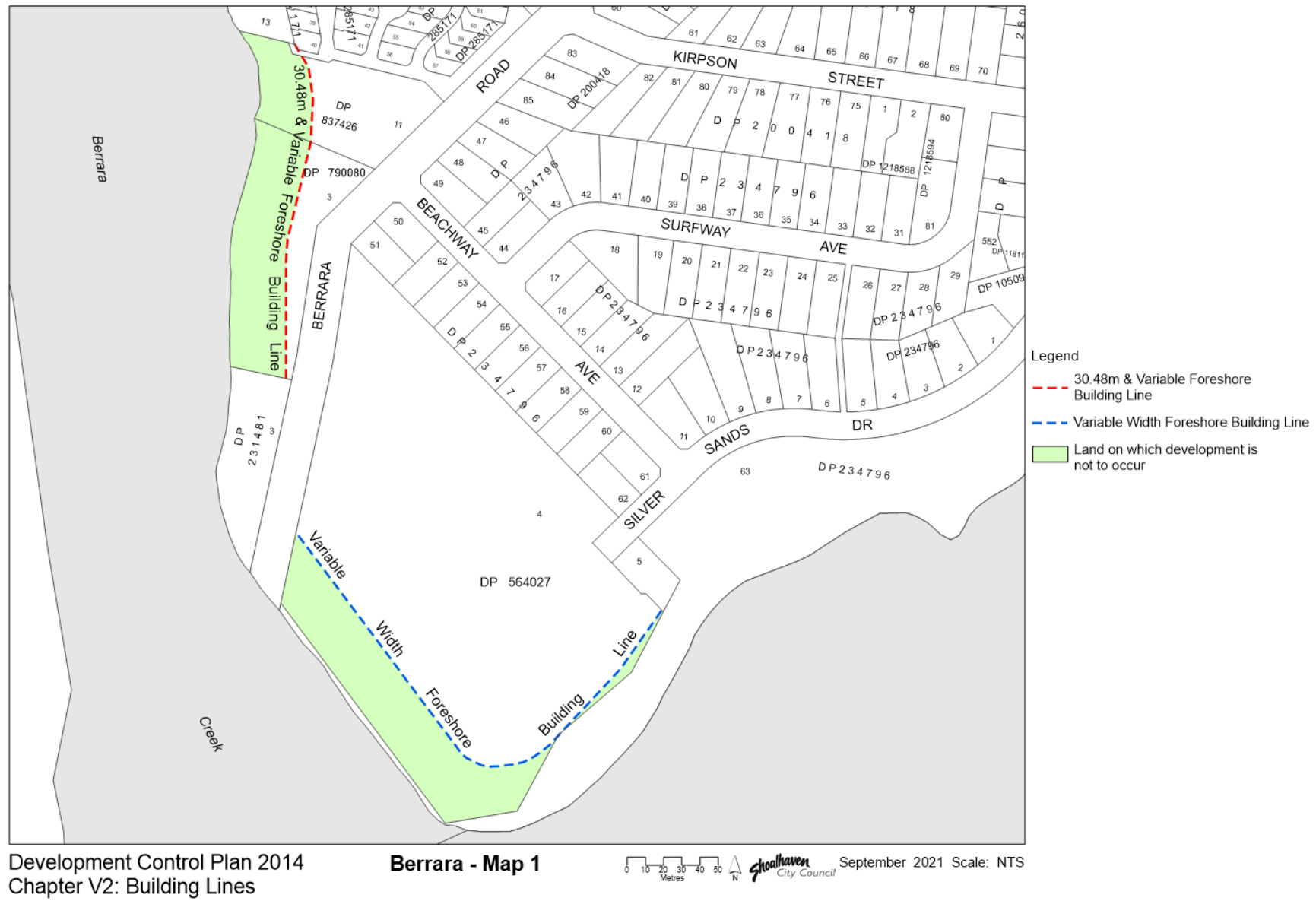
Council Policies & Guidelines	<ul style="list-style-type: none"> • Nil
External Policies & Guidelines	<ul style="list-style-type: none"> • Nil
Legislation	<ul style="list-style-type: none"> • Shoalhaven Local Environmental Plan 2014

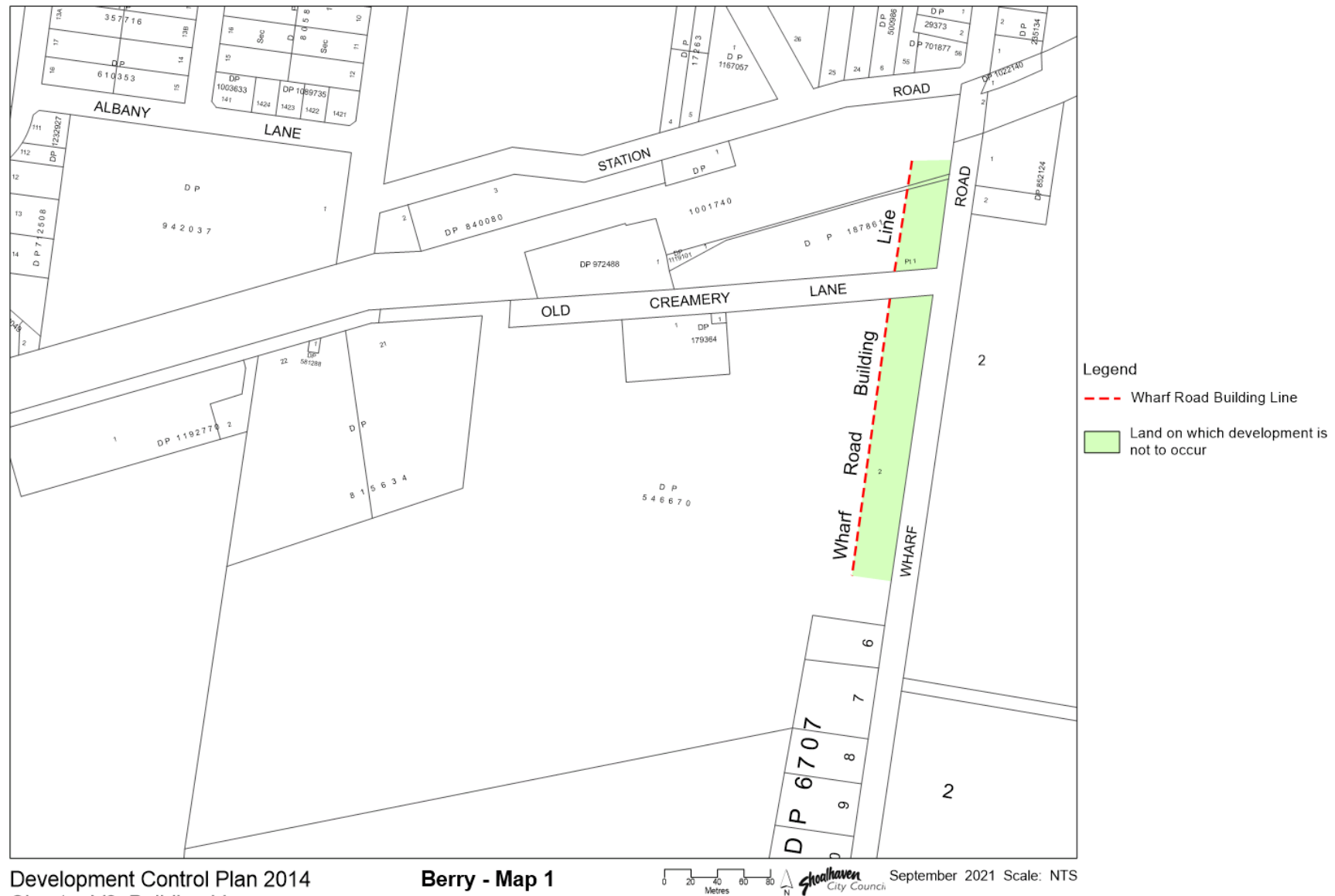


Development Control Plan 2014
Chapter V2: Building Lines

Basin View - Map 1

0 20 40 60 80 Metres
September 2021 Scale: NTS



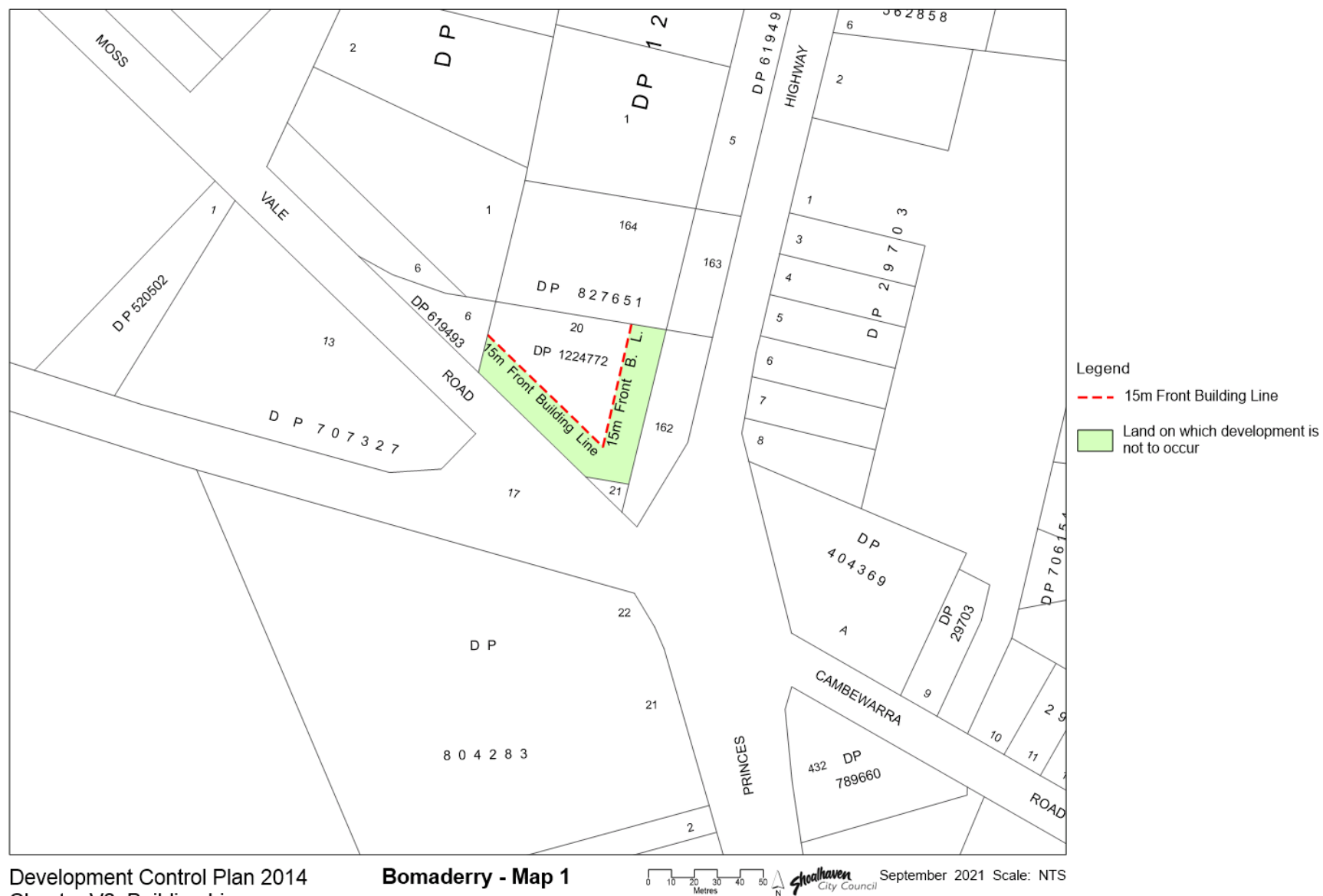


Development Control Plan 2014
Chapter V2: Building Lines

Berry - Map 1

Shoalhaven
City Council

September 2021 Scale: NTS





Development Control Plan 2014
Chapter V2: Building Lines

Bomaderry - Map 2

0 7 14 21 28 35 Metres
Shoalhaven City Council
September 2021 Scale: NTS

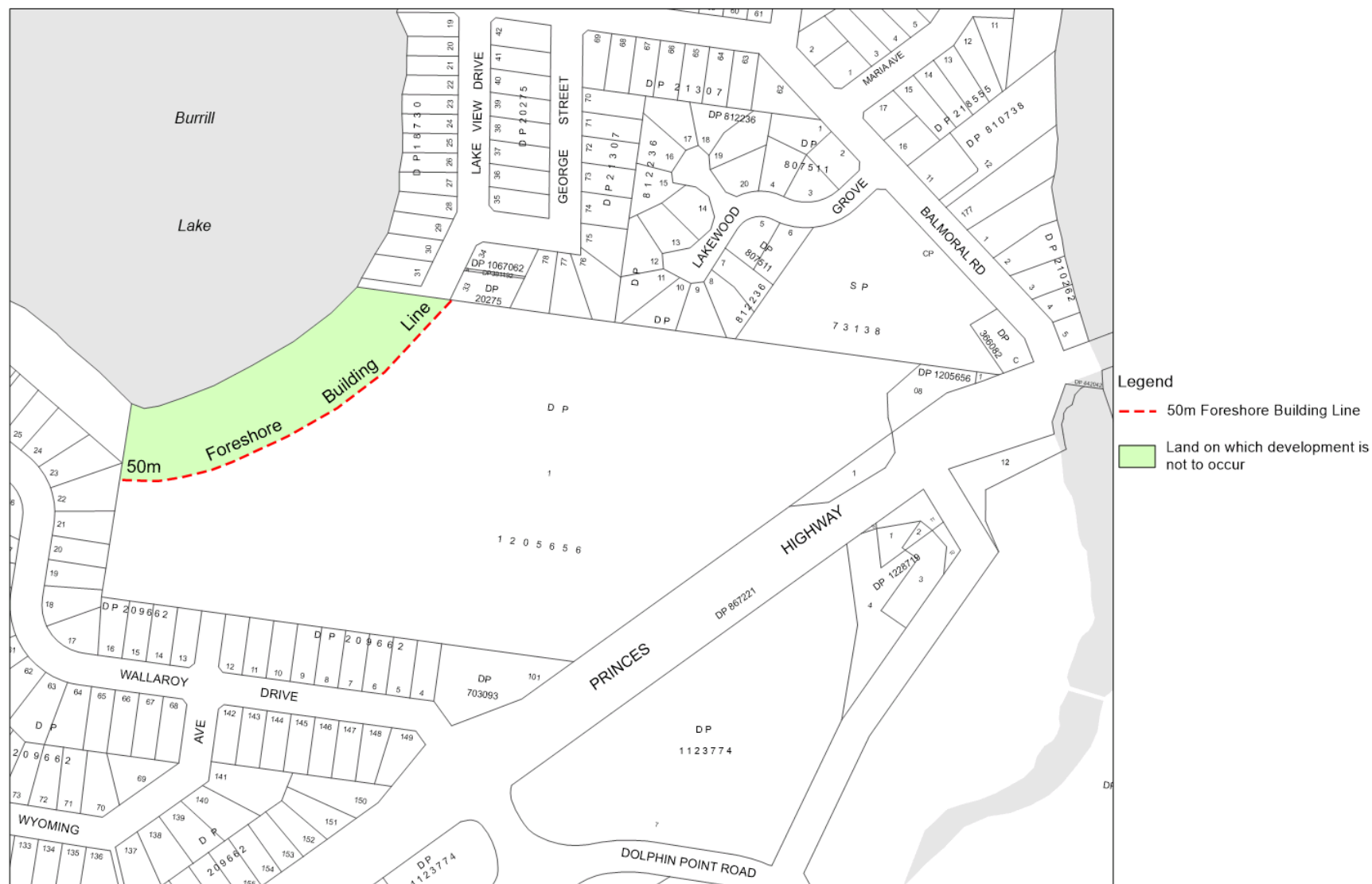


Development Control Plan 2014
Chapter V2: Building Lines

Bomaderry - Map 3

0 10 20 30 40 50 60 Metres
Shoalhaven City Council

September 2021 Scale: NTS



Development Control Plan 2014
Chapter V2: Building Lines

Burrill Lake - Map 1

0 10 20 30 40 50 60 Metres

Shoalhaven City Council

September 2021 Scale: NTS



Development Control Plan 2014
Chapter V2: Building Lines

Callala Bay - Map 1

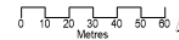
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September 2021 Scale: NTS

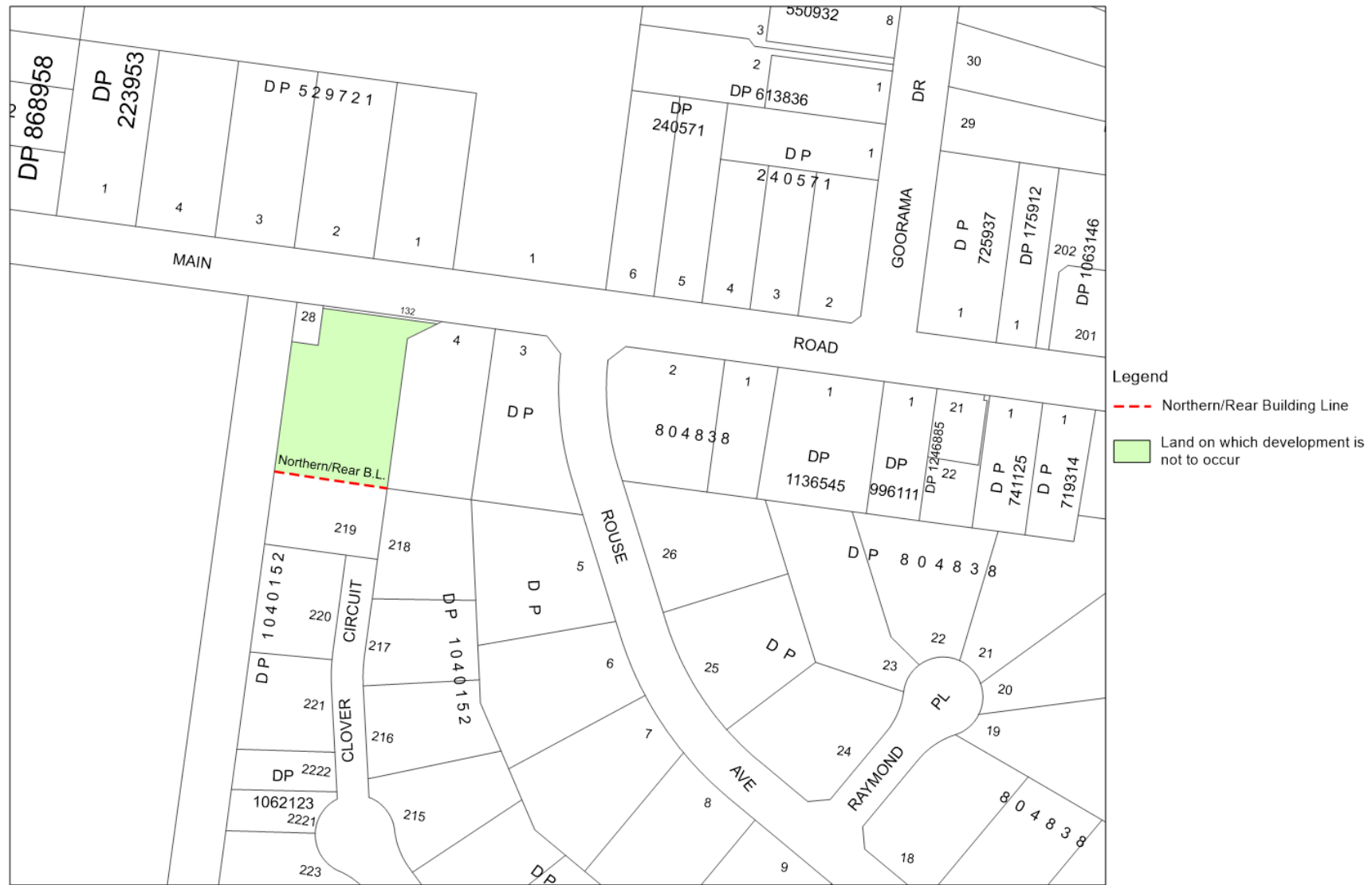


Development Control Plan 2014
Chapter V2: Building Lines

Callala Bay - Map 2

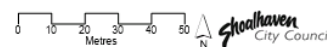


September 2021 Scale: NTS



Development Control Plan 2014
Chapter V2: Building Lines

Cambewarra - Map 1

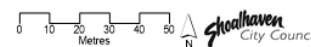


September 2021 Scale: NTS



Development Control Plan 2014
Chapter V2: Building Lines

Cambewarra - Map 2



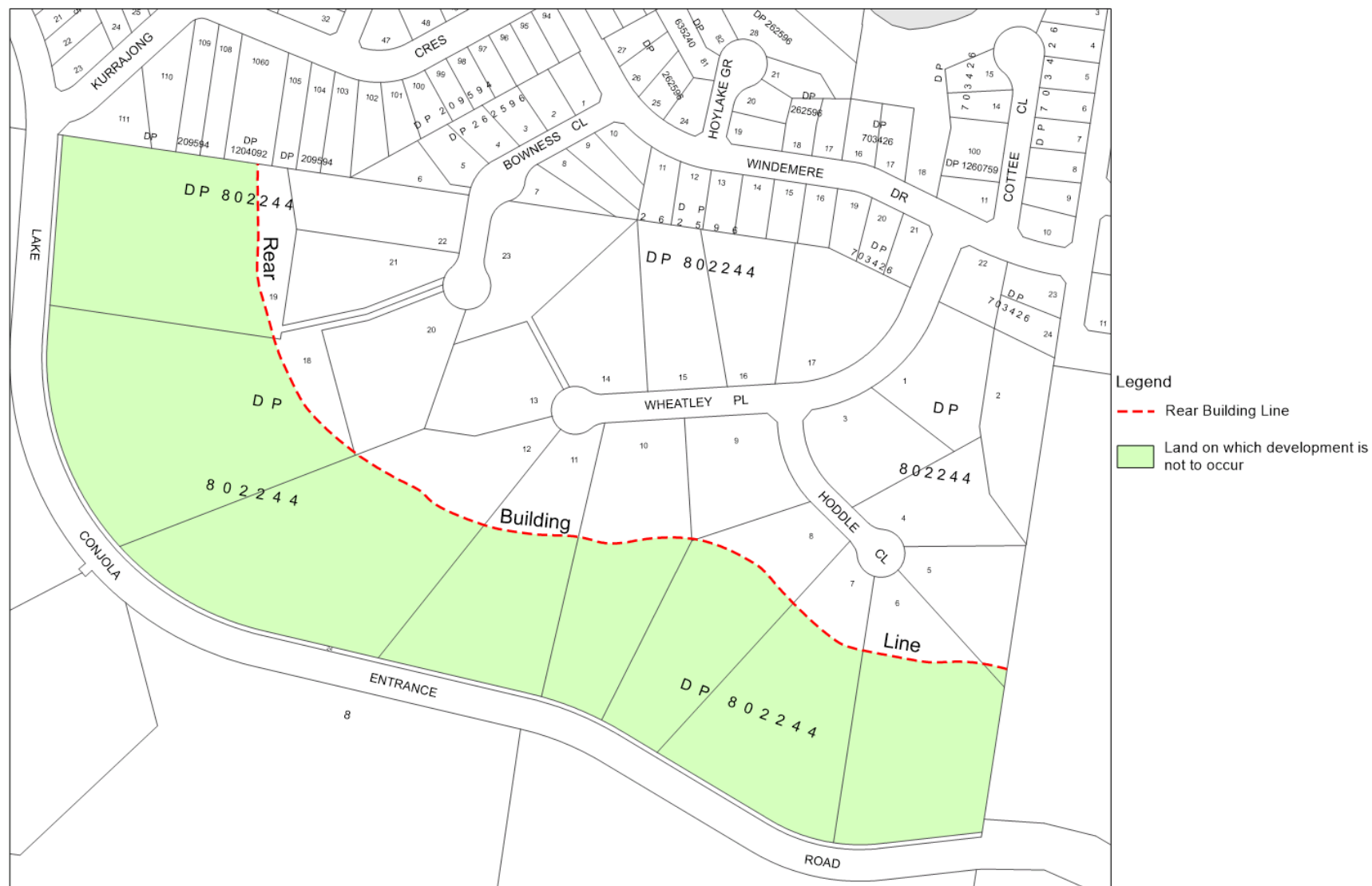
September 2021 Scale: NTS



Development Control Plan 2014
Chapter V2: Building Lines

Conjola Park &
Yatte Yattah - Map 1

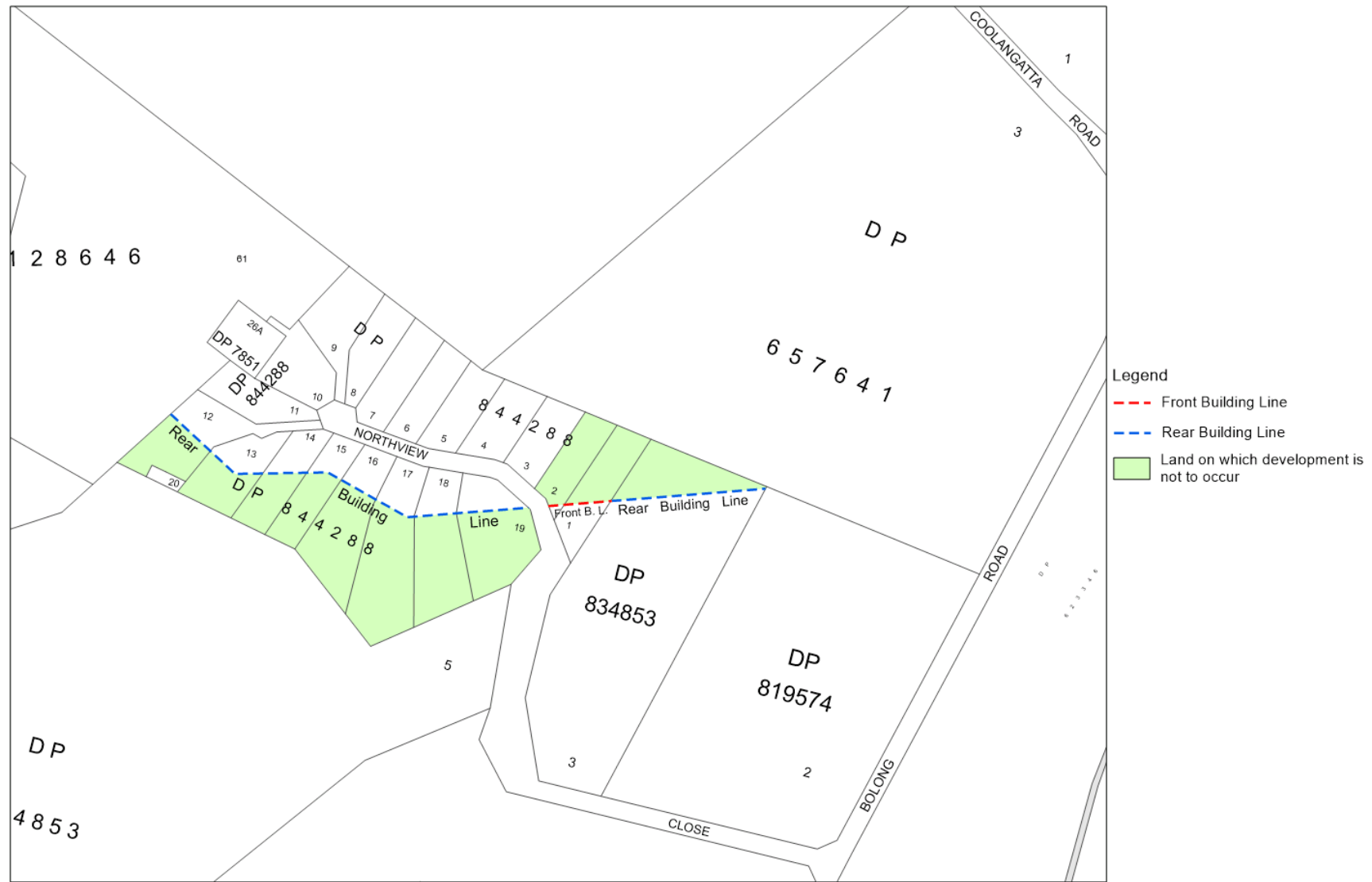
0 50 100 150 200 250 Metres
Shoalhaven City Council September 2021 Scale: NTS



Development Control Plan 2014
Chapter V2: Building Lines

Conjola Park - Map 1







Development Control Plan 2014
Chapter V2: Building Lines

Culburra Beach - Map 1

0 50 100 150 200 250
Metres



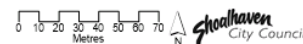
September 2021 Scale: NTS





Development Control Plan 2014
Chapter V2: Building Lines

Culburra Beach - Map 3



September 2021 Scale: NTS



Development Control Plan 2014
Chapter V2: Building Lines

Culburra Beach - Map 4

0 25 50 75 100 125 150 175
Metres

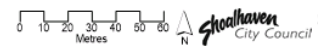
Shoalhaven
City Council

September 2021 Scale: NTS

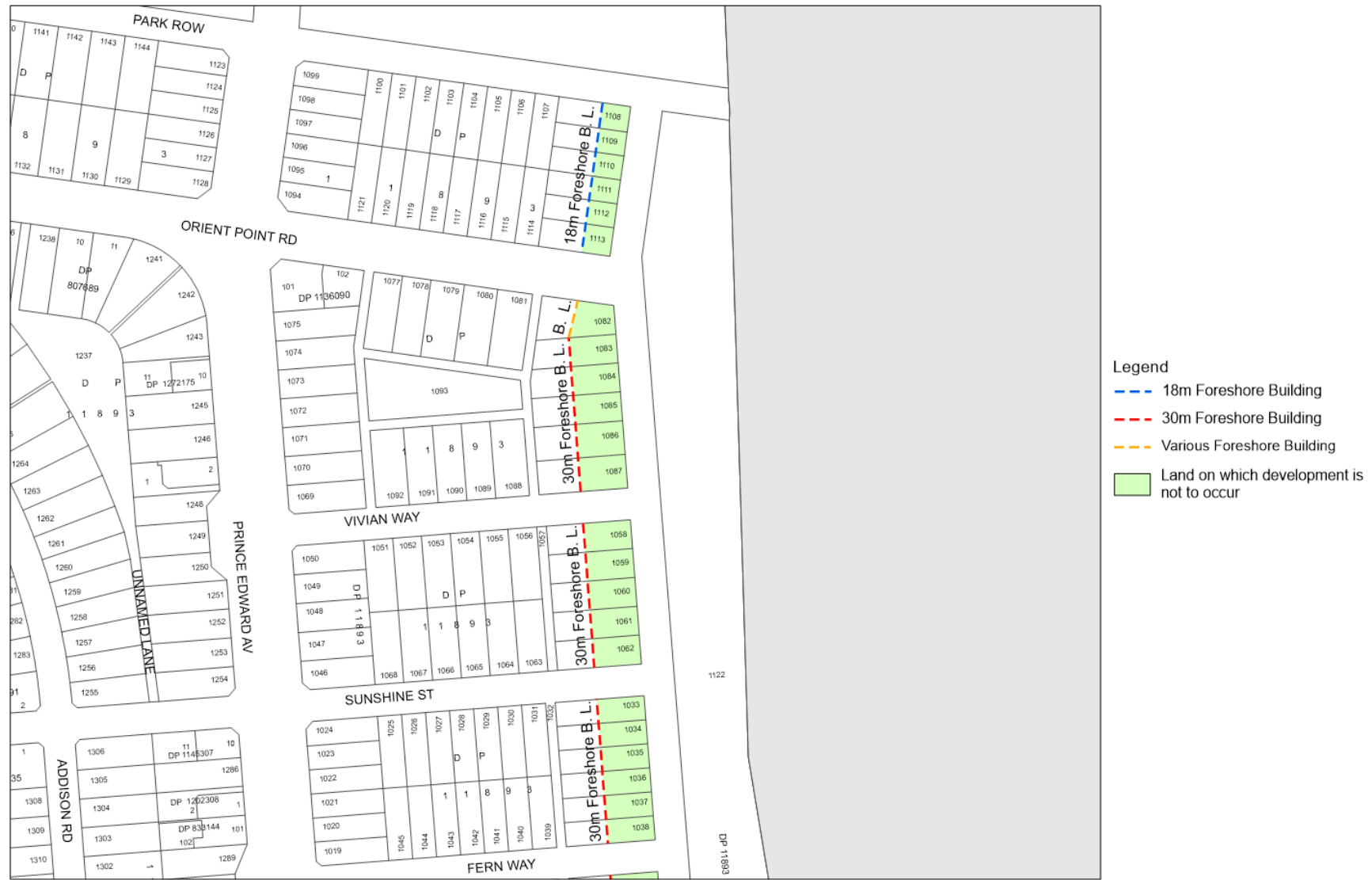


Development Control Plan 2014
Chapter V2: Building Lines

Culburra Beach - Map 5



September 2021 Scale: NTS



Development Control Plan 2014
Chapter V2: Building Lines

Culburra Beach - Map 6

0 10 20 30 40 50 60 70 Metres
September 2021 Scale: NTS

DE21.112 - Attachment 1



Development Control Plan 2014
Chapter V2: Building Lines

Culburra Beach - Map 7

0 10 20 30 40 50 60
Metres
September 2021 Scale: NTS



Development Control Plan 2014
Chapter V2: Building Lines

Culburra Beach - Map 8

0 10 20 30 40 50 60 70
Metres

Shoalhaven
City Council

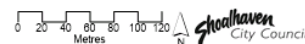
September 2021 Scale: NTS





Development Control Plan 2014
Chapter V2: Building Lines

Erowal Bay - Map 1



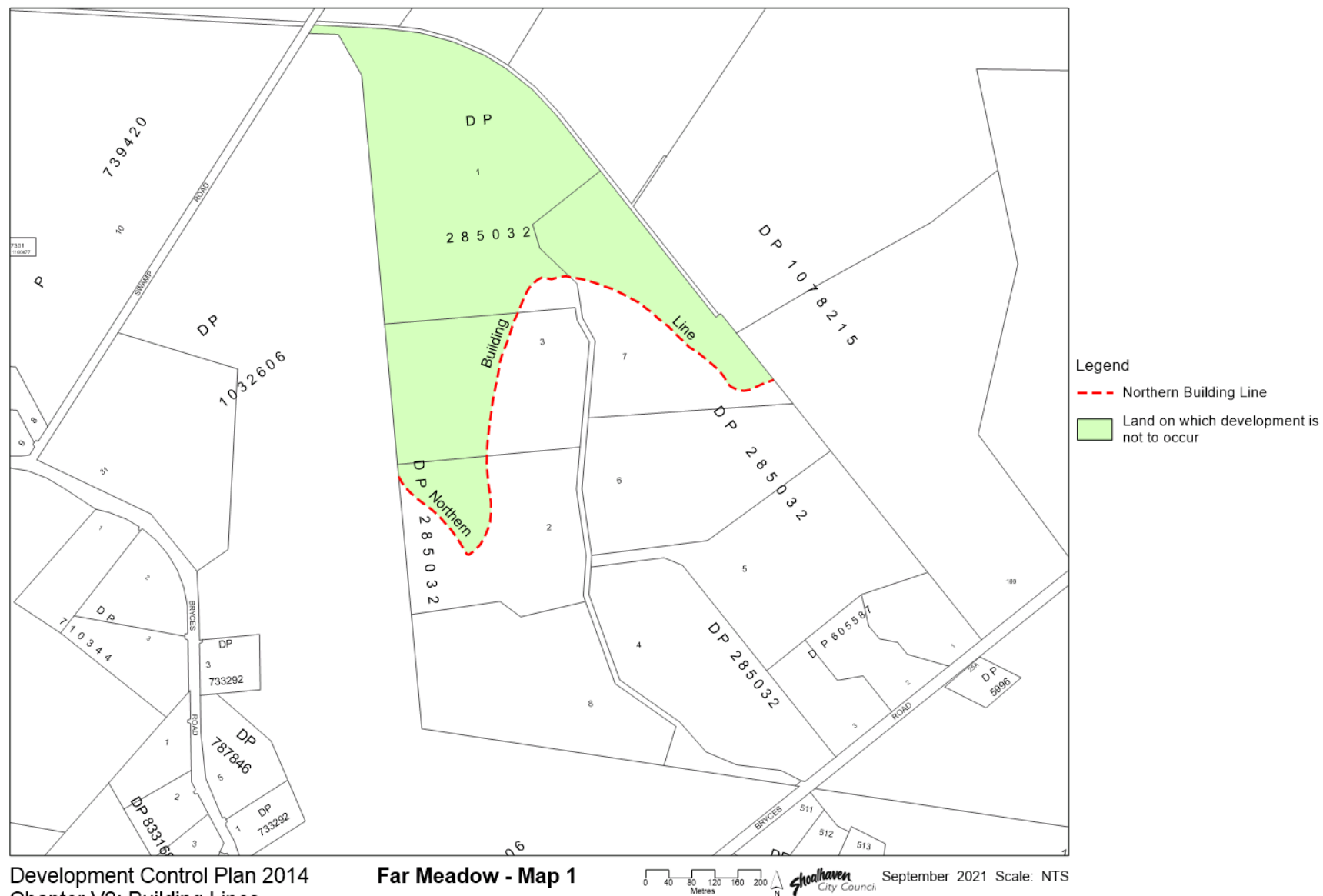
September 2021 Scale: NTS

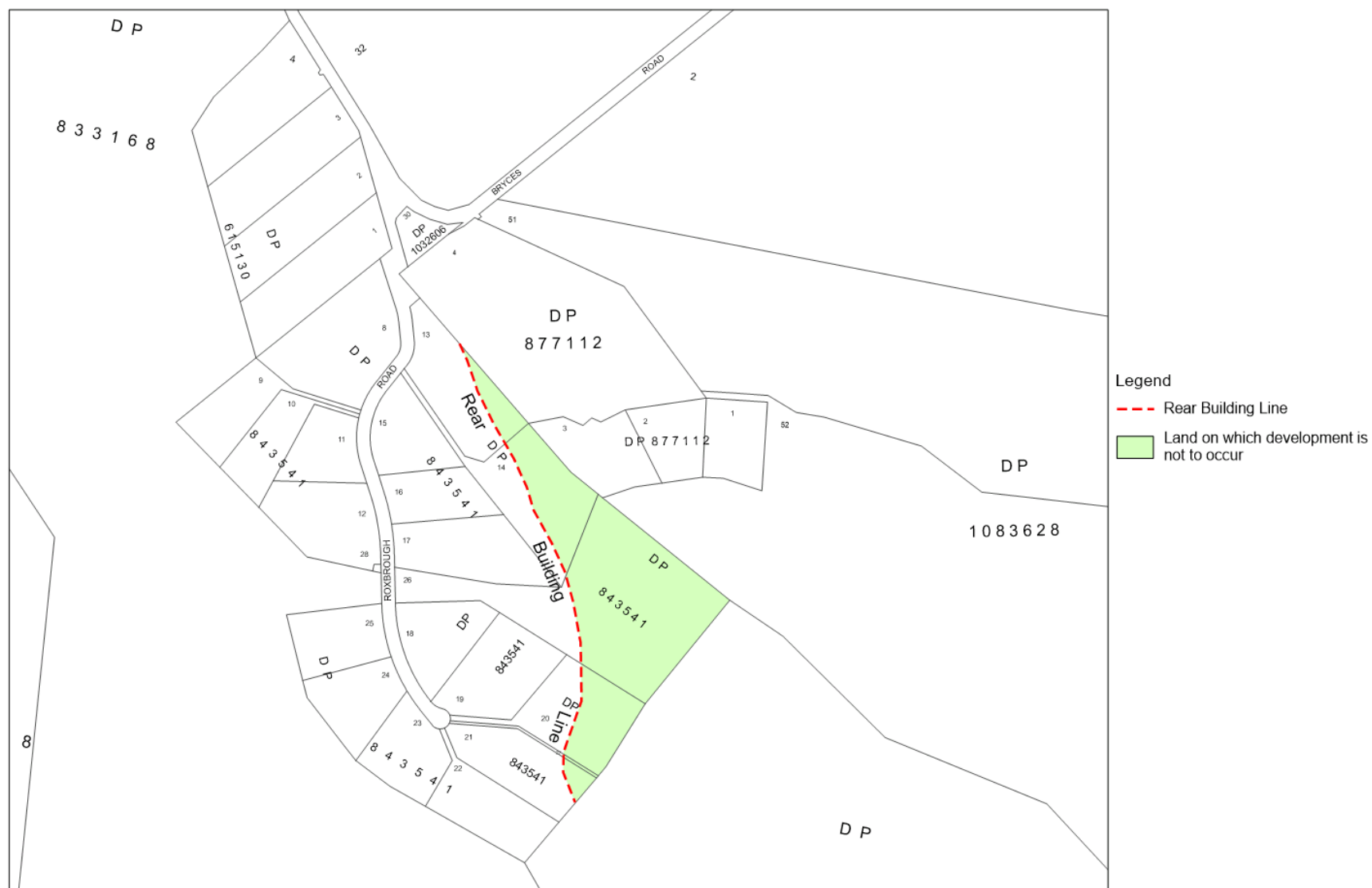


Development Control Plan 2014
Chapter V2: Building Lines

Falls Creek - Map 1

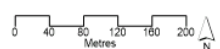
0 140 280 420 560 700 Metres
September 2021 Scale: NTS





Development Control Plan 2014
Chapter V2: Building Lines

Far Meadow - Map 2



Shoalhaven
City Council

September 2021 Scale: NTS

DE21.112 - Attachment 1



Development Control Plan 2014
Chapter V2: Building Lines

Greenwell Point - Map 1

0 10 20 30 40 50 60 70
Metres

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City Council

September 2021 Scale: NTS



Development Control Plan 2014
Chapter V2: Building Lines

Greenwell Point - Map 2

0 7 14 21 28 35 42 Metres
September 2021 Scale: NTS



Development Control Plan 2014
Chapter V2: Building Lines

Greenwell Point - Map 3

0 10 20 30 40 50 60 70 Metres
Shoalhaven City Council
September 2021 Scale: NTS



Development Control Plan 2014
Chapter V2: Building Lines

Greenwell Point - Map 4

0 10 20 30 40 50 60 70
Metres

Shoalhaven
City Council

September 2021 Scale: NTS



Development Control Plan 2014
Chapter V2: Building Lines

Huskisson - Map 1

September 2021 Scale: NTS

DE21.112 - Attachment 1



Development Control Plan 2014
Chapter V2: Building Lines

Kangaroo Valley - Map 1



September 2021 Scale: NTS

DE21.112 - Attachment 1



Development Control Plan 2014
Chapter V2: Building Lines

Kangaroo Valley - Map 2

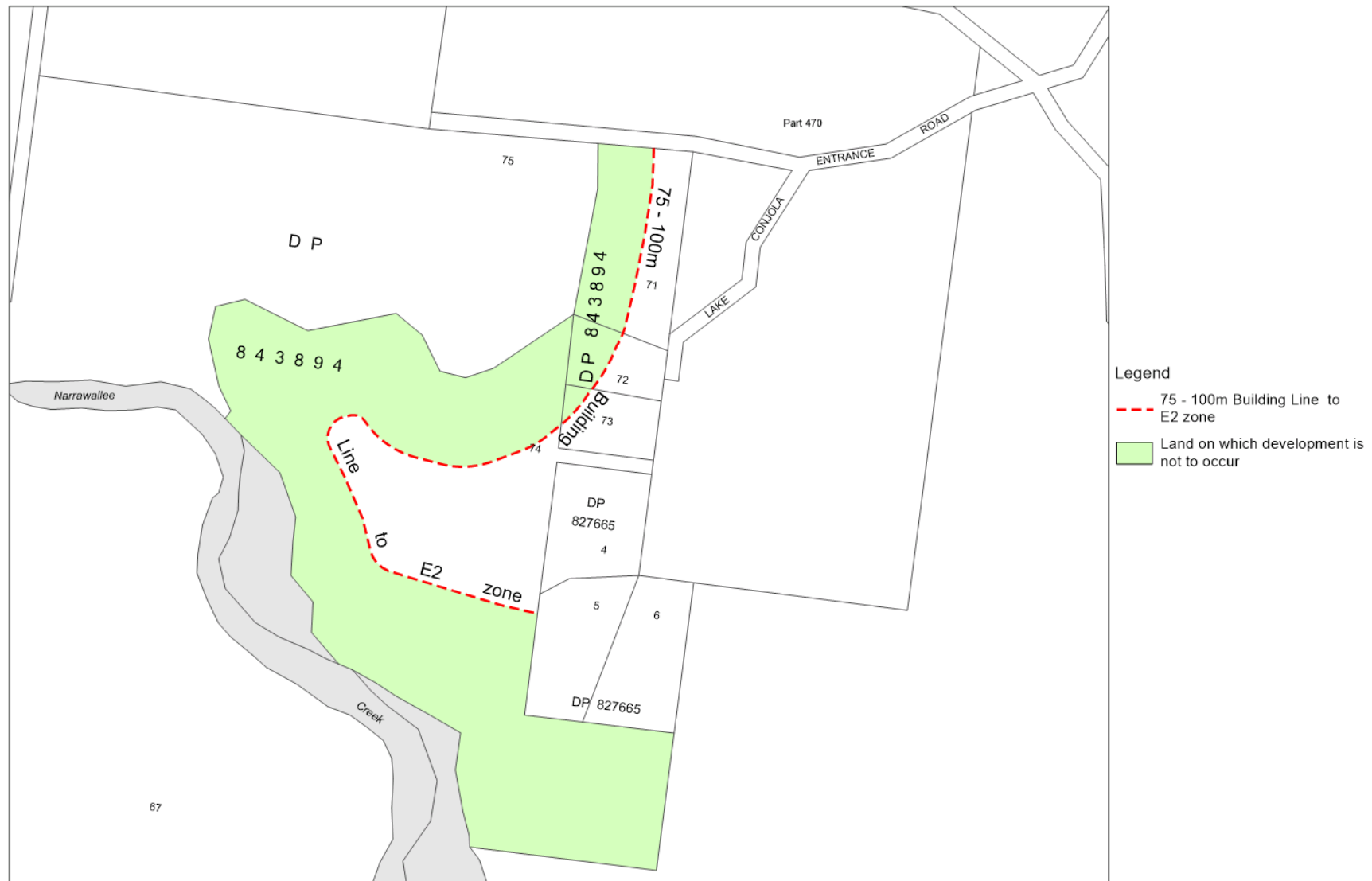
0 10 20 30 40 50 60 70 80
Metres

Shoalhaven
City Council

September 2021 Scale: NTS

DE21.112 - Attachment 1





Development Control Plan 2014
Chapter V2: Building Lines

Lake Conjola - Map 2

0 25 50 75 100 125 150 175
Metres

Shoalhaven
City Council

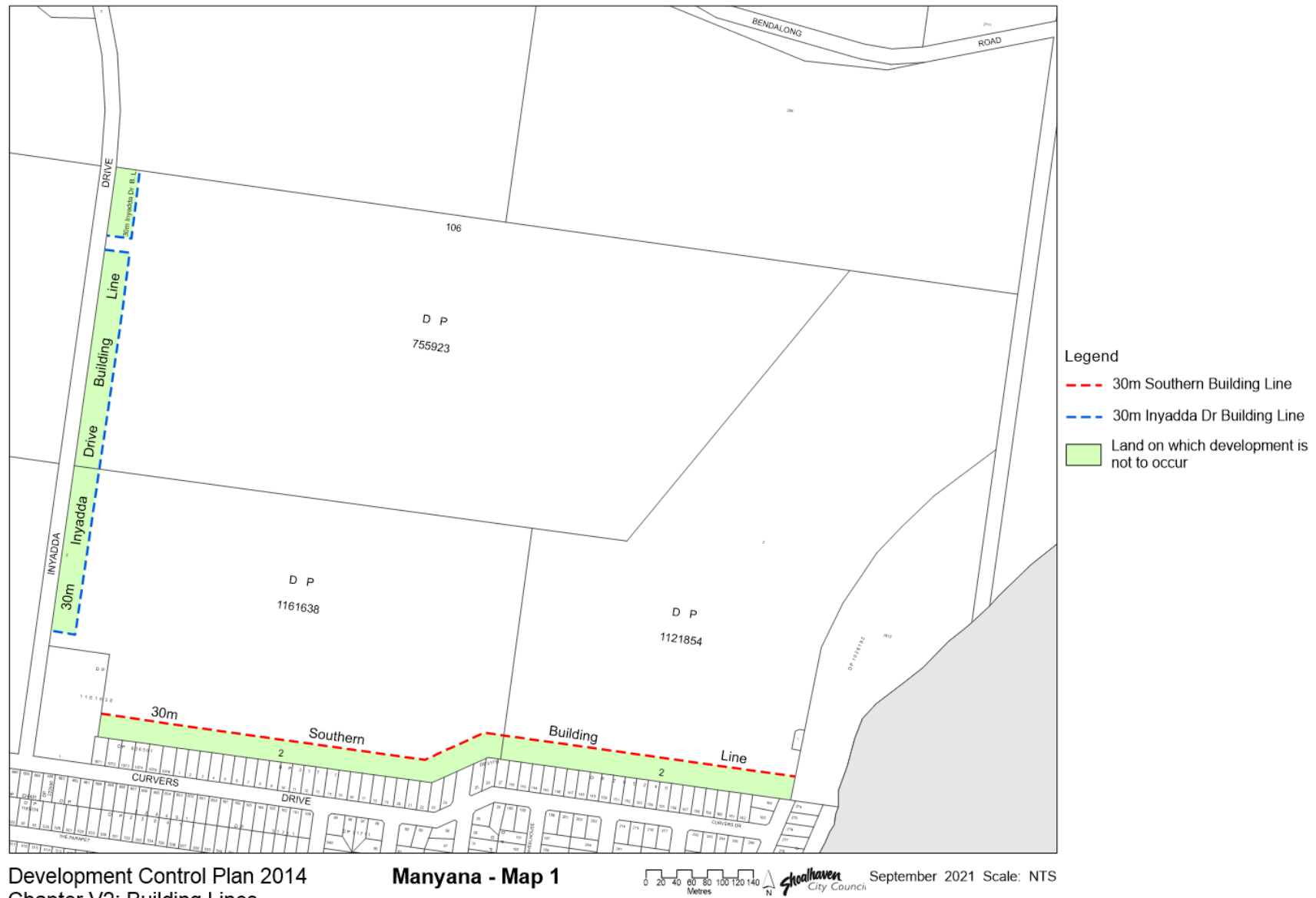
September 2021 Scale: NTS



Development Control Plan 2014
Chapter V2: Building Lines

Little Forest - Map 1



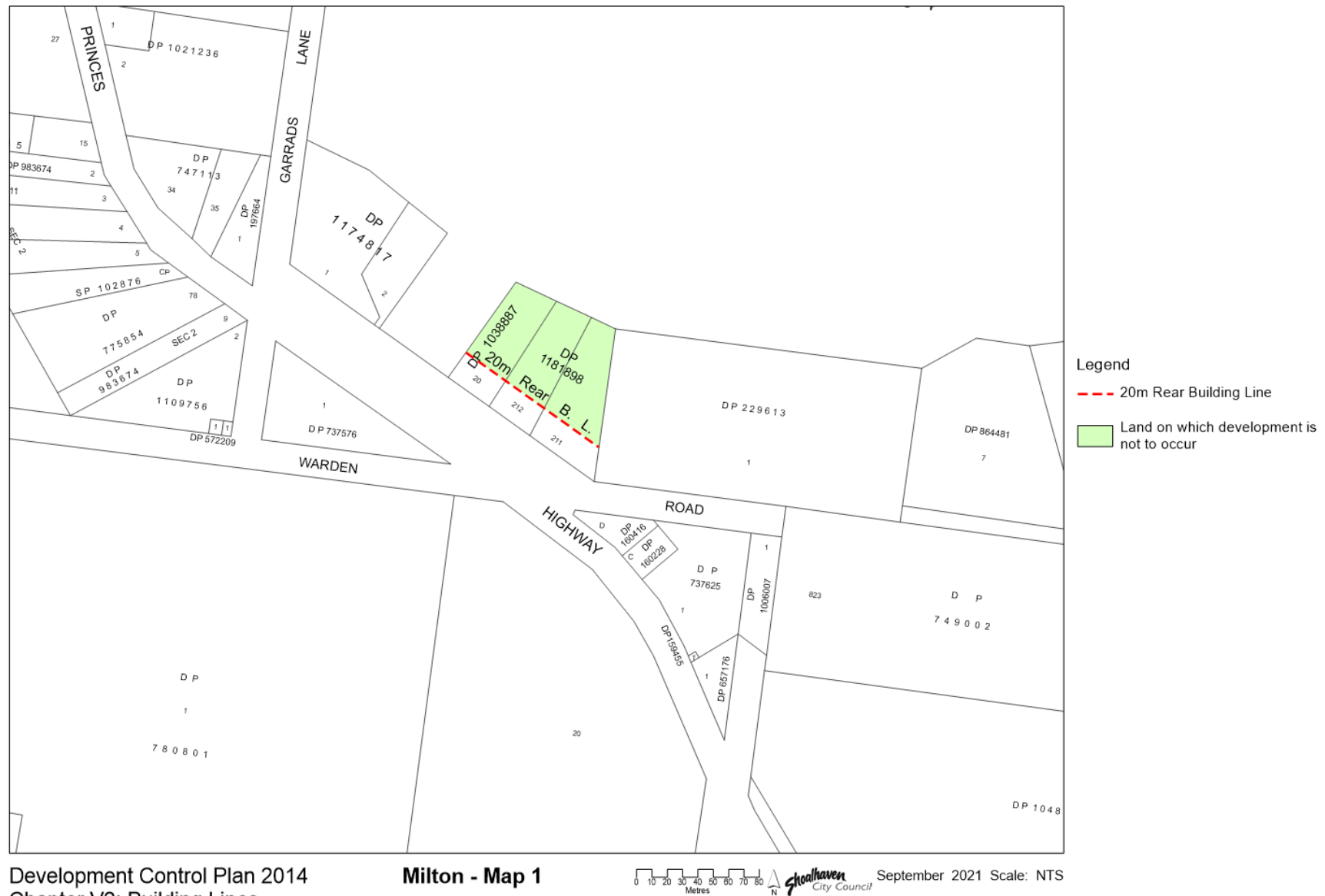


Development Control Plan 2014
Chapter V2: Building Lines

Manyana - Map 1

0 20 40 60 80 100 120 140 Metres
Shoalhaven City Council
September 2021 Scale: NTS

DE21.112 - Attachment 1



Development Control Plan 2014
Chapter V2: Building Lines

Milton - Map 1

0 10 20 30 40 50 60 70 80 Metres

September 2021 Scale: NTS



Development Control Plan 2014
Chapter V2: Building Lines

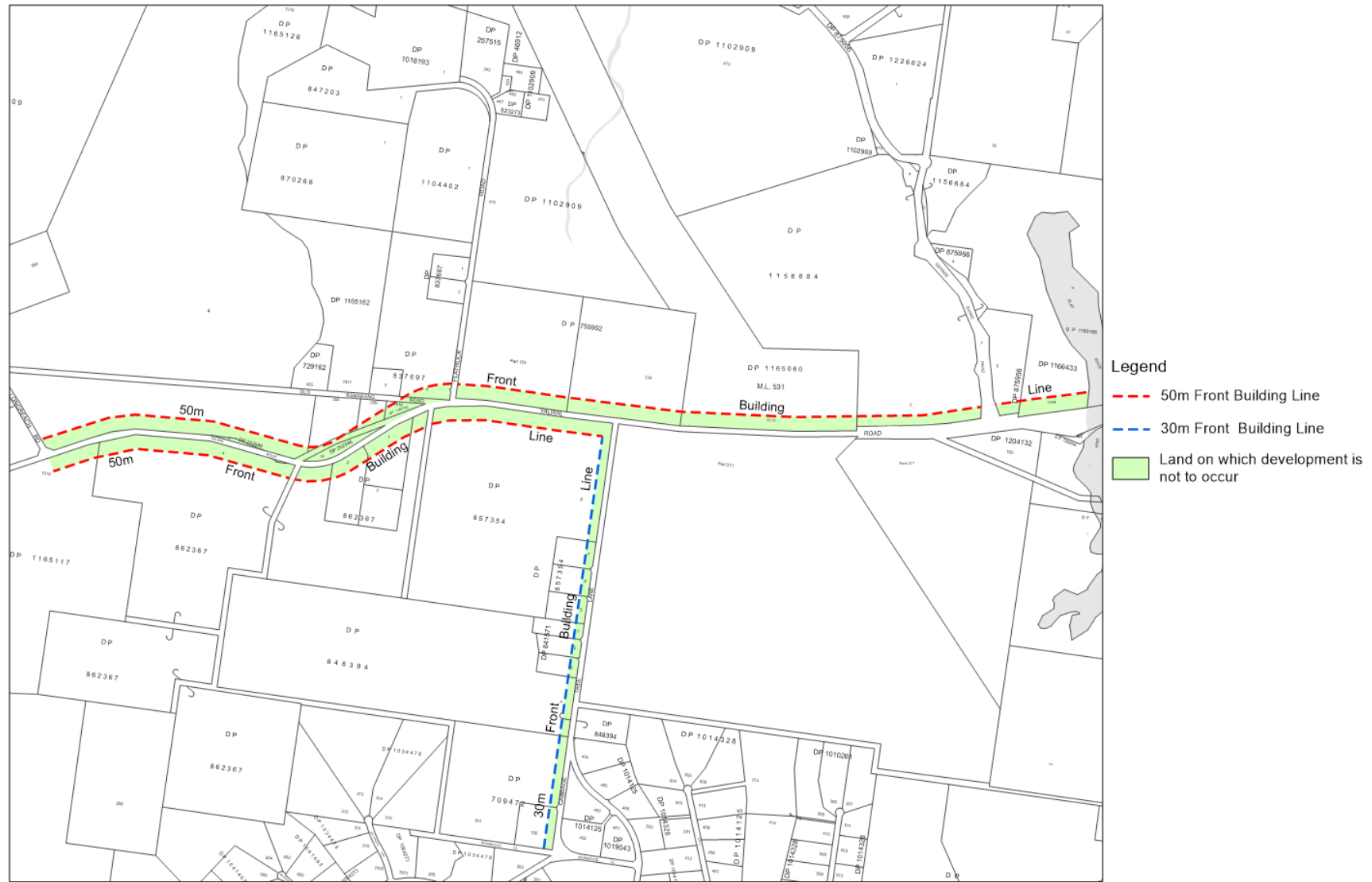
Mollymook Beach - Map 1

0 10 20 30 40 50 60 70
Metres

Shoalhaven
City Council

September 2021 Scale: NTS

DE21.112 - Attachment 1



Development Control Plan 2014 **Mundamia & Bamarang - Map 1**
Chapter V2: Building Lines

0 80 160 240 320 400 Metres
Shoalhaven City Council September 2021 Scale: NTS



Development Control Plan 2014
Chapter V2: Building Lines

Narrawallee - Map 1

0 10 20 30 40 Metres
September 2021 Scale: NTS

DE21.112 - Attachment 1



Development Control Plan 2014
Chapter V2: Building Lines

Sanctuary Point - Map 1

0 5 10 15 20 25 30 35
Metres

Shoalhaven
City Council

September 2021 Scale: NTS



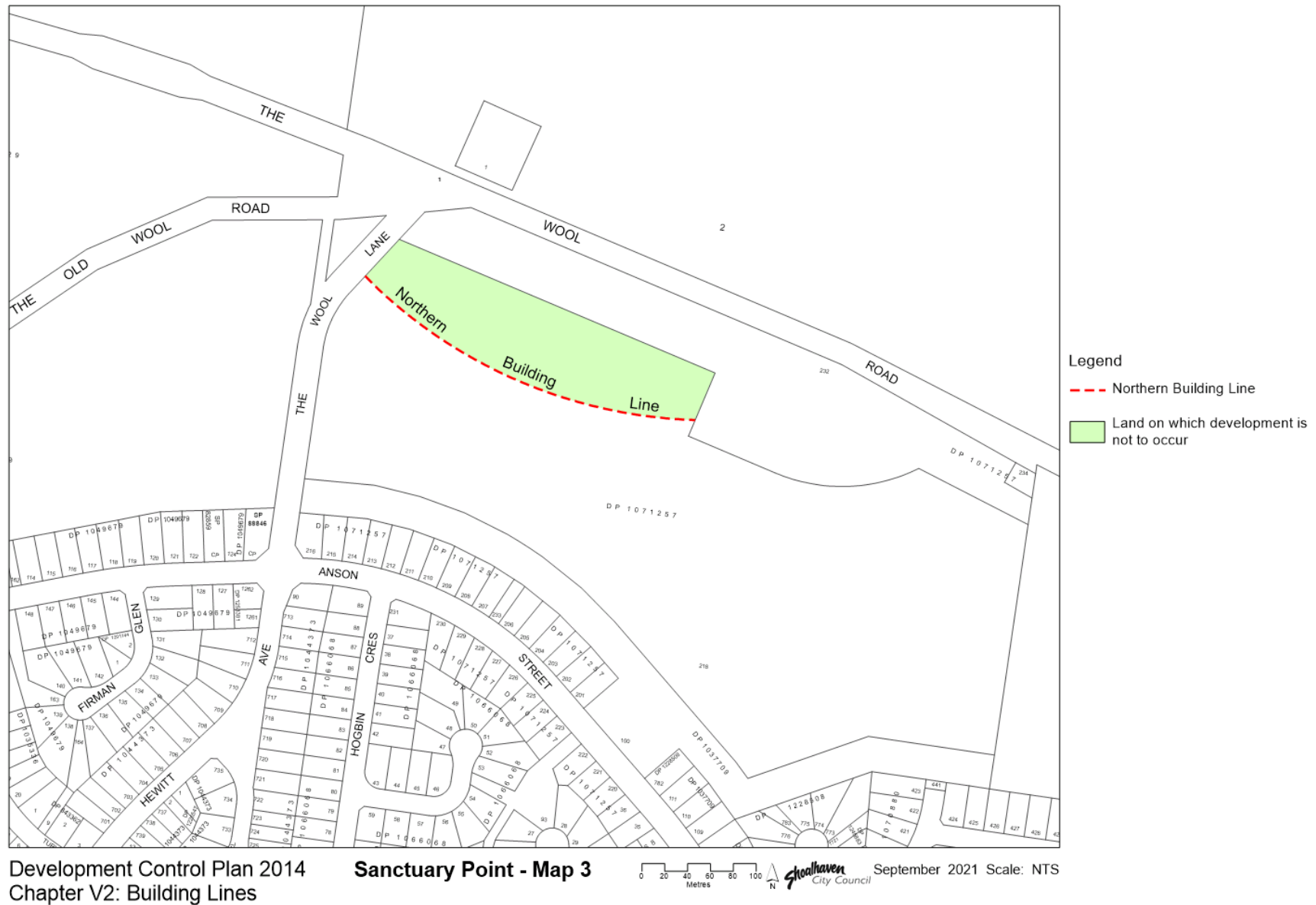
Development Control Plan 2014
Chapter V2: Building Lines

Sanctuary Point - Map 2

0 25 50 75 100 125 Metres

Shoalhaven
City Council

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Legend

--- Front Building Line

Land on which development is not to occur

Development Control Plan 2014
Chapter V2: Building Lines

South Nowra - Map 1

0 50 100 150 200 250
Metres

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Development Control Plan 2014
Chapter V2: Building Lines

St Georges Basin - Map 1

0 10 20 30 40 50 60
Metres

Shoalhaven
City Council

September 2021 Scale: NTS



Development Control Plan 2014
Chapter V2: Building Lines

St Georges Basin - Map 2

0 20 40 60 80 100 Metres

Shoalhaven
City Council

September 2021 Scale: NTS



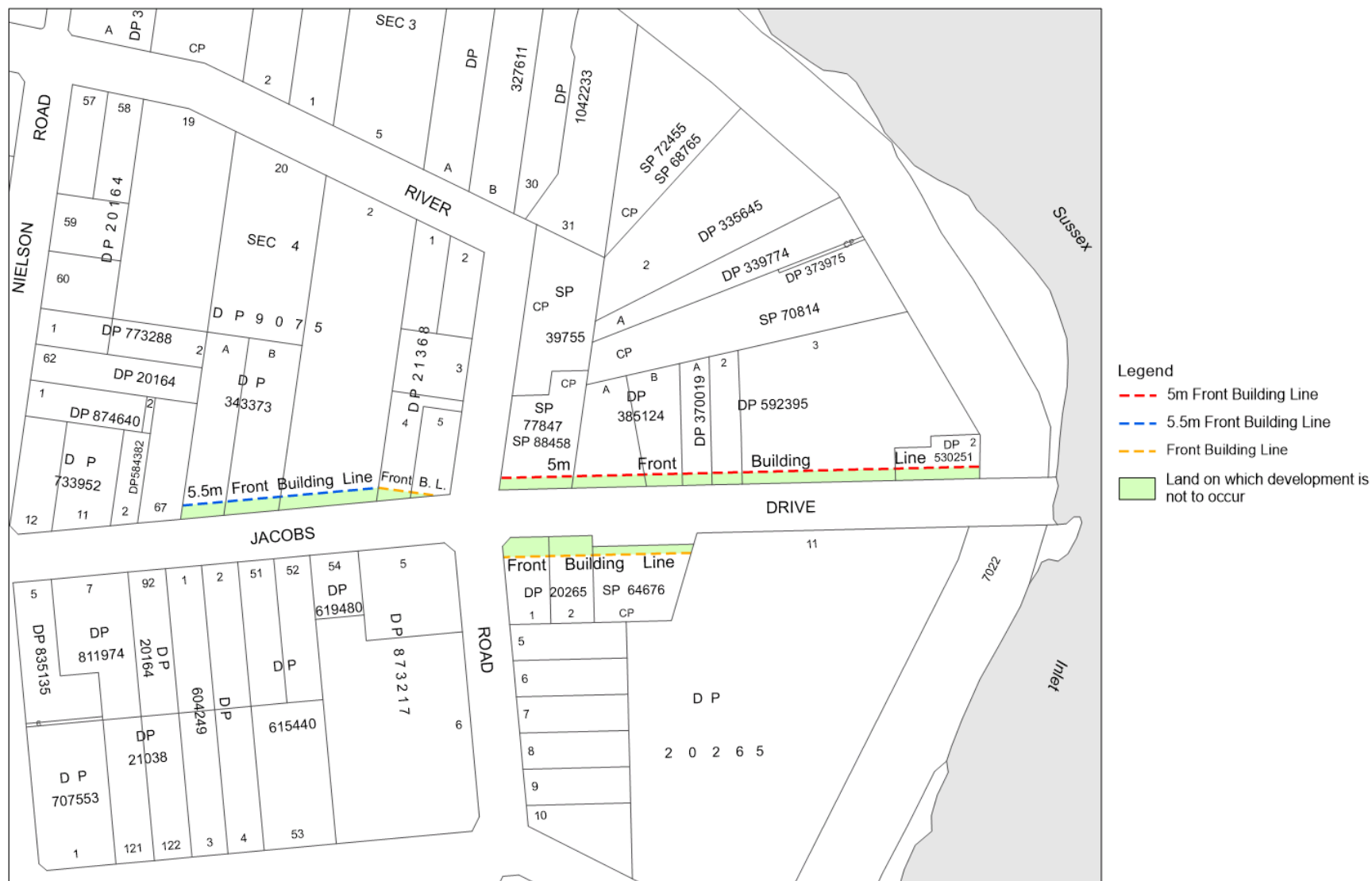
Development Control Plan 2014
Chapter V2: Building Lines

St Georges Basin - Map 3

0 10 20 30 40 50 60 Metres

Shoalhaven
City Council

September 2021 Scale: NTS

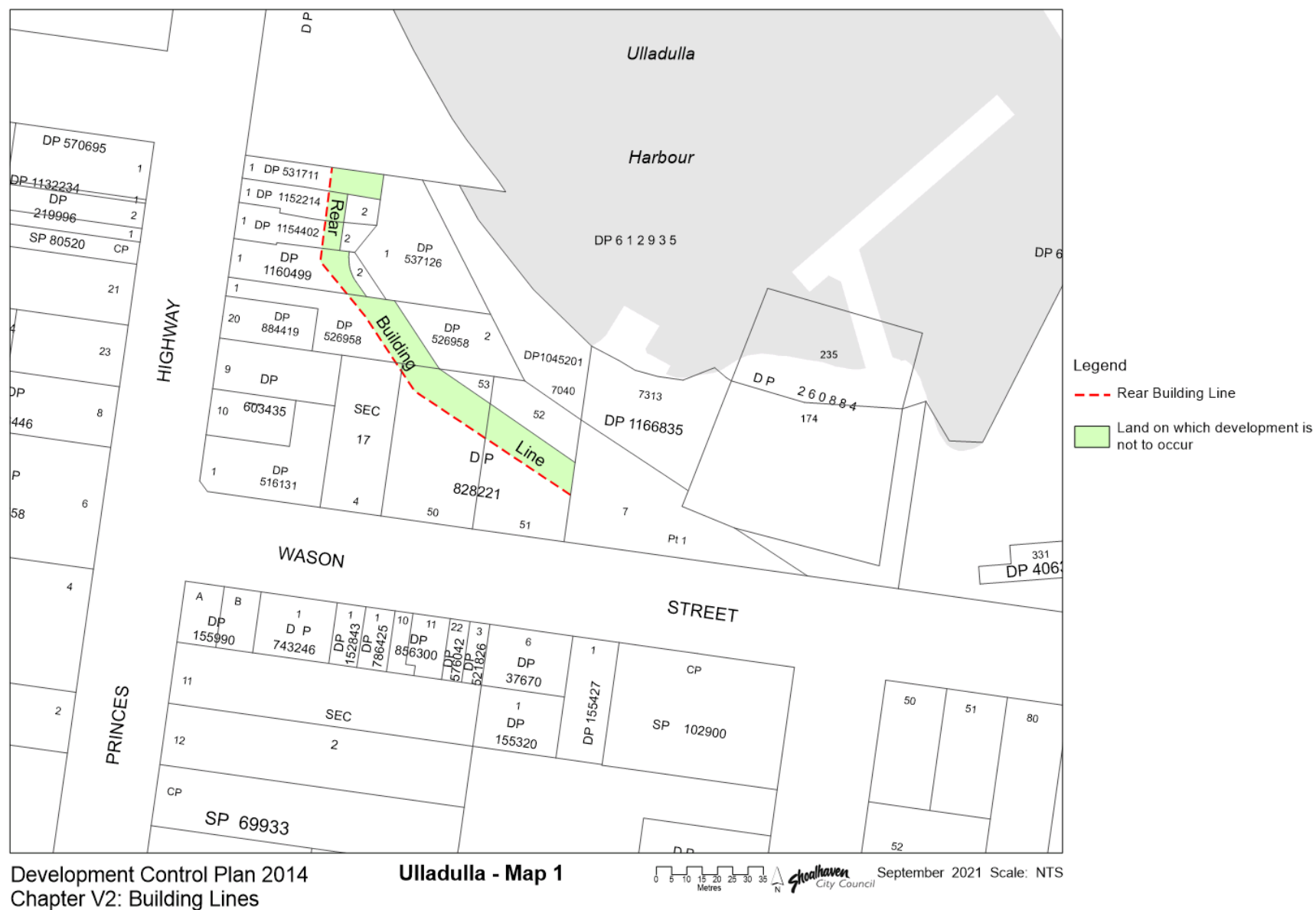


Development Control Plan 2014
Chapter V2: Building Lines

Sussex Inlet - Map 1



September 2021 Scale: NTS





Development Control Plan 2014
Chapter V2: Building Lines

Ulladulla - Map 2

0 10 20 30 40 50 60 70
Metres

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City Council

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Development Control Plan 2014
Chapter V2: Building Lines

West Nowra - Map 1

0 10 20 30 40 50 60 70 Metres
September 2021 Scale: NTS



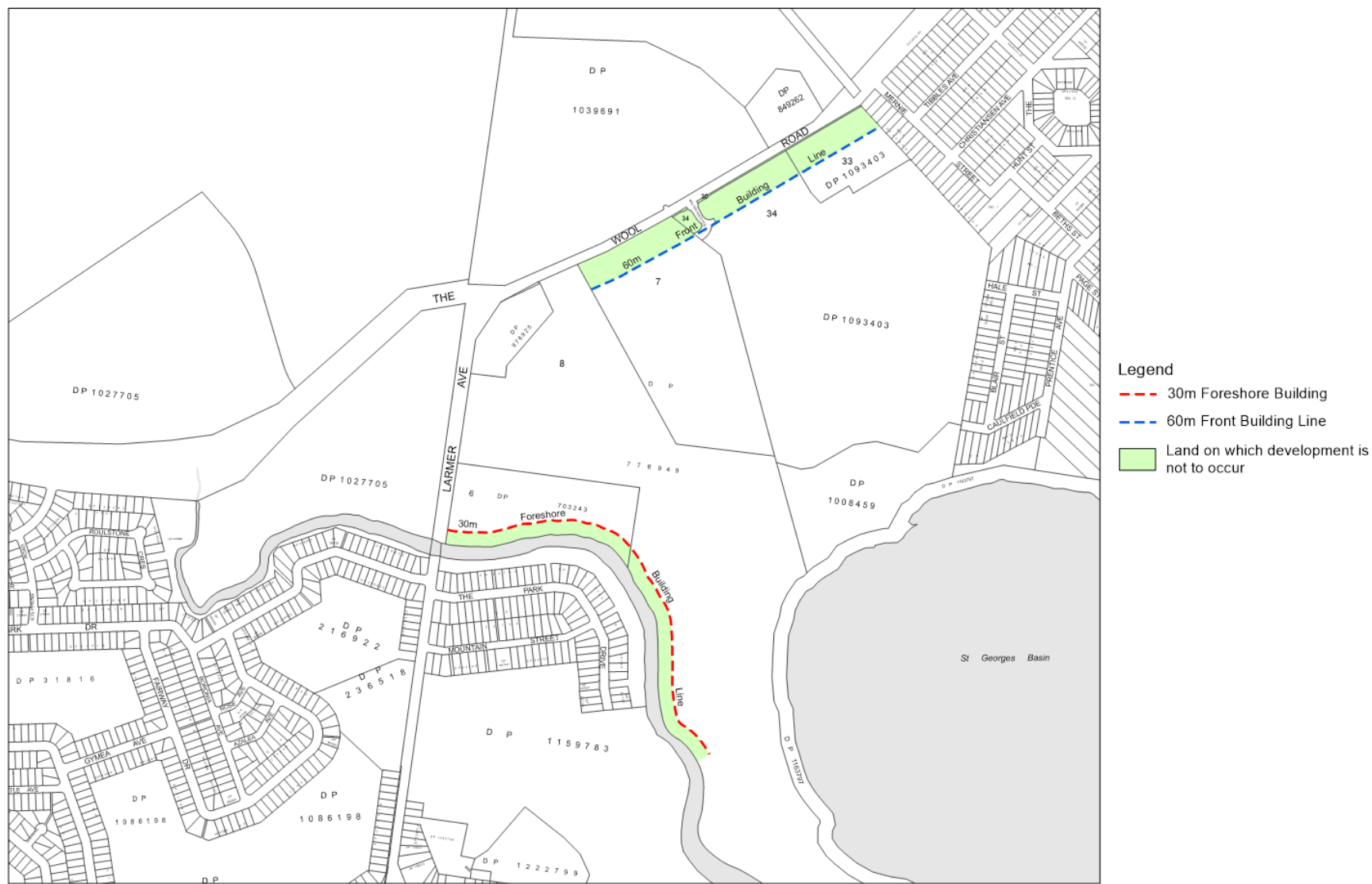
Development Control Plan 2014
Chapter V2 - Building Lines

Woodstock - Map 1

0 40 80 120 160 200 240
Metres
September 2021 Scale: NTS

DE21.112 - Attachment 1





Development Control Plan 2014
Chapter V2: Building Lines

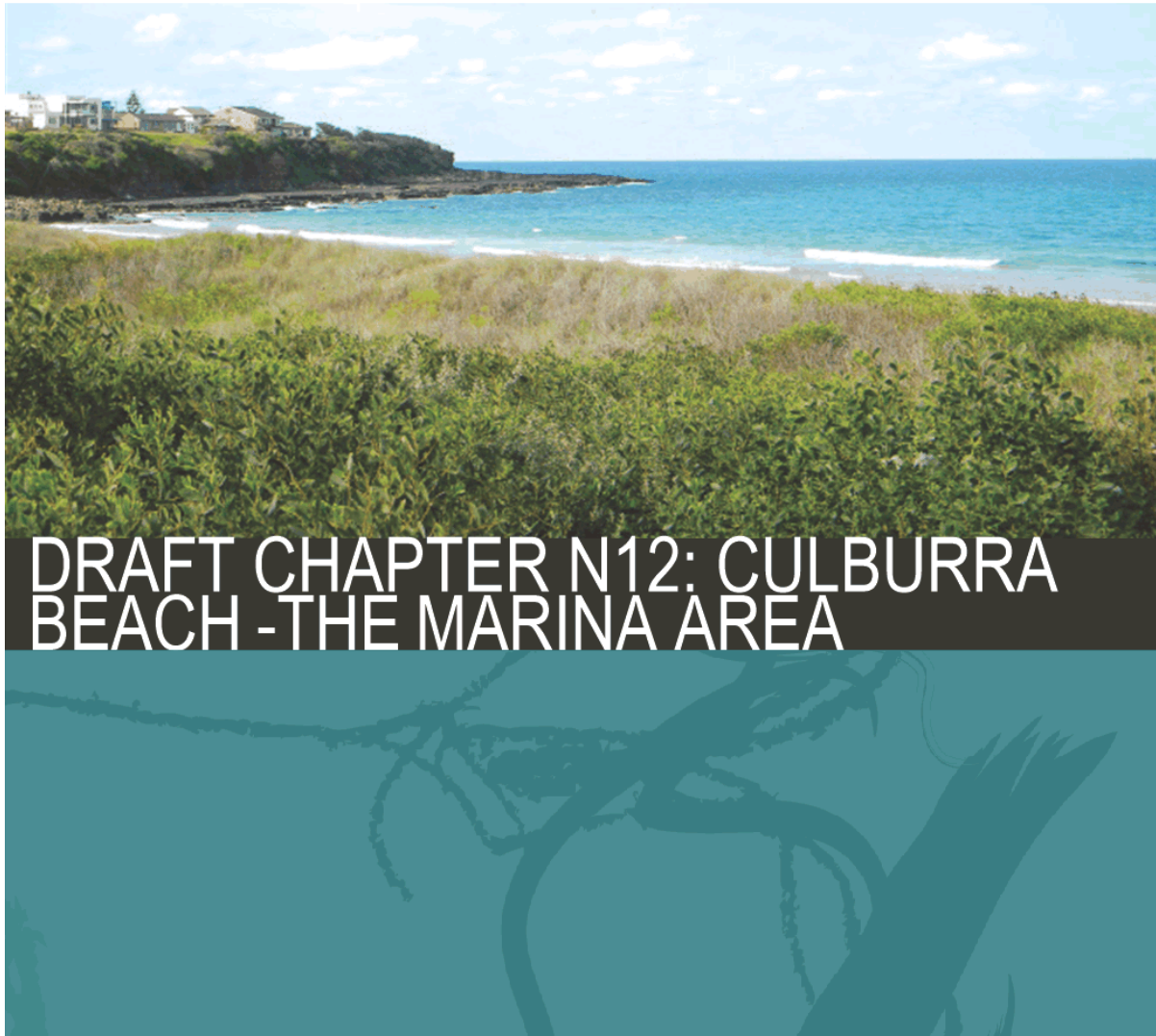
Worworing Heights - Map 1



September 2021 Scale: NTS



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



Shoalhaven Development Control Plan 2014

Draft Chapter N12: Culburra Beach – The Marina Area

Table of Changes

Old Section	New Section	Category	Recommended Change	Reason
Throughout		Editorial - renumbering	Update the numbering of sections following the addition and/or deletion of sections. Update numbering to be sequential throughout the document.	To provide updated, correct numbering.
		Editorial - typographic	Minor changes to punctuation, spelling, grammar, structure, formatting and acronyms.	To correct errors and enhance readability, without altering the intent.
		Editorial	Transfer the content of a number of existing acceptable solutions to note boxes.	Content is more appropriate as a note as it is not a development standard.
			Change references of 'you' to less personal reference.	For consistency with the broader DCP approach.
			Change the font colour of terms defined in the DCP Dictionary to green and LEP Dictionary terms to blue.	To indicate the location of a defined term.
		Editorial	Redraft all images in new standard DCP image.	To modernise content and ensure a uniform approach to figures across the DCP.
Section 1		Insertion	Include advisory note referring to Supporting Map 1.	Supporting Map 1 contains supplementary provisions/guidance pertaining to the 2019 Dune Vegetation Zone.
Section 2	-	Editorial	Refine wording.	The Chapter applies to all residential development (and ancillary development) and it is not necessary to list all types of development.
		Amendment	Replace Figure 1: Subject Land Map.	To provide clarity for readers and to be consistent with DCP standard mapping to maintain consistency between chapters.
-	Section 3	Insertion	Inclusion of background information surrounding the proposed 2019 Dune Vegetation Zone.	Intends to prevent the removal of vegetation that has the potential to adversely impact the dune stabilisation.
Section 3	Section 5	Editorial	Moved reference to commentary regarding to SLEP 2014 Clause 7.4 and relationship to Generic DCP chapters to note box in	Content is more appropriate as a note in the general control section.

Shoalhaven Development Control Plan 2014

Draft Chapter N12: Culburra Beach – The Marina Area

Old Section	New Section	Category	Recommended Change	Reason
			Section 5.	
Section 4	-	Amendment	Inclusion of 'dwellings, ancillary development/ structures' in Objective 'i'.	Stabilising the dune and rehabilitating foreshore vegetation assists in the protection of beach front properties from wind erosion.
		Amendment	Objective 'iv' <ul style="list-style-type: none"> Insert 'structures'. Reword, 'use of suitably resistant materials.' 	As above and to enhance readability.
		Deletion	Remove Objective 'vi.'	Not relevant to the intent of the Chapter and the relevant DCP provisions.
Section 5.1	-	Deletion	Remove Figure 2.	Figure 2 has been removed as the range of setbacks has been reduced to improve readability.
			Remove Note at the end of Section 5.1.	The note referring to building lines being sourced from Council is to be deleted as new updated maps will be used in the Chapter.
			Remove the unnecessary content and references to concessional zones.	References to concessional zones have been removed as the LEP height should be relied on.
Section 5.1 Section 5.2 Section 5.4	Section 5.1	Amendment, Deletion, Addition	Adapt content of existing sections into better structured performance criteria and acceptable solutions.	To reduce complexity of the provisions and reduce duplication across chapters.
		Relocation	Move content from existing 5.4 to new section 5.1.	To rationalise the provisions to aid in user readability and functionality.
		Deletion	Remove Figures 4 and 5.	These figures do not add value to the chapter and have been translated in Section 5.1.
-	Section 5.1	Amendment	Include new Figure 2: Building Envelope	To enhance readability of the provision.
Section 5.2	Section 5.2	Amendment	Consolidate performance criteria and acceptable solutions. Insert provisions in relation to revegetating native vegetation. Amend note box below A2.1.	To rationalise the provisions to aid in readability and functionality. Additional requirements for revegetating native vegetation within the buffer area to achieve objective 'i'.
Section 5.1	Section 5.2	Addition	Insert a table summarising	Enhance readability and

Shoalhaven Development Control Plan 2014

Draft Chapter N12: Culburra Beach – The Marina Area

Old Section	New Section	Category	Recommended Change	Reason
Section 5.2			existing setbacks and include references to other relevant chapters.	rationalise the provisions and range of setbacks has been reduced to increase readability. Note: As part of the Shoalhaven DCP 2014 Coastal Amendment, the Culburra Beach – The Marina Area Building Lines, as detailed in POL20/21, are proposed to be introduced to draft Chapter V2 – Building Lines. Please refer the draft Chapter V2 Supporting Maps, included in exhibition package, for the relevant building lines.
Section 5.1	Section 5.2	Amendment	Relocate existing Section 5.1 acceptable solutions and insert additional solutions Reword Performance Criteria 2 to be consistent with G12.	Removes duplication and improves consistency across the DCP Chapters.
Section 5.3	Section 5.3	Amendment	Consolidate performance criteria and acceptable solutions.	To rationalise the provisions to aid in readability and functionality.
		Deletion	Remove Figure 3.	The figure does not add value to the chapter.
-	Section 5.4	Insertion	Collage of invasive species.	Assist readers with identifying invasive species.
			Include reference to Supporting Map 1 – 2019 Dune Vegetation Zone.	The 2019 Dune Vegetation Zone will provide a baseline condition, and Section 5.4 will talk to no further clearing of dune vegetation to be permitted from the 2019 baseline.
Section 5.5	Section 5.3	Amendment	Consolidate performance criteria and acceptable solutions.	To rationalise the provisions to aid in readability and functionality.
		Delete	Delete note box below A3.	'Structure' is defined in the DCP Dictionary and therefore the content is unnecessary duplicated.
Section 5.6	Section 5.3	Amendment	Adapt content of existing Sections into better structured performance criteria and acceptable solutions.	To reduce complexity and improve the structure and intent of the provisions.

Shoalhaven Development Control Plan 2014

Draft Chapter N12: Culburra Beach – The Marina Area

Old Section	New Section	Category	Recommended Change	Reason
		Deletion	Delete overly prescriptive colours and materials.	Removal of onerous controls, leaves colour and material choice to the market, as long as they have a minimal visual impact and blend in with the coastal location and landscape.
Section 5.7	n/a	Deletion	Delete all provisions within existing Section 5.7.	Section 5.7 provides provisions regarding parking. However, it is noted that these provisions are a duplication of the provisions within Chapter G21: Car Parking and Traffic of this DCP. Duplication is being systematically removed from the DCP.
Section 5.8	Section 5.6	Amendment, Deletion	Adapt content of existing Section into better structured performance criteria and acceptable solutions.	To reduce complexity and improve the structure and intent of the provisions.
Section 5.9	Section 5.6	Amendment, Insertion, Deletion	Adapt existing A.1 to Section 5.6, now A9.2. Require bitumen sealed or concrete access, rather than all-weather standard. Insert provision requiring stormwater drainage measures to ensure discharge is not concentrated onto adjoining land. Delete remaining provisions of the existing section.	Bitumen sealed or concrete access is consistent with Council's development standards. To reduce instances where development applications seek to drain stormwater to the adjoining laneway. For drainage works Chapter G2 should be relied upon.
Section 5.10	Section 5.4	Relocation	Relocate P1, P2 and A1.1 to Section 5.4.	It is more appropriate to include P1, P2 and A4 in proposed Section 5.4 Landscaping, to streamline the Chapter.
-	Section 5.4	Amendment	Insert commentary around exotic and invasive species.	Dumping of exotic species may result in weed incursion.
		Insertion	Insert new figure depicting invasive species that are detailed within the section.	To provide guidance to applicants.
Section 5.11	Section 5.3	Relocation	Relocate P1 and A1.1-A1.2 to Section 5.3.	It is more appropriate to include these design considerations in the design section of the

Shoalhaven Development Control Plan 2014

Draft Chapter N12: Culburra Beach – The Marina Area

Old Section	New Section	Category	Recommended Change	Reason
	Section 5.1	Relocation	Relocate P2 to Section 5.1, and transfer A2.1 and A2.2 to a note box in Section 5.1.	Chapter. To rationalise the provisions to aid in readability and functionality.
Section 5.12	Section 5.5	Amendment	Consolidate and restructure performance criteria/ acceptable solutions. Transfer relevant content of existing A4 to a note box.	The content is more appropriate as a note box.
Section 5.13	Section 5.4	Amendment	Consolidate performance criteria and acceptable solutions. Include requirement for a landscape plan at the development application stage, rather than construction certificate stage. Transfer relevant content of A3 to a note box. Include detail for APZ permissibility within the vegetative buffer. Insert an additional acceptable solution not permitting invasive or exotic species within the 2019 Dune Vegetation Zone Insert a note detailing Council may require the removal of existing exotic and invasive species within the 2019 Dune Vegetation Zone.	To rationalise the provisions and to aid in readability and functionality. Due to the dune stability concerns in this location, it is appropriate to require a landscape plan at the development application stage to enable to comprehensive and wholistic assessment of the landscaping elements. Weeds (including exotic and invasive species) can pose threat to the natural values of the area.
Section 5.14	Section 5.4	Relocation	Relocate P1, P2, A4 and note to Section 5.4 .	It is more appropriate to include P1, P2 and A4 in proposed Section 5.4 Landscaping, to streamline the Chapter.
	Section 5.4	Deletion/ Relocation	Delete A1 and A2. Relocate A3 to Section 5.4.	These existing acceptable solutions are not development controls, but advisory information.
-	Supporting Maps: Culburra Beach – The Marina Area	Insertion	Insert Supporting Maps, detailing the 2019 Dune Vegetation Zone	Provide visual identification of the 2019 Dune Vegetation Zone and the land that is to remain vegetated.

Shoalhaven Development Control Plan 2014

Draft Chapter N12: Culburra Beach – The Marina Area

Draft Chapter N12: Culburra Beach – The Marina Area

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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			Draft

Shoalhaven Development Control Plan 2014

Draft Chapter N12: Culburra Beach – The Marina Area

1 Purpose

The purpose of this Chapter is to manage the residential **development** of the environmentally sensitive locality of Culburra Beach along The Marina (and unformed road reserve).

Advisory Note: In addition to the provisions outlined in this Chapter, you must also refer to Supporting Map 1: 2019 Dune Vegetation Zone.

2 Application

This Chapter applies to all residential **development** (or related ancillary **development**) on land along The Marina, Allerton Avenue and North Crescent, Culburra Beach (Figure 1).



Figure 1: Subject Land Map

Shoalhaven Development Control Plan 2014

Draft Chapter N12: Culburra Beach – The Marina Area

3 Context

The majority of lots fronting The Marina at Culburra Beach were subdivided in the early 1920's prior to planning controls. These properties are located on a narrow single foredune, which is subject to the threat of wind erosion and possible inundation by seawater during severe storm events.

Given the importance of maintaining a healthy, vegetated dune system and the protection of foreshore dunes and structures along The Marina, the 2019 Dune Vegetation Zone has been established to:

- Prevent the removal of vegetation that has the potential to adversely impact the dune stabilisation.
- Ensure no existing native dune vegetation is removed from the dune system

The 2019 Dune Vegetation Zone can be seen at Supporting Map 1 and is based on existing (ground-truthed) native and indigenous vegetation in 2019.

4 Objectives

The objectives are to:

- i. Protect dwellings, ancillary development/structures and assets by reducing the risk of coastal hazards; achieved by stabilising and protecting the foreshore dunes through the maintenance of existing vegetation, and where possible, the rehabilitation of foreshore vegetation.
- ii. Preserve the visual amenity of Culburra Beach by ensuring that development:
 - Relates to the form of the foreshore dunes system; and
 - Relates to the height of existing vegetation; and
 - Is not visually prominent; and
 - Retains existing vegetation.
- iii. Minimise the adverse impacts of development on privacy, access to sunlight and view opportunities of surrounding properties.
- iv. Protect dwellings, ancillary development/structures and assets from the effects of salt laden winds through the use of suitably resistant materials and locating of structures to minimise exposure.
- v. Ensure the provision of suitable access to all lots that does not compromise or threaten the stability of the sensitive foreshore area.

5 Controls

Note: The provisions in this Section are supplementary to Clause 7.4 Coastal Risk Planning in Shoalhaven Local Environmental Plan (LEP) 2014.

A development application must also address the

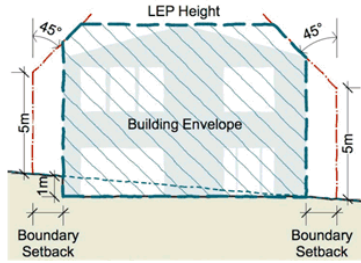
Shoalhaven Development Control Plan 2014

Draft Chapter N12: Culburra Beach – The Marina Area

relevant Generic Chapters of this **Development Control Plan**, for example Chapter G6: Coastal Management Areas and V2 Building Lines.

This Chapter will prevail where there is an inconsistency with a provision in a Generic Chapter of this **Development Control Plan**.

5.1 Building Envelope and Siting

Performance Criteria	Acceptable Solutions
<p>P1.1 Buildings are located, and are of such length and height, that there is no significant loss of amenity to foreshore areas, adjoining development and the public domain.</p> <p>P1.2 Building siting and height are related to land form, with minimal cut and fill.</p> <p>P1.3 Building bulk is generally distributed to reduce impact on foreshore areas, adjoining properties and the public street.</p> <p>P1.4 Building heights are similar to those in the public streetscape, with higher components of buildings setback and out of direct view from the street and foreshore area.</p> <p>P1.5 Elements are incorporated to minimise intrusion of privacy.</p> <p>P1.6 Development enables view sharing with neighbours and the public domain.</p>	<p>A1.1 Buildings are sited within a standard building envelope determined by the following method: planes are projected at 45 degrees from a height of 5m above ground level (existing) at the front, side and rear boundary to the maximum LEP Height (7.5m), as shown in Figure 2.</p>  <p>Figure 2: Building envelope</p> <p>Note: Exemptions to building envelope encroachments include gutter, fascias, downpipes, eaves up to 0.6m, aerials and masonry chimneys.</p> <p>Decks and balconies are to be contained within the building envelope. Council will consider boardwalk areas outside the building envelope where these do not exceed a height of 450mm above natural ground level.</p>

5.2 Setbacks

Performance Criteria	Acceptable Solutions
<p>P2 Setbacks:</p> <ul style="list-style-type: none"> From rear lanes achieve openness and access to dwellings and non-habitable ancillary structures. 	<p>A2.1 Setbacks shall comply with the provisions in Table 1.</p> <p>Note: A reliable and accurate shadow diagram may be required where the</p>

Shoalhaven Development Control Plan 2014

Draft Chapter N12: Culburra Beach – The Marina Area

- Provide an acceptable spatial arrangement of dwellings.
- Facilitate landscaping and design techniques which will ensure privacy and amenity.
- Avoid loss of view, undue overshadowing and provide/maintain privacy (visual and acoustic), traffic safety and maintain adequate daylight and solar access.

proposal has the potential to overshadow adjoining properties.

P3 Adequate building area is provided while recognising the objectives of hazard safety, dune stability and reduced visual impact.

A3.1 The proposed development is required to meet the Objectives and Performance Criteria of Chapter G6: Coastal Management Areas of this Development Control Plan.

A3.2 In addition to Acceptable Solution A2.1, you are to maintain the 2019 Dune Vegetation Zone, as identified in Supporting Map 1.

Note: Conditions of consent will require:

- The 2019 Dune Vegetation Zone to be retained/revegetated in its native vegetative state.
- That no development or clearing be undertaken in this area except for the clearing of noxious weeds.

Refer to **Section 5.4** of this Chapter for landscape plan requirements.

Table 1: Setback Requirements

	Provision
Setback to Existing or Proposed Laneway or Right of Carriageway	5m – Habitable structures 1m – Non-habitable ancillary structure
Setback to Secondary Road Frontage <i>Corner Lot</i>	3.5m
Setback to The Marina (foreshore)	Refer to Chapter V2: Building Lines of this Development Control Plan.
Side Setbacks	Refer to Chapter G6: Coastal Management Areas and G12: Dwelling Houses and Other Low Density Residential Development of this Development Control Plan.

Shoalhaven Development Control Plan 2014

Draft Chapter N12: Culburra Beach – The Marina Area

5.3 Design, Building Materials and Colours

Performance Criteria	Acceptable Solutions
<p>P4 The design:</p> <ul style="list-style-type: none"> Provides for shadow lines, third dimension and architectural relief. Is sympathetic to the local environment. Conforms to the predevelopment contours and minimises disturbance to the site (i.e. minimal cut and fill). Provides reasonable levels of solar access to all dwellings. Ensures privacy between dwellings. 	<p>A4.1 The design shall incorporate building features that give three dimensions to the development (for example, shadow lines, verandahs).</p> <p>A4.2 The roof shall:</p> <ul style="list-style-type: none"> Be reasonably pitched and hipped to reduce the overall impact of the development and/or, Include multiple/stepped roof levels and reversed slope skillion elements to provide articulation and interest to the roof line. <p>Note: Unrelieved flat or skillion roof designs or roof decks (i.e. total roof) are discouraged.</p> <p>A4.3 The development shall follow the:</p> <ul style="list-style-type: none"> Contours of the site for single storey dwellings/structures Natural ground level for stepped or split-level development. <p>Note: The need to cut into the natural slope of the site should be avoided, or minimised.</p> <p>A4.4 The development shall consider overlooking and privacy by:</p> <ul style="list-style-type: none"> Locating window and deck areas to avoid intrusion into the privacy of adjoining dwellings. Providing privacy screens to avoid overlooking, as appropriate.
<p>P5 The development is designed so that:</p> <ul style="list-style-type: none"> The rights of adjoining properties to available views are preserved whilst maintaining privacy and amenity. Structures allow for view sharing. Available views are achieved at or near natural ground level. The dwelling/structures are not prominent when viewed from the 	<p>A5.1 The development shall be considerate of the views of neighbours and visibility from the beach.</p> <p>A5.2 Structures are designed to not be prominent from public places.</p> <p>A5.3 The development shall not include the construction of excessively elevated platforms, decks or observatories to obtain views.</p>

Shoalhaven Development Control Plan 2014

Draft Chapter N12: Culburra Beach – The Marina Area

beach/public domain.	
P6 The proposed building materials and colours:	A6.1 Building materials shall be non-reflective, salt resistant and have a minimal visual impact.
<ul style="list-style-type: none"> Are designed to withstand coastal weather conditions. Provide articulation and interest. Integrate with or complement the natural colours or features of the landscape. 	A6.2 Brick elements shall be balanced with timber cladding (or similar complementary material) or treated (i.e. textured coating) to provide visual interest and avoid dominance of one building material.
	A6.3 Building colours should blend in with the coastal location and landscape.

5.4 Landscaping

Performance Criteria	Acceptable Solutions
<p>P7 The proposed landscaping:</p> <ul style="list-style-type: none"> Prevents erosion from the effects of wind and sea by stabilising the dune with native vegetation. Retains as much of the natural landscaping as is practical in the form of trees, shrubs and groundcovers. Avoids the planting of exotic species. Provides essential stability and ground cover to exposed mobile soils. Maintains the natural characteristics and stability of the beachfront by preserving and supplementing natural vegetation. Reduces sand drift nuisance and dune erosion. Provides a reasonable level of amenity for residents and enhances the existing environment. Maintains an Indigenous theme to the area through the planting of native species. <p>Note: Exotic species will have difficulty surviving and can have an adverse effect on native species and the natural landscape.</p>	<p>A7.1 A landscape plan is required to be submitted with the development application that:</p> <ul style="list-style-type: none"> Is prepared in consultation with the Department of Planning, Industry & Environment – Biodiversity & Conservation Division. Revegetates land within the 2019 Dune Vegetation Zone, detailed at Supporting Map 1. Ensures no exotic or invasive species are to be planted or retained within the 2019 Dune Vegetation Zone, as shown in Supporting Map 1. All planting and replanting of vegetation within this zone is to be in accordance with the native species that are listed in Section 5.3.2 of Chapter G6: Coastal Management Areas of this Development Control Plan, or native species that are already observed to be existing within the local dune system. <p>Note: Dune revegetation species should be prioritised based on the inspection and identification of native species that are already observed to be growing well within the local dune vegetation system.</p> <p>Consultation with the Department of Planning, Industry & Environment – Biodiversity & Conservation Division is required prior to the removal of any Bitou</p>

Shoalhaven Development Control Plan 2014

Draft Chapter N12: Culburra Beach – The Marina Area

and Lantana vegetation.

The dumping of green waste within and/or adjacent to the vegetated dune system is strongly discouraged. The dumping of green waste in this area increases the potential of fire risk, promotes weed growth, and restricts native vegetation recruitment which would otherwise act to bind sediment and protect future erosion. Unauthorised dumping of green waste within and/or adjacent to the vegetated dune system is an offence and may be subject to compliance action accordingly. Penalties apply.

Depending on the nature of the application, Council may require the removal of any existing exotic or invasive species within the 2019 Dune Vegetation zone.

- Limits the planting of any exotic species to outside of the 2019 Dune Vegetation Zone, as shown in Supporting Map 1, to feature trees or shrubs within a native setting.
- Keeps grass or lawn areas to a minimum.

Note: Grass/lawn areas do not provide deep rooted dune stability and can hinder the re-establishment of unstable areas.

- Includes landscaping of the road reserve adjacent to the site, inclusive of street trees with nature plantings. Pedestrian paths are not required.
- Includes temporary dune erosion controls that are put in place during the construction.

Note: Written approval from Council must be sought prior to the removal of any vegetation, excavation or filling.

Asset Protection Zones may be considered in the 2019 Dune Vegetation Zone where plants are carefully selected to meet both bushfire requirements and the purpose of the 2019 Dune Vegetation Zone.

- A7.2 The creation of direct accessways to the beach from private property is not supported.

Note: Publicly accessible walkways from The Marina to the beach should be used for

Shoalhaven Development Control Plan 2014

Draft Chapter N12: Culburra Beach – The Marina Area

beach access.

Private accessways remove dune vegetation and reduce the resilience of the dune system to erosion.

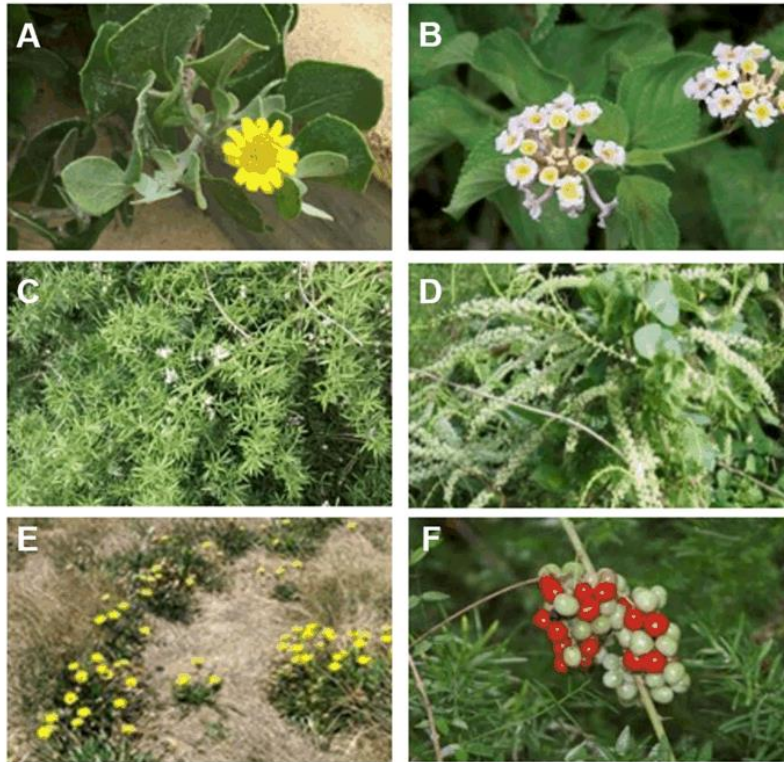


Figure 3: Invasive Species

A	Bitou bush	Chrusanthemoides monilifera subsp. Rotundata
B	Lantana	Lantana camara
C, F	Ground Asparagus Fern	Asparagus aethiopicus
D	Madeira Vine	Andredera cordifolia
E	Gazania	Gazania spp

5.5 Fencing

Performance Criteria	Acceptable Solutions
<p>P8 Fencing:</p> <ul style="list-style-type: none"> Minimises the destabilising effect on the dune system by avoiding the use of continuous footings in the construction of solid fencing. 	<p>A8.1 Fencing shall be restricted to:</p> <ul style="list-style-type: none"> Courtyards. Privacy areas around the dwelling. The land frontage (i.e. western or southern boundary).

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<ul style="list-style-type: none"> • Avoids undue disturbance to prevailing wind patterns by continuous boundary to boundary fencing. • Limits the removal of vegetation. • Maintains the natural landform and landscape quality of the locality. 	<p>A8.2 Fencing shall be timber (e.g., picket or lattice) or open mesh, as this requires small footings, blends in well and allows for the flow of winds.</p> <p>Note: Indiscriminate boundary to boundary fencing is not supported.</p> <p>Any proposed fencing along The Marina boundary should be considered as part of a development application.</p> <p>Note: Brickwork, masonry and metal fencing is not considered acceptable unless it only affects a small area and is treated to reduce its visual impact.</p>
---	--

5.6 Access

Performance Criteria	Acceptable Solutions
<p>P9 Legal vehicle access:</p> <ul style="list-style-type: none"> • Is provided to all residential allotments. • Is constructed to Council's standard for low traffic speed. • Provides an equitable means of providing sealed access to all properties. • Facilitates an overall integrated drainage system. • Reduces the potential for erosion and sedimentation problems associated with a lack of drainage. 	<p>A9.1 A survey plan demonstrating legal access to the site, is required to be submitted with any development application.</p> <p>Note: Where an access way is in private ownership, Council may include a condition of consent requiring the dedication of the right of way to Council (prior to the release of the construction certificate) so the access way can be properly constructed, drained and landscaped.</p> <p>A9.2 An all-weather standard access along the laneway frontage is to be constructed (at the cost of the applicant/owner) with the following specifications:</p> <ul style="list-style-type: none"> • 3m wide. • Minimum compacted pavement thickness of 200mm. • Adequate room for passing is to be provided that preserves existing landform/topography and landscape features. • Adequate stormwater drainage measures to ensure that discharge is not concentrated onto adjoining land.
<p>P10 Identifiable lane addresses are provided for each allotment that are suitable for postal and other services.</p>	<p>A10.1 The street name of a site that gains access via an unnamed lane or a right of carriageway is "The Marina" and the</p>

Shoalhaven Development Control Plan 2014

Draft Chapter N12: Culburra Beach – The Marina Area

proposed dwelling shall be addressed as such.

Note: Council may include a condition of consent in this regard.

6 Advisory Information

6.1 Other legislation you may need to check

Note: This Section is not exclusive and the applicant may be required to consider other legislation, policies and documents with the development application.

Council Policies & Guidelines • Nil

External Policies & Guidelines • Nil

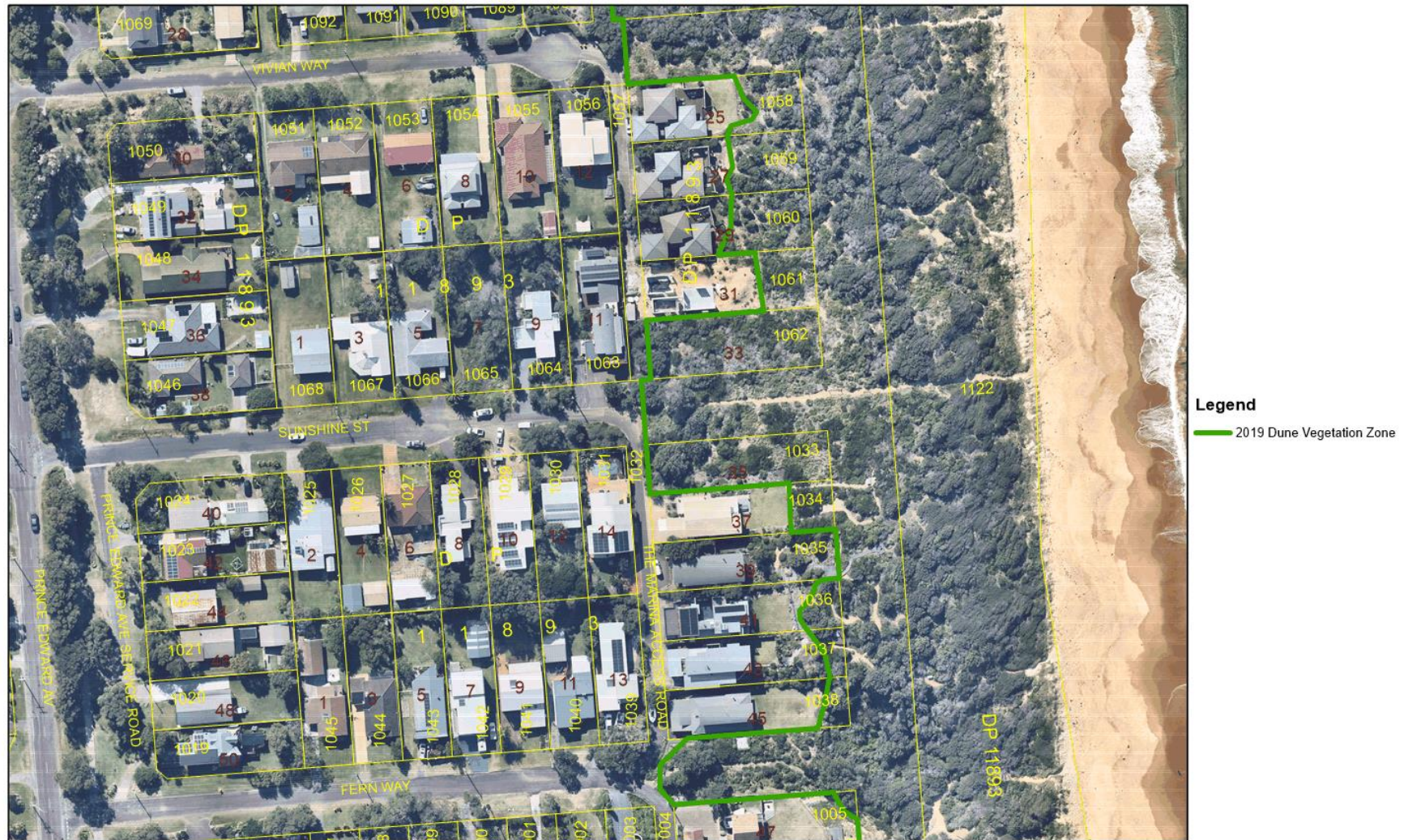
Legislation • Shoalhaven Local Environmental Plan 2014



Development Control Plan 2014
Chapter N12: Culburra Beach -
The Marina Area
Map 1

Park Row to Vivian Way

0 10 20 30 40
Metres
N
Shoalhaven
City Council
August 2021 Scale: NTS



Development Control Plan 2014
Chapter N12: Culburra Beach -
The Marina Area
Map 2

Vivian Way to Fern Way

0 10 20 30 40
Metres

Shoalhaven
City Council

August 2021 Scale: NTS

DE21.112 - Attachment 1



Development Control Plan 2014
Chapter N12: Culburra Beach -
The Marina Area
Map 3

Fern Way to Palm Way

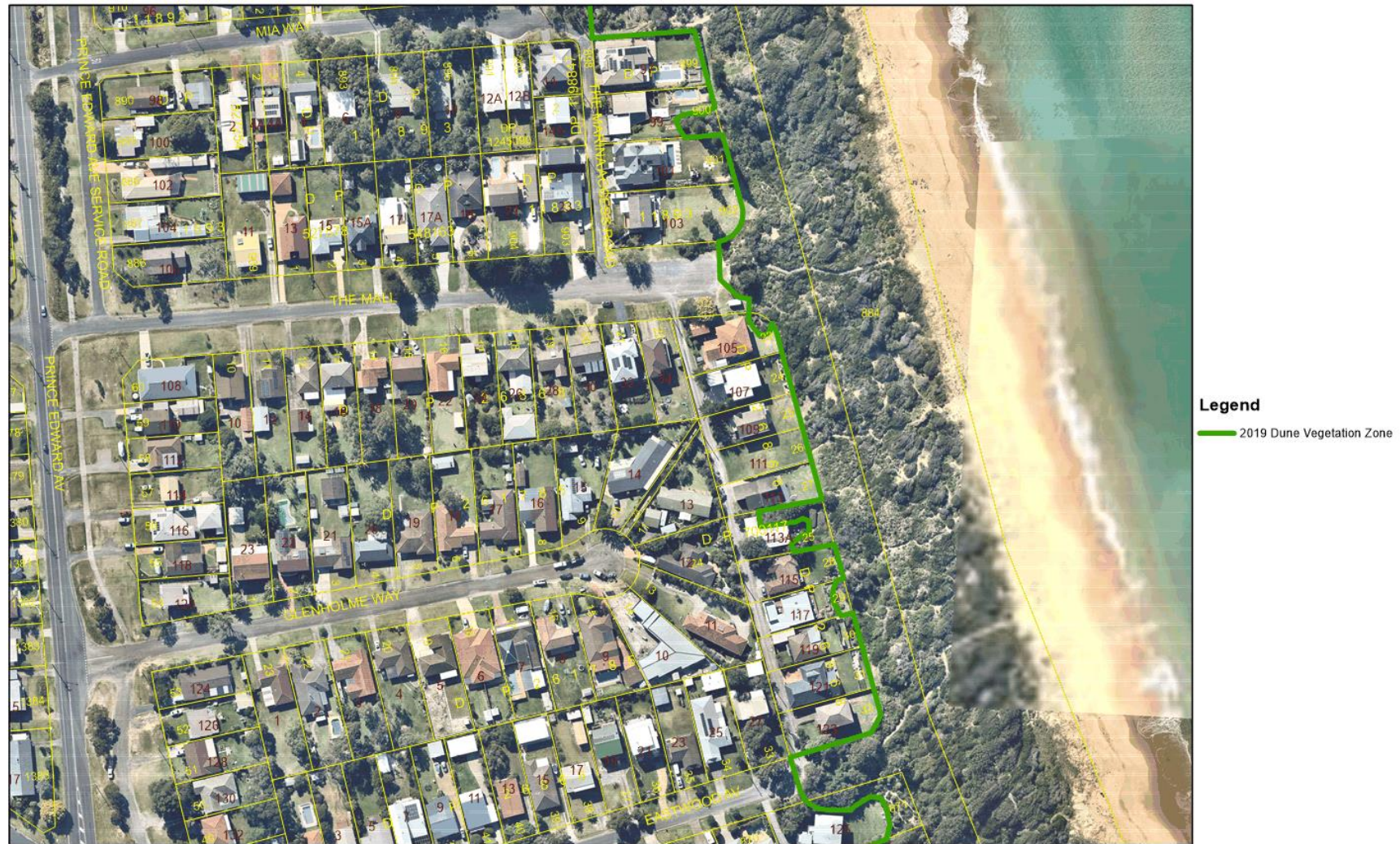


Development Control Plan 2014
Chapter N12: Culburra Beach -
The Marina Area
Map 4

Palm Way to Mia Way

0 10 20 30 40
Metres
Shoalhaven City Council August 2021 Scale: NTS

DE21.112 - Attachment 1



Development Control Plan 2014
Chapter N12: Culburra Beach -
The Marina Area
Map 5

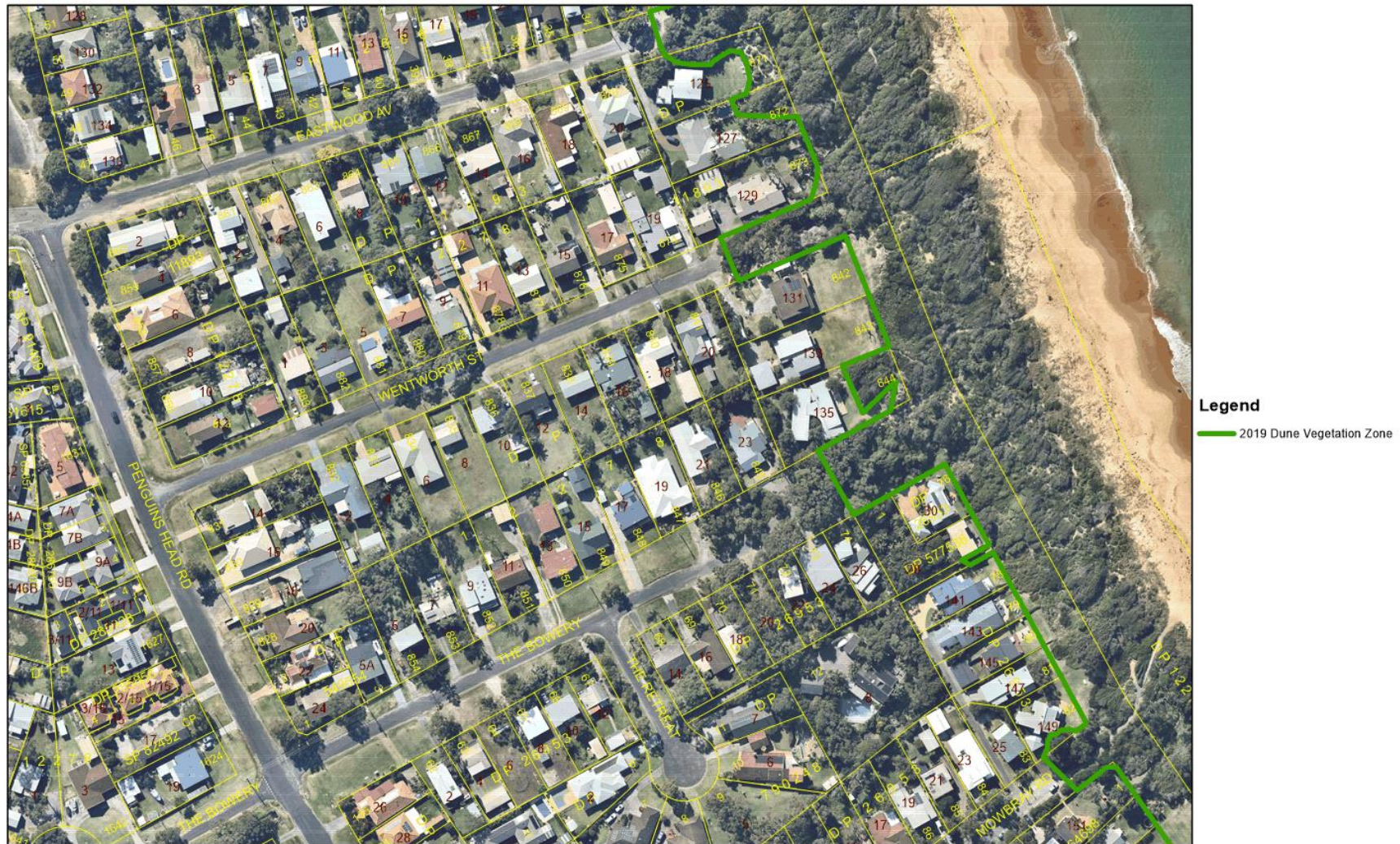
Mia Way to Eastwood Ave

0 10 20 30 40 50
Metres

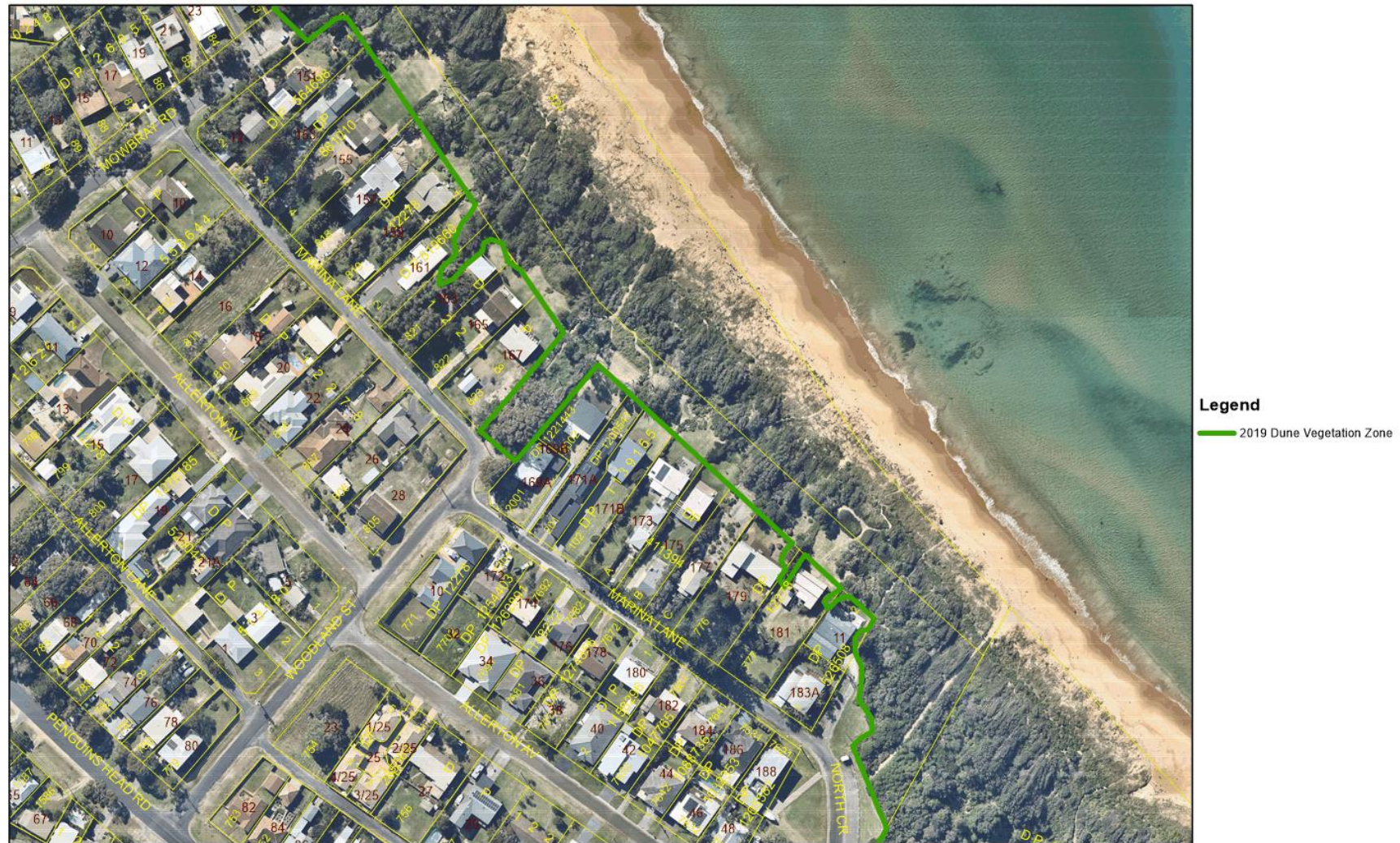
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Development Control Plan 2014
Chapter N12: Culburra Beach -
The Marina Area
Map 6



Development Control Plan 2014
 Chapter N12: Culburra Beach -
 The Marina Area
 Map 7

Mowbray Rd to North Cr

0 10 20 30 40 50
 Metres



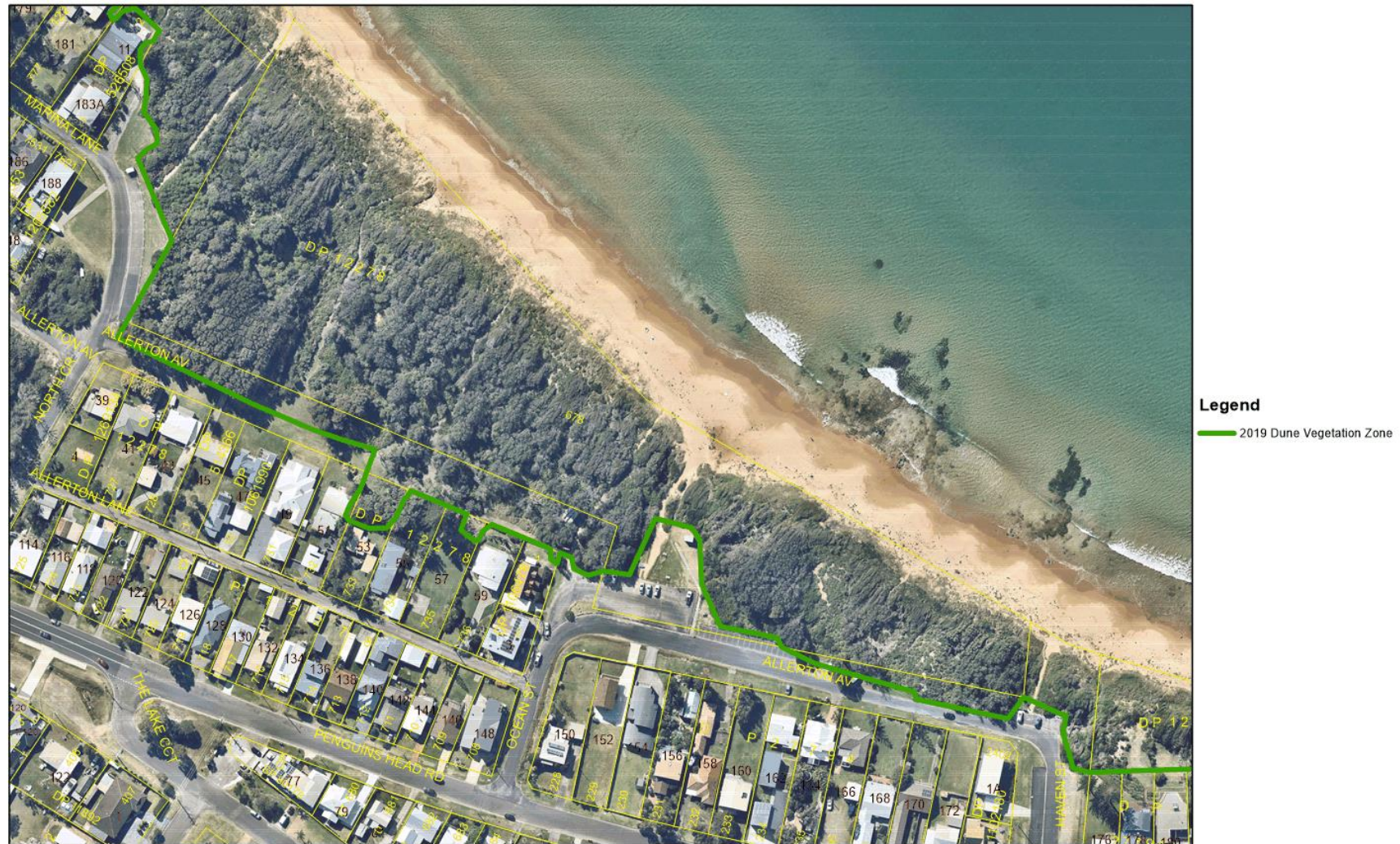


 Shoalhaven

 City Council

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DE21.112 - Attachment 1



Development Control Plan 2014
Chapter N12: Culburra Beach -
The Marina Area
Map 8

North Cr to Haven St

0 10 20 30 40 50
Metres

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DE21.112 - Attachment 1



Development Control Plan 2014
Chapter N12: Culburra Beach -
The Marina Area
Map 9

**Haven St and
Penguins Head Rd**

DE21.112 - Attachment 1



Policy - Voluntary Acquisition - Residual E2 Environmental Conservation Land - Jerberra & Nebraska Estates

Policy Number: POL21/44
Adopted: [Click here to enter date]
Minute Number: [Click here to enter Minute number]
File: 1013E/3 and 2653E/2
Produced By: City Futures
Review Date:

DE21.113 - Attachment 1

For more information contact the City Futures Directorate

Administrative Centre, Bridge Road, Nowra • **Telephone (02) 4429 3111** • Fax (02) 4422 1816 • PO Box 42 Nowra 2541
Southern District Office – Deering Street, Ulladulla • **Telephone (02) 4429 8999** • Fax (02) 4429 8939 • PO Box 737
Ulladulla

council@shoalhaven.nsw.gov.au • www.shoalhaven.nsw.gov.au

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1. PURPOSE

This document describes Shoalhaven City Council's policy for the voluntary acquisition of certain land in the Jerberra Estate, Tomerong and the Nebraska Estate, St Georges Basin. Voluntary acquisition is the transfer of land between a willing seller and willing buyer.

2. LAND TO WHICH THIS POLICY APPLIES

- 2.1. This policy applies to land shown in Figure 1, being land in the **Jerberra Estate, Tomerong** that is within the Zone E2 Environmental Conservation under a Local Environmental Plan applying to the land made in accordance with the *Environmental Planning & Assessment Act 1979*; and that is identified as 'Residual E2 Land' in Figure 2;
- 2.2. This policy will also apply to land shown in Figure 1 being land in the **Nebraska Estate, St Georges Basin** that is identified as 'Residual E2 Land' in Figure 3 but only if/when the land has been rezoned for the purposes of residential development and environmental conservation under a Local Environmental Plan applying to the land made in accordance with the *Environmental Planning & Assessment Act 1979*.

Note: The Nebraska Estate Planning Proposal (LP145.1) is yet to be finalised. If/when the land is rezoned, Figure 3 will be updated.

- 2.3. 'Residual E2 Land' is land that due to one or more environmental constraints:
 - does not/will not have a dwelling entitlement; and
 - is not proposed for consolidation into a larger development parcel.
- 2.4. The policy does not apply to 'Residual E2 Land' described in clause 2.3 that is owned by Council either at the date of adoption of this policy or that has been acquired by Council under this policy.

3. STATEMENT

- 3.1. This policy facilitates and provides a mechanism for the cost-neutral voluntary acquisition of 'Residual E2 Land' in Jerberra Estate, Tomerong (Jerberra) and the Nebraska Estate, St Georges Basin (Nebraska) (if/when the land is rezoned) using net profits from the sale of Council land [in the relevant Estate] that is both zoned and suitable for development (developable).
- 3.2. Land acquired by Council under this policy will be managed for environmental and biodiversity conservation purposes in perpetuity consistent with clause 34A of the *NSW Biodiversity Conservation (Savings & Transitional) Regulation 2017*.

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4. PLANNING CONTROLS – CLAUSE 34A CERTIFICATION

- 4.1. Planning controls for Jerberra are certified under clause 34A of the *NSW Biodiversity Conservation (Savings and Transitional) Regulation 2017* (Biodiversity Savings Order). This means that development applications (DA) that comply with the Estate's biodiversity controls can be assessed under the legislation that applied before commencement of the *NSW Biodiversity Conservation Act 2016*. Therefore, a Biodiversity Conservation Assessment Report (BCAR) is not required to accompany an individual DA. *Clause 5.2.2 – Legal requirements for considering the impact of proposed development* – Shoalhaven Development Control Plan (DCP) 2014 – Chapter N20 – Jerberra Estate applies and should be referred to for more information.
- 4.2. This policy will support Council's application for a similar Biodiversity Savings Order for Nebraska when the planning proposal has been finalised.
- 4.3. The effect of the Biodiversity Savings Order will be included in the provisions of the DCP for Nebraska, if adopted by Council.

5. FINANCIAL ARRANGEMENTS

- 5.1. All purchases of 'Residual E2 Land' will be funded by the net profit from the sale of Council land in the relevant Estate as outlined in the Statement at Section 3.
- 5.2. If an offer to sell 'Residual E2 Land' is received before any Council land in the relevant Estate has been sold, the funds will be borrowed from the Property Reserve to make the purchase and will be paid back into reserve when Council land is sold. The dollar value of such purchases must not exceed the dollar value of the anticipated net profits from the future sale of Council land.
- 5.3. Net profits from the sale of land in the relevant Estate may also be directed towards conservation objectives and the implementation of management plans outlined in clause 6.7 of this policy.
- 5.4. If net profits from the sale of developable Council land in one Estate are surplus to those required to purchase and manage Residual E2 land in that Estate, such funds may be used to purchase or manage Residual E2 land in the other Estate.
- 5.5. The internal reserve (*Jerberra and Nebraska Estates Property Reserve*) to be established to restrict net profits from the sale of land of the relevant Estate and to fund purchases of the E2 Land and other relevant activities as outlined in this Policy.
- 5.6. Net profits from the sale of land will **not** be directed towards the provision of roads and service infrastructure.
- 5.7. All decisions regarding the allocation of funds for each Estate will be at the discretion of the CEO or his delegate within relevant financial delegations.

6. PROVISIONS

6.1. Applicable legislation

The following legislation, as amended from time to time, and relevant statutory instruments apply:

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- *NSW Biodiversity Conservation Act 2016*
- *NSW Conveyancing Act 1919*
- *Environment Protection and Biodiversity Conservation Act 1999 (C'wth).*
- *NSW Environmental Planning & Assessment Act 1979*
- *NSW Local Government Act 1993*
- *NSW Real Property Act 1900*
- *NSW Valuation of Land Act 1916*

6.2. Related policies

Related policies include:

- [POL16/113 – Acquisition of Land by Shoalhaven City Council](#)
- [POL16/247 – Rates - Small Lot rural Subdivisions – Dealing with Unpaid Rates and Charges](#)
- [POL18/76 – Sale of Land to Recover Unpaid Rates and Charges](#)

6.3. Voluntary acquisition

The owner(s) of 'Residual E2 Land' identified in clause 2.1 may make a request in writing to sell their interest in the land to Council.

This policy does not bind Council to acquire the land.

6.4. Land valuation

The maximum amount that Council is willing to pay for 'Residual E2 Land' is the market value, as determined by an Independent Valuer engaged by the landowner.

6.5. Threatened Species – Nebraska – Priority acquisitions if/when the land is rezoned

- 6.5.1. The [Leafless Tongue Orchid \[*Cryptostylis hunteriana*\]](#) is listed as 'vulnerable' under the *NSW Biodiversity Conservation Act 2016* and the *Environment Protection and Biodiversity Conservation Act 1999 (C'wth)*[effective 16-Jul-2000] and is the subject of a Priority Action Statement.
- 6.5.2. [The Pot-Bellied Greenhood Orchid \[*Pterostylis ventricosa*\]](#) is listed as 'critically endangered' under the *NSW Biodiversity Conservation Act 2016*. Nebraska has been identified as a Priority Management site under the 'Saving Our Species' Program.
- 6.5.3. Priority for voluntary acquisition is therefore focused on:
- Lots 1-3, Section D in DP 9699; and
 - Lots 8-10, Section B and Lots 3-7, Section F in DP9699

6.6. Land classification

Land acquired under this policy will be classified as 'Community land – Natural Area Bushland' in accordance with Section 31 and Section 36 of the *NSW Local Government Act 1993* and Section 102 of the *NSW Local Government (General) Regulation 2021*.

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6.7. Management plans

A management plan for each Estate will be prepared for land acquired under this policy as required by s36 of the *Local Government Act 1993*. Each management plan will provide for:

- Management of the land for in-perpetuity protection / conservation of its ecological/ biodiversity values in accordance with *NSW Biodiversity Conservation Act 2016*.
- Monitoring of nearby development impacts and conservation outcomes on the above values;

and identify:

- net profits from the sale of developable Council land in the relevant Estate as an internal funding source; and
- key opportunities, in general terms, for access to external funds for environmental/ biodiversity conservation management/works including, for example, any Commonwealth or NSW State Government programs.

Options for the establishment of a Biodiversity Stewardship Agreement (BSA) or Conservation Agreement (CA) over consolidated areas of 'Residual E2 Land' will be explored. If a BSA or CA is deemed to be the preferred management tool to conserve the environmental values of the land, management plans under the *Local Government Act 1993* would not be required.

6.8. Conveyancing Requirements

- 6.8.1. Land offered for sale to/or by Council under this policy must be unencumbered by any outstanding rates and/or charges. Alternatively amounts outstanding, if any, will be adjusted at the date of settlement by agreement with Council.
- 6.8.2. The land must be in fair-good condition and suitable for inclusion in a management plan/program/agreement to protect and enhance its environmental conservation values into the future. It must be:
 - clear of any unauthorised buildings or structures (including any inground or above ground domestic infrastructure such as water tanks, outhouses and associated pipework or cables); and
 - clear of all debris, including builders waste, concrete slabs, scrap metal, green waste heaps and any other extraneous refuse located on the land.

In this regard:

- all demolition works must be undertaken in accordance with an approved Development Consent or Development Control Order issued by Council; and
- All works must be completed prior to settlement.

Note: Removal of **structures** can only be lawfully undertaken with a Development Consent or a Development Control Order issued by Council.

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- 6.8.3. Where the requirements of clause 6.8.2 are not satisfied Council may, at its discretion, accept the land in "as is" condition. In this regard, the costs of reinstatement must be independently assessed by a contractor approved by Council, must be met by the Vendor, and will be deducted from the agreed sale price.
- 6.8.4. Council shall bear the reasonable conveyancing costs (valuation and solicitors fees) incurred in consequence of the transfer of the land.
- 6.8.5. Council will not meet any legal costs incurred by the Vendor in pursuit of dispute resolution.

7. IMPLEMENTATION

The policy will be implemented as follows:

City Futures Directorate (Strategic Planning) – policy maintenance
City Performance Directorate (Finance Department) – funding allocation and budgeting
City Services Directorate (Property Services) – acquisition decisions, conveyancing, land classification
City Development Directorate (Environmental Services) – land management

8. APPLICATION OF ESD PRINCIPLES

The policy is consistent with the principles of ecologically sustainable development. It provides a mechanism for Council to voluntarily acquire 'Residual E2 Land' currently in fragmented ownership so that it can be managed sustainably for conservation in perpetuity by Shoalhaven City Council as Community Land – Natural Area – Bushland.

9. POLICY NOTES

9.1. Nebraska Estate

Nebraska Estate is zoned RU2 Rural Landscape under Shoalhaven Local Environmental Plan 2014. Residual E2 Land in Nebraska will not be voluntarily acquired until the planning proposal has been finalised, the land has been rezoned and a DCP has been adopted by Council. If/when the land has been rezoned the policy will be updated to reflect the new planning controls that apply.

9.2. Who or what is an independent valuer?

An independent valuer is a person who is "suitably qualified" to provide evidence of the value of property, who does not have a conflict of interest and does not work for Council or any other authority with an interest in the land. For example, for the purposes of Section 305 of the *Duties Act 1997* the NSW Commissioner for Revenue has determined that the following persons are considered suitably qualified to provide evidence of value of property:

- i. a member of the Australian Valuers Institute (other than an associate or student member), or

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- ii. a member of the Australian Property Institute (other than a student or provisional member), who has acquired membership in connection with his or her occupation as a valuer, or
- iii. a member of the Royal Institution of Chartered Surveyors who holds the designation "Chartered Valuer" or 'Chartered Valuation Surveyor'. The NSW Valuer General sets the standards and policies for the valuation system to ensure that valuations are consistent and accurate, transparent and in line with the Valuation of Land Act 1916.

9.3. Priority Acquisitions

The identification of priority acquisitions under clause 6.5 does not preclude the acquisition of other land identified in clause 2.1. All voluntary acquisitions will be at the discretion of Council.

9.4. Additional Information

For additional information refer to Council's webpage: [Paper-Subdivisions](#)

9.5. Enquiries

Enquiries about this policy should be directed to the City Futures Directorate – Strategic Planning on 1300 293 111.

10. REVIEW

The policy will be reviewed within one year of the election of each new Council, or earlier if circumstances require.

Shoalhaven City Council - "Click & type Title"

11. FIGURES



Figure 1 - Site Locations

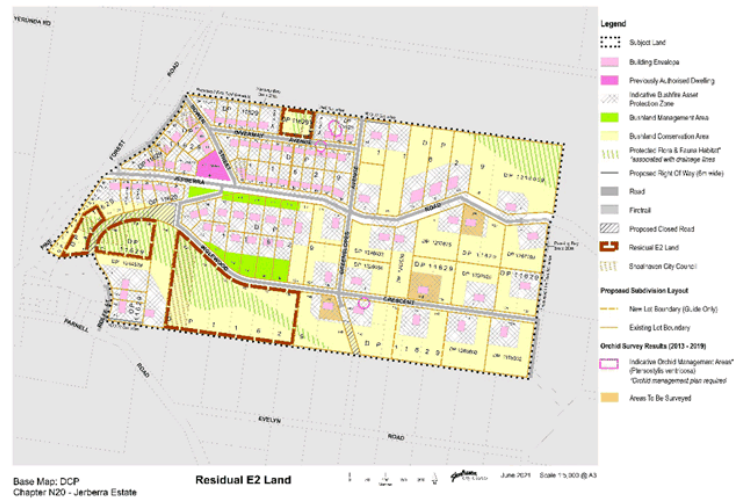


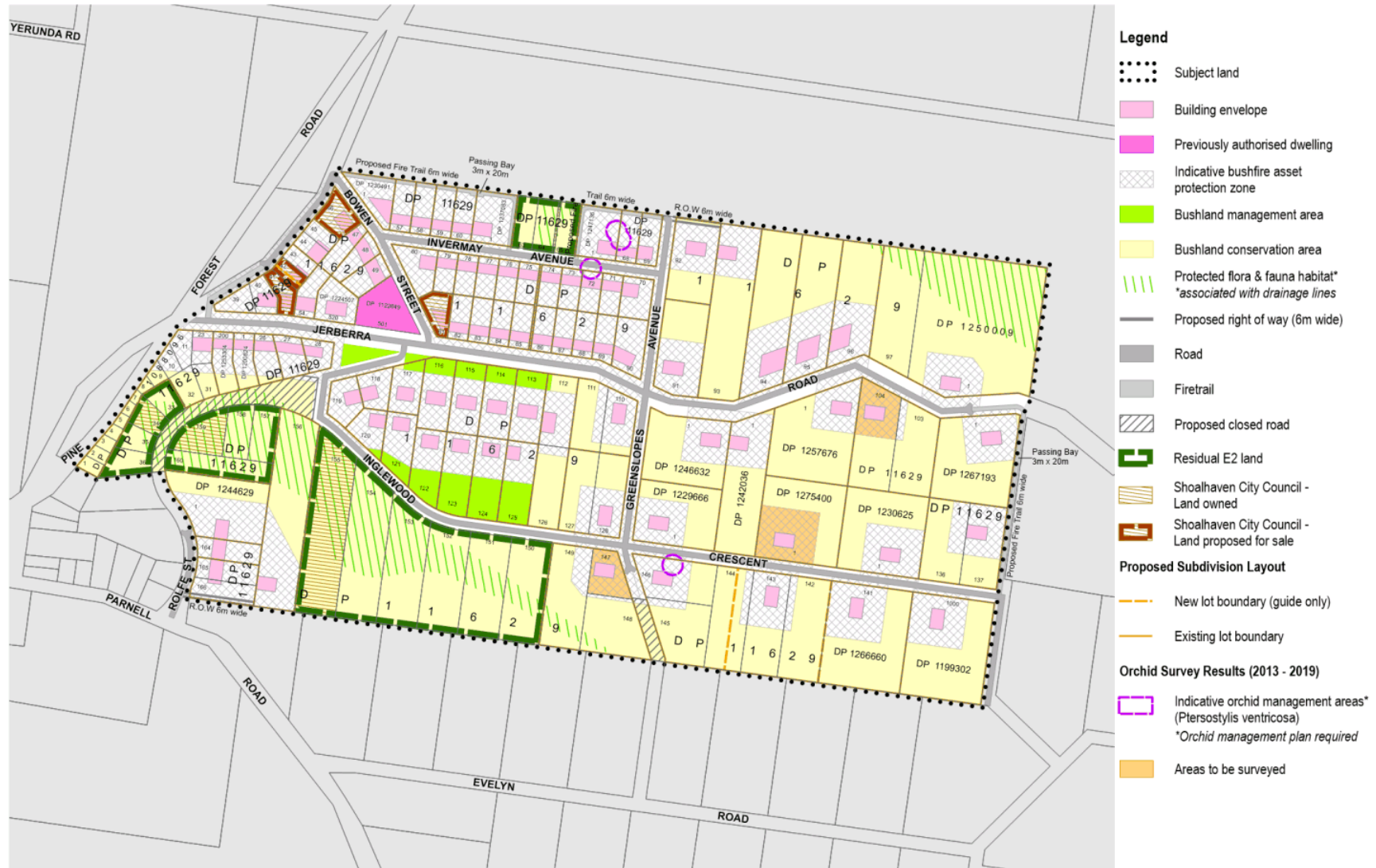
Figure 2 - Jerberra Estate – Residual E2 Land

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Figure 3 – Nebraska Estate – Proposed Residual E2 Land*

*Note: the Nebraska Estate Planning Proposal (LP145.1) is yet to be finalised and is subject to change.



Base Map: DCP
Chapter N20 -
Jerberra Estate

Residual E2 Land and Council land proposed for sale

0 50 100 150 200 Metres
August 2021 Scale 1:5,000 @ A3



I:\Planning\Graphics\Projects\City\Le\Diep\DraftLP145.1_PlaningProposal\DraftLP145.1_PlaningProposal_Maps\CouncilReport\Map05102021\DraftLP145.1_NebraskaEstate_CouncilReportMap05102021.mxd



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Valuation Report

Various Lots, Jerberra Estate
Tomerong, New South Wales 2540

File Ref: 12026959

DE21.113 - Attachment 4



VALUATION REPORT



Various Lots, Jerberra Estate

Tomerong, New South Wales 2540

Prepared For	Shoalhaven City Council
Report Purpose	Strategic Planning purposes
Valuation Date	4 August 2021
Our Reference	12026959
Client Reference	2653E/2
Inspection Type	Full Inspection

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Opteon Property Group Pty Ltd
ABN 78 144 732 589
Liability limited by a scheme approved under Professional Standards Legislation

P 1300 40 50 60
E info@opteonsolutions.com
W www.opteonsolutions.com

Jerberra Estate
Tomerong, New South Wales
Our Reference: 12026959



1.0 Valuation Summary

1.1 Scope of Work and Instructions

Identity of Valuer	Opteon Property Group Pty Ltd
Independence of Valuer/Disclosure	Unless otherwise disclosed, the valuer does not have any material connection or involvement with the subject property or the parties to the valuation that could limit the valuer's ability to provide an unbiased and objective valuation. The valuation has been assessed independently by the valuer without material assistance from others.
Instructing Party	Eric Hollinger, Shoalhaven City Council
Client	Shoalhaven City Council
Scope of Work	<ol style="list-style-type: none"> 1. An independent assessment of the unimproved land value for each individual undevelopable residual E2 lot; 2. An independent assessment of the current market value of each individual Council-owned developable lot.
Client Reference	2653E
Property Address /Asset Valued	Various Lots, Jerberra Estate Tomerong, New South Wales 2540
Valuation Currency	This valuation has been assessed in Australian dollars (\$AUD).
Valuation Purpose and Restrictions on Use	<p>Strategic Planning purposes</p> <p>This report has been prepared for the private and confidential use of our client, NSW Shoalhaven City Council and the nominated other authorised users, for the specified purpose and it should not be relied upon by any other party for any purpose and the valuer shall not have any liability to any party who does so. The report should not be reproduced in whole or part without the express written authority of Opteon Property Group Pty Ltd. Our warning is registered here, that any party, other than those specifically named in this report as our client or authorised user should obtain their own valuation before acting in any way in respect of the subject property.</p>
Inspection	In order to complete the valuation a sufficiently comprehensive inspection of the property has been completed.
Basis of Value	Market Value – Land Only reflecting the scope of work detailed above.
Extent of Valuers' Work and Limitations	<p>The extent of investigation undertaken by the valuer in completing the valuation has included:</p> <ul style="list-style-type: none"> • collation of information from relevant parties regarding the subject property; • undertaking our own research regarding the subject property; • undertaking market research in terms of values and/or costs of similar properties; • preparation of valuation calculations, and; • preparation of this report; <p>This valuation has been based on information supplied which is assumed to have been provided in good faith and contains a full and frank disclosure of all information that is relevant to the valuation of the property. The valuer has not undertaken due diligence or verification of the information supplied.</p>
Compliance/Departures with Valuation Standards	This valuation has been prepared in accordance with the International Valuation Standards and other applicable Valuation Standards.

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1.2 Property Details

Property Description	
Title Reference	Various Lots in Deposited Plan 11629 as described in attached Table 5.2 and 6.2.
Tenure Type	Freehold
Registered Proprietor	Multiple Registered Proprietors including Shoalhaven City Council and various Private Owners
Encumbrances	Title searches have not been undertaken. All developable sites have been valued on the basis of no encumbrances precluding development as identified in line with the Planning Controls.
Zoning	E2 Environmental Conservation and E4 Environmental Living under Shoalhaven LEP (Jerberra Estate) 2014.

1.3 Assumptions and Recommendations

Significant Assumptions	<ul style="list-style-type: none"> The instructions and information supplied contain a full disclosure of all information that is relevant; Potential considered in accordance with current planning controls
Recommended Documents to Sight	- Nil
Expected Selling Period	Extended Marketing Period for all developable lots is considered to be circa 12 months due to the nature of the properties. Market uncertainty as a result of COVID-19 could also have an adverse effect on marketability and result in an extended selling period.

1.4 Valuation Details

Residual E2 Land total:	\$ 970,000 (Nine Hundred and Seventy Thousand Dollars)*
Council E4 land total:	\$1,560,000 (One Million, Five Hundred and Sixty Thousand Dollars)*
	<ul style="list-style-type: none"> See tables 14.2 and 14.3 in body of report for individual breakup of properties valued and their individual valuations
Interest Valued	Fee simple vacant possession
Date of Inspection	28 April 2021
Date of Valuation	4 August 2021
Date Issued	31 August 2021
Pecuniary Interest	We confirm that the valuer does not have any pecuniary interest that would conflict with the proper valuation of the property.
Signatories	 Angelo Konidaris Director Government Advisory AAPI CPV API No: 69838 Primary Valuer

Important	<i>This Executive Summary must be read in conjunction with the remainder of this report. The Executive Summary is only a synopsis designed to provide a brief overview and must not be acted upon in isolation to the contents of the valuation report.</i>
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Digital Copies of Reports	<i>Where a report has been provided in digital copy and has not been received directly via our firm, the report contents, especially the valuations and critical assumptions, should be verified by contacting the issuing office to ensure the contents are bona fide. In particular if the reader of this report has suspicions that the report appears to be tampered or altered then we recommend the reader contact the issuing office.</i>
Reliance on Whole Report	<i>This valuation should be read in its entirety, inclusive of any summary and annexures. The valuer and valuation firm does not accept any responsibility where part of this report has been relied upon without reference to the full context of the valuation report.</i>

2.0 Date of Valuation

Valuation Date	4 August 2021
Date of Inspection	28 April 2021
Expiry of Valuation	This valuation is current as at the Date of Valuation only. The value assessed herein may change significantly and unexpectedly over a relatively short period (including as a result of general market movements or factors specific to the particular property). We do not accept liability for losses arising from such subsequent changes in value.

3.0 Location and Summary of Jerberra Estate

The Jerberra Estate is located within Tomerong, approximately 8.5km west of the town of Huskisson, 22km south of the Nowra and 100km south of Wollongong by road. It comprises an established rural residential location on the south coast of NSW.

The Jerberra Estate subdivision comprises a former paper subdivision immediately east of Tomerong Village. It was initially registered in 1922 but was largely undeveloped and held in two ownerships until 1986. The Estate had a rural zoning that effectively prohibited dwellings on the individual lots however many of the lots were sold separately from 1986 onward on the speculative presumption that the land would be rezoned to allow dwellings. Jerberra Estate was rezoned in 2014 to a mix of environmental zones (E2, E3 and E4) allowing up to 87 dwellings to be approved subject to protecting the Estates important environmental values while also managing bushfire risk.

Council's land in Jerberra comprises a total 4 developable parcels and one constrained parcel that are currently owned by Shoalhaven Council which are understood to have been transferred to Council in lieu of payment of Council Rates and charges.

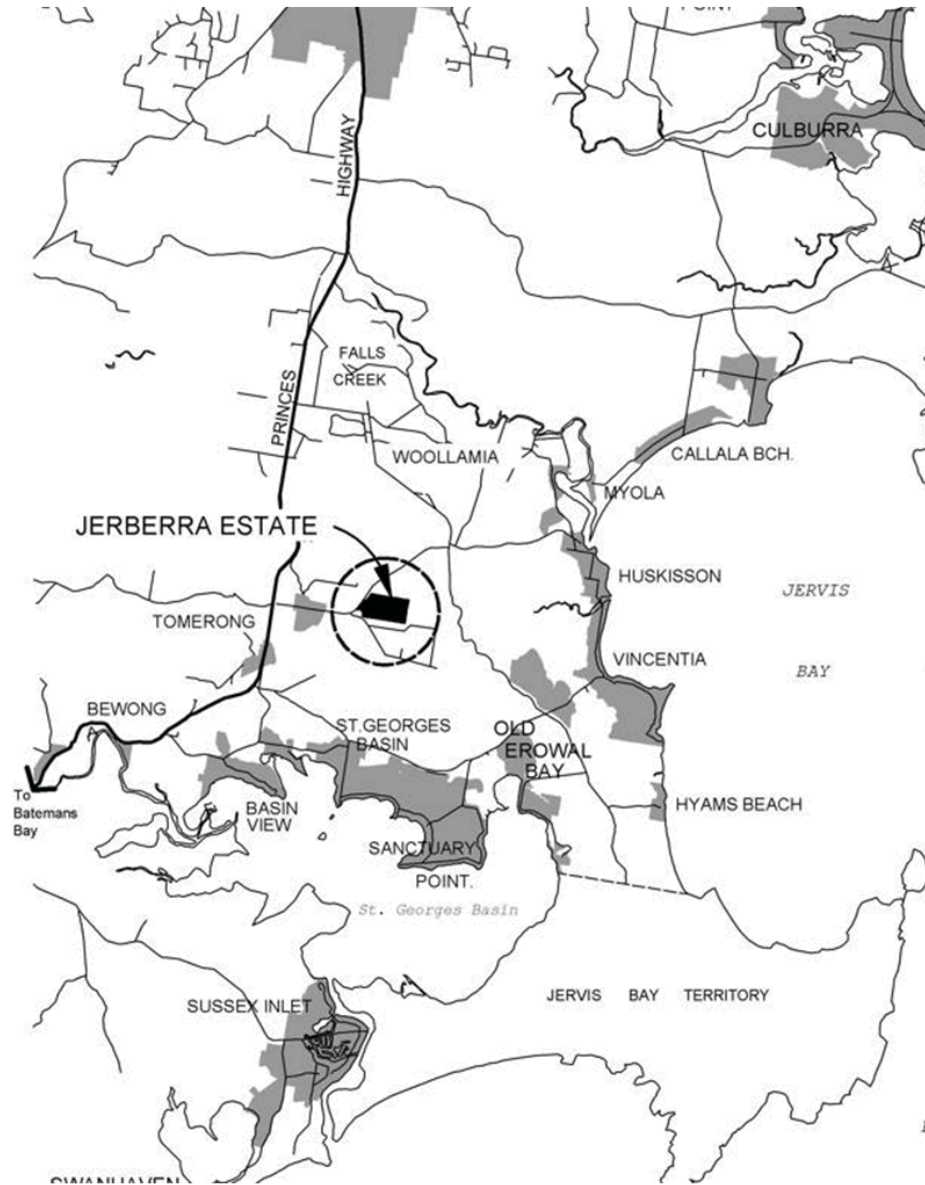
The remaining sites are privately owned and predominantly comprise a mix of legal rural residential development, scattered unauthorised dwellings, vacant bush blocks which are constrained to varying extents. Heavily constrained parcels which fall within the E2 zone are likely to be subject to acquisition by Shoalhaven Council on a voluntary piecemeal basis in the future.

Jerberra supports a wide range of protected vegetation communities, and flora and fauna species as identified in the Jerberra Estate Environmental Management Plan (Document 4: DCP Chapter N20) Jerberra Estate).

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Location Map



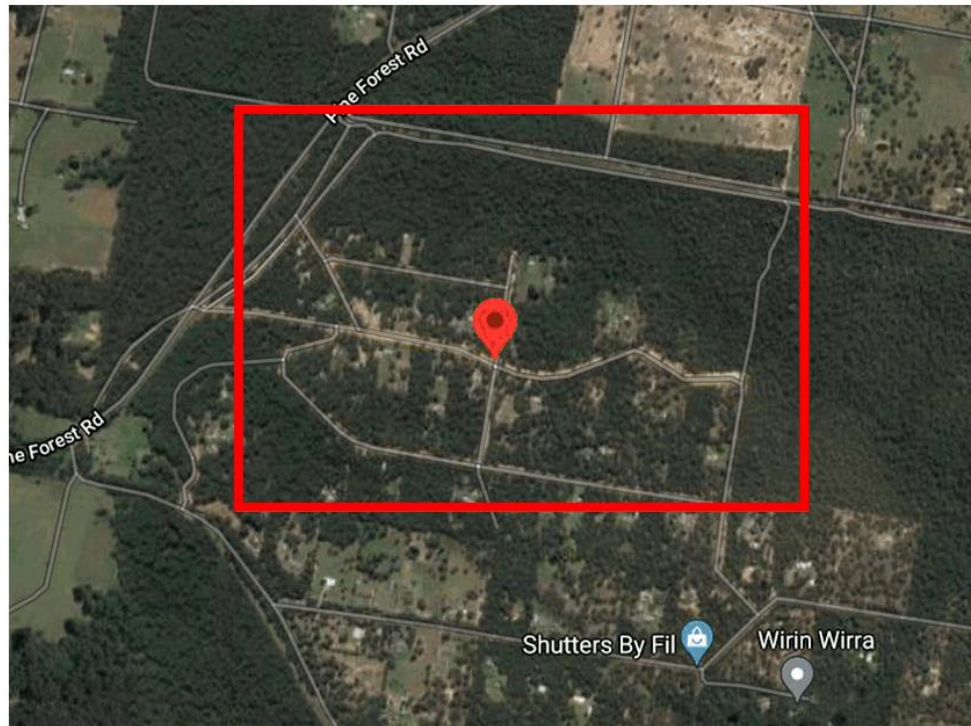
Location Map – Source: Shoalhaven City Council

DE21.113 - Attachment 4

Jerberra Estate
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Aerial Map



Approximate Location of Subject Property outlined Red - Source: Google Maps

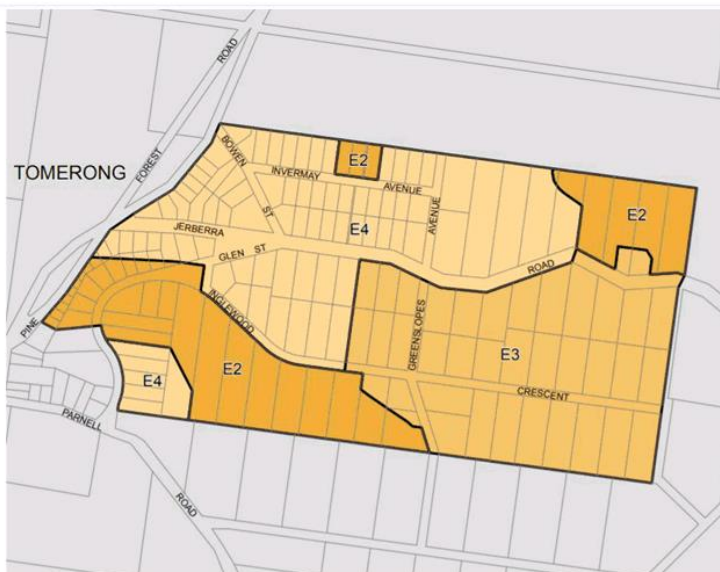
4.0 Planning

Local Government Area	Shoalhaven City Council
Planning Scheme	Shoalhaven Local Environmental Plan (Jerberra Estate) 2014
Current Zoning	E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living
Existing Use	Mix of Vacant Land and Rural Residential Uses were noted during my inspection
Zoning Effect	Single dwellings are permitted over lots identified with area allocated within the Development Area Map and a permitted use in accordance with the zoning.

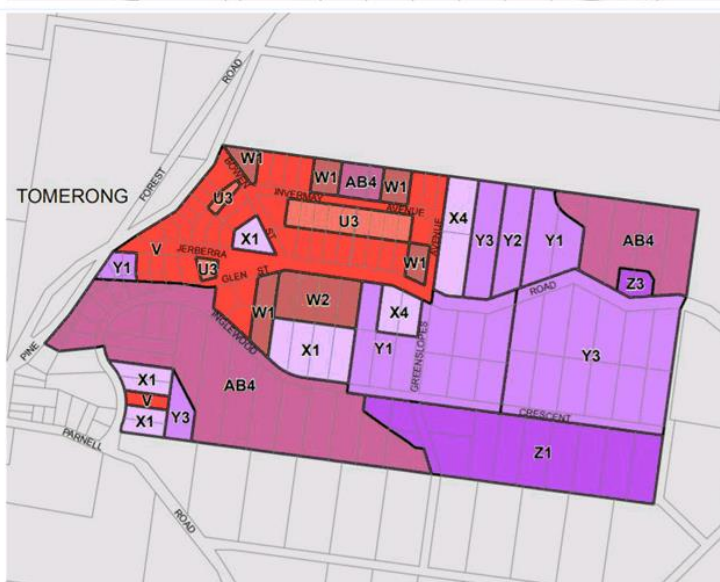
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Extract of Zoning Map



Extract of Lot Size Map



DE21.113 - Attachment 4

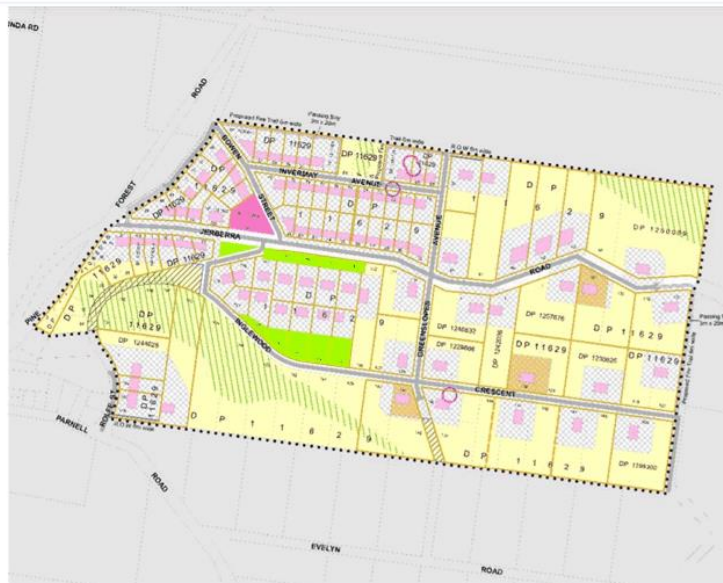
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Extract of Development
Area Map



Development &
Conservation Areas –
Extract from Development
Control Plan – Jerberra
Estate



DE21.113 - Attachment 4

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5.0 E2 sites

Site Area	Varies – see table 5.2
Topography	Lots are typically gently undulating contour. All E2 lots are densely timbered with protected vegetation.
Access	All developable lots within the subdivision are accessible by sealed road with gravel verges
Identification	Aerial Photography in conjunction with provided Cadastral Plan and physical inspection of the site.

5.1 Services

Services	Electricity, and telephone are available to the subdivision. Town water and sewer are not available to the lots with any new dwellings to provide tank water and on site effluent management.
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Table 5.2 - E2 Land Parcels:

Title Reference	Tenure	Site Area
Lot 33 in DP11629	Freehold	1,973sqm
Lot 35 in DP11629	Freehold	1,802sqm
Lot 36 in DP11629	Freehold	2,490sqm
Lot 63 in DP11629	Freehold	2,321sqm
Lot 64 in DP11629	Freehold	2,320sqm
Lot 65 in DP11629	Freehold	2,321sqm
Lot 150 in DP11629	Freehold	9,280sqm
Lot 151 in DP11629	Freehold	9,283sqm
Lot 152 in DP11629	Freehold	9,390sqm
Lot 153 in DP11629	Freehold	10,670sqm
Lot 154 in DP11629	Freehold	13,220sqm
Lot 157 in DP11629	Freehold	3,170sqm
Lot 158 in DP11629	Freehold	3,010sqm
Lot 160 in DP11629	Freehold	4,825sqm

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6.0 Council Owned sites

Site Area	7,932sqm over four lots. One is proposed to form a consolidated parcel – see table 6.2
Shape	<p>Lot 41 – irregular “V” shaped parcel with frontages to Old Pine Forest Road and Jerberra Road</p> <p>Lot 42 – rectangular shaped parcel with frontage to Old Pine Forest Road</p> <p>Lot 46 – Corner parcel of almost square shape. Frontages to Old Pine Forest Road and Bowen St</p> <p>Lot 81 – Corner parcel of irregular, diamond shape. Frontages to Bowen Street and Jerberra Road.</p>
Topography	Lots are mostly of a gently undulating contour. Lots 41 and 42 are densely timbered to the entire parcels. Lots 46 and 81 are mostly cleared with scattered trees on the sites.
Access	All developable lots within the subdivision are accessible by bitumen sealed road with gravel verges
Identification	Aerial Photography in conjunction with provided Cadastral Plan and physical inspection of the site.

6.1 Services

Services	Electricity, and telephone are available to the subdivision. Town water and sewer are not available to the lots with any new dwellings to provide tank water and on site effluent management.
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Subject Lots



Subject Lots outlined in Red and Numbered by Lot

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Table 6.2 - Council Owned Land Parcels:

Title Reference	Tenure	Registered Proprietor	Site Area
Lot 41, Jerberra Road, Tomerong Lot 41 in DP11629	Freehold	Shoalhaven City Council	1,798sqm
Lot 42, Pine Forest Road, Tomerong Lot 42 in DP11629	Freehold	Shoalhaven City Council	1,190sqm
Lot 46, Pine Forest Road, Tomerong Lot 46 in DP11629	Freehold	Shoalhaven City Council	2,668sqm
Lot 81, Jerberra Road, Tomerong Lot 81 in DP11629	Freehold	Shoalhaven City Council	2,276sqm
Total Land Area			7,932 sqm

7.0 Photography



Typical developable lot within Jerberra



Typical developable lot within Jerberra



Electrical Transmission Line Easement



Jerberra Road

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8.0 Environmental Issues

Environmental Issues

We have been provided with a range of environmental information including a Flora and Fauna Assessment conducted by Bushfire and Environmental Services during February 2007. This has been relied upon to reveal any significant environmental constraints and should be read in conjunction with this report.

Various flora and fauna species were found across the estate. Extracts of the investigations are shown below.



Flora Survey Area



Fauna Survey Area

The findings of the Flora and Fauna Investigation appear to have informed the planning of the site and the sites earmarked to be conservation areas with the layout of the zoning map consistent with the findings in the report.

Bushfire

Given the nature of the site, properties within the entire Jerberra subdivision are subject to bushfire constraints either as a Vegetation Buffer or Category 1.

Any future dwellings constructed on the site would be required to be in line with

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Councils requirements for development in bushfire zones.

9.0 Comparisons to Existing VG UCVs

We have also reviewed the UCV's of the site provided by the instructing party and commented where necessary. These have been applied in the spreadsheet that accompanies this report. The approach typically undertaken when completing the valuation of land in accordance with the Valuation of Land Act 1916 is a mass valuation approach. This approach is in short, an indexation process based on the assumption that the previous values are correct. When values are placed into the valuation roll, they are initially "handcrafted" taking into account their shape, zoning and potential. In estates similar to Jerberra, typically, there is an understating of values for several reasons. Some of these include:

- Uncertainty around potential in the future,
- Bullishness of speculative investors not in line with broader market for unconstrained sites,
- Lack of evidence to substantiate a change in the previous value.

In the case of the subject properties, the Residual E2 parcels all appear to be at a nominal rate of \$32,000. There is some merit to adopting a nominal value, as sales of constrained parcels are typically rare and often not at "arm's length". This rate may be based on evidence the rating contractor has compiled throughout the Shoalhaven LGA as comparable over their time in the market within this location.

There is also some merit in adopting a value rather than a pro rata adopted value based on land area for properties of this size as the investor looking to purchase questions the amount they wish to speculate with on this property type rather than apply a more rational rate for land area. This will be discussed further in the valuation rationale.

The rates adopted are considered nominal and consistent of an asset of this nature, however appear to be somewhat conservative compared to sales evidence, especially more recently within the Jerberra Estate.

10.0 General Comments

The subject properties form 18 lots within the "Jerberra Estate" of which 14 are residual E2 zoned constrained parcels in private ownership and 4 developable lots/parcels which are in Council ownership. Council proposes to fund the voluntary acquisition of the constrained land using the sale of developable lots within the development.

Planning controls for the Jerberra Estate have been adopted since 2014. There is now certainty around the potential of lots in this location with an established market. The new Jerberra Estate LEP 2014 came into effect on the 22 February 2014.

At present there is reasonable gravel sealed road access to the majority of the Estate. Council are in the process of installing further necessary services for this estate. These costs are being recouped through the owners via increased rates over a number of years, which will in turn affect the properties' marketability and value. This factor is reflected in the sale prices currently being achieved within the estate. It is also noted that the existing Special Rates Provision will end on 30 June 2025 with a marketability of these sites considered to be positively affected. Council proposes to sell all land parcels unencumbered by Special Rates with my valuation assessed on this basis.

I have been instructed to provide valuations of the following:

- Residual E2 land within the development to be purchased (being 14 lots as per the spreadsheet provided by Council), and;
- Council owned assets proposed to be disposed of (comprising 4 lots).

The application of the values and market evidence is further discussed in the Valuation Rationale section of this report.

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11.0 Valuation Methodology

Primary Methodology Direct Comparison

12.0 Market Evidence

12.1 Sales Evidence

In forming our opinion of value we have had regard to various sales transactions, a selection of which are detailed below.

Address	Legal Description	Sale Price	Date	Land Area	\$ /sqm Land	Land Use Zone	Comments
Constrained Market Evidence							
32 Rolfe St, Tomerong	32/11629	\$65,000	Feb-21	1,808 sqm	\$36	E2	Constrained Parcel fully timbered in Jerberra Estate
97 Jerberra Rd, Tomerong	97/11629	\$95,000	Sep-20	10,870 sqm	\$9	E2	Adjoining owner purchase to consolidate site
Otford Rd, Otford	2/33693	\$108,000	Apr-21	7,714 sqm	\$14	E2	Fully timbered constrained parcel. No potential
Pannamena Cres, Worroving Heights	151/8590	\$5,000	Feb-20	847 sqm	\$6	E2	Fully timbered constrained parcel. No potential
Plunkett St, Nowra	1/1257545	\$27,964	Oct-19	1,007 sqm	\$28	RE1/R3	L shaped road reserve and open space purchased by adjoining owner to increase land size
98 Jerberra Rd, Tomerong	98/11629	\$100,000	Jul-18	12,240 sqm	\$8	E2/E4	Adjoining owner purchase to consolidate site
Unconstrained Evidence Requiring Amalgamation							
132 Inglewood Cres, Tomerong	132/11629	\$170,000	Aug-20	7,430 sqm	\$23	E3	requires amalgamation for development (1.5ha lot)
140 Inglewood Cres, Tomerong	140/11629	\$165,000	Jul-20	9,283 sqm	\$18	E3	requires amalgamation for development (2ha lot)
Inglewood Cres, Tomerong	133/11628	\$165,000	Jun-19	7,480 sqm	\$22	E3	requires amalgamation for development (1.5ha lot)
Unconstrained Market Evidence in Jerberra Estate							
Invermay Ave, Tomerong	73/11628	\$460,000	Jun-21	1,853 sqm	\$248	E4	dwelling entitlement in isolation
86 Jerberra Rd, Tomerong	86/11629	\$420,000	Apr-21	2,036 sqm	\$206	E4	dwelling entitlement in isolation
114 Jerberra Rd, Tomerong	114/11629	\$450,000	Mar-21	4,869 sqm	\$92	E4	dwelling entitlement in isolation
Jerberra Rd, Tomerong	85/11629	\$375,000	Mar-21	2,023 sqm	\$185	E4	dwelling entitlement in isolation
74 Invermay Ave, Tomerong	74/11629	\$375,000	Jan-21	1,853 sqm	\$202	E4	dwelling entitlement in isolation
43 Jerberra Rd, Tomerong	83/11629	\$370,000	Jan-21	2,017 sqm	\$183	E4	dwelling entitlement in isolation
Jerberra Rd, Tomerong	91/11628	\$365,000	Dec-20	9,232 sqm	\$40	E4	dwelling entitlement in isolation
Invermay Ave, Tomerong	57/11628	\$350,000	Aug-20	2,321 sqm	\$151	E4	dwelling entitlement in isolation
Jerberra Rd, Tomerong	89/11628	\$270,000	Apr-20	2,144 sqm	\$126	E4	dwelling entitlement in isolation
Invermay Ave, Tomerong	71/11628	\$250,000	Jan-20	1,853 sqm	\$135	E4	dwelling entitlement in isolation

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13.0 Market Commentary

13.1 Level of Market Activity

Marketability	Good
Market Activity	Slow

13.2 Market Commentary

COVID-19 has caused major economic disruption, but some sectors of the property market are currently experiencing a swift recovery being driven by low listing volumes, incentives and low mortgage rates.

The subject property is in a market segment where there is prevailing weakness because supply exceeds demand. Market activity is significantly disrupted at this time with no indication on long term effect on demand within this property segment.

The location of COVID-19 outbreaks, restriction responses and economic impact cannot be predicted and for these reasons and others, the residential property market might still be considered susceptible to volatility and especially falling prices in directly affected areas. The values within this report may change significantly and unexpectedly over a relatively short period of time (including because of factors that the Valuer could not reasonably have known as at the date of valuation).

14.0 Valuation Rationale

14.1 Market Value E2 Lots

Land within Paper Subdivisions generally are marketed as a low cost speculative investment. Examples of other subdivisions include Riverstone Scheduled lands in Blacktown LGA and North Arm Cove in Port Stephens. Since their initial subdivision, notwithstanding their limited potential have been seen as a popular investment, especially compared to other land in the same local government area that is capable of development. Notwithstanding this, there is a very limited market for similar properties for the following reasons:

- Land within Paper Subdivisions are generally not available for bank finance (due to bank requirements for residential use being a permitted use) which limits purchasers to cash buyers,
- This investment type is highly speculative and suited to an investor that is capable of accepting the level of risk, and;
- The sites are often not accessible by road which provide further uncertainty about what is being purchased.

Although there is a level of certainty around the long term potential of the site, this market will always still exist to some extent.

Valuation of constrained land is generally difficult due to a significant paucity of transactions available. Typically purchases of this nature are subject to these types of purchasers:

- Speculative investors looking at high risk investments (as discussed previously), and;
- Public authorities such as a local Council or other authority (National Parks, Crown, TfNSW etc).

This is made further complex by the guardrails imposed on public authorities when acquiring land under Just Terms Legislation. For this reason, there are typically a small number of transactions within a region that are of suitable comparison. I have searched for sales within the Shoalhaven and surrounding LGAs, going back in time to 2019 for the purpose of my research. In conducting this search, I have excluded several sales by Shoalhaven Council.

In applying the value, I have tiered the sales evidence in three groups:

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- Sales not capable of development – constrained land sales,
- Sales capable of development but requiring amalgamation, and;
- Developable sales evidence

The best physically comparable evidence is sales evidence of constrained land not available for development. These sales provide a range of between \$5,000 and \$108,000 which can also be expressed as \$6/sqm and \$36/sqm depending on size.

I have adopted an upper limit using sales evidence of developable sales requiring amalgamation. These would be viewed as a superior property to the constrained land as they have some potential that is available, albeit with the benefit of an adjoining parcel. The sales of sites requiring amalgamation provide a consistent range of rates from between \$18/sqm and \$23/sqm.

The adopted rates would require a level of reconciliation with properties of this nature are generally purchased on round figures rather than on a rate per square metre. When viewed on this basis, the range supported by the evidence within Jerberra is relatively consistent of between \$65,000 and \$100,000 notwithstanding the significant variation in size of between 1,800sqm to 12,240sqm.

Having regard to this information, and cognisant of the speculative market that exists in this location, I have adopted rates reflective of values for each of the sites considering the constrained land and having regard to the market within the Jerberra Estate.

The values adopted for the E2 land are shown in the table 14.1 below:

Table 14.1 – Value of Residual E2 lots

Title Reference	Site Area	Valuation
Lot 33 in DP11629	1,973sqm	\$49,500
Lot 35 in DP11629	1,802sqm	\$45,000
Lot 36 in DP11629	2,490sqm	\$55,000
Lot 63 in DP11629	2,321sqm	\$51,000
Lot 64 in DP11629	2,320sqm	\$51,000
Lot 65 in DP11629	2,321sqm	\$51,000
Lot 150 in DP11629	9,280sqm	\$93,000
Lot 151 in DP11629	9,283sqm	\$93,000
Lot 152 in DP11629	9,390sqm	\$94,000
Lot 153 in DP11629	10,670sqm	\$85,500
Lot 154 in DP11629	13,220sqm	\$106,000
Lot 157 in DP11629	3,170sqm	\$63,500
Lot 158 in DP11629	3,010sqm	\$60,000
Lot 160 in DP11629	4,825sqm	\$72,500
Total Land Value		\$970,000

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Potential Market Movement of Constrained Land

I have been asked to comment on the market movement of Constrained Land in comparison to unconstrained land. In my experience, constrained land often does not move in line with nearby developable land unless the way the land is being bought as a percentage of the nearby unconstrained land. An example of this would be a special uses site that offers good quality land so a purchaser would look at the site as a likely spot rezoning opportunity less a discount for profit/risk/cost. The starting point when considering a site of this nature would be the unconstrained land value and work back on a top down basis.

The E2 land being the subject of this report does not fall into this category and is likely to stay more steady than the other developable properties.

Main reasons for this are:

- The land is heavily constrained physically and wouldn't be viewed as a potential spot rezoning opportunity,
- The market for this type of property is extremely narrow which means less competition potentially pushing prices up,
- The purchaser would have to be a cash buyer which further narrows the market due to lending policies for mortgage.

This provides some positive impacts to the overall feasibility of the project over time. As the market value of the developable lots held by Council increase in value, a similar increase would not be evident in E2 land within the same Estate. This has the effect of increasing financial feasibility of the acquisition project as time lapses and the market for land in this location strengthens.

14.2 Market Value Council Owned Lots

There is a strong pool of evidence of properties within the Jerberra estate in recent years with a strong and consistent market within this location on a rate per lot basis. The sales evidence, especially in from January 2021 to the date of valuation indicate a value range of between \$420,000 and \$450,000 per lot with a single dwelling entitlement.

Two of four of the Council Properties being Lot 46 and 81, afford a dwelling entitlement in isolation. Lots 41, 42 and 43 DP 11629 must be consolidated and re-subdivided to create two (2) developable lots. Lot 43 is privately owned. I have completed my assessment of the residue of lots 41 and 42 as a parcel to be sold to the adjoining owner (lot 43). I have considered the value of the consolidated lot as a regular shaped 2,000 sqm lot and the residual of 812sqm to be purchased by the adjoining owner to afford a dwelling entitlement to lot 42. I have been informed by the instructing party that negotiations of the residual lot are ongoing.

This has been adopted on a pro rata basis less a discount of 30% reflecting the risk of amalgamation. The value adopted for the residue is \$160,000 based on this calculation and assuming an end value of \$450,000 for the amalgamated lot.

Sales of other sites that require amalgamation reflect far similar values (between \$165,000 and \$170,000) even though they are much larger in size. These sales are considered comparable as they still require a similar sized adjoining property to create a parcel with a dwelling entitlement. It is also considered that due to the majority constrained land area of the sale property, the 1.5ha property would not attract a premium over another house site in Jerberra.

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The values of the properties are shown in the table below:

Table 14.3 - Council Owned Land Parcels:


Title Reference	Site Area	Notes	Valuation
Lot 41, Jerberra Road, Tomerong Lot 41 in DP11629	1,798sqm	Proposed Developable lot to be consolidated with part Lot 42 to create a developable lot – 2000sqm	\$450,000
Lot 42, Pine Forest Road, Tomerong Lot 42 in DP11629	1,190sqm	Proposed Residue lot to be sold to adjoining owner for consolidation with Lot 43 – 812sqm	\$160,000
Lot 46, Pine Forest Road, Tomerong Lot 46 in DP11629	2,668sqm		\$480,000
Lot 81, Jerberra Road, Tomerong Lot 81 in DP11629	2,276sqm		\$470,000
Total Land Area			\$1,560,000

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15.0 Valuation

15.1 Market Value

E2 Land total:	\$ 970,000 (Nine Hundred and Seventy Thousand Dollars)
Council E4 land total:	\$1,560,000 (One Million, Five Hundred and Sixty Thousand Dollars)
<ul style="list-style-type: none"> See tables 14.2 and 14.3 in body of report for individual breakup of properties valued and their individual valuations. 	
Interest Valued	Fee simple vacant possession
Date of Inspection	28 April 2021
Date of Valuation	4 August 2021
Date Issued	31 August 2021
Signatories	 Angelo Konidaris Director Government Advisory AAPI CPV API No: 69838 Primary Valuer
Important	<i>This valuation is subject to the definitions, qualifications and disclaimers and other comments contained within this report.</i>

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16.0 Assumptions, Conditions and Limitations

Condition/Structural Disclaimer	<i>This report is not a condition or structural survey and no advice is given in any way relating to condition or structural matters. Any opinion given as to the condition of the structure or improvements on the property is not given in the capacity as an expert. A condition or structural report on the building and/or its plant and equipment has not been sighted, and nor have we inspected unexposed or inaccessible portions of the premises. Therefore we cannot comment on the structural integrity, any defects, rot or infestation (or damage from pest infestation) of the improvements, any use of asbestos or other materials now considered hazardous or areas of non-compliance with the Building Code of Australia, other than matters which are obvious and which are noted within this report. This valuation assumes the building is structurally sound; that building services are adequate and appropriately maintained; the building complies with applicable Council, building, fire, health and/or safety regulations, laws, rules, licences, permits, rulings and/or bylaws; and is free of asbestos or other defects, unless specified otherwise. Should an expert's report establish that there are any defects of this kind then we reserve the right to review this valuation.</i>
Digital Copies of Reports	<i>Where a report has been provided in digital copy and has not been received directly via our firm, the report contents, especially the valuations and critical assumptions, should be verified by contacting the issuing office to ensure the contents are bona fide. In particular if the reader of this report has suspicions that the report appears to be tampered or altered then we recommend the reader contact the issuing office.</i>
Environmental Disclaimer	<i>This report is not an environmental audit and no advice is given in any way relating to environmental matters. Any comment given as to environmental factors in relation to the property are not given in the capacity as an expert. This assessment of value (unless specified otherwise) is made on the basis that the property is free of contamination or environmental issues affecting the property not made known to the valuer. In the event the property is found to contain contamination the matter should be referred to this office for comment. Given contamination issues can have a significant impact on the Market Value of the property, we reserve the right to review and if necessary vary our valuation if any contamination or other environmental hazard is found to exist.</i>
Full Disclosure Disclaimer	<i>Whilst we have attempted to confirm the veracity of information supplied, the scope of work did not extend to verification of all information supplied or due diligence. Our valuation and report has been prepared on the assumption the instructions and information supplied has been provided in good faith, is not in any way misleading or deceptive, contains a full disclosure of all information that is relevant, there are no undisclosed agreements in place that affect the property. The valuer and valuation firm does not accept any responsibility or liability whatsoever in the event the valuer has been provided with insufficient, false or misleading information.</i>
Future Value	<i>Any comments made in relation to future values are based on general knowledge and information currently available. These comments should not be construed as a prediction of future value levels or a warranty of future performance as the property market is susceptible to potential rapid and unexpected change caused by multiple factors. Ultimately current expectations as to trends in property values may not prove to be accurate. Due to possible changes in the property market, economic conditions, occupancy status and property specific factors, we recommend the value of the property be reassessed at regular intervals.</i>
Geotechnical Assumption	<i>We have not sighted a geotechnical engineers' survey of the property. We are not experts in the field of civil or geotechnical engineering and we are therefore unable to comment as to the geotechnical integrity of the ground and soil conditions. It is specifically assumed that there are no adverse geotechnical conditions that compromise the utility of the property for the current or highest and best use. In the event there is found to be adverse ground conditions we recommend the matter be referred to this Company for comment.</i>
GST	<i>GST does not apply to existing residential premises but may be payable for new residential premises. If there is any uncertainty as to the application of GST we recommend you seek advice from a qualified accountant or tax lawyer.</i>
Heritage Disclaimer	<i>Our valuation has been assessed having regard to the nature of any buildings on the property and any known heritage listings. However we have not obtained formal confirmation of heritage listings beyond what is available in the public domain and identified in this report. Our valuation assumes, unless otherwise specified, that any heritage issues (including Aboriginal) do not impact on the continued and/or highest and best use of the property. If there is doubt in relation to such issues we recommend written application be made to the relevant authorities.</i>
Inconsistencies in Assumptions	<i>If there is found to be any variance, inconsistency or contradiction in any of the above assumptions then there may be a variation in the valuation assessed.</i>

Jerberra Estate
Tomerong, New South Wales
Our Reference: 12026959



Information Availability (Market Evidence)	<i>In preparing this valuation we have undertaken those investigations reasonably expected of a professional valuer having regard to normal industry practice so as to obtain the most relevant, available, comparable market evidence. Whilst we believe the market evidence information and any other information provided to be accurate, not all details can and have been formally verified. Due to privacy laws, confidentiality agreements and other circumstances beyond our control, the valuer may not have had access to: personal details of parties involved in transactions (including the relationship of the parties); information on recent transactions that are yet to become public knowledge; and copies of leases or contracts to confirm rents or prices and to ascertain whether or not rents or prices are inclusive or exclusive of GST.</i>
Land and Building Area Disclaimer	<i>In the event actual surveyed areas of the property are different to the areas adopted in this valuation the survey should be referred to the valuer for comment on any valuation implications. We reserve the right to amend our valuation in the event that a formal survey of areas differs from those detailed in this report.</i>
Market Change Disclaimer	<i>This valuation is current as at the Date of Valuation only. The value assessed herein may change significantly and unexpectedly over a relatively short period (including as a result of general market movements or factors specific to the particular property). We do not accept liability for losses arising from such subsequent changes in value. Where the valuation is being relied upon for mortgage purposes, without limiting the generality of the above comment, we do not assume any responsibility or accept any liability where this valuation is relied upon after the expiration of 90 days from the date of the valuation, or such earlier date if you become aware of any factors that have any effect on the valuation. We recommend the valuation be reviewed at regular intervals.</i>
Market Value	<i>The estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.</i>
Native Title Assumption	<i>We are not experts in native title or the property rights derived there from and have not been supplied with appropriate expert advice or reports. Therefore, this valuation is made assuming there are no actual or potential native title interests affecting the value or marketability of the property.</i>
Planning Disclaimer	<i>Town planning and zoning information was informally obtained from the relevant local and State Government authorities and is assumed to be correct. This information does not constitute a formal zoning certificate. Should the addressee require formal confirmation of planning issues then we recommend written application be made to the relevant authorities to obtain appropriate current zoning certificates.</i>
Publication of Report	<i>The publication of the valuation or report in whole or any part, or any reference thereto, or the names and professional affiliations of the valuers is prohibited without the prior written approval of the valuer as to the form and context in which it is to appear.</i>
Reliance on Whole Report	<i>This valuation should be read in its entirety, inclusive of any summary and annexures. The valuer and valuation firm does not accept any responsibility where part of this report has been relied upon without reference to the full context of the valuation report.</i>
Site Survey Disclaimer	<i>This report is not a site survey and no advice is given in any way relating to survey matters. Any comments given in relation to the property are not given in the capacity as an expert. Should the addressee require absolute certainty in relation to site area, dimensions or possible encroachments we recommend that a surveyor be engaged to provide appropriate advice and a survey of the property if considered necessary. In the event there are any fundamental inconsistencies between any site survey undertaken and site detail adopted in this valuation, the survey should be referred to the valuer for comment on any valuation implications (including amendment of our valuation if considered necessary).</i>
Third Party Disclaimer	<i>This report has been prepared for the private and confidential use of our client, NSW Land & Housing Corporation and the nominated other authorised users, for the specified purpose and it should not be relied upon by any other party for any purpose and the valuer shall not have any liability to any party who does so. The report should not be reproduced in whole or part without the express written authority of Opteon Property Group Pty Ltd. Our warning is registered here, that any party, other than those specifically named in this report as our client or authorised user should obtain their own valuation before acting in any way in respect of the subject property.</i>
Title and Unregistered Instruments	<i>For the purpose of this report we have assumed that the title information provided to us is correct. Our Valuation has been assessed assuming the property is only affected by encumbrances noted on Title with the exception of registered instruments (eg. mortgages or caveats) that are normally and expected to be discharged prior to transfer of the property. If there are any encumbrances, encroachments, restrictions, leases or covenants which are not noted on the title, they may affect the assessment of value. If there are errors or omissions found to exist on the title documents we should be notified and we reserve the right to review our valuation.</i>

Jerberra Estate
Tomerong, New South Wales
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Valuation Report

Various Lots, Nebraska Estate
St Georges Basin, New South Wales 2540

File Ref: 12026959

DE21.113 - Attachment 5



VALUATION REPORT



Various Lots, Nebraska Estate

St Georges Basin, New South Wales 2540

Prepared For	Shoalhaven City Council
Report Purpose	Strategic Planning purposes
Valuation Date	4 August 2021
Our Reference	12026959
Client Reference	1013E
Inspection Type	Full Inspection

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Nebraska Estate
St Georges Basin, New South Wales
Our Reference: 12026959



1.0 Valuation Summary

1.1 Scope of Work and Instructions

Identity of Valuer	Opteon Property Group Pty Ltd
Independence of Valuer/Disclosure	Unless otherwise disclosed, the valuer does not have any material connection or involvement with the subject property or the parties to the valuation that could limit the valuer's ability to provide an unbiased and objective valuation. The valuation has been assessed independently by the valuer without material assistance from others.
Instructing Party	Eric Hollinger, Shoalhaven City Council
Client	Shoalhaven City Council
Scope of Work	<ol style="list-style-type: none"> All of the proposed residual lots in the Nebraska Estate that are privately owned. These are lots that are proposed to be zoned E2 in the Nebraska Estate Planning Proposal and are not identified to form part of a developable lot. Council owned land in the Nebraska Estate that is proposed to be 'developable' being Lots 9-13, Section D, DP 9699 and Lot 13 Section B, DP 9699.
Client Reference	1013E
Property Address /Asset Valued	Various Lots, Nebraska Estate St Georges Basin, New South Wales 2540
Valuation Currency	This valuation has been assessed in Australian dollars (\$AUD).
Valuation Purpose and Restrictions on Use	<p>Strategic Planning purposes</p> <p>This report has been prepared for the private and confidential use of our client, NSW Shoalhaven City Council and the nominated other authorised users, for the specified purpose and it should not be relied upon by any other party for any purpose and the valuer shall not have any liability to any party who does so. The report should not be reproduced in whole or part without the express written authority of Opteon Property Group Pty Ltd. Our warning is registered here, that any party, other than those specifically named in this report as our client or authorised user should obtain their own valuation before acting in any way in respect of the subject property.</p>
Inspection	In order to complete the valuation a sufficiently comprehensive inspection of the property has been completed.
Basis of Value	Market Value – Land Only having regard to scope detailed above.
Extent of Valuers' Work and Limitations	<p>The extent of investigation undertaken by the valuer in completing the valuation has included:</p> <ul style="list-style-type: none"> collation of information from relevant parties regarding the subject property; undertaking our own research regarding the subject property; undertaking market research in terms of values and/or costs of similar properties; preparation of valuation calculations, and; preparation of this report; <p>This valuation has been based on information supplied which is assumed to have been provided in good faith and contains a full and frank disclosure of all information that is relevant to the valuation of the property. The valuer has not undertaken due diligence or verification of the information supplied.</p>
Compliance/Departures with Valuation Standards	This valuation has been prepared in accordance with the International Valuation Standards and other applicable Valuation Standards.

Nebraska Estate
St Georges Basin, New South Wales
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1.2 Property Details

Title Reference	Various Lots in multiple Deposited Plans – Table 5.2 and 6.2 in body of report.
Tenure Type	Freehold
Registered Proprietor	Multiple Registered Proprietors including Shoalhaven City Council and various Private Owners
Zoning	Currently zoned RU2 Rural Landscape under Shoalhaven Local Environmental Plan 2014. Properties to be valued on basis of proposed zonings in Planning Proposal to be adopted. Relevant zones are E2 Environmental Conservation, E4 Environmental Living and R5 Large Lot Residential.

1.3 Assumptions and Recommendations

Significant Assumptions	<ul style="list-style-type: none"> The instructions and information supplied contain a full disclosure of all information that is relevant; Potential considered in accordance with proposed planning controls adopted and in force Valuations are on the basis of proposed road construction in place with gravel sealed road to all developable lots and lots fully serviced by water and sewer.
Recommended Documents to Sight	- Nil
Expected Selling Period	Extended Marketing Period of circa 12 months for all developable lots within the subdivision is expected due to the nature of the properties as well as market uncertainty as a result of COVID-19 could have an adverse effect on marketability and result in an extended selling period.

1.4 Valuation Details

Residual E2 Land total:	\$1,915,000 (One Million, Nine Hundred and Fifteen Thousand Dollars)
Council E4 land total:	\$1,960,000 (One Million, Nine Hundred and Sixty Thousand Dollars)
	<ul style="list-style-type: none"> See tables 14.2 and 14.3 in body of report for breakup of individual valuations
Interest Valued	Fee simple vacant possession
Date of Inspection	28 April 2021
Date of Valuation	4 August 2021
Date Issued	25 August 2021
Pecuniary Interest	We confirm that the valuer does not have any pecuniary interest that would conflict with the proper valuation of the property.
Signatories	 Angelo Konidaris Director Government Advisory AAPI CPV API No: 69838 Primary Valuer

Important	<i>This Executive Summary must be read in conjunction with the remainder of this report. The Executive Summary is only a synopsis designed to provide a brief overview and must not be acted upon in isolation to the contents of the valuation report.</i>
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Nebraska Estate
St Georges Basin, New South Wales
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Digital Copies of Reports	<i>Where a report has been provided in digital copy and has not been received directly via our firm, the report contents, especially the valuations and critical assumptions, should be verified by contacting the issuing office to ensure the contents are bona fide. In particular if the reader of this report has suspicions that the report appears to be tampered or altered then we recommend the reader contact the issuing office.</i>
Reliance on Whole Report	<i>This valuation should be read in its entirety, inclusive of any summary and annexures. The valuer and valuation firm does not accept any responsibility where part of this report has been relied upon without reference to the full context of the valuation report.</i>

2.0 Date of Valuation

Valuation Date	4 August 2021
Date of Inspection	28 April 2021
Expiry of Valuation	This valuation is current as at the Date of Valuation only. The value assessed herein may change significantly and unexpectedly over a relatively short period (including as a result of general market movements or factors specific to the particular property). We do not accept liability for losses arising from such subsequent changes in value.

3.0 Location and Summary of Nebraska Estate

The Nebraska Estate is located within St Georges Basin, approximately 12.5km south west of the town of Huskisson, 24km south of the Nowra and 105km south of Wollongong by road. It comprises an established predominantly low density residential location on the south coast of NSW.

St Georges Basin is surrounded by the established localities of Basin View, Worrowing Heights and Tomerong.

The Nebraska Estate subdivision was registered in 1919, predating landuse zoning and modern planning requirements. The land is understood to have been zoned non-urban in 1964, and residential development has generally been precluded since then. The subdivision has a total area of 32.77 ha and comprises 97 lots

The Estate currently has a rural zoning that effectively prohibits dwellings on the individual lots by way of the development minimum lot size of 40ha. A planning proposal has been prepared for the area proposing to allow residential development over some of the estate with the remainder to be earmarked as conservation land due to extensive flora that requires protection over the site.

Shoalhaven Council owns a total of 6 potentially developable lots within the Nebraska Estate and has a small number of constrained parcels.

The remaining sites are privately owned and predominantly comprise vacant bush blocks which are constrained to some extent. Heavily constrained parcels which fall within the proposed E2 zone are likely to be subject to acquisition by Shoalhaven Council on a piecemeal basis in the future.

The area is subject to multiple protected vegetation communities, and flora and fauna species including a critically endangered orchid.

Nebraska Estate
St Georges Basin, New South Wales
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Location Map



Location Map – Source: Shoalhaven City Council Nebraska Estate Planning Proposal

DE21.113 - Attachment 5

Nebraska Estate
St Georges Basin, New South Wales
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Aerial Map



Approximate Location of Subject Property outlined Red - Source: Google Maps

4.0 Planning

Local Government Area	Shoalhaven City Council
Planning Scheme	Shoalhaven Local Environmental Plan 2014 (current) Valuations have been undertaken on the basis of Planning Proposal relating to the Nebraska Estate is adopted.
Current Zoning	RU2 Rural Landscape (current) Proposed zoned adopted in accordance with Planning Proposal E2 Environmental Conservation, E4 Environmental Living and R5 Large Lot Residential
Existing Use	Mostly vacant land, three approved dwellings and a variety of unauthorised dwellings and structures.
Zoning Effect	The current zoning does not allow for residential development. This valuation has been completed assuming the Nebraska Estate Planning Proposal has been adopted and single dwellings are assumed to be permitted over lots within the E4 and R5 zoned sections of the estate.



Legend

Subject Land
Land Zoning (LZN)

Zone

E2	Environmental Conservation
E4	Environmental Management
E4	Environmental Living
R1	General Residential
R2	Low Density Residential
R5	Large Lot Residential
RE1	Public Recreation
R2	Rural Landscape
SP2	Infrastructure
VO	Recreational Waterways

Scale: 0 50 100 150 200 Metres

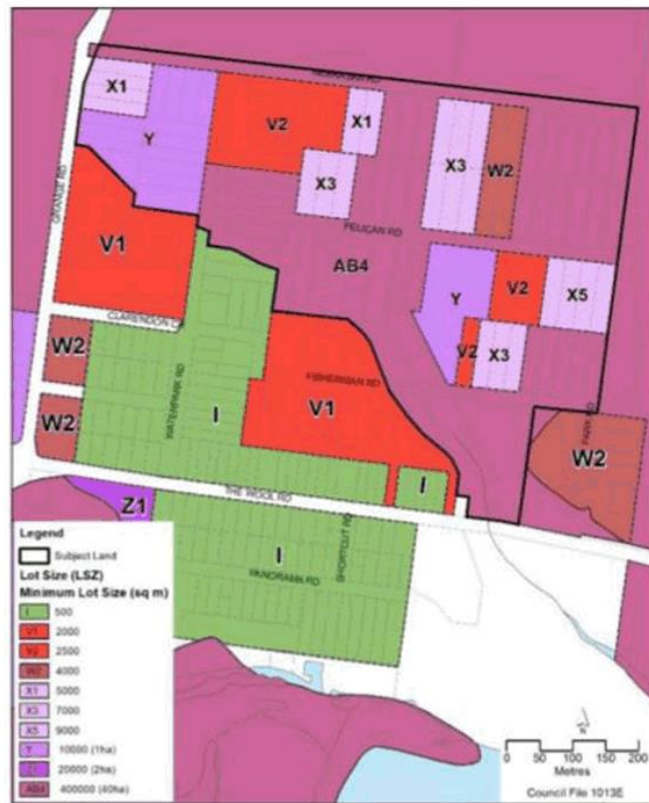
Council File 1013E

DE21.113 - Attachment 5

Nebraska Estate
St Georges Basin, New South Wales
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Extract from Planning
Proposal - Lot Size Area
Map



Conceptual Subdivision and
Development Map – 22
Dwellings (Option 1. V2)



Nebraska Estate
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5.0 Residual E2 sites

Site Area	Varies – see table 5.2
Topography	Lots are typically undulating contour. All Residual E2 lots are densely timbered with protected vegetation.
Access	The majority of the lots within the subdivision are currently accessible by 4wd access only.
Identification	Aerial Photography in conjunction with provided Cadastral Plan and physical inspection of the site.

5.1 Services

Services	Electricity, and telephone, town water and sewer will be made available to the developable lots upon completion. Residual lots will remain un-serviced.
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Table 5.2 – Residual E2 Land Parcels:

Title Reference	Tenure	Site Area
Lot 8 Sec B in DP9699	Freehold	2,510sqm
Lot 9 Sec B in DP9699	Freehold	2,510sqm
Lot 10 Sec B in DP9699	Freehold	2,510sqm
Lot 14 Sec B in DP9699	Freehold	2,757sqm
Lot 15 Sec B in DP9699	Freehold	2,757sqm
Lot 16 Sec B in DP9699	Freehold	2,757sqm
Lot 2 Sec C in DP9699	Freehold	2,757sqm
Lot 8 Sec C in DP9699	Freehold	2,757sqm
Lot 9 Sec C in DP9699	Freehold	2,757sqm
Lot 10 Sec C in DP9699	Freehold	2,757sqm
Lot 11 Sec C in DP9699	Freehold	2,757sqm
Lot 12 Sec C in DP9699	Freehold	2,757sqm
Lot 13 Sec C in DP9699	Freehold	2,757sqm
Lot 19 Sec C in DP9699	Freehold	2,757sqm
Lot 20 Sec C in DP9699	Freehold	2,757sqm
Lot 1 Sec D in DP9699	Freehold	2,757sqm
Lot 2 Sec D in DP9699	Freehold	2,757sqm
Lot 3 Sec D in DP9699	Freehold	2,757sqm
Lot 4 Sec D in DP9699	Freehold	2,757sqm
Lot 5 Sec D in DP9699	Freehold	2,757sqm
Lot 6 Sec D in DP9699	Freehold	2,757sqm
Lot 18 Sec D in DP9699	Freehold	2,963sqm
Lot 3 Sec F in DP9699	Freehold	3,389sqm

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Lot 4 Sec F in DP9699	Freehold	3,389sqm
Lot 5 Sec F in DP9699	Freehold	3,389sqm
Lot 6 Sec F in DP9699	Freehold	2,580sqm
Lot 7 Sec F in DP9699	Freehold	2,580sqm
Lot 6 Sec J in DP9699	Freehold	961.1sqm
Lot 7 Sec J in DP9699	Freehold	961.1sqm
Lot 8 Sec J in DP9699	Freehold	961.1sqm
Lot 9 Sec J in DP9699	Freehold	961.1sqm
Lot 10 Sec J in DP9699	Freehold	961.1sqm
Lot 1 in DP777950	Freehold	12,290sqm
Lot 3 in DP722549	Freehold	9,918.5sqm
Lot 2 in DP722549	Freehold	5,450sqm
Lot 1 in DP722549	Freehold	1,905.6sqm

6.0 Council Owned sites

Site Area	16,295sqm over six lots – see table 6.2
Shape	Lot 9 -13 Sec D – Rectangular shaped lots with frontage to the southern side of Pelican Road. Lot 13 Sec B – Rectangular shaped parcel with frontage to the northern side of Pelican Road.
Topography	Lots are mostly of a gently undulating contour. All sites are moderately to densely timbered to the entire parcels.
Access	All developable lots within the subdivision are assumed to be accessible by gravel sealed road which is to be funded by a special levy arrangement.
Identification	Aerial Photography in conjunction with provided Cadastral Plan and physical inspection of the site.

6.1 Services

Services	Electricity, and telephone, town water and sewer will be made available to the lots upon completion.
-----------------	--

Nebraska Estate
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Subject Lots



Subject Lots 9-13 Sec B DP 9669 outlined in Red and Numbered by Lot



Subject Lot 13 Sec D DP 9669 outlined in Red and Numbered by Lot

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St Georges Basin, New South Wales
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Council Owned Land Parcels:

Title Reference	Tenure	Registered Proprietor	Site Area
Lot 9, Pelican Road, St Georges Basin Lot 9 in Sec D DP9969	Freehold	Shoalhaven City Council	2,757sqm
Lot 10, Pelican Road, St Georges Basin Lot 10 in Sec D DP9969	Freehold	Shoalhaven City Council	2,757sqm
Lot 11, Pelican Road, St Georges Basin Lot 11 in Sec D DP9969	Freehold	Shoalhaven City Council	2,757sqm
Lot 12, Pelican Road, St Georges Basin Lot 12 in Sec D DP9969	Freehold	Shoalhaven City Council	2,757sqm
Lot 13, Pelican Road, St Georges Basin Lot 13 in Sec D DP9969	Freehold	Shoalhaven City Council	2,757sqm
Lot 13, Pelican Road, St Georges Basin Lot 13 in Sec B DP9969	Freehold	Shoalhaven City Council	2,510sqm
Total Land Area			16,295 sqm

7.0 Photography



Typical vehicular access currently within Nebraska



Typical lot

Nebraska Estate
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View of southern eastern corner of Nebraska development taken from adjoining Residential subdivision.



Typical Lot



Example of Proposed Development (taken from adjoining residential subdivision)



Example of Proposed Development (road alignment - taken from adjoining residential subdivision)

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8.0 Environmental Issues

Environmental Issues

We have been provided a Flora and Fauna Assessment conducted by Bushfire and Environmental Services during November 2009. This has been relied upon to reveal any significant environmental constraints and should be read in conjunction with this report.

Various flora and fauna species were found across the estate. Extracts of the investigations are shown below.

Figure 2: Locations of flora surveys

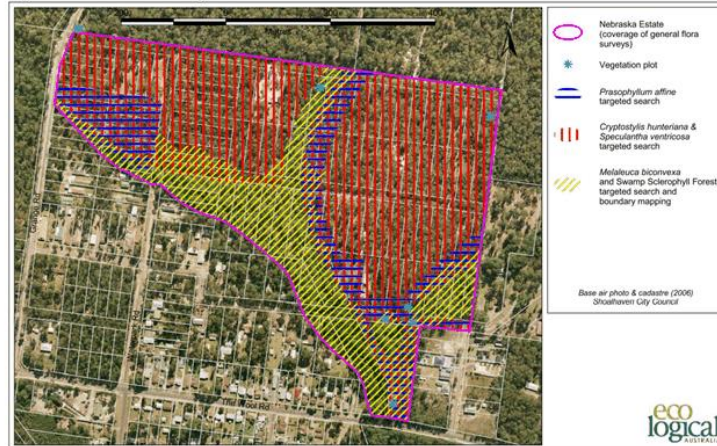
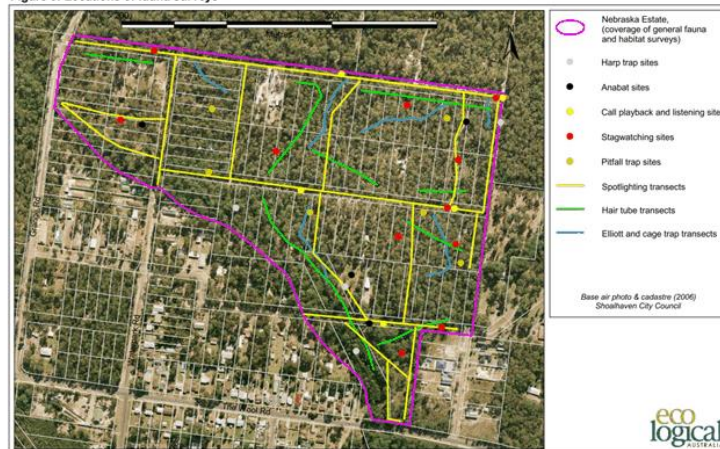
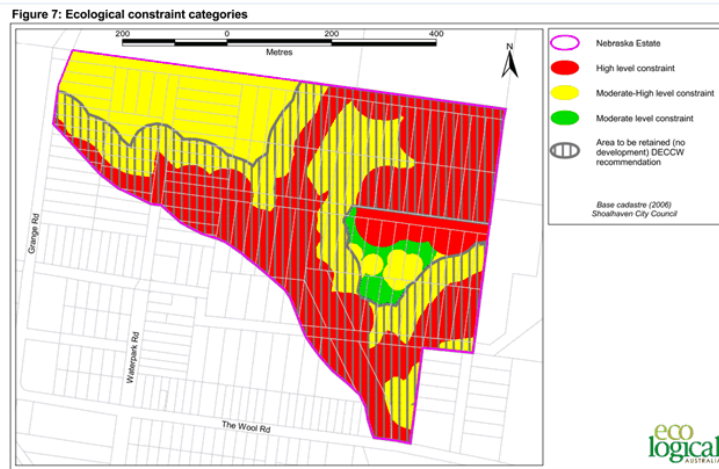


Figure 3: Locations of fauna surveys



Fauna Survey Area

Nebraska Estate
St Georges Basin, New South Wales
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The findings of the Flora and Fauna Investigation appear to have informed the proposed planning of the site and the sites earmarked to be conservation areas with the layout of the zoning map consistent with the findings in the report. Land identified as conservation area and the proposed zoning map are consistent with the findings of the report.

Bushfire

The entire Nebraska Estate is Bushfire Prone Land. All land within the Estate is identified as Vegetation buffer or Category 1.

Any future dwellings constructed on the site would be required to be in line with Councils requirements for development in bushfire zones.

9.0 Comparisons to Existing VG UCVs

We have also reviewed the UCV's of the site provided by the instructing party and commented where necessary. The approach typically undertaken when completing the valuation of land in accordance with the Valuation of Land Act 1916 is a mass valuation approach. This approach is in short, an indexation process based on the assumption that the previous values are correct.

When values are placed into the valuation roll, they are initially "handcrafted" taking into account their shape, zoning and potential. In estates similar to Nebraska, typically, there is an understating of values for several reasons. Some of these include:

- Uncertainty around potential in the future,
- Bullishness of speculative investors not in line with broader market for unconstrained sites,
- Lack of evidence to substantiate a change in the previous value.

In the case of the Subject Properties, the Residual E2 parcels appear to be valued inconsistently with rates as low as \$2,000 and as high as \$90,000 with ten different valuations within the range. Eighteen properties are valued at \$70,000. Constrained parcels are typically rare and often not at "arm's length". These rates may be based on evidence the rating contractor has compiled throughout the Shoalhaven LGA as comparable over their time in the market within this location.

There is also some merit in adopting a value rather than a pro rata adopted value based on land area for properties of this size as the investor looking to purchase questions the amount they wish to speculate with on this property type rather than apply a more rational rate for land area. This will be discussed further in the valuation rationale.

Some of the upper limit rates appear to be towards the upper limit of values for constrained land in this location however, the majority appear to be supported by the sales evidence.

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10.0 General Comments

The subject properties form 45 lots within the "Nebraska Estate" of which 39 are Residual E2 zoned constrained parcels in private ownership and 6 developable lots which are in Council ownership. Council proposes to fund the voluntary acquisition of the constrained land using the sale of developable lots within the development.

Work on the Planning Proposal (PP) is progressing towards a request for a new Gateway determination to permit public exhibition of the Planning Proposal with indications by representatives at Council indicating a timeline of between 12-24 months. The Planning Proposal provides an approximation of the land that is likely to be developable within the Estate. This is having regard to the constrained nature of the majority of the estate and ensuring the continued conservation of protected flora and fauna.

At present there is all wheel drive access to some of the estate. Council proposes to improve access to developable lots by way of imposing a special levy on ratepayers in this location which will improve access for the estate. These costs will then be recouped through the owners via increased rates over a number of years, which will in turn affect the properties' marketability and value.

I have been instructed to provide valuations of the following:

- Residual E2 land within the development to be purchased (being 39 lots as per the spreadsheet provided by Council), and;
- Council owned assets proposed to be disposed of (comprising 6 lots).

The application of the values and market evidence is further discussed in the Valuation Rationale section of this report.

11.0 Valuation Methodology

Primary Methodology	Direct Comparison

Nebraska Estate
St Georges Basin, New South Wales
Our Reference: 12026959



12.0 Market Evidence

12.1 Sales Evidence

In forming our opinion of value we have had regard to various sales transactions, a selection of which are detailed below.

Sales Analysis Summary							
Address	Legal Description	Sale Price	Date	Land Area	\$ /sqm Land	Land Use Zone	Comments
Constrained Market Evidence							
32 Rolfe St, Tomerong	32/11629	\$65,000	Feb-21	1,808 sqm	\$36	E2	Constrained Parcel fully timbered in Jerberra Estate
97 Jerberra Rd, Tomerong	97/11629	\$95,000	Sep-20	10,870 sqm	\$9	E2	Adjoining owner purchase to consolidate site
Otford Rd, Otford	2/33693	\$108,000	Apr-21	7,714 sqm	\$14	E2	Fully timbered constrained parcel. No potential
Pannamena Cres, Worroving Heights	151/8590	\$5,000	Feb-20	847 sqm	\$6	E2	Fully timbered constrained parcel. No potential
Plunkett St, Nowra	1/1257545	\$27,964	Oct-19	1,007 sqm	\$28	RE1/R3	L shaped road reserve and open space purchased by adjoining owner to increase land size
98 Jerberra Rd, Tomerong	98/11629	\$100,000	Jul-18	12,240 sqm	\$8	E2/E4	Adjoining owner purchase to consolidate site
Unconstrained Evidence Requiring Amalgamation							
132 Inglewood Cres, Tomerong	132/11629	\$170,000	Aug-20	7,430 sqm	\$23	E3	requires amalgamation for development (1.5ha lot)
140 Inglewood Cres, Tomerong	140/11629	\$165,000	Jul-20	9,283 sqm	\$18	E3	requires amalgamation for development (2ha lot)
Inglewood Cres, Tomerong	133/11628	\$165,000	Jun-19	7,480 sqm	\$22	E3	requires amalgamation for development (1.5ha lot)
Unconstrained Market Evidence in Jerberra Estate							
Invermay Ave, Tomerong	73/11628	\$460,000	Jun-21	1,853 sqm	\$248	E4	dwelling entitlement in isolation
86 Jerberra Rd, Tomerong	86/11629	\$420,000	Apr-21	2,036 sqm	\$206	E4	dwelling entitlement in isolation
114 Jerberra Rd, Tomerong	114/11629	\$450,000	Mar-21	4,869 sqm	\$92	E4	dwelling entitlement in isolation
Jerberra Rd, Tomerong	85/11629	\$375,000	Mar-21	2,023 sqm	\$185	E4	dwelling entitlement in isolation
74 Invermay Ave, Tomerong	74/11629	\$375,000	Jan-21	1,853 sqm	\$202	E4	dwelling entitlement in isolation
43 Jerberra Rd, Tomerong	83/11629	\$370,000	Jan-21	2,017 sqm	\$183	E4	dwelling entitlement in isolation
Jerberra Rd, Tomerong	91/11628	\$365,000	Dec-20	9,232 sqm	\$40	E4	dwelling entitlement in isolation
Invermay Ave, Tomerong	57/11628	\$350,000	Aug-20	2,321 sqm	\$151	E4	dwelling entitlement in isolation
Jerberra Rd, Tomerong	89/11628	\$270,000	Apr-20	2,144 sqm	\$126	E4	dwelling entitlement in isolation
Invermay Ave, Tomerong	71/11628	\$250,000	Jan-20	1,853 sqm	\$135	E4	dwelling entitlement in isolation
Unconstrained Market Evidence in Other localities							
102/35 The Basin Rd, St Georges Basin	102/270575	\$205,000	Jun-21	276 sqm	\$744	SP3	Rectangular shaped parcel suitable for holiday accommodation
69 The Park Rd, Sanctuary Point	1274/31816	\$348,000	May-21	556 sqm	\$625	R2	Rectangular shaped residential parcel
93 Warrego Dr, Sanctuary Point	2246/216523	\$299,000	Mar-21	556 sqm	\$537	R2	Rectangular shaped residential parcel
49 Waratah Cres, Sanctuary Point	1473/31816	\$260,000	Feb-21	556 sqm	\$467	R2	Rectangular shaped residential parcel
18 Penguin St, Sanctuary Point	2599/237075	\$310,000	Feb-21	582 sqm	\$533	R2	Rectangular shaped residential parcel
279 The Park Dr, Sanctuary Point	1632/216922	\$200,000	Dec-20	556 sqm	\$359	R2	Rectangular shaped residential parcel
11 Auster Cres, Sanctuary Point	2094/216524	\$220,000	Dec-20	601 sqm	\$366	R2	Wedge shaped residential parcel
39 Ridglands Dr, Sanctuary Point	2986/241990	\$295,000	Dec-20	809 sqm	\$364	R2	Rectangular shaped residential parcel

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13.0 Market Commentary

13.1 Level of Market Activity

Marketability	Good
Market Activity	Slow

13.2 Market Commentary

COVID-19 has caused major economic disruption, but some sectors of the property market are currently experiencing a swift recovery being driven by low listing volumes, incentives and low mortgage rates.

The subject property is in a market segment where there is prevailing weakness because supply exceeds demand. Market activity is significantly disrupted at this time with no indication on long term effect on demand within this property segment.

The location of COVID-19 outbreaks, restriction responses and economic impact cannot be predicted and for these reasons and others, the residential property market might still be considered susceptible to volatility and especially falling prices in directly affected areas. The values within this report may change significantly and unexpectedly over a relatively short period of time (including because of factors that the Valuer could not reasonably have known as at the date of valuation).

14.0 Valuation Rationale

14.1 Market Value Residual E2 Lots

Land within Paper Subdivisions generally are marketed as a low cost speculative investment. Examples of other subdivisions include Riverstone Scheduled lands in Blacktown LGA and North Arm Cove in Port Stephens. Since their initial subdivision, notwithstanding their limited potential have been seen as a popular investment, especially compared to other land in the sale local government area that is capable of development. Notwithstanding this, there is a very limited market for same properties for the following reasons:

- Land within paper subdivisions is not available for bank finance which limits purchasers to cash buyers,
- This investment type is highly speculative and suited to an investor that is capable of accepting the level of risk, and;
- The sites are often not accessible by road which provide further uncertainty about what is being purchased.

Although there is a level of certainty around the long term potential of the site, this market will always still exist to some extent.

Valuation of constrained land is generally difficult due to a significant paucity of transactions available. Typically purchases of this nature are subject to these types of purchasers:

- Speculative investors looking at high risk investments (as discussed previously), and;
- Public authorities such as a local Council or other authority (National Parks, Crown, TfNSW etc).

This is made further complex by the guardrails imposed on public authorities when acquiring land under Just Terms Legislation. For this reason, there are typically a small number of transactions within a region that are of suitable comparison. I have searched for sales within the Shoalhaven and surrounding LGAs, going back in time to 2019 for the purpose of my research. In conducting this search, I have excluded several sales by Shoalhaven Council.

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In applying the value, I have tiered the sales evidence in three groups:

- Sales not capable of development – constrained land sales,
- Sales capable of development but requiring amalgamation, and;
- Developable sales evidence

The best physically comparable evidence is sales evidence of constrained land not available for development. These sales provide a range of between \$5,000 and \$108,000 which can also be expressed as \$6/sqm and \$36/sqm depending on size.

I have adopted an upper limit using sales evidence of developable sales requiring amalgamation. These would be viewed as a superior property to the constrained land as they have some potential that is available, albeit with the benefit of an adjoining parcel. The sales of sites requiring amalgamation provide a consistent range of rates from between \$18/sqm and \$23/sqm.

I have also considered constrained sales from the nearby Jerberra Estate which are within an established speculative market and offer a comparable “paper subdivision” in the Shoalhaven LGA. These sales reflect a range of between \$65,000 and \$100,000 notwithstanding the significant variation in size of between 1,800sqm to 12,240sqm.

Having regard to this information, and cognisant of the speculative market that exists in this location, I have adopted rates reflective of values for each of the sites considering the constrained land and having regard to the market within the Nebraska Estate.

The values adopted for the Residual E2 land are shown in the table below:

DE21.113 - Attachment 5

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Table 14.2 – Residual E2 Land Parcels:

Title Reference	Site Area	Valuation
Lot 8 Sec B in DP9699	2,510sqm	\$55,000
Lot 9 Sec B in DP9699	2,510sqm	\$55,000
Lot 10 Sec B in DP9699	2,510sqm	\$55,000
Lot 14 Sec B in DP9699	2,757sqm	\$55,000
Lot 15 Sec B in DP9699	2,757sqm	\$55,000
Lot 16 Sec B in DP9699	2,757sqm	\$55,000
Lot 2 Sec C in DP9699	2,757sqm	\$55,000
Lot 8 Sec C in DP9699	2,757sqm	\$55,000
Lot 9 Sec C in DP9699	2,757sqm	\$55,000
Lot 10 Sec C in DP9699	2,757sqm	\$55,000
Lot 11 Sec C in DP9699	2,757sqm	\$55,000
Lot 12 Sec C in DP9699	2,757sqm	\$55,000
Lot 13 Sec C in DP9699	2,757sqm	\$55,000
Lot 19 Sec C in DP9699	2,757sqm	\$55,000
Lot 20 Sec C in DP9699	2,757sqm	\$55,000
Lot 1 Sec D in DP9699	2,757sqm	\$55,000
Lot 2 Sec D in DP9699	2,757sqm	\$55,000
Lot 3 Sec D in DP9699	2,757sqm	\$55,000
Lot 4 Sec D in DP9699	2,757sqm	\$55,000
Lot 5 Sec D in DP9699	2,757sqm	\$55,000
Lot 6 Sec D in DP9699	2,757sqm	\$55,000
Lot 18 Sec D in DP9699	2,963sqm	\$56,000
Lot 3 Sec F in DP9699	3,389sqm	\$61,000
Lot 4 Sec F in DP9699	3,389sqm	\$61,000
Lot 5 Sec F in DP9699	3,389sqm	\$61,000
Lot 6 Sec F in DP9699	2,580sqm	\$46,000
Lot 7 Sec F in DP9699	2,580sqm	\$46,000
Lot 6 Sec J in DP9699	961.1sqm	\$34,000
Lot 7 Sec J in DP9699	961.1sqm	\$34,000
Lot 8 Sec J in DP9699	961.1sqm	\$34,000
Lot 9 Sec J in DP9699	961.1sqm	\$34,000
Lot 10 Sec J in DP9699	961.1sqm	\$34,000
Lot 1 in DP777950	12,290sqm	\$98,000
Lot 3 in DP722549	9,918.5sqm	\$79,000
Lot 2 in DP722549	5,450sqm	\$44,000

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Lot 1 in DP722549	1,905.6sqm	\$38,000
Total Value		\$1,915,000

Potential Market Movement of Constrained Land

I have been asked to comment on the market movement of Constrained Land in comparison to unconstrained land. In my experience, constrained land often does not move in line with nearby developable land unless the way the land is being bought as a percentage of the nearby unconstrained land. An example of this would be a special uses site that offers good quality land so a purchaser would look at the site as a likely spot rezoning opportunity less a discount for profit/risk/cost. The starting point when considering a site of this nature would be the unconstrained land value and work back on a top down basis.

The E2 land being the subject of this report does not fall into this category and is likely to stay more steady than the other developable properties.

Main reasons for this are:

- The land is heavily constrained physically and wouldn't be viewed as a potential spot rezoning opportunity,
- The market for this type of property is extremely narrow which means less competition potentially pushing prices up,
- The purchaser would have to be a cash buyer which further narrows the market due to lending policies for mortgage.

This provides some positive impacts to the overall feasibility of the project over time. As the market value of the developable lots held by Council increase in value, a similar increase would not be evident in E2 land within the same Estate. This has the effect of increasing financial feasibility of the acquisition project as time lapses and the market for land in this location strengthens.

14.2 Market Value Council Owned Lots

As the planning controls for development are still not yet in force, there are no directly comparable transactions within the Nebraska Estate for vacant developable land. For this reason, I have utilised sales from the nearby Jerberra Estate as well as having searched for vacant land transactions in St Georges Basin as well as the neighbouring localities of Basin View, Sanctuary Point and Vincentia going back in time to 1 January 2021.

There is a strong pool of evidence of properties within the Jerberra Estate in recent years with a strong and consistent market within this location on a rate per lot basis. The sales evidence, from January 2021 to the date of valuation indicate a value range of between \$420,000 and \$450,000 per lot with a single dwelling entitlement. These lots typically have a usable land area of 1,800 to 3,000 in size.

The sales evidence from surrounding localities was predominantly from Sanctuary Point and reflected small residential parcels with a land size of less than 1,000sqm. These parcels are generally considered inferior by way of their size however are fully cleared and street fronted.

It is noted that the subdivision is not yet serviced or road access available, the assessed values are on the basis of the Subject Properties having made vehicular access and reticulated services. The costs and any other costs that may be required to facilitate a residential development are to be deducted from the gross realisation value to determine a net value to Council if required.

Lots 9-13 Sec D DP 9699

There are 5 contiguous lots forming four potential home sites. Each of the lots 11, 12 and 13 are independently developable. Lots 9 and 10 require amalgamation with Lots 7 and 8 (privately owned) for the purpose of creating one

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single homesite with a substantial APZ at the rear of the land. This site, although offering a larger land area than the other parcels results in a similar usable land area for residential development.

I have considered the possibility of the proposed layout resulting in some hesitance from purchasers due to the limited number of lots that form this part of the residential subdivision. I.e a development with 5 adjoining parcels surrounded by bushland could attract a rural residential buyer looking to be in a private setting however still proximate to facilities. Conversely, it may limit purchasers looking to buy the property as it reduces the urban feel. This overall is not considered to be a detriment and if completed in a workmanlike manner, would attract suitable buyers to purchase the land in this location.

Lot 13 Sec B DP 9699

Lot 13 comprises a single lot fronting Pelican Road which requires amalgamation with two other parcels to form a homesite (Identified as Dwelling 21 on the Planning Proposal diagrams on the Conceptual Subdivision and Development Plan 1. V2). This site requires consolidation with two adjoining parcels. I have considered the value of the consolidated lot as a regular shaped 2,000 sqm (usable land area) with the Council parcel to be purchased by the adjoining owner to afford a dwelling entitlement to their lot.

This has been adopted on a pro rata basis less a discount of 30% reflecting the risk of amalgamation. The value adopted for the residue is \$110,000 (rounded) based on this calculation and assuming an end value of \$450,000 for the amalgamated lot.

Sales of other sites that require amalgamation reflect far similar values (between \$165,000 and \$170,000) even though they are much larger in size. These sales are considered superior although they still require a single adjoining property to create a parcel with a dwelling entitlement.

The values of the properties are shown in the table below:

Table 14.3 - Council Owned Land Parcels:


Title Reference	Site Area	Notes	Valuation
Lot 9, Pelican Road, St Georges Basin Lot 9 in Sec D DP9969	2,757sqm	Valued as single homesite with Lot 10	\$470,000
Lot 10, Pelican Road, St Georges Basin Lot 10 in Sec D DP9969	2,757sqm	Valued as single homesite with Lot 7, 8, 9 & 10	
Lot 11, Pelican Road, St Georges Basin Lot 11 in Sec D DP9969	2,757sqm		\$460,000
Lot 12, Pelican Road, St Georges Basin Lot 12 in Sec D DP9969	2,757sqm		\$460,000
Lot 13, Pelican Road, St Georges Basin Lot 13 in Sec D DP9969	2,757sqm		\$460,000
Lot 13, Pelican Road, St Georges Basin Lot 13 in Sec B DP9969	2,510sqm	Requires amalgamation with two adjoining parcels to develop.	\$110,000
Total Value			\$1,960,000

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15.0 Valuation

15.1 Market Value

E2 Land total:	\$1,915,000 (One Million, Nine Hundred and Fifteen Thousand Dollars)
Council E4 land total:	\$1,960,000 (One Million, Nine Hundred and Sixty Thousand Dollars)
<ul style="list-style-type: none"> See body of report for individual breakup of properties valued. 	
Interest Valued	Fee simple vacant possession
Date of Inspection	28 April 2021
Date of Valuation	4 August 2021
Date Issued	31 August 2021
Signatories	 Angelo Konidaris Director Government Advisory AAPI CPV API No: 69838 Primary Valuer
Important	<i>This valuation is subject to the definitions, qualifications and disclaimers and other comments contained within this report.</i>

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16.0 Assumptions, Conditions and Limitations

Condition/Structural Disclaimer	<i>This report is not a condition or structural survey and no advice is given in any way relating to condition or structural matters. Any opinion given as to the condition of the structure or improvements on the property is not given in the capacity as an expert. A condition or structural report on the building and/or its plant and equipment has not been sighted, and nor have we inspected unexposed or inaccessible portions of the premises. Therefore we cannot comment on the structural integrity, any defects, rot or infestation (or damage from pest infestation) of the improvements, any use of asbestos or other materials now considered hazardous or areas of non-compliance with the Building Code of Australia, other than matters which are obvious and which are noted within this report. This valuation assumes the building is structurally sound; that building services are adequate and appropriately maintained; the building complies with applicable Council, building, fire, health and/or safety regulations, laws, rules, licences, permits, rulings and/or bylaws; and is free of asbestos or other defects, unless specified otherwise. Should an expert's report establish that there are any defects of this kind then we reserve the right to review this valuation.</i>
Digital Copies of Reports	<i>Where a report has been provided in digital copy and has not been received directly via our firm, the report contents, especially the valuations and critical assumptions, should be verified by contacting the issuing office to ensure the contents are bona fide. In particular if the reader of this report has suspicions that the report appears to be tampered or altered then we recommend the reader contact the issuing office.</i>
Environmental Disclaimer	<i>This report is not an environmental audit and no advice is given in any way relating to environmental matters. Any comment given as to environmental factors in relation to the property are not given in the capacity as an expert. This assessment of value (unless specified otherwise) is made on the basis that the property is free of contamination or environmental issues affecting the property not made known to the valuer. In the event the property is found to contain contamination the matter should be referred to this office for comment. Given contamination issues can have a significant impact on the Market Value of the property, we reserve the right to review and if necessary vary our valuation if any contamination or other environmental hazard is found to exist.</i>
Full Disclosure Disclaimer	<i>Whilst we have attempted to confirm the veracity of information supplied, the scope of work did not extend to verification of all information supplied or due diligence. Our valuation and report has been prepared on the assumption the instructions and information supplied has been provided in good faith, is not in any way misleading or deceptive, contains a full disclosure of all information that is relevant, there are no undisclosed agreements in place that affect the property. The valuer and valuation firm does not accept any responsibility or liability whatsoever in the event the valuer has been provided with insufficient, false or misleading information.</i>
Future Value	<i>Any comments made in relation to future values are based on general knowledge and information currently available. These comments should not be construed as a prediction of future value levels or a warranty of future performance as the property market is susceptible to potential rapid and unexpected change caused by multiple factors. Ultimately current expectations as to trends in property values may not prove to be accurate. Due to possible changes in the property market, economic conditions, occupancy status and property specific factors, we recommend the value of the property be reassessed at regular intervals.</i>
Geotechnical Assumption	<i>We have not sighted a geotechnical engineers' survey of the property. We are not experts in the field of civil or geotechnical engineering and we are therefore unable to comment as to the geotechnical integrity of the ground and soil conditions. It is specifically assumed that there are no adverse geotechnical conditions that compromise the utility of the property for the current or highest and best use. In the event there is found to be adverse ground conditions we recommend the matter be referred to this Company for comment.</i>
GST	<i>GST does not apply to existing residential premises but may be payable for new residential premises. If there is any uncertainty as to the application of GST we recommend you seek advice from a qualified accountant or tax lawyer.</i>
Heritage Disclaimer	<i>Our valuation has been assessed having regard to the nature of any buildings on the property and any known heritage listings. However we have not obtained formal confirmation of heritage listings beyond what is available in the public domain and identified in this report. Our valuation assumes, unless otherwise specified, that any heritage issues (including Aboriginal) do not impact on the continued and/or highest and best use of the property. If there is doubt in relation to such issues we recommend written application be made to the relevant authorities.</i>
Inconsistencies in Assumptions	<i>If there is found to be any variance, inconsistency or contradiction in any of the above assumptions then there may be a variation in the valuation assessed.</i>

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Information Availability (Market Evidence)	<i>In preparing this valuation we have undertaken those investigations reasonably expected of a professional valuer having regard to normal industry practice so as to obtain the most relevant, available, comparable market evidence. Whilst we believe the market evidence information and any other information provided to be accurate, not all details can and have been formally verified. Due to privacy laws, confidentiality agreements and other circumstances beyond our control, the valuer may not have had access to: personal details of parties involved in transactions (including the relationship of the parties); information on recent transactions that are yet to become public knowledge; and copies of leases or contracts to confirm rents or prices and to ascertain whether or not rents or prices are inclusive or exclusive of GST.</i>
Land and Building Area Disclaimer	<i>In the event actual surveyed areas of the property are different to the areas adopted in this valuation the survey should be referred to the valuer for comment on any valuation implications. We reserve the right to amend our valuation in the event that a formal survey of areas differs from those detailed in this report.</i>
Market Change Disclaimer	<i>This valuation is current as at the Date of Valuation only. The value assessed herein may change significantly and unexpectedly over a relatively short period (including as a result of general market movements or factors specific to the particular property). We do not accept liability for losses arising from such subsequent changes in value. Where the valuation is being relied upon for mortgage purposes, without limiting the generality of the above comment, we do not assume any responsibility or accept any liability where this valuation is relied upon after the expiration of 90 days from the date of the valuation, or such earlier date if you become aware of any factors that have any effect on the valuation. We recommend the valuation be reviewed at regular intervals.</i>
Market Value	<i>The estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.</i>
Native Title Assumption	<i>We are not experts in native title or the property rights derived there from and have not been supplied with appropriate expert advice or reports. Therefore, this valuation is made assuming there are no actual or potential native title interests affecting the value or marketability of the property.</i>
Planning Disclaimer	<i>Town planning and zoning information was informally obtained from the relevant local and State Government authorities and is assumed to be correct. This information does not constitute a formal zoning certificate. Should the addressee require formal confirmation of planning issues then we recommend written application be made to the relevant authorities to obtain appropriate current zoning certificates.</i>
Publication of Report	<i>The publication of the valuation or report in whole or any part, or any reference thereto, or the names and professional affiliations of the valuers is prohibited without the prior written approval of the valuer as to the form and context in which it is to appear.</i>
Reliance on Whole Report	<i>This valuation should be read in its entirety, inclusive of any summary and annexures. The valuer and valuation firm does not accept any responsibility where part of this report has been relied upon without reference to the full context of the valuation report.</i>
Site Survey Disclaimer	<i>This report is not a site survey and no advice is given in any way relating to survey matters. Any comments given in relation to the property are not given in the capacity as an expert. Should the addressee require absolute certainty in relation to site area, dimensions or possible encroachments we recommend that a surveyor be engaged to provide appropriate advice and a survey of the property if considered necessary. In the event there are any fundamental inconsistencies between any site survey undertaken and site detail adopted in this valuation, the survey should be referred to the valuer for comment on any valuation implications (including amendment of our valuation if considered necessary).</i>
Third Party Disclaimer	<i>This report has been prepared for the private and confidential use of our client, NSW Land & Housing Corporation and the nominated other authorised users, for the specified purpose and it should not be relied upon by any other party for any purpose and the valuer shall not have any liability to any party who does so. The report should not be reproduced in whole or part without the express written authority of Opteon Property Group Pty Ltd. Our warning is registered here, that any party, other than those specifically named in this report as our client or authorised user should obtain their own valuation before acting in any way in respect of the subject property.</i>
Title and Unregistered Instruments	<i>For the purpose of this report we have assumed that the title information provided to us is correct. Our Valuation has been assessed assuming the property is only affected by encumbrances noted on Title with the exception of registered instruments (eg. mortgages or caveats) that are normally and expected to be discharged prior to transfer of the property. If there are any encumbrances, encroachments, restrictions, leases or covenants which are not noted on the title, they may affect the assessment of value. If there are errors or omissions found to exist on the title documents we should be notified and we reserve the right to review our valuation.</i>

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Landowner Survey

Jerberra and Nebraska Estates – Proposed Acquisition Policy for ‘Residual’ E2 Zoned Environmental Conservation Land

Introduction

Under current Policy, Council can accept land in Jerberra and Nebraska Estates in lieu of unpaid rates but will not purchase the land.

Council is seeking your feedback on a proposed new policy that would allow the purchase of certain land zoned *E2 Environmental Conservation*, **if requested by the owner**, in Jerberra Estate and Nebraska Estate (if/when the Nebraska Estate is rezoned). The land would only be purchased on a voluntary basis (willing seller/willing buyer). Any property purchased by Council must be unencumbered by debt at the date of settlement and Council will not reimburse any rates previously paid on the property. The purchase price offered will be based on the Unimproved Value (indexed) as determined by the independent valuer at the date of the transaction.

Any land purchased under the new policy would be retained as bushland and managed for conservation in perpetuity.

Note: Some E2-zoned lots can/may be consolidated into a larger development parcel. The policy would not apply to these lots.

The cost of purchasing the land would be funded by the net profits from the sale of any Council-owned land in the same Estate that has residential development potential. Ongoing costs for managing the E2 land would be met from a variety of sources including any government funding that is able to be secured in the future, and/or any surplus profits from the sale of Council's developable land.

About this survey

The purpose of this short survey is to get feedback from the potential beneficiaries of the new policy: owners of land which Council may be willing to purchase in the Jerberra and Nebraska Estates.

This feedback will help Council to decide whether to adopt the new policy and provide an early indication of the number of properties that Council may be requested to purchase.

You may submit more than one (1) survey form. If you do however, only your most recent survey will be considered.

The survey is available online and, if possible, you are encouraged to use this option: go to <https://getinvolved.shoalhaven.nsw.gov.au/jerbbera-nebraska-estates> and click on the 'targeted survey' tab.

You can also submit completed survey forms via:

Email: council@shoalhaven.nsw.gov.au

Post: Chief Executive Officer, PO Box 42, Nowra, NSW 2541

To be considered, all survey feedback must be received by: **5 pm on Sunday, 25 July 2021.**

Fields marked with an asterisk (*) are mandatory.

1. *Name and contact details (Personal details will remain confidential)

Name	
Phone	
Email	

2. *Are your views representative of all the owners of your land (if there are multiple owners?)

☐ Yes or ☐ No

3. *Where is your land?

I/We own land zoned E2 in the Jerberra Estate ☐ or

I/We own land proposed to be zoned E2 in the Nebraska Estate ☐

If you are unsure if Question 3 applies to your land and require assistance, please contact Council. Please see "Further Information" below for contact details.

4. To what extent do you support the purchase of 'residual' E2 properties by Council?

Highly support	Support	Neutral	Oppose	Strongly oppose
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

5. What is the likelihood that you would want to sell your 'residual' E2 land to Council?

Highly likely	Likely	Possibly	Unlikely	Highly unlikely
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

6. Do you have any other comments, questions or concerns about the proposed policy?

Further information

A webpage has been set up for this project on Council's Get Involved community engagement platform at: <https://getinvolved.shoalhaven.nsw.gov.au/jerberra-nebraska-estates>

If you have read the FAQs and viewed the project webpage but still have questions, please contact Maggie Chapman, Strategic Planner (Monday-Wednesday) on (02) 4429 3485 or email:

maggie.chapman@shoalhaven.nsw.gov.au

Alternatively, you can contact the Special Projects team in Council's Strategic Planning section on (02) 4429 3320.

Thank you for taking the time to complete this survey



Summary of Responses

Jerberra & Nebraska Estates –

Residual E2 Land – Proposed Policy

PUBLIC ENGAGEMENT SURVEY: 25 JUNE to 25 JULY 2021

No.	TRIM Reference	Date Received	Ack' Ref	TRIM	Property Description	Level of support	Level of Interest in selling	Comments
Jerberra Estate								
1	D21/306297	22/07/2021	D21/312652		Lot 150 Inglewood Cr	Neutral	Unlikely	No comment
2	D21/306296	22/07/2021	D21/312675		Lot 157 Rolfe St	Support	Highly likely	No comment
3	D21/292823	14/07/2021	D21/312688		Lot 64 Invermay Ave	Highly Support	Highly likely	See below
4	D21/286793	12/07/2021	D21/287230		Lot 153 Inglewood Cr	Strongly oppose	Highly unlikely	See below
5	D21/312394	27/07/2021	D21/312754		Lot 63 Invermay Ave	Support	Likely	See below
6	D21/311370	27/07/2021	D21/312703		Lot 65 Invermay Ave	Highly Support	Highly likely	See below
7	D21/310062	23/07/2021	D21/312708		Lot 120 Inglewood Cr	Support	N/A	See below

No.	TRIM Reference	Date Received	Ack' Ref	TRIM	Property Description	Level of support	Level of Interest in selling	Comments
8	D21/380563	03/09/2021	D21/381926		Lot 160 Rolf Street	Neutral	Likely	See below
Nebraska Estate								
9	D21/282473	7/07/2021	D21/313297		Lot 9 Sec B Waterpark Rd	Support	Likely	No comment
10	D21/306293	22/07/2021	D21/312855		Lot 10 Sec J Fisherman	Highly Support	Highly likely	No comment
11	D21/310112	25/07/2021	D21/312878		Lot 5 Sec D Pelican Rd	Strongly Oppose	Highly unlikely	See below
12	D21/310134	25/07/2021	D21/312904		Lot 1 Sec D Nebraska Rd	Highly Support	Highly likely	No comment
13	D21/310123	25/07/2021	D21/313140		Lots 3, 4 & 5 Sec F Pelican Road	Neutral	Highly unlikely	See below
14	D21/269028	26/06/2021	D21/312843		Lot 4 Sec J Fisherman	Support	N/A – EOI in sale Council received to	See below Note: Land is not proposed Residual E2
15	D21/314350	28/07/2021	D21/315456		Lots 14 & 15 Section B	Strongly Oppose	Highly unlikely	See below
16	D21/310071	25/07/2021	D21/313231		Lots 19 & 20 Sec D Lots 1 & 2 Sec F	Support, in principle only	N/A	See below

Responder reference (see above)	Support or oppose the policy?	Owner's Comments/Questions	Staff Response
Jerberra Estate			
3.	Owner is highly supportive of the policy and highly likely to sell to Council.	Current valuation at 01/07/2021 is \$32,000. Will an independent valuer be much different? As requested, no further land clearing has been undertaken.	Council's strategic valuation suggests that market conditions have positively impacted values for both constrained (Residual E2 Land) and unconstrained (developable) land. An independent valuer would assess the market value of the land at the date of valuation if/when the land is offered for sale.
4.	Owner is strongly opposed to the proposed policy and very unlikely to sell to Council.	Market value reduced from \$180,00 to \$25,000. With a building permit would be worth \$500,000. All rates paid. Lived here for 20 years. Building permits have been granted to adjoining and adjacent land. Compares Bayswood and units at Moona Moona Creek. Family of four with serious health issues all aged 60s – 80s. There's a housing shortage, where would they go? Suffering stress and anxiety.	Photos and reports show an unauthorised relocatable home and other structures on the land. Property partly cleared. Council's strategic valuation suggests that market conditions have positively impacted values for both constrained and unconstrained land. An independent valuer would assess the market value of the land at the date of valuation if/when the land is offered for sale.
5.	Owner supports the proposed policy and is likely to sell to Council.	Will the independent valuer go off the VG rating? Building demolition & cleaning up process has been an immense task causing stress and serious mental health issues and suicidal thoughts.	An independent valuer would assess the market value of the land at the date of valuation if/when the land is offered for sale. Owner is working collaboratively with Council staff in compliance to remove unauthorised structures and clean up the land.
6.	Owner has indicated a high level of support for the proposed policy very likely to sell to Council.	Would prefer Council looks after and protects the natural areas within the Estate.	Noted.
7.	Owner supports the proposed policy. <i>(Note: Lot 120 DP 11629 is zoned E4 Environmental Living and therefore is not Residual E2 Land.)</i>	1. Can council provide evidence that funds from the sale of existing developable Council land will be sufficient to fund the purchase of E2 land? 2. If there are some willing sellers, what will happen to blocks where the owner is not willing to sell? 3. We note that a targeted survey of owners of residual E2 land is also being undertaken. What was the outcome of the survey?	1. The independent strategic valuation indicates that there will be sufficient funds available. This is discussed in the Council report. 2. Landowners may sell their land on the open market if they can find a willing buyer. Land that is not purchased by Council will remain in private ownership. However, the owner will be responsible for the management of the environmental values of the land. Compliance work to have any remaining unauthorised structures removed will continue.

		<p>4. Which Council-owned Lots is Council suggesting be develop?</p> <p>5. In regard to Residual E2 land zoned as 'community land', what controls would there be on future reclassification of the land for other purposes, such as a sports oval or similar purpose?</p> <p>6. What is the definition of "Community Land – Natural Area"?</p> <p>7. Will ongoing maintenance costs be funded out of general revenue as this land would have value to the wider community?</p>	<p>3. The outcome of the survey is discussed in, and attached to the Council report.</p> <p>4. Land owned by Council and proposed for sale is identified on the map of the Jerberra Estate attached to the Council report.</p> <p>5. Re-classifying land from community to operational requires a Planning Proposal (rezoning) and given the circumstances, would be very unlikely to receive support from the NSW State Government. Furthermore, a public hearing would be required as part of the Planning Proposal process.</p> <p>6. Land is classified Natural Area – Bushland under S.36(4) and 36(5) of the <i>Local Government Act 1993</i>. Cl.102 of the <i>Local Government (General) Regulation 2005</i> provides guidelines for the classification of land as a Natural Area.</p> <p>7. It is not proposed that the maintenance costs be funded from general revenue. It is proposed to use surplus net profits from the sale of Council land in the Jerberra Estate and to seek grant funding from external sources and other levels of government. If enough properties were purchased, a Stewardship Agreement could potentially be established under the <i>Biodiversity conservation Act 2016</i>, which could provide funding for conservation management.</p>
8.	Owner has no strong feelings either way about the proposed policy but has indicated has indicated they are likely to sell to Council.	<p>1. What is the likely purchase price in relation to current Valuer General land value, and or levies/rates paid; and</p> <p>2. Loss of what could have been 'developable land' and no option to amalgamate.</p>	<p>1. The independent valuation report for Jerberra is attached to the Council Report. This Valuation advice is for strategic planning purposes only, ie to assess the viability of the proposed policy. An independent valuer would assess the market value of the Lot 160 Rolfe Street if/when the land is offered for sale to Council. Any property purchased by Council must be unencumbered by debt at the date of settlement and Council will not reimburse any rates previously paid on the property.</p> <p>2. New planning controls for Jerberra commenced in 2014 following a comprehensive assessment of the environmental values and development potential of the Estate. Lot 160 Rolfe Street supports Protected Flora & Fauna Habitat (associated with drainage lines) and is therefore zoned E2 Environmental Conservation under Shoalhaven Local Environmental Plan (Jerberra Estate) 2014. It is one of several lots identified in Chapter N20 of DCP 2014 that does not include a building envelop or any</p>

			opportunity for consolidation due to the environmental attributes of the land identified during the flora and fauna assessment by Bushfire & Environmental Services in 2007.
Nebraska Estate			
11.	Owner is strongly opposed to the proposed policy and highly unlikely to sell to Council.	<ol style="list-style-type: none"> 1. Identified issue with online survey questions (options missing that were available on the hard copy form). Requested that his strong opposition to the policy be recorded. 2. Land is not directly affected by the Cryptostylis hunteriana plus 50 metre buffer zone. Can't see why his land is affected by it [the policy]. 3. Why doesn't the proposed road network include Lots 6,5,4 Pelican Road? As per the map provided, there's no reason for the road not to be extended. 4. Why can't the Council land and blocks 13,12,11,6,5,4 Pelican Road be included in the rezoning to allow for limited residential development so that those owners can build or sell for a greater profit than proposed by the independent valuer. 5. When will the owners be advised of the results of the independent valuer? 6. Can landholders obtain their own land valuations? 7. If ownership is retained, how am I to access it to manage unauthorised access by others? Hikers, bike/horse riders, litterers etc. How am I to even access my land to manage invasive species both pest and non pest that may threaten the orchid habitat there. How is this management to occur, how often, who educates myself and other land owners as to the correct way to manage our land and who pays for it. If I feel the council should be responsible for covering these expanses, reimbursing my expenses or coming up with a payment plan. 8. How is the orchid population to be protected from predation from herbivores or eradication from pests, fires or other sources. 	<ol style="list-style-type: none"> 1. Issue (with online survey) was identified only after the close of the consultation period. This was unintended but it did not affect the integrity of the survey as everyone received a hard copy. No other concerns were raised. 2. Lot 6, Section D is within an area which Council resolved in 2010 is unsuitable for rezoning to allow residential development due to significant biodiversity constraints (MIN10.376). This decision followed extensive consultation with landowners and discussions with the key government agencies. The relevant Council reports, resolutions and supporting information can be accessed from the Nebraska Estate Fact Sheet. The purpose of the targetted landowner survey was to seek feedback on a proposed policy for the voluntary acquisition of Residual E2 Land if/when the land is rezoned. Feedback on the Planning Proposal (PP) will be invited more broadly if/when a new Gateway determination is issued by the NSW Department of Planning, Industry & Environment and the PP is placed on public exhibition. 3. Consultation on the extent of proposed road construction/upgrades will be undertaken at the appropriate time. However, it is not currently proposed to improve access to constrained land unable to be developed. 4. See 2 above. Lots 4-6 Section D and 11-13 Section C on the northern side of Pelican Road are all within the highly constrained (no development) area. 5. The independent valuation report for Nebraska is attached to the Council Report. This Valuation advice is for strategic planning purposes only, ie to assess the viability of the proposed policy. If/when the Planning Proposal is finalised and the Estate is rezoned, an independent valuer would assess the market value of the Lot 5 Section D if/when the land is offered for sale to Council. 6. Owners will be able to obtain their own land valuations. If Council adopts the proposed policy, reasonable

		<p>9. Once the orchid/s have proven to be eradicated, will the council rezone the properties in the immediate vicinity?</p> <p>10. Why can the council not investigate the relocation of these orchids and other species to another suitable location that will not be impacted by development such as the botanical gardens?</p>	<p>conveyancing costs (Valuation and solicitors fees) would be met by Council.</p> <p>7. The property in question fronts Pelican Road, a public road under the NSW Roads Act. Management of privately owned land is the responsibility of the owner. The problems raised are acknowledged and this is part of the reason for preparing the voluntary acquisition policy for the residual land in these Estates. Government-funded conservation programs are generally aimed at larger areas of land. Should Council receive a noxious weed action request, a work order would be issued. Unlawfully cleared vegetation or construction of unauthorised buildings would result in Council taking action to remedy.</p> <p>8. Threats to the orchids can be better managed if the land is publicly owned and managed in accordance with a management plan prepared for each Estate. Fragmented ownership is not conducive to an effective management regime.</p> <p>9. No, the orchids are protected (see next answer) and the State Government's support for the Planning Proposal is on the basis of the environmentally sensitive land being rezoned to environmental conservation. The objectives of the E2 Environmental Conservation Zone are to promote protection and long term conservation of the land. Once the land is rezoned to E2 Environmental Conservation it cannot be rezoned without the support of the NSW State Government. There is effectively no chance of this under the NSW planning system given the land's environmental values, the planning proposal history, the added complication of needing to reclassify the land from 'community' to 'operational' (including mandatory public hearing requirement), and c13</p> <p>10. 34A Biodiversity Savings order (should it ultimately be secured).</p> <p>11. Translocation is not a realistic option. The Leafless Tongue Orchid [<i>Cryptostylis hunteriana</i>] is the subject of a NSW Government Priority Action Statement. The Pot-Bellied Greenhood Orchid [<i>Pterostylis ventricosa</i>] is listed as 'critically endangered' under the NSW Biodiversity Conservation Act 2016. Nebraska has been identified as a Priority Management site under the 'Saving Our Species' Program for this species. Voluntary acquisition of land in the</p>
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			Estate where orchid species occur would be the best outcome.
13.	Owner has no strong feelings either way about the proposed policy but is highly unlikely to sell to Council.	My husband and I have owned our properties since 1980 and have used it as a holiday property since this time. We have a maintained driveway from Pelican Road, through the Threatened Ecological Community (TEC) to the southern portion of the property which is cleared, mainly grassed and has approximately 10 large trees (turpentine and gum trees). We are highly unlikely to agree to sell our property to Council as we continue to access and use the property for camping and family gatherings.	<ol style="list-style-type: none"> 1. DA89/2746 for a rural dwelling was refused. 2. Unauthorised structures exist on the land.
14.	Owner supports the proposed policy.	The abovementioned property has been owned by three generations of my family since the early 1900's (around 1918). Since that time my grandmother, mother and myself have paid all rates and levies. Successive rezoning events by Shoalhaven Council have appeared to have rendered this property ineligible for development or sale due to the restrictive nature of the rezonings. It appears, from my understanding, that it is very likely that my property will be rezoned residual E2 land. I am, therefore, expressing my interest in selling my property to the Council as part of the proposed acquisition policy.	The Nebraska Estate Planning Proposal currently shows that Lot 4, Section J would be able to be consolidated into a development parcel if/when the land is rezoned and if so, it would not be eligible for acquisition under the proposed policy. However, the Planning Proposal could change and the EOI in sale of the land to Council has been noted.
15.	Owner is strongly opposed to the proposed policy and highly unlikely to sell to Council.	I do not want a proposed policy for residual E2 zone land to occur. I would like a residential rezoning to occur so I can create my building approval with the Australian standards. I would also like to see water connections/sewer connections within the future.	<p>Owners comments regarding the proposed zoning are noted. The land is affected by multiple constraints and is proposed to be zoned E2 – Environmental Conservation. Refer to the Nebraska Estate Fact Sheet. No development potential under Option 1.V2.</p> <p>Reticulated services are not proposed to be extend to this land.</p>
16.	Owner supports the proposed policy in principle	<p>Welcomes Council's efforts to move forward with a planning solution to the Estate and support, in principle, the development of this policy for acquisition of E2 land with the following provisions:</p> <ol style="list-style-type: none"> 1. Council does not sell its lots to "fund" the acquisition. The ecological value of the Council lots in the Nebraska Estate needs to be recognized and zoned E2 land (LP145.1 Planning Proposal lots 5, 6, 7, 8 and 21) and support the ecological values of the estate, given that: <ol style="list-style-type: none"> a. special rates have been already used to develop revenue; b. ongoing rates and the cost of services will be gained by landholders who can develop their lands; 	<p>Parcel comprising Lots 1 & 2, Section F and Lots 19 & 20, Section D, is subject to a Voluntary Conservation Agreement (VCA). Dwelling (and worm farm) is approved over Lots 19 and 20 Section D. Council does not intend to purchase any of this land and consolidation of the parcel is supported.</p> <p>Responses to comments are provided below.</p> <ol style="list-style-type: none"> 1. The overall proposed development footprint is based on detailed environmental and land capability studies, not land tenure or ownership. The policy would only apply to Nebraska Estate if/when the land is rezoned. The Planning Proposal has received in principle support by the key Government agencies, but the rezoning process is ongoing. Further community feedback will be sought on

		<p>c. the resolution of the paper estates is a legacy planning issue that predates SCC and is therefore a cost of Council's core business;</p> <p>d. long-term biodiversity benefits should not be compromised for short term operating revenue needs;</p> <p>e. since the presentation of the "low density" proposal presented to landholders (2014), the numbers of development sites and consequent environmental impact has increased.</p> <p>2. The ecological values of the Estates are maintained or improved, and an ongoing ecological management and monitoring plan is developed to avoid ongoing impacts and support:</p> <p>a. Ecological conservation targets that include:</p> <p>b. threatened species – orchids, melaleuca, woodland birds, owls, invertebrates and small mammals</p> <p>c. the Ecological Endangered Community (NSW) of Swamp Sclerophyll Coastal Floodplains Forest. This NSW EEC has been nominated as a National threatened ecological community under the EPBC Act this year because "the ecological integrity of the remaining occurrences of [Swamp Sclerophyll] is severely compromised".</p> <p>d. Council outlines how the E2 land will be managed as per Council correspondence which states all E2 land will be "managed for conservation purposes in perpetuity consistent with the BC (Savings and Transitional) regulations" in particular, how conservation measures have been secured into the future.</p> <p>e. A strategy to work in partnership with Conservation organisations e.g. national partners, BCT to provide professional and expert assessments and management of the area.</p> <p>f. Ongoing monitoring and reporting regime for assessing the impacts of threats such as urban development fringe impacts, erosion and runoff including siltation in the creek way, feral and domestic animals, weed control, hydrological changes, wildfire management and unlawful clearing</p> <p>g. On-ground land management works for restoration in response to monitoring and reporting.</p>	<p>Planning Proposal when it is formally exhibited, but the outcome must be based on the underlying constraints and land capability, not tenure.</p> <p>a. Special rates are NOT proposed to be used to fund the management of the Residual E2 Land.</p> <p>b. Noted and agreed. These funds, however, are directed to general revenue to fund a wide range of Council services. Ring-fencing net profits from the sale of Council land in Nebraska is considered to be a very practical solution to reduce the fragmented ownership of Residual E2 Land and provide funding for future programs to manage the biodiversity and environmental values of the land in the long term.</p> <p>c. Agreed. If/when the land is rezoned the opportunity will arise to manage the Residual E2 land through the application of the proposed policy.</p> <p>d. If/when the land is rezoned, Council's developable land will be sold at some stage. The objective of the proposed policy is to the net profits to be ring-fenced to support and enhance the long-term biodiversity values of the Residual E2 Land. Currently, existing Council policy does not allow for the voluntary acquisition of the Residual E2 Lane. Option 1.V2 was adopted by Council on 5 April 2016 and the changes were documented in the Council report which can be accessed from the Nebraska Estate Fact Sheet. Option 1 was revised based on reticulated sewerage being provided and to minimise the need for land pooling/reconfiguration. This increased the number of proposed dwellings from 21 to 23 within the identified development footprint and did not impact the proposed E2 zone boundary. The purpose of the targeted landowner survey was to seek feedback on a proposed policy for the voluntary acquisition of Residual E2 Land if/when the land is rezoned. Feedback on the Planning Proposal (PP) will be invited more broadly if/when a new Gateway determination is issued by the NSW Department of Planning, Industry & Environment and the PP is placed on public exhibition.</p> <p>2. a.</p> <p>i. Land acquired would be classified under the Local Government Act 1993 as Community Land – Natural</p>
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External and Internal Consultation

Jerberra & Nebraska Estates - Draft Policy for the Voluntary Acquisition of 'Residual' E2 Land

External Consultation

Department of Environment, Industry & Planning - Biodiversity Conservation Division (BCD)

Previously, BCD has been reluctant to commit to biodiversity certification for Nebraska in the absence of a prior commitment from Council to resolve the fragmented ownership and long term management of the Residual E2 Land. It appears that the draft policy, if adopted, would build the bridge necessary to secure that commitment and thereby progress the PP.

With the support of BCD, the Nebraska PP and supporting Draft DCP can be updated to reflect Council's intention to have the planning controls certified as a "relevant planning arrangement" creating the foundation necessary for a request to BCD for a new Gateway determination and public exhibition of the PP.

BCD was provided with a copy of the draft policy to review and the following comments were received:

- *It is noted that the Policy will only apply to land identified as "Residual E2 Land" in Nebraska Estate if/when the land is rezoned for residential development and environmental conservation. If any changes are required to the Policy following rezoning, we request the opportunity to provide input into the amended Policy also.*

Comment

Consultation with BCD will be ongoing in relation to the Planning Proposal and the necessary updates to the policy, if adopted.

- *The inclusion of the 12 lots located to the north east corner of the Nebraska Estate as part of the voluntary acquisition policy is noted and commended.*

Comment

Noted. This comment is indicative of BCDs strong support for the proposed policy.

- *Clause 3.2 of the Policy states that the land acquired by Council will be managed for environmental and biodiversity conservation purposes in perpetuity consistent with the BC Act. As detailed in advice provided to Council via email, dated 12 July 2019, we recommend that the E2 zoned land in the Nebraska Estate be managed as a biodiversity offset. This could address the viability issue for conservation agreements due to small individual lot size. Additionally, the strategy enables a specific 'offset' measure which would address the previous risks identified with Jerberra concerning security of offsets.*

Comment

Noted. This comment was addressed by amending the relevant reference to the Biodiversity Conservation Act 2016 (BC Act) in Clause 3.2 to a reference to Clause 34A of the Biodiversity Conservation (Savings & Transitional) Regulation 2017. BCD has endorsed this change.

- *Clause 6.7 of the Policy details the proposal to prepare management plans for each Estate. We recommend that the draft management plan for the Nebraska Estate*

be available for consideration at the time of request to certify the provisions for the Estate under Clause 34A of the Biodiversity Conservation (Savings & Transitional) Regulation 2017. [emphasis added]

Comment

Noted. City Futures (Strategic Planning) and City Development (Environmental Services) will continue to work together to further the objectives/outcomes of the policy, if adopted. In the short term, a management plan would be required to be prepared for Jerberra. The DCP and draft management plan for Nebraska would be prepared in unison as part of the package of planning controls submitted for certification.

Although not explicitly stated, it is considered that BCD's comments support the proposed policy objectives/outcomes, i.e. a process for acquisition and long term management of the biodiversity and environmental values of the Residual E2 Land. Hence staff's view is that adoption of the policy should help to address the eligibility criteria for Clause 34A Certification for the planning arrangements for Nebraska Estate, subject to the detail.

Internal Consultation

All Directorates likely to be involved in implementation (Clause 7) of the draft policy, have been consulted. Their advice is summarised and comments, if provided, follow:

City Performance Directorate (Finance Department)

Finance has provided advice about the functionality of the financial arrangements and had input into the draft policy. It is proposed that an internal reserve (*Jerberra and Nebraska Estates Property Reserve*) be established to restrict net profits from the sale of land of the relevant Estate and to fund purchases of the E2 Land and management activities as outlined in the draft policy. The Financial arrangements to support the voluntary acquisition project are detailed in Clause 5 of the draft policy.

City Development Directorate (Environmental Services)

Advice was sought from Environmental Services (ES) about the likely on-going maintenance of the 'Residual E2 Land' if the policy was adopted. ES identified the following maintenance issues that would need to be addressed:

- *E2 zoned bushland weed control*
- *Exotic garden weed control on "developed" lots to be acquired in E2 zones*
- *Rehabilitation of part cleared (under-scrubbed) lots to be acquired – weeding planting etc*
- *Barrier fencing of highly sensitive sites (e.g. Wetlands) to deter disturbance/new entry points into E2 zones.*
- *Vehicle barrier installation of existing tracks/driveways in E2 zones.*
- *Responding to future dumping of green waste and refuse into E2 zones that creates weed infestations and rubbish clearing issues.*
- *Potential rehabilitation of future bike tracks and BMX tracks within E2 zones*
- *Education campaign for residents on green waste dumping in E2 zones in particular, also including ecological and social values of E2 zones to foster stewardship in residents/landholders.*
- *Signage when/where necessary.*

Taking the above into account the following estimates for maintenance costs were provided:

Jerberra Estate

*Initial works will require higher input to mitigate existing degradation of affected sites: estimated \$10,000/annum for first 3 years.
Follow-up maintenance works on list of actions above: \$5,000/annum for following 7 years.*

Nebraska Estate

*\$5,000/annum for first 3 years.
Follow-up maintenance works on list of actions above: \$3,000/annum for following 7 years."*

Having regard to the Valuation advice, the above estimates suggest that funds from the proposed Jerberra and Nebraska Estates Property Reserve will be sufficient to meet the long term maintenance costs into the future.

Advice was also sought from ES on the draft policy and, specifically, the provisions at Clause 6.7 – Management Plans of the draft policy. The following comments were received:

Thank you for the opportunity to review and comment on the proposed Residual E2 Environmental Conservation Land Acquisition Policy relating to Jerberra and Nebraska Estates.

We support the policy as it encourages the in-perpetuity protection of the significant ecological values occurring within both Estates. While we agree that Council is best placed to manage the residual land, note that sufficient funding will be required to be set aside to ensure these values are adequately protected and that the impacts associated with the increased adjoining development are managed in a timely manner.

A Plan of Management (including a monitoring program) may be suitable.

Alternatively, there may be potential for Council to establish a Stewardship Agreement over a consolidated area of purchased residual land, provided that DPIE and BCT are in support of this (it may be deemed 'double-dipping' given the relationship with the Clause 34A Certification). If this is an available option, additional funds for management may become available through the sale of credits.

We are happy to assist wherever we can in this process.

Comment

The proposed policy has been enthusiastically received by City Development Directorate (Environmental Services) as a way to work towards the in-perpetuity protection of the ecological values of the E2 Land at Jerberra and proposed E2 land at Nebraska, if the PP is finalised. Separate management plans would be prepared for each Estate and, if the policy is adopted with immediate effect for the Jerberra Estate, work could begin to prepare such a plan. A generic management plan could be applied in the interim, if necessary. The establishment of the Jerberra & Nebraska Estates Property Reserve will address ES concerns about sufficient funding being set aside to "ensure these values are adequately protected and that the impacts associated with the increased adjoining development are managed in a timely manner".

Options for the establishment of a Biodiversity Stewardship Agreement (BSA) or Conservation Agreement (CA) over consolidated areas of 'Residual E2 Land' will be explored. If a BSA or CA is deemed to be the preferred management tool to conserve the environmental values of the land, management plans under the Local Government Act 1993 would not be required.

City Services Directorate (Property Services)

Property Services has been consulted and had input into Clause 6 of the draft policy. If the policy is adopted, Property Services would have carriage of the acquisition decisions, conveyancing work and classification of the land under the *Local Government Act, 1993* as part of their operational business. Property Services is particularly supportive of the provisions of clause 6.8.4 of the draft policy to "*bear the reasonable conveyancing costs (valuation and solicitors fees) incurred in consequence of the transfer of the land*".

Summary of Submissions

Planning Proposal Request – Willinga Park Equestrian Centre, Forster Drive Bawley Point

Pre-Gateway Request for Preliminary Feedback

No.	Submitter	Summary of Submission	Main themes
1	Resident of Bawley Point	<p>Object to proposal</p> <p>Noise impacts - currently affected by events - can hear country music concerts at night and loud PA system during day, even though located away from park.</p> <p>Traffic and noise increases - very concerned that increasing functions and wider audience, concerts, weddings will make impacts worse. Moved to quiet village 20 years ago and area rapidly changing with Willinga Park development.</p> <p>Housing affordability impact of tourism - Locals cannot find permanent rentals and encouraging more tourists will increase problem. Do not presume Bawley/Kioloa residents want more tourism infrastructure.</p> <p>Leave zoning and exempt provisions as they are.</p> <p>Please send notification to wider audience in Bawley Point as this proposal is not a small request and will affect a lot of people.</p>	<p>Noise</p> <p>Traffic</p> <p>Character impacts</p> <p>Housing affordability</p> <p>Tourism impacts</p> <p>Exempt development / without consent concerns</p> <p>Community engagement</p>
2	Resident of Bawley Point	<p>Object to proposal</p> <p>Traffic and noise impacts. Believe Willinga Park has permission to run 2 agricultural events per month - already traffic and event noise including helicopters. Frequent large damage local roads. Changing use of events will bring in more noise and traffic.</p> <p>Community told only limited range of events, now looks like full-blown resort, already 34 guest houses and proposal for 44 room guest house (hotels and motels are not permitted in current zone).</p> <p>Wider Bawley community should be notified. Attraction of Bawley Point is quiet coastal village. Now locals can no longer afford or find local housing to rent, partly due to attention Willinga Park has drawn to area. If tourism not managed will become like Byron Bay, where locals will have to live outside Bawley Point.</p> <p>Concerned events will not bring much to community as food catering and accommodation all handled inside Willinga Park and visitors will not spend money in local community, will only maybe use beaches and degrade Council assets.</p> <p>Will Willinga Park be able to manage effluent treatment without impact on Willinga Lagoon (5000 people twice a month plus another 350 people for other events), does not make sense for town not connected to town sewage.</p>	<p>Traffic</p> <p>Noise</p> <p>Road condition / maintenance</p> <p>Cumulative impacts</p> <p>Non rural use</p> <p>Community engagement</p> <p>Character impacts</p> <p>Housing affordability</p> <p>Tourism impacts</p> <p>Community impacts</p> <p>Water quality</p>

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3	Resident of Bawley Point	<p>Object to proposal</p> <p>Willinga Park has had significant detrimental effects on our community. If the current zoning does not allow for proposed events, why even consider the proposal? Allowing exemptions from planning approval for further events would be travesty.</p> <p>Protect our small communities from commercial operations that may not consider the harmful effects of their development on local communities and environment.</p> <p>When Willinga Park first began to develop, proponent stated only wanted to create a botanic garden. For a site zoned RU2, Willinga Park is a long way from a botanic garden.</p> <p>On Sunday 1/8/21, attended a meeting regarding this proposal. The Bawley Point /Kioloa/ Termeil communities well represented. Overwhelming feeling was communities do not want any further harmful provisions. Will negatively affect the amenity by ongoing development at Willinga Park.</p> <p>Noted that the council planning officers presenting stated that "council sees Willinga Park as an asset". This is not the way many in the community see it and it is very concerning to hear such statements. Our communities are small seaside hamlets where people live to escape big business and the influences of commercial operations like Willinga Park. To date the Willinga Park development (~72 development applications) has increasingly harmed amenity.</p> <p>Planning controls</p> <p>LEPs are main planning tool to shape future of communities and ensure local development is done appropriately. Argue the development has already gone outside the LEP and current zone laws and creates a precedent for future harmful developments. Mandatory requirements of our zoning laws do not allow for the proposal. Require support of local representatives and state legislators to consider the impact that one commercial operation can have, to prevent this impact from growing ever worse through increased traffic, noise, increased visitor numbers and the harm both cause to our natural environment.</p> <p>Can be argued nothing in this proposal is in the public interest and only for the interest of Willinga Park. "Use of approved facilities on the site for non equine or agricultural estate functions is prohibited." - proposal counters "that this is a lost opportunity for Willinga Park." This may be but it is a protection for our communities from commercial operators.</p> <p>Function centres are not permissible under the LEP and would only be harmful for local business as Willinga Park is self sufficient. Visitors mentioned in the proposal ranges from 350 per event up to a staggering 350,000/year. Each of these visitors travels through Termeil and Bawley Point - travesty for our already heavily affected communities. This proposal is an unreasonable request with no planning basis or consent provisions. Very obviously not procedurally or technically OK within our planning laws.</p> <p>The objectives of the existing planning controls for a site zoned RU2 are:</p>	<p>Community impacts</p> <p>Inconsistent with planning controls</p> <p>Exempt development / without consent concerns</p> <p>Commercialisation</p> <p>Environmental impacts</p> <p>Method of expansion</p> <p>Amenity/lifestyle impacts</p> <p>Transparency</p> <p>Character impacts</p> <p>Precedent</p> <p>Traffic</p> <p>Noise</p> <p>Tourism impacts</p> <p>Cumulative impacts</p> <p>Strategic justification and suitability</p> <p>Water quality</p>

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		<p>1. To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</p> <p>2. To maintain the rural character of the land.</p> <p>3. To provide for a range of compatible land uses including extensive agriculture.</p> <p>Looking at the current development through these objectives makes you wonder how it fits these objectives. "Additional permitted uses of a function centre" is not in touch with the above objectives.</p> <p>The Illawarra Shoalhaven Regional Plan goals are:</p> <p>1. Prosperous Shoalhaven communities.</p> <p>2. Communities that are strong, healthy and connected.</p> <p>3. Appropriate use of agricultural and rural lands.</p> <p>4. Protect and enhance the local environment.</p> <p>It is very difficult to see how this proposal meets any of the above goals for our communities.</p> <p>Summary</p> <p>1. The amenity of our small communities has been detrimentally affected by the development of Willinga Park to date and any further allowable provisions or development will have far greater negative impacts.</p> <p>2. The core strength of our towns is its natural beauty and undeveloped nature which is a haven for residents and tourists. This would be put at risk by a potential increase of up to 350,000 visitors to Willinga Park each year.</p> <p>3. The planning proposal is not consistent with the applicable State Environmental Planning Policy or applicable ministerial directions.</p> <p>4. Not permitted on land zoned RU2.</p> <p>5. Huge increase in traffic, noise and foot numbers will have significant environmental effects on all areas of our communities but specifically Willinga Lake.</p>	
4	Resident of Bawley Point	<p>Object to proposal</p> <p>Not reflective of our community Bawley Point. Will negatively affect the feel of our town, and will not be of benefit to community. Don't believe function centres should be permissible. Current zoning laws do not allow this and don't believe they should be changed for the site.</p>	<p>Character impacts</p> <p>Community impacts</p> <p>Inconsistent with planning controls</p>
5	Household Bawley Point	<p>Object to proposal</p> <p>Object to exceptions to the RU2 and E2 zoning in our area. Already allowances made for this property. Residents settle in these areas aware of environmental constraints and for lifestyle. Willinga Park owners also aware of these constraints and land use zones yet feel they should be treated differently and more favourably than others.</p>	<p>Inconsistent with planning controls</p> <p>Character impacts</p> <p>Inequity</p> <p>Precedent</p>

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		Concern proposal sets precedent – opens door for others in rural spaces expecting exemptions to planning controls. Seeking 'exempt development' approval seems to allow free reign to do whatever, as long as there is under 351 attendees, no limit on number of events. Concerned about enforcement - How does council plan to control event impacts. Even if a trivial fine issued, the developer is allowed to carry on.	Enforcement and compliance Exempt development / without consent concerns
6	Resident of Burrill Lake – Builder	Support proposal Support change in planning provisions to allow a wider range of events at very excellent Equine Education Centre at Willinga Park. Advantageous to our community. Could hold Council meetings, entertainment (e.g. Tom Burlinson), minor musical events, cultural and community get-togethers. Positive social impacts. Additional tourist attraction to complement surf beach attractions in area. Sets example of good architecture, landscaping and town planning and the EEC is a wonderful building and should be utilized by the community.	Entertainment Community benefits Tourist attraction High quality architecture
7	Business Owner Moruya	Support proposal From personal and business perspective support the proposal. Have attended multiple events at Willinga Park - feedback from attendees all amazing and supportive. Having a 5 star architectural facility in Shoalhaven for events and conferences brings employment, investment and entertainment dollars, all of which directly benefit the community.	Entertainment High quality architecture Jobs Economic benefits
8	Resident Bawley Point	Support proposal Beautiful facility for council meetings, various governments wishing to communicate policies in the area, entertainment (e.g. Tom Burlinson) minor musical events, cultural and community get-togethers. Positive social impacts. Add another dimension to community and much needed entertainment. Fortunate to have on doorstep for education and training.	High quality architecture Entertainment Community benefits Education and training
9	Resident of Bawley Point	Support proposal Ideal facility for functions. Advantageous to our community and businesses to get away from their usual workplace to meet. Have attended multiple events (Equine, Sculptures) and the Bushfire Summit in January 2020. Example of good architecture, landscaping and the conference centre is wonderful building and should be utilized by the community and businesses from the region, Canberra and Sydney.	High quality architecture Education and training Entertainment Tourist attraction
10	Resident of Bawley Point	Support proposal Ideal facility for functions. Would be of great benefit to community. Family has often attended events at Willinga Park and would openly welcome other functions or entertainment such as the scheduled Tom Burlinson concert, other minor musical events or cultural and community get-togethers. During	High quality architecture Entertainment Community benefits Community resilience

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		these times and in future I feel this would have a very positive impact to the community adding another dimension. Willinga Park has always promoted its events to the community and opened its gates during times of need. Fantastic example of architecture, landscaping and town planning, would be a shame not to see the Equine Education Centre not utilised by community.	
11	Resident of Bawley Point	<p>Support proposal</p> <p>Siting, design and infrastructure of Education Centre perfect for activities of international calibre – entertainment, art and business exhibitions, music, corporate meetings, social gatherings. Sits approx. 1 km from eastern boundary. Amenities of international standard:</p> <ul style="list-style-type: none"> • A Large auditorium with acoustic control, high level quality audio visual systems and a grand piano with IT connectivity • Its own electrical power supply and waste management systems • Large scale, sealed car park and on site accommodation • a modern commercial kitchen, spacious lounge, bar and reception space <p>Additional functions and uses needed to grow the future of the economic and cultural life of the region, the business viability and sustainability of Willinga Park, and capacity to fulfil its vision as a Centre of regional and national excellence. Arguably the finest facility in rural/regional Australia and one equestrian communities are proud of. Capable of diversifying. Impacts and perceived issues may need to be addressed, but important to support proposal to the next stage of legal and formal consideration and assessment by community and Council.</p>	<p>High quality architecture</p> <p>Entertainment</p> <p>On-site infrastructure</p> <p>Economic benefits</p> <p>Culture</p> <p>Equestrian facilities</p> <p>Diversification</p>
12	No address provided	Object to proposal	
13	Household residents of Bawley Point	<p>Object to proposal</p> <p>Writing again about Willinga Park – constant endeavour. Constant noise and building work despite being told there would be no issues.</p> <p>Traffic starts 6.45am till 6pm, 6 days a week. 25-30 double trucks passing homes (60 times past house). Unbearable. Hay deliveries, large horse floats (all hours, day and night), heavy machinery. Noise and vibration impacts from traffic. Owner does not understand or does not want to understand impacts on residents.</p> <p>Will proposal impact on other wedding facilities in area and people's associated livelihoods? Cumulative impacts from other venues – how many wedding venues do we need in Bawley Point?</p>	<p>Cumulative impacts</p> <p>Noise</p> <p>Construction impacts</p> <p>Traffic</p> <p>Heavy vehicles</p> <p>Vibration</p> <p>Economic impacts</p> <p>Character impacts</p> <p>Alternate road access</p>

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		<p>Believe Kioloa residents previously in support cannot stand noise and traffic. As long-term residents used to be happy peaceful, quiet village.</p> <p>Need to open back of property and build another road – to take traffic away from centre of Bawley Point. This would take away anxiety from residents, most concerned about traffic. Current road is constantly damaged, fixed at least 3 times and bad again – heavy machinery not meant for local roads. Traffic speeds and is unsafe. Please reject proposal so we can get on with our lives.</p>	<p>Road condition/maintenance</p> <p>Safety (traffic)</p>
14	Resident Bawley Point	<p>Support proposal</p> <p>Thank Council for addressing community meeting. Strongly support and see proposal having a very positive impact on wider community. Willinga Park already provided a great deal of employment, training, education and entertainment. Bawley Point and Kioloa are outside major centres, and Willinga Park provides a spectacular venue. Will add activities for visitors and locals.</p> <p>Opposition arises not specifically just concerning events at Willinga Park, but is focused on the issue of increasing traffic. Even during winter, have seen marked increase along Bawley Point Road and Murramarang Road, as previous weekend-only visitors have decided to reside longer term here due to COVID crisis. Traffic is horrendous during peak periods between Christmas and New Year, worst at Easter, forcing local residents to avoid travelling on the roads at all. The 2019/20 bushfires also trapped local residents as our entry road closed, and the magnificent environmental planning at Willinga Park meant that our little town escaped the worst of the fires.</p> <p>Traffic must be essential and urgent focus for the Council. Obvious need for "traffic splitting", not only to access Willinga Park during events, but also to reduce the heavy load on our two single roads during summer. Grateful if urgent consideration given to include the development of a new road in and out of Bawley Point/Kioloa as part of the Planning Proposal process. Could save lives.</p>	<p>Community benefits</p> <p>Jobs</p> <p>Education and training</p> <p>Entertainment</p> <p>Tourist attraction</p> <p>Traffic</p> <p>Bushfire resilience</p> <p>Alternate access road</p> <p>Safety (traffic)</p>
15	Resident of Bawley Point – No address provided	<p>Support Proposal</p> <p>Long term resident of Bawley Point. Willinga Park helps with lack of employment opportunities in regions.</p> <p>Based on the 2016 census data, the permanent population is 698 Bawley Point, 257 Kioloa and 252 Termeil. Willinga Park has permanent full time staff of 30 plus in village of casual work (seasonally increased during summer holidays when population swells to 15,000). Proposal will maximise use of existing facilities, more economic activity in Village and potentially more local employment.</p> <p>Demographic tension</p> <p>Large percentage of retirees who do not have a requirement to be employed. But also large number of working age. View held by some older residents that any expansion of Willinga Park will "change the fabric" of the village irreversibly. Concurrent is "that we moved here for the bush setting and tranquillity". Bush setting assertion needs to be examined as Willinga Park is quite out of the way and</p>	<p>Jobs</p> <p>Population changes</p> <p>Community engagement</p> <p>Community impacts</p> <p>Economic benefits</p> <p>Support local business</p> <p>Traffic</p> <p>Noise</p> <p>Alternate access road</p> <p>Conditions of operation (approval conditions)</p>

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		<p>has virtually no impact on Bawley Point, Termeil and Kioloa. Younger demographic think differently about what sort of village they would like to see, but generally not as vocal about their hopes and aspirations.</p> <p>Small villages can be extraordinarily supportive but also can ostracise those who do not share views. This reality has forced the Community Association to have written ballots at meetings rather than a show of hands so there is no subsequent victimisation of individuals!</p> <p>Willinga Park because of the vision of its owner is simply world class. Clientele more likely top end of town. More economic activity not only in Bawley Point but in Ulladulla, Mollymook and Bateman's Bay where Willinga Park sources products.</p> <p>Roads and Noise</p> <p>Will be increased traffic on roads and some accompanying noise. However, reasonable to expect if this proposal goes ahead, Council will consider remediation strategies including the possibility of gaining access to the Princes Highway through other routes. Hours of operation will no doubt be a condition of Council approval.</p> <p>Single road into the Village may need a more frequent maintenance strategy to cope with larger volumes of traffic movements. However, while the often voiced assertion that the road has been impacted by Willinga Park building activities has some merit, other activities also impact on roads (e.g. cycleway construction).</p> <p>The Change paradigm</p> <p>The only constant in life that we can rely on is change itself. Beaches and water quality remain the same now as in 1970s. At Christmas when all the houses in Village are occupied the sounds of life are fabulous. Hope that through Willinga Park activities more people get to share the amazing village of Bawley Point.</p>	<p>Road condition/maintenance</p> <p>Change</p> <p>Vibrancy</p>
16	Resident of Bawley Point	<p>Support proposal</p> <p>Full-time resident. Perfect site for wide range of events and entertainment, has ample car parking, accommodation and catering facilities. World class.</p> <p>Situated over 1km from neighbours, well-lit. Will enhance community, employment opportunities and cultural life. Proud of Willinga Park.</p>	<p>Entertainment</p> <p>On site infrastructure</p> <p>High quality architecture</p> <p>Community benefits</p> <p>Jobs</p> <p>Culture</p>
17	Resident of Bawley Point	<p>Object to proposal</p>	<p>Traffic</p> <p>Heavy vehicles</p> <p>Cumulative impacts</p>

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		<p>Deeply concerned. Amount of heavy vehicles and tradesman's trucks at the moment is too much and been going on for years. Why would the council give approval to this change of zoning I don't see the reason. Large amount of road kill at the moment and noise is affecting people's mental health.</p> <p>I think the council is really leaving itself open for a lot of future complaints. Most residents feel concerned about the traffic and a tragedy could happen on this road to the highway. Road cannot cope, is forever in repair due to large trucks.</p> <p>Why can't Willinga park have its own road to the highway and believe me most people would be grateful.</p>	<p>Wildlife impacts (road kill)</p> <p>Noise</p> <p>Health impacts</p> <p>Enforcement and compliance</p> <p>Safety</p> <p>Road condition/maintenance</p> <p>Alternate access road</p>
18	No address provided	<p>Support proposal</p> <p>Wonderful project in Bawley Point, various events occurring over the years. Provided many local jobs and an excellent tourist attraction. It's a place for families, locals and many visitors to enjoy.</p>	<p>Jobs</p> <p>Tourist attraction</p> <p>Entertainment</p>
19	Resident of Bawley Point	<p>Support proposal</p> <p>Asset to this community, brings employment and sustained growth to this area. Have attended the park on many occasions and find it to be a wonderful addition to the community and would welcome further events in the future.</p>	<p>Jobs</p> <p>Entertainment</p>
20	Resident of Bawley Point	<p>Support proposal</p> <p>Full time resident of several years. Willinga Park most inspiring, Bawley Point fortunate to have beautiful facility on doorstep. Parklands and equestrian facilities exceptional. Well-managed property helped save village from devastating bushfires.</p> <p>Proposal will expand capacity for activities for community and visitors alike.</p> <p>Am in my nineties. Look forward to being able to travel to and park so close to centre and enjoy events (concerts, lunches, talks, cultural events and community gatherings) in stunning surroundings. Ease of access is great aspect.</p>	<p>High quality architecture</p> <p>Equestrian facility</p> <p>Bushfire resilience</p> <p>Community benefits</p> <p>Tourist attraction</p> <p>Entertainment</p> <p>Accessibility</p>
21	Resident of Bawley Point	<p>Support proposal</p> <p>Long-term resident (over 16 years). Vision is world-class facility on doorstep, most in community supportive. Bawley Point is on equestrian map. Aware of contents of planning proposal request and support unequivocally. Enhance ability to provide outstanding events. Will be missing out otherwise, not utilising facilities to full potential.</p>	<p>High quality architecture</p> <p>Equestrian facility</p> <p>Entertainment</p>
22	Resident of Bawley Point	<p>Object to proposal</p> <p>Like most people in these small communities, we moved here (16 years ago) for the natural environment, wanted to lessen our footprint and join a community of like-minded people, living a simple life and looking after our planet.</p>	<p>Community impacts</p> <p>Method of expansion</p> <p>Traffic</p> <p>Character impacts</p>

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		<p>What Willinga Park first proposed to our community was in no way the development that has been ongoing for so many years, impacting negatively on our communities.</p> <p>Traffic throughout all the villages has had a huge impact on many residents for many years and this new proposal traffic increase devastating to think about.</p> <p>Quiet village could have up to 350 000 extra people per year. Is our infrastructure up for this? Can our roads be maintained with this extra traffic? What effects does this traffic have on the residences they pass continually?</p> <p>Noise - From construction, from traffic and from Willinga Park.</p> <p>The environmental impact Willinga Park has had and will continue to have with further development.</p> <p>Willinga Parks Planning proposal is not consistent with the State Environmental Planning Policy.</p> <p>The property has a RU2 zoning to protect against commercial development.</p>	<p>Infrastructure inadequacy</p> <p>Road condition/maintenance</p> <p>Amenity/lifestyle impacts</p> <p>Noise</p> <p>Construction impacts</p> <p>Environmental impact</p> <p>Inconsistent with planning controls</p> <p>Commercialisation</p> <p>Non rural use</p>
23	Resident of Bawley Point	<p>Support proposal</p> <p>Living in Bawley Point for nearly 40 years. Visit Willinga Park and am amazed at quality of events and beautiful surroundings. More employment opportunities for local young people. Business allows families to stay, live and work in Bawley Point.</p> <p>Centre has reached out to the broader community – valued business support hospitality, local cafes, retailers and equestrian fans and riders. Benefits to community have been marvellous. Fortunate to have a world class facility in our community. Look forward to future events.</p>	<p>High quality architecture</p> <p>Jobs</p> <p>Economic benefits</p> <p>Community benefits</p> <p>Support local business</p> <p>Equestrian facility</p> <p>Entertainment</p>
24	Resident of Bawley Point	<p>Object to proposal</p> <p>Unable to find the DA identifying number. Strongly object to the amendment of the DA proposed for Willinga Park, Forester Drive, Bawley Point proposing the use of the facility for regular conventions and meetings to capacity of over 300. Both Bawley Point Road from the Princes Highway, and Murramarang Road that leads to Forester Drive will be severely impacted by the increased traffic associated with this proposal. Both these roads already badly degraded by the increase in heavy vehicles associated with Willinga Park and further increase of traffic associated with the proposed facility will exacerbate marked deterioration of roads.</p> <p>Permanent increase in noise level of traffic running past residences on Murramarang Road will become unbearable to residents and devalue their properties. This road is also very busy in peak seasons, and visitors including families and children frequently walk beside and along this road to access the shops and the beach.</p> <p>The suburb of Bawley Point is already responding to the economic need for an increase in tourism and housing, however this proposal and the resulting traffic flow is out of proportion to the nature of Bawley Point and is unsustainable.</p>	<p>Traffic</p> <p>Heavy vehicles</p> <p>Road condition/maintenance</p> <p>Noise</p> <p>Amenity/lifestyle impacts</p> <p>Property values</p> <p>Pedestrian amenity/safety</p> <p>Character impacts</p> <p>Scale of development (inappropriate)</p>

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25	No address provided	Object to proposal No more traffic & noise from Willinga Park. Enough is enough.	Traffic Noise
26	Resident of Bawley Point	Support proposal World class facility on doorstep. Benefits brought to community and region are many. Employment for hundreds of people over course of construction and many moved families to area. Economic support for local businesses for local businesses who would have struggled enormously through winter and current pandemic. Provided most generously to community, rebuilding Gantry when old gantry ravaged by king tides; through aero-medical evacuations for helicopter landings. Know too well quick transportation of sick and injured improves chances of survival. Opened facility for people to shelter and place horse in safer environment during 19-20 bushfires. Without any fanfare has donated two very large generators to Bawley Point and Kioloa Rural Fire Brigade, so fire stations won't ever be without power again. Only few examples of community assistance – list is endless. Proposal would benefit the Community culturally enabling a range of events to be held, from rock concerts to classical events to craft exhibitions, workshops and retreats. Could be a launching pad for ideas and culture, bringing people from all over the world, that would bring visitors to our Area and showcase what the Region has to offer.	High quality architecture Jobs Support local business Economic benefits Community benefits Health benefits Bushfire resilience Culture Entertainment Tourist attraction
27	Resident of Bawley Point	Support proposal Local resident, landowner for over 30 years. Personally seen growth of Willinga Park and attended equestrian events with children, grandchildren. Facilities some of the finest in the world – wonderful asset. Watched young future Olympians at facility. Proud and look forward to future events.	Equestrian facility High quality architecture Entertainment
28	Resident of Bawley Point	Support proposal Resident and ratepayer over 30 years. Spent many years holidaying with family in beautiful place, enjoying seeing change and growth. Family have felt privileged to attend events at Willinga Park, enjoy quality and feel pride, equestrian eventers and visitors alike. Support prospect of future events.	Tourist attraction Entertainment Equestrian facility High quality architecture
29	Resident of Bawley Point	Object to proposal Family moved to area permanently over 17 years ago for quiet lifestyle aesthetic, having previously holidayed in area for over 30 years. That aesthetic significantly affected since construction began at Willinga Park. Escaped Sydney due to the noise of heavy traffic, medium density housing and for our overall mental health and well-being. Our way of life has been impacted significantly from the consistent noise and vibration of construction and traffic for over 10 years. Area does not have necessary infrastructure to support this proposal of potentially 351 people twice weekly. That would equate to over 36,000 people utilizing the Park on top of the current Equestrian	Character impacts Noise Construction impacts Traffic Health impacts Vibration

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		<p>events held at this facility and does not include staff and services required to support these events. Do not have public transport, nor taxi services and access for emergency services. We are a one road in one road out area. Could have serious implications and consequences for those involved especially if there were a bushfire situation, motor vehicle accident or personal injury on site at Willinga Park. What about the potential security risk for locals? How would outdoor events be policed?</p> <p>Increase in noise pollution from the Princes Highway, Murramarang Road, Forster Drive has challenged our lifestyle amenity for small village is a great concern. Amplified noise from events heard at our residence and can often continue well into the night. Impact of an increase in outdoor functions and traffic will be unacceptable noise levels and further significant implications on our mental health and well-being. Many still recovering emotionally and physically from the bushfires of 2019/2020.</p> <p>Roads from the Highway at Termeil to and including Murramarang Road are in a delapidated state from local traffic, high volumes of heavy vehicle traffic (B doubles). Increase associated with functions on top of tourist trade will have further adverse effects to the roads and safety of local pedestrians. Currently no verge in Forster drive and hence unsafe for children who use this carriageway as a means of walking to and from the bus with volumes of heavy vehicles.</p> <p>Council should be accountable for the lack of transparency considering 72 DA's have been approved for this massive establishment without proper consultation. Why was this only communicated to the said few and not to the whole community? Disappointed at Special General Meeting held Sunday 1st August, 2021 when the proponent shared photo of the Conference Centre but negated to inform that this proposal was not restricted to a closed facility (Education Centre/Function Centre) but to anywhere outside on the said property (Council confirmed this).</p> <p>Saddened at what could potentially happen in beautiful seaside village that we love to call home Sets a precedence for any one person to do the exact same in the Shoalhaven.</p>	<p>Exempt development / without consent concerns</p> <p>Amenity/lifestyle impacts</p> <p>Infrastructure inadequacy</p> <p>Services inadequacy (no public transport, taxi services, medical emergency services)</p> <p>Emergency risks</p> <p>Access limitations</p> <p>Security concerns</p> <p>Enforcement and compliance</p> <p>Community impacts</p> <p>Bushfire trauma</p> <p>Road condition/maintenance</p> <p>Heavy vehicles</p> <p>Pedestrian amenity/safety</p> <p>Transparency</p> <p>Community engagement</p> <p>Precedent</p>
30	Resident of Bawley Point	<p>Support proposal</p> <p>Local resident. Facilities at Willinga are a wonderful asset to Bawley Point, many are truly proud of. Several large and medium sized events over the past years and they have run professionally and with meticulous care. Events are well patronised by local residents as well as being excellent as a visitor attraction. Place of great beauty that has been developed with great care and sympathy with the surrounding countryside. Has grown and offers more and more, each year, opening employment opportunities, tourism, equestrian training and eventing and volunteering roles for the local Mens' Shed to raise funds for their shed development.</p>	<p>High quality architecture</p> <p>Entertainment</p> <p>Event management</p> <p>Community benefits</p> <p>Tourist attraction</p> <p>Jobs</p> <p>Equestrian facility</p> <p>Support for community groups (Men's Shed)</p>

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31	Resident of Bawley Point	Support proposal Local resident. Facilities at Willinga are a wonderful asset to Bawley Point, many are truly proud of. Several large and medium sized events over the past years and they have run professionally and with meticulous care. Events are well patronised by local residents as well as being excellent as a visitor attraction. Place of great beauty that has been developed with great care and sympathy with the surrounding countryside. Has grown and offers more and more, each year, opening employment opportunities, tourism, equestrian training and eventing and volunteering roles for the local Mens' Shed to raise funds for their shed development.	High quality architecture Entertainment Event management Community benefits Tourist attraction Jobs Equestrian facility Support for community groups (Men's Shed)
32	Household - residents of Bawley Point	Support proposal On Sunday the 1st August 2021, my wife and I attended a meeting at Kioloa hall to discuss a Willinga Park proposal to change their DA, to allow a wider range of events to be held at their Function Centre. Feel very privileged to have someone with his vision and enthusiasm building such a magnificent centre in our community. Totally support request for a wider range of events.	High quality architecture Entertainment
33	Household - residents of Bawley Point	Object to proposal Soon after land purchased, believed large botanical garden was being created. Followed by large scale earthmoving, landclearing and roadmaking. Before and after aerial photos show this. Next news of equestrian centre. Years and years of B double trucks and a daily stream through the village of countless tradespeople, still huge unfinished development. Where will it end? Seems unfair, even deceptive that notification of works of this magnitude are only given to close proximity neighbours when they will have an effect on everybody in small community. Not a garage or home extension. Object to exempt development requests by the owner for so called low impact developments when so many liberties already. With more and more land being aquired where will it end? Majority of people came to enjoy life with less development, traffic and other detrimental things and do not appreciate having changes of this magnitude arrogantly forced upon them.	Method of expansion Construction impacts Cumulative impacts Traffic Community engagement Exempt development / without consent concerns Character impacts
34	Resident of Bawley Point	Neutral Need ongoing monitoring the health of Willinga Lake, a coastal lake recognised under the Coastal Management SEPP (Schedule 1). Must ensure cumulative impacts of development do not negatively impact unique waterway. Strong recommendation is that automated real time monitoring of water quality, and lake levels, be installed for this waterway to give confidence to the community that the health of sensitive waterways	Water quality

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		like Willinga Lake are a priority and the related management of the estuary entrance is based on sound science and data.	
35	Resident of Bawley Point	<p>Object to proposal</p> <p>Environmental and social impacts considerable - increase in heavy traffic, clearing of protected vegetation at the edge of Willinga Lake, ongoing noise of construction and significant traffic of heavy and light vehicles in the case of continual construction and equine events.</p> <p>Directly impacted. Noted the “thinning of the wedge” over the years as ongoing and consistent property development at Willinga Park. Initially described as a horse venue, now industrial scale development, large-scale commercial business. Given the size and function centres, clear these buildings were not built to entertain small groups of 350 people. Enormous piece of infrastructure better suited to a city rather than a small coastal township.</p> <p>Willinga Park is a rural property and the rules should not be changed and give approval in a retrospective manner. It is not a sufficient argument to say that “having regard to the quality, capability and capacity of the facilities”. Infrastructure has indeed been built with large capacity and capability in mind for large numbers. Changing the rules to accommodate this landowner retrospectively to make commercial gain at the detriment of our small community town is unacceptable. This landowner wants to change the amenity of the citizens of Bawley Point. Already there are function venues in close vicinity, businesses will be competing with Willinga Park. Already suffering heavy losses from bushfires and Covid restrictions, will be a significant issue for small business in the area.</p> <p>Residents must put up with excessive noise of traffic and noise generated from events already. Large outdoor sound systems propel the noise across the township. Ongoing noise from the persistent large-scale construction huge concern.</p> <p>Finally, Councils own water testing of Willinga Lake demonstrate extremely high levels of E-Coli and other bacteria on a regular basis which have been termed ‘unusual’ by council employees. Council even warned residents to not swim in the lake after one round of testing. This large-scale industrial development has cleared a significant amount of important vegetation around the waters edge and when the lake is drained it is obvious to the eye the amount of brown topsoil that has leached into the lake. It is no longer safe to fish or swim in this lake as we have been able to do over the past 20 years.</p> <p>Council must consider <i>how this proposal benefits the residents of Bawley Point? How is the increased traffic of multiple events each week going to be managed? What impact studies have been done pertaining to noise and traffic? How does the proposed use of this commercial property as a function venue benefit the residents of Bawley Point other than the landowner and the small amount of people who work there? What studies will be done to determine the impact on the once pristine waterway of Willinga Lake?</i> The proposal is so broad, allowing the landowner to have function centres and hold functions without requiring council approval.</p>	<p>Environmental impacts</p> <p>Community impacts</p> <p>Traffic</p> <p>Vegetation clearing</p> <p>Noise</p> <p>Heavy vehicles</p> <p>Construction impacts</p> <p>Cumulative impacts</p> <p>Scale of development (inappropriate)</p> <p>Non rural use</p> <p>Inconsistent with planning controls</p> <p>Commercialisation</p> <p>Amenity/lifestyle impacts</p> <p>Character impacts</p> <p>Economic impacts</p> <p>Water quality</p> <p>Health impacts</p> <p>Insufficient information</p> <p>Exempt development / without consent concerns</p> <p>Enforcement and compliance</p> <p>Alternate access road</p> <p>Road condition/maintenance</p> <p>Transparency (should not be two sets of planning rules)</p> <p>Inequity</p>

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		<p>Why should the landowner be allowed to have ANY development without asking Council first?</p> <p>As part of this review, Council must ask if there are any concerns with past history in terms of compliance at this site that would call into question giving this developer the capacity to do anything they like under this proposal?</p> <p>Another road that directs traffic to the property without entering the township would be one solution. The roads are already in poor condition and continue to be eroded quickly.</p> <p>There should not be two sets of rules: those for property developers that have deep pockets and influence and those for the average citizen. This is a rural property with appropriate zoning in place already. The status quo of function centres not currently permissible in these zones should withstand.</p>	
36	Resident of Bawley Point	<p>Object to proposal</p> <p>Oppose any exemptions for Willinga Park (WP) from LEP 2014. First would like to acknowledge the positive aspects of WP. WP has donated and helped with (but not restricted to) the rebuilding of the Gantry, Mens Shed construction, Open Days, Sculpture Exhibitions, Bushfire support and Equestrian Events which has benefitted many in the community and outside it. First time I have opposed any proposals there, although I have always had concerns for its impact.</p> <p>Opposition to the latest expansion of activities is based on the impacts of increased traffic, (which includes volume, speed, noise, road damage and roadkill), night noise and continuing concern for Willinga Lake (WL).</p> <p>The volume of traffic in Bawley Point (BP) has increased markedly since the approval of WP, which has turned Forster Drive (FD), a quiet, almost cut-de sac into a virtual highway. Peaks in the morning and afternoon by permanent workers and contractors, followed after 7am by double bogie trucks, concrete trucks and pumps, and an assortment of other contractors, deliverers etc. WP assures us the construction phase will be completed soon. WP has become another village, complete with its own power supply (and back up), internet, water and sewerage to hopefully cope with up to 5000 people for Equestrian Events 4 weekends a year, with more events planned.</p> <p>Finally lessening construction traffic to be followed by greatly increased vehicular movements of average two functions/wk, up to 351 persons per event. Less under the present circumstances but after target vaccinations are complete, could be more as terms are pretty vague.</p> <p>Roads have been damaged and repaired many times due to increased traffic. The speed limit of FD is at odds with the rest of the village and should be brought into line at 50 km km/hr as vehicles often speed on the straight stretch. School bus stop at the corner of MR and FD - parents are fearful of children walking or cycling to. Have removed many kangaroos and wallabies from roads that have been struck, a wildlife sign would be appropriate with the lowered speed.</p>	<p>Exempt development / without consent concerns</p> <p>Community benefits</p> <p>Traffic</p> <p>Noise</p> <p>Road condition/maintenance</p> <p>Wildlife impacts (roadkill)</p> <p>Water quality</p> <p>Heavy vehicles</p> <p>Scale of development (inappropriate)</p> <p>Safety (traffic)</p> <p>Pedestrian amenity/safety</p> <p>Alternate access road</p> <p>Method of expansion</p> <p>Transparency (need due process)</p> <p>Tourism impacts</p> <p>Inconsistent with planning controls</p>

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		<p>Have paddled on Willinga lake for many years, which had mostly a sand and reed bottom. A month ago, found the weed growth issues. Construction noise detracts from the experience as well as a drone flying overhead. Study needs to be done on the status of the lake.</p> <p>Noise from functions which can also be held outside, is detrimental, especially on ridges and around the lake. Would be unacceptable to have 100 cars driving through the village at midnight. Would be mitigated by upgrading an existing road through WP to the highway. Council could maintain from the highway to WP through National Park as it does elsewhere.</p> <p>Wonder if a proposed 5 Star resort would have got off the ground around Willinga Lake if it was put up in one DA in a RU2 Zone. WP is well on its way, with luxury accommodation, first class facilities, swimming pool, and dedicated mountain bike track. I'm sure WP would be happy to have an exempted development after putting in 72 DAs, but the increased impacts need to be addressed in the usual due processes. Otherwise BP could end up less attractive to live like Byron Bay has become.</p>	
37	Resident of Kioloa	<p>Support proposal</p> <p>Love attending the events at Willinga Park - blown away with the beautiful architecture, gardens and horse facilities.</p> <p>We were very exciting for the Tom Burlinson dinner show in the new conference hall, but this was unfortunately cancelled due to the Sydney lockdown. Enjoy theatre and live music and there are not enough quality shows in the area. The Milton Theatre is the only venue and Willinga Park would be a great addition for functions in the area. Very important to add more culture and art to peoples life.</p>	<p>High quality architecture</p> <p>Equestrian facility</p> <p>Entertainment</p> <p>Culture</p>
38	Resident of Bawley Point	<p>Object to proposal</p> <p>Concern about speed limit on Forster Drive of 60km/hr and children's safety at school bus stop. Think its the only 60 zone in the Bawley Point/Kioloa area. Forster Drive has no side path and no distinct lines/markings depicting shoulder or midline. Would like to ride bikes to the bus stop as it would be easy, fun, healthy and better for the environment. Too unsafe for children to use Forster Drive in its current state with the large vehicle traffic and current speed. It should be 50 km/h like the adjacent roads.</p> <p>Concern for local community and the impact on the semi-rural life style if the number of functions is not regulated at Willinga Park per calendar year. I do enjoy attending events at Willinga Park and feel the short-term influx of people bring welcomed income to our local businesses. However, too many functions/events may not allocate enough time required for our region to cope ie. increased number of visitors place demand on water supply, suage, road conditions (pot holes, narrowing roads and maintenance to a single entrance in to the area), not to mention the noise pollution. All moved here permanently for a reason. Want kids to grow up in safe, caring, healthy, friendly community. We look after one another. Let's make sure fair is fair.</p>	<p>Safety (traffic)</p> <p>Heavy vehicles</p> <p>Character impacts</p> <p>Amenity/lifestyle impacts</p> <p>Exempt development / without consent concerns</p> <p>Economic benefits</p> <p>Entertainment</p> <p>Infrastructure inadequate</p> <p>Road condition/maintenance</p> <p>Noise</p> <p>Community impacts</p>

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39	Household – residents of Bawley Point	<p>Object to proposal</p> <p>Moved to area in 1980s from Sydney to escape the Rat-race. Had enough of traffic, pollution, crowds & all the development going on around. Wanted children to grow up in a quiet, laid-back community, simple village life. How it was for many years. Development of Willinga Park saddened us greatly when we found out about it, only really finding out of the entirety of the plans when much already developed.</p> <p>Thought it was going to be a type of botanical gardens for public use & then later learned it was going to be a huge equestrian centre which will entertain hundreds (thousands?) of people, including accommodation (cabins & camping), restaurant & bar, conference hall, equine hospital & more. A 'World-class tourist destination'. Far from alone at being horrified of this.</p> <p>The amount of traffic streaming in & out of our village including tradespeople, admin people & countless double-bogie trucks has damaged & is still damaging our roads. Then when events are happening the population explodes. We know people who have sold up & left the area due to the once quiet roads becoming so busy.</p> <p>Learning that the owner is now trying to continue works for events that involve less than 351 attendees ('excluding staff'), by being 'exempt from needing development approval' - greatly object. Unfair to allow certain people privileges just because of their status. If we built a shed on our own land without permission it would cause a big commotion if council were to find out. Hope you will deeply consider the proposal from Willinga Park & the fairness to our community.</p>	<p>Character impacts</p> <p>Method of expansion</p> <p>Community engagement</p> <p>Tourism impacts</p> <p>Traffic</p> <p>Heavy vehicles</p> <p>Road condition/maintenance</p> <p>Impacts underestimated</p> <p>Exempt development / without consent concerns</p> <p>Transparency</p> <p>Inequity</p>
40	Resident of Termeil/Bawley Point	<p>Object to proposal</p> <p>Have been a full time resident 4+ years. Moved from Sydney, away from personal network, to pursue peace, a quiet lifestyle and healing. Thought the south coast would be a good place to set up, however increase in noise from roads consider moving, even after so much time working on property.</p> <p>Moved away from career for large establishment as did not align with personal values – previous boss wanting only to pursue financial and/or egotistical gains at expense of community and small business. As a society we can support this type of behaviour or rise against it, create a society that benefits all.</p> <p>In a sleepy, quiet, self sufficient happy little community watching another come in and buy up as much land as possible, develop it for own interests, put on countless events, use power for strobe lighting, create noise, bring in trucks, workers all for private gains and personal status. Community could all understand 3 or 4 horse events and sculpture showings a year, but this proposal is different and outlandish and will seriously affect all residents in the nearby area with lights and blaring sounds. Safety of residents, dogs, wildlife (wallabies, wombats) and ecosystem must consider. Willinga lake is already completely altered by initial development and usage, let alone a 2 event per week corporation.</p>	<p>Character impacts</p> <p>Noise</p> <p>Traffic</p> <p>Community impacts</p> <p>Light pollution</p> <p>Heavy vehicles</p> <p>Commercialisation</p> <p>Safety</p> <p>Wildlife impacts</p> <p>Water quality</p> <p>Economic impacts</p> <p>Health impacts</p> <p>Inequity</p>

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		Not convinced that these proposed events, nor the current ones, give the Bawley community any lift in terms of local shop patronage and accommodation bookings. Has created a completely self-sufficient ecosystem so all money spent goes straight back and very little filters out into community. All community gets is road noise, traffic congestion, strobe sounds, and dangers crossing roads and stress. Don't believe owner cares about local community impact, no empathy, personal gain at expense of others. This submission reaks of the future of the world when we bow to the demands of the wealthy and elite with little insight or kindness for our planet or long term future.	
41	Resident of Bawley Point	Support proposal Lived in Bawley Point for 18 years and have watch with great interest the development of Willinga Park. Have with family enjoyed many of the events - should be proud.	Entertainment
42	Resident of Bawley Point	Support Proposal Family and I enjoy our love of horses on many occasions in the beautiful grounds. One of Bawley Point's senior citizens and for me to be able to attend the Equine displays and other events held in the entertainment centre without having to leave the area is for me a blessing. I would be very happy to support any additional events held in entertainment centre.	Equestrian facility Entertainment Accessibility
43	Household – residents of Bawley Point	Object to proposal Owners & permanent residents. Willinga Park has evolved with each development and property acquisition into extensive complex. Proposal not adequate assessment of the negative impacts, such as noise and traffic, on the surrounding neighbours and community. <ul style="list-style-type: none"> • Omits any reference to Interludes by Willinga, which provides an accommodation for events held overnight. Associated negative impacts not considered. • Allowing events of up to 350 attendees as exempt development too broad unless sufficient protections put in place to prevent some functions being a nuisance. • Proposal covers one type of activity, does not address the cumulative impacts of all the various activities undertaken across the full extent of the complex. Each additional activity that gains approval builds ever-growing impact. Proposal should not be viewed in isolation but as part of a full review of the entire Willinga Park Estate. Is just a step closer to a resort? Willinga Park Conference Offering Equine Education Centre approved under DA18/1211. Given RU2 zoning, appears that any activities conducted within this building should be equine or agriculturally related. However, website (as shown in attached photos 13 July, 2021) provides detailed information for potential conference/event organisers. Since Centre opened in Nov 2019, bushfires, Covid 19 have limited opportunities for full	Method of expansion Exempt development / without consent concerns Inadequate information Community impacts Noise Traffic Accommodation impacts Cumulative impacts Need holistic review / masterplan Enforcement and compliance Inconsistent with planning controls Non-rural use Strategic justification and suitability Impacts underestimated

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		<p>operations with some advertised events being cancelled, e.g. Burlinson concert. Website refers to facility under 'Conferencing' and does not mention any restrictions about type of functions that can be held. Appears to already be offering conferences and therefore operating as a function centre. Does this mean that until Willinga Park has approval for this planning proposal, that it should only use the Equine Education Centre for equine and other agriculturally related events? Has there been any breaches of development approval conditions in relation to any activities that have been conducted at the Equine Education Centre? If so, should be taken into account when considering this proposal.</p> <p>Willinga Park Estate – Context of Proposal</p> <p>Planning proposal could give Willinga Park formal approval for a substantially non-rural use. Cosndier where it fits as part of the broader context of entire Estate. The proposal refers to the wider Estate but limits assessment to only a small part of bigger complex. Any new applications for activities or developments should not keep being judged in a piecemeal fashion. Cumulative impacts all these individual DAs have on the wider community not assessed and thus the impacts underestimated.</p> <p>Approvals that expand the range, scope and thus the impact of original approval:</p> <ul style="list-style-type: none"> DA18/1237 consent for equine and some non-equine events; DS19/1522 significant increase in the number of events and to change conditions. DA18/1211 for the Equine Education Centre, described as corporate Conference Centre. <p>Proposal indicates no new construction to cater for conferences and events for up to 350 people, but only have to look at the Council's DA Tracking to see that more construction is in the pipeline since the lodgement of this proposal. Regarding accommodation promoted as being available for conference attendees:</p> <ul style="list-style-type: none"> DA17/2535 was approved for 20 tourist cabins (18 built), DA19/2110 was approved for a 44 room guesthouse (not yet built). Interludes by Willinga Park (103 Forster Drive), on the eastern boundary of Willinga Park has 5 existing tourist cabins with 7 bedroom. DA 21/1336 seeks approval to double the number of tourist cabins on Interludes site and triple the number of potential overnight guests (10 cabins, 23 bedrooms). SF10878 seeks to move property boundary of so 103 Forster Drive can be increased by 8 hectares to permit five more tourist cabins. <p>Interludes is part of wider Estate and should be recognised, otherwise misleading.</p> <p>Potential Numbers of Visitors</p> <p>Once you know how many people can potentially be on-site, you have a good indicator for how much traffic could be generated. Can use expected wastewater figures. Wastewater analysis in proposal states: <i>'The proposed design for the developments on-site will enable around 27,912 visitors per</i></p>	<p>Construction impacts (ongoing)</p> <p>Transparency</p> <p>Scale of development (inappropriate capacity for rural area)</p> <p>Wildlife impacts (e.g. roadkill)</p> <p>Safety (traffic)</p> <p>Pedestrian amenity/safety</p> <p>Event management</p> <p>Economic impacts</p> <p>Current planning controls ineffective, unclear</p> <p>Amenity/lifestyle impacts</p>

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		<p>month. This is equal to a total annual day population of 334,944 pa. Of this population, 54,144 pa will be overnight guests. The scheme will be designed to treat and manage approx. 22,655 kL/year of wastewater."</p> <p>On average, at two people/vehicle this would equate to 13,956 vehicles entering Willinga Park/ month or around 458 vehicles every day travelling into and out of the facility. Other variables, but this gives indication - not an insignificant number! For visitors, only one way into and one way out. Saying the conference facility will only cater for 350 guests and minimal impacts doesn't give a true picture of the ongoing cumulative impacts of traffic when all activities are totalled together.</p> <p>Noise</p> <p>All lots in the broader Willinga Park Estate need to be included in an assessment. Following justification in the proposal that noise would not be an issue '... having regard to the quality, capacity of the facilities and infrastructure at Willinga park and the significant distance of the main facilities area from the estate boundaries.' This statement is erroneous as Interludes by Willinga Park located closer to neighbours. DA 21/1336 seeks to significantly increase the size of this development but can only be done if the boundaries of two properties that are part of the Willinga Park Estate are changed because the proposed cabins non-compliant with Council's Tourist and Guesthouse Accommodation (DCP 63) Guidelines. Large groups staying in accommodation would be likely to create significant noise, particularly late at night. While the centre might be well away from any neighbours, accommodation is very close to neighbouring houses. Hotel accommodation - individual rooms not conducive to groups unlike 4-bedroom houses and 2-bedroom cabins + large decks - too close and inappropriate for RU2 zone. Concerned construction noise, especially if any rock breaking is needed. Why think it is appropriate to do a paper change of boundaries to shoe-horn extra accommodation and not disclose within this proposal? More like the capacity for a motel than in keeping with the concept of a rural tourist accommodation experience.</p> <p>Current experience - events and noise</p> <p>During last camp draft event could hear event inside house even with the windows and doors closed. Events held further away haven't been a problem. When the initial camp drafts began, we could not hear noise in yard. Noise assessments in original DA indicated noise would not be an issue. Recent events have resulted in greater speaker noise - neighbours also commented on the increased noise. Evening concert held at the end of the most recent camp draft was readily audible in our home with all doors and windows closed. What has changed after the original noise compliance tests required by Council were signed off as complying with the DA18/1237 requirements. Home & topography hasn't changed but noise has increased. Have there been changes to the speaker systems following the compliance testing for the DA approval?</p> <p>Traffic</p>	

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		<p>Forster Drive speed limit should be decreased to 50 km/hr to lessen the risk of harm to local wildlife and to pedestrians. No footpath. Can only be an increase in traffic. Note original event DA had a requirement for neighbour notification prior to events - requirement was removed in the amendment, but note Willinga Park continues to provide details of events which is very helpful.</p> <p>Justification for the Conference Centre</p> <p>Is there a need for an additional conference/events centre in Bawley Point? The Ulladulla/Bawley Point area is well serviced by numerous facilities, all available for hire, these include: Kioloa Bawley Point Community Centre, ANU Kioloa Campus, Bawley Vale Winery, Ulladulla Civic Centre, Dunn Lewis Centre, Bannisters, Motels and Licensed Clubs. Will it simply take business from established facilities?</p> <p>Exempt Development Implications</p> <p>Would allow events to be held without further council approval. Allow management to determine how many events are held? If limits and strict conditions are not imposed by Council could the be subjected potentially to daily functions and events at Willinga Park?</p> <p>Conclusion: Continual expansion. DA after DA, with many seeking to capitalise on existing approved facilities. Small developments continually turned into large developments. The conference centre illustrates magnification effect. An approved equestrian education centre now advertised as a corporate conference centre. Proposal appears to be seeking approval for an activity already advertised as being available. Exacerbating post-construction ploy of seeking more and more activities, approval sought to operate the conference centre as an exempt development allowing up to 350 attendees at events without any constraints or rules governing conduct. Time for the entire Willinga Park Estate to be reviewed in terms of its total impact on adjacent properties and the wider community and some effective controls put in place.</p> <p>Exemptions without any restrictions serious risk to the amenity of the area. Bawley Point's attraction as a quiet hamlet, might be compromised. 'When will development stop at Willinga Park?'</p>	
44	Household – residents of Bawley Point	<p>Object to proposal</p> <p>Long time residents for 40+ years and 34 years. Enjoyed peace and quiet for raising family and now retirement. Interrupted by Willinga Park with traffic noise.</p> <p>Need for new function centre? Already have Kioloa Community Hall (90 people) larger groups Ulladulla Civic Centre – these are never fully booked. They provide Council with income (spent on wider community). Community has not asked for new function centre.</p> <p>Noise impacts</p> <p>Severely impacted by noise pollution, from the PA System and crowd. At times we have to check if there weren't visitors arriving at our house. Assured at a meeting before the construction of the arenas</p>	<p>Character impacts</p> <p>Traffic</p> <p>Noise</p> <p>Strategic justification and suitability</p> <p>Community impacts</p> <p>Community engagement</p> <p>Economic impacts</p> <p>Impacts underestimated</p>

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		<p>that would not be impacted by any noise, but this has turned out not to be true. If this proposal is approved, would increase to possibility of noise pollution to at least twice a week which would be totally unacceptable. Furthermore, the noise from traffic also will affect the Bawley Point community from Forster Dr and Voyager Cres to Murramarang Rd and Bawley Point Rd. Noise could increase to a min of 100 days and nights on top of the already approved DA's.</p> <p>Traffic</p> <p>If this proposal is approved could increase the traffic by 365000 movements/year. As it is events and construction puts an undue strain on the roads. According to the SCC Bawley Point Road and Murramarang Road are at end-of-life stage and due to the construction and events that are held at Willinga Park are causing the deterioration at a much faster rate. Extra wear and tear will impose a further impost on council due to the need for more repairs and improvements to the roads.</p> <p>Forster Dr is used by children to access the bus stop. So busy that most of the residents with children will not allow them to walk to the bus stop. Wildlife in the area has been severely impacted by the heavy traffic, with dead animals on Forster Drive up to twice a month. Bawley Point only has one sealed road in and one road out and with the increase in traffic this could cause a major problem in the event of an emergency.</p> <p>Light pollution</p> <p>Lights at the arenas can be seen from afar. Impacts many residents to the east and detrimental impact on the wildlife major problems for the nocturnal animals. Increased use of the area this can only be more detrimental to residents and wildlife.</p> <p>The objectives of RU2</p> <ul style="list-style-type: none"> To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. To maintain the rural landscape character of the land. To provide for a range of compatible land uses, including extensive agriculture <p>Does not fit the proposed changes and really a contradiction of what the proponent is putting forward.</p> <p>DA Creep</p> <p>There have been twenty to thirty alterations, modifications and additions to the existing DA's that were in place. Method of getting to the desired outcome by stealth. Entails building a structure for one purpose knowing full well it was built for something else and then applying for a change via a modification. Current planning proposal is an obvious case in point, why build a conference/function centre if you were not able to use its full potential without changing the zoning.</p> <p>Emergency services</p>	<p>Cumulative impacts</p> <p>Road condition/maintenance</p> <p>Pedestrian amenity/safety</p> <p>Wildlife impacts (road kill, light pollution)</p> <p>Emergency risks</p> <p>Light pollution</p> <p>Inconsistent with planning controls</p> <p>Method of expansion</p> <p>Security</p> <p>Anti-social behaviour</p> <p>Services inadequacy (police, ambulance)</p> <p>Jobs</p> <p>Tourist attraction</p>

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		<p>Increased usage that the proposal and the increase of the consumption of alcohol at functions such as weddings heighten the likelihood of injury and antisocial behaviour. This will burden the already stretched ambulance and police services. The police do not have a 24-hour station so in the event of an emergency will have to travel from Nowra which is nearly one and a half hours away.</p> <p>At a public meeting on 1 August 2021 to discuss the current planning proposal, the proponent told the meeting how lucky the community was to have such a development in the vicinity. Whilst employing locals it is a facility that does not cater to the local community with a very large majority of competitors and audience coming from out of the area. While those people attend the events, the majority stay and purchase food in Willinga Park bringing limited economic value to the local businesses. The local community has never been asked whether we wanted the equestrian centre and generally have not been informed of the many DA's that have been approved. Only benefits will be to Willinga Park.</p>	
45	No address provided	<p>Object to proposal</p> <p>Local resident. Proponent opened our Emergency Community Meeting held 1st August showing pictures of the building, proposed to be used as Function Centre. Explained the way the building has been constructed will eliminate all noise emanating from the building. Noise may not emanate from the building but there will be substantial noise around, outside and leaving the venue.</p> <p>Councils Representatives explained to the community what type of areas could be regarded as a Function Centre. These could include not just the conference centre but also the arenas, grassed hills etc. Noise could not possibly be controlled in these open-air areas.</p> <p>Vehicles route travels past the communities' homes and properties. It could amount to hundreds of cars passing through our small rural villages.</p> <p>Proponent asked whether there was a possibility of him constructing another road to the Princes Highway to avoid vehicles travelling through Bawley Point. Unfortunately, advised this was not a possibility because of the cost and construction constraints through the neighbouring National Park.</p> <p>How often would the Function Centre be used - community didn't really get an answer to this question.</p> <p>Covid 19 used as an excuse maybe a couple of events a month during restrictions. Once Covid 19 is under control the venue could be used every weekend or anytime during the week.</p> <ul style="list-style-type: none"> • If rezoning approved will there be restraints on the number of functions per week that can be held and will there be time and noise restraints to protect the community? • If the community have complaints about noise emanating from the premises, who do we contact? The community was previously told by Shoalhaven Councillor if given permission Willinga Park will not have to apply for development applications through Council for events therefore Council Rangers and Police will have no powers to intervene in response to noise. 	<p>Noise</p> <p>Traffic</p> <p>Alternate road access</p> <p>Insufficient information</p> <p>Exempt development / without consent concerns</p> <p>Cumulative impacts</p> <p>Enforcement and compliance</p> <p>Planning controls ineffective/unclear</p> <p>Event management (external contractors/third-parties)</p> <p>Impacts underestimated</p> <p>Accommodation impacts</p> <p>Amenity/lifestyle impacts</p> <p>Method of expansion</p> <p>Alternate access road</p> <p>Wildlife impacts</p> <p>Inequity</p> <p>Precedent</p>

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		<ul style="list-style-type: none"> If Willinga Park were given permission for “function centres” could there be multiple sites and could these be used at the same time? Each venue holding 351 attendees. For example, <ul style="list-style-type: none"> if the arena was given permission as a “function centre” and the corporate centre given permission as a “function centre” could events be held on the same day incorporating both “function centres” thus accounting for 702 attendees allowed to attend at the same time and day not including staff. Would it be permissible to hire out their “function centres” to another company? For example, <ul style="list-style-type: none"> a Marketing Company holds a tradeshow within 2 “function centres”, that Marketing Company sells individual sites to Traders to sell or promote their goods and products. Are the employees of the Marketing Company and Traders regarded as staff? And in relation to 351 attendees per “function centre” is this per day? For example, <ul style="list-style-type: none"> Session 1 - 9am to 1pm – 351 attendees per “function centre” x 2 “function centres” = 702 attendees, Session 2 – 2pm to 6pm – 351 attendees per “function centre” x 2 “function centres” = 702 attendees Could be thousands of people and vehicles. The same question is asked for conferences, exhibitions, concerts etc. Multiple sites, multiple employees and then larger amounts of attendees. Equals a lot more people and traffic through the community. Are guests who stay in accommodation at Willinga Park and who attend a “function centre” included in the number of 351 attendees or are they not included as they are staying on the premises? <p>Community extremely concerned about the amount of people attending Willinga Park, potentially hundreds of vehicles driving along our local streets and passing our homes at all times of the day and night and the noise which will emanate from the premises.</p> <p>My understanding is when construction of Willinga Park was first proposed and approved by Council and presented to the community the use was promoted as an Equine facility with botanical gardens not a Function Centre.</p> <p>If approval is given, alternate road should be built to divert traffic away from our villages. We live in very small rural villages with some of the most endangered fauna and flora. Unfair for the community to be expected to accept huge volumes of people and traffic, not to mention the horse trailers, large transport vehicles etc.. If given permission for rezoning sadly this will set a precedence throughout the Shoalhaven for other large companies and landowners to apply for similar approvals.</p>	

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46	Household – residents of Bawley Point	<p>Support proposal</p> <p>Facility ideal for functions and would be of great benefit to our community. Family has attended many events at Willinga Park and would openly welcome the opportunity to attend musical or cultural events and community functions at this world class venue.</p>	<p>Community benefits</p> <p>Entertainment</p> <p>Culture</p> <p>High quality architecture</p>
47	Resident of Bawley Point	<p>Object to proposal</p> <p>Strong objection - serious negative social, environmental, economic and mental health impacts on themselves and their family. Born and raised in Bawley Point and returned seven years ago.</p> <p>Existing Traffic Impacts</p> <p>Willinga Park's current infrequent events have caused undue stress for family because of the traffic along Forster Drive, the main entry for the site which is also the main thoroughfare for Bawley Point. Family do not feel safe bike riding, jogging or walking the 600 m down Forster Dr to the beach, shops, parks and friends' places due to drivers along this section of the road. This part of the road is flat and flanked by bush, cars are hitting highway speeds when accessing the precinct. Not sufficient verge to provide protection if caught walking or bike riding with young children. Often dead wildlife.</p> <p>During the campdrafting event held in May 2021, traffic entering the event on the Saturday morning banked up almost 1 km from the entry gate. Forced to drive dangerously on the opposite side of the road to navigate around the traffic.</p> <p>Community Impacts</p> <p>Unhappy that Bawley Point-Kioloa-Termeil have had to change their behaviour to cater for Willinga Park, which mostly services the needs of those from outside the community. Community does not rely on economic benefits that Willinga Park claims to offer with more families working remotely post-COVID. The prospect of a quiet rural lifestyle where children can explore their surrounds safely and independently is disappearing.</p> <p>Noise</p> <p>Noise from events audible at residence continuing well into the night, including crowds, PA announcements, live music and traffic noise. This is unacceptable in a quiet, rural village. It has adversely affected sleep patterns and mental health, worsen if the function centre is permitted.</p> <p>Traffic Flow Increase Along Bawley Point Rd, Murramarang Rd and Forster Dr</p> <p>These are the main access roads and their increased use for construction and events at Willinga Park causes safety concerns. Not fit for current purpose, let alone an extra 36,500 people per year (on average) based on an average of 2 events per week of up to 351 people (not including staff).</p> <ul style="list-style-type: none"> Bawley Point Rd – Narrow, winding and dangerous road prone to flooding, only sealed entry/exit road for Bawley Point-Kioloa catering for residents and holidaymakers. Any 	<p>Environmental impacts</p> <p>Economic impacts</p> <p>Health impacts</p> <p>Community impacts</p> <p>Traffic</p> <p>Pedestrian amenity/safety</p> <p>Safety (traffic)</p> <p>Wildlife impacts (e.g. roadkill)</p> <p>Access limitations</p> <p>Road condition / maintenance</p> <p>Construction impacts</p> <p>Character impacts</p> <p>Infrastructure inadequacy</p> <p>Heavy vehicles</p> <p>Inconsistent with planning controls</p> <p>Precedent</p> <p>Non rural use</p> <p>Commercialisation</p> <p>Strategic justification and suitability</p> <p>Insufficient information</p> <p>Need holistic review / masterplan</p> <p>Transparency</p> <p>Community consultation</p> <p>Method of expansion</p>

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		<p>increase in traffic presents an unacceptable community risk of accidents at night from event traffic and a risk to wildlife. Meroo National Park has at least 12 threatened fauna species, including a significant Green and Golden Bell Frog population (also found in and around Willinga Lake).</p> <ul style="list-style-type: none"> • Murramarang Rd (from Bawley Point Rd to Forster Dr) – Passes through village and fronted by > 50 residences, several side streets and four school bus stops, and is subject to a 50 km/h speed limit. Concern for children's safety crossing the road to access the shared pathway due to reckless driving by construction staff and heavy vehicles. Unable to let children ride their bikes by themselves a short distance to the beach, which affects the ability to enjoy the social and environmental benefits of growing up in Bawley Point. • Forster Dr – Used to be a quiet rural street servicing approximately 10 residences and residences along the northern end of Voyager Cr; subject to a 60 km/h speed limit which is at odds with the entirety of Bawley Point-Kioloa; and has a school bus stop where it joins Murramarang Rd. It is not the busiest road in Bawley Point. Family uses it regularly to walk children to the bus stop and access local amenities. Due to the sheer number of vehicles/heavy vehicles, especially in peak periods of 6- am and 3-5 pm Monday to Friday, cannot allow son to walk himself to the bus stop. Also reluctant to take children on a bike ride due to current traffic volume and type. Often have to wave/shout at speeding cars. These issues will worsen from any increased traffic due to the function centre. <p>Road Condition / Maintenance</p> <p>Forster Dr was recently upgraded at significant ratepayer cost due largely to increased usage and damage caused by construction and events at Willinga Park. According to Council, the other roads above are at the end-of-life stage having been degraded from heavy vehicle traffic from construction/maintenance at the Park, large potholes, uneven surfaces and soft edges. They are not safe currently and will require significant upgrades at ratepayer expense to handle increased traffic from the function centre.</p> <p>Function Centre Justification</p> <p>Inappropriate land use due to high social and environmental impact on surrounding small villages. Will create a precedent as the first time in the Shoalhaven that an approval has been granted for a 'function centre' on RU2 zoned land. If as Council stated at the Community Meeting, that these kinds of developments will be assessed case-by-case, there is potential for it to be a test case which may lead to Council being forced to higher courts to grant similar approvals. Multiple other zones permit function centres due to their suitable locations in urban areas and business precincts which are central to services. There are multiple function centres both private and public within Shoalhaven and Eurobodalla LGAs. Approving the proposal will create more competition in the market, taking needed business away from struggling local venues recovering from COVID restrictions. Council is also</p>	

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		<p>denying itself access to an income stream which could be used to fund future community projects using the Ulladulla Civic Centre. Function centres are inconsistent with the RU2 zone objectives.</p> <p>There is no community need for a function centre in Bawley Point due to the small population, with the community best served by the community hall located on public land that has hosted many functions (up to 99 guests) and has served community needs for over 25 years. Fail to see how a privately owned centre on private land will be a community asset.</p> <p>Insufficient Information</p> <p>Planning Proposal is light on detail containing little to no data about its effects or benefits. Request that should Council consider supporting the proposal, below independent assessments are carried out and all questions/concerns are put to the proponent:</p> <ul style="list-style-type: none"> • A Council-commissioned strategic study/report independently assessing the social, environmental and economic impacts to Bawley Point-Kioloa-Termeil. • Independent traffic assessment reviewing impacts of traffic use on Bawley Point Rd, Murramarang Rd and Forster Dr during current Category A and B events and compare that with normal traffic volume over a year. Should consider noise and air pollution, run-off, road degradation and repair/maintenance costs and the effects cause by an additional 36,500 people per year using the road. • Wildlife assessment of public/private land adjoining Bawley Point Rd, Murramarang Rd, Forster Dr to review impact of increased traffic on threatened species. • Independent noise pollution assessment during current approved Class A and B events to assess noise levels across the village. • Mental health survey should be conducted of Bawley Point-Kioloa-Termeil residents to assess the impact of current and predicted traffic and noise pollution. • Wellbeing and social amenity survey to assess the social, environmental and economic values of residents and whether increased development at Willinga Park is risking these values. • Council must publicly outline what Council/State strategy supports the proposal (and whether that is up for renewal soon). It must also demonstrate an anomaly in the LEP mapping and must publicly outline how/why the proposal is minor in nature and what its justification is. If Council cannot outline these it will be in breach of its own Planning Proposal (Rezoning) Guidelines. • Council must request a proponent-initiated masterplan for all current and future developments of the site and other sites they own to increase public scrutiny. Last decade has seen 'development by stealth' through continual submissions of smaller DAs not supported by a masterplan – e.g. DA was lodged for an 'equine education facility' to exploit 	

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		<p>RU2 zoning loophole. The applicant admitted at the Community Meeting in August that this building is advertised on the Willinga Park website as 'The Conference Hall', which is prohibited by SLEP 2014. Now retrospective approval is being sought for an illegal function centre.</p> <ul style="list-style-type: none"> Council must ask the proponent to demonstrate data regarding how the project will have longstanding positive socio-economic effects for Bawley Point-Kioloa-Termeil. Question 9 of the Planning Proposal Report makes these claims but does not provide any evidence to support them. <p>Requests Council publicly outline in detail all steps undertaken when considering the proposal, especially in relation to Council's Planning Proposal (Rezoning) Guidelines, and that the minutes of any meetings had by councillors and staff in relation to the proposal are published so the community can be informed.</p>	
48	Resident of Bawley Point	<p>Object to proposal</p> <p>Writing on behalf self and of family. Live near Willinga Park (since before Park constructed) and have previously expressed support for some DAs but not subsequent modifications. Very susceptible to noise, light and glare impacts from Willinga Park.</p> <p>Noise impacts</p> <p>Function noise easily heard despite distance, due to minimal background noise in rural areas, music, intoxicated patrons, vehicle engines, car doors, particularly concerned about amplified music. Significant impact on amenity, comfort and happiness. Only way to control would be to limit events to indoors only and no outdoor noise after 9pm. If all events limited to Equine Education Centre exclusively, then noise impacts minimised to neighbours as outlined by landowner at community meeting 1 Sept.</p> <p>Landowner unclear on how many events per month – maybe one maybe two. Council needs to impose limits on frequency of events. Also needs to impose conditions protecting amenity after midday on Saturdays and on Sundays and public holidays.</p> <p>Light Pollution</p> <p>Massive light poles around Show Jumping Arena (SJA) constructed as modification to DA18/1212, at 20m high, breach of height limit control of 11m, and on top of filled site (changed ground surface levels, so much for clause 7.2(3)(d) of SLEP 2014). Original approval for lights required 4.6 variation to development standard without due consideration for L&E Court principles, and additional height circumvented additional 4.6 consideration due to being a modification application under s.4.55 of the Act. Argue development is not substantially the same – causes increased impacts and when in use now illuminates home (photos attached to submission). Unconscionable approval and outcome – don't think Council knew what it was approving as no evidence of any independent lighting engineers</p>	<p>Noise impacts</p> <p>Amenity/lifestyle impacts</p> <p>Exempt development / without consent concerns</p> <p>Light pollution</p> <p>Current planning controls ineffective/unclear</p> <p>Inconsistent with planning controls</p> <p>Impacts underestimated</p> <p>Method of expansion</p> <p>Scale of development (inappropriate)</p> <p>Services inadequacy (e.g. public transport, taxi, medical etc)</p> <p>Emergency risks</p> <p>Precedent</p> <p>Access limitations</p> <p>Character impacts</p> <p>Cumulative impacts</p> <p>Transparency</p> <p>Strategic justification and suitability</p>

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		<p>report or enquiry into lighting installed. Additional functions using SJA after dark would create significant and unfair ongoing impacts.</p> <p>Inappropriate location</p> <p>Functions are permissible in B2-B7 Business zones in SLEP 2014 – these are located in town centres which have appropriate services – police, ambulance, public transport, taxis. Willinga Park has poor emergency service access. Out of centre and would encourage other prohibited uses such as hotel and motel accommodation uses. Only one road in and one road out, compromising emergency access/egress. Additional access should be required via electricity easement on Jack Reid Road, should require deferred commencement approval – no functions until alternate access built.</p> <p>Decline in character</p> <p>Country coastal village, insidious development creep enveloping village to its detriment. Threatens to change town forever and loss of meaning and character for residents and visitors. Poor planning to have singular development gallop rough shod over existing town.</p> <p>Response to proponents PP document</p> <p>Attachment to submission provides detailed commentary disputing claims within PP. Notes appendix information not provided to the public. Issues with PP document (in addition to issues raised above):</p> <ul style="list-style-type: none"> • lacking strategic justification • 'small' events are actually large • Number and frequency of development applications has gone well beyond Council's control • Functions do not meet objectives of RU2 Rural Landscape zone • Proposal not consistent with Shoalhaven Destination Management Plan, which mentions Bawley only 5 times, Willinga Park twice and makes no mentions of functions. SDMP states <i>'locals are best placed to understand their requirements and identify appropriate venues'</i>. SDMP also recognises threats and risks to tourism values, including inappropriate land uses, disproportionate visitor numbers and locality capacity, and states projects without community support/do not consider long term community sustainability should be discouraged. See also Table 1.14 Risks and page 57 Risks – exempt development events would be contrary to SDMP. • Increase in garbage, effluent and water quality impacts on Willinga Lake. • Traffic congestion and parking causing conflict between tourists and residents. • Damage tourist appeal of Bawley through changing character. • Proposal not consistent with Shoalhaven Community Strategic Plan 2027 – contrary to ESD and Social Justice principles. Functions are loud music and booze-based income streams and do not promote arts or cultural pursuits. 	<p>Non rural use</p> <p>Enforcement and compliance</p> <p>Water quality</p> <p>Environmental impacts</p> <p>Traffic</p> <p>Community impacts</p> <p>Anti-social behaviour (alcohol related)</p> <p>Wildlife impacts</p> <p>Infrastructure inadequacy</p>

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		<ul style="list-style-type: none"> Proposal not consistent with Illawarra Shoalhaven Regional Plan – functions/wedding not mentioned, and Willinga Park noted as world-class equestrian facility. ISRP supports development in centres. Proposal not consistent with [now repealed] South Coast Regional Strategy 2006. Exempt development allows open slather events, with no controls on noise mitigation or management of other impacts. Types of events to be controlled – oppose alcohol related noisy night-time profit-driven functions, more appropriate events are equestrian-related, or jazz piano nights, environmentally sensitive etc. Inconsistent with State Environmental Planning Policies – see above and does not protect agricultural values, increases intensity of activities on site, is not sound management of bushfire prone land and light pollution impacts wildlife. Relies heavily on justification of development approved as part of Event DA18/1237. This DA subject to lengthy assessment, unfortunately consent conditions quickly watered down by subsequent modification – allowed for 50-100% increase in patrons, loosened traffic and noise controls putting community amenity at risk. Use is overdevelopment putting strain on limited infrastructure – e.g. slow internet and poor roads. 	
49	Resident of Bawley Point	<p>Support proposal</p> <p>There is existing on-site infrastructure, including world class buildings, which are underutilised and could be used to better serve the community.</p> <p>Traffic and Road Condition</p> <p>In conjunction with support, necessary to highlight concerns about impacts of additional traffic to the area and its impact on the condition of local road, and safety of children, pedestrians and cyclists. Murramarang Road, Bawley Point's main arterial road, and surrounding roads have been in a poor condition for 30+ years. Seldom repaired in a timely manner to a level that can support existing traffic, let alone increased traffic from more events and exhibitions. Inadequate pedestrian and cycling infrastructure in Bawley Point to safely allow for the co-existence of vehicles, pedestrians and cyclists (i.e. absence of crossings on Murramarang Road, footpaths and cycleways). Concerns about increased traffic and safety issues are not limited to this proposal.</p> <p>Event Management</p> <p>Changes to the use of existing infrastructure should be granted cautiously, to ensure the mindful usage of the premises into the future, including consideration that the property may change hands. This is in reference to events of an appropriate size and at appropriate times for the local infrastructure, considering traffic, road quality and pedestrian issues. Events should also enhance the</p>	<p>Better use of existing facilities</p> <p>On-site infrastructure</p> <p>Safety (traffic)</p> <p>Road condition / maintenance</p> <p>Pedestrian amenity/safety</p> <p>Infrastructure inadequacy</p> <p>Event management</p> <p>Exempt development / without consent concerns</p> <p>Culture</p> <p>Community benefits</p> <p>Community resilience</p>

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		area's culture, such as being a place for music, arts or special pursuits which might involve preserving Bawley Point's environment and natural beauty. The mindful broadening of activities at Willinga Park could result in it becoming a treasured cultural venue for the area and having events open to the public and immediate residents will help bring the community together.	
50	No address provided	Object to proposal Opposition to traffic and consistent noise, and its effect on the town's 'sleepy' character.	Noise Traffic Heavy vehicles Character impacts Amenity/lifestyle impacts
51	Resident of Bawley Point	Object to proposal The disruption associated with holding functions and events is considerably larger than the event itself with set-up often exceeding two days, the event lasting one to three days and then pack-down lasting an additional day. Concerned with associated noise and traffic, which will occur out of hours and disturb the village into the night. Area already has purpose-built venues which can hold events and weddings (i.e. Ulladulla Civic Centre). Rezoning a RU2 site would create a precedent that could be implemented throughout LGA. Bawley Point being a small village does not need a 24/7 entertainment precinct.	Noise Traffic Precedent Construction impacts Amenity/lifestyle impacts Character impact
52	Resident of Bawley Point	Object to proposal An increase in traffic will worsen current problem with the constant flow of semi-trailers to and from Willinga Park causing excessive noise, significantly impacting Murramarang Rd and Forster Dr residents and those wanting to walk or cycle. Increased traffic has led to road deterioration. Noise from traffic and PA systems during events, and floodlighting has disturbed the village's amenity that comes from it being small and relatively remote village. This has been a problem for the last decade, and if proposal is approved it will be a never-ending issue which will permanently destroy the town's character.	Noise Traffic Character impacts Heavy vehicles Road condition / maintenance Safety (traffic) Amenity/lifestyle impacts Pedestrian amenity/safety Light pollution Cumulative impacts
53	No address provided	Object to proposal Does not want any more noise and traffic from the development.	Noise Traffic
54	Residents of Bawley Point	Support proposal	Jobs

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No.	Submitter	Summary of Submission	Main themes
		<p>Attended local events at Willinga Park with 100+ guests which have been well organised and had no issues with parking or accessing facilities. The site has existing support facilities (i.e. carpark, catering, meeting rooms etc.) and is located on outskirts of Bawley Point meaning any additional use would have minimal impact on the community.</p> <p>The proposal would increase local employment opportunities. Recently attempted to organise a wedding in Bawley Point and existing facilities have limited availability and do not have the quality of infrastructure/facilities and flexibility to match Willinga Park.</p>	<p>On-site infrastructure</p> <p>Event management</p>
55	Resident of Bawley Point	<p>Object to proposal</p> <p>Increased Traffic</p> <p>Primary ground of concern is the impact on Bawley Point-Kioloa's quiet amenity through excessive traffic movement and the area being swamped with more people than it can manage.</p> <p>The current equine related activities of up to 5,000 people are infrequent and while they do generate significant traffic they do not continue into the night in a significant manner. There is also some influx of people into the village. A function centre and allowing up to two events of up to 350 people per week would bring a significant traffic increase in a quiet residential area. This will increase the amount of native wildlife roadkill with visitors potentially not driving cautiously as they are not aware of the risk, unlike locals.</p> <p>Overdevelopment</p> <p>An argument has been made that the area can cope as caravan parks and resorts are already changing the nature of the village, however, these only operate for part of the year. This is not a valid reason for adding more people and traffic to the area.</p> <p>Residents are accustomed to Willinga Park as an equestrian centre and it has provided local employment opportunities. However, in broadening its scope, the proposal would change the peaceful and quiet nature of village life, which is why people moved to the area.</p> <p>Concerns raised regarding the potential for Willinga Park to incrementally expand further to where it dominates the villages and governs their activities, which is not equitable. The proposal is the thin end of a bigger wedge to bring more commercial activity to a rural-residential area.</p>	<p>Amenity / lifestyle impacts</p> <p>Traffic</p> <p>Wildlife impacts (e.g. roadkill)</p> <p>Precedent</p> <p>Exempt development / without consent concerns</p> <p>Commercialisation</p> <p>Inequity</p> <p>Jobs</p> <p>Non-rural use</p> <p>Method of expansion</p>
56	Resident of Bawley Point	<p>Object to proposal</p> <p>There have been considerable environmental and social impacts from the existing development:</p> <ul style="list-style-type: none"> • Increase in clearing of protected vegetation at the edge of Willinga Lake; • Ongoing construction noise; and • Significant heavy vehicle traffic with the continual development of buildings and equine events. 	<p>Environmental impacts</p> <p>Vegetation clearing</p> <p>Water quality</p> <p>Noise</p> <p>Construction impacts</p> <p>Traffic</p>

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		<p>Property is directly impacted.</p> <p>Scale of development</p> <p>Willinga Park was initially described as a horse venue, but the continual industrial-scale development has resulted in a large-scale commercial business, which is better suited to a city not a small coastal town. The size of the development, including the function centres makes it clear that these buildings were not built to entertain small groups of 350 people.</p> <p>Rural zoning should not be changed to permit an industrial-scale development. It is not a sufficient justification to say that a zoning change is warranted by "having regard to the quality, capability and capacity of the facilities."</p> <p>The proposal would impact the amenity of Bawley Point residents who have chosen to live there for its quietness for the landowner's commercial gain.</p> <p>Economic impacts</p> <p>The proposal would impact local function venues and small businesses which will be competing with Willinga Park. They are already suffering heavy losses from the bushfires and COVID restrictions.</p> <p>Noise</p> <p>Residents are impacted by excessive traffic and noise generated by existing events and ongoing construction. Noise from outdoor sound systems can be heard across the township.</p> <p>Water Quality</p> <p>Council's own water quality testing of Willinga Lake has regularly recorded extremely high levels of E. coli and other bacteria which have been termed 'unusual' by Council employees. After one round of testing, Council even warned residents not to swim in the lake. Willinga Park's development has cleared a significant amount of vegetation around the lake's edge and when the lake is drained it is obvious to see the amount of brown topsoil that has leached into the lake. It is no longer safe to fish or swim in the lake.</p> <p>Council should consider the following:</p> <ol style="list-style-type: none"> 1. How this proposal benefits Bawley Point residents? 2. How will the increased traffic of multiple events each week be managed? 3. How will the speeding of trucks entering Bawley Point into a 50 km/h zone be addressed? 4. What impact studies have been done relating to noise and traffic? 5. What studies will be done to determine the impact on the once pristine Willinga Lake? <p>Exempt development concerns</p> <p>Landowner should have to seek Council approval to hold functions on the site. There needs to be a consistent set of rules for both developers and ratepayers.</p> <p>Alternate road access</p>	<p>Heavy vehicles</p> <p>Scale of development (inappropriate)</p> <p>Method of expansion</p> <p>Non-rural use</p> <p>Strategic justification and suitability</p> <p>Amenity/lifestyle impacts</p> <p>Commercialisation</p> <p>Economic impacts</p> <p>Exempt development / without consent concerns</p> <p>Alternate road access</p> <p>Inconsistent with planning controls</p> <p>Inequity</p> <p>Safety (traffic)</p>

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		Applicant was asked if a direct road could be built from Willinga Park to the Princes Highway, but they responded that the security costs would be too expensive. An alternative entrance is needed.	
57	Resident of Bawley Point	<p>Support proposal</p> <p>Willinga Park has been a major vehicle for investment of funds for the local retailers and the community, while also providing employment opportunities for local young people and tradespeople. Community has enjoyed many events at the site.</p> <p>Traffic is an issue which needs to be addressed with there being only one road servicing all of Bawley Point/Kioloa. Council needs to address the wider issue and consider an alternative route to enable visitors to access Willinga Park and the area's other tourist facilities. Urge Council to investigate a 'traffic splitting' operation, potentially utilising some of the B-grade roads around the villages. This is a matter of safety with all road exits blocked during the 2019/20 bushfires which prevented evacuation and could help to save lives.</p> <p>During the bushfires, Willinga Park created a significant buffer and saved numerous homes from destruction.</p>	<p>Economic benefits</p> <p>Support local business</p> <p>Jobs</p> <p>Traffic</p> <p>Alternate road access</p> <p>Emergency risks</p> <p>Bushfire resilience</p>
58	Resident of Bawley Point	<p>Object to proposal</p> <p>Precedent – If approved, the proposal would be a precedent for Shoalhaven's rural land, which would threaten the area's rural qualities allowing it to be degraded by extensive development.</p> <p>Infrastructure inadequacy – Bawley Point's infrastructure is not designed to accommodate large influxes of people, which the proposal would bring in, with the roads not suitable for high traffic volumes and constantly needing pot-holes fixed. Internet and phone services can be overwhelmed at times.</p> <p>Current event impacts – Existing functions cause increased traffic, noise and crowding. Previous events have caused traffic queues of several kilometres on Forster Drive preventing residents accessing their properties and threatening the movements of emergency vehicles.</p> <p>Noise from previous functions at times can be heard by almost the entire village. During event weekends, local shops have queues and carpark is overflowing causing frustration and conflict.</p> <p>Wildlife impacts – Proposal does not consider impacts on local wildlife from more noise, lights and traffic, with there already being regular incidence of roadkill on Forster Drive.</p> <p>Amenity/lifestyle impacts – Permitting events without consent would mean 24/7 activities with no recourse for residents affected by increased noise, traffic, light pollution and loss of amenities, and would allow events inconsistent with the rural zoning. The proposal would not preclude hosting an event anywhere on the property without consent, despite it outlining the use of the existing indoor area. If approved, the proposal would adversely affect the small village lifestyle and rural appeal of Bawley Point, which attracted many residents to the area.</p>	<p>Precedent</p> <p>Non-rural use</p> <p>Road condition / maintenance</p> <p>Infrastructure inadequacy</p> <p>Noise</p> <p>Traffic</p> <p>Access limitations</p> <p>Wildlife impacts (e.g. roadkill)</p> <p>Exempt development / without consent concerns</p> <p>Enforcement and compliance</p> <p>Light pollution</p> <p>Amenity/lifestyle impacts</p> <p>Inconsistent with planning controls</p> <p>Character impacts</p>

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59	Resident of Bawley Point	Support proposal Willinga Park's venues would be the ideal venue for society concerts. The facility should be utilised to its full potential for the community's benefit.	Entertainment Community benefits Better use of existing facilities
60	Resident of Bawley Point	Support proposal Family have resided and holidayed in Bawley Point for over 55 years and have attended events held at Willinga Park which have been professional and well organised. Note the support that the development has brought to Bawley Point and surrounding villages.	Community benefits Event management
61	Residents of Bawley Point	Object to proposal Directly impacted by noise and lighting from on-site event and oppose any change to RU2 or E2 zoning to permit function centres or allow functions to be exempt development. Proposed attendee numbers are excessive with understanding being that a minor or low impact development would be around 30 attendees. Concerned about increased traffic and truck movements on Bawley Point Road, through the village and Forster Drive and its impacts to the peaceful community and wildlife.	Noise Traffic Heavy vehicles Wildlife impacts Community impacts Light pollution Scale of development (inappropriate) Exempt development / without consent concerns
62	No address provided	Object to proposal Increased Traffic and Vehicle Access Proposal will substantially increase traffic and noise. Shearwater Cres has no footpaths or gutters meaning pedestrian activity is pushed on to the roadway. This lack of pedestrian amenity and general disregard for 50 km/h speed limit makes it a dangerous road currently which will worsen if the proposal is approved. If functions for 350 persons are held twice weekly, assuming two people per car, this means an additional 700 vehicle movements per week and 36,400 vehicle movements per year, without the additional movements from the larger proposed events. This adds to the Park's existing heavy vehicle demands, including large trucks, horse floats and cars using roads designed for local traffic. Proposal makes no mention that access to the site is via Bawley Point Road, Shearwater Crescent and Murramarang Rd, all two-lane roads designed for local traffic needs which are in disrepair from existing heavy vehicle traffic from Willinga Park. These roads have little or no shoulders, little or no street lighting and no pedestrian access on Shearwater Cr. There are no traffic studies/traffic plans to indicate the suitability of local infrastructure to support the proposal. Potential for large functions to be held at night which could result in potentially intoxicated drivers on local roads.	Noise Traffic Pedestrian amenity/safety Safety (traffic) Heavy vehicles Road condition / maintenance Wildlife impacts Amenity/lifestyle impacts Insufficient information Anti-social behaviour Water quality Scale of development (inappropriate) Method of expansion

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		<p>Noise Application does not preclude concerts and functions being held outside with up to 5,000 people which will generate significant noise, which at night-time will impact residential amenity and native fauna.</p> <p>Environmental Impacts Council's water testing of Willinga Lake has regularly recorded extremely high levels of E. coli and other bacteria which Council employees have termed 'unusual'. After one round of testing, Council warned residents not to swim in the lake. While the proposal notes that the function centre would utilise existing facilities, any increased usage could potentially degrade water quality. Increased traffic generation will have a detrimental environmental impact.</p> <p>General Amenity Willinga Park has had significant negative impact on Bawley Point's amenity through high vehicle and truck movements and noise from events. Over 22 DAs it has expanded to a scale beyond the intent of the RU2 zoning. Any amendment to its permitted use will exacerbate strain on local infrastructure.</p> <p>RU2 Zoning Permitting a 'function centre' is contrary to the RU2 zone objectives. The applicant's justification for the proposal is that it is a 'lost opportunity' for Willinga Park not to be able to use the facilities for non-agricultural functions, which is an insult as a Bawley Point landowner and for the residents who have seen their quiet village negatively impacted by increased traffic, noise and a degraded lake with no positive community benefit. Proposal is development by stealth and deliberately obscures the potential scale and impacts.</p>	<p>Inconsistent with planning controls</p> <p>Non rural use</p> <p>Infrastructure inadequacy</p> <p>Strategic justification and suitability</p> <p>Transparency</p> <p>Community impacts</p>
63	Resident of Bawley Point	<p>Support proposal Amazed at the Willinga Park facility and the benefits it provides to the community. The asset should be allowed to reach its potential. Looks forward to many future functions that the community can enjoy.</p>	<p>Community benefits</p> <p>Better use of existing facilities</p>
64	Resident of Bawley Point	<p>Object to proposal Property has been in family for 75 years. Shocked that notification letter was not received. The proposal could see a potential increase in people and large freight truck traffic in Bawley Point, which could forever ruin its quiet small coastal village character. Bawley Point is a unique peaceful place with no pubs/clubs and it should stay that way. Willinga Park's current events cause bad traffic and noise pollution and change the place when they are being held.</p> <p>Main issue is the traffic as the main freight route runs straight through the village. Any rezoning and expansion of Willinga Park require an alternative freight route. There is an access road south of</p>	<p>Community consultation</p> <p>Character impacts</p> <p>Amenity/lifestyle impacts</p> <p>Traffic</p> <p>Heavy vehicles</p> <p>Noise</p> <p>Alternate road access</p>

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		Termeil near Stockpile 17 that can and has been used for access and a potential route 1 km along Bawley Point Rd. Not opposed to Willinga Park's current program but any expansion could ruin Bawley Point.	
65	Residents of Bawley Point	Object to proposal Live close to affected roads, and impacted by trucks arrived on a daily basis to serve Willinga Park and are required to change up and down gears. This causes the house to vibrate. Noise is louder at night when equipment for events is trucked in. Community already has a high volume of traffic, which the proposal will exacerbate. The one road in and out of Bawley Point is constantly degraded by heavy vehicles. Willinga Park needs its own access road. More community notification was needed, not just the adjacent streets to Willinga Park.	Noise Traffic Heavy vehicles Vibration Road condition / maintenance Alternate road access Community engagement
66	Residents of Bawley Point	Object to proposal Moved to Bawley Point permanently over 50 years ago. Not against progress but would like to preserve town's quiet amenity. Willinga Park has changed the character of the town from a quiet holiday place where people come to escape the city to a noisy place. It has created a high volume of traffic and do not need more traffic to ruin already poor roads and creating gas emissions and noise. Questions why the facility was first approved knowing it would produce high traffic volumes with the only road being through a residential area. There was a community meeting in 1974-75 which was attended by the Deputy Mayor regarding trucks travelling to the sand mines and the noise they create. A promise was made that they would put a road over the Bawley Point Bridge taking the traffic away from the village to stop the problems. The same problems are occurring 46 years later because of a broken promise, with the problems now tenfold.	Amenity / lifestyle impacts Character impacts Noise Traffic Health impacts Road condition / maintenance Alternate road access
67	Resident of Bawley Point	Object to proposal Concerned what change in zoning from RU2 to a more commercial zoning would mean for Bawley Point. Proposal would see a significant increase in visitors leading to greater local road use, traffic noise and greater environmental impact in what is a rural area. Development of this scale should not be permitted without full disclosure to all Bawley Point landowners as it will impact all residents. Concern that rural land is being development into a 24/7 function centre, which would lead to more development for further accommodation and continual DAs into the future that will be detrimental to the community's fabric.	Noise Traffic Environmental impacts Commercialisation Character impacts Non-rural use Scale of development (inappropriate) Community engagement Transparency

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No.	Submitter	Summary of Submission	Main themes
			Community impacts Precedent
68	Resident of Bawley Point	<p>Object to proposal</p> <p>Traffic volumes entering and exiting Willinga Park have caused significant noise and road damage, with sometimes 30 large double trucks a day starting at 6:45 am six days a week plus workers, deliveries, concrete, hay, horses, cattle and heavy machinery. When an event is held there are also thousands of spectators and horse floats at all hours of the day and night.</p> <p>Believe that Willinga Park should never have been approved with the entrance in the middle of the once peaceful village, and there will be the expectation that additional development takes place. Proposal will worsen traffic and noise impacts.</p> <p>All residents should have been notified of the proposal, not just those in Voyager Crescent. Consider the lives of the residents and help preserve the town for the younger generations for the once happy place it was.</p>	Noise Traffic Road condition / maintenance Heavy vehicles Community engagement Amenity/lifestyle impacts
69	Residents of Bawley Point	<p>Support proposal</p> <p>Bawley Point residents/landowners for over 40 years. Attended many marvellous equestrian events at Willinga Park as a Men's Shed volunteer helping with parking and barbeques. Willinga Park is a great supporter of the local Men's Shed. The facilities are world class and of Olympic standard and are a wonderful asset to Bawley Point and NSW.</p>	Event management Support for community groups Equestrian facility
70	Resident of Bawley Point	<p>Support proposal</p> <p>Bawley Point resident for 20 years and neighbour to Willinga Park. The site is one of the world's best equine facilities and for its long-term viability should be able to diversity its income by holding functions.</p> <p>The estate is large, and the management team is professional, with well run first-class events. Believes any function would not disturb neighbours.</p>	Equestrian facility Diversification Event management
71	Residents of Bawley Point	<p>Object to proposal</p> <p>Along Shearwater Cr, at the entrance of Bawley Point, many homes have children. Bawley Point was once a sleepy village with high traffic volumes only in the holiday season but has now seen it become a constant problem. When Willinga Park holds an event traffic increases threefold and motorists often exceed the 50 km/h speed limit, with trucks and tradies being the worst culprits. Concerns that children could be injured, with some residents taking it in their own hands to put up signs asking motorists to slow down due to children playing. Proposal to permit a function centre would increase traffic volumes.</p>	Noise Traffic Safety (traffic) Pedestrian amenity/safety Amenity/lifestyle impacts Road condition / maintenance Alternate road access Character impacts

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		Concerned that increased traffic will pose a safety risk for children, disturb the sleepy village atmosphere, degrade local roads and increase noise. Suggest that an alternate access road for Willinga Park traffic to enter the venue directly from the Princes Highway is considered.	
72	Resident of Bawley Point	Object to proposal Concerned that the proposal will change Bawley Point's quiet atmosphere. Residents have to deal with large trucks rattling past their houses. Tourists and big events at Willinga Park are accepted during holiday season, but the proposal will mean truck traffic will be frequent. Local roads will be unable to cope. If the project is being reviewed, consider a direct road out of Willinga Park to the Princes Highway to Willinga Park, so at least residents will only have to deal with inbound traffic.	Character impacts Amenity/lifestyle impacts Traffic Heavy vehicles Inadequate infrastructure Alternate road access Noise
73	Residents of Bawley Point	Object to proposal Environmental impacts – Council needs to consider climate change impacts stop the project's large carbon footprint. Large area of native forest has been destroyed to construct Willinga Park. Noise/Traffic – Noise pollution is an issue for residents on Bawley Point Rd, Shearwater Cr, Johnson Dr, Murramarang Cr, Voyager Dr and Forster Dr. Huge influx of trucks, 4WDs and horse floats have constantly damaged roads and are a frustration for residents. They have contributed to a decline in native wildlife numbers. Inadequate infrastructure – Council needs to consider what will happen to the vast amount of carbon monoxide emissions, raw sewage, greywater and rubbish that will be produced. Bawley Point does not have the infrastructure to remove this waste. Impacts of population increase of 100% of the village's population on a weekly basis need to be considered. Water quality – There is ongoing damage to the once pristine Willinga Lake and need to consider further damage that will be done by the weekly influx of 300 visitors. Last year's fish kill was an abnormal occurrence. Amenity/lifestyle impacts – Project is a white elephant in a small rural setting and proposal will be to the detriment to Bawley Point's village atmosphere.	Environmental impacts Vegetation clearing Noise Road condition / maintenance Wildlife impacts (e.g. roadkill) Inadequate infrastructure Water quality Amenity/lifestyle impacts Character impacts
74	Resident of Bawley Point	Object to proposal Family has been coming to Bawley Point since the early 1960s and moved to the area with young family in January 2017. Visited the area multiple times a year before moving. Counsellor and wellbeing support professional who is interested in the potential mental and emotional impact of a potential approval. Community is already anxious and concerned that there will be undue stress and strain for residents if the proposal is approved. Ongoing development of Willinga over the	Health impacts Method of expansion Noise Traffic Road condition / maintenance

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		<p>last near decade has gone above and beyond what was originally proposed to Council and the community.</p> <p>Increased Traffic and Road Damage</p> <p>Property is impacted by every vehicle entering Bawley Point/Kioloa. Since Willinga Park's development began, there has been a steady increase in heavy vehicle traffic with many disregarding the 50 km/h speed limit.</p> <p>Main concern with proposal is that it will see an additional 36,000 vehicles passing their property every year based on 2 events on average each week with less than 351 attendees. This does not include additional events held which may hold up to 5,000 people.</p> <p>Concerned about the safety risks posed from traffic (heavy vehicles, utes, horse floats) to children playing, riding their bikes or walking to the school bus on Shearwater Cr, which is a narrow two-lane road with no footpaths or pedestrian crossing. The proposal directly affects safety of children and mental and emotional wellbeing.</p> <p>Accept that traffic is part of living on a main road, however, the proposal will see increased traffic well above and beyond Bawley Point's natural growth. Only access to Willinga Park is via Bawley Point, Shearwater Cr, Murramarang Road and Forster Drive which are in disrepair in numerous locations, largely due to the high number of heavy vehicles and general traffic movements going to the property. Concerned that major increase in traffic will further damage road leading to higher repair bill for ratepayers.</p> <p>Noise Pollution</p> <p>Noise from existing equestrian events reverberates through the village and have been kept awake at night several times due to events at the site, despite living [a distance] away. Tolerated because it is infrequent, but proposal will create intolerable noise pollution from numerous events which will negatively impact the mental health and sleep patterns of residents. Traffic noise means family cannot entertain on front deck and it is a challenge having a phone conversation out the front.</p> <p>Environmental Impacts</p> <p>Willinga Park's development has irreparably damaged Bawley Point's natural environment. Council testing of Willinga Lake has reported increasing levels of E. coli over the years, begging the question of whether it is really a coincidence? Large amounts of topsoil from Willinga Park have been dumped into the lake degrading its pristine water. Bushland has also been cleared on the property without Council authorisation. Council should not allow a landowner who has little regard for the environment to continue to negatively impact the area. Large events will continue to see pollution from construction, events, traffic and visitors. Development appears ongoing and it is already well beyond what was originally presented to the community.</p> <p>Economic Impacts</p>	<p>Heavy vehicles</p> <p>Safety (traffic)</p> <p>Pedestrian amenity/safety</p> <p>Amenity/lifestyle impacts</p> <p>Environmental impacts</p> <p>Water quality</p> <p>Vegetation clearing</p> <p>Enforcement & Compliance</p> <p>Scale of development (inappropriate)</p> <p>Economic impacts</p> <p>Community impacts</p> <p>Cumulative impacts</p> <p>Inequity</p>

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		<p>The proposal will see Willinga Park take income away from local small businesses and function venues.</p> <p>Amenity impacts</p> <p>If the proposal moves forward, it demonstrates that anyone with deep pockets can get what they want regardless of the community or environmental impacts. Amending the RU2 zoning will negatively impact Bawley Point's amenity as a small coastal village.</p>	
75	Resident of Bawley Point	<p>Object to proposal</p> <p>Traffic impacts</p> <p>Family has experienced traffic impact of Willinga Park. The corner of Shearwater Cr and Murramarang Rd is already an inadequate access point for the significant traffic flows seen at certain times of year. There have been a number of ongoing issues of concern:</p> <ul style="list-style-type: none"> Safety risk for children living on or near the corner when crossing the road. They are used to crossing a quiet street but are sometimes dealing with urban traffic volumes. The corner is an access point to the beach, park and playground and at certain times of year they need to wait several minutes before dashing between inadequate gaps in the traffic. There have been several close calls, particularly in holiday periods when those less familiar with the area try and navigate the traffic. At times during heavy traffic flow, it can take minutes to exit their driveway. Birds and other wildlife are regularly killed on and around the corner of Shearwater Cr and Murramarang Rd. <p>While the above can be observed during holiday periods, impact is always greatest following Willinga Park events and is always worse than holiday traffic, with it taking hours to clear traffic jams.</p> <p>Construction impacts</p> <p>Construction has been ongoing at the site, with heavy vehicle traffic rolling through the intersection from the early morning to late evening, particularly during major construction works. It must raise compliance issues regarding construction hours when construction vehicles are travelling past from 4 am to 11 pm to a site that is less than ten minutes away. One might enquire what Willinga Park's record is on general regulatory compliance.</p> <p>Scale of development</p> <p>Concerned with the substantial repurposing of the facility which has seen incremental development specific to agriculture/equine activities. The current size and nature of the facility is appropriate for its location.</p> <p>Willinga Park is already pushing boundaries in a sensitive location, with adjacent Willinga Lake and two small unsewered coastal towns. Questions how the site's owners/managers will handle a</p>	<p>Traffic</p> <p>Inadequate infrastructure</p> <p>Safety (traffic)</p> <p>Pedestrian amenity/safety</p> <p>Access limitations</p> <p>Wildlife impacts (e.g. roadkill)</p> <p>Heavy vehicles</p> <p>Construction impacts</p> <p>Enforcement & Compliance</p> <p>Method of expansion</p> <p>Scale of development (inappropriate)</p> <p>Cumulative impacts</p>

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		substantial increase in activities when they have not been able to or been interested in managing the significant community impacts of current events and construction work.	
76	Local residents – No address provided	<p>Object to proposal</p> <p>Roads are already in disrepair from heavy vehicles related to the Willinga Park development. The noise of the vehicles thudding through potholes and dips in the road is horrendous. Noise and heavy traffic are already problems during the holiday period when the population triples.</p> <p>Moved to the area 28 years ago for a quieter life and country village lifestyle but feel it is being turned into a small city. Realise progress is needed but sometimes progress is unwarranted for a small village. If the proposal proceeds, the town's amenities will not be able to cope with the influx of all the visitors.</p>	<p>Noise</p> <p>Traffic</p> <p>Heavy vehicles</p> <p>Road condition / maintenance</p> <p>Character impacts</p> <p>Amenity / lifestyle impacts</p>
77	Resident of Bawley Point	<p>Object to proposal</p> <p>There has been a lack of Council support for residents dealing with pollution issues (including water quality) associated with existing operations at Willinga Park and hundreds of complaints have been made in the last five years. Current issues need to be fixed.</p> <p>There are present issues with traffic relating to noise, vibration, speeds, amount and native wildlife roadkill. The project's environmental footprint and out-of-hours work are also issues that need addressing.</p> <p>Noise pollution is an issue when events are being held, including noise from large trucks carting cattle 24/7 in the weeks leading up and workers coming and going 24/7; noise from horses kicking their trailers; noise from the PA system. Light pollution is also a problem.</p> <p>Cannot believe how facility got approval in the first place and questions how it is consistent with 'rural landscape'.</p>	<p>Environmental impacts</p> <p>Water quality</p> <p>Noise</p> <p>Traffic</p> <p>Heavy vehicles</p> <p>Vibration</p> <p>Enforcement & Compliance</p> <p>Safety (traffic)</p> <p>Wildlife impacts (e.g. roadkill)</p> <p>Light pollution</p> <p>Inconsistent with planning controls</p>
78	Resident of Kioloa	<p>Support proposal</p> <p>Willinga Park should be used to its full capacity and potential which should be shared with the community. Hosting more events would lead to increased local employment. Have attended every open event will continue to do so, with it being brilliant having these events so close to home.</p>	<p>Entertainment</p> <p>Community benefits</p> <p>Jobs</p> <p>Accessibility</p>

Note: Submissions marked as 'resident of Bawley Point' do not differentiate between full-time/part-time residents or holiday home owners or long-term residents/recent arrivals unless this information is included in the submission itself.

No.	Submitter	Summary of Submission	Main themes
79	Resident of Mollymook Beach	<p>Support proposal</p> <p>Director and owner of a local food catering business / restaurant. The Equine Education Centre (EEC) is the best conference centre on the South Coast, and have held some great functions there. The EEC has been enabled company to employ many locals. It has won many architectural prizes and kitchen facilities are second to none. Believe traffic will cease following construction. The site offers amazing tourist potential.</p>	<p>Jobs</p> <p>Tourist attraction</p> <p>Economic benefits</p> <p>High quality architecture</p> <p>Traffic</p>
80	Resident of Bawley Point	<p>Object to proposal</p> <p>Landowner since 1985, full-time resident since 1995 and has raised family in the area.</p> <p>Site History</p> <p>The Willinga Park site used to have cattle roaming in natural bushland and across the road there was a broccoli farm. Family would walk and ride bikes along Forster Dr enjoying the wildlife and serenity of the bush. This is all gone now.</p> <p>Previous landowner of Willinga Park attempted to subdivide the site, but it was rejected with the main reason being concern for increased effluent entering Willinga Lake. In hindsight, it would have been better if this was approved.</p> <p>Then a road, helipad and home constructed. There were no objections to this or proposal to build 12 horse stables and a small room for a vet to stay overnight. This proposal was discussed with landowner, and there was nothing more promised and no masterplan. Noise was minimal and there was little traffic. 72 DAs later and the rest is history.</p> <p>Current Impacts</p> <p>Traffic and Noise Impacts</p> <p>Have endured years of constant traffic, building and excavation noise, rock blasting, generators charging equipment overnight, tradesmen speeding up the road from 5:30 am, and constant truck movements every day, which also kill kangaroos leaving residents to clean them up. Extra traffic and noise is an issue in the lead up to, during and after events are held.</p> <p>Tradesmen say they have ongoing work at Willinga Park for at least two years, but when they met the applicant, he said this was it. Mental health has been affected by constant development and the noise means there are times that the window cannot be opened. A place they called home in a little seaside village is no more.</p> <p>Constant traffic movements on three sides of house. Had to install extra thick curtains to try and block out the lights and noise. The impacts are ten times worse when events are on, and at times the traffic queues mean cannot access driveway. The PA system echoes up the hill and cannot have windows</p>	<p>Method of expansion</p> <p>Scale of development (inappropriate)</p> <p>Transparency</p> <p>Noise</p> <p>Traffic</p> <p>Heavy vehicles</p> <p>Construction impacts</p> <p>Wildlife impacts (e.g. roadkill)</p> <p>Economic impacts</p> <p>Health impacts</p> <p>Character impacts</p> <p>Amenity/lifestyle impacts</p> <p>Light pollution</p> <p>Access limitations</p> <p>Jobs</p> <p>Community impacts</p> <p>Exempt development / without consent concerns</p>

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		<p>or doors open when at home or sit on the balcony in peace. These impacts will be worse the community through more activity.</p> <p>Questions why property is not considered to be affected by the proposal. Two other properties are listed as affected, but they are owned by Willinga Park – need better community consultation.</p> <p>The trucks and cars speed up the road and upon seeing the steep descent, slam their compression brakes on squealing all the way down to the Park entrance. Front of their house is also affected by noise and lighting from PA systems, whips and horse floats in the early hours of the morning.</p> <p>Light Pollution</p> <p>New lighting system that was installed at a higher height than permitted lights up entire yard and house.</p> <p>Economic Impacts</p> <p>Willinga Park has created employment, but as a local small businessowner, they are not reaping any benefits, nor are many others.</p> <p>Function Centre Development</p> <p>At the recent community meeting, the applicant showed a picture of the already established Equine Conference Centre and informed that this is where functions will be held. Questioned Council who were in attendance to clarify that a function centre is a four walled, roofed contained area as shown, but they replied that it could be any open area.</p>	
81	No address provided	<p>Object to proposal</p> <p>Admire that many locals have secured employment through Willinga Park but distressed at manipulation of the environment. Disturbed by the amount of native wildlife killed or injured (i.e. diamond pythons, wombats, echidna etc.) before and after events at the site. The wildlife is an important attractor for tourists. Recently, more fencing has been erected preventing wildlife from crossing paddocks. The repercussions of open-ended, unrestricted influx of vehicles being driven by those unaccustomed to seeing wildlife on the road needs to be considered.</p>	<p>Jobs</p> <p>Environmental impacts</p> <p>Wildlife impacts (e.g. roadkill)</p> <p>Traffic</p> <p>Exempt development / without consent concerns</p>
82	Resident of Bawley Point	<p>Support proposal</p> <p>New Bawley Point resident. Disappointed in local residents engaging in their own local notification effort.</p> <p>Appreciate access for people with a disability for the facilities at Willinga Park, as there are accessibility difficulties at other facilities in the area.</p>	<p>Accessibility</p> <p>Economic benefits</p> <p>Community benefits</p> <p>Inadequate infrastructure</p> <p>Culture</p> <p>Community engagement</p>

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No.	Submitter	Summary of Submission	Main themes
		<p>Council is lacking in providing infrastructure. Local park has no signage indicating its location and is filthy. Shopping centre is an eyesore. No decent internet service, no water and no sewage. Any development would be welcome to modernise the place and increase service availability.</p> <p>Issue with feral kangaroos and wallabies occurring in unnatural numbers, which are being fed and watered by locals.</p> <p>Can invite family and friends to Willinga Park to provide them with a cultural experience.</p> <p>Council would profit from more traffic to do some much-needed maintenance and inject funds into the community to modernise the town.</p>	
83	Resident of Bawley Point	<p>Neutral to proposal</p> <p>Do not object to proposal but extremely concerned about the impact of increased traffic resulting from ongoing development at Willinga Park and from function centre operations.</p> <p>Single Access Point</p> <p>Without additional access roads into Bawley Point from the Princes Highway, or an entry into Willinga Park at its western boundary (possibly from extending Willinga Road), all increased traffic during construction and future operations will need to travel along Bawley Point Rd/Shearwater Cr and Murramarang Rd. These roads require constant repair which will be exacerbated by increased traffic, particularly heavy construction machinery and bulky equine transport vehicles.</p> <p>Bawley Point Rd/Shearwater Cr/Murramarang Rd Intersection</p> <p>Concerned that it will be more dangerous for residents and visitors navigating the intersection, especially young children. There is no road shoulder, no pedestrian crossings, and no footpath along Murramarang Rd to protect pedestrians. The signage is confusing and departing visitors often overshoot the left turn on to Shearwater Cr/Bawley Point Rd and abruptly make U-turns further along Johnston St. Drivers accelerate greatly after the right hand turn on to Murramarang Rd creating noise pollution and exceeding the speed limit, which will only increase if mitigation is not required in conjunction with the proposal.</p> <p>Traffic Mitigation</p> <p>Request that Council consider mandating substantial traffic calming and safety initiatives as part of any approval, for example:</p> <ol style="list-style-type: none"> 1. Requiring Willinga Park to construct a new entrance on the property's western boundary for traffic generated by future construction activity and events, diverting traffic before crossing Willinga Lake; 2. Extending Willinga Road to Willinga Park's western boundary (or requiring Willinga Park to fund this road extension – similar to contributions collected for roads surrounding the redeveloped Canberra Airport); 	<p>Traffic</p> <p>Cumulative impacts</p> <p>Alternate road access</p> <p>Road condition / maintenance</p> <p>Heavy vehicles</p> <p>Infrastructure inadequacy</p> <p>Safety (traffic)</p> <p>Pedestrian amenity/safety</p> <p>Noise</p>

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		3. Reducing the speed limit of the area to 40 km/h; 4. Installing a pedestrian crossing south of Bawley Pont Rd/Shearwater Cr and Murramarang Rd but before Tingira Dr; and/or 5. Installing other traffic calming measures to increase pedestrian safety along routes to and from Willinga Park.	
84	Resident of Kioloa	Object to proposal Rezoning contradicts the area's drawcards for residents and tourists, including the area's quiet character and many natural attractions. Do not live near Willinga Park but believe all residents should have been notified as it will have an impact on the area's roads and environment. Wildlife carer who constantly deals with native wildlife roadkill (i.e. Swamp Wallabies, Eastern Grey Kangaroos, possums), which will worsen with the proposal. Species are stressed from habitat loss being fenced off from grazing areas and subdivisions. Proposal will set a precedent for the future.	Character impacts Amenity/lifestyle impacts Traffic Environmental impacts Community engagement Wildlife impacts (e.g. roadkill) Precedent
85	Resident of Kioloa	Support proposal Kioloa homeowner since 1982 and long-term member of Kioloa-Bawley Point Sport & Recreation Club. Grateful for the efforts of Willinga Park and the Rural Fire Service's efforts in saving the town and their home during the 2019/20 bushfires.	Bushfire resilience
86	Resident of Bawley Point	Support proposal Willinga Park has brought enormous benefits to the Region and specifically to Bawley Point, quite apart from its sheer elegance, practical planning and exceptional execution. Creation of a world class Equine Park and related accommodation, Veterinary facilities, Conference Centre, significant employment across many trades and trade suppliers, support for local community bodies eg Men's Shed and much more. Difficult to overstate the benefits that have flowed to the Bawley Point community and beyond - continuing benefits. Demonstrated by its actions how much it takes into account community views and amenity. Has brought a sense of excitement and seriously enhanced tourism and economic development strategies. Role played by Willinga Park during the 2019-2020 bush fires. The devastation to persons and property that may have resulted without the land planning practices of Willinga Park that effectively saved Bawley Point one night, can only be imagined. The extension of activities proposed seems entirely consistent with the project. Surprised that they were so limited in the first instance. The growth in the area and the likely continued growth at an increased rate strongly supports the need for the proposed facilities. Aware that a small number of residents – remarkably few – have sought to agitate against the proposal at various times and are again doing so. Do not represent the majority view here of residents who strongly support Willinga Park activities and continue to benefit in numerous way. Respect the right of people to hold and to	Community benefits High quality architecture Equestrian facilities Jobs Economic benefits Tourism attraction Bushfire resilience Better use of existing facilities

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No.	Submitter	Summary of Submission	Main themes
		express their views but the unfounded nature of some just amaze me. Before writing this letter of support have canvassed a range of people and am able to report that they are also supportive.	
87	Resident of Bawley Point	<p>Object to proposal</p> <p>Moved to Bawley Point 21 years ago for its natural beauty which will be eroded by the proposal. There is sociological evidence that small communities are adversely impacted by large developments. Earlier DAs at Willinga Park have allegedly not been fully complied with, and Council allegedly took little or no action. These breaches relate to the unauthorised removal of mature eucalypts. Under the proposal, functions could be held up to once a week which would destroy Bawley Point's quiet amenity.</p> <p>There would be increased traffic volumes, noise and congestion in Bawley Point, particularly along Forster Drive.</p> <p>Support controlled and not too frequent equestrian events at Willinga Park, not noisy functions.</p> <p>The past history of the applicant suggests that they will ride roughshod over any local opposition to fulfil their personal ambition.</p>	<p>Character impacts</p> <p>Scale of development (inappropriate)</p> <p>Enforcement & Compliance</p> <p>Exempt development / without consent concerns</p> <p>Vegetation clearing</p> <p>Amenity/lifestyle concerns</p> <p>Traffic</p> <p>Noise</p>
88	Resident of Balgowlah	<p>Object to proposal</p> <p>Inappropriate scale of development</p> <p>Scale of development at Willinga Park far exceeds community expectations. Despite the development's quality, it continues to have an unacceptable community impact regarding traffic and heavy vehicles which has changed the residential character and damaged local roads.</p> <p>Precedent/Method of Expansion</p> <p>An exemption from the rural zoning would mean that any subsequent DA in the area will have this exemption as the starting point meaning that this is a watershed moment for the community. Community can live with the development as is, but any change in its scale and impact would change Bawley Point's character as a rural village community.</p> <p>Need to be careful not to allow for incrementalism regarding development expansion, where initial applications are followed by amendments, then new applications.</p> <p>Development should conform to the zoning controls. Suggest that if the zoning controls are amended for Willinga Park, then the overarching planning scheme itself should be reviewed rather than ad-hoc amendments within it.</p>	<p>Scale of development (inappropriate)</p> <p>Community impacts</p> <p>Traffic</p> <p>Heavy vehicles</p> <p>Character impacts</p> <p>Road condition / maintenance</p> <p>Precedent</p> <p>Method of expansion</p> <p>Needs holistic review / masterplan</p> <p>Exempt development / without consent concerns</p>

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Office of
Local Government

5 O'Keefe Avenue NOWRA NSW 2541
Locked Bag 3015 NOWRA NSW 2541

Our Reference: A766656
Your Reference:
Contact: Stephen Walker
Phone: 02 4428 4166

Mr Stephen Dunshea
General Manager
Shoalhaven City Council
36 Bridge Road
NOWRA NSW 2541
By email - council@shoalhaven.nsw.gov.au
Cc - ryan.jameson@shoalhaven.nsw.gov.au

2 August 2021

Dear Mr Dunshea

I am writing to you about the Low Cost Loans Initiative (LCLI) established by the NSW Government to accelerate the delivery of infrastructure to support growing communities and enable new housing supply.

I am pleased to provide Shoalhaven City Council (Council) with the LCLI funding agreement enabling Council to receive a 50% reimbursement of loan interest paid for the LCLI Round 3, Roads, drainage and passive recreation infrastructure Project.

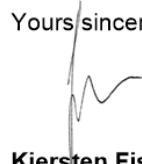
It is requested that Council return the signed funding agreement, together with the Loan Schedule (as Attachment D) to the Office of Local Government (OLG) by 27 August 2021, to ensure Council can make a claim within the next claim period in February 2022.

Council will be provided with a copy of the executed agreement which will contain the final figures and conditions.

Further information about the administration of this funding agreement and process for making a claim will be forwarded to Council by OLG prior to each of the six monthly claim periods.

Should you have any questions or wish to discuss this matter further, please call Stephen Walker, Acting Manager Program Delivery on (02) 4428 4166 or email lcli@olg.nsw.gov.au.

Yours sincerely



Kiersten Fishburn
Coordinator General
Planning Delivery and Local Government

T 02 4428 4100 F 02 4428 4199 TTY 02 4428 4209
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Office of Local Government

**Low Cost Loans Initiative (“LCLI”) Funding Agreement
for Roads, Drainage and Passive Recreation
Infrastructure.**

Between

Shoalhaven City Council

and

**The LCLI Administrator, for and on behalf of the Crown
in right of the State of NSW**



DE21.116 - Attachment 1

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Background

1. Definitions and Interpretation
2. Term
3. General obligations
4. LCLI Reimbursement
5. Representations and warranties
6. Events of default and termination
7. Indemnities
8. Insurance
9. GST
10. General

Attachment A – Agreement details (include a Location Plan)

Attachment B – LCLI Reimbursement Claim

Attachment C – Project reports

DE21.116 - Attachment 1

Between:

1. Shoalhaven City Council as described in Attachment A (Council) and;
2. The Coordinator General, Planning Delivery and Local Government, for and on behalf of the Crown in right of the State of New South Wales ("LCLI Administrator") ABN 34 945 244 274, Levels 1 and 2, 5 O'Keefe Avenue, Nowra NSW 2541 (LCLI Administrator).

Background

The Low Cost Loans Initiative ("LCLI") has been established by the NSW Government to provide interest reimbursements in order to assist local councils accelerate the delivery of infrastructure to support growing communities.

The Council has submitted an application to the Department of Planning, Industry and Environment (DPIE) for an interest reimbursement under the LCLI. The documents that comprise this application are identified in Attachment A.

The LCLI Administrator has been advised of the approval by DPIE of the Council's application for an interest reimbursement on the terms of this Agreement.

This Agreement establishes the parameters attaching to the Government's agreement to reimburse 50% of the costs of council's interest payment on loans for eligible infrastructure.

The parties agree:

1 Definitions and interpretation**1.1 Definitions**

Agreement means this LCLI funding agreement including the Attachments and any documents incorporated in this agreement by reference.

Application means Council's application, including supporting documents submitted to the DPIE for an interest reimbursement under the LCLI.

Authorisation includes:

- (a) any consent, registration, filing, agreement, notarisation, certificate, licence, approval, permit, authority or exemption from by or with a governmental agency; or
- (b) any consent or authorisation regarded as given by a government agency due to the expiration of the period specified by a statute within which the government agency should have acted if it wished to proscribe or limit anything already lodged, registered or notified under that statute.

Business Day means for all other purposes, a day on which banks are open for business in Sydney excluding a Saturday, Sunday or public holiday.

Date of this Agreement means the date shown on the Execution Page or if it is not dated the date the LCLI Administrator signs this Agreement.

Dollars, A\$ and \$ means the lawful currency of the Commonwealth of Australia.

DPIE means Department of Planning, Industry and Environment.

Eligible Infrastructure means infrastructure that DPIE determines, in its absolute discretion, is needed to enable increased housing in areas experiencing population growth. This will be subject to determination by the Department of Planning, Industry and Environment as part of the assessment process.

Event of Default means any event specified as such in this Agreement.

Final Acquittal means a final acquittal of the LCLI reimbursement that meets the requirements for such listed in Attachment C.

GST means the goods and services tax levied under *A New Tax System (Goods and Services Tax) Act 1999 (GST Act)* or any successor Act.

GST Law means *A New Tax System (Goods and Services Tax) Act 1999*, or if that Act does not exist for any reason, means any Act imposing or relating to a GST and any regulation made under such Acts.

Guidelines means the *Low Cost Loans Initiative – Growing Local Housing Guidelines* issued by the NSW Government dated April 2018 (or if replaced by a later version, that later version).

Initial Report means an initial report for the Project that meets the requirement for such as listed in Attachment C.

Interim Progress Report means an interim progress report for the Project that meets the requirements for such as listed in Attachment C.

Lender means the third party provider of the Loan to Council, the interest payments in respect of which are to be subsidised by the LCLI Reimbursement under this Agreement.

LCLI means the Low Cost Loans Initiative.

LCLI Administrator means the Coordinator General, Planning Delivery and Local Government or his/her delegate, for and on behalf of the Crown in right of the State of New South Wales.

LCLI Coordinator means the officer of OLG described as such in Attachment A or his/her delegate.

LCLI Evaluation Panel means the DPIE panel which assesses LCLI applications.

LCLI Reimbursement means the reimbursement amount determined once the Loan to the Council is drawn down and the interest payable on the Loan can be calculated.

LCLI Reimbursement Instalment Claim means a claim made by Council to the LCLI Administrator for payment of an instalment of the LCLI Reimbursement, in the prescribed form Attachment B.

LCLI Reimbursement Instalment Period means the six month period immediately prior to a LCLI Reimbursement Instalment Claim in respect of which Council claims an instalment of the LCLI Reimbursement.

Loan means the loan to be taken out by Council to fund the Project.

Loan Agreement means the executed loan agreement between Council and its lender in respect of the Loan, a copy of which is to be provided by Council to the LCLI Administrator in accordance with this Agreement.

Loan Schedule means the Lender's summary of the Loan provisions extracted from the Loan Agreement.

OLG means the NSW Office of Local Government.

Progress Report means a progress report that meets the requirements for such as listed in Attachment C.

Project means Council's project(s), detailed in its Application, which was approved by the Minister for Planning.

Project Commencement means:

- (a) When Council completes the contract for sale of land in respect to the acquisition of the land parcel; or
- (b) When Council has completed all pre-construction engineering and design, has received all necessary licences and permits, has engaged all contractors and ordered all equipment and supplies reasonably necessary so that physical construction of the Project can proceed.

Project Completion means all regulatory certificates required for the occupation and/or use of the infrastructure that comprises the Project have issued and the Project is ready for use (except for unknown defects).

Project Completion Report means a progress report that meets the requirements for such as listed in Attachment C.

Project Delivery Schedule means the delivery schedule set out in the Council's Initial Report which must include, as a minimum, details of the project milestones, and the anticipated completion date for the Project.

Public Milestone Event means an event connected with the Project to which the Council intends to invite members of the public and/or media to attend.

Special Conditions means any additional conditions applicable to this Agreement as stipulated in Attachment A.

Specified Date means a milestone date that the parties have specified as a date for performance of an obligation under this Agreement.

Tax means:

- (a) any tax, including the GST, levy, charge, impost, duty, fee, deduction, compulsory loan or withholding; or
- (b) any income, stamp or transaction duty, tax or charge;

which is assessed, levied, imposed or collected by any governmental agency and includes, but is not limited to, any interest, fine, penalty, charge, fee or other amount imposed on or in respect of any of the above.

Tax Invoice means an invoice that complies with the requirements for a tax invoice under the *New Tax System (Goods and Services Tax) Act 1999* (Cth).

Term means the term of the Loan.

1.2 Interpretation

In this Agreement, headings and boldings are for convenience only and do not affect the interpretation of this Agreement and, unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;

- (b) words importing a gender include any gender;
- (c) other parts of speech and grammatical forms of a word or phrase defined in this Agreement have a corresponding meaning;
- (d) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Governmental Agency;
- (e) a reference to any thing (including, but not limited to, any right) includes a part of that thing but nothing in this clause 1.2(e) implies that performance of part of an obligation constitutes performance of the obligation;
- (f) a reference to a clause, party, attachment, or schedule is a reference to a clause of, and a party, attachment and schedule to, this Agreement and a reference to this Agreement includes any attachment and schedule;
- (g) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- (h) a reference to a party to any document includes that party's successors and permitted assigns;
- (i) a reference to liquidation includes official management, appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding-up, dissolution, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or any similar procedure or, where applicable, changes in the constitution of any partnership or person, or death;
- (j) a reference to legislation (including subordinate legislation) is a reference to that legislation as amended, re-enacted or replaced and includes any subordinate legislation issued under it;
- (k) a term or expression starting with a capital letter which is defined in:
 - (1) this clause 1 (Definitions and Interpretation) has the meaning given to it in this clause 1.
 - (2) the GST Law but is not defined in this Agreement has the same meaning as in the GST Law.

1.3 Business Day

Unless otherwise specified in this Agreement, where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the preceding Business Day.

2 Term

Unless earlier terminated in accordance with its terms, this Agreement is for the Term.

3 General obligations of Council

3.1 Loan Agreement

- (a) The Loan must be for a minimum of \$1,000,000.00 and for a maximum term of 10 years calculated from 6 December 2021.

- (b) The Council acknowledges by its entry into this Agreement that neither DPIE, OLG, LCLI Administrator or the State of New South Wales are liable for, and nor do they guarantee, any part of Council's obligations under or in relation to the Loan or the Loan Agreement.

3.2 Use of Loan

- (a) Proceeds of the interest reimbursement may be applied to offset the Loan or any other council costs.

3.3 Conduct of Project

- (a) Subject to this clause, unless otherwise agreed, Council must achieve Project Commencement within 12 months of the date of this Agreement.
- (b) If Council is unable to achieve Project Commencement within 12 months of the date of this Agreement, Council must, at least five (5) Business Days before the expiry of that period, notify the LCLI Administrator of that fact and provide documentation to:
 - (i) demonstrate due cause for the delay;
 - (ii) provide evidence that Council is taking specific measures to remedy the delay and details of such measures; and
 - (iii) submit an amended detailed project delivery schedule to the satisfaction of the LCLI Administrator.
- (c) Any agreed extension by the LCLI Administrator of the period to achieve Project Commencement will be for a maximum further period of 6 months.
- (d) In no case will a Council be permitted to delay Project Commencement for longer than 18 months after the date of this Agreement.
- (e) Unless otherwise agreed, Council must carry out the Project substantially in accordance with the Guidelines, its Application and the projected Project Delivery Schedule described therein.
- (f) Council must promptly advise the LCLI Administrator of any significant change (including any delay that exceeds three (3) months) in the projected Project delivery schedule as supplied with its Application.

3.4 Compliance with law

Council must comply with all legislative and regulatory requirements that may apply in relation to the Project, including obtaining all necessary approvals, licences and permissions.

3.5 Monitoring of Agreement

- (a) Council acknowledges that the LCLI Administrator may maintain regular contact with Council to monitor the performance of this Agreement, the Loan Agreement and the Project and agrees to co-operate with the LCLI Administrator in the performance of this role.
- (b) The LCLI Administrator may at any time request information from Council in connection with this Agreement, the Loan Agreement or the Project and Council must supply any such information promptly upon request.

- (c) Nothing in this Agreement displaces obligations on the Council under the *Local Government Act 1993* or precludes the LCLI Administrator from exercising functions and powers available to it under that Act.

3.6 Reports

Council must prepare and submit to the LCLI Administrator:

- (1) An Initial Report, Progress Reports and Interim Progress Report at the times stated and otherwise in accordance with the requirements specified in Attachment C;
- (2) A Project Completion Report to be submitted in accordance with the requirements specified in Attachment C;
- (3) Final Acquittal Report to be submitted in accordance with the requirements specified in Attachment C;
- (4) If requested, copies of any published reports, promotional material, media publicity, pamphlets or other documentation relevant to the Project; and
- (5) Any other written reports as may be reasonably required by the LCLI Administrator from time to time by written notice to Council.

3.7 Independent verification of LCLI financial outcomes in any given application round

Council must promptly, at its own cost, provide all assistance documents, and information reasonably required by the LCLI Administrator or its auditor for the purpose of enabling the LCLI Administrator to compile and have audited an aggregate statement of expenditure which pertains to aggregate financial outcomes for all Councils funded by the LCLI.

3.8 Records

- (a) Council must ensure that all legally required financial and operational records and registers (including all reports generated under this Agreement) are kept and maintained while carrying out the Project.
- (b) Council must retain the records, registers and reports referred to throughout the Term and for seven (7) years after the expiry or termination, of this Agreement.

3.9 Inspection

Council agrees that the LCLI Administrator or its appointed nominee may visit the site of the Project at any reasonable time, upon giving Council reasonable notice.

3.10 Audit

- (a) An audit of any aspect of the Project or Council's compliance with this Agreement may be conducted at any time by the LCLI Administrator.
- (b) Council must co-operate fully with an audit, including:
 - (i) Granting the person conducting the audit reasonable access to the site of the Project, Council's premises, Council's records and materials relevant to the Project and the performance of this Agreement;
 - (ii) Permitting the person conducting the audit to inspect and make copies of Council's records and all materials relevant to the Project and the performance of this Agreement;

- (iii) Making available on request, at no additional cost to the person conducting the audit, reasonable facilities to enable a legible reproduction to be created of Council's records and materials stored on a medium other than in writing;
- (iv) The LCLI Administrator must give Council reasonable notice of its requirements in relation to an audit and use its reasonable endeavours to minimise disruption and interference to Council's performance of its obligation under this Agreement arising from an audit;
- (v) Except where otherwise determined by the LCLI Administrator, Council is responsible for its own costs of participating in an audit;
- (vi) Council must promptly take any reasonable action required by the Loan Administrator to rectify any error, non-compliance or inaccuracy identified in an audit in relation to the Project of Council's performance of this Agreement;
- (vii) Council is not entitled to any delay costs or other costs or expenses of whatever nature relating in any way to an audit.

3.11 Promotion of LCLI and communication of outcomes

- (a) Council must acknowledge support from the LCLI in promotional materials or any public statements about the Project.
- (b) Council agrees to publicly communicate the outcomes of the Project in accordance with the Funding Acknowledgement Guidelines for recipients of NSW Government Grants (the Funding Acknowledgment Guidelines (available at <https://www.advertising.nsw.gov.au/resources/branding>).
- (c) Council authorises the LCLI Administrator and the State of New South Wales to use information Council supplies to the LCLI Administrator in its Application or pursuant to this Agreement for promotional purposes, including:
 - (1) Council's Name;
 - (2) the aggregate amount of the Loan, Project cost and LCLI Reimbursement;
 - (3) the title and description of the Project;
 - (4) any photographs of the Project supplied by Council;
 subject to any confidentiality restriction which has been requested by Council and agreed to by the LCLI Administrator.
- (d) Council will ensure that all public statements relating to the Project acknowledge the provision of the reimbursement by the NSW Government and specifically mention both the Minister for Planning, Housing and Special Minister for State and the Minister for Local Government.
- (e) Council will use the NSW Government logo in accordance with the Funding Acknowledgement Guidelines in any publicity provisions of any kind (including but not limited to any brochures, signage, advertising and invitations).
- (f) Council is to advise the Minister for Planning, Housing and Special Minister for State, the Secretary, Department of Planning, Industry and Environment, the Chief Executive, Office of Local Government and the Minister for Local Government of any public milestone events and consents to representatives of the State of New South Wales attending such events.

- (g) Council consents to allowing representatives of the State of New South Wales to use any promotional material it either obtains through its own processes or those provided by council in any media platform for the promotion of the Project and LCLI overall.
- (h) Council will issue an invitation to the Minister for Planning, Housing and Special Minister for State (or nominee), the Minister for Local Government (or nominee) and any other relevant New South Wales Member of Parliament to any launch or public event associated with the Project and further where they are able to attend, they or their nominee are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

4 LCLI Reimbursement

4.1 Amount

- (a) Subject to clause 9 (GST), the LCLI Reimbursement is the maximum amount of funding available under this Agreement and will not be increased for any reason.
- (b) Subject to paragraph (a), each instalment of the LCLI Reimbursement the subject of a LCLI Reimbursement Instalment Claim is to be calculated as an amount that represents 50% of the costs of Council's total interest payments on the Loan.
- (c) The failure to submit a claim supported by all required documentation within the time specified releases the LCLI Administrator from having to pay the claim.

4.2 When paid

- (a) Subject to this Agreement, the LCLI Administrator agrees to pay the LCLI Reimbursement to Council in six monthly instalments, to be claimed in February and August and to be paid in March and August each year following receipt of the required documentation and invoice, until the total LCLI Reimbursement is paid but no later than 6 December 2031.
- (b) The LCLI Administrator will pay each instalment of the LCLI Reimbursement to Council subject to the submission to the LCLI Administrator of the following by Council:
 - (i) a LCLI Reimbursement Instalment Claim for the applicable LCLI Reimbursement Instalment Period.
 - (ii) a Tax Invoice for the instalment of LCLI Reimbursement claimed.
 - (iii) Bank statements for the applicable LCLI Reimbursement Instalment Period evidencing all interest paid by Council on the Loan during that period.
 - (iv) a Progress Report (if applicable) for the applicable LCLI Reimbursement Instalment Period.
 - (v) Any other information reasonably required by the LCLI Administrator.
- (c) The LCLI Administrator may delay the payment of any instalments to align with any batch of payments due to other councils under the scheme.

4.3 Prepayment of interest on Loan

- (a) Unless otherwise agreed by the LCLI Administrator, prepayment of interest by Council on its Loan will not entitle it to make an early LCLI Reimbursement Instalment Claim.

- (b) Any variation to the times for payment of instalments of the LCLI Reimbursement as stated in this clause is at the sole discretion of the LCLI Administrator.

5 Representations and warranties

5.1 Representations and warranties

Council represents and warrants that:

- (a) **registration:** it is a local council established under *Local Government Act 1993 (NSW)*;
- (b) **authority:** it has full power and authority to enter into and perform its obligations under this Agreement;
- (c) **authorisations:** it has taken all necessary action to authorise the execution, delivery and performance of this Agreement in accordance with its terms;
- (d) **binding obligations:** this Agreement constitutes its legal, valid and binding obligations;
- (e) **other sources of funding:**
 - (1) as at the date of this Agreement, Council has disclosed to the LCLI Administrator all other sources of funding provided and to be provided from third parties for the Project;
 - (2) if Council secures additional sources of funding for the Project after the date of this Agreement, it will notify this in writing to the LCLI Administrator.

6 Events of Default and Termination

6.1 Notices to the LCLI Administrator

Council must give notice to the LCLI Administrator as soon as it becomes aware of any Event of Default occurring.

6.2 Events of Default

It is an Event of Default if, whether or not it is within the control of Council:

- (a) **Project does not commence by the Project Commencement date:** Council fails to achieve Project Commencement by the due date specified in this Agreement or by any extended date otherwise agreed in accordance with this Agreement.
- (b) **Major Project delay:** the Project, or any major milestone in the Project, is delayed for a period in excess of three (3) years beyond the date for Project Completion or for achievement of the relevant Project milestone, as stated in the Project Delivery Schedule.
- (c) **Default under Loan Agreement:** Council fails to pay when due any amount due under the Loan Agreement or otherwise defaults under the Loan Agreement.
- (d) **Default under other loan agreement:** Council fails to pay when due any amount due under another loan agreement entered into by Council to fund the Project or otherwise defaults under any such loan agreement.

- (e) **Termination of other LCLI funding agreement in respect of joint Project:** another LCLI funding agreement in place in respect of the Project (if the Project is jointly conducted with another council that receives an interest reimbursement under such agreement for the Project) is terminated for default by the council that is party to that agreement.
- (f) **Non-remediable breach of Agreement:** Council fails to perform or observe any other undertaking or obligation in this Agreement and that failure is not, in the opinion of the LCLI Administrator, capable of remedy.
- (g) **Failure to fix remediable breach of Agreement:** Council fails to perform or observe any other obligation in this Agreement and that failure is, in the opinion of the LCLI Administrator, capable of remedy but Council does not remedy the failure within the period specified, after receipt by Council of a notice from the LCLI Administrator specifying the failure and requiring its remedy within the period specified in the notice.
- (h) **Authorisations:** Council fails to obtain any Authorisation necessary to enable Council to comply with its obligations under this Agreement or any such Authorisation ceases to be in full force and effect.
- (i) **Misrepresentation:** any warranty, representation or statement by Council is or becomes false, misleading or incorrect when made or regarded as made by Council under this Agreement.
- (j) **Insolvency:** Council becomes insolvent.

6.3 Consequences of Event of Default

- (a) Upon the occurrence of an Event of Default the LCLI Administrator may, at its sole discretion, by written notice to Council:
 - (i) suspend this Agreement, including payments of the LCLI Reimbursement, until the default giving rise to the suspension is resolved to the satisfaction of the LCLI Administrator or the LCLI Administrator elects to terminate this Agreement, whichever occurs sooner; or
 - (ii) terminate this Agreement.
- (b) To avoid doubt, the exercise by the LCLI Administrator of any right to suspend this Agreement is without prejudice to the LCLI Administrator's right to terminate this Agreement in accordance with its terms.

6.4 Consequences of Termination for Default

- (a) If this Agreement is terminated, Council must repay the amount of the LCLI Reimbursement that has been paid to it prior to termination.
- (b) The LCLI Administrator, on behalf of the State, may recover any outstanding reimbursement.
- (c) The LCLI Administrator may make a determination of the amount of the reimbursement referred to in subsection 6.4(a) and may serve a notice on the council requiring the amount so determined be paid in recovery of the reimbursement.
- (d) An amount equal to the reimbursement as so determined, unless the LCLI Administrator otherwise decides, is payable to the LCLI Administrator as a debt by the Council.

- (e) The LCLI Administrator may certify the amount due under the notice and that certificate is sufficient evidence of the amount due, unless the contrary is proved.

6.5 Termination by Agreement

The parties may agree to terminate this Agreement at any time on such terms as may be agreed.

7 Indemnity

- (a) Council indemnifies the Crown in right of the State of New South Wales, including the LCLI Administrator and its officers, employees and agents (those indemnified), against any claim, action, damage, loss, liability, cost, charge, expense, outgoing or payment which those indemnified pay, suffer, incur or are liable for, in respect of any of the following:
 - (i) the occurrence of any Event of Default;
 - (ii) the LCLI Administrator exercising its powers consequent upon or arising out of the occurrence of any Event of Default.
- (b) Any amount payable to those indemnified under this indemnity is payable on demand.
- (c) The indemnities contained in this Agreement are continuing obligations of Council, separate and independent from the other obligations of Council and survive the termination of this Agreement.
- (d) It is not necessary for those indemnified to incur or make payment before enforcing a right of indemnity conferred by this Agreement.

8 Insurance

- (a) Council must (at its expense) during the continuance of this Agreement and for a period of three (3) years after its expiration or termination, take out and maintain with a reputable insurance company the following insurance policies:
 - (i) broad form public liability insurance (that includes public liability and product liability insurance) in the amount not less than \$20 million dollars in respect of each and every occurrence and unlimited in the aggregate;
 - (ii) workers' compensation insurance in accordance with applicable legislation in respect of the employees of Council; and
 - (iii) if applicable, a professional liability policy of insurance in the amount not less than \$10 million dollars.
- (b) Council must, on request, produce satisfactory evidence to the LCLI Administrator that the insurance requirements of this clause have been effected and are current.

9 GST

- (a) Unless otherwise stated, any consideration in this Agreement (including any consideration given by the Council for the LCLI Reimbursement) is exclusive of GST.

- (b) If a supply made under or in connection with this Agreement is a Taxable Supply the party making that supply (in this cl. 9, Supplier) may, subject to issuing a Tax Invoice, recover from the recipient of that supply (in this cl. 9, Recipient) an amount equal to the GST payable by the Supplier in respect of that supply (in this cl. 9, GST Amount).
- (c) The GST Amount is payable at the same time and in the same manner as any monetary consideration for the Supply to which the GST Amount relates but no later than the end of the tax period to which the relevant taxable supply is attributable under the GST Law.
- (d) Subject to this clause, Council warrants that at the time any supply is made under this Agreement on which GST is imposed, that Council is or will be registered under the GST Law.
- (e) Subject to this clause, any invoice rendered by Council in connection with a supply under this Agreement which seeks to recover an amount of GST payable must conform to the requirements for a Tax Invoice.
- (f) If an Adjustment Event occurs in relation to a Taxable Supply under or in connection with this Agreement that gives rise to an Adjustment, then:
 - (1) the Supplier must give an Adjustment Note to the Recipient immediately upon becoming aware of the Adjustment; and
 - (2) the GST amount payable in respect of that supply will be adjusted accordingly and the Supplier (in the case of a decreased GST Amount) will provide a corresponding refund of the GST Amount to, or (in the case of an increased GST Amount) will be entitled to receive the amount of that variation from, the Recipient, as appropriate.
- (g) If an Adjustment Event occurs in relation to a Taxable Supply under or in connection with this Agreement that does not give rise to an Adjustment, for example because it occurs in the same tax period in respect of which the GST on the Taxable Supply or the input tax credit on the acquisition is attributable, the Supplier must:
 - (1) cancel any incorrect invoice issued to the Recipient and issue a correct one; and
 - (2) if the Recipient has already paid the incorrect invoice, the Supplier (in the case of a decreased GST Amount) will provide a corresponding refund of the GST Amount to, or (in the case of an increased GST Amount) will be entitled to receive the amount of that variation in the GST Amount from, the Recipient, as appropriate.
- (h) Notwithstanding any other provision of this Agreement:
 - (1) any GST Amount payable by the Recipient to the Supplier under this clause 9 will be limited to the amount of an input tax credit to which the Recipient is entitled in respect of the relevant supply which the Recipient acquires; and
 - (2) if the Commissioner of Taxation or a court determines that a supply made under or in connection with this Agreement in respect of which the Recipient has paid the Supplier a GST Amount is not a Taxable Supply then the Supplier will refund the Recipient that amount.

10 General

10.1 LCLI Coordinator

- (a) Subject to paragraph (b), the LCLI Administrator may authorise the LCLI Coordinator to perform any of the LCLI Administrator's functions under this Agreement.
- (b) The LCLI Coordinator is not authorised to agree variations to this Agreement that relate to the amount of the LCLI Reimbursement or events of default.

10.2 Assignment by Council

Council must not transfer or assign any of its rights or obligations under this Agreement without the prior written consent of the LCLI Administrator.

10.3 Assignment by LCLI Administrator

The LCLI Administrator may at any time assign any of its rights or transfer by novation any of its rights and obligations under this Agreement to any other NSW government agency without consent of Council.

10.4 Notices

- (a) Any notice or other communication between the parties under this Agreement must be addressed to the recipient party at the address stated for that party in Attachment A, unless otherwise specified by notice in writing from the recipient party.
- (b) Any notice or other communication under this Agreement:
 - (i) where Council is the sender, must be signed by a duly authorised officer of Council;
 - (ii) is regarded as being given by the sender and received by the addressee:
 - (A) if by delivery in person, when delivered to the addressee;
 - (B) if by post, on delivery to the address; or
 - (C) if by facsimile transmission, whether or not legibly received, when received by the addressee,
 but if the delivery or receipt is on a day which is not a Business Day or is after 4.00pm (addressee's time) it is regarded as received at 9.00 am on the following Business Day; and
 - (iii) can be relied upon by the addressee and the addressee is not liable to any other person for any consequences of that reliance if the addressee believes it to be genuine, correct and authorised by the sender.
- (c) In this clause, a reference to an addressee includes a reference to an addressee's officers, agents or employees or any person reasonably believed by the sender to be an officer, agent, or employee of the addressee.

10.5 Governing law and jurisdiction

This Agreement is governed by the laws in force in the State of New South Wales and each party submits to the exclusive jurisdiction of the courts exercising jurisdiction in the State of New South Wales, and the courts of appeal from those courts.

10.6 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this Agreement or any power which is prohibited by any law is ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this Agreement which is void, illegal or unenforceable does not affect the validity, legality or enforceability of the remaining provisions of this Agreement.

10.7 Waivers

- (a) Waiver of any right arising from a breach of this Agreement or of any power arising upon default under this Agreement or upon the occurrence of an Event of Default must be in writing and signed by the party granting the waiver.
- (b) A failure or delay in exercise, or partial exercise, of:
 - (1) a right arising from a breach of this Agreement or the occurrence of an Event of Default; or
 - (2) a power created or arising upon default under this Agreement or upon the occurrence of an Event of Default;
 does not result in a waiver of that right or power.
- (c) A party is not entitled to rely on a delay in the exercise or non-exercise of a right or power arising from a breach of this Agreement or on a default under this Agreement or on the occurrence of an Event of Default as constituting a waiver of that right or power.
- (d) A party may not rely on any conduct of another party as a defence to exercise of a right or power by that other party.
- (e) This clause may not itself be waived except by writing.

10.8 Dispute Resolution

The parties agree that any dispute arising under this Agreement will be dealt with as follows:

- (a) A party claiming that a dispute has arisen must give written notice of the dispute to the other party;
- (b) The parties will seek to resolve the dispute;
- (c) If the dispute is unresolved within a fourteen (14) day period (or within such further period as the parties agree in writing) then the dispute will be referred to the Australian Commercial Dispute Centre (ACDC) for mediation;
- (d) The mediation is to be conducted in accordance with the ACDC Mediation Guidelines which set out the procedures to be adopted, the process of selection of the mediator and the costs involved;
- (e) If the dispute isn't settled within 28 days (or such longer period as agreed to in writing between the parties) after appointment of the mediator, or if no mediator is appointed

within 28 days of the referral of the dispute to mediation, the parties may pursue any other procedure available at law for resolution of the dispute;

- (f) The parties must continue performing their obligations under this Agreement while the dispute is being resolved, to the extent practicable to do so;
- (g) A party must attempt to settle any dispute in relation to this Agreement in accordance with this clause (Dispute Resolution) before resorting to court proceedings or other dispute resolution process;
- (h) Nothing in this clause (Dispute Resolution) prevents either party from seeking interlocutory relief or the LCLI Administrator exercising its rights to suspend or terminate this Agreement.

10.9 Relationship

- (a) Nothing in this Agreement is intended to create a partnership, joint venture or agency relationship between the parties.
- (b) All work performed by Council and all contracts made by Council to secure the Loan and to carry out the Project must be performed and made by Council as principal and not as agent for the LCLI Administrator. In all dealings in relation to the Project and the Loan Agreement Council must act solely on Council's own account.

10.10 Variation

A variation of any term of this Agreement must be in writing and signed by the parties.

10.11 Taxes, duties and charges

Other than as specified in this Agreement, taxes, duties and charges imposed or levied in connection with this Agreement will be borne by Council.

10.12 Counterparts

- (a) This Agreement may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A party may execute this Agreement by signing any counterpart.

10.13 Survival

Any clause of this Agreement that by its nature should survive termination or expiry of this Agreement shall survive such termination or expiry including, without limitation, the following:

- (a) clause 3 (General obligations of Council);
- (b) clause 5 (Representations and warranties);
- (c) clause 6.4 (Consequences of Termination);
- (d) clause 7 (Indemnity); and
- (e) clause 8 (Insurance).

EXECUTION PAGE

Date of this Agreement: _____ 2021

Executed as an agreement by LCLI Administrator:

Signed by _____)
Kiersten Fishburn, _____)
Coordinator General, Planning Delivery and _____)
Local Government, for and on behalf of the _____)
Crown in right of the State of New South _____)
Wales on _____)
_____ 2021)

in the presence of: _____)

Signature of witness

Signature of Kiersten Fishburn

Name of witness (please print)

Executed as an agreement by the Council

The seal of Shoalhaven City Council was affixed)
in our presence _____)
on _____ 2021 _____)
in pursuance of a resolution of the Council _____)
authorising the seal to be affixed passed on 2021 _____)

Mayor/Councillor

Name of signatory (please print)

General Manager/Councillor

Name of signatory (please print)

Attachment A: Agreement Details

LCLI Administrator: Postal Address: Attention: Facsimile:	Kiersten Fishburn Locked Bag 3015, Nowra NSW 2541 LCLI Coordinator (02) 4428 4199
LCLI Coordinator: Telephone: Email:	Stephen Walker (02) 4428 4166 olg@olg.nsw.gov.au
Council: Postal Address: Attention: Email:	Shoalhaven City Council PO Box 42, NOWRA NSW 2541 General Manager council@shoalhaven.nsw.gov.au
Approved Projects	Project ID No: LCLI3000013 Project Name: Roads, drainage and passive recreation infrastructure Description – Land acquisition and construction of two bioretention basins, construction of a roundabout, a new collector road to enhance traffic safety, mitigate flooding issues and undertake open space embellishment works to serve the growing population in Moss Vale Road South urban release area.
Loan Amount	\$2,861,200.00
Loan Schedule	Attachment D
Total LCLI Reimbursement (upper limit over the term of the loan)	\$195,144.99 (GST exclusive)
Special Conditions:	

Attachment B: Form of 6-monthly LCLI Reimbursement Instalment Claim

To: The LCLI Coordinator, Office of Local Government

Dear Sir/Madam

LCLI Funding Agreement dated [insert date] ("the Agreement")

Council gives notice pursuant to clause 4 of the Agreement that Council wishes to claim an instalment of the LCLI Reimbursement.

The instalment of the LCLI Reimbursement now claimed is: [identify if first, second, third etc instalment as well as whether it is the June or December claim for (.....).year].

The total amount of the LCLI Reimbursement claimed to date (inclusive of this claim) is:	[insert amount] excl. GST
Amount for this claim is:	[insert amount] excl. GST

Council certifies that:

- (a) all Loan payments have been made in accordance with the Loan Agreement to the date of this claim.
- (b) this claim is accompanied by the supporting documentation required by clause 4 of the Agreement.

Terms defined in the Agreement have the same meaning when used in this LCLI Reimbursement Instalment Claim.

Signed for and on behalf of

[insert name of Council] Council

By its General Manager

.....

Signature of General Manager

.....

Name of General Manager (please print)

.....

Date

Attachment C: Reports

Report Type	Report Content and supporting documents	Report due date
Initial Report	<ol style="list-style-type: none"> Project identification details: Council name: Project ID Number: Total Project cost: Total value of Loan: Total LCLI Reimbursement: Detailed Project Delivery Schedule with key milestones both major and minor specified and identifying the anticipated project completion date. Project Cost Estimates per milestone. 	An initial report to be submitted to the LCLI Administrator for first instalment.
Progress Report	<p>Each Progress Report to be signed by Council's General Manager and to include the following:</p> <ol style="list-style-type: none"> Project identification details: Council name: Project ID Number: Total Project cost: Total value of Loan: Total LCLI Reimbursement: Project status: [One paragraph summary] Confirmation that the Loan has not been renegotiated or paid out. Tick box: On Track/Minor Delays/Major Delays (3 months plus)/Minor Change in Scope/Major Change in Scope/Completed. [NB. Above categories are to be measured referable to the Project scope and timetable advised with Council's Application.] If Major Delays/Major Change in Scope, give reasons and outline potential impact on timing and payments of LCLI Reimbursement. Project expenditure to date: (\$) Project construction to date (%) Number of new dwellings delivered directly relating to the Project. 	Each progress report to be submitted to the LCLI Administrator with each claim for an instalment of the LCLI Reimbursement, commencing with the claim for the 2nd instalment, for the term of the Agreement.

	<p>9. Comments</p> <p>10. Any further information requested by LCLI Administrator.</p> <p>Each Progress Report to be accompanied by:</p> <ol style="list-style-type: none"> 1. Bank statements showing relevant Loan repayments made to date (principal and/or interest). 2. A LCLI Reimbursement Instalment Claim Form. 	
Project Completion report	<p>This report to be signed by Council's General Manager and to include the following:</p> <ol style="list-style-type: none"> 1. Satisfactory evidence of Project Completion. 2. Commencement date of operation of the infrastructure/asset. 3. Any further information requested by LCLI Administrator. 	<p>This report is to be submitted to the LCLI Administrator within 10 Business Days of Project Completion.</p>
Final acquittal	<p>Final acquittal of LCLI Reimbursement being:</p> <ol style="list-style-type: none"> 1. A Final Statement of Expenditure that includes: <ol style="list-style-type: none"> a) the total amount spent on the Project; b) the total amount of borrowing incurred in respect of the Project; c) the total interest expense paid by Council, and d) the total amount of the LCLI Reimbursement received by Council. 2. An acquittal certificate signed by the General Manager, the responsible accounting officer and an independent auditor that: <ol style="list-style-type: none"> a) The auditor has audited the Final Statement of Expenditure and confirms that it is in accordance with the relevant proper accounts and records. b) The LCLI Reimbursement has been expended for the Approved Purpose. c) The Loan has been expended for the purpose of the Project. d) All Loan payments have been made by Council in accordance with the Loan Agreement and the Loan is fully discharged. e) Project Completion has been reached. 	<p>A final acquittal to be submitted to the LCLI Administrator within 10 Business Days of the final Loan repayment.</p>



Office of Local Government

5 O'Keefe Avenue NOWRA NSW 2541
Locked Bag 3015 NOWRA NSW 2541

Our Reference: A766654
Your Reference:
Contact: Stephen Walker
Phone: 02 4428 4166

Mr Stephen Dunshea
General Manager
Shoalhaven City Council
36 Bridge Road
NOWRA NSW 2541
By email - council@shoalhaven.nsw.gov.au
Cc - ryan.jameson@shoalhaven.nsw.gov.au

2 August 2021

Dear Mr Dunshea

I am writing to you about the Low Cost Loans Initiative (LCLI) established by the NSW Government to accelerate the delivery of infrastructure to support growing communities and enable new housing supply.

I am pleased to provide Shoalhaven City Council (Council) with the LCLI funding agreement enabling Council to receive a 50% reimbursement of loan interest paid for the LCLI Round 3, Lead-in-roads and cycleway Project.

It is requested that Council return the signed funding agreement, together with the Loan Schedule (as Attachment D) to the Office of Local Government (OLG) by 27 August 2021, to ensure Council can make a claim within the next claim period in February 2022.

Council will be provided with a copy of the executed agreement which will contain the final figures and conditions.

Further information about the administration of this funding agreement and process for making a claim will be forwarded to Council by OLG prior to each of the six monthly claim periods.

Should you have any questions or wish to discuss this matter further, please call Stephen Walker, Acting Manager Program Delivery on (02) 4428 4166 or email lcli@olg.nsw.gov.au.

Yours sincerely,



Kiersten Fishburn
Coordinator General
Planning Delivery and Local Government

T 02 4428 4100 F 02 4428 4199 TTY 02 4428 4209
E olg@olg.nsw.gov.au W www.olg.nsw.gov.au ABN 20 770 707 468





Office of Local Government

**Low Cost Loans Initiative (“LCLI”) Funding Agreement
for Lead in Roads and Cycleway for Mundamia urban
release area (URA)**

Between

Shoalhaven City Council

and

**The LCLI Administrator, for and on behalf of the Crown
in right of the State of NSW**



DE21.116 - Attachment 2

Table of Contents

Background

1. Definitions and Interpretation
2. Term
3. General obligations
4. LCLI Reimbursement
5. Representations and warranties
6. Events of default and termination
7. Indemnities
8. Insurance
9. GST
10. General

Attachment A – Agreement details (include a Location Plan)

Attachment B – LCLI Reimbursement Claim

Attachment C – Project reports

DE21.116 - Attachment 2

Between:

1. Shoalhaven City Council as described in Attachment A (Council) and;
2. The Coordinator General, Planning Delivery and Local Government, for and on behalf of the Crown in right of the State of New South Wales ("LCLI Administrator") ABN 34 945 244 274, Levels 1 and 2, 5 O'Keefe Avenue, Nowra NSW 2541 (LCLI Administrator).

Background

The Low Cost Loans Initiative ("LCLI") has been established by the NSW Government to provide interest reimbursements in order to assist local councils accelerate the delivery of infrastructure to support growing communities.

The Council has submitted an application to the Department of Planning, Industry and Environment (DPIE) for an interest reimbursement under the LCLI. The documents that comprise this application are identified in Attachment A.

The LCLI Administrator has been advised of the approval by DPIE of the Council's application for an interest reimbursement on the terms of this Agreement.

This Agreement establishes the parameters attaching to the Government's agreement to reimburse 50% of the costs of council's interest payment on loans for eligible infrastructure.

The parties agree:

1 Definitions and interpretation**1.1 Definitions**

Agreement means this LCLI funding agreement including the Attachments and any documents incorporated in this agreement by reference.

Application means Council's application, including supporting documents submitted to the DPIE for an interest reimbursement under the LCLI.

Authorisation includes:

- (a) any consent, registration, filing, agreement, notarisation, certificate, licence, approval, permit, authority or exemption from by or with a governmental agency; or
- (b) any consent or authorisation regarded as given by a government agency due to the expiration of the period specified by a statute within which the government agency should have acted if it wished to proscribe or limit anything already lodged, registered or notified under that statute.

Business Day means for all other purposes, a day on which banks are open for business in Sydney excluding a Saturday, Sunday or public holiday.

Date of this Agreement means the date shown on the Execution Page or if it is not dated the date the LCLI Administrator signs this Agreement.

Dollars, A\$ and \$ means the lawful currency of the Commonwealth of Australia.

DPIE means Department of Planning, Industry and Environment.

Eligible Infrastructure means infrastructure that DPIE determines, in its absolute discretion, is needed to enable increased housing in areas experiencing population growth. This will be subject to determination by the Department of Planning, Industry and Environment as part of the assessment process.

Event of Default means any event specified as such in this Agreement.

Final Acquittal means a final acquittal of the LCLI reimbursement that meets the requirements for such listed in Attachment C.

GST means the goods and services tax levied under *A New Tax System (Goods and Services Tax) Act 1999 (GST Act)* or any successor Act.

GST Law means *A New Tax System (Goods and Services Tax) Act 1999*, or if that Act does not exist for any reason, means any Act imposing or relating to a GST and any regulation made under such Acts.

Guidelines means the *Low Cost Loans Initiative – Growing Local Housing Guidelines* issued by the NSW Government dated April 2018 (or if replaced by a later version, that later version).

Initial Report means an initial report for the Project that meets the requirement for such as listed in Attachment C.

Interim Progress Report means an interim progress report for the Project that meets the requirements for such as listed in Attachment C.

Lender means the third party provider of the Loan to Council, the interest payments in respect of which are to be subsidised by the LCLI Reimbursement under this Agreement.

LCLI means the Low Cost Loans Initiative.

LCLI Administrator means the Coordinator General, Planning Delivery and Local Government or his/her delegate, for and on behalf of the Crown in right of the State of New South Wales.

LCLI Coordinator means the officer of OLG described as such in Attachment A or his/her delegate.

LCLI Evaluation Panel means the DPIE panel which assesses LCLI applications.

LCLI Reimbursement means the reimbursement amount determined once the Loan to the Council is drawn down and the interest payable on the Loan can be calculated.

LCLI Reimbursement Instalment Claim means a claim made by Council to the LCLI Administrator for payment of an instalment of the LCLI Reimbursement, in the prescribed form Attachment B.

LCLI Reimbursement Instalment Period means the six month period immediately prior to a LCLI Reimbursement Instalment Claim in respect of which Council claims an instalment of the LCLI Reimbursement.

Loan means the loan to be taken out by Council to fund the Project.

Loan Agreement means the executed loan agreement between Council and its lender in respect of the Loan, a copy of which is to be provided by Council to the LCLI Administrator in accordance with this Agreement.

Loan Schedule means the Lender's summary of the Loan provisions extracted from the Loan Agreement.

OLG means the NSW Office of Local Government.

Progress Report means a progress report that meets the requirements for such as listed in Attachment C.

Project means Council's project(s), detailed in its Application, which was approved by the Minister for Planning.

Project Commencement means:

- (a) When Council completes the contract for sale of land in respect to the acquisition of the land parcel; or
- (b) When Council has completed all pre-construction engineering and design, has received all necessary licences and permits, has engaged all contractors and ordered all equipment and supplies reasonably necessary so that physical construction of the Project can proceed.

Project Completion means all regulatory certificates required for the occupation and/or use of the infrastructure that comprises the Project have issued and the Project is ready for use (except for unknown defects).

Project Completion Report means a progress report that meets the requirements for such as listed in Attachment C.

Project Delivery Schedule means the delivery schedule set out in the Council's Initial Report which must include, as a minimum, details of the project milestones, and the anticipated completion date for the Project.

Public Milestone Event means an event connected with the Project to which the Council intends to invite members of the public and/or media to attend.

Special Conditions means any additional conditions applicable to this Agreement as stipulated in Attachment A.

Specified Date means a milestone date that the parties have specified as a date for performance of an obligation under this Agreement.

Tax means:

- (a) any tax, including the GST, levy, charge, impost, duty, fee, deduction, compulsory loan or withholding; or
- (b) any income, stamp or transaction duty, tax or charge;

which is assessed, levied, imposed or collected by any governmental agency and includes, but is not limited to, any interest, fine, penalty, charge, fee or other amount imposed on or in respect of any of the above.

Tax Invoice means an invoice that complies with the requirements for a tax invoice under the *New Tax System (Goods and Services Tax) Act 1999* (Cth).

Term means the term of the Loan.

1.2 Interpretation

In this Agreement, headings and boldings are for convenience only and do not affect the interpretation of this Agreement and, unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;

- (b) words importing a gender include any gender;
- (c) other parts of speech and grammatical forms of a word or phrase defined in this Agreement have a corresponding meaning;
- (d) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Governmental Agency;
- (e) a reference to any thing (including, but not limited to, any right) includes a part of that thing but nothing in this clause 1.2(e) implies that performance of part of an obligation constitutes performance of the obligation;
- (f) a reference to a clause, party, attachment, or schedule is a reference to a clause of, and a party, attachment and schedule to, this Agreement and a reference to this Agreement includes any attachment and schedule;
- (g) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- (h) a reference to a party to any document includes that party's successors and permitted assigns;
- (i) a reference to liquidation includes official management, appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding-up, dissolution, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or any similar procedure or, where applicable, changes in the constitution of any partnership or person, or death;
- (j) a reference to legislation (including subordinate legislation) is a reference to that legislation as amended, re-enacted or replaced and includes any subordinate legislation issued under it;
- (k) a term or expression starting with a capital letter which is defined in:
 - (1) this clause 1 (Definitions and Interpretation) has the meaning given to it in this clause 1.
 - (2) the GST Law but is not defined in this Agreement has the same meaning as in the GST Law.

1.3 Business Day

Unless otherwise specified in this Agreement, where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the preceding Business Day.

2 Term

Unless earlier terminated in accordance with its terms, this Agreement is for the Term.

3 General obligations of Council

3.1 Loan Agreement

- (a) The Loan must be for a minimum of \$1,000,000.00 and for a maximum term of 10 years calculated from 6 December 2021.

- (b) The Council acknowledges by its entry into this Agreement that neither DPIE, OLG, LCLI Administrator or the State of New South Wales are liable for, and nor do they guarantee, any part of Council's obligations under or in relation to the Loan or the Loan Agreement.

3.2 Use of Loan

- (a) Proceeds of the interest reimbursement may be applied to offset the Loan or any other council costs.

3.3 Conduct of Project

- (a) Subject to this clause, unless otherwise agreed, Council must achieve Project Commencement within 12 months of the date of this Agreement.
- (b) If Council is unable to achieve Project Commencement within 12 months of the date of this Agreement, Council must, at least five (5) Business Days before the expiry of that period, notify the LCLI Administrator of that fact and provide documentation to:
 - (i) demonstrate due cause for the delay;
 - (ii) provide evidence that Council is taking specific measures to remedy the delay and details of such measures; and
 - (iii) submit an amended detailed project delivery schedule to the satisfaction of the LCLI Administrator.
- (c) Any agreed extension by the LCLI Administrator of the period to achieve Project Commencement will be for a maximum further period of 6 months.
- (d) In no case will a Council be permitted to delay Project Commencement for longer than 18 months after the date of this Agreement.
- (e) Unless otherwise agreed, Council must carry out the Project substantially in accordance with the Guidelines, its Application and the projected Project Delivery Schedule described therein.
- (f) Council must promptly advise the LCLI Administrator of any significant change (including any delay that exceeds three (3) months) in the projected Project delivery schedule as supplied with its Application.

3.4 Compliance with law

Council must comply with all legislative and regulatory requirements that may apply in relation to the Project, including obtaining all necessary approvals, licences and permissions.

3.5 Monitoring of Agreement

- (a) Council acknowledges that the LCLI Administrator may maintain regular contact with Council to monitor the performance of this Agreement, the Loan Agreement and the Project and agrees to co-operate with the LCLI Administrator in the performance of this role.
- (b) The LCLI Administrator may at any time request information from Council in connection with this Agreement, the Loan Agreement or the Project and Council must supply any such information promptly upon request.

- (c) Nothing in this Agreement displaces obligations on the Council under the *Local Government Act 1993* or precludes the LCLI Administrator from exercising functions and powers available to it under that Act.

3.6 Reports

Council must prepare and submit to the LCLI Administrator:

- (1) An Initial Report, Progress Reports and Interim Progress Report at the times stated and otherwise in accordance with the requirements specified in Attachment C;
- (2) A Project Completion Report to be submitted in accordance with the requirements specified in Attachment C;
- (3) Final Acquittal Report to be submitted in accordance with the requirements specified in Attachment C;
- (4) If requested, copies of any published reports, promotional material, media publicity, pamphlets or other documentation relevant to the Project; and
- (5) Any other written reports as may be reasonably required by the LCLI Administrator from time to time by written notice to Council.

3.7 Independent verification of LCLI financial outcomes in any given application round

Council must promptly, at its own cost, provide all assistance documents, and information reasonably required by the LCLI Administrator or its auditor for the purpose of enabling the LCLI Administrator to compile and have audited an aggregate statement of expenditure which pertains to aggregate financial outcomes for all Councils funded by the LCLI.

3.8 Records

- (a) Council must ensure that all legally required financial and operational records and registers (including all reports generated under this Agreement) are kept and maintained while carrying out the Project.
- (b) Council must retain the records, registers and reports referred to throughout the Term and for seven (7) years after the expiry or termination, of this Agreement.

3.9 Inspection

Council agrees that the LCLI Administrator or its appointed nominee may visit the site of the Project at any reasonable time, upon giving Council reasonable notice.

3.10 Audit

- (a) An audit of any aspect of the Project or Council's compliance with this Agreement may be conducted at any time by the LCLI Administrator.
- (b) Council must co-operate fully with an audit, including:
 - (i) Granting the person conducting the audit reasonable access to the site of the Project, Council's premises, Council's records and materials relevant to the Project and the performance of this Agreement;
 - (ii) Permitting the person conducting the audit to inspect and make copies of Council's records and all materials relevant to the Project and the performance of this Agreement;

- (iii) Making available on request, at no additional cost to the person conducting the audit, reasonable facilities to enable a legible reproduction to be created of Council's records and materials stored on a medium other than in writing;
- (iv) The LCLI Administrator must give Council reasonable notice of its requirements in relation to an audit and use its reasonable endeavours to minimise disruption and interference to Council's performance of its obligation under this Agreement arising from an audit;
- (v) Except where otherwise determined by the LCLI Administrator, Council is responsible for its own costs of participating in an audit;
- (vi) Council must promptly take any reasonable action required by the Loan Administrator to rectify any error, non-compliance or inaccuracy identified in an audit in relation to the Project of Council's performance of this Agreement;
- (vii) Council is not entitled to any delay costs or other costs or expenses of whatever nature relating in any way to an audit.

3.11 Promotion of LCLI and communication of outcomes

- (a) Council must acknowledge support from the LCLI in promotional materials or any public statements about the Project.
- (b) Council agrees to publicly communicate the outcomes of the Project in accordance with the Funding Acknowledgement Guidelines for recipients of NSW Government Grants (the Funding Acknowledgment Guidelines (available at <https://www.advertising.nsw.gov.au/resources/branding>).
- (c) Council authorises the LCLI Administrator and the State of New South Wales to use information Council supplies to the LCLI Administrator in its Application or pursuant to this Agreement for promotional purposes, including:
 - (1) Council's Name;
 - (2) the aggregate amount of the Loan, Project cost and LCLI Reimbursement;
 - (3) the title and description of the Project;
 - (4) any photographs of the Project supplied by Council;
 subject to any confidentiality restriction which has been requested by Council and agreed to by the LCLI Administrator.
- (d) Council will ensure that all public statements relating to the Project acknowledge the provision of the reimbursement by the NSW Government and specifically mention both the Minister for Planning, Housing and Special Minister for State and the Minister for Local Government.
- (e) Council will use the NSW Government logo in accordance with the Funding Acknowledgement Guidelines in any publicity provisions of any kind (including but not limited to any brochures, signage, advertising and invitations).
- (f) Council is to advise the Minister for Planning, Housing and Special Minister for State, the Secretary, Department of Planning, Industry and Environment, the Chief Executive, Office of Local Government and the Minister for Local Government of any public milestone events and consents to representatives of the State of New South Wales attending such events.

- (g) Council consents to allowing representatives of the State of New South Wales to use any promotional material it either obtains through its own processes or those provided by council in any media platform for the promotion of the Project and LCLI overall.
- (h) Council will issue an invitation to the Minister for Planning, Housing and Special Minister for State (or nominee), the Minister for Local Government (or nominee) and any other relevant New South Wales Member of Parliament to any launch or public event associated with the Project and further where they are able to attend, they or their nominee are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

4 LCLI Reimbursement

4.1 Amount

- (a) Subject to clause 9 (GST), the LCLI Reimbursement is the maximum amount of funding available under this Agreement and will not be increased for any reason.
- (b) Subject to paragraph (a), each instalment of the LCLI Reimbursement the subject of a LCLI Reimbursement Instalment Claim is to be calculated as an amount that represents 50% of the costs of Council's total interest payments on the Loan.
- (c) The failure to submit a claim supported by all required documentation within the time specified releases the LCLI Administrator from having to pay the claim.

4.2 When paid

- (a) Subject to this Agreement, the LCLI Administrator agrees to pay the LCLI Reimbursement to Council in six monthly instalments, to be claimed in February and August and to be paid in March and August each year following receipt of the required documentation and invoice, until the total LCLI Reimbursement is paid but no later than 6 December 2031.
- (b) The LCLI Administrator will pay each instalment of the LCLI Reimbursement to Council subject to the submission to the LCLI Administrator of the following by Council:
 - (i) a LCLI Reimbursement Instalment Claim for the applicable LCLI Reimbursement Instalment Period.
 - (ii) a Tax Invoice for the instalment of LCLI Reimbursement claimed.
 - (iii) Bank statements for the applicable LCLI Reimbursement Instalment Period evidencing all interest paid by Council on the Loan during that period.
 - (iv) a Progress Report (if applicable) for the applicable LCLI Reimbursement Instalment Period.
 - (v) Any other information reasonably required by the LCLI Administrator.
- (c) The LCLI Administrator may delay the payment of any instalments to align with any batch of payments due to other councils under the scheme.

4.3 Prepayment of interest on Loan

- (a) Unless otherwise agreed by the LCLI Administrator, prepayment of interest by Council on its Loan will not entitle it to make an early LCLI Reimbursement Instalment Claim.

- (b) Any variation to the times for payment of instalments of the LCLI Reimbursement as stated in this clause is at the sole discretion of the LCLI Administrator.

5 Representations and warranties

5.1 Representations and warranties

Council represents and warrants that:

- (a) **registration:** it is a local council established under *Local Government Act 1993 (NSW)*;
- (b) **authority:** it has full power and authority to enter into and perform its obligations under this Agreement;
- (c) **authorisations:** it has taken all necessary action to authorise the execution, delivery and performance of this Agreement in accordance with its terms;
- (d) **binding obligations:** this Agreement constitutes its legal, valid and binding obligations;
- (e) **other sources of funding:**
 - (1) as at the date of this Agreement, Council has disclosed to the LCLI Administrator all other sources of funding provided and to be provided from third parties for the Project;
 - (2) if Council secures additional sources of funding for the Project after the date of this Agreement, it will notify this in writing to the LCLI Administrator.

6 Events of Default and Termination

6.1 Notices to the LCLI Administrator

Council must give notice to the LCLI Administrator as soon as it becomes aware of any Event of Default occurring.

6.2 Events of Default

It is an Event of Default if, whether or not it is within the control of Council:

- (a) **Project does not commence by the Project Commencement date:** Council fails to achieve Project Commencement by the due date specified in this Agreement or by any extended date otherwise agreed in accordance with this Agreement.
- (b) **Major Project delay:** the Project, or any major milestone in the Project, is delayed for a period in excess of three (3) years beyond the date for Project Completion or for achievement of the relevant Project milestone, as stated in the Project Delivery Schedule.
- (c) **Default under Loan Agreement:** Council fails to pay when due any amount due under the Loan Agreement or otherwise defaults under the Loan Agreement.
- (d) **Default under other loan agreement:** Council fails to pay when due any amount due under another loan agreement entered into by Council to fund the Project or otherwise defaults under any such loan agreement.

- (e) **Termination of other LCLI funding agreement in respect of joint Project:** another LCLI funding agreement in place in respect of the Project (if the Project is jointly conducted with another council that receives an interest reimbursement under such agreement for the Project) is terminated for default by the council that is party to that agreement.
- (f) **Non-remediable breach of Agreement:** Council fails to perform or observe any other undertaking or obligation in this Agreement and that failure is not, in the opinion of the LCLI Administrator, capable of remedy.
- (g) **Failure to fix remediable breach of Agreement:** Council fails to perform or observe any other obligation in this Agreement and that failure is, in the opinion of the LCLI Administrator, capable of remedy but Council does not remedy the failure within the period specified, after receipt by Council of a notice from the LCLI Administrator specifying the failure and requiring its remedy within the period specified in the notice.
- (h) **Authorisations:** Council fails to obtain any Authorisation necessary to enable Council to comply with its obligations under this Agreement or any such Authorisation ceases to be in full force and effect.
- (i) **Misrepresentation:** any warranty, representation or statement by Council is or becomes false, misleading or incorrect when made or regarded as made by Council under this Agreement.
- (j) **Insolvency:** Council becomes insolvent.

6.3 Consequences of Event of Default

- (a) Upon the occurrence of an Event of Default the LCLI Administrator may, at its sole discretion, by written notice to Council:
 - (i) suspend this Agreement, including payments of the LCLI Reimbursement, until the default giving rise to the suspension is resolved to the satisfaction of the LCLI Administrator or the LCLI Administrator elects to terminate this Agreement, whichever occurs sooner; or
 - (ii) terminate this Agreement.
- (b) To avoid doubt, the exercise by the LCLI Administrator of any right to suspend this Agreement is without prejudice to the LCLI Administrator's right to terminate this Agreement in accordance with its terms.

6.4 Consequences of Termination for Default

- (a) If this Agreement is terminated, Council must repay the amount of the LCLI Reimbursement that has been paid to it prior to termination.
- (b) The LCLI Administrator, on behalf of the State, may recover any outstanding reimbursement.
- (c) The LCLI Administrator may make a determination of the amount of the reimbursement referred to in subsection 6.4(a) and may serve a notice on the council requiring the amount so determined be paid in recovery of the reimbursement.
- (d) An amount equal to the reimbursement as so determined, unless the LCLI Administrator otherwise decides, is payable to the LCLI Administrator as a debt by the Council.

- (e) The LCLI Administrator may certify the amount due under the notice and that certificate is sufficient evidence of the amount due, unless the contrary is proved.

6.5 Termination by Agreement

The parties may agree to terminate this Agreement at any time on such terms as may be agreed.

7 Indemnity

- (a) Council indemnifies the Crown in right of the State of New South Wales, including the LCLI Administrator and its officers, employees and agents (those indemnified), against any claim, action, damage, loss, liability, cost, charge, expense, outgoing or payment which those indemnified pay, suffer, incur or are liable for, in respect of any of the following:
 - (i) the occurrence of any Event of Default;
 - (ii) the LCLI Administrator exercising its powers consequent upon or arising out of the occurrence of any Event of Default.
- (b) Any amount payable to those indemnified under this indemnity is payable on demand.
- (c) The indemnities contained in this Agreement are continuing obligations of Council, separate and independent from the other obligations of Council and survive the termination of this Agreement.
- (d) It is not necessary for those indemnified to incur or make payment before enforcing a right of indemnity conferred by this Agreement.

8 Insurance

- (a) Council must (at its expense) during the continuance of this Agreement and for a period of three (3) years after its expiration or termination, take out and maintain with a reputable insurance company the following insurance policies:
 - (i) broad form public liability insurance (that includes public liability and product liability insurance) in the amount not less than \$20 million dollars in respect of each and every occurrence and unlimited in the aggregate;
 - (ii) workers' compensation insurance in accordance with applicable legislation in respect of the employees of Council; and
 - (iii) if applicable, a professional liability policy of insurance in the amount not less than \$10 million dollars.
- (b) Council must, on request, produce satisfactory evidence to the LCLI Administrator that the insurance requirements of this clause have been effected and are current.

9 GST

- (a) Unless otherwise stated, any consideration in this Agreement (including any consideration given by the Council for the LCLI Reimbursement) is exclusive of GST.

- (b) If a supply made under or in connection with this Agreement is a Taxable Supply the party making that supply (in this cl. 9, Supplier) may, subject to issuing a Tax Invoice, recover from the recipient of that supply (in this cl. 9, Recipient) an amount equal to the GST payable by the Supplier in respect of that supply (in this cl. 9, GST Amount).
- (c) The GST Amount is payable at the same time and in the same manner as any monetary consideration for the Supply to which the GST Amount relates but no later than the end of the tax period to which the relevant taxable supply is attributable under the GST Law.
- (d) Subject to this clause, Council warrants that at the time any supply is made under this Agreement on which GST is imposed, that Council is or will be registered under the GST Law.
- (e) Subject to this clause, any invoice rendered by Council in connection with a supply under this Agreement which seeks to recover an amount of GST payable must conform to the requirements for a Tax Invoice.
- (f) If an Adjustment Event occurs in relation to a Taxable Supply under or in connection with this Agreement that gives rise to an Adjustment, then:
 - (1) the Supplier must give an Adjustment Note to the Recipient immediately upon becoming aware of the Adjustment; and
 - (2) the GST amount payable in respect of that supply will be adjusted accordingly and the Supplier (in the case of a decreased GST Amount) will provide a corresponding refund of the GST Amount to, or (in the case of an increased GST Amount) will be entitled to receive the amount of that variation from, the Recipient, as appropriate.
- (g) If an Adjustment Event occurs in relation to a Taxable Supply under or in connection with this Agreement that does not give rise to an Adjustment, for example because it occurs in the same tax period in respect of which the GST on the Taxable Supply or the input tax credit on the acquisition is attributable, the Supplier must:
 - (1) cancel any incorrect invoice issued to the Recipient and issue a correct one; and
 - (2) if the Recipient has already paid the incorrect invoice, the Supplier (in the case of a decreased GST Amount) will provide a corresponding refund of the GST Amount to, or (in the case of an increased GST Amount) will be entitled to receive the amount of that variation in the GST Amount from, the Recipient, as appropriate.
- (h) Notwithstanding any other provision of this Agreement:
 - (1) any GST Amount payable by the Recipient to the Supplier under this clause 9 will be limited to the amount of an input tax credit to which the Recipient is entitled in respect of the relevant supply which the Recipient acquires; and
 - (2) if the Commissioner of Taxation or a court determines that a supply made under or in connection with this Agreement in respect of which the Recipient has paid the Supplier a GST Amount is not a Taxable Supply then the Supplier will refund the Recipient that amount.

10 General

10.1 LCLI Coordinator

- (a) Subject to paragraph (b), the LCLI Administrator may authorise the LCLI Coordinator to perform any of the LCLI Administrator's functions under this Agreement.
- (b) The LCLI Coordinator is not authorised to agree variations to this Agreement that relate to the amount of the LCLI Reimbursement or events of default.

10.2 Assignment by Council

Council must not transfer or assign any of its rights or obligations under this Agreement without the prior written consent of the LCLI Administrator.

10.3 Assignment by LCLI Administrator

The LCLI Administrator may at any time assign any of its rights or transfer by novation any of its rights and obligations under this Agreement to any other NSW government agency without consent of Council.

10.4 Notices

- (a) Any notice or other communication between the parties under this Agreement must be addressed to the recipient party at the address stated for that party in Attachment A, unless otherwise specified by notice in writing from the recipient party.
- (b) Any notice or other communication under this Agreement:
 - (i) where Council is the sender, must be signed by a duly authorised officer of Council;
 - (ii) is regarded as being given by the sender and received by the addressee:
 - (A) if by delivery in person, when delivered to the addressee;
 - (B) if by post, on delivery to the address; or
 - (C) if by facsimile transmission, whether or not legibly received, when received by the addressee,

but if the delivery or receipt is on a day which is not a Business Day or is after 4.00pm (addressee's time) it is regarded as received at 9.00 am on the following Business Day; and
 - (iii) can be relied upon by the addressee and the addressee is not liable to any other person for any consequences of that reliance if the addressee believes it to be genuine, correct and authorised by the sender.
- (c) In this clause, a reference to an addressee includes a reference to an addressee's officers, agents or employees or any person reasonably believed by the sender to be an officer, agent, or employee of the addressee.

10.5 Governing law and jurisdiction

This Agreement is governed by the laws in force in the State of New South Wales and each party submits to the exclusive jurisdiction of the courts exercising jurisdiction in the State of New South Wales, and the courts of appeal from those courts.

10.6 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this Agreement or any power which is prohibited by any law is ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this Agreement which is void, illegal or unenforceable does not affect the validity, legality or enforceability of the remaining provisions of this Agreement.

10.7 Waivers

- (a) Waiver of any right arising from a breach of this Agreement or of any power arising upon default under this Agreement or upon the occurrence of an Event of Default must be in writing and signed by the party granting the waiver.
- (b) A failure or delay in exercise, or partial exercise, of:
 - (1) a right arising from a breach of this Agreement or the occurrence of an Event of Default; or
 - (2) a power created or arising upon default under this Agreement or upon the occurrence of an Event of Default;
 does not result in a waiver of that right or power.
- (c) A party is not entitled to rely on a delay in the exercise or non-exercise of a right or power arising from a breach of this Agreement or on a default under this Agreement or on the occurrence of an Event of Default as constituting a waiver of that right or power.
- (d) A party may not rely on any conduct of another party as a defence to exercise of a right or power by that other party.
- (e) This clause may not itself be waived except by writing.

10.8 Dispute Resolution

The parties agree that any dispute arising under this Agreement will be dealt with as follows:

- (a) A party claiming that a dispute has arisen must give written notice of the dispute to the other party;
- (b) The parties will seek to resolve the dispute;
- (c) If the dispute is unresolved within a fourteen (14) day period (or within such further period as the parties agree in writing) then the dispute will be referred to the Australian Commercial Dispute Centre (ACDC) for mediation;
- (d) The mediation is to be conducted in accordance with the ACDC Mediation Guidelines which set out the procedures to be adopted, the process of selection of the mediator and the costs involved;
- (e) If the dispute isn't settled within 28 days (or such longer period as agreed to in writing between the parties) after appointment of the mediator, or if no mediator is appointed

within 28 days of the referral of the dispute to mediation, the parties may pursue any other procedure available at law for resolution of the dispute;

- (f) The parties must continue performing their obligations under this Agreement while the dispute is being resolved, to the extent practicable to do so;
- (g) A party must attempt to settle any dispute in relation to this Agreement in accordance with this clause (Dispute Resolution) before resorting to court proceedings or other dispute resolution process;
- (h) Nothing in this clause (Dispute Resolution) prevents either party from seeking interlocutory relief or the LCLI Administrator exercising its rights to suspend or terminate this Agreement.

10.9 Relationship

- (a) Nothing in this Agreement is intended to create a partnership, joint venture or agency relationship between the parties.
- (b) All work performed by Council and all contracts made by Council to secure the Loan and to carry out the Project must be performed and made by Council as principal and not as agent for the LCLI Administrator. In all dealings in relation to the Project and the Loan Agreement Council must act solely on Council's own account.

10.10 Variation

A variation of any term of this Agreement must be in writing and signed by the parties.

10.11 Taxes, duties and charges

Other than as specified in this Agreement, taxes, duties and charges imposed or levied in connection with this Agreement will be borne by Council.

10.12 Counterparts

- (a) This Agreement may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A party may execute this Agreement by signing any counterpart.

10.13 Survival

Any clause of this Agreement that by its nature should survive termination or expiry of this Agreement shall survive such termination or expiry including, without limitation, the following:

- (a) clause 3 (General obligations of Council);
- (b) clause 5 (Representations and warranties);
- (c) clause 6.4 (Consequences of Termination);
- (d) clause 7 (Indemnity); and
- (e) clause 8 (Insurance).

EXECUTION PAGE

Date of this Agreement: _____ 2021

Executed as an agreement by LCLI Administrator:

Signed by _____)
Kiersten Fishburn, _____)
Coordinator General, Planning Delivery and _____)
Local Government, for and on behalf of the _____)
Crown in right of the State of New South _____)
Wales on _____)
_____ 2021)

in the presence of: _____)

Signature of witness

Signature of Kiersten Fishburn

Name of witness (please print)

Executed as an agreement by the Council

The seal of Shoalhaven City Council was affixed)
in our presence _____)
on _____ 2021 _____)
in pursuance of a resolution of the Council _____)
authorising the seal to be affixed passed on 2021 _____)

Mayor/Councillor

Name of signatory (please print)

General Manager/Councillor

Name of signatory (please print)

Attachment A: Agreement Details

LCLI Administrator: Postal Address: Attention: Facsimile:	Kiersten Fishburn Locked Bag 3015, Nowra NSW 2541 LCLI Coordinator (02) 4428 4199
LCLI Coordinator: Telephone: Email:	Stephen Walker (02) 4428 4166 olg@olg.nsw.gov.au
Council: Postal Address: Attention: Email:	Shoalhaven City Council PO Box 42, NOWRA NSW 2541 General Manager council@shoalhaven.nsw.gov.au
Approved Projects	Project ID No: LCLI3000012 Project Name: Lead-in roads and cycleway Description – road works including a roundabout, kerb and gutter, cycleway, drainage and pollution control to enable the release of land in Mundamia urban release area.
Loan Amount	\$7,139,920.00
Loan Schedule	Attachment D
Total LCLI Reimbursement (upper limit over the term of the loan)	\$549,375.10 (GST exclusive)
Special Conditions:	

Attachment B: Form of 6-monthly LCLI Reimbursement Instalment Claim

To: The LCLI Coordinator, Office of Local Government

Dear Sir/Madam

LCLI Funding Agreement dated [insert date] ("the Agreement")

Council gives notice pursuant to clause 4 of the Agreement that Council wishes to claim an instalment of the LCLI Reimbursement.

The instalment of the LCLI Reimbursement now claimed is: [identify if first, second, third etc instalment as well as whether it is the June or December claim for (.....).year].

The total amount of the LCLI Reimbursement claimed to date (inclusive of this claim) is:	[insert amount] excl. GST
Amount for this claim is:	[insert amount] excl. GST

Council certifies that:

- (a) all Loan payments have been made in accordance with the Loan Agreement to the date of this claim.
- (b) this claim is accompanied by the supporting documentation required by clause 4 of the Agreement.

Terms defined in the Agreement have the same meaning when used in this LCLI Reimbursement Instalment Claim.

Signed for and on behalf of

[insert name of Council] Council

By its General Manager

.....

Signature of General Manager

.....

Name of General Manager (please print)

.....

Date

Attachment C: Reports

Report Type	Report Content and supporting documents	Report due date
Initial Report	<ol style="list-style-type: none"> Project identification details: Council name: Project ID Number: Total Project cost: Total value of Loan: Total LCLI Reimbursement: Detailed Project Delivery Schedule with key milestones both major and minor specified and identifying the anticipated project completion date. Project Cost Estimates per milestone. 	An initial report to be submitted to the LCLI Administrator for first instalment.
Progress Report	<p>Each Progress Report to be signed by Council's General Manager and to include the following:</p> <ol style="list-style-type: none"> Project identification details: Council name: Project ID Number: Total Project cost: Total value of Loan: Total LCLI Reimbursement: Project status: [One paragraph summary] Confirmation that the Loan has not been renegotiated or paid out. Tick box: On Track/Minor Delays/Major Delays (3 months plus)/Minor Change in Scope/Major Change in Scope/Completed. [NB. Above categories are to be measured referable to the Project scope and timetable advised with Council's Application.] If Major Delays/Major Change in Scope, give reasons and outline potential impact on timing and payments of LCLI Reimbursement. Project expenditure to date: (\$) Project construction to date (%) Number of new dwellings delivered directly relating to the Project. 	Each progress report to be submitted to the LCLI Administrator with each claim for an instalment of the LCLI Reimbursement, commencing with the claim for the 2nd instalment, for the term of the Agreement.

	<p>9. Comments</p> <p>10. Any further information requested by LCLI Administrator.</p> <p>Each Progress Report to be accompanied by:</p> <ol style="list-style-type: none"> 1. Bank statements showing relevant Loan repayments made to date (principal and/or interest). 2. A LCLI Reimbursement Instalment Claim Form. 	
Project Completion report	<p>This report to be signed by Council's General Manager and to include the following:</p> <ol style="list-style-type: none"> 1. Satisfactory evidence of Project Completion. 2. Commencement date of operation of the infrastructure/asset. 3. Any further information requested by LCLI Administrator. 	<p>This report is to be submitted to the LCLI Administrator within 10 Business Days of Project Completion.</p>
Final acquittal	<p>Final acquittal of LCLI Reimbursement being:</p> <ol style="list-style-type: none"> 1. A Final Statement of Expenditure that includes: <ol style="list-style-type: none"> a) the total amount spent on the Project; b) the total amount of borrowing incurred in respect of the Project; c) the total interest expense paid by Council, and d) the total amount of the LCLI Reimbursement received by Council. 2. An acquittal certificate signed by the General Manager, the responsible accounting officer and an independent auditor that: <ol style="list-style-type: none"> a) The auditor has audited the Final Statement of Expenditure and confirms that it is in accordance with the relevant proper accounts and records. b) The LCLI Reimbursement has been expended for the Approved Purpose. c) The Loan has been expended for the purpose of the Project. d) All Loan payments have been made by Council in accordance with the Loan Agreement and the Loan is fully discharged. e) Project Completion has been reached. 	<p>A final acquittal to be submitted to the LCLI Administrator within 10 Business Days of the final Loan repayment.</p>

Office of
Local Government

5 O'Keefe Avenue NOWRA NSW 2541
Locked Bag 3015 NOWRA NSW 2541

Our Reference: A766655
Your Reference:
Contact: Stephen Walker
Phone: 02 4428 4166

Mr Stephen Dunshea
General Manager
Shoalhaven City Council
36 Bridge Road
NOWRA NSW 2541
By email - council@shoalhaven.nsw.gov.au
Cc - ryan.jameson@shoalhaven.nsw.gov.au

2 August 2021

Dear Mr Dunshea

I am writing to you about the Low Cost Loans Initiative (LCLI) established by the NSW Government to accelerate the delivery of infrastructure to support growing communities and enable new housing supply.

I am pleased to provide Shoalhaven City Council (Council) with the LCLI funding agreement enabling Council to receive a 50% reimbursement of loan interest paid for the LCLI Round 3, Boongaree Park Project.

It is requested that Council return the signed funding agreement, together with the Loan Schedule (as Attachment D) to the Office of Local Government (OLG) by 27 August 2021, to ensure Council can make a claim within the next claim period in February 2022.

Council will be provided with a copy of the executed agreement which will contain the final figures and conditions.

Further information about the administration of this funding agreement and process for making a claim will be forwarded to Council by OLG prior to each of the six monthly claim periods.

Should you have any questions or wish to discuss this matter further, please call Stephen Walker, Acting Manager Program Delivery on (02) 4428 4166 or email lcli@olg.nsw.gov.au.

Yours sincerely



Kiersten Fishburn
Coordinator General
Planning Delivery and Local Government

T 02 4428 4100 F 02 4428 4199 TTY 02 4428 4209
E olg@olg.nsw.gov.au W www.olg.nsw.gov.au ABN 20 770 707 468





Office of Local Government

**Low Cost Loans Initiative (“LCLI”) Funding Agreement
for Boongaree Park**

Between

Shoalhaven City Council

and

**The LCLI Administrator, for and on behalf of the Crown
in right of the State of NSW**



DE21.116 - Attachment 3

Table of Contents

Background

1. Definitions and Interpretation
2. Term
3. General obligations
4. LCLI Reimbursement
5. Representations and warranties
6. Events of default and termination
7. Indemnities
8. Insurance
9. GST
10. General

Attachment A – Agreement details (include a Location Plan)

Attachment B – LCLI Reimbursement Claim

Attachment C – Project reports

DE21.116 - Attachment 3

Between:

1. Shoalhaven City Council as described in Attachment A (Council) and;
2. The Coordinator General, Planning Delivery and Local Government, for and on behalf of the Crown in right of the State of New South Wales ("LCLI Administrator") ABN 34 945 244 274, Levels 1 and 2, 5 O'Keefe Avenue, Nowra NSW 2541 (LCLI Administrator).

Background

The Low Cost Loans Initiative ("LCLI") has been established by the NSW Government to provide interest reimbursements in order to assist local councils accelerate the delivery of infrastructure to support growing communities.

The Council has submitted an application to the Department of Planning, Industry and Environment (DPIE) for an interest reimbursement under the LCLI. The documents that comprise this application are identified in Attachment A.

The LCLI Administrator has been advised of the approval by DPIE of the Council's application for an interest reimbursement on the terms of this Agreement.

This Agreement establishes the parameters attaching to the Government's agreement to reimburse 50% of the costs of council's interest payment on loans for eligible infrastructure.

The parties agree:

1 Definitions and interpretation**1.1 Definitions**

Agreement means this LCLI funding agreement including the Attachments and any documents incorporated in this agreement by reference.

Application means Council's application, including supporting documents submitted to the DPIE for an interest reimbursement under the LCLI.

Authorisation includes:

- (a) any consent, registration, filing, agreement, notarisation, certificate, licence, approval, permit, authority or exemption from by or with a governmental agency; or
- (b) any consent or authorisation regarded as given by a government agency due to the expiration of the period specified by a statute within which the government agency should have acted if it wished to proscribe or limit anything already lodged, registered or notified under that statute.

Business Day means for all other purposes, a day on which banks are open for business in Sydney excluding a Saturday, Sunday or public holiday.

Date of this Agreement means the date shown on the Execution Page or if it is not dated the date the LCLI Administrator signs this Agreement.

Dollars, A\$ and \$ means the lawful currency of the Commonwealth of Australia.

DPIE means Department of Planning, Industry and Environment.

Eligible Infrastructure means infrastructure that DPIE determines, in its absolute discretion, is needed to enable increased housing in areas experiencing population growth. This will be subject to determination by the Department of Planning, Industry and Environment as part of the assessment process.

Event of Default means any event specified as such in this Agreement.

Final Acquittal means a final acquittal of the LCLI reimbursement that meets the requirements for such listed in Attachment C.

GST means the goods and services tax levied under *A New Tax System (Goods and Services Tax) Act 1999 (GST Act)* or any successor Act.

GST Law means *A New Tax System (Goods and Services Tax) Act 1999*, or if that Act does not exist for any reason, means any Act imposing or relating to a GST and any regulation made under such Acts.

Guidelines means the *Low Cost Loans Initiative – Growing Local Housing Guidelines* issued by the NSW Government dated April 2018 (or if replaced by a later version, that later version).

Initial Report means an initial report for the Project that meets the requirement for such as listed in Attachment C.

Interim Progress Report means an interim progress report for the Project that meets the requirements for such as listed in Attachment C.

Lender means the third party provider of the Loan to Council, the interest payments in respect of which are to be subsidised by the LCLI Reimbursement under this Agreement.

LCLI means the Low Cost Loans Initiative.

LCLI Administrator means the Coordinator General, Planning Delivery and Local Government or his/her delegate, for and on behalf of the Crown in right of the State of New South Wales.

LCLI Coordinator means the officer of OLG described as such in Attachment A or his/her delegate.

LCLI Evaluation Panel means the DPIE panel which assesses LCLI applications.

LCLI Reimbursement means the reimbursement amount determined once the Loan to the Council is drawn down and the interest payable on the Loan can be calculated.

LCLI Reimbursement Instalment Claim means a claim made by Council to the LCLI Administrator for payment of an instalment of the LCLI Reimbursement, in the prescribed form Attachment B.

LCLI Reimbursement Instalment Period means the six month period immediately prior to a LCLI Reimbursement Instalment Claim in respect of which Council claims an instalment of the LCLI Reimbursement.

Loan means the loan to be taken out by Council to fund the Project.

Loan Agreement means the executed loan agreement between Council and its lender in respect of the Loan, a copy of which is to be provided by Council to the LCLI Administrator in accordance with this Agreement.

Loan Schedule means the Lender's summary of the Loan provisions extracted from the Loan Agreement.

OLG means the NSW Office of Local Government.

Progress Report means a progress report that meets the requirements for such as listed in Attachment C.

Project means Council's project(s), detailed in its Application, which was approved by the Minister for Planning.

Project Commencement means:

- (a) When Council completes the contract for sale of land in respect to the acquisition of the land parcel; or
- (b) When Council has completed all pre-construction engineering and design, has received all necessary licences and permits, has engaged all contractors and ordered all equipment and supplies reasonably necessary so that physical construction of the Project can proceed.

Project Completion means all regulatory certificates required for the occupation and/or use of the infrastructure that comprises the Project have issued and the Project is ready for use (except for unknown defects).

Project Completion Report means a progress report that meets the requirements for such as listed in Attachment C.

Project Delivery Schedule means the delivery schedule set out in the Council's Initial Report which must include, as a minimum, details of the project milestones, and the anticipated completion date for the Project.

Public Milestone Event means an event connected with the Project to which the Council intends to invite members of the public and/or media to attend.

Special Conditions means any additional conditions applicable to this Agreement as stipulated in Attachment A.

Specified Date means a milestone date that the parties have specified as a date for performance of an obligation under this Agreement.

Tax means:

- (a) any tax, including the GST, levy, charge, impost, duty, fee, deduction, compulsory loan or withholding; or
- (b) any income, stamp or transaction duty, tax or charge;

which is assessed, levied, imposed or collected by any governmental agency and includes, but is not limited to, any interest, fine, penalty, charge, fee or other amount imposed on or in respect of any of the above.

Tax Invoice means an invoice that complies with the requirements for a tax invoice under the *New Tax System (Goods and Services Tax) Act 1999* (Cth).

Term means the term of the Loan.

1.2 Interpretation

In this Agreement, headings and boldings are for convenience only and do not affect the interpretation of this Agreement and, unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;

- (b) words importing a gender include any gender;
- (c) other parts of speech and grammatical forms of a word or phrase defined in this Agreement have a corresponding meaning;
- (d) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Governmental Agency;
- (e) a reference to any thing (including, but not limited to, any right) includes a part of that thing but nothing in this clause 1.2(e) implies that performance of part of an obligation constitutes performance of the obligation;
- (f) a reference to a clause, party, attachment, or schedule is a reference to a clause of, and a party, attachment and schedule to, this Agreement and a reference to this Agreement includes any attachment and schedule;
- (g) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- (h) a reference to a party to any document includes that party's successors and permitted assigns;
- (i) a reference to liquidation includes official management, appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding-up, dissolution, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or any similar procedure or, where applicable, changes in the constitution of any partnership or person, or death;
- (j) a reference to legislation (including subordinate legislation) is a reference to that legislation as amended, re-enacted or replaced and includes any subordinate legislation issued under it;
- (k) a term or expression starting with a capital letter which is defined in:
 - (1) this clause 1 (Definitions and Interpretation) has the meaning given to it in this clause 1.
 - (2) the GST Law but is not defined in this Agreement has the same meaning as in the GST Law.

1.3 Business Day

Unless otherwise specified in this Agreement, where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the preceding Business Day.

2 Term

Unless earlier terminated in accordance with its terms, this Agreement is for the Term.

3 General obligations of Council

3.1 Loan Agreement

- (a) The Loan must be for a minimum of \$1,000,000.00 and for a maximum term of 10 years calculated from 6 December 2021.

- (b) The Council acknowledges by its entry into this Agreement that neither DPIE, OLG, LCLI Administrator or the State of New South Wales are liable for, and nor do they guarantee, any part of Council's obligations under or in relation to the Loan or the Loan Agreement.

3.2 Use of Loan

- (a) Proceeds of the interest reimbursement may be applied to offset the Loan or any other council costs.

3.3 Conduct of Project

- (a) Subject to this clause, unless otherwise agreed, Council must achieve Project Commencement within 12 months of the date of this Agreement.
- (b) If Council is unable to achieve Project Commencement within 12 months of the date of this Agreement, Council must, at least five (5) Business Days before the expiry of that period, notify the LCLI Administrator of that fact and provide documentation to:
 - (i) demonstrate due cause for the delay;
 - (ii) provide evidence that Council is taking specific measures to remedy the delay and details of such measures; and
 - (iii) submit an amended detailed project delivery schedule to the satisfaction of the LCLI Administrator.
- (c) Any agreed extension by the LCLI Administrator of the period to achieve Project Commencement will be for a maximum further period of 6 months.
- (d) In no case will a Council be permitted to delay Project Commencement for longer than 18 months after the date of this Agreement.
- (e) Unless otherwise agreed, Council must carry out the Project substantially in accordance with the Guidelines, its Application and the projected Project Delivery Schedule described therein.
- (f) Council must promptly advise the LCLI Administrator of any significant change (including any delay that exceeds three (3) months) in the projected Project delivery schedule as supplied with its Application.

3.4 Compliance with law

Council must comply with all legislative and regulatory requirements that may apply in relation to the Project, including obtaining all necessary approvals, licences and permissions.

3.5 Monitoring of Agreement

- (a) Council acknowledges that the LCLI Administrator may maintain regular contact with Council to monitor the performance of this Agreement, the Loan Agreement and the Project and agrees to co-operate with the LCLI Administrator in the performance of this role.
- (b) The LCLI Administrator may at any time request information from Council in connection with this Agreement, the Loan Agreement or the Project and Council must supply any such information promptly upon request.

- (c) Nothing in this Agreement displaces obligations on the Council under the *Local Government Act 1993* or precludes the LCLI Administrator from exercising functions and powers available to it under that Act.

3.6 Reports

Council must prepare and submit to the LCLI Administrator:

- (1) An Initial Report, Progress Reports and Interim Progress Report at the times stated and otherwise in accordance with the requirements specified in Attachment C;
- (2) A Project Completion Report to be submitted in accordance with the requirements specified in Attachment C;
- (3) Final Acquittal Report to be submitted in accordance with the requirements specified in Attachment C;
- (4) If requested, copies of any published reports, promotional material, media publicity, pamphlets or other documentation relevant to the Project; and
- (5) Any other written reports as may be reasonably required by the LCLI Administrator from time to time by written notice to Council.

3.7 Independent verification of LCLI financial outcomes in any given application round

Council must promptly, at its own cost, provide all assistance documents, and information reasonably required by the LCLI Administrator or its auditor for the purpose of enabling the LCLI Administrator to compile and have audited an aggregate statement of expenditure which pertains to aggregate financial outcomes for all Councils funded by the LCLI.

3.8 Records

- (a) Council must ensure that all legally required financial and operational records and registers (including all reports generated under this Agreement) are kept and maintained while carrying out the Project.
- (b) Council must retain the records, registers and reports referred to throughout the Term and for seven (7) years after the expiry or termination, of this Agreement.

3.9 Inspection

Council agrees that the LCLI Administrator or its appointed nominee may visit the site of the Project at any reasonable time, upon giving Council reasonable notice.

3.10 Audit

- (a) An audit of any aspect of the Project or Council's compliance with this Agreement may be conducted at any time by the LCLI Administrator.
- (b) Council must co-operate fully with an audit, including:
 - (i) Granting the person conducting the audit reasonable access to the site of the Project, Council's premises, Council's records and materials relevant to the Project and the performance of this Agreement;
 - (ii) Permitting the person conducting the audit to inspect and make copies of Council's records and all materials relevant to the Project and the performance of this Agreement;

- (iii) Making available on request, at no additional cost to the person conducting the audit, reasonable facilities to enable a legible reproduction to be created of Council's records and materials stored on a medium other than in writing;
- (iv) The LCLI Administrator must give Council reasonable notice of its requirements in relation to an audit and use its reasonable endeavours to minimise disruption and interference to Council's performance of its obligation under this Agreement arising from an audit;
- (v) Except where otherwise determined by the LCLI Administrator, Council is responsible for its own costs of participating in an audit;
- (vi) Council must promptly take any reasonable action required by the Loan Administrator to rectify any error, non-compliance or inaccuracy identified in an audit in relation to the Project of Council's performance of this Agreement;
- (vii) Council is not entitled to any delay costs or other costs or expenses of whatever nature relating in any way to an audit.

3.11 Promotion of LCLI and communication of outcomes

- (a) Council must acknowledge support from the LCLI in promotional materials or any public statements about the Project.
- (b) Council agrees to publicly communicate the outcomes of the Project in accordance with the Funding Acknowledgement Guidelines for recipients of NSW Government Grants (the Funding Acknowledgment Guidelines (available at <https://www.advertising.nsw.gov.au/resources/branding>).
- (c) Council authorises the LCLI Administrator and the State of New South Wales to use information Council supplies to the LCLI Administrator in its Application or pursuant to this Agreement for promotional purposes, including:
 - (1) Council's Name;
 - (2) the aggregate amount of the Loan, Project cost and LCLI Reimbursement;
 - (3) the title and description of the Project;
 - (4) any photographs of the Project supplied by Council;
 subject to any confidentiality restriction which has been requested by Council and agreed to by the LCLI Administrator.
- (d) Council will ensure that all public statements relating to the Project acknowledge the provision of the reimbursement by the NSW Government and specifically mention both the Minister for Planning, Housing and Special Minister for State and the Minister for Local Government.
- (e) Council will use the NSW Government logo in accordance with the Funding Acknowledgement Guidelines in any publicity provisions of any kind (including but not limited to any brochures, signage, advertising and invitations).
- (f) Council is to advise the Minister for Planning, Housing and Special Minister for State, the Secretary, Department of Planning, Industry and Environment, the Chief Executive, Office of Local Government and the Minister for Local Government of any public milestone events and consents to representatives of the State of New South Wales attending such events.

- (g) Council consents to allowing representatives of the State of New South Wales to use any promotional material it either obtains through its own processes or those provided by council in any media platform for the promotion of the Project and LCLI overall.
- (h) Council will issue an invitation to the Minister for Planning, Housing and Special Minister for State (or nominee), the Minister for Local Government (or nominee) and any other relevant New South Wales Member of Parliament to any launch or public event associated with the Project and further where they are able to attend, they or their nominee are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

4 LCLI Reimbursement

4.1 Amount

- (a) Subject to clause 9 (GST), the LCLI Reimbursement is the maximum amount of funding available under this Agreement and will not be increased for any reason.
- (b) Subject to paragraph (a), each instalment of the LCLI Reimbursement the subject of a LCLI Reimbursement Instalment Claim is to be calculated as an amount that represents 50% of the costs of Council's total interest payments on the Loan.
- (c) The failure to submit a claim supported by all required documentation within the time specified releases the LCLI Administrator from having to pay the claim.

4.2 When paid

- (a) Subject to this Agreement, the LCLI Administrator agrees to pay the LCLI Reimbursement to Council in six monthly instalments, to be claimed in February and August and to be paid in March and August each year following receipt of the required documentation and invoice, until the total LCLI Reimbursement is paid but no later than 6 December 2031.
- (b) The LCLI Administrator will pay each instalment of the LCLI Reimbursement to Council subject to the submission to the LCLI Administrator of the following by Council:
 - (i) a LCLI Reimbursement Instalment Claim for the applicable LCLI Reimbursement Instalment Period.
 - (ii) a Tax Invoice for the instalment of LCLI Reimbursement claimed.
 - (iii) Bank statements for the applicable LCLI Reimbursement Instalment Period evidencing all interest paid by Council on the Loan during that period.
 - (iv) a Progress Report (if applicable) for the applicable LCLI Reimbursement Instalment Period.
 - (v) Any other information reasonably required by the LCLI Administrator.
- (c) The LCLI Administrator may delay the payment of any instalments to align with any batch of payments due to other councils under the scheme.

4.3 Prepayment of interest on Loan

- (a) Unless otherwise agreed by the LCLI Administrator, prepayment of interest by Council on its Loan will not entitle it to make an early LCLI Reimbursement Instalment Claim.

- (b) Any variation to the times for payment of instalments of the LCLI Reimbursement as stated in this clause is at the sole discretion of the LCLI Administrator.

5 Representations and warranties

5.1 Representations and warranties

Council represents and warrants that:

- (a) **registration:** it is a local council established under *Local Government Act 1993 (NSW)*;
- (b) **authority:** it has full power and authority to enter into and perform its obligations under this Agreement;
- (c) **authorisations:** it has taken all necessary action to authorise the execution, delivery and performance of this Agreement in accordance with its terms;
- (d) **binding obligations:** this Agreement constitutes its legal, valid and binding obligations;
- (e) **other sources of funding:**
 - (1) as at the date of this Agreement, Council has disclosed to the LCLI Administrator all other sources of funding provided and to be provided from third parties for the Project;
 - (2) if Council secures additional sources of funding for the Project after the date of this Agreement, it will notify this in writing to the LCLI Administrator.

6 Events of Default and Termination

6.1 Notices to the LCLI Administrator

Council must give notice to the LCLI Administrator as soon as it becomes aware of any Event of Default occurring.

6.2 Events of Default

It is an Event of Default if, whether or not it is within the control of Council:

- (a) **Project does not commence by the Project Commencement date:** Council fails to achieve Project Commencement by the due date specified in this Agreement or by any extended date otherwise agreed in accordance with this Agreement.
- (b) **Major Project delay:** the Project, or any major milestone in the Project, is delayed for a period in excess of three (3) years beyond the date for Project Completion or for achievement of the relevant Project milestone, as stated in the Project Delivery Schedule.
- (c) **Default under Loan Agreement:** Council fails to pay when due any amount due under the Loan Agreement or otherwise defaults under the Loan Agreement.
- (d) **Default under other loan agreement:** Council fails to pay when due any amount due under another loan agreement entered into by Council to fund the Project or otherwise defaults under any such loan agreement.

- (e) **Termination of other LCLI funding agreement in respect of joint Project:** another LCLI funding agreement in place in respect of the Project (if the Project is jointly conducted with another council that receives an interest reimbursement under such agreement for the Project) is terminated for default by the council that is party to that agreement.
- (f) **Non-remediable breach of Agreement:** Council fails to perform or observe any other undertaking or obligation in this Agreement and that failure is not, in the opinion of the LCLI Administrator, capable of remedy.
- (g) **Failure to fix remediable breach of Agreement:** Council fails to perform or observe any other obligation in this Agreement and that failure is, in the opinion of the LCLI Administrator, capable of remedy but Council does not remedy the failure within the period specified, after receipt by Council of a notice from the LCLI Administrator specifying the failure and requiring its remedy within the period specified in the notice.
- (h) **Authorisations:** Council fails to obtain any Authorisation necessary to enable Council to comply with its obligations under this Agreement or any such Authorisation ceases to be in full force and effect.
- (i) **Misrepresentation:** any warranty, representation or statement by Council is or becomes false, misleading or incorrect when made or regarded as made by Council under this Agreement.
- (j) **Insolvency:** Council becomes insolvent.

6.3 Consequences of Event of Default

- (a) Upon the occurrence of an Event of Default the LCLI Administrator may, at its sole discretion, by written notice to Council:
 - (i) suspend this Agreement, including payments of the LCLI Reimbursement, until the default giving rise to the suspension is resolved to the satisfaction of the LCLI Administrator or the LCLI Administrator elects to terminate this Agreement, whichever occurs sooner; or
 - (ii) terminate this Agreement.
- (b) To avoid doubt, the exercise by the LCLI Administrator of any right to suspend this Agreement is without prejudice to the LCLI Administrator's right to terminate this Agreement in accordance with its terms.

6.4 Consequences of Termination for Default

- (a) If this Agreement is terminated, Council must repay the amount of the LCLI Reimbursement that has been paid to it prior to termination.
- (b) The LCLI Administrator, on behalf of the State, may recover any outstanding reimbursement.
- (c) The LCLI Administrator may make a determination of the amount of the reimbursement referred to in subsection 6.4(a) and may serve a notice on the council requiring the amount so determined be paid in recovery of the reimbursement.
- (d) An amount equal to the reimbursement as so determined, unless the LCLI Administrator otherwise decides, is payable to the LCLI Administrator as a debt by the Council.

- (e) The LCLI Administrator may certify the amount due under the notice and that certificate is sufficient evidence of the amount due, unless the contrary is proved.

6.5 Termination by Agreement

The parties may agree to terminate this Agreement at any time on such terms as may be agreed.

7 Indemnity

- (a) Council indemnifies the Crown in right of the State of New South Wales, including the LCLI Administrator and its officers, employees and agents (those indemnified), against any claim, action, damage, loss, liability, cost, charge, expense, outgoing or payment which those indemnified pay, suffer, incur or are liable for, in respect of any of the following:
 - (i) the occurrence of any Event of Default;
 - (ii) the LCLI Administrator exercising its powers consequent upon or arising out of the occurrence of any Event of Default.
- (b) Any amount payable to those indemnified under this indemnity is payable on demand.
- (c) The indemnities contained in this Agreement are continuing obligations of Council, separate and independent from the other obligations of Council and survive the termination of this Agreement.
- (d) It is not necessary for those indemnified to incur or make payment before enforcing a right of indemnity conferred by this Agreement.

8 Insurance

- (a) Council must (at its expense) during the continuance of this Agreement and for a period of three (3) years after its expiration or termination, take out and maintain with a reputable insurance company the following insurance policies:
 - (i) broad form public liability insurance (that includes public liability and product liability insurance) in the amount not less than \$20 million dollars in respect of each and every occurrence and unlimited in the aggregate;
 - (ii) workers' compensation insurance in accordance with applicable legislation in respect of the employees of Council; and
 - (iii) if applicable, a professional liability policy of insurance in the amount not less than \$10 million dollars.
- (b) Council must, on request, produce satisfactory evidence to the LCLI Administrator that the insurance requirements of this clause have been effected and are current.

9 GST

- (a) Unless otherwise stated, any consideration in this Agreement (including any consideration given by the Council for the LCLI Reimbursement) is exclusive of GST.

- (b) If a supply made under or in connection with this Agreement is a Taxable Supply the party making that supply (in this cl. 9, Supplier) may, subject to issuing a Tax Invoice, recover from the recipient of that supply (in this cl. 9, Recipient) an amount equal to the GST payable by the Supplier in respect of that supply (in this cl. 9, GST Amount).
- (c) The GST Amount is payable at the same time and in the same manner as any monetary consideration for the Supply to which the GST Amount relates but no later than the end of the tax period to which the relevant taxable supply is attributable under the GST Law.
- (d) Subject to this clause, Council warrants that at the time any supply is made under this Agreement on which GST is imposed, that Council is or will be registered under the GST Law.
- (e) Subject to this clause, any invoice rendered by Council in connection with a supply under this Agreement which seeks to recover an amount of GST payable must conform to the requirements for a Tax Invoice.
- (f) If an Adjustment Event occurs in relation to a Taxable Supply under or in connection with this Agreement that gives rise to an Adjustment, then:
 - (1) the Supplier must give an Adjustment Note to the Recipient immediately upon becoming aware of the Adjustment; and
 - (2) the GST amount payable in respect of that supply will be adjusted accordingly and the Supplier (in the case of a decreased GST Amount) will provide a corresponding refund of the GST Amount to, or (in the case of an increased GST Amount) will be entitled to receive the amount of that variation from, the Recipient, as appropriate.
- (g) If an Adjustment Event occurs in relation to a Taxable Supply under or in connection with this Agreement that does not give rise to an Adjustment, for example because it occurs in the same tax period in respect of which the GST on the Taxable Supply or the input tax credit on the acquisition is attributable, the Supplier must:
 - (1) cancel any incorrect invoice issued to the Recipient and issue a correct one; and
 - (2) if the Recipient has already paid the incorrect invoice, the Supplier (in the case of a decreased GST Amount) will provide a corresponding refund of the GST Amount to, or (in the case of an increased GST Amount) will be entitled to receive the amount of that variation in the GST Amount from, the Recipient, as appropriate.
- (h) Notwithstanding any other provision of this Agreement:
 - (1) any GST Amount payable by the Recipient to the Supplier under this clause 9 will be limited to the amount of an input tax credit to which the Recipient is entitled in respect of the relevant supply which the Recipient acquires; and
 - (2) if the Commissioner of Taxation or a court determines that a supply made under or in connection with this Agreement in respect of which the Recipient has paid the Supplier a GST Amount is not a Taxable Supply then the Supplier will refund the Recipient that amount.

10 General

10.1 LCLI Coordinator

- (a) Subject to paragraph (b), the LCLI Administrator may authorise the LCLI Coordinator to perform any of the LCLI Administrator's functions under this Agreement.
- (b) The LCLI Coordinator is not authorised to agree variations to this Agreement that relate to the amount of the LCLI Reimbursement or events of default.

10.2 Assignment by Council

Council must not transfer or assign any of its rights or obligations under this Agreement without the prior written consent of the LCLI Administrator.

10.3 Assignment by LCLI Administrator

The LCLI Administrator may at any time assign any of its rights or transfer by novation any of its rights and obligations under this Agreement to any other NSW government agency without consent of Council.

10.4 Notices

- (a) Any notice or other communication between the parties under this Agreement must be addressed to the recipient party at the address stated for that party in Attachment A, unless otherwise specified by notice in writing from the recipient party.
- (b) Any notice or other communication under this Agreement:
 - (i) where Council is the sender, must be signed by a duly authorised officer of Council;
 - (ii) is regarded as being given by the sender and received by the addressee:
 - (A) if by delivery in person, when delivered to the addressee;
 - (B) if by post, on delivery to the address; or
 - (C) if by facsimile transmission, whether or not legibly received, when received by the addressee,
 but if the delivery or receipt is on a day which is not a Business Day or is after 4.00pm (addressee's time) it is regarded as received at 9.00 am on the following Business Day; and
 - (iii) can be relied upon by the addressee and the addressee is not liable to any other person for any consequences of that reliance if the addressee believes it to be genuine, correct and authorised by the sender.
- (c) In this clause, a reference to an addressee includes a reference to an addressee's officers, agents or employees or any person reasonably believed by the sender to be an officer, agent, or employee of the addressee.

10.5 Governing law and jurisdiction

This Agreement is governed by the laws in force in the State of New South Wales and each party submits to the exclusive jurisdiction of the courts exercising jurisdiction in the State of New South Wales, and the courts of appeal from those courts.

10.6 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this Agreement or any power which is prohibited by any law is ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this Agreement which is void, illegal or unenforceable does not affect the validity, legality or enforceability of the remaining provisions of this Agreement.

10.7 Waivers

- (a) Waiver of any right arising from a breach of this Agreement or of any power arising upon default under this Agreement or upon the occurrence of an Event of Default must be in writing and signed by the party granting the waiver.
- (b) A failure or delay in exercise, or partial exercise, of:
 - (1) a right arising from a breach of this Agreement or the occurrence of an Event of Default; or
 - (2) a power created or arising upon default under this Agreement or upon the occurrence of an Event of Default;
 does not result in a waiver of that right or power.
- (c) A party is not entitled to rely on a delay in the exercise or non-exercise of a right or power arising from a breach of this Agreement or on a default under this Agreement or on the occurrence of an Event of Default as constituting a waiver of that right or power.
- (d) A party may not rely on any conduct of another party as a defence to exercise of a right or power by that other party.
- (e) This clause may not itself be waived except by writing.

10.8 Dispute Resolution

The parties agree that any dispute arising under this Agreement will be dealt with as follows:

- (a) A party claiming that a dispute has arisen must give written notice of the dispute to the other party;
- (b) The parties will seek to resolve the dispute;
- (c) If the dispute is unresolved within a fourteen (14) day period (or within such further period as the parties agree in writing) then the dispute will be referred to the Australian Commercial Dispute Centre (ACDC) for mediation;
- (d) The mediation is to be conducted in accordance with the ACDC Mediation Guidelines which set out the procedures to be adopted, the process of selection of the mediator and the costs involved;
- (e) If the dispute isn't settled within 28 days (or such longer period as agreed to in writing between the parties) after appointment of the mediator, or if no mediator is appointed

within 28 days of the referral of the dispute to mediation, the parties may pursue any other procedure available at law for resolution of the dispute;

- (f) The parties must continue performing their obligations under this Agreement while the dispute is being resolved, to the extent practicable to do so;
- (g) A party must attempt to settle any dispute in relation to this Agreement in accordance with this clause (Dispute Resolution) before resorting to court proceedings or other dispute resolution process;
- (h) Nothing in this clause (Dispute Resolution) prevents either party from seeking interlocutory relief or the LCLI Administrator exercising its rights to suspend or terminate this Agreement.

10.9 Relationship

- (a) Nothing in this Agreement is intended to create a partnership, joint venture or agency relationship between the parties.
- (b) All work performed by Council and all contracts made by Council to secure the Loan and to carry out the Project must be performed and made by Council as principal and not as agent for the LCLI Administrator. In all dealings in relation to the Project and the Loan Agreement Council must act solely on Council's own account.

10.10 Variation

A variation of any term of this Agreement must be in writing and signed by the parties.

10.11 Taxes, duties and charges

Other than as specified in this Agreement, taxes, duties and charges imposed or levied in connection with this Agreement will be borne by Council.

10.12 Counterparts

- (a) This Agreement may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A party may execute this Agreement by signing any counterpart.

10.13 Survival

Any clause of this Agreement that by its nature should survive termination or expiry of this Agreement shall survive such termination or expiry including, without limitation, the following:

- (a) clause 3 (General obligations of Council);
- (b) clause 5 (Representations and warranties);
- (c) clause 6.4 (Consequences of Termination);
- (d) clause 7 (Indemnity); and
- (e) clause 8 (Insurance).

EXECUTION PAGE

Date of this Agreement: _____ 2021

Executed as an agreement by LCLI Administrator:

Signed by _____)
Kiersten Fishburn, _____)
Coordinator General, Planning Delivery and _____)
Local Government, for and on behalf of the _____)
Crown in right of the State of New South _____)
Wales on _____)
_____ 2021)

in the presence of: _____)

Signature of witness

Signature of Kiersten Fishburn

Name of witness (please print)

Executed as an agreement by the Council

The seal of Shoalhaven City Council was affixed)
in our presence _____)
on _____ 2021 _____)
in pursuance of a resolution of the Council _____)
authorising the seal to be affixed passed on 2021 _____)

Mayor/Councillor

Name of signatory (please print)

General Manager/Councillor

Name of signatory (please print)

Attachment A: Agreement Details

LCLI Administrator: Postal Address: Attention: Facsimile:	Kiersten Fishburn Locked Bag 3015, Nowra NSW 2541 LCLI Coordinator (02) 4428 4199
LCLI Coordinator: Telephone: Email:	Stephen Walker (02) 4428 4166 olg@olg.nsw.gov.au
Council: Postal Address: Attention: Email:	Shoalhaven City Council PO Box 42, NOWRA NSW 2541 General Manager council@shoalhaven.nsw.gov.au
Approved Projects	Project ID No: LCLI3000014 Project Name: Boongaree Park Description – Works include the construction of recreational facilities including a skate park and sporting fields in addition to footpaths and lead-in infrastructure to support the growing population.
Loan Amount	\$11,532,500.00
Loan Schedule	Attachment D
Total LCLI Reimbursement (upper limit over the term of the loan)	\$786,561.44 (GST exclusive)
Special Conditions:	

Attachment B: Form of 6-monthly LCLI Reimbursement Instalment Claim

To: The LCLI Coordinator, Office of Local Government

Dear Sir/Madam

LCLI Funding Agreement dated [insert date] ("the Agreement")

Council gives notice pursuant to clause 4 of the Agreement that Council wishes to claim an instalment of the LCLI Reimbursement.

The instalment of the LCLI Reimbursement now claimed is: [identify if first, second, third etc instalment as well as whether it is the June or December claim for (.....).year].

The total amount of the LCLI Reimbursement claimed to date (inclusive of this claim) is:	[insert amount] excl. GST
Amount for this claim is:	[insert amount] excl. GST

Council certifies that:

- (a) all Loan payments have been made in accordance with the Loan Agreement to the date of this claim.
- (b) this claim is accompanied by the supporting documentation required by clause 4 of the Agreement.

Terms defined in the Agreement have the same meaning when used in this LCLI Reimbursement Instalment Claim.

Signed for and on behalf of

[insert name of Council] Council

By its General Manager

.....

Signature of General Manager

.....

Name of General Manager (please print)

.....


Date

Attachment C: Reports

Report Type	Report Content and supporting documents	Report due date
Initial Report	<ol style="list-style-type: none"> Project identification details: Council name: Project ID Number: Total Project cost: Total value of Loan: Total LCLI Reimbursement: Detailed Project Delivery Schedule with key milestones both major and minor specified and identifying the anticipated project completion date. Project Cost Estimates per milestone. 	An initial report to be submitted to the LCLI Administrator for first instalment.
Progress Report	<p>Each Progress Report to be signed by Council's General Manager and to include the following:</p> <ol style="list-style-type: none"> Project identification details: Council name: Project ID Number: Total Project cost: Total value of Loan: Total LCLI Reimbursement: Project status: [One paragraph summary] Confirmation that the Loan has not been renegotiated or paid out. Tick box: On Track/Minor Delays/Major Delays (3 months plus)/Minor Change in Scope/Major Change in Scope/Completed. [NB. Above categories are to be measured referable to the Project scope and timetable advised with Council's Application.] If Major Delays/Major Change in Scope, give reasons and outline potential impact on timing and payments of LCLI Reimbursement. Project expenditure to date: (\$) Project construction to date (%) Number of new dwellings delivered directly relating to the Project. 	Each progress report to be submitted to the LCLI Administrator with each claim for an instalment of the LCLI Reimbursement, commencing with the claim for the 2nd instalment, for the term of the Agreement.

	<p>9. Comments</p> <p>10. Any further information requested by LCLI Administrator.</p> <p>Each Progress Report to be accompanied by:</p> <ol style="list-style-type: none"> 1. Bank statements showing relevant Loan repayments made to date (principal and/or interest). 2. A LCLI Reimbursement Instalment Claim Form. 	
Project Completion report	<p>This report to be signed by Council's General Manager and to include the following:</p> <ol style="list-style-type: none"> 1. Satisfactory evidence of Project Completion. 2. Commencement date of operation of the infrastructure/asset. 3. Any further information requested by LCLI Administrator. 	<p>This report is to be submitted to the LCLI Administrator within 10 Business Days of Project Completion.</p>
Final acquittal	<p>Final acquittal of LCLI Reimbursement being:</p> <ol style="list-style-type: none"> 1. A Final Statement of Expenditure that includes: <ol style="list-style-type: none"> a) the total amount spent on the Project; b) the total amount of borrowing incurred in respect of the Project; c) the total interest expense paid by Council, and d) the total amount of the LCLI Reimbursement received by Council. 2. An acquittal certificate signed by the General Manager, the responsible accounting officer and an independent auditor that: <ol style="list-style-type: none"> a) The auditor has audited the Final Statement of Expenditure and confirms that it is in accordance with the relevant proper accounts and records. b) The LCLI Reimbursement has been expended for the Approved Purpose. c) The Loan has been expended for the purpose of the Project. d) All Loan payments have been made by Council in accordance with the Loan Agreement and the Loan is fully discharged. e) Project Completion has been reached. 	<p>A final acquittal to be submitted to the LCLI Administrator within 10 Business Days of the final Loan repayment.</p>

Section 4.15 Assessment Report

	<p>Section 4.15 Assessment Report</p> <p><i>Environmental Planning & Assessment Act 1979</i></p>
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Property Address	5 The Concourse, CAMBEWARRA VILLAGE
Lot and DP	Lot 2011 DP 1052766
Applicant(s)	Nest Residential Design Pty Ltd
Owner(s)	Luke Neil Jennings Dianne Grace Campbell

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 Manager.

Name

Development Assessment Officer

15/07/2021

1. Detailed Proposal

The proposal includes:

- Alterations and additions to existing dwelling involving a clause 4.6 exception to building height limit (SLEP 2014)

Information Referred

Stamped plans/documents	Ref/sheet no.	Prepared by	Dated
Site Plan and Site Analysis	2 of 11	Nest Residential Design	27/04/2021
Proposed Ground Floor Plan	4 of 11	Nest Residential Design	27/04/2021
Proposed First Floor Plan	5 of 11	Nest Residential Design	27/04/2021
Section	6 of 11	Nest Residential Design	27/04/2021
Section	7 of 11	Nest Residential Design	27/04/2021
Elevations	8 of 11	Nest Residential Design	27/04/2021

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Elevations	9 of 11	Nest Residential Design	27/04/2021
BASIX Certificate	A365282_03	Nest Residential Design	27/04/2021
Waste Management Plan	-	Nest Residential Design	04/05/2021
Colour and Material Schedule	-	Nest Residential Design	09/06/2021
Neighbouring approval	-	Nest Residential Design	20/07/2021
Cover Letter	1 of 11	Nest Residential Design	27/04/2021
Existing Floor Plan	3 of 11	Nest Residential Design	27/04/2021
Site Management Plan	10 of 11	Nest Residential Design	27/04/2021
Model	11 of 11	Nest Residential Design	27/04/2021
CI 4.6 Variation Submission	-	Cowman Stoddart Pty Ltd	11/05/2021
Cost Summary	-	Nest Residential Design	11/05/2021
BOSET Report	-	Nest Residential Design	04/05/2021
Owner's Consent	-	Nest Residential Design	20/07/2021
Statement of Environmental Effects	-	Nest Residential Design	04/05/2021
Shadow Diagrams – Winter Solstice	1 – 3a	Nest Residential Design	13/01/2020
Shadow Diagrams – Summer Solstice	1 – 3b	Nest Residential Design	13/01/2020
Shadow Diagrams – Spring Equinox	1 – 3c	Nest Residential Design	13/01/2020
Shadow Diagrams – Autumn Equinox	1 – 3d	Nest Residential Design	13/01/2020

2. Subject Site and Surrounds

Site Description

The subject site is located at 5 The Concourse, CAMBEWARRA VILLAGE - Lot 2011 DP 1052766. The subject site is an irregularly shaped corner allotment with primary frontage towards The Concourse and secondary frontage towards The Terrace. The subject site is accessed via The Terrace, which is a sealed public road maintained by council.

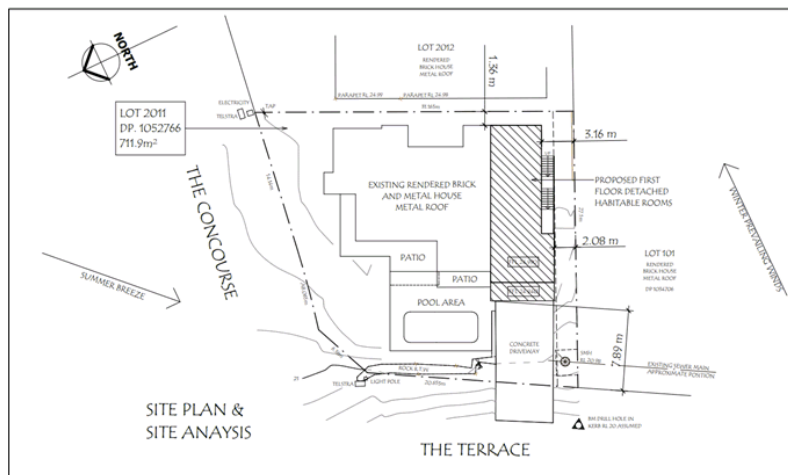
The subject site has an area of 711.90 m2 and is zoned R2 - LOW DENSITY RESIDENTIAL. The subject site is not identified as bushfire prone land per council mapping nor is flood liable, per council mapping.

The subject site is currently occupied by a single dwelling and swimming pool. The subject site is in a well-established locality. The adjoining properties to the subject site are occupied by residential dwellings.

The subject site is restricted to a maximum building height per clause 4.3 of the Shoalhaven Local Environmental Plan. The proposed development seeks a clause 4.6 exception to the development

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standard prescribed by clause 4.3 Height of Buildings to achieve a building height of 7.71m. This is further discussed in Appendix B.



Summary of Site and Constraints

GIS Map Layer		
	Lot Area	711.90m ²
	Zone	R2 Low Density Residential
	Does the land have a dwelling entitlement? Note: for rural land refer to clause 4.2D of Shoalhaven LEP 2014.	Yes
T O P O	Fall direction of land	Fall of land toward street

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	Slope of land >20%?	No
Site Inspection	Works within proximity to electricity infrastructure?	No
	Is the development adjacent to a classified road ?	No
	Is the development adjacent to a rail corridor ?	No
Utility Network	Access to reticulated sewer?	Yes
	Does the proposal require a new connection to a low-pressure sewer main (i.e. a new dwelling connection)? -- Low Pressure Sewer Main	No
	Building over sewer policy applicable? <i>Note: Zones of influence can differ based on soil type (e.g., sandy soils vs clay soils). If unsure discuss with Shoalhaven Water.</i>	No
	Access to reticulated water?	Yes
Environmental Layers	Aboriginal Cultural Heritage	No
	Bush Fire	No
	Coastal Hazard Lines (applies to location of proposed development)	No
	Coastal Hazard Area	No
	Potentially Contaminated Land	No
	Flood (i.e. below the FPA (existing)) <input checked="" type="checkbox"/> FPA <input checked="" type="checkbox"/> Flood Planning Area (Existing) <i>Note: There are several catchments that have not have flood studies conducted. Sites outside of the flood study area may still be subject to flooding. Refer to advisory note on p.3 of Chapter G9 of Shoalhaven DCP 2014.</i> <input checked="" type="checkbox"/> Flood Data <input checked="" type="checkbox"/> Flood Studies	No

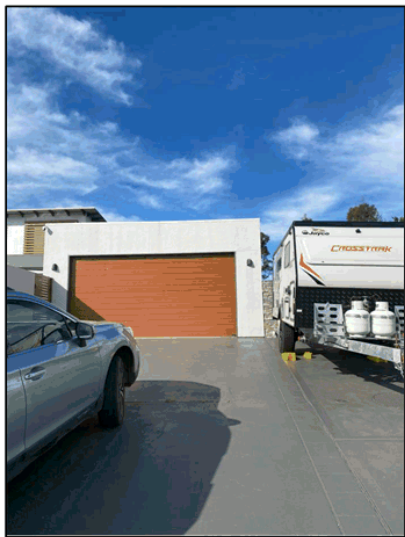
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	<i>Development within 40m of a watercourse?</i>	No
	<i>SEPP (Coastal Management) 2018</i>	No
	<i>SEPP (Sydney Drinking Water Catchment 2011) (e.g. NorBE)</i>	No
Shoalhaven LEP 2014	<i>Acid Sulfate Soils</i>	Class 5
	<i>Terrestrial Biodiversity</i>	No
	<i>Coastal Risk Planning</i>	No
	<i>Heritage</i>	No
	<i>Scenic Protection</i>	No
<u>BV Map</u>	<i>Biodiversity Values Map</i>	No

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Site Inspection Observations

Refer to iAuditor Report D21/349871



DE21.120 - Attachment 1

[illegible]

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The site was created as a residual lot (PT 133) within the initial Deposited Plan under the subdivision consent SF8832 and was registered on 12 June 2002. The following restriction as to user was created under SF8832, although, PT 133 was not burdened by the restriction:

"No building shall be constructed on any lot burdened unless its structure (not including vents, aerals, chimneys or similar minor facilities) is no higher than the horizontal plane which is five metres above the highest point of the natural ground to be occupied by the building. If the natural slope allows, two storey and/or split-level construction shall be allowed for part of the building providing the building complies with the above height restriction".

Lot PT133 was further subdivided into two lots (the subject site Lot 2011, and Lot 2012) under SF9236 which was approved on 5 March 2003 and registered on 13 May 2003.

The subdivision consent for SF9236 imposed a similar condition, that the maximum permissible height limit be 5m for the lot burdened. However, this restriction as to user does not appear to have been created on the 88B instrument.

3. Background

Pre-Lodgement Information

N/A

Post-Lodgement Information

Reference number	Milestone	Date
1	Application submitted	11/05/2021
2	Additional Information was requested	21/05/2021
3	Additional Information was provided	24/05/2021
4	Application lodged	24/05/2021
5	Additional Information was requested	08/06/2021
6	Additional Information was provided	09/06/2021
7	Additional Information was requested	20/07/2021
8	Additional Information was provided	20/07/2021

Site History and Previous Approvals

The proposed development was previously submitted to council under DA20/1031. The application was recommended for approval but then was resolved not to be supported at the Council Meeting dated 1 September 2020 (Min 20.606) (D20/398062).

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Darts - since 1st July 2005

Application	Appl. Date	Application Type	Proposal	Status	Completed
DR21/1498	24/05/2021	Sewer Connection (Amended)	Alterations & Additions to Existing Dwelling	Incomplete	
DA21/1527	24/05/2021	Development Application	Alterations & Additions to Existing Dwelling	Incomplete	
DR20/1026	17/01/2020	Sewer Connection (Amended)	First Floor Additions to Create Detached Habitable Room	Withdrawn	21/01/2021
DA20/1031	17/01/2020	Development Application	First Floor Additions to Create Detached Habitable Room	Withdrawn	21/01/2021
QC05/3426	29/09/2005	Final Occupation Certificate	Swimming Pool (In Ground)	Approved	29/09/2005

Plain Sailing - since 2nd September 1996

Application	Appl. Date	Proposal	Status	Status Date
DA04-2747	05/08/2004	Swimming Pool (In Ground)	Approved (T)	01/09/2004
DA03-1548	20/02/2004	New Dwelling (Urban)	Approved (T)	20/02/2004
DA03-1548	07/03/2003	New Dwelling (Urban)	Approved (T)	17/04/2003
DA03-1548	07/03/2003	New Dwelling (Urban)	Approved (T)	06/04/2004
DR03-1268	07/03/2003	Sewer Application	Approved (P)	17/04/2003

4. Consultation and Referrals

N/A

5. Other Approvals

N/A

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6. Statutory Considerations

Environmental Planning and Assessment Act 1979

Section 4.14 Consultation and development consent – certain bush fire prone land

Is the development site mapped as bush fire prone land?	No
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Section 4.46 Integrated Development

N/A

Biodiversity Conservation Act 1979

Does the application include works or vegetation removal within the Biodiversity Values mapped area ?	No																		
Does the application involve clearing of native vegetation above the area clearing threshold? <div data-bbox="317 772 718 1057" data-label="Table"> <table> <tr> <th colspan="2">Area clearing threshold</th></tr> <tr> <td colspan="2">The area threshold varies depending on the minimum lot size (shown in the Lot Size Maps made under the relevant Local Environmental Plan (LEP)), or actual lot size (where there is no minimum lot size provided for the relevant land under the LEP).</td></tr> <tr> <th>Minimum lot size associated with the property</th><th>Threshold for clearing, above which the BAM and offsets scheme apply</th></tr> <tr> <td>Less than 1 ha</td><td>0.25 ha or more</td></tr> <tr> <td>1 ha to less than 40 ha</td><td>0.5 ha or more</td></tr> <tr> <td>40 ha to less than 1000 ha</td><td>1 ha or more</td></tr> <tr> <td>1000 ha or more</td><td>2 ha or more</td></tr> <tr> <td colspan="2">The area threshold applies to all proposed native vegetation clearing associated with a proposal, regardless of whether this clearing is across multiple lots. In the case of a subdivision, the proposed clearing must include all future clearing likely to be required for the intended use of the land after it is subdivided.</td></tr> <tr> <td colspan="2">If the land on which the proposed development is located has different minimum lot sizes the smaller or smallest of those minimum lot sizes is used to determine the area clearing threshold.</td></tr> </table> </div>	Area clearing threshold		The area threshold varies depending on the minimum lot size (shown in the Lot Size Maps made under the relevant Local Environmental Plan (LEP)), or actual lot size (where there is no minimum lot size provided for the relevant land under the LEP).		Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply	Less than 1 ha	0.25 ha or more	1 ha to less than 40 ha	0.5 ha or more	40 ha to less than 1000 ha	1 ha or more	1000 ha or more	2 ha or more	The area threshold applies to all proposed native vegetation clearing associated with a proposal, regardless of whether this clearing is across multiple lots. In the case of a subdivision, the proposed clearing must include all future clearing likely to be required for the intended use of the land after it is subdivided.		If the land on which the proposed development is located has different minimum lot sizes the smaller or smallest of those minimum lot sizes is used to determine the area clearing threshold.		No
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If the land on which the proposed development is located has different minimum lot sizes the smaller or smallest of those minimum lot sizes is used to determine the area clearing threshold.																			
Will the proposed development have a significant impact on environmental values of the site (i.e., 'test of significance')	No																		
If the application exceeds the Biodiversity Offsets Scheme Threshold (i.e., if yes to any of the above), has the application been supported by a Biodiversity Development Assessment Report (BDAR)?	N/A																		

Fisheries Management Act 1994

N/A

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 *Environmental Planning and Assessment Act 1979*.

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

i) Environmental planning instrument

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*. The following planning instruments and controls apply to the proposed development:

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Environmental Planning Instrument	Relevant
<i>Shoalhaven Local Environmental Plan 2014</i>	<input checked="" type="checkbox"/>
<i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i>	<input checked="" type="checkbox"/>
<i>State Environmental Planning Policy No 55 – Remediation of Land</i>	<input checked="" type="checkbox"/>

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

The application has been supported by an appropriate BASIX Certificate (Certificate No - A365282_03)

State Environmental Planning Policy No 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)?	<input type="checkbox"/> Proceed to Question 3	<input checked="" type="checkbox"/> Proceed to Question 2

Shoalhaven Local Environmental Plan 2014

Land Zoning

The land is zoned R2 Low Density Residential under the *Shoalhaven Local Environmental Plan 2014*.

Characterisation and Permissibility

The proposal is best characterised as alterations and additions to existing dwelling under the *Shoalhaven Local Environmental Plan 2014*. The proposal is permitted within the zone with the consent of Council.

Zone objectives

Objective	Comment
To provide for the housing needs of the community within a low-density residential environment.	The proposal is consistent with the objectives of the zone.
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.	

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Applicable Clauses

Clause		Comments	Complies/ Consistent
Part 4 Principal development standards			
4.3	<input checked="" type="checkbox"/>	The height set by the Height of Buildings Map is 5m The proposed development seeks to exceed this height limit via cl 4.6.	Clause 4.6 exception proposed
4.6	<input checked="" type="checkbox"/>	The application has been supported by a written statement as required by clause 4.6 of Shoalhaven LEP 2014. Consideration of the applicant's clause 4.6 statement is outlined below.	Does not comply – Application recommender for refusal

Unreasonable or Unnecessary

Clause 4.6 requires that Council be satisfied that the applicant's clause 4.6 statement demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

Extract from applicant's clause 4.6 statement

8.1 COMPLIANCE WITH STANDARD UNREASONABLE OR UNNECESSARY

It is our view that requiring compliance with the maximum height requirement of Clause 4.3 (2) of the SLEP 2014 under the specific circumstances of this case would be unreasonable and unnecessary.

Preston CJ in *Wehbe v Pittwater Council* [2007] NSWLEC827 (21 December 2007) provides commentary with respect to establishing whether compliance with a development standard is unreasonable or unnecessary under the specific circumstances of a particular matter. Whilst this case related to the use of SEPP 1, given the similarities between the objects of SEPP No. 1 and Clause 4.6 the findings of Preston CJ does provide guidance with respect to the implementation of this clause.

According to Preston CJ one of the most commonly invoked ways to establish that compliance with the development standard is unreasonable or unnecessary is because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).

As outlined in Section 6.0 above, the objectives underpinning the development standard – in this instance the maximum building height of five metres is a relevant consideration in determining whether strict compliance with that standard under the specific circumstances of the case would be unreasonable or unnecessary.

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<p>The purpose or objective of the height of buildings standard is expressly stated in Clause 4.3 as follows:</p> <ul style="list-style-type: none"> a) <i>to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of a locality,</i> b) <i>to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,</i> c) <i>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.</i> <p>The above objectives in my view provide a clear appreciation of the purposes underpinning the height of buildings development standard outlined in Clause 4.3 (2) and which applies to the subject site.</p> <p>This written submission will demonstrate that this proposal will not prevent the above objectives from being achieved notwithstanding non-compliance with the five metre height restriction development standard in the specific circumstances of this case.</p> <p>Having regard to the above objectives, it is my view that the proposal is not inconsistent with these for the following reasons:</p> <ul style="list-style-type: none"> • The design of the development is compatible with the bulk and scale of the existing development on the site and in the locality. In this regard, the proposed addition is clearly an upper level, however as outlined above, the existing dwelling already features an oversized highlight window that gives the impression of the building containing an upper level (refer Plate 1). This is replicated in the dwelling to the south (Plate 2) which features a dormer style window, typical of a building containing an upper level. • Furthermore, the existing dwelling located at No. 1 Lebene Grove, Cambewarra (an extension of The Terrace) is clearly of two stories in height with a level above garaging. The 5 m limit imposed by the Height of Building Map also applies to this property and has clearly been breached by the resultant development on that allotment. As such, it is evident that Council has not strictly applied the 5 m height limit. • The Height of Building Map that applies to land on the western side of the Terrace (ie. immediately opposite the subject site) stipulates an 8.5 m limit and this has resulted in dwellings two storeys in height. • The subject site does not immediately adjoin rural land, but adjoins other residential zoned land and the proposed development is appropriate in a residential setting, and will suitably transition to the nearby pastoral landscape. • The proposal incorporates a high architectural quality in its design that will contribute to the character of the development and its context within the public domain. The design adopts a composition of building elements, materials, textures, colours which will have a positive effect in terms of the scale and appearance of the development in context of this local area and which matches the existing dwelling. • The design of the development has been undertaken in compliance with the statutory requirements of both the SLEP 2014 and SDCP 2014. The minor breach to the maximum building height limit notwithstanding the proposed development complies with the relevant statutory requirements which relate to the anticipated bulk scale and size of development envisaged for this site. • The placement of floor space is constrained by the corner siting, and a desire to present well to both street frontages through the provision of generous setbacks to 	
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The Terrace and The Concourse, which will enhance the broader appeal of the development and provide greater public benefit.

- The extent to which the proposal exceeds the maximum building height limit is only minor and in consideration of the overall development. The proposal will have a compliant height limit for the majority of the development, only a modest section of the overall development exceeds the height limit and in this regard, it is noted that 189 m² of roof area complies, as opposed to 114 m² of non-compliant area. This represents 62.4% of the total roof area as being compliant.
- The proposed encroachment above the 5 m height limit does not result in significant additional visual impacts, disruption of views, loss of privacy or loss of solar access to existing development. In this regard, the proposal:
 - Maintains privacy to the:
 - South, through the use of highlight windows which are predominantly used along the southern elevation of the additions where privacy issues are concerned. Elsewhere, windows and the balcony overlook only the adjoining driveway,
 - East, by presenting with as the ensuite bathroom window is provided with a fixed screen,
 - North, the windows overlook the roof of the existing dwelling
 - West, the balcony overlooks The Terrace public road
 - Does not result in any additional view loss;
 - Does not unreasonably overshadow adjoining dwellings, and in particular the dwelling sited on the property to the south which is well set back from The Terrace and subject site such that overshadowing mostly affects the driveway.

That property also contains an inground swimming pool which may be impacted by the first storey addition. In this regard, Shadow Diagrams prepared at the winter solstice do show that the addition will overshadow the pool at midday and until approximately 3:00 pm. However, noting that the pool is unlikely to be used during the colder winter months, Shadow Diagrams were also prepared to show the extent of overshadowing at the Summer solstice and Autumn/Spring equinoxes. These show that for these periods, the pool is not overshadowed at all between 9:00 am and 3:00 pm. Consequently, it is considered that the proposal will not unreasonably overshadow the inground pool.

 - The subject site, adjoining properties and nearby areas are not identified as containing identified heritage items, or as being within a heritage conservation area.

Given the factors outlined above, it is our view that the proposal has been designed in a manner that is consistent with the scale of development undertaken in this area having regard to the planning provisions that apply to the land; and incorporates design measures to ensure compatibility with established residences in the locality. As a consequence, it is considered that strict compliance with the standard is unreasonable under the circumstances.

[Plate 1, 2 and 3 from applicants variation statement inserted for reference] –

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Plate 1: Existing dwelling.

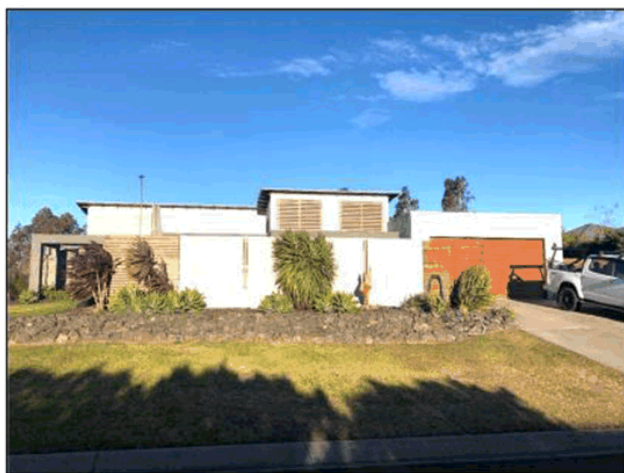


Plate 2: Existing dwelling.

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Plate 3: Adjoining dwelling to south.

Commentary from Development Assessment Staff

The applicant's clause 4.6 statement seeks to demonstrate that compliance with the development standard (building height limit) is unreasonable and unnecessary in the circumstances of the case by showing that the objectives of the development standard are achieved notwithstanding noncompliance with the development standard. This is one of the methods identified by Preston CJ in *Wehbe v Pittwater Council* [2007] NSWLEC827.

The objectives of the building height limit set by clause 4.3 of Shoalhaven LEP 2014 (the development 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.

Compatibility with the existing and desired future character of the locality

The subject site is part of a small parcel of lots within Cambewarra Village that are subject to a 5m building height limit. As a result, the subject site and surrounding lots that fall under the 5m building height limit are occupied by single storey dwellings. As noted in the applicant's clause 4.6 statement, the dwelling at 1 Lebene Grove, Cambewarra is the exception to this height limit, with a peak building height of 6.78m approved by DA04/1670.

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Figure 1: Aerial image highlighting subject site (yellow) and 1 Lebne Grove (blue)

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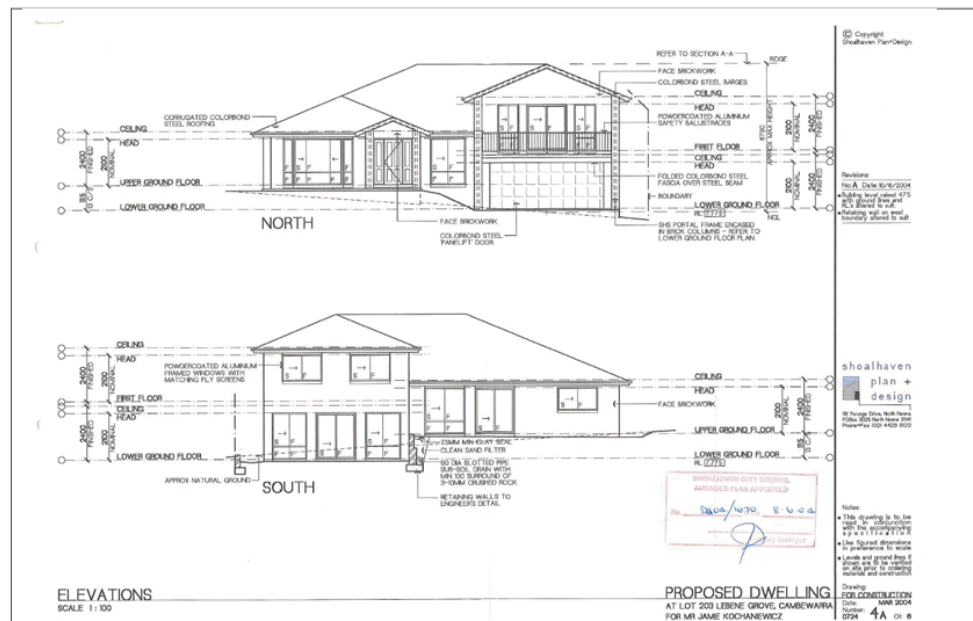


Figure 2: Approved Elevation Plans for DA04/1670



Figure 3: Image of existing dwelling at 1 Lebene Grove

The allotments on the western side of The Terrace and southern side of The Concourse as well as other allotments throughout the locality fall under an 8.5m building height limit. Under the

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8.5m maximum building height mapping, single and two-storey dwellings of various building heights are observed.



Figure 4 – Height of Building Mapping Extract (subject site highlighted in yellow)

The lots on the northern side of The Concourse and the eastern side of The Terrace have been intentionally mapped in the Shoalhaven LEP 2014 as having a maximum building height limit of 5m. This building height limit is similarly reflected in restrictions on the title of these allotments and for the most part, all lots within the mapped 5m maximum building height limit area are single storey and comply with the 5m height limit. Therefore, the desired future character of the locality is to maintain a 5m height limit and resulting single storey character for these areas.

The applicant's clause 4.6 statement points to Plate 1, 2 and 3 as justification that the proposed second storey additions are compatible with the surrounding area. These Plates show recessed highlight windows and dormer attic-style windows which have been purposefully being integrated into the roof designs so that the buildings present as single storey as opposed to two-storey buildings.

It is noted that the dwelling at 1 Lebene Grove does exceed the 5m building height limit, however this property is located over 200m away from the subject site and it is not representative of the dominant character of the 5m building height mapped area.

The applicant's variation statement has not adequately demonstrated that the proposal is compatible with the height, bulk, and scale of the existing and desired future character of a locality.

Privacy

The applicant has supported the application with written declarations from the landowners of 4 The Concourse, 3 The Concourse and 2 The Terrace advising they have no objection to the proposed development.

As the subject site is a corner lot, the primary and secondary frontages do not directly adjoin properties. The proposed development therefore does not give rise to privacy concerns along the Northern and Western boundaries. The subject site directly adjoins two properties, 3 The Terrace (to the south) and 3 The Concourse (to the east).

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The eastern elevation of the proposed development adjoins 3 The Concourse. The eastern elevation features a louvre screen that faces the adjoining property. Direct views into the private open space and living areas of 3 The Concourse are therefore avoided.

As noted in the applicant's clause 4.6 statement privacy to adjoining residences has sought to be maintained by provision of highlight windows and privacy screens. Although suitable privacy measures have been incorporated into the design to maintain privacy to adjoining residences from upper-level rooms, the balcony area and the top of the external staircase, the application has not demonstrated that privacy to adjoining residences will be maintained when ascending or descending the external staircase. The staircase will place people in an elevated position along the southern boundary which will overlook the swimming pool and principal private open space area for the adjoining residence at 3 The Terrace. Although these overlooking impacts from the external stairs would be only transitory, due to the elevated nature of the development, they are not insignificant.

The applicant's clause 4.6 statement has not adequately demonstrated that the proposal has been designed to minimise loss of privacy to adjoining development.

Solar Access

In accordance with acceptable solution A10.3 of section 5.6 – Solar and Daylight Access of *Shoalhaven DCP 2014*, the application has been supported by shadow diagrams showing that the development maintains at least 3 hours of direct sunlight between 9am and 3pm on 21 June to adjoining development to:

- 10m² of private open space; and
- 50% of windows and glazed doors of north facing living areas; and
- North facing roofs and existing solar collectors.

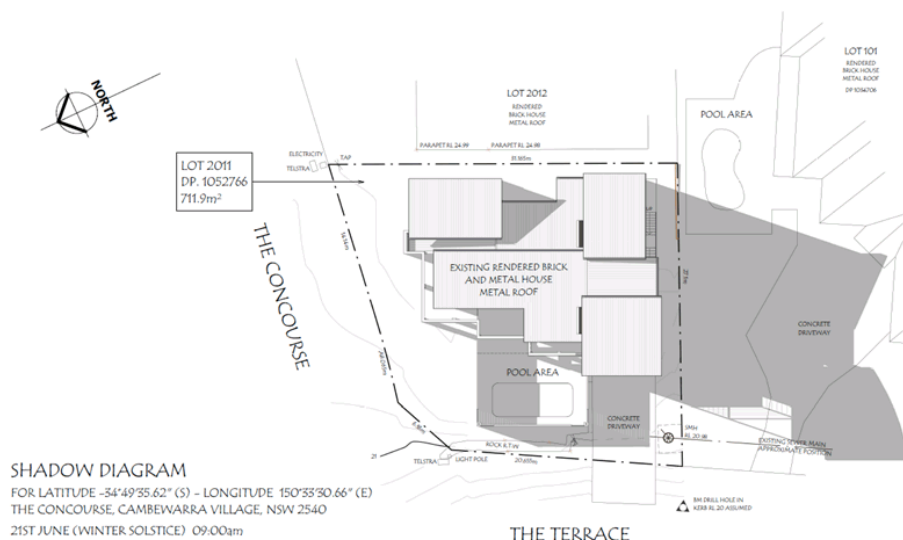


Figure 5 – Shadow Diagram – 9:00am

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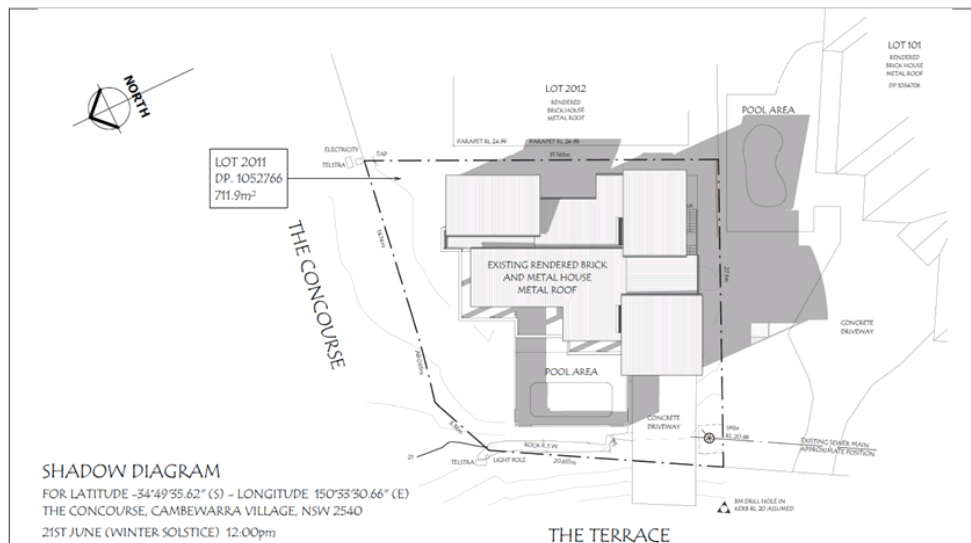


Figure 6 – Shadow Diagram – 12:00pm

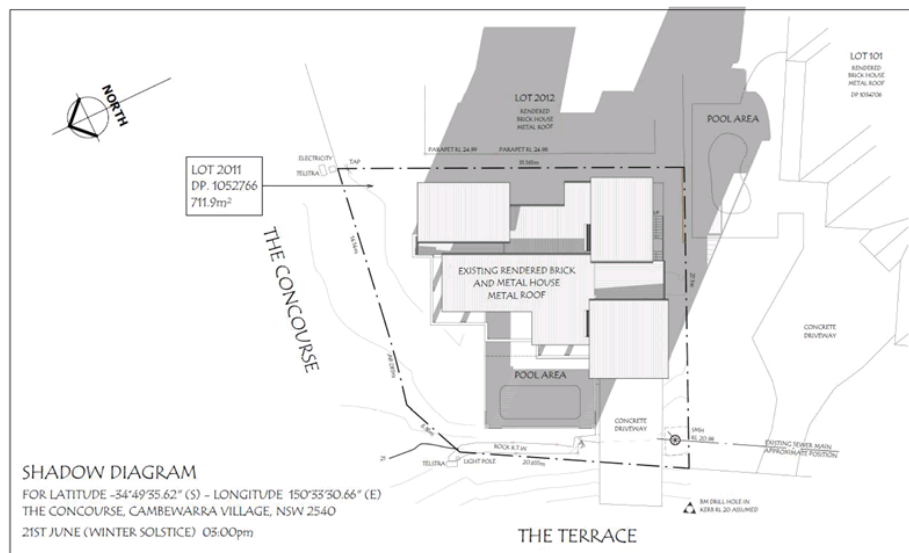


Figure 7 – Shadow Diagram – 3:00pm

The applicant's clause 4.6 statement indicates that the overshadowing impacts are largely confined to the front driveway and pool area of the residence at 3 The Terrace (property to the south) and suggests that the pool is unlikely to be used during the colder winter months. The application has also been supported by shadow diagrams for the summer solstice and Autumn/Spring equinoxes, all of which show minimal overshadowing of the adjoining residence and associated private open space.

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The Land and Environment Court in *The Benevolent Society v Waverley Council* [2006] NSWLEC1082 has established the following planning principles and considerations that should be taken into account when assessing solar access and overshadowing impacts:

- The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.
- The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.
- Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.
- For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.
- For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.
- Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.
- In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.

The subject land is affected by a 5m building height limit under the Shoalhaven LEP 2014 and as such, there is a reasonable expectation that overshadowing impacts would be limited to that created by a 5m building. The pool and private open space at 3 The Terrace (property to the south) are situated on the northern side of the allotment and with the 5m building height limit, it is reasonable to expect that these areas receive adequate solar access both during Summer and Winter.

The pool at 3 The Terrace is enclosed by an approximate 1.8m high solid wall/fence on the north and west. The pool is located approximately 1.5m from these walls/fences. The overshadowing impacts of these existing walls and fences have not been specifically considered by the applicant, however it is likely that they would result in some overshadowing of the pool area, especially during winter.

The applicant's clause 4.6 statement has identified that solar access is maintained to the adjoining residence and associated pool and private open space areas during Summer, Spring and Autumn, however there are overshadowing impacts during Winter.

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Although this level of overshadowing impact from a two-storey dwelling to an adjoining pool area may not be unreasonable in other contexts, the 5m building height limit in this area implies there is a greater expectation with regard to solar access and that overshadowing of adjoining properties should be minimal.

Given the building height limit and the reasonable expectation for solar access, it is the development assessment staff's opinion that the applicant's clause 4.6 statement has not sufficiently demonstrated that the development has met the objectives of clause 4.3 in minimising loss of solar access to existing development.

View sharing

The subject site is located within Cambewarra Village which features expansive land views including Cambewarra Mountain. The views are not considered 'Iconic Views' however various partial and whole views of Cambewarra Mountain and surrounding lands are observable from the subject site and the locality. The proposed development is not expected to unreasonably diminish these views.



Figure 8 – Image showing direction of views to mountain ranges. Subject site highlighted in yellow.

The most significant view from the subject site and adjoining properties are to the North and West. Mountain views to the North and West of the subject site are observable and unobstructed from the public domain. As the proposed development is significantly setback from the street reserve, views from the public domain are not expected to be impacted. Furthermore, the proposed addition does not impede the Northern and/or Western views for adjoining properties to the North, West, and East of the subject site.

For the adjoining property to the South of the subject site, 3 The Terrace, the views from the front and rear boundaries are West and East facing respectively. The North-facing view is observable from the side boundary of 3 The Terrace, where the proposed development of number 5 The Concourse is located. Whilst the proposed development may result in some view loss, the impact is not considered to be severe or devastating. Furthermore, under the NSW Land & Environment Court Planning Principles, the expectation to retain side and sitting views is considered unrealistic. Especially where Eastern, Southern and Western facing views will remain unobstructed as a result of the proposed development.

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Overall, the impact on view sharing as a result of the proposed development is considered minor. Whilst a departure from the prescribed height limit, the proposed development and contravention of the development standard would have minimal visual impact and not result in the loss of views.



Figure 9 – North-facing images along The Concourse



Figure 10 – North-facing images along The Concourse



Figure 23 – North-facing views from The Terrace

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Figure 24 – West-facing views from The Terrace



Figure 25 – South-facing views from The Terrace

Heritage Impact

The objectives of clause 4.3 of Shoalhaven LEP 2014 require consideration be given to heritage impact. The applicant's clause 4.6 statement has identified that the subject site and adjoining properties are not identified as containing heritage items, or as being within a heritage conservation area. The proposed development and exceedance to the building height limit would not have an adverse heritage impact.

Summary of Clause 4.3 Objectives

The applicant's clause 4.6 statement has not demonstrated that the proposed development will achieve the objectives of clause 4.3. Specifically, the application does not demonstrate that the proposed development is compatible with the height, bulk and scale of the existing and desired future character of the locality, or that the proposal will minimise privacy loss and loss of solar access to existing development.

Sufficient Environmental Planning Grounds

Clause 4.6 requires that Council be satisfied that the applicant's written statement demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard. Environmental planning grounds are matters that relate to the subject matter, scope

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and purpose of the *Environmental Planning and Assessment Act 1979*, including the objects of the Act.

Extract from applicant's clause 4.6 statement

8.2 ENVIRONMENTAL PLANNING GROUNDS THAT JUSTIFY CONTRAVENING DEVELOPMENT STANDARD

The written request is also required to demonstrate that there are sufficient environmental planning grounds to justify contravening the eleven metre **[correct to five metre]** height restriction.

- The proposal is not inconsistent with state and regional planning provisions applying to this land.
- The subject site, being a corner allotment, is constrained by the need to observe appropriate setbacks to both street frontages, and the current proposal to develop an additional level is a preferred planning outcome.
- The proposal is consistent with the objectives and is permissible within the R2 Low Density Residential zone that applies to the land as demonstrated below.
- Despite the non-compliance with the five metre height restriction, the proposal is consistent with the stated objectives of Clause 4.3 as they relate to the building height requirements as outlined above in Section 8.1 of this written request.
- The proposed development is representative of the envisaged character of the locality and other dwellings in the locality.
- The subject site is eminently suitable for the proposal development.

Commentary from Development Assessment Staff

The points listed in the applicant's clause 4.6 statement do not provide sufficient environmental planning grounds to justify contravening the 5m building height limit.

As established in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, a clause 4.6 statement must justify the aspect or element of the development that contravenes the development standard, not the development as a whole, and why that contravention is justified on environmental planning grounds. The points listed in the applicant's clause 4.6 statement do not justify the exceedance to the building height limit. Rather, they only discuss why the development as a whole is suitable, as opposed to how the exceedance to the building height limit furthers the objects of the *Environmental Planning and Assessment Act 1979*.

Public Interest

Clause 4.6 (4)(a)(ii) requires that Council be satisfied that the proposed development will be in the public interest because it is consistent with the development standard objectives and the objectives of the zone.

The subject site is zoned R2 Low Density Residential. The objectives of the R2 Low Density Residential 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 not contrary to the R2 Low Density Residential zone objectives.

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However, as outlined above in this report, it is the development assessment staff's opinion that Council is not satisfied that the proposed development is in the public interest because it is not consistent with the objectives of the Clause 4.3 objectives.

Planning Secretary's Concurrence

As per Planning Circular (PS20-002), the Secretary's concurrence can only be assumed by the elected Council where development that contravenes a numerical standard by greater than 10%.

Part 7 Additional local provision

7.1	<input checked="" type="checkbox"/>	<table><tr><td colspan="2">The subject land is mapped as acid sulfate soils:</td></tr><tr><td>Class</td><td>Commentary</td></tr><tr><td>Class 5</td><td>The proposal does not involve work within 400m of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the water table is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 land.</td></tr></table>	The subject land is mapped as acid sulfate soils:		Class	Commentary	Class 5	The proposal does not involve work within 400m of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the water table is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 land.	Complies
The subject land is mapped as acid sulfate soils:									
Class	Commentary								
Class 5	The proposal does not involve work within 400m of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the water table is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 land.								
7.2	<input checked="" type="checkbox"/>	Consideration has been given to the matters outlined in clause 7.2 and it is considered that the proposed earthworks are suitable and can be managed appropriately.	Complies						
7.11	<input checked="" type="checkbox"/>	All relevant services are available to the site.	Complies						
7.20	<input checked="" type="checkbox"/>	The proposal is considered satisfactory with regard to the considerations set out in clause 7.20.	Complies						

ii) Draft Environmental Planning Instrument

Draft Illawarra Shoalhaven Regional Plan 2041

The proposed development is consistent with and supports the objectives of the Draft Illawarra Shoalhaven Regional Plan 2041.

iii) Any Development Control Plan

Shoalhaven Development Control Plan 2014

Generic DCP Chapter	Relevant
G1: Site Analysis, Sustainable Design and Building Materials	<input checked="" type="checkbox"/>
<i>Has the application been supported by an appropriate site analysis plan prepared in accordance with Chapter G1?</i>	Yes
G2: Sustainable Stormwater Management and Erosion/Sediment Control	<input checked="" type="checkbox"/>
<i>Has the application been supported appropriate stormwater drainage details?</i>	Yes
<i>Has the application been supported by appropriate erosion and sediment control details?</i>	Yes

Section 4.15 Assessment Report

G3: Landscaping Design Guidelines	<input checked="" type="checkbox"/>
<i>Is existing landscaping appropriate?</i>	Yes
G4: Tree and Vegetation Management	<input checked="" type="checkbox"/>
<i>Does the application involve tree removal or vegetation clearing?</i>	No
G5: Biodiversity Impact Assessment	<input checked="" type="checkbox"/>
<i>Is the proposal biodiversity compliant development?</i>	Yes
G7: Waste Minimisation and Management Controls	<input checked="" type="checkbox"/>
<i>Has the application been supported by an appropriate waste minimisation and management plan?</i>	Yes
G12: Dwelling Houses and Other Low Density Residential Development	<input checked="" type="checkbox"/>
Refer to Appendix A	
G21: Car Parking and Traffic	<input checked="" type="checkbox"/>
The proposed development is a first-floor addition to an existing dwelling and therefore does not give rise to additional parking requirements. Existing vehicle parking and vehicle manoeuvring areas are maintained on site.	
G26: Acid Sulphate Soils and Geotechnical (Site Stability) Guidelines	<input checked="" type="checkbox"/>
<i>Is the development site mapped as acid sulfate soil?</i>	Yes
Class	Commentary
Class 5	The proposal does not involve work within 400m of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the water table is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 land.
<i>Does the application involve the erection of any buildings or structures on land with a slope >20% or on land with stability problems?</i>	
No	
Area Specific DCP Chapter	
No area specific DCP chapter applicable.	

- iii) 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

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There are no planning agreements applying to this application.

iv) Environmental Planning and Assessment Regulation 2000

The proposal ensures compliance with the applicable requirements within the Regulations subject to recommended conditions of consent.

Any coastal zone management plan

The proposed development is not impacted by any coastal zone management plan

Other Shoalhaven Council Policies

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).

(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	The proposed development will not have a significant adverse impact on the natural environment.
Built Environment	The proposed development will not have a significant adverse impact on the built environment.
Social Impacts	The proposed development will not have a negative social impact in the locality.
Economic Impacts	The proposed development will not have a negative economic impact in the locality.

(c) Suitability of the site for the development

The site is suitable for the proposed development.

- The site is zoned R2 - Low Density Residential and the development is permissible with Council consent within the zone.
- The proposal supports the local zoning objectives.
- The proposal is consistent with the objectives and requirements of the *Shoalhaven Local Environmental Plan 2014*.
- The proposal is consistent with the objectives and requirements of the *Shoalhaven Development Control Plan 2014*.
- The intended use is compatible with surrounding/adjoining land uses

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

Section 4.15 Assessment Report

The DA was notified in accordance with Council's Community Consultation Policy for Development Applications. One (1) x submission was received by Council objecting to the proposal (TRIM Reference: D21/258445). The concerns raised are outlined below:

Objection Raised	Assessing officer comments
Building Envelope – The development proposed, located over the garage is exaggerating the built form as it is unable to be disguised.	The proposal is seeking a clause 4.6 exception to the building height limit. The applicant's clause 4.6 statement has not sufficiently demonstrated that the proposed development is compatible with the height, bulk, and scale of the existing and desired future character of a locality as per the objectives of clause 4.3 of Shoalhaven LEP 2014.
Loss of privacy – The location of the development immediately overlooking the in-ground pool area and internal living spaces of my property and the position of the stairs and front door in a location to afford such a direct view is totally in contravention to the DCP intent.	<p>The proposal is seeking a clause 4.6 exception to the building height limit. Although the application has addressed privacy from the upper-level rooms, balcony area and top of the stairs, the applicant's clause 4.6 statement has not sufficiently demonstrated that privacy to adjoining residences will be maintained when ascending or descending the external staircase. The staircase will place people in an elevated position along the southern boundary which will overlook the swimming pool and principal private open space area for the adjoining residence at 3 The Terrace. Although these overlooking impacts from the external stairs would be only transitory, due to the elevated nature of the development, they are not insignificant.</p> <p>The applicant's clause 4.6 statement has not adequately demonstrated that the proposal has been designed to minimise loss of privacy to adjoining development as per the objectives of clause 4.3 of Shoalhaven LEP 2014.</p>
Overshadowing – The in-ground swimming pool is covered by a solar collector and is not afforded 3 hours continuous sunlight between 9am and 3pm on 21 June. Locating the development at the front of the building would have less impact.	<p>The proposal has been supported by shadow diagrams to evidence a minimum of 3 hours of direct sunlight between 9am and 3pm is maintained to adjoining properties on 21 June. The shadow diagrams note that there will be some overshadowing of the pool and private open space area at 3 The Terrace.</p> <p>Considering the 5m building height limit established under clause 4.3 of Shoalhaven LEP 2014, there is a reasonable expectation that overshadowing impacts would be limited to that created by a 5m building and that adequate solar access be maintained to adjoining properties in the Summer and the Winter.</p> <p>The applicant's clause 4.6 statement has not sufficiently demonstrated that the development has met the objectives of clause 4.3 in minimising loss of solar access to existing development.</p>
Heights and Setbacks – Locating the addition toward the front of the developed property with an internal	The proposal is seeking a clause 4.6 exception to the building height limit. The applicant's clause 4.6 statement has not sufficiently demonstrated that the proposed development is compatible with the height, bulk, and scale

Section 4.15 Assessment Report

access would have achieved this intent but the current proposal fails completely.	of the existing and desired future character of a locality as per the objectives of clause 4.3 of Shoalhaven LEP 2014.
Proposed development not complying with development standards for detached habitable rooms and studios	<p>The proposed addition is attached to the main dwelling. The additions do not include a separate laundry or cooking facilities and therefore is reliant on the dwelling for its occupation.</p> <p>If Council is of a mind to approve the development, it is recommended that conditions of consent be included to ensure that the building continues to operate as a single residential dwelling.</p>
Increased parking pressure	<p>Under chapter G21 of the Shoalhaven DCP 2014 a dwelling house requires 2 parking spaces. The existing dwelling provides 2 parking spaces.</p> <p>The proposed development does not give rise to additional parking requirements.</p>
Potential use of the proposed development as a secondary dwelling or tourist accommodation	<p>The proposed development will not be self-contained. The application has been supported by a floor plan that does not include the installation of any laundry or cooking facilities.</p> <p>The proposal is best characterised as alterations and additions to existing dwelling under the SLEP 2014. The proposal is permitted within the zone with the consent of Council.</p> <p>However, noting that the access to the second storey additions are accessed via external stairs, if Council is of a mind to approve the development it is recommended that conditions of consent be included to ensure that the building continues to operate as a single residential dwelling.</p>

(e) The Public Interest

The proposal is considered to be in the public interest.

Delegations

Are any clause 4.6 exceptions proposed?		Yes
Development Standard	Numerical Extent of Departure	Percentage (%) Extent of Departure
Building Height	2.71m	35.15%
Are any DCP performance-based solutions proposed?		Yes
Acceptable Solution	Numerical Extent of Departure	Percentage (%) Extent of Departure

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Building Height	2.71m	35.15%
-----------------	-------	--------

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 proposed clause 4.6 exception the application Secretary's Concurrence can only be assumed by the Council and the application must be determined by the Development and Environment Committee.

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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. DA21/1527 be refused.

Development Assessment Officer
City Development
23/09/2021

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Appendix A – Assessment Checklist: Chapter G12: Dwelling Houses and Other Low Density Residential Development

Objectives of Chapter G12

The objectives of are to:

- i. Ensure a comprehensive design-oriented approach to housing resulting in high quality urban design, development and residential amenity.
- ii. Maintain and enhance the amenity of existing and future residential areas.
- iii. Ensure development is compatible with the bulk, scale and character of the area, including scenic, landscape, pastoral or environmental qualities.
- iv. Set appropriate environmental criteria for energy efficiency, solar access, privacy, noise, vehicular access, parking, landscaping and open space.
- v. Ensure that development has due regard and is sympathetic to the physical constraints of the site.
- vi. Allow for efficient use of existing services and facilities, including utility services transport systems and community facilities.
- vii. Promote wider and more affordable housing choice in Shoalhaven. Implement agreed strategic directions and respond to demographic needs.

5 General Controls

5.1 Building Envelope

The proposed development involves encroachments to the building height limit. The application is made pursuant to clause 4.6 of Shoalhaven LEP 2014 and has been supported by a clause 4.6 exception statement.

The exception to the building height limit is discussed in detail in Section 6 (clause 4.6 – Shoalhaven LEP 2014) of this report.

The applicant's clause 4.6 statement does not adequately demonstrate that compliance with the clause 4.3 building height limit development standard is unreasonable or unnecessary in the circumstances of the case and that there is sufficient environmental planning grounds to justify the contravention to the development standard.

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5.2 Orientation and Siting

The application has been supported by a site analysis plan featuring the relevant site details.

The proposal is for a first-floor addition to the existing dwelling and does not involve cut and fill. Minor earthworks will be required for structural support for the stairway access.

5.3 Local Character and Context

Heritage

The subject site is not located in a heritage conservation area or contains heritage significant items.

Views

The proposed development is not expected to result in undue view loss. The proposed second storey addition has been appropriately sited and sized to minimise potential view loss.

Surrounding land views which include Cambewarra Mountain are not considered 'Iconic Views'. The surrounding properties are benefited by partial views of Cambewarra Mountain surrounding lands. The proposed development is not expected to unreasonably diminish these views.

Compatibility with surrounding development

Compatibility with the existing and desired future character of the locality is discussed in detail in Section 6 (clause 4.6 – Shoalhaven LEP 2014) of this report.

The applicant's clause 4.6 statement does not adequately demonstrate that the objectives of clause 4.3 are achieved notwithstanding noncompliance with the development standard. Specifically, the application does not demonstrate that the proposed development is compatible with the height, bulk and scale of the existing and desired future character of the locality.

5.4 Building Form, Design and Materials

The subject site is burdened by a 5m LEP height limit however, surrounding development along The Terrace and The Concourse fall under 8.5m LEP height limits.

Compatibility with the existing and desired future character of the locality is discussed in detail in Section 6 (clause 4.6 – Shoalhaven LEP 2014) of this report.

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The applicant's clause 4.6 statement does not adequately demonstrate that the objectives of clause 4.3 are achieved notwithstanding noncompliance with the development standard. Specifically, the application does not demonstrate that the proposed development is compatible with the height, bulk and scale of the existing and desired future character of the locality.

5.5 Visual and Acoustic Privacy

Although the application has addressed privacy from the upper-level rooms, balcony area and top of the stairs, the applicant's clause 4.6 statement has not sufficiently demonstrated that privacy to adjoining residences will be maintained when ascending or descending the external staircase. The staircase will place people in an elevated position along the southern boundary which will overlook the swimming pool and principal private open space area for the adjoining residence at 3 The Terrace. Although these overlooking impacts from the external stairs would be only transitory, due to the elevated nature of the development, they are not insignificant.

The applicant's clause 4.6 statement has not adequately demonstrated that the proposal has been designed to minimise loss of privacy to adjoining development as per the objectives of clause 4.3 of Shoalhaven LEP 2014.

5.6 Solar and Daylight Access

The application has been supported by an appropriate BASIX certificate which details thermal and energy efficiency. The proposed dwelling has been appropriately designed to take advantage of passive solar.

The application has been supported by shadow diagrams on the 21st June that show that a minimum of 3 hours of direct solar access is maintained between 9am – 3pm to adjoining properties. However, considering the 5m building height limit established under clause 4.3 of Shoalhaven LEP 2014, there is a reasonable expectation that overshadowing impacts would be limited to that created by a 5m building and that adequate solar access be maintained to adjoining properties in the Summer and the Winter.

The applicant's clause 4.6 statement has not sufficiently demonstrated that the development has met the objectives of clause 4.3 in minimising loss of solar access to existing development.

5.7 Vehicle and Pedestrian Access

The subject site has an existing continuous path of travel from the street to the dwelling.

The proposed development does not compromise existing vehicle access.

The subject site has an existing crossover. The application does not propose any changes to the existing crossover.

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5.8 Trees and Vegetation		
The proposal does not include any tree removal. Existing landscaping is appropriate.		
5.9 Servicing		
All essential services are available to the site		
5.10 Water Management and Conservation		
Stormwater from the building roof and hardstand areas, and overflow from rainwater tanks/on-site detention systems will be directed to street drainage.		
Recommended conditions of consent will ensure stormwater is not directed onto adjoining properties.		
Stormwater is to be connected to the existing system with overflow directed to the street.		
5.11 Waste Management – Demolition and Construction		
The application has been supported by an appropriate waste minimisation and management plan as referred to in the plan table.		
Where applicable, recommended conditions of consent will require all demolition work be carried out in accordance with relevant standards and requirements.		
6 Dwelling Houses, Rural Worker's Dwellings and Associated Development		
6.1 Principal Controls		
6.1.1 Density		
FSR Calculation		
Site Area	711.90m2	

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Existing Floor Area	219.63m ²
Proposed Floor Area	294.36m ²
FSR	0.4135:1

The subject land is zoned R2 - Low Density Residential. The development does not exceed a floor space ratio of 0.5:1 for the site and the scale of the development is compatible with the surrounding area.

6.1.2 Height and Setbacks

Building Height

The proposed development seeks an exception to the 5m building height limit set by clause 4.3 of Shoalhaven LEP 2014. This exception to the building height limit development standard and compatibility with the existing and desired future character of the locality is discussed in detail in Section 6 (clause 4.6 – Shoalhaven LEP 2014) of this report.

The applicant's clause 4.6 statement does not adequately demonstrate that the objectives of clause 4.3 are achieved notwithstanding noncompliance with the development standard. Specifically, the application does not demonstrate that the proposed development is compatible with the height, bulk and scale of the existing and desired future character of the locality.

The application has been supported by shadow diagrams on the 21st June that show that a minimum of 3 hours of direct solar access is maintained between 9am – 3pm to adjoining properties. However, considering the 5m building height limit established under clause 4.3 of Shoalhaven LEP 2014, there is a reasonable expectation that overshadowing impacts would be limited to that created by a 5m building and that adequate solar access be maintained to adjoining properties in the Summer and the Winter.

The applicant's clause 4.6 statement has not sufficiently demonstrated that the development has met the objectives of clause 4.3 in minimising loss of solar access to existing development.

Setbacks

The proposed development is a first-floor addition to an existing dwelling. Given the proposed development does not extend outside the existing dwelling footprint, based on the approval of the existing dwelling, the setbacks of the proposed development are consistent with the relevant acceptable solutions.

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6.2 Amenity
6.2.1 Landscaping
The proposal is for a first-floor addition to an existing dwelling. The proposed development will therefore not compromise existing landscaping and landscaped areas. Existing landscaping and landscaped areas are appropriate.
6.2.2 Private Open Space
The proposed development will not compromise the existing accessible and useable private open space provided on site.
6.2.3 Storage and Laundry Facilities
The proposed development does not compromise laundry, clothes drying facilities or storage for the existing dwelling.
6.2.4 Car Parking
The proposed development does not give rise to additional car parking requirements. Appropriate car parking is provided on site.
6.3 Configuration and Design
6.3.1 Building Form, Design and Materials
The proposed development does not detract from the overall design of the existing dwelling. The first-floor addition includes windows to the habitable rooms on external walls with a street frontage. The upper-level balcony has oversight of the public domain. The proposed development enables adequate surveillance to the street.
6.3.2 Detached Habitable Rooms and Studios
N/A – the application does not include the construction of a detached habitable room/studio.
6.3.3 Relocation of Second-Hand Dwellings

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N/A – the application does not include relocation of a second-hand dwelling.
6.3.4 Fences and Walls
N/A – the application does not include the erection of any front boundary fencing.
6.3.5 Universal Design
N/A - This sub-section does not require a dwelling to include universal design features. Principles of universal design are not applicable to the proposed development.
6.3.6 Waste Management – Bin Storage, Presentation and Collection
Appropriate areas available for bin storage and kerbside collection. Appropriate manoeuvrability from the bin storage area to the kerbside.
7 Secondary Dwellings
N/A – the application does not include the construction of a secondary dwelling.
8 Ancillary Structures and Non-Habitable Structures on Vacant Land
N/A – The application is for alterations and additions to an existing dwelling and does not propose the construction of a any ancillary structures.

**SUBMISSION UNDER CLAUSE 4.6
OF SHOALHAVEN LEP 2014**

**DEVELOPMENT APPLICATION FOR
FIRST FLOOR ADDITIONS TO CREATE
A DETACHED HABITABLE ROOM**

Lot 2011 DP 1052766
No. 5 The Concourse
Cambewarra

Prepared for
L. & D. Jennings
January 2020

COWMAN STODDART PTY LTD

DE21.120 - Attachment 3

Submission under Clause 4.6 of Shoalhaven LEP 2014

Project	Development Application for First Floor Additions to create a Detached Habitable Room
Address	Lot 2011 DP 1052766, No. 5 The Concourse, Cambewarra
Our ref:	19/51
Prepared by	Stuart Dixon
Draft	15/01/2020
Final	16/01/2020

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FIGURES

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Figure 2	Aerial Photograph of the Site
Figure 3	Height Encroachment (NEST Residential Design)
Figure 4	Height of Building Map (Shoalhaven LEP 2014)

Submission under Clause 4.6 of Shoalhaven LEP 2014
Mr L. & Mrs D. Jennings
Lot 2011 DP 1052766, No. 5 The Concourse, Cambewarra

1.0 INTRODUCTION

This submission supports a development application to Shoalhaven Council seeking development consent for first floor additions to create a detached habitable room associated with an existing single storey dwelling.

The site is zoned R2 Low Density Residential under the provisions of Shoalhaven Local Environmental Plan 2014 (SLEP 2014). Clause 4.3 of the SLEP 2014 stipulates the height of a building on any land is not to exceed the maximum height shown on the Height of Buildings (HOB) Map for that land, which in this instance is set at 5 m. The proposed addition has a height of 7.514 m above natural ground which exceeds the 5 m specified.

Clause 4.6 of Shoalhaven LEP 2014 makes provision for exceptions to development standards and enables Council to consent to development even though it may be inconsistent with a development standard. The provisions of Clause 4.6 require that a written request accompany a proposal that justifies the contravention of a development standard.

This submission has therefore been prepared pursuant to Clause 4.6 and provides justification that the proposal is appropriate and that strict compliance with the provisions of Clauses 4.3 are unreasonable and unnecessary under the specific circumstances associated with the application.

This submission is based on Architectural Plans and Shadow Diagrams prepared by NEST Residential Design.

Submission under Clause 4.6 of Shoalhaven LEP 2014
Mr L. & Mrs D. Jennings
Lot 2011 DP 1052766, No. 5 The Concourse, Cambewarra

2.0 DESCRIPTION OF SITE AND SURROUNDS

The subject land comprises Lot 2011 DP 1052766, No. 5 The Concourse, Cambewarra. The subject land is a corner allotment with an area of 711.9 m², and contains an existing single storey dwelling (see **Plates 1 and 2**) and in-ground swimming pool.

Although single storey in height, the established dwelling has the appearance of two stories with the provision of oversized highlight windows which are screened with timber louvres, giving the illusion of an upper level.

The site has frontage to both The Concourse and The Terrace which are sealed public roads maintained by Shoalhaven Council, edged with roll over kerb. The siting of the existing dwelling has observed generous setbacks to both street frontages.

Landscaping of the site is provided by way of landscaping beds, generally adjacent the dwelling and the boundaries of the site, and lawn area. No significant mature vegetation in the form of native trees are apparent.

Figure 1 is a Site Locality Plan and **Figure 2** is an aerial photo.

The site is zoned R2 Low Density Residential under the provisions of the Shoalhaven LEP 2014.

The site adjoins:

- To the east, the side boundary of another residential property, developed with a single storey dwelling.
- To the south, a residential property, developed with a single dwelling house. The dwelling on this property is well set back from The Terrace front boundary and also features an upper level element in the form of a highlight (dormer style) window (as seen in **Plate 3** below).
- To the north, opposite The Concourse, are single detached dwellings.
- To the immediate west, opposite The Terrace, is a single dwelling, and similar to the dwelling the subject of this application, does display elements of a second level through the use of highlight windows. Further along The Terrace are dwellings clearly of two storeys in height, mixed in with single storey dwellings.

Beyond the immediate surrounds of the subject site, land is developed for:

- Rural purposes to the east and south;
- Residential development associated with the Cambewarra village to the north and west and it is noted that largely, these properties are not affected by the same Height of Building requirement as applies to the subject site.

An aerial photograph of a large, modern house with a grey roof and white walls. The house features a large swimming pool with a blue cover and a smaller pool with a blue cover. A paved driveway leads to the house, and a white car is parked on the street. The property is surrounded by green grass and trees.

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Submission under Clause 4.6 of Shoalhaven LEP 2014
Mr L. & Mrs D. Jennings
Lot 2011 DP 1052766, No. 5 The Concourse, Cambewarra



Plate 1: Existing dwelling.



Plate 2: Existing dwelling.

DE21.120 - Attachment 3

Submission under Clause 4.6 of Shoalhaven LEP 2014
Mr L. & Mrs D. Jennings
Lot 2011 DP 1052766, No. 5 The Concourse, Cambewarra



Plate 3: Adjoining dwelling to south.

DE21.120 - Attachment 3

Submission under Clause 4.6 of Shoalhaven LEP 2014
Mr L. & Mrs D. Jennings
Lot 2011 DP 1052766, No. 5 The Concourse, Cambewarra

3.0 THE PROPOSAL

This proposal seeks Shoalhaven Council's consent for the erection of a first floor addition to contain detached habitable rooms.

The proposed addition measures approximately 6.2 m by 17.2 m and comprises a bedroom and ensuite bathroom, games room and balcony.

The addition is to be finished in a combination of fibre cement sheeting with texture coats to match the existing dwelling, horizontal wall cladding to match the existing dwelling, and a colourbond custom orb roof.

The proposal maintains the architectural design aesthetic of the existing dwelling, particularly through the roofscape which combines a curved and skillion roof design to match the current dwelling.

The addition has a height of 7.514 m at its highest point, and the extent of the roof above the 5 m is shown in **Figure 3** below. The proposed addition is set back varying distances from the closest side boundary ranging between 3.16 m and 2.08 m.

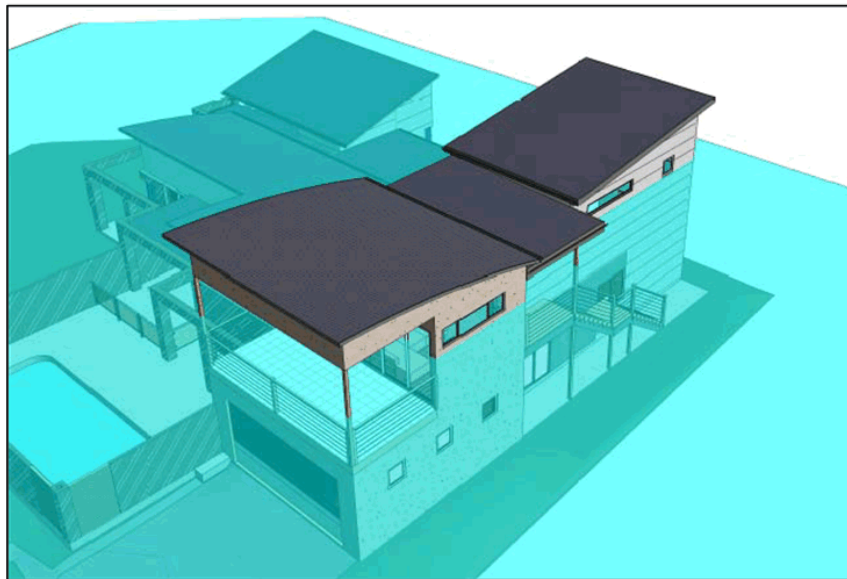


Figure 3: Extent of encroachment (NEST Residential Design).

Submission under Clause 4.6 of Shoalhaven LEP 2014
Mr L. & Mrs D. Jennings
Lot 2011 DP 1052766, No. 5 The Concourse, Cambewarra

3.1 JUSTIFICATION

The design of the proposal is influenced by the existing development, which itself is influenced by the constraints associated with the development of a corner allotment, and a desire to present well to both street frontages. This has resulted in the existing dwelling being sited in the south-eastern corner of the property to provide generous setbacks to both The Concourse and The Terrace. This, coupled with the siting of the existing pool, significantly limits the area where any additional floor area can be provided such that a first floor addition must be considered.

Noting that the existing dwelling has a total living area of some 219.6 m², and which results in a floor space ratio of 0.3:1, it is not unreasonable to anticipate that additional floor area could be proposed when the allowable floor area of 0.5:1 applies under the Shoalhaven DCP 2014. This would allow for an additional 136 m² of floor area.

DE21.120 - Attachment 3

Submission under Clause 4.6 of Shoalhaven LEP 2014
Mr L. & Mrs D. Jennings
Lot 2011 DP 1052766, No. 5 The Concourse, Cambewarra

4.0 CLAUSE 4.6 OF SHOALHAVEN LEP 2014

Clause 4.6 of Shoalhaven LEP 2014 stipulates:

4.6 Exceptions to development standards

- (1) *The objectives of this clause are as follows—*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (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 development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the 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 Secretary before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small*

Submission under Clause 4.6 of Shoalhaven LEP 2014

Mr L. & Mrs D. Jennings
Lot 2011 DP 1052766, No. 5 The Concourse, Cambewarra

Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

Note. When this Plan was made it did not include all of these zones.

- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following—*
 - (a) a development standard for complying development,*
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - (ba) clause 4.1E, to the extent that it applies to land in a rural or environment protection zone,*
 - (bb) clause 4.2B,*
 - (c) clause 5.4,*
 - (ca) clause 6.1 or 6.2,*
 - (cb) clause 7.25,*
 - (cc) clause 4.1H.*

4.1 CLAUSE 4.6 AND ITS USE

Clause 4.6 of the SLEP 2014 sets out the general principle that a development standard may be varied where strict compliance can be shown to be unreasonable or unnecessary in the circumstances of the case; and that there are sufficient environmental planning grounds to justify contravening the development standard.

Before applying the discretionary power of Clause 4.6 the consent authority must be satisfied that the standard for which the departure is sought is a "development standard" and not a matter which would prohibit the proposal.

A development standard is defined within Section 4 of the EP&A Act.

"Development standard" means provisions of an environmental planning instrument in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of

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any aspect of that development, including, but without limiting the generality of the forgoing, requirements or standards in respect of -

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or works, or the distance of any land, building or work from any specified point;*
- (b) the proportion or percentage of the area of a site which a building or work may occupy;*
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work;*
- (d) the cubic content or floor space of a building;*
- (e) the intensity or density of the use of any land, building or work;*
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment;*
- (g) the provision of facilities for the standing, movement, parking, servicing manoeuvring, loading or unloading of vehicles;*
- (h) the volume, nature and type of traffic generated by the development;*
- (i) road patterns;*
- (j) drainage;*
- (k) the carrying out of earthworks;*
- (l) the effects of the development on patterns of wind, sunlight, daylight or shadows;*
- (m) the provision of services, facilities and amenities demanded by the development;*
- (n) the emission of pollution and means for its prevention or control or mitigation; and*
- (o) such other matters as may be prescribed.*

Having regard to the definition of “development standard”, particularly paragraph (c), it is considered that Clause 4.3 contains a development standard requiring a height restriction, which is therefore open to a written request made pursuant to Clause 4.6. Furthermore, Clause 4.3 (2) is contained in Part 4 of the Shoalhaven LEP, which contains the primary development standards. This reinforces the contention that the provisions of Clause 4.3 are a development standard.

A consent authority must also be satisfied of three matters (pursuant to the provisions of Clause 4.6 before it may agree with the written request and grant development consent to a development application for development that could, but for a development standard, be carried out with development consent.

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First, the request is to be in writing (Clause 4.6(3)), demonstrate that the compliance with that development standard is unreasonable or unnecessary in the circumstances of the case (Clause 4.6(3)(a)) and that there are sufficient environmental planning grounds to justify contravening the development standard (Clause 4.6(3)(b)).

Secondly, the consent authority must also be satisfied that 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 (Clause 4.6(4)(a)(ii)).

Finally, the consent authority can only grant development consent for a development that contravenes a development standard if the concurrence of the Secretary (formerly Director General) of Planning and Infrastructure has been obtained (Clause 4.6(4)(b)).

The Secretary in deciding whether to grant concurrence must consider pursuant to Clause 4.6(5):

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*

In this instance, as will become evident in Sections 6.0 and 7.0 below, the proposal does not require the concurrence of the Secretary of the Department of Planning and therefore, these subclauses have no effect.

As this matter does not concern the subdivision of land zoned *RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living* the provisions of Clause 4.6(6) are also not applicable to this proposal and not further addressed in this written request.

This submission has been prepared having regard to the above relevant matters.

5.0 THE DEVELOPMENT STANDARD TO BE VARIED

This written request seeks to vary Clause 4.3 of the SLEP 2014 as it applies to this development application

Clause 4.3 of Shoalhaven LEP 2014 stipulates the following:

4.3 Height of buildings

- (1) *The objectives of this clause are as follows:*
 - (a) *to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of 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.*
- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*
- (2A) *If the Height of Buildings Map does not show a maximum height for any land, the height of a building on the land is not to exceed 11 metres.*

The Height of Buildings Map contained within the Shoalhaven LEP stipulates a maximum height of buildings of 5 m and this is shown in **Figure 4** below.

As outlined above, the proposed additions have a maximum height of 7.514 m, thereby exceeding the 5 m required.

The development therefore does not strictly comply with the provisions of Clause 4.3. (2) of the Shoalhaven LEP 2014.

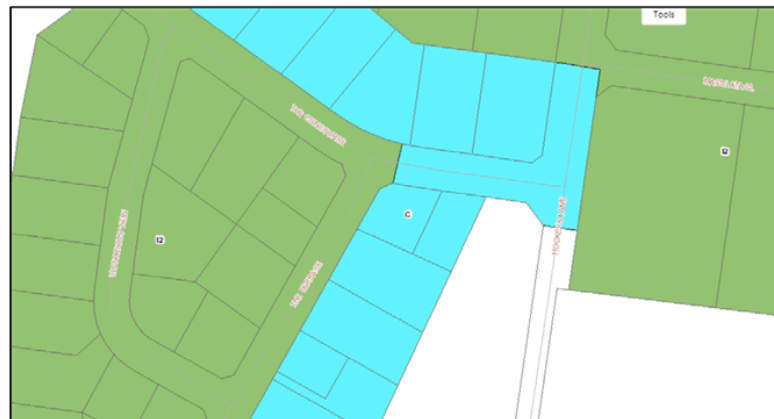


Figure 4 : Height of Building Map (Shoalhaven LEP 2014).

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5.1 OBJECTIVES OF STANDARD

As outlined above the objectives of Clause 4.3 are:

- 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.*

5.2 BACKGROUND

It is noted that the 5 m height limit that applies to the subject site is unique within the Shoalhaven, as most residential properties have either no limit, in which case an 11 m height limit applies (Clause 4.3(2A), or alternatively a less restrictive limit applies, for example an 8.5 m height limit which applies on the western side of The Terrace. Consequently, further research was undertaken to understand the basis of the 5 m height limit by reviewing the Development Application file (SF 8832) that resulted in the creation of the estate the subject site is located within. This revealed that, at the time of subdivision, the land had only recently been rezoned to allow for residential development. It was determined that that subdivision would form the south-eastern fringe of the Cambewarra residential village, and additional height controls were necessary to ensure that the residential development suitably transitioned to the surrounding pastoral landscape, noting that the residentially zoned land adjoins rural zoned land. Consequently, a 5 m height limit was imposed as a condition of consent, and this ultimately was adopted by the Shoalhaven LEP 2014.

Subsequent to the original subdivision consent, it is noted that an allotment was further subdivided. This resulted in the creation of a corner allotment (becoming the subject site) and a regular parcel to the east. As such, the subject site does not directly adjoin the RU1 zone that initially triggered the 5 m height limit. Furthermore, the subject site is much smaller than other nearby allotments, further limiting the extent of developable land on the property.

Since the subdivision was created, allotments have been developed with single dwellings.

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6.0 DEPARTMENT OF PLANNING AND INFRASTRUCTURE GUIDELINES

The Department of Planning and Infrastructure has produced a document entitled “*Varying Development Standards – A Guide*” dated August 2014. This document updates the former Circular R1 which applied to *State Environmental Planning Policy No. 1 (SEPP No. 1) - Development Standards* to include the relevant matters applying under Clause 4.6 where the Standard Instrument LEP has been adopted.

The Guidelines build upon the matters outlined above and in Clause 4.6 itself, and also stipulates that the application should address the “five part test”. In this regard, the Land and Environment Court (*Wehbe v Pittwater Council* [2007] NSWLEC827 (21 December 2007)) has set out a “five part test” for consent authorities to consider when assessing a proposal that seeks to vary a development standard. The “five part test” is as follows:

1. *the objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *the development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *the compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

Relevant matters are addressed in Section 8.0.

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7.0 ASSUMED CONCURRENCE

The Guidelines prepared by the Department deal with the concurrence requirements of proposals reliant upon an exception to development standards. Where a Standard Instrument LEP applies, as is the case with this proposal and the provisions of Shoalhaven LEP 2014, the Guidelines reference Planning Circular PS 08-003 issued in May 2008 and which advises that the concurrence can be assumed with respect to all environmental planning instruments that adopt Clause 4.6, or a similarly worded clause, providing for exception to development standards.

The concurrence of the Secretary of the Department of Planning and Infrastructure can therefore be assumed with respect to this matter.

DE21.120 - Attachment 3

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8.0 ASSESSMENT

This written request seeks to justify the departure to the provisions of Clause 4.3 (2) of the SLEP 2014 which imposes a maximum building height of five (5) metres on the subject land. It is proposed to construct additions to create a detached habitable room at the first floor level.

The vast majority of the resultant dwelling complies with the 5 m height limit, however the proposed first storey addition has a height of 7.514 m.

This height is above that allowed under Clause 4.3 (2) of the SLEP 2014.

This written request demonstrates that compliance with Clause 4.3 (2) of SLEP 2014 is unreasonable and unnecessary given the specific circumstances of this case; that there are sufficient environmental planning grounds to justify contravention of the maximum height limit restriction; and that the proposal is in the public interest.

8.1 COMPLIANCE WITH STANDARD UNREASONABLE OR UNNECESSARY

It is our view that requiring compliance with the maximum height requirement of Clause 4.3 (2) of the SLEP 2014 under the specific circumstances of this case would be unreasonable and unnecessary.

Preston CJ in *Wehbe v Pittwater Council* [2007] NSWLEC827 (21 December 2007) provides commentary with respect to establishing whether compliance with a development standard is unreasonable or unnecessary under the specific circumstances of a particular matter. Whilst this case related to the use of SEPP 1, given the similarities between the objects of SEPP No. 1 and Clause 4.6 the findings of Preston CJ does provide guidance with respect to the implementation of this clause.

According to Preston CJ one of the most commonly invoked ways to establish that compliance with the development standard is unreasonable or unnecessary is because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).

As outlined in Section 6.0 above, the objectives underpinning the development standard – in this instance the maximum building height of five metres is a relevant consideration

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in determining whether strict compliance with that standard under the specific circumstances of the case would be unreasonable or unnecessary.

The purpose or objective of the height of buildings standard is expressly stated in Clause 4.3 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 above objectives in my view provide a clear appreciation of the purposes underpinning the height of buildings development standard outlined in Clause 4.3 (2) and which applies to the subject site.

This written submission will demonstrate that this proposal will not prevent the above objectives from being achieved notwithstanding non-compliance with the five metre height restriction development standard in the specific circumstances of this case.

Having regard to the above objectives, it is my view that the proposal is not inconsistent with these for the following reasons:

- The design of the development is compatible with the bulk and scale of the existing development on the site and in the locality. In this regard, the proposed addition is clearly an upper level, however as outlined above, the existing dwelling already features an oversized highlight window that gives the impression of the building containing an upper level (refer **Plate 1**). This is replicated in the dwelling to the south (**Plate 2**) which features a dormer style window, typical of a building containing an upper level.
- Furthermore, the existing dwelling located at No. 1 Lebene Grove, Cambewarra (an extension of The Terrace) is clearly of two stories in height with a level above garaging. The 5 m limit imposed by the Height of Building Map also applies to this property and has clearly been breached by the resultant development on that allotment. As such, it is evident that Council has not strictly applied the 5 m height limit.
- The Height of Building Map that applies to land on the western side of the Terrace (ie. immediately opposite the subject site) stipulates an 8.5 m limit and this has resulted in dwellings two storeys in height.

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- The subject site does not immediately adjoin rural land, but adjoins other residential zoned land and the proposed development is appropriate in a residential setting, and will suitably transition to the nearby pastoral landscape.
- The proposal incorporates a high architectural quality in its design that will contribute to the character of the development and its context within the public domain. The design adopts a composition of building elements, materials, textures, colours which will have a positive effect in terms of the scale and appearance of the development in context of this local area and which matches the existing dwelling.
- The design of the development has been undertaken in compliance with the statutory requirements of both the SLEP 2014 and SDCP 2014. The minor breach to the maximum building height limit notwithstanding the proposed development complies with the relevant statutory requirements which relate to the anticipated bulk scale and size of development envisaged for this site.
- The placement of floor space is constrained by the corner siting, and a desire to present well to both street frontages through the provision of generous setbacks to The Terrace and The Concourse, which will enhance the broader appeal of the development and provide greater public benefit.
- The extent to which the proposal exceeds the maximum building height limit is only minor and in consideration of the overall development. The proposal will have a compliant height limit for the majority of the development, only a modest section of the overall development exceeds the height limit and in this regard, it is noted that 189 m² of roof area complies, as opposed to 114 m² of non-compliant area. This represents 62.4% of the total roof area as being compliant.
- The proposed encroachment above the 5 m height limit does not result in significant additional visual impacts, disruption of views, loss of privacy or loss of solar access to existing development. In this regard, the proposal:
 - Maintains privacy to the:
 - South, through the use of highlight windows which are predominantly used along the southern elevation of the additions where privacy issues are concerned. Elsewhere, windows and the balcony overlook only the adjoining driveway,
 - East, by presenting with as the ensuite bathroom window is provided with a fixed screen,
 - North, the windows overlook the roof of the existing dwelling,

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- West, the balcony overlooks The Terrace public road.
- Does not result in any additional view loss;
- Does not unreasonably overshadow adjoining dwellings, and in particular the dwelling sited on the property to the south which is well set back from The Terrace and subject site such that overshadowing mostly affects the driveway.

That property also contains an inground swimming pool which may be impacted by the first storey addition. In this regard, Shadow Diagrams prepared at the winter solstice do show that the addition will overshadow the pool at midday and until approximately 3:00 pm. However, noting that the pool is unlikely to be used during the colder winter months, Shadow Diagrams were also prepared to show the extent of overshadowing at the Summer solstice and Autumn/Spring equinoxes. These show that for these periods, the pool is not overshadowed at all between 9:00 am and 3:00 pm. Consequently, it is considered that the proposal will not unreasonably overshadow the inground pool.

- The subject site, adjoining properties and nearby areas are not identified as containing identified heritage items, or as being within a heritage conservation area.

Given the factors outlined above, it is our view that the proposal has been designed in a manner that is consistent with the scale of development undertaken in this area having regard to the planning provisions that apply to the land; and incorporates design measures to ensure compatibility with established residences in the locality. As a consequence, it is considered that strict compliance with the standard is unreasonable under the circumstances.

8.2 ENVIRONMENTAL PLANNING GROUNDS THAT JUSTIFY CONTRAVENING DEVELOPMENT STANDARD

The written request is also required to demonstrate that there are sufficient environmental planning grounds to justify contravening the eleven metre height restriction.

- The proposal is not inconsistent with state and regional planning provisions applying to this land.
- The subject site, being a corner allotment, is constrained by the need to observe appropriate setbacks to both street frontages, and the current proposal to develop an additional level is a preferred planning outcome.
- The proposal is consistent with the objectives and is permissible within the R2 Low Density Residential zone that applies to the land as demonstrated below.

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- Despite the non-compliance with the five metre height restriction, the proposal is consistent with the stated objectives of Clause 4.3 as they relate to the building height requirements as outlined above in Section 8.1 of this written request.
- The proposed development is representative of the envisaged character of the locality and other dwellings in the locality.
- The subject site is eminently suitable for the proposal development.

8.3 PUBLIC INTEREST

The written request is also required to demonstrate that 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.

Section 8.1 of this submission demonstrates that the proposal will be able to satisfy the objectives of the development standard as enunciated within Clause 4.3 notwithstanding contravention of the eleven metre height restriction.

The subject site is zoned R2 Low Density Residential under the provisions of the Shoalhaven Local Environmental Plan 2014.

8.3.1 Objectives of the SP3 zone

The objectives of the R2 zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide an environment primarily for detached housing and to ensure that other development is compatible with that environment.*

The proposal is clearly consistent with the above zone objectives as it:

- Maintains the low density residential environment; and
- Is compatible with the detached housing environment that is established in the locality.

8.3.2 Amenity

Visual Impact

As described in Section 2.0 of this request, the locality within which the proposed development is situated comprises single detached dwellings of both single and two

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storeys in height. Furthermore, the design of the existing dwelling has elements of an existing upper level due to the oversized highlight windows that exist on the western elevation.

The design of the development has been undertaken in consideration of the existing architectural treatment of the established dwelling and maintains this theme through the use of curved and skillion roof styles, and lightweight materials which match the existing building.

Having regard to the overall visual impacts of the development, these are considered to be reasonable given the following:

- The building is well designed featuring an interesting design, use of variable building materials, and a design that is articulated to break up the apparent bulk of the building;
- The building presents well to The Terrace with a contemporary aesthetic maintaining the current approach;
- The locality is one where both single and storey buildings exist, and which is relatively common in residential and village localities.

Given these circumstances it is our view that the proposal has been designed in a manner that is consistent with the scale of development envisaged for this area having regard to the planning provisions that apply to the land.

Solar Access

Shadow diagrams have been prepared to show the extent of overshadowing arising from the proposed additions. These are undertaken at various intervals including the Winter and Summer solstices, along with equinox periods. The Shadow Diagrams demonstrate that unreasonable overshadowing of neighbouring properties does not occur due to the setbacks to the southern boundary which vary between 3:16 m and 2:08 m, and therefore exceed the minimum 900 mm allowed in residential areas, which is coupled with the nature of development on the property to the south which sites the dwelling well set back from The Concourse, resulting in a garden area immediately adjoining the proposed additions.

The shadow analysis demonstrates that no overshadowing of the dwelling on that site occurs as a result of this proposal.

The property to the south also contains an inground swimming pool which may be impacted by the first storey addition and in this regard, Shadow Diagrams prepared at the winter solstice do show that the addition will overshadow the pool at midday and until approximately 3:00 pm. However, noting that the pool is unlikely to be used during the colder winter months, it is appropriate to also consider the shadows that will be cast at

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other times of the year, and in this regard, there is no overshadowing of the pool between the hours of 9:00 am and 3:00 pm at either the Summer solstice or Autumn/Spring equinoxes. Consequently, it is considered that the proposal will not unreasonably overshadow the inground pool.

Conclusion

Given these circumstances, it is our view that the proposed building will not be inconsistent with the envisaged character of this locality given the planning provisions applying to the land.

Clause 4.6(5) Matters for Consideration by Director-General

As outlined above the proposal does not require the concurrence of the Director-General, and therefore those matters outlined under Clause 4.6(5) have no specific relevance to this proposal. Notwithstanding this, it is our view that the proposal the application is not inconsistent with any State or Regional planning policy.

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9.0 CONCLUSION

Under the circumstances outlined above it is my view that this objection made pursuant to Clause 4.6 is well founded and strict compliance with Clause 4.3 (2) of Shoalhaven LEP 2014 would be unreasonable under the specific circumstances of this case as:

- The building is well designed featuring an interesting design, use of variable building materials, and a design that is articulated to break up the apparent bulk of the building;
- The objectives that underpin the development standard outlined in Clause 4.3 of Shoalhaven LEP are achieved notwithstanding non-compliance with the development standard;
- This proposal is consistent with state and regional planning provisions applying to this land;
- The proposal is consistent with the objectives of the R2 Low Density Residential zone that applies to the land;
- The proposed development is representative of the existing character of the locality;
- The building presents well to both The Terrace and The Concourse with a contemporary design aesthetic, consistent with the existing dwelling;
- The building is well set back from both The Concourse and The Terrace which provides a better planning outcome for the general public;
- The proposal incorporates a high architectural quality in design that will contribute to the character of the development. The design adopts a composition of building elements, materials, textures, colours which will have a positive effect in terms of the scale and appearance of the development in context of this local area;
- The non-compliance is relatively minor as the section of the building which exceeds the height maximum is only a portion of the overall development; and
- The subject site is eminently suitable for the proposal development.

Although well considered, the eleven metre height restriction encapsulated within Clause 4.3 (2) should not be rigidly enforced as a development standard in all cases.

This submission demonstrates that the variation to the development standard sought by this proposal is consistent with the underlying objectives of the state, regional and local planning provisions for this site. It is my opinion that strict compliance with this development standard under the specific circumstances of this case would be unreasonable and unnecessary.

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For these reasons, this submission pursuant to Clause 4.6 requests that the Council exercise the discretionary power and support this proposal and the development application.



Stuart Dixon
TOWN PLANNER RPIA

DE21.120 - Attachment 3

Planning Report – S4.15 Assessment - 42 Duncan St, HUSKISSON - Lot 5 Sec 9 DP 758530

	Planning Report S4.15 Environmental Planning & Assessment Act 1979
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DA Number	DA20/2312
Property	42 Duncan St, HUSKISSON - Lot 5 Sec 9 DP 758530
Applicant(s)	Macquarie Grove Homes
Owner(s)	AF and CF Developments Pty Ltd, Mikayla Cierral Pty Ltd Aaron and Carina Ferguson, Adriana Guider

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: Council's Planning Consultant – Louise Mendey
Reviewed by: Council Development Assessment Staff

September 2021
September 2021

1. Detailed Proposal

Demolition of the existing dwelling and shed, construction of multi dwelling housing comprising four by two storey dwellings with a common driveway, and strata subdivision.

Dwellings one and two (to the front or western part of the site) will be attached to each other and oriented north-south, with the driveway to the south and open space generally to the north. Unit one has its primary private outdoor space to the west, between the front boundary and the building line. Dwellings three and four (to the rear or eastern part of the site) will be attached to each other and oriented east-west, with the "L" shaped driveway to the west and private outdoor space to the east, between the rear building line and the rear (eastern) boundary.

Dwellings one and two will have two bedrooms and a space identified as 'lounge' and as 'rumpus' room (both of which are the similar size to a bedroom and could be used as a bedroom). The space labelled 'lounge' is on the first floor while the 'rumpus' is on the ground floor. The rooms Bed 1 and Bed 2 will be on the first floor, and one of these will have an ensuite bathroom. Dwellings three and four will have five bedrooms all accessed off a first-floor rumpus room. One of the bedrooms will have an ensuite bathroom.

Dwellings one and two will each have a ground floor single garage (with a common wall) accessed off the driveway to the south. Dwellings three and four will each have a ground floor double garage (with common wall) accessed off the driveway to the west.

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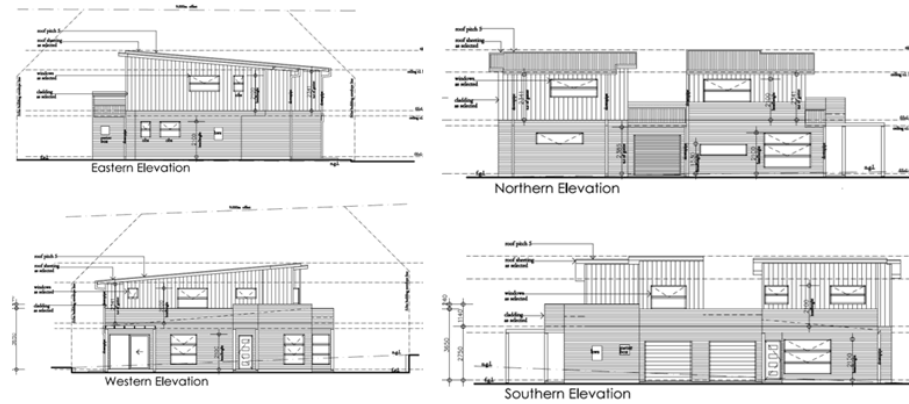


Figure 1: Elevation Plans of Proposed Units 1 and 2

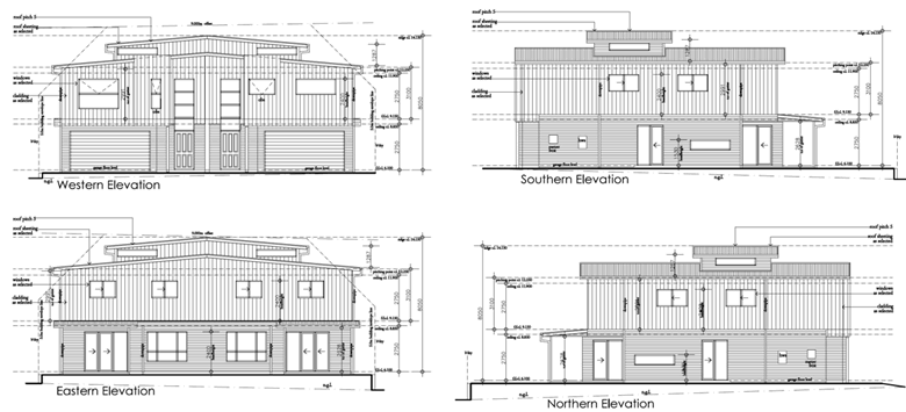


Figure 2: Proposed Units 3 and 4

Two visitor car parking spaces are shown on the plans. One within the front setback, abutting the entry porch and part of the front wall of dwelling one, and accessed off the driveway just inside the front boundary. The second between the rear building line of dwelling two and the northern side boundary, abutting the rear wall of dwelling two, and sharing the driveway access to dwellings three and four.

Dwellings one and two will have raked roofs across the site with a maximum height of 6.351m and roof pitch of 5° (the highest point will be on the southern elevation facing the driveway). Dwellings three and four will have a double raked roof with a maximum height of 8.050m and pitch of 5° (with the highest point in the middle, and the lower points on the northern and southern sides, and a the middle section expressed above the main roof).

The proposed floor space and private open space of the dwellings is shown in the following table:

	Gross Floor Area	Private Open Space*
Unit 1	118.31	46.12
Unit 2	122.67	30.40
Unit 3	203.55	80.04

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Unit 4	203.55	80.04
Total Floor Space	648.06	
Floor Space Ratio	0.63:1	

*As stated in the SEE and on the plans

Calculated from the dimensions provided on the plans

The site falls approximately 1.8m from the southwest corner to the northeast corner. Cut and fill will be used to level the site, requiring retaining walls along the west, south and eastern boundaries.

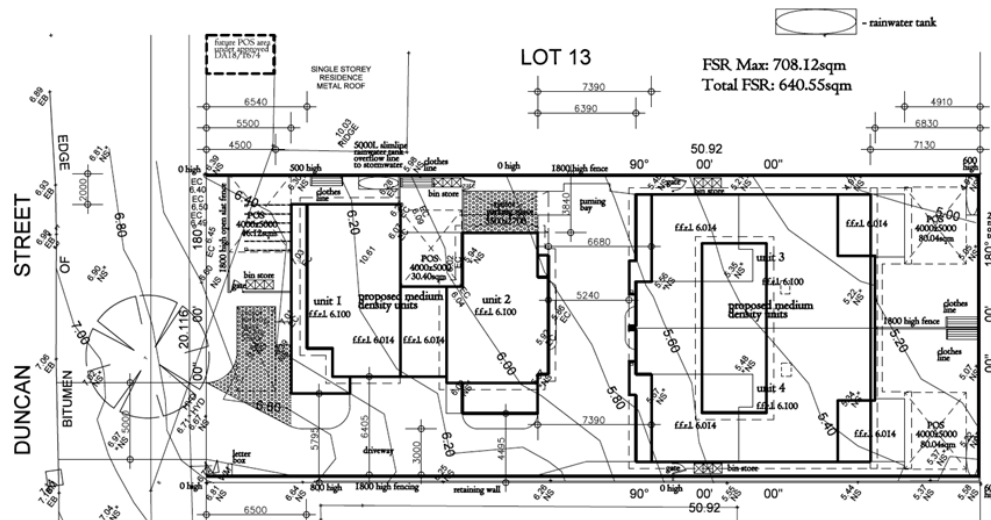


Figure 3: Site Plan

Description of Changes to Amended Plans – Received 23 August 2021

The applicant provided amended plans, unsolicited, 23 August 2021. The external bulk and scale of Units 1 and 2 is unchanged, as is the amount of open space and car parking provided. The external walls of Units 3 and 4 has changed marginally as described below. Some more planting has been added to the amended landscaping plan.

Amended plans Unit 1

The partition wall for what was labelled 'bed 2' in the previous plan (April 2021 amendment) has been removed and that area labelled 'lounge'. In the partition wall could easily be installed post occupancy to enclose a room that would be capable of being used for a bedroom. The room on the ground level that was originally identified as 'bed 4' is labelled 'rumpus' in the previous amended plan and in the current amended plan. As discussed in this assessment report, both spaces are capable of being used as a bedroom.

The letter from the applicant dated 10 August 2021 states Unit 1 has been reduced from three bedrooms to two bedrooms.

Notwithstanding, Unit 1 has four rooms that are capable of being used as bedrooms. The BASIX and NatHERS certificates identify Unit 1 as having four bedrooms.

Amended plans Unit 2

The partition wall for what was labelled 'bed 2' in the previous plan has been removed and that area labelled 'lounge'. The partition wall could easily be installed post occupancy to enclose a room that would be capable of being used as a bedroom. The space on the ground level that was originally

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identified as 'bed 1' is labelled 'rumpus' in the previous amended plan and in the current amended plan. As discussed in this assessment report, this room is capable of being used as a bedroom and has the only potential for an accessible bedroom in the proposal. This potential for a ground floor bedroom is required to meet the DCP requirement for universal housing.

The letter from the applicant dated 10 August 2021 states Unit 2 remains a three-bedroom unit.

Notwithstanding, Unit 2 has four rooms that are capable of being used as bedrooms. The BASIX and NatHERS certificates identify Unit 2 as having four bedrooms.

Amended plans Units 3 and 4

The first level has been pulled in by 300mm on the southern and northern façade, for approximately half of those façades from the rear to about the mid-point (adjacent to bedrooms 3 and 4 of each unit). The applicant states the amendment is made to reduce encroachment of the building height plane.

Landscaping

The amended landscape plan shows additional planting including three trees along the front boundary that could grow to 6m, one tree on the rear boundary that could grow to ten metres, and four lily pilli in the middle of the POS of Unit 2. The amended landscape plan also shows a row of lomandra planting along the southern boundary in an area that also accommodates a retaining wall, 1.8m high metal fence, the side pathway and bin storage for Unit 4.

Overshadowing

The applicant provided amended shadow diagrams that are not consistent with the shadow diagrams lodged with the original plans and the amended April 2021 plans.

Amended plan renotification and referrals

It is noted that the amended Plans received 23 August 2021 were not re-referred to the relevant sections of Council due to the minor nature of the amendments. Accordingly, any comments from Council's referrals as in relation to documentation received prior to 23 August 2021. Furthermore, the plans were not renotified in accordance with Council's Community Consultation Policy due to the minor changes made. Any areas that have impacted the submissions made are discussed further in the Submissions assessment of this report.

2. Subject Site and Surrounds

Approximately 1024m² in area (by calculation), the site is rectangular and situated on the eastern side of Duncan Street, approximately one kilometre southeast of the Huskisson town centre. The rear (eastern boundary) adjoins an unformed road reservation (Kent Lane). To the east of this road reservation is a large area of uncleared bushland that is Council owned and zoned RE1. The site is approximately 100m from Huskisson Beach to the east. The site is approximately 40m north of Keppel Street (Keppel St/Burrill St provides the main vehicle access between the Huskisson town centre to the north and Vincentia to the south). (Refer to Figure 3)

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Figure 3: Locality

The site accommodates an existing single storey dwelling house, and associated sheds and driveway. The land is predominantly cleared of vegetation, except for scattered perimeter planting and gardens adjacent to the dwelling and is mostly grassed. There is one street tree on the adjacent verge. (Refer to Figure 4).



Figure 4: Subject Site

The site is within a broader area of low scale and medium density housing, with wide straight streets, and one and two storey dwelling houses on gardens lots. There are some newer developments in the form of single storey villa housing nearby (three houses per lot - 66 Hawke, 33 Duncan, 34 and

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36 Duncan). A dual occupancy has been constructed to the north on 40 Duncan Street, and there is an approval for development of a 17-unit residential flat building on 44 Duncan Street to the south.

Duncan Street has partial kerb and gutter, mostly associated with newer development. There is no kerb and gutter adjacent to the subject site.

There is a mix of tourist accommodation in the wider locality, with hotels, motels, serviced apartments and caravan parks. The area is undergoing change with new residential flat buildings on nearby Beach Street facing the foreshore reserve.

Overhead electricity runs along the eastern side of Duncan Street. A sewer line runs within the Kent Lane reservation to the east of the subject site, and reticulated water is available.

The subject site is zoned R3 Medium Density Housing.

The site is not a heritage item nor is it within a conservation area.

The site is mapped as bushfire prone land and is on class 5 acid sulphate soils.

A search of the AHIMS register did not identify any items or places of Indigenous cultural significance on, or in the immediate proximity of, the site.

3. Background

Site History and Previous Approvals

Darts - since 1st July 2005

Application	Appl. Date	Application Type	Proposal	Status	Completed
DA20/2312	06/12/2020	Development Application	Two Storey Multi Dwelling Development	Incomplete	
DS18/1107	16/03/2018	Section 96 Amendment	Dwelling Additions	Approved	15/05/2018
DR17/2185	15/11/2017	Sewer Connection	Urban Dwelling Additions	Approved	28/02/2018
DA17/2419	15/11/2017	Development Application	Urban Dwelling Additions	Approved	28/02/2018

Old Applications prior to 2nd Sept 1996

Application	Proposal	Decision	Owner	Original Lot
SD10306		Approved	Hurst J	

Post-Lodgement

Date	Action
06/12/2020	Application lodged
08/12/2020	Vetting and assigned to assessing officer
08/12/2020	RFI - Site plan and analysis, stormwater concept, landscape plan, amended SEE (car parking, subdivision, medium density DCP requirements)
08/02/2021	GIS referral response received – numbering provided
08/02/2021- 24/02/2021	Affected owner notification. Three submissions received - Michael Newham, Anne Dombroski (24FEB), Suzette Willis (22FEB)
17/2/2021	Endeavour Energy response received
22/02/2021	TMO referral response received – street tree may be removed
26/02/2021	Subdivision Engineer's referral response received

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17/03/2021	RFI – amended plans
24/03/2021	Shoalhaven Water referral response received
22/04/2021	RFS referral response received
22/04/2021	Additional information received
21/05/2021	Development Engineer's response received on amended plans
15/06/2021	Council email to applicant re non-compliance of fundamental DCP requirements – parking, landscaping, private open space and building plane
22/06/2021	Applicant's response letter received
19/07/2021	Draft report and draft consent submitted by Council's Consultant to Council Assessment Staff.
23/08/2021	Applicant submitted amended plans - unsolicited
06/09/2021	Amended draft report submitted to Council Assessment Staff by Council's Consultant.

4. Consultation and Referrals

Internal Referrals

Referral	Recommendation	Comment
City Services - TMO	The TMO states the street tree is poor quality and can be removed. There is a replacement cost to the developer.	The requirement for a replacement tree is included as a condition in the draft determination.
GIS	The GIS officer supplied the numbering for the proposed development	The recommended numbering can be confirmed by condition should the application be approved.
Shoalhaven Water	Detailed assessment completed and Shoalhaven Water Notice issued	Shoalhaven Water requirements can be confirmed by condition should the application be approved.
Subdivision Engineer	The subdivision engineer acknowledges the provision of two visitor parking spaces but raises concerns about the parking shortfall for units 1 and 2, which each require a double garage as per DCP G21, and the design of the driveway and parking that also requires additional information in terms of manoeuvring. Other matters regarding easements, earthworks, waste servicing and stormwater drainage are either acceptable or acceptable subject to conditions.	The issues regarding shortfall in parking for units 1 and 2 are discussed in the body of this report and in accordance with this assessment the shortfall is not considered acceptable. While it is acknowledged that the required two visitor parking spaces are shown on the plans, in accordance with this assessment these are considered to have negative impact in relation to residential amenity and result in non-compliances with other DCP requirements re landscaping, private open space and privacy. These negative impacts are not acceptable as discussed in the body of this report. Compliance with relevant standards for parking, driveway widths and manoeuvring can be confirmed by condition should the application be approved.

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External Referrals

Agency	Recommendation	Comment
Endeavour Energy	Detailed assessment completed and construction requirements advised. Subject to the satisfactory resolution of the foregoing comments within their referral and the following recommendations and comments Endeavour Energy has no objection to the Development Application.	Endeavour Energy requirements can be confirmed by condition should the application be approved.

5. Statutory Considerations

Environmental Planning and Assessment Act 1979

Section 4.46 – Integrated Development

Act	Provision	Approval
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

Agency	Recommendation	Comment
Rural Fire Service	By letter dated 22 April 2021 the RFS issued General Terms of Approval, 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> , subject to conditions.	The draft determination includes the required RFS conditions.

The proposed development requires an 11m asset protection zone (APZ) to the east. Six metres of this APZ will be on Kent Lane (the unmade road to the east of the subject property). Generally, APZs should be accommodated within the site. However, in relation to Kent Lane and any APZ management within the lane Council has provided the following:

Council's Bushland Management Officer provided advice on the adjoining land, 44 Duncan Street, and this advice would still be accurate as follows:

- Kent Lane is listed on Council's Annual Bushfire Mitigation Program as it is identified as an Asset Protection Zone in the Shoalhaven District Bushfire Management Plan. Vegetation on the site is mown/slashed and/or brush cut up to 3 times/year during bushfire danger period.*
- Kent Lane is a 6m wide service corridor that runs in a north-south direction between Keppel & Nowra Streets Huskisson*
- Land to the east (Lot 701 DP 1029715) is managed by Crown Lands under an adopted Plan of Management (see PART OF SECTION 9 Plan of Management for Crown Reserve Gaz. 02/07/04).*
- Land to the west comprises a number of private lots zoned R3 – Medium Density Residential.*

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- Existing medium density development adjacent this section of Kent Lane were approved prior to the changes to the Rural Fires Act in 2002 that saw the introduction of Planning for Bushfire Protection.

Further, the RFS have issued general terms of approval for the proposal, suitable legal mechanism, such as an instrument pursuant to section 88 of the *Conveyancing Act 1919* or an adopted Council Plan of Management, shall be in place over the unformed Kent Lane service corridor which requires all land within Kent Lane to be managed for the life of the development as an asset protection zone in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019.

It appears, therefore, that the required APZ for the proposed development can be maintained. While Kent Lane is Council's Bushfire Management Plan. It is recommended the owners of the land be required to enter into an agreement (s.88 instrument) with Council to ensure the APZ is maintained.

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 subject site is less than one hectare. Reference to the clearing thresholds provided under s.7.1 of the Regulation the clearing threshold is 0.25ha or more. The clearing required for the proposed development is NIL which is under the clearing threshold.

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

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A review of the proposed development against the BOS triggers 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 residential development for the purpose of calculating contributions under the Plan.

The subject site is in Planning Area 3 and is considered to be an increase in intensity (from one dwelling to four) and a contribution is to be levied. As at 19 May 2021 the total contribution payable is \$36,739.62. The details are shown in the following table. The contribution is below the Minister's cap of \$20,000 per dwelling.

CODE	DESCRIPTION	RATE PER UNIT	QTY	TOTAL
03AREC0005	Planning Area 3 - Recreation facilities upgrade various locations	\$280.19	3.00	\$840.57
03AREC3003	Bay and Basin Leisure Centre	\$420.00	3.00	\$1,260.00
03CFAC0007	Bay & Basin Branch Library	\$557.19	3.00	\$1,671.57
03CFAC4001	Bay & Basin Community Hub	\$2,710.71	3.00	\$8,132.13
03ROAD0055	Northern Section of Currumbene Street	\$1,125.73	3.00	\$3,377.19
03ROAD2115	Sydney / Bowen Streets, Huskisson	\$486.37	3.00	\$1,459.11
CWAREC5005	Shoalhaven Community and Recreational Precinct SCaRP Cambewarra Road Bomaderry	\$2,506.53	3.00	\$7,519.59
CWCFCAC5002	Shoalhaven Entertainment Centre (Bridge Road Nowra)	\$1,894.40	3.00	\$5,683.20
CWCFCAC5006	Shoalhaven City Library Extensions (Berry Street, Nowra)	\$1,280.53	3.00	\$3,841.59
CWCFCAC5007	Shoalhaven Regional Gallery	\$70.30	3.00	\$210.90
CWFIRE2001	Citywide Fire & Emergency services	\$138.13	3.00	\$414.39
CWFIRE2002	Shoalhaven Fire Control Centre	\$202.07	3.00	\$606.21
CWMGMT3001	Contributions Management & Administration	\$574.39	3.00	\$1,723.17
				\$36,739.62

Coastal Zone Management Plan 2018

The subject site is within the Jervis Bay Marine Park Area (JBMPA). The subject site is not within the coastal hazard area, the area affected by wave run up 100yr ARI. The predicted coastal hazard in 2100 is approximately 100m from the rear of the subject site (front of caravan park amenities block). No proposals specifically affect or constrain development on the subject site.

Council Policies

NIL

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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.

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

i) Environmental Planning Instruments

Instrument
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
State Environmental Planning Policy (Coastal Management) 2018
State Environmental Planning Policy No 55—Remediation of Land
Shoalhaven LEP 2014

SEPP (Building Sustainability Index: BASIX) 2004

A current BASIX Certificate for each of the single dwellings was lodged with the application. A NatHERS certificate was also lodged for each dwelling.

The following BASIX commitments are not shown or certified on the amended plans:

- There is no water tank for unit two (minimum 2000l required)
- The location of the hot water service is shown for all units, but the type is not specified – gas instantaneous with an energy rating of 5 stars is required.

SEPP (Coastal Management) 2018

[Coastal Management Maps link](#)

The subject site is within the *coastal use area* under SEPP (Coastal Management) 2018. The following map shows that the subject site is just outside the coastal environment area. The subject site is not within an area mapped as coastal wetlands or littoral rainforests, not within an area mapped as being in proximity to coastal wetlands or littoral rainforest and is not within an area identified on the coastal vulnerability mapping.

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Coastal use area



Coastal environment area

In accordance with clause 14 of SEPP (Coastal Management) 2018, development consent must not be granted to development on land that is within the coastal use area unless the consent authority has considered the matters listed in clause 14(1)(a) and is satisfied as to the matters identified in clause 14(1)(b) as follows:

Considerations	Comments	
(1) 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,	The development will not impact on any existing access or impact on safety of access to the nearby foreshore and beach. Huskisson Beach and the foreshore is about 100m from the subject site and there is no direct access or relationship with the site. There is a public walkway from the corner of Kent Lane and Keppel Street (about 20m to the south of the site) and this will not be affected. Any public access that exists access along Kent Lane will not be affected.	Complies
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	Given the distance of the site from the foreshore or any water body/coastal feature, the existing development between, and that the proposal is for a two-storey residential development, it is considered the proposed development will not create overshadowing, wind funnelling to public land, or result in a reduction of views from public spaces to the foreshore.	
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	Because of the location and relative size of the development, as discussed in point (ii), it is considered the proposed development will not impact on the visual amenity and scenic qualities of the coastal foreshore. It is unlikely the site and proposed development will be visible from any coastal headlands, given the proposal is only two storeys, and there is development and vegetation in between that would interrupt any direct views.	

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iv) Aboriginal cultural heritage, practices and places,	The subject site is not identified as containing any Aboriginal cultural heritage, practices or places.	
(v) cultural and built environment heritage, and	The subject site is not a heritage item nor is it within a heritage conservation area. The nearest conservation area is the beach and foreshore area about 100m away, and as discussed above, it is considered the proposed development will not have an adverse impact on those areas.	
The consent authority (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	As discussed above it is considered the proposal will not have any adverse impacts on the coastal environment that would require redesign or ongoing management. Standard conditions can be included in the draft consent to ensure construction impact is minimised. Note: This compliance does not undo the conclusion of this assessment that the proposal has more localised negative impacts in relation to car parking, landscaping, private open space and bulk. These negative impacts are discussed in the body of this report, the conclusion and the appendices, are a result of non-compliances with the SDCP 2014 and do require redesign.	Complies
(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or		
(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and		
The consent authority — (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.	The proposal is within a developed residential area and is generally consistent with surrounding development (existing and approved).	Complies

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 Question 3 to	X	Proceed to Question 2
2. Does the proposal result in a change of use (that is the establishment of a new use)?		Proceed Question 3 to	X	Assessment under SEPP 55 and DCP not required.

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Question	Yes	No
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 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

Land Zoning

The land is zoned R3 Medium Density Residential under the SLEP 2014.

Characterisation and Permissibility

The proposal is best characterised as multi-unit housing and is permissible within the R3 Medium Density Residential zone under the SLEP 2014.

The proposal is not a heritage item and is not within a heritage conservation area.

Zone objectives

Objective	Comment	Consistent
To provide for the housing needs of the community within a medium density residential environment	Additional housing will be provided on the land that has been zoned for medium density with the aim of increasing housing supply.	Consistent
To provide for a variety of housing types within a medium density residential environment	A two storey development would add to the diversity of housing in the vicinity that includes one and two-storey buildings (existing and approved), detached houses, one storey villas, approved two storey multi unit housing and residential flat building.	Consistent
To enable other land uses that provide facilities or services to meet the day to day needs of residents	Only residential is proposed.	N/A

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To provide opportunities for development for the purposes of tourist and visitor accommodation where this does not conflict with the residential environment	Tourist and visitor accommodation is not proposed.	N/A
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SLEP 2014 Clauses

Clause	Comments	Complies/ Consistent
Part 2 Permitted or prohibited development		
2.4 Unzoned Land	No unzoned land is involved.	N/A
2.5 Additional permitted uses for particular land	No additional permitted uses are proposed on the site.	N/A
2.6 Subdivision – Consent requirements	Subdivision for a secondary dwelling is not proposed	N/A
2.7 Demolition requires development consent	Demolition of the existing house and shed on the subject land is proposed and development consent will be obtained for that demolition should the application be approved.	Complies
2.8 Temporary use of land	Temporary use of land is not proposed.	N/A
Part 4 Principal development standards		
4.1 Minimum subdivision lot size	Strata subdivision only is proposed.	N/A
4.1AA Minimum subdivision lot size for community title schemes	Community title subdivision is not proposed.	N/A
4.1A Minimum lot sizes for dual occupancies, manor houses, multi dwelling housing, multi dwelling housing (terraces) and residential flat buildings	Minimum lot size requirement is 900m ² . The size of the subject site is 1024m ² (by calculation). Note: According to subclause (4) the proposed development can be subdivided into lots of any size post development consent.	Complies

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4.1C Exceptions to minimum subdivision lot sizes for certain residential development	An exception to minimum lot size is not requested.	N/A
4.3 Height of buildings	The height of buildings is not specified on the map. Under clause 4.3(2A) the height of a building on the land is not to exceed 11 metres. While the development encroaches the building plane to a minor extent, the whole of the development is within the 11m height.	Complies
4.4 Floor space ratio	No FSR is applied under the SLEP 2014. An FSR of 0.7:1 for the proposed development is provided in SDCP 2014 Chapter G13.1 Medium Density Housing and is discussed in relation to the DCP.	N/A
4.6 Exceptions to development standards	None are requested.	N/A
Part 5 Miscellaneous provisions		
5.1 – 5.13	None of the miscellaneous provisions apply to the proposed development.	N/A
Part 7 Additional local provisions		
7.1 Acid sulphate soils	<p>The subject site is identified as having Class 5 Acid Sulphate Soils. There is land within 500m identified as having Class 2 and Class 3 Acid Sulphate Soils that could be below 5 metres Australian Height Datum (given the lowest point of the subject site is about 5m AHD).</p> <p>Development consent is required for works within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 lands.</p> <p>It is considered unlikely that the minor site preparatory works (moderate cut and fill) would result in the water table being lowered below 1 metre Australian Height Datum on nearby Class 1, 2, 3 or 4 lands. Council's subdivision engineer has not raised concerns.</p> <p>A cautionary condition is recommended that will apply during site works in the event that Acid Sulphate Soils are uncovered. This is a standard approach for developments of this nature on Class 5 soils.</p>	Complies subject to standard conditions
7.2 Earthworks	<p>Development consent is required for earthworks and will be obtained should this application be approved.</p> <p>The proposal requires a cut in the front half of the subject site and fill in the rear half. The works require a 500mm high retaining wall at the front and 600mm retaining wall at the rear along the northern boundary. On the southern</p>	Complies subject to standard conditions

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	boundary the retaining wall will be 800mm at the front and 600mm at the rear. There will be a 600mm high retaining wall presenting to Kent Lane. Council's subdivision engineer has commented - Retaining walls have been shown on the site plan. Standard retaining wall condition can be applied.	
7.3 Flood planning	The land is not identified Flood Planning Map.	N/A
7.4 Coastal risk planning	The subject site is not within the hazard line to 2100 or hazard area on the Coastal Risk Planning Map, nor is it identified within Coastal Risk Planning Area.	N/A
7.5 Terrestrial biodiversity	The subject site is not identified on the Terrestrial Biodiversity Map.	N/A
7.6 Riparian land and watercourses	The subject site is not identified on the Riparian and Watercourses Map.	N/A
7.7 Landslide risk and other land degradation	The subject site is not identified as having land slip hazard.	N/A
7.8 Scenic protection	The subject site is not identified on the Scenic Protection Area Map.	N/A
7.9 HMAS Albatross airspace operations	The subject site will not encroach the HMAS Albatross airspace operations.	N/A
7.10 Development in HMAS Albatross Military Airfield buffer area	The subject site will not encroach the HMAS Albatross Military Airfield buffer area.	N/A
7.11 Essential services	Water, electricity and sewerage infrastructure are available in the street and to the proposed development.	Complies
7.14 Permanent occupation in mixed use developments	Tourist and visitor accommodation is not proposed.	N/A
7.15 Development in the vicinity of extractive industries and sewage treatment plants	The subject site is not within an extractive industries or sewage treatment buffer and is not in the vicinity of either.	N/A
7.20 Development in the Jervis Bay region	The subject site is identified as 'CI 7.20' on the Clauses Map. The subject site and proposed development do not trigger any of the clauses under clause 7.20. The subject site is not located on any of the coastal features identified in the clause. Nor is it in the vicinity of any of these, with the exception of Huskisson Tapalla Point., which is about 400m away and separated from the subject site by	Complies

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	substantial development and vegetation. As discussed above in relation to coastal management, it is considered the proposal will not have any adverse impacts that would require redesign or ongoing management.	
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ii) **Draft Environmental Planning Instrument**

<http://www.planning.nsw.gov.au/Policy-and-Legislation/State-Environmental-Planning-Policies-Review>

iii) **Any Development Control Plan**

- **Shoalhaven DCP 2014**

Chapter 2 General and Environmental Considerations		Achieved
Potentially Contaminated Land	The subject site is within an established residential area and has a dwelling that has been on the land for many years. The application was assessed under the table relating to SEPP 55 and further assessment under SEPP 55 and SDCP 2014 is not required. A precautionary condition is recommended to apply during site works should contaminated land be found, to ensure compliance.	Yes, subject to standard conditions
European Heritage	The subject site is not a heritage item nor is it within a heritage conservation area. The nearest conservation area is the beach and foreshore area about 100m away, and as discussed above, the proposed development will not have an adverse impact on those areas. A precautionary condition is recommended to apply during site works should European heritage be found, to ensure compliance.	Yes, subject to standard conditions
Aboriginal Cultural Heritage	A search of the OEH register of notified Aboriginal objects and declared Aboriginal places in NSW (AHIMS) revealed no Aboriginal sites are recorded in or near the subject site and no Aboriginal places have been declared in or near the location. The subject site is not identified as containing any Aboriginal cultural heritage, practices or places. A precautionary condition is recommended to apply during site works should Aboriginal cultural heritage be found, to ensure compliance.	Yes, subject to standard conditions
Crime Prevention Through Environmental Design	Given the need for the driveway, there is ample space around the proposed dwellings to enable sightlines for people walking into the development. There is one window and an entry facing the street (unit one) that might give the impression of causal surveillance. However, the effectiveness of these two features will be reduced through the location of the visitor parking space in front of them. Causal surveillance from the proposed dwellings is generally compromised by most of the windows facing the driveway being high sill height. The two ground floor windows that are not high sill height are compromised by directly abutting the driveway and probably should have high sill heights to improve privacy.	Yes, subject to standard conditions

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	<p>There will be clear delineation between the communal areas (front landscaping and driveway) and the private outdoor space for each dwelling, with fencing and gates to control access.</p> <p>However, there is no delineation between walls and windows at ground level, there is no intermediate space between the front doors and the driveway, and the ground floor windows abut the driveway, impinging on privacy and amenity.</p> <p>There is no indication in the SEE as to how the space will be managed.</p> <p>Standard conditions regarding the formal supervision, control and care of the development can be imposed should the application approved.</p>	
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Generic Chapters	Achieved
G1: Site Analysis, Sustainable Design and Building Materials	
<p>A plan labelled 'site analysis' was lodged with the amended plans. The plan does not provide any indication as to why the development has been designed in the way it has, or how the objectives of the controls are met. Specifically, the plan does not include:</p> <ul style="list-style-type: none"> • Clear location/heights of dwellings on adjoining land • Clear location/heights of approved development on adjoining land • Identification of constraints and opportunities • The likely impact on surrounding development, particularly with regard to overshadowing, privacy and obstruction of views. • How overshadowing impacts on adjoining land will be minimised. 	No
G2: Sustainable Stormwater Management and Erosion/Sediment Control	
<p>An erosion and sedimentation control plan lodged with the application shows a sedimentation fence along the eastern boundary. The SEE states 'During the construction phase drains will be blocked or barricaded and silt fencing, sandbags and/or hay bales will be used to prevent off-site sediment movement (Sheet 3). These will be developed in consultation with the contractor and incorporated into a Soil and Water Management Plan (SWMP) in accordance with NSW Department of Housing (1998) <i>Managing urban stormwater: soils and construction</i>.</p> <p>The SEE states the development can be drained to the street system, as shown on the amended stormwater plans SW01-SW02 of Annexure D prepared by AE Consulting Engineers. The plans indicate that roof and hardstand/surface drainage can be directed to an onsite detention (OSD) system with a volume capacity of 7.2m³ before being discharged to the rear lane via flow dissipators.</p> <p>Council's Subdivision Engineer commented - <i>The proposal to discharge stormwater into the unformed laneway by way of holes in the side of a pit is not accepted. However, it is believed that a drainage outcome can be conditioned – possibly by way of a level spreader within the unformed laneway, or by pipe or swale to the existing drainage within the laneway.</i></p> <p>Compliance can be confirmed by conditions should the application be approved.</p>	Yes, subject to conditions
G3: Landscaping Design Guidelines	
<p>The proposal fails to provide the required landscaping on site. This impacts on the quality of the private outdoor space and the communal landscaped areas, and the amenity and functionality of the development. The original landscape plan lodged with</p>	No

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<p>the application provides minimal landscaping using shrubs that are low to middling in height, with no trees, no landscaped buffer between the driveway and the southern side boundary. Some of the lower scale landscaping at the front boundary and on the edges of the driveway would need to be removed to accommodate the letter box and access to the gates/bin storage areas. The result is about 40m² of actual planting and the driveway will be barren and hot. Some of the landscaping conflicts with service areas, and access to the gates/bin areas, for Units 2, 3 and 4.</p> <p>The amended landscape plan shows additional planting including three trees along the front boundary that could grow to 6m, one tree on the rear boundary that could grow to ten metres, four lily pilli in the middle of the POS of Unit 2, and a row of lomandra along the southern boundary (in an area that also accommodates a retaining wall, 1.8m high metal fence, the side pathway and bin storage for Unit 4).</p> <p>While the August 2021 amended landscape plan is an improvement, it does not demonstrate compliance with the intent of the relevant controls or significantly address the issues raised in relation to landscaping and POS. The trees are on the east and west boundaries and will do little to shade the internal areas of the development (particularly the drive) that will be barren and hot. The only useable POS for Unit 2 (which is deficient in area) is further reduced in useability by the introduction of the lily pilli in the middle of the space, and the water tank for Unit 2 is still not shown on the plans. This space is considered unworkable and will have little utility. It is not demonstrated how the row of lomandra along the drive will work given the overlap with other aspects of the development (retaining wall, fence and bin store) and manoeuvrability on the drive (which is yet to be demonstrated to the Subdivision Engineer's satisfaction).</p> <p>The two visitor parking spaces are shown as landscaped area (the applicant justifies this by using pervious paving). However, car parking space is not considered acceptable as landscaped area, even if it is paved with permeable material, as it is not capable of accommodating planting or use for recreation.</p> <p>Apart from the four nominated trees, the tallest of the shrubs may reach a height of 1.5m. The bulk of the remaining landscaping is between 0.3m and 1.5m in height. The landscaping may provide some screening but when viewed from the street but will not be of a scale that would reduce the bulky appearance of the proposed development, provide shade, or have a cooling effect.</p> <p>Given the density of the development (considered to be unacceptable as discussed elsewhere in this report), the need for driveways, parking, service areas and outdoor terraces, there is limited room for planting and limited potential for a satisfactory landscaped outcome for the proposed development, and it is difficult to see how some of the proposed planting in the August 2021 amended landscape plan will survive given it is in high trafficked areas or competing with constructed elements.</p>	
<p>G4: Removal and Amenity of Trees</p>	
<p>There are no trees on the site to be protected during construction. Council's Tree Preservation Officer states the street tree is of poor quality and can be removed. There is a replacement cost to the developer which can be confirmed by conditions should the application be approved.</p>	<p>Yes, subject to conditions</p>
<p>G5: Biodiversity Impact Assessment</p>	
<p>The subject site is already highly modified, being mostly grass and scattered shrubs. All vegetation will be removed as a result of the proposed development. However, there will be no impact on native vegetation or habitat for threatened species.</p>	<p>N/A</p>
<p>G6: Coastal Management Areas</p>	

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The site is not identified on the coastal risk map and is not identified as having coastal hazard risk, erosion/oceanic inundation, or cliff/slope instability.	N/A
G7: Waste Minimisation and Management Controls	
The SEE states the requirements of Chapter G7 for construction and demolition can and will be addressed before issue of a Construction Certificate as per the provisions of Chapter G7. Compliance can be confirmed by conditions should the application be approved.	Yes, subject to conditions
G11: Subdivision of Land Refer to detailed assessment in the Appendix	
While the strata plan submitted with the application lacks clarity it can be made satisfactory with relevant conditions.	Yes, subject to conditions
G13: Medium Density and other Residential Development Refer to detailed assessment in the Appendix	
The proposal fails to demonstrate compliance with basic requirements in relation to car parking provision and design, landscaping and private open space, privacy and amenity on the site. Further, the proposal has not demonstrated that potential overshadowing of the open space of approved development on the adjoining land to the south will be acceptable. Landscaped area The required area of deep soil planting is 102.43m ² and calculated off the plans to be about 160.91m ² (by excluding clothes drying, bin storage and water tank areas). Most of the identified deep soil planting area will be within the private open space of units 1, 3 and 4. In the original landscape plan, only about 40m ² of the site is shown with formal planted landscaping, and this did not include tree planting. This formal landscaping area was calculated using the planting schedule, plant species and dimensions, and resulted in a shortfall of quality deep soil planting of about 60m ² . In the August 2021 amended plan additional planting is shown along the dividing rear yard fence between Units 3 and 4, and denser planting is shown within all other areas where formal planting was shown on the original plan. Discounting areas that are not considered viable (given they conflict with parking, vehicle access and service areas), it is calculated that an area of approximately 50m ² is shown with deep soil planting, which is considered a marginal increase over the original landscape plan, and a shortfall of about 50m ² of quality deep soil planting. As discussed under G3: <i>Landscaping design guidelines</i> , the landscaping will not provide screening or be of a scale that would reduce the bulky appearance of the proposed development, provide shade, or have a cooling effect. Given the density of the development (considered to be unacceptable), the need for driveways, parking, service areas and outdoor terraces and recreation areas, there is limited room for deep soil planting and a satisfactory landscaped outcome for the proposed development can't be achieved. Private open space (POS) Given the quality of proposed landscaping, the juxtaposition of the proposed units, with minimal communal landscaped area and no communal recreation area, it is considered essential that the minimum private open space requirements be met. The failure to meet these minimum requirements will reduce residential amenity and make the	No

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development less functional and useable for residents, particularly all year round and in all weather conditions as per the objective for POS.

The amenity for Unit 1 is compromised by having the bulk of the POS within the front setback. The proposed slatted fence will mean that the area is not completely private. The amenity of this area is further compromised by the location of the bin storage, forward of the front building line (that needs to be moved). The applicant has not shown how this POS and bin storage will work on the slope (that forms a batter for the cut required to make the site flat for the buildings). About 14m² of the POS for Unit 1 is used for drying area/water tank and will not be usable for recreation or planting. Further, this narrow area (2m wide) is between the 1.8m high fence along the northern boundary and the two-storey wall of the dwelling, in an area that may be overshadowed by the approved multi-unit development to the north, and not ideal for outdoor recreation or planting, particularly in the colder months. While individually some of the shortcomings of the POS for Unit 1 may be acceptable, the cumulative impact will affect the function and amenity of the POS for the occupants.

The amenity for Unit 2 is the poorest of the four proposed units and is further compromised by the small size and poor quality of the POS. All the ground floor windows for unit two abut the driveway and are, therefore, limited in number and have high sill height. The only north facing window to the ground floor living areas is high sill height, presumably to provide privacy from the adjacent visitor parking space. The only other light source is the south-facing sliding door to the patio (that is fully covered). The living areas have limited light and ventilation as a result.

The hardstand for Unit 2 does not meet minimum requirements and is fully covered, so will be dark, particularly in the colder months and when there is possible overshadowing from the approved multi-unit development to the north. The remaining POS is compromised by the service areas (the water tank is still not shown on the plans), reducing its useability for outdoor recreation, and providing an outlook from the patio that is only of the service areas and three lily pilli in the middle of the space that further interrupt its useability. Given the need for circulation around the service areas, there will be no room for perimeter planting and very little space for recreation. As with Unit 1, the drying area is along the northern boundary in an area that may be overshadowed by the approved multi-unit development to the north and the 1.8m high fence to the proposed development, and may not be ideal for clothes drying, particularly in the colder months. The path to the rear gate of Unit 2 can't be opened because the bin storage area is in the way. Moving the bin storage to a more workable location, would further reduce the amenity of POS for Unit 2.

The POS for Unit 2 is squeezed between the buildings and fences, will not get adequate daylight or sunlight and is poorly designed, with service areas dominating. The deficiencies are exacerbated by the POS not meeting the minimum space requirement of 35m², the hardstand not meeting the minimum space requirement of 20m², and the whole of the hardstand being covered.

The applicant's response in relation to Council's request for amended plans states landscaping is considered acceptable as it is not contrary to the objectives nor the controls and that the proposed landscaping responds effectively to the site and neighbouring properties and provides for a well-designed landscape treatment, which matches with other developments that have a similar setback.

The applicant's response includes the use of internal living areas and services areas to compensate for the shortfall in POS. The applicant's response does not discuss alternatives (such as reducing the density on site, or why the non-compliance is necessary or justified).

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<p>Building Plane</p> <p>In the original plan, the profile of the first floor of the building that accommodates units three and four exceeded the building plane for its entire length, on both sides. The request for variation did not provide a measurement for the extent of the exceedance. However, when approximated off the plans, the encroachment measured up to 1.5m horizontally and up to a metre vertically and included part of the wall and part of the roof.</p> <p>In the amended plan, the first floor has been pulled in by 300mm on the southern and northern façade, for approximately half of those facades from the rear building line to about the mid-point (adjacent to bedrooms 3 and 4 of each unit). The applicant states the amendment is made to reduce encroachment of the building height plane.</p> <p>This amendment does little to reduce the bulk of Units 3 and 4. Given the original encroachment was minor and only raised in relation to the numerous other non-compliances in the assessment, and the amendment results in only a small part of the roof and upper wall of Unit 4 encroaching, it could be accepted. However, the amendment does little to reduced overshadowing of the property to the south.</p> <p>While the encroachment could be considered minor, the encroachment is a result of minimal setbacks from the side boundaries and a very large building with limited progressive setbacks that would create articulation.</p> <p>The side setbacks for the building containing Units 3 and 4 are minimal. While these comply with minimum numerical standards, the outcome is not considered to comply with performance criteria and are potentially unworkable. The side setbacks contain retaining walls, fence, meter box, hot water service, bin storage and access to the laundry (and in the amended plans boundary planting along the southern boundary). These will be cramped and possibly dark and dank areas. The limited setbacks contribute to the encroachment to the building plane and the bulk of the building, also overshadowing of the property to the south at 40 Duncan Street.</p> <p>The building will cast a mid-winter shadow over the property to the south that could have a negative impact on the outdoor spaces (private and communal) of the approved development on that property.</p> <p>Note: The applicant provided amended shadow diagrams August 2021 that show a different shadow profile to the shadow diagrams lodged with the original plans and the amended April 2021 plans.</p>	
<p>G21: Car Parking and Traffic</p>	
<p>Car parking for units one and two</p> <p>Units 1 and 2 each have three bedrooms on the first floor, and a space on the ground floor labelled 'rumpus room'. The 'rumpus room' in each dwelling is capable of being used for a bedroom (as these spaces were identified as bedrooms on the original plans). While the original ensuite and part of the partition wall of the 'rumpus room' in unit two has been removed in the amended plans, it could easily be reinstated to enclose the space and create a fourth bedroom. The SEE confirms this in the following comment in relation to universal housing:</p> <p><i>Unit 2 could be adapted at a later stage by converting the rumpus room into a bedroom and modifications to the kitchen area and laundry to make a bathroom, if necessary.</i></p> <p>In accordance with SDCP 2014 two car parking spaces are required for a three-bedroom unit, for a unit with more than three bedrooms (this includes rooms capable of being used for a bedroom). Units 1 and 2 have a single car garage so there is a shortfall of one space per unit. In the August 2021 the partitions to a bedroom on the</p>	<p>No</p>

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first floor of Units 1 and 2 are removed and the resulting room labelled 'lounge'. Notwithstanding, the BASIX and NatHERS certificates identify Units 1 and 2 as having 4 bedrooms. For the purposes of this assessment Units 1 and 2 are considered to have rooms capable of being used as a bedroom totalling four bedrooms per unit.

Given the size of the proposed development, 18 bedrooms on site, the development will create high demand for on-site parking and the two spaces required are an absolute minimum to enable the development to function well.

Council's Development Engineer is not supportive of the development in its current form and commented - *The applicant has not sufficiently resolved the parking shortfall for units 1 and 2. The response states that the units have been reduced to three bedrooms and therefore only require one space. This is incorrect, as three-bedroom units still require two parking spaces as per DCP G21. The parking arrangement therefore still needs further consideration.*

Visitor parking

Two visitor parking spaces are shown on the plans. However, the location of these visitor spaces is unacceptable as they have significant negative impact on the amenity of Units 1 and 2.

One visitor parking space is located between the front building line and the street boundary and abuts the Unit 1 entry door and front window (to the space that is capable of being used as a bedroom and has a full height window). Problems with this space include:

- It's within the front setback that is there to present an attractive landscaped frontage to the development, integrate it with the street and provide a ground level outlook for the units (which will also provide casual surveillance to the street and entry to the subject property).
- There is no delineation between the communal area/parking space and the private entry to dwelling one – people will have to walk around the parked car to get to the front door.
- There is a clear view from the parking space into the front room of unit one (that is a bedroom) and obscure glazing or screening will reduce daylight to that room and impact on the amenity of that room.
- Bins from unit one will have to be pulled through the car space to the street – not possible if there is a car in the space.

The second visitor parking space is squeezed between the rear (northern) wall of unit two and the boundary, leaving a narrow path to a gate into the rear yard of Unit 2. Problems with this space include:

- There is no delineation between the path and the parking space and its possible that a car gets parked over the path - bins from unit two won't be able to be pulled out through this area if it is blocked.
- Results in the only ground floor north facing window of unit one having a high sill height, presumably for privacy, and possible poor sunlight, daylight and ventilation to the living areas – the only other light is via south facing sliding doors onto the patio that is covered.
- Is only possible by reducing the amount of POS for Unit 2 to an unacceptable level

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<p>Function</p> <ul style="list-style-type: none"> Both visitor parking spaces area calculated as part of the landscape area – when taken out of that calculation the landscape area will be deficient. If the landscape area is to be met, then the visitor parking can't be provided. Given the shortfall in car parking for Units 1 and 2, and the size of the proposed development at 18 bedrooms, it is possible the visitor parking will be used by occupants of the units and not be available for visitors – this will create pressure for street and verge parking, and may impact on nearby residents if occupants or visitors of the proposed development are forced to park in the street adjacent to other properties. Manoeuvrability has not been demonstrated. Council's Development Engineer commented <ul style="list-style-type: none"> <i>The swept paths provided are insufficient as they use a B85 vehicle, whereas DCP G21 requires use of a B99 vehicle for all residential development. This is to ensure compatibility with the current vehicle market which has evolved significantly since the vehicle surveys informing AS2890.1 which are over 20 years old.</i> <i>Unit 1 requires a three point turn on entry and exit which is unacceptable. Units 2 and 3 require a three point turn on exit which is also not ideal. Refer to DCP G21 P1.1.</i> <i>Swept paths should be provided for the visitor parking spaces.</i> <p>The amenity impacts of poor design of the visitor parking are discussed further under G13 Medium density housing (Table in Appendix 1, and G3 Landscaping above).</p> <p>Parking is of particular concern in Huskisson, where there is potential for short term holiday rental that generates a high demand for parking beyond typical residential use. Given the recent adoption of Chapter 21 Car Parking and Traffic, that clearly details the desired future character of the medium density areas, compliance is essential.</p> <p>Applicant's response</p> <p>The applicant's response in relation to Council's request for amended plans and compliance with the car parking provisions in Chapter G21 relies on the proposal meeting the objectives of the DCP as follows:</p> <p><i>i. Ensure that adequate off-street parking is provided in conjunction with development throughout the city, including any overflow parking.</i></p> <p>The applicant's response to this objective refers to a DCP amended 24 March 2021 that should not apply retrospectively to the application that was lodged in December 2020. However, Chapter G21: Car Parking and Traffic was amended in October 2020 and applied to the application at the date it was lodged.</p> <p><i>ii. Discourage the use of on-street parking for new development.</i></p> <p>The applicant's response in relation to this objective is-</p> <p><i>whilst the Council can provide carparking controls, every scenario can never be achieved, as there are uses that even with the best endeavours simply will not provide sufficient carparking onsite</i></p> <p>The intent of the DCP is embodied in the controls that require adequate parking on all development sites. All applicants are required to comply, and most applicants endeavour to, and do, comply with parking requirements. The applicant has not made 'best endeavours' to provide the required parking on site.</p> <p><i>iii. Ensure those car parking areas are visually attractive</i></p> <p>In summary the applicant's response to this objective is-</p>	
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<p><i>the visitor space at the front of the property is conveniently located and will be constructed of a grasscrete material. This ensures that the area within the front setback does not contain a hardstand area and therefore the 'green frontage and landscape treatment is retained to preserve the streetscape.</i></p> <p>While the driveway and car parking lacks greenery and could be improved, the main issue is the non-compliance in parking provision of two spaces, and the impact the two visitor spaces have on the amenity of the proposal (including poor landscape and outdoor space outcomes, and driveway/parking spaces abutting the windows of habitable rooms that will impact on privacy or potentially daylight access. The applicant's offered alternatives of removing more landscaping and abutting more parking against windows of habitable rooms to make up one of the deficient spaces, will lead to greater impact on amenity and is not acceptable.</p> <p>The August 2021 amended plans do not adequately address the non-compliances regarding shortfall in car parking, POS, inclusion of car spaces and service areas as landscaped area, and conflict between landscaping and pedestrian circulation.</p>	
<p>G26: Acid Sulphate Soils and Geotechnical (Site Stability) Guidelines</p>	
<p>The subject site is identified as having Class 5 Acid Sulphate Soils, and there is land within 500m identified as having Class 2 and Class 3 Acid Sulphate Soils that could be below 5 metres Australian Height Datum. (given the lowest point of the subject site is about 5m AHD). However, it is considered unlikely that the minor site preparatory works (moderate cut and fill) would result in the water table being lowered below 1 metre Australian Height Datum on nearby Class 1, 2, 3 or 4 lands.</p> <p>A precautionary condition is recommended to apply during site works should Acid Sulphate Soils be uncovered.</p>	<p>Yes, subject to conditions</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

There are no planning agreements applying to the subject site.

iv) Environmental Planning and Assessment Regulation 2000

Clause	Comment
<p>cl.92 Additional matters that consent authority must consider</p> <p>Notes: B) demolition of a building, the provisions of AS 2601 C) development on land that is subject to a subdivision order made under Schedule 7 to the Act E) development for the purposes of a manor house or multi dwelling housing (terraces)</p>	<p>B) Conditions are recommended to ensure that demolition is undertaken in accordance with AS 2601</p> <p>E) Council's DCP is satisfactory for the assessment of the proposal</p>
<p>cl.93 Fire safety and other considerations Note: change of building use for an existing building</p>	<p>N/A</p>
<p>cl.94 Consent authority may require buildings to be upgraded Note: development involving the rebuilding, alteration, enlargement or extension of an existing building</p>	<p>N/A</p>

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Clause	Comment
cl.94A Fire safety and other considerations applying to erection of temporary structures	N/A
cl.95 Deferred commencement consent	N/A
cl.96 Imposition of conditions—ancillary aspects of development	N/A
cl.96A Imposition of conditions—conditions limited to State significant development	N/A
cl.97 Modification or surrender of development consent or existing use right	N/A
cl.97A Fulfilment of BASIX commitments	BASIX certificates are supplied and compliance will be conditioned

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	The subject site is highly modified and separated from the high value natural environment (the beach and foreshore) by other development, Kent Lane and the managed Crown Lands to the east. The subject site is in a developed area that is identified for medium density development. Moderate earth works are proposed and considered not to have negative impact. For the reasons outlined in this report, and summarised here, the proposal is considered to have minimal impact on the natural environment.
Built Environment	<p>The proposed development will be in a built-up area that is deemed appropriate for multi-unit development by virtue of the zoning and permissibility of the use. Driveways and setbacks generally provide separation between the proposed development, existing and approved development on the adjoining lots, and the public domain. Height is relatively consistent with nearby villa developments and approved multi-unit development on the adjacent land.</p> <p>However, the proposed density on the site is achieved through poor residential amenity; the proposal fails to meet minimum standards regarding landscaping, private outdoor space, car parking, and privacy, unnecessarily exceeds the building plane. These non-compliances will impact negatively on future residents on the site and on residents in the surrounding neighbourhood.</p> <p>The proposal could be made more consistent and compatible by removal of one of the units or by reducing the size of some of the units. In its current form, the proposal is not considered consistent or compatible with the built environment and will have negative impact on the built environment.</p>

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Head of Consideration	Comment
Social Impacts	<p>While Council supports medium density housing, and the social benefits of a diverse range of housing, it also recognises the need to achieve good residential amenity to support quality of life for residents, and this is part of the desired future character of the area and desired social outcome.</p> <p>The proposal is considered to have negative impact on the social environment, and not considered consistent or compatible with the desired future character that identifies better amenity for new and existing residents.</p>
Economic Impacts	The proposed multi unit development is not considered to have any adverse economic impacts.

(c) Suitability of the site for the development

The site is considered suitable for multi-unit development but **not considered suitable** for the development as proposed. The site does not have sufficient area to accommodate the density and bulk of development proposed and comply with the requirements of SDCP 2014. These non-compliances result in negative amenity for future residents and those surrounding, are discussed in detail in the body of this report and summarised as follows:

- Poorly designed and dimensioned landscaping
- Poorly designed and dimensioned private open space (particularly for units 1 and 2)
- Inadequate off-street parking and maneuverability
- Privacy impacted by inappropriately located visitor parking
- Potential undue overshadowing of the outdoor spaces of approved development to the south
- Not meeting the objectives of Chapter G13, specifically to:
 - i. Ensure a comprehensive design-oriented approach to housing resulting in high quality urban design, development and residential amenity.
- Not meeting the objectives of Chapter G21. Specifically, the following:
 - i. Ensure that adequate off-street parking is provided in conjunction with development throughout the City, including any overflow parking.
 - ii. Discourage the use of on-street parking for new development.
 - iii. Ensure that car parking areas are visually attractive, functional, operate efficiently, are safe and meet the needs of users.

The applicant has not:

- Provided acceptable reasons or justification for the non-compliances or reasonably discussed whether it is possible to design the proposed development on the site to comply with all SDCP 2014 requirements.
- Outlined any unique circumstances as to why the non-compliances are proposed, necessary or justified.
- Demonstrated adequately how the relevant objectives and performance criteria of SDCP 2014 are being met with the proposed non-compliances.
- Demonstrated that the development will not result in any additional adverse impacts because of the design of the proposal and the non-compliances with SDCP 2014.

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

The application was notified for 14 days from 8 February to 24 February 2021. Three submissions were received.

Summary of Public Submissions	
Objection Raised	Comment
One submission is in support of the application as being in keeping with the other buildings in Duncan Street and the surrounding area.	Multi-unit housing is envisaged in the area and is approved on the adjoining lot. However, the proposal fails to meet minimum requirements in relation to car parking, landscaped area, private open space and privacy., and has not demonstrated acceptable impact on adjoining land. Amendments to meet relevant amenity and impact standards are required to ensure the development of the subject site is truly in keeping with other buildings in Duncan Street.
The 18 bedrooms proposed seems excessive and will have ramifications for traffic congestion and noise.	In its current form the proposal is considered to be overdevelopment of the site. The proposal fails to meet minimum requirements in relation to car parking, landscaping, private open space, and privacy. The non-compliance with parking provision and design may impact on the street with overflow parking and amendments to meet relevant standards are required to reduce density and this potentially reduce the number of bedrooms proposed. Notwithstanding, the area has been zoned for medium density development and traffic generation was considered in the planning process. Council's Subdivision Engineer has not raised traffic generation as an issue in relation to the proposed development.
Overshadowing 44 Duncan Street approved units facing north – solar access was required in the application – proposal needs greater setbacks and lower height on southern boundary.	The building will cast a mid-winter shadow over the property to the south that could have a negative impact on the outdoor spaces (private and communal) of the approved development on that property. The impact is from the from the combined bulk of the development, given the lack of open space on the site. The encroachment to the building plane (although minor) is contributing to the extent of this overshadowing. Solar access was required for the approved development on 40 Duncan Street under SEPP 65 and the Apartment Design Guide. The impact of the proposal, and whether the approved

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	<p>development can meet its requirements needs to be assessed.</p> <p>The conflicting information submitted with the application does not enable full assessment of the overshadowing. (The applicant provided amended shadow diagrams August 2021 that show a different shadow profile to the shadow diagrams lodged with the original plans and the amended April 2021 plans).</p>
Lack of parking – vehicles on street and verges	<p>The non-compliance with parking provision and design may impact on the street with overflow parking. Amendments to meet relevant standards are required to reduce density and provide adequate parking on site (noting that the DCP requirements aim to establish parking on site to discourage vehicles parking on the street, and verges in particular).</p>

(e) The Public Interest

The public interest has been taken into consideration, including assessment of the application with consideration of relevant policies and process. The proposal in its current form is not 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 recommendation for refusal of the application, the application 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. DA20/2312 be refused for the following reasons:

1. The proposed development is inconsistent with the following Objectives of Chapter G3 Landscape Design Guidelines Shoalhaven Development Control Plan 2014:
 - (a) Blend new developments, where appropriate, into the existing streetscape and neighbourhood character
 - (b) Enhance the appearance, amenity and energy efficiency of new developments for the users and for the community in general
 - (c) Provide landscaping within a development that relates to the scale and type of existing elements in the neighbouring landscape.

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2. The proposed development is inconsistent with the Objectives, Performance Criteria and Acceptable Solutions as they relate to the following provisions of Chapter G13 Medium Density and Other Residential Development Shoalhaven Development Control Plan 2014
 - (a) 5.1.2 Density
 - (b) 5.1.3 Building Envelope, Heights and Setbacks
 - (c) 5.1.4 Landscaping
 - (d) 5.2.1 Local Character and Context
 - (e) 5.2.3 Vehicles and Pedestrian Access
 - (f) 5.3.2 Solar and Daylight Access
 - (g) 5.3.3 Private Open Space
 - (h) 5.3.5 Car and Bicycle Parking
3. The applicant's written request to vary performance criteria regarding 5.1.3 Building Plane, 5.1.4 Landscaping, 5.3.3 Private Open Space is not supported as it has not adequately addressed matters required to be addressed by Chapter 1, Section 11 of the SDCP 2014 and the cumulative impacts of the numerous non compliances with numerical requirements, performance criteria and acceptable solutions result in poor amenity and functioning of the proposal.
4. The proposed development is inconsistent with the Objectives, Performance Criteria and Acceptable Solutions as they relate to the following provisions of Chapter G21 Car Parking and Traffic Shoalhaven Development Control Plan 2014:
 - (a) 5.1 Car Parking Schedule
 - (b) 5.3.5 Parking Layout and Dimensions
 - (c) 6.3 Manoeuvrability
5. The applicant's written request to vary 5.1 regarding parking provision is not supported and has not adequately addressed matters required to be addressed by Chapter 1, Section 11 of the SDCP 2014 and the cumulative impacts of the numerous non compliances with numerical requirements, performance criteria and acceptable solutions result in poor amenity and functioning of the proposal.
6. The development is likely to have adverse impacts on the built environment.
7. The development is likely to have adverse impacts on the social environment.
8. The site is not suitable for the development as proposed
9. The development is not in the public interest.

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Appendix 1 – Assessment Checklist: Chapter G11 Subdivision of Land

5.15 – Strata and Community Title Subdivision			
Performance Criteria	Acceptable solution	Proposal	Achieved
P93 - Limit the range and extent of owner corporation activities as far as practical.	A92.1 - Create separate sites for each dwelling with their own public street frontage;	The SEE states Sheet 19 (of the architectural plans) shows details of the four separate strata sites, with private open space included in the unit entitlement. However, the lots and boundary of each lot is not shown. It is apparent from the plans that five separate lots can be created one for each of the units, and one for the communal areas. Given the nature of the development, it is not possible for each dwelling to have public street frontage, but each unit will have frontage to the common driveway. Requirement of an adequate strata plan and delineation of the strata lots can be confirmed in conditions.	Yes, subject to conditions
	A93.2 - Limit communal land to driveways only.	The communal driveway and visitor parking spaces are delineated as one area on Sheet 19 and appear capable of being created as the fifth lot in the strata subdivision. It is unclear on Sheet 19 and in the SEE whether the four small garden beds on the driveway are on communal land. These should be part of the communal lot to ensure maintenance, this can be confirmed in conditions.	Yes, subject to conditions
	A93.3 - Design dwellings to minimise the need for corporate building management;	Responsibility for building management is normally detailed in the strata plan, with the corporate responsibility given over communal areas and the building exterior. Given the proposal is generally a typical design there are no changes required to meet A93.3.	Yes
	A93.4 - Ensure cost effective management of communal open space/shared facilities	Management of the communal driveway/front setback should be detailed in the strata plan. Council's requirements can be confirmed in conditions.	Yes, subject to conditions
	A93.5 – Provide separate utility service meters to each dwelling and, if necessary, any common area;	The SEE states separate metering is to be provided and separate meter boxes are shown for all units, accessible from the public area of the driveway. This can be confirmed in conditions	Yes, subject to conditions
	A93.6 - Attach all private open space areas to a dwelling unit;	The SEE states the private open space is included in the unit entitlement. While it is not clear on Sheet 19 it appears possible. The requirement can be confirmed in conditions	Yes, subject to conditions
	A93.7 - Meet all requirements of any development	Conditions will be imposed should the application be approved and will be	Yes, subject to conditions

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	application which may apply to the building proposed to be subdivided.	required to be met before the strata plan is approved.	
	A93.8 - The street and lot layout clearly define the public, communal and private areas of a development, including function, ownership and management of open spaces and communal areas.	The full lot layout is not shown on Sheet 19. However, the private areas of the units are delineated by fences and gates and the private areas can be incorporated into the lots for the units.	Yes, subject to conditions

Appendix 2 - Assessment Checklist: Chapter G13 Medium Density and Other Residential

5. Medium Density Development			
5.1 Principle Controls			
5.1.1 Minimum Lot Size			
Performance Criteria	Acceptable Solutions	Comment	Achieved
P1.1 To promote good built form and the efficient use of land, lot consolidation/ amalgamation avoids the isolation of smaller lots that would prevent future medium density development on those lots.	A1.1 The minimum lot size of the development site meets the requirements of Shoalhaven LEP 2014- the minimum lot size for multi-unit dwellings is 900m ² (cl 4.1A).	The subject site has an area of 1024m ² , which meets the minimum 900m ² requirement. It is not proposed to amalgamate or consolidate the existing lot with any other lot. The adjacent properties are of a similar size to the subject site and there are approvals for medium density development on those lots. There will not be an isolated lot, or one prevented from future medium density, as a result of the proposal.	Yes
	A1.4 The development site for multi dwelling housing must be of an appropriate size and dimension	The development site is appropriate in size for multi-unit housing. Note however, as discussed below, the site is not considered suitable for the proposal due to the bulk and density of development proposed, which results in several non-compliances in relation to car parking provision and design, and amenity including landscaping and private open space.	Yes
P1.2 To create lots of an appropriate size for the purpose including		The proposed development does not include land subdivision/ amalgamation and will not create any new land lots.	N/A
5.1.2 Density			
P2 The bulk and scale of new development, particularly on the perimeter of the	A2.1 The maximum floor space ratio or gross floor area complies with Table 1 -	The SEE states that the proposed development has an FSR of 0.63:1, which is just within the maximum 0.7:1 specified in the DCP. However, at the	No

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5. Medium Density Development			
development site, or where that locality or development site has heritage significance and/or distinctive character, is:	for multi-unit dwellings in the R3 Zone the maximum FSR is 0.7:1.	proposed bulk and density the proposal fails to meet the minimum DCP requirements for car parking provision/design, landscaping, private open space, and building plane (to a minor extent). The proposal fails to achieve the desired future character that includes amenity features that are not achieved in the proposal.	
<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. 			
5.1.3 Building Envelope, Heights and Setbacks			
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.	A3.1 Buildings are sited within a building envelope determined by the following method: planes are projected at 45° from a height of 5m above ground level (existing) at the front, side and rear boundary.	<p>The building plane is not shown for the west (front) and east (rear) boundaries. However, given the 5.5m setback from the front and 7m setback from the rear, the proposal is assumed to be within the building plane on those boundaries.</p> <p>The roof of the first floor of the building that contains units three and four exceeds the building plane to a minor extent.</p> <p>The DCP allows exemptions to building envelope encroachments for gutters, facias, downpipes, and eaves up to 0.6m, not walls and roofs. The encroachment in the August 2021 amended plan is minor (only a small part of wall and roof encroaches). Given the original encroachment was minor and only raised in relation to the numerous other non-compliances in the assessment, and the amendment results in only a small part of the roof and upper wall of Unit 4 encroaching, it could be accepted on its own.</p> <p>However, while the encroachment could be considered minor, it is a result of minimal setbacks from the side boundaries and a very large building with limited progressive setbacks that would create articulation.</p> <p>The side setbacks for the building containing Units 3 and 4 are minimal. While these comply with minimum numerical standards, the outcome is not considered to comply with performance</p>	No

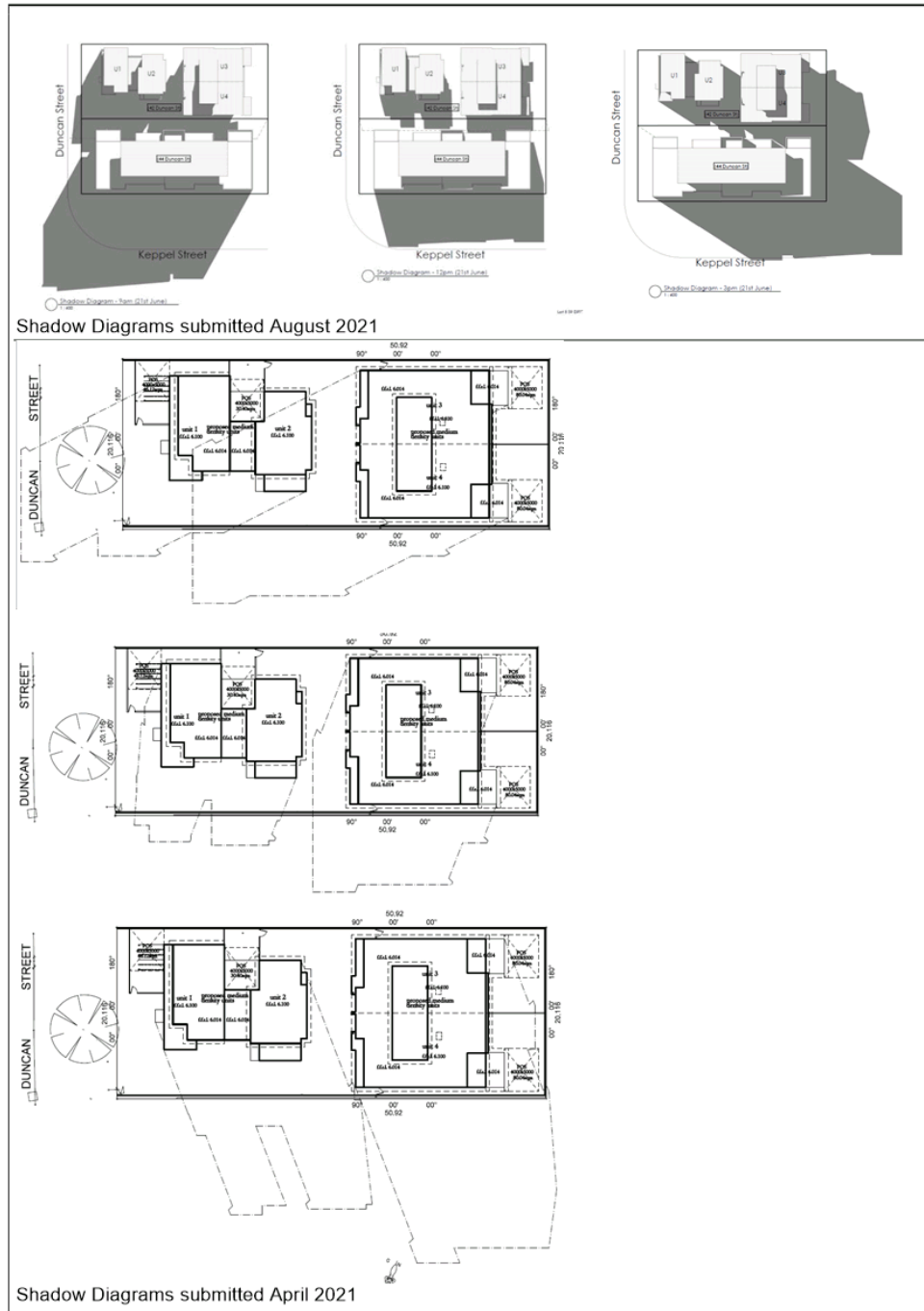
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5. Medium Density Development			
		<p>criteria. The side setbacks contain retaining walls, meter box, hot water service, bin storage and access to the laundry. These will be cramped and possibly dank and dark areas.</p> <p>The August 2021 amendment does little to reduce the bulk of Units 3 and 4 and would do little to reduce overshadowing of the property to the south.</p>	
P3.2 Development enables view sharing with neighbours and the public domain.		<p>There are ground level views to the bushland to the east from the subject site and the two adjoining properties (40 and 44 Duncan Street). Given the house on the subject site will be demolished, there is no impact on view sharing from within the subject site. While the single storey dwellings on adjacent properties will lose part of the view across the rear of the subject land, they will still have the main view to the rear or eastern boundary. Further, there are approvals for redevelopment of these adjoining properties, that will partially remove the views from within them, and have a similar impact of removing part of the view from the subject site across the rear of those properties. On balance, it is considered that view sharing will be maintained.</p>	Yes
<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 landform, with minimal cut and fill. 	<p>A4.1 Building heights must comply with Clause 4.3 of Shoalhaven LEP 2014. Under clause 4.3(2A) the height of a building on the land is not to exceed 11 metres</p>	<p>Proposed dwellings one and two will have a maximum height of 6.351m (to the highest point of the raked roof). Proposed dwellings 3 and 4 will have a maximum height of 8.050m. All proposed dwellings will be within the default 11m maximum height of buildings permitted under clause 4.3(2A) of SLEP 2014.</p> <p>The two-storey height is considered consistent with the existing single storey and two-storey approved development, and generally compatible with the built character in the vicinity.</p> <p>Some cut and fill (up to 1m) is proposed and considered moderate and acceptable by Council's Development Engineer.</p> <p>There is potential for overlooking of existing dwellings to the north and south, and into the approved developments on those lots. All windows on the first floor have high sill heights. While this may not be ideal for residential amenity, it may help to reduce the impacts of overlooking. The exception is the window</p>	Yes

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5. Medium Density Development			
		to bedroom one of unit three and this window needs to have a high sill height to reduce overlooking of the private open space of Unit 2 and the private open space of approved unit one on 40 Duncan. This can be confirmed with consent conditions. The 1.8m high fence on the northern and southern boundary should help to reduce the impact of overlooking at ground floor.	
	A4.3 Any two-storey dwelling component is to be located to minimise the shading of adjacent private open space.	<p>The building will cast a mid-winter shadow over the property to the south that could have a negative impact on the outdoor spaces (private and communal) of the approved development on that property. The encroachment to the building plane (although minor) is contributing to the extent of this overshadowing.</p> <p>Note: (The applicant provided amended shadow diagrams August 2021 that show a different shadow profile to the shadow diagrams lodged with the original plans and the amended April 2021 plans). Refer images overpage.</p>	No
	A4.4 The difference in building height between existing buildings and new development is compatible when viewed from the public domain.	Two storey development is considered to be in character and compatible given this is a usual combination in residential areas and the difference in height is not overwhelming.	Yes

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5.1.3 Building Envelope, Heights and Setbacks			
P5.1 The front setback is generally consistent with adjoining development and does not undermine the integrity of the prevailing building lines.	<p>A5.4 Setbacks shall comply with the provisions in Table 4:</p> <p><i>Front, ground level-</i></p> <ul style="list-style-type: none"> • 4.5m to verandas, awnings and patios • 5.5m to dwellings • First storey - A further 1m from the dwelling setback at the ground level. 	<p>Front setback for dwelling one complies as follows:</p> <ul style="list-style-type: none"> • 4.5m to the porch (4.5m required) • 5.5m to the main wall (5.5m required) • 6.5m to the wall of the first storey (6.5m required). <p>The front setback is slightly greater than the single dwelling on 40 Duncan, slightly less than the single dwelling on 44, and similar to the proposed setbacks for approved development on 40 and 44 Duncan.</p> <p>The front setbacks in the street vary, and the front setback of the proposed development is generally in keeping with those in the street.</p> <p>The POS for unit one is within the front setback and will have a 1.8m high fence. While this is not ideal for streetscape character, a similar arrangement has been approved on 40 Duncan Street.</p>	Yes
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><i>Side Setback (Not to a road frontage or to public reserve)</i></p> <ul style="list-style-type: none"> • 1.2m to dwellings for wall lengths less than 50% of side the boundary. • 2m to dwellings for wall lengths greater than 50% of side boundary. • 900mm to detached non habitable out-buildings. 	<p>The north side setbacks generally are:</p> <ul style="list-style-type: none"> • Unit one 2m • Unit two 3.48m • Unit three 1.35m <p>South side setbacks generally are:</p> <ul style="list-style-type: none"> • Unit one 5.795m • Unit two 4.495m • Unit four 1.35m <p>While two buildings are proposed, the combined wall length is substantial (66% along the northern boundary compared to 34% for the approved development on 40 Duncan).</p> <p>While the proposed development generally complies with the numerical standards, it is considered the performance criteria are not met in that the location and siting of the building does not complement the existing setbacks in proximity to the site. Given the combined length of the northern wall it could be argued that the greater setback of 2m should apply to units three and four to reduce the bulk of the building, bring it within the building plane and reduce overshadowing slightly.</p> <p>The side service passages for units three and four are tight, particularly as these will accommodate retaining walls, bin storage, meter box and hot water service. A greater setback could provide</p>	Yes

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		more useable side service passages for units three and four.	
	<i>Rear/side setback including to foreshore reserve</i> 900mm to non-habitable buildings <i>Rear/side setback to foreshore reserve</i> 7.5m.	Rear setback is less than the recently approved development at 40 Duncan and recently constructed dual occupancy at 38 Duncan. Given these are recent approvals they should be taken as a guide to what is appropriate. The rear setback for the proposed development is 7.13m. This smaller setback presents a transition from the even smaller approved setback on 44 Duncan and the greater setbacks on 40 and 38.	Yes
P5.3 The proposed development is setback and of a scale that is relative to the street reserve width, to ensure pedestrians do not feel buildings are overbearing.		Duncan Street is wide and the two-storey height, set back to the minimum requirement should ensure pedestrians do not feel buildings are overbearing on the street.	Yes
P5.4 Setbacks avoid loss of view, undue overshadowing and provide/maintain privacy (visual and acoustic) and traffic safety.		Refer to P3.2 re views – While there will be a loss of views across the subject site, properties in the vicinity will still be able to share in views to the rear lane and bushland to the east. Refer to A4.3 re overshadowing – a greater setback for Unit 4 or removal/reduction of one of the front units, could reduce the overshadowing of the private open space areas and communal landscape areas of the approved development at 44 Duncan Street. Refer to P.4 re overlooking – while there is potential for overlooking, measures to reduce direct sight lines into the dwellings approved on the adjoining lots are incorporated – these include high sill heights at first floor level and 1.8m high fences at ground floor level. Driveways (all located on the southern boundary) assist in separation between dwellings on the subject site and on adjoining lots. The proposed building is setback 5.5m from the street frontage and will not impact on traffic along Duncan Street.	Yes generally No, regarding over- shadowing of the property to the south
P5.5 Setbacks are progressively increased to reduce bulk and overshadowing while maintaining adequate daylight and sunlight.		There are limited progressive increases in setbacks. While there is some articulation to the building containing Units one and two, the building containing units three and four appears as one, overly bulky mass (even with the	Yes generally No regarding over-

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		minor setback of part of the northern and southern first floor walls proposed in the amended August 2021 plans) and this building creates the greater overshadowing shadow impact on the proposed development to the south.	shadowing of property south
P5.6 Adequate levels of light and ventilation to adjoining buildings, landscaping, services and infrastructure are protected.		<p>Given the existing dwellings on the adjoining properties are within large yards, levels of light and ventilation to those adjoining buildings, their landscaping, services and infrastructure are unlikely to be affected by the proposed development.</p> <p>Separation between the proposed development and the approved development on 44 Duncan Street to the south is achieved at the front half of the properties. There is a 6m ground level and 3m first/second floor setback to unit walls on 44 Duncan and the driveway on the subject property that varies in width and provides setbacks to the southern wall of units 1 and 2 of between 4.5m and 6.4m. However, at the rear of those two properties the separation is reduced because of the minimal setback of the proposed building containing units 3 and 4 and light. Light and ventilation may be affected to the two adjoining approved units (3 and 8) on the ground and first floor respectively of the approved development on 44 Duncan.</p> <p>The approved development to the north on 40 Duncan Street is unlikely to be affected given the driveway provides separation for unit 1, and there is space around units 3 and 4 on site to allow for light and ventilation to the units, landscaped areas, services and infrastructure.</p>	<p>Yes generally</p> <p>No regarding over-shadowing of property south</p>
P5.7 The proposal maintains adequate provision for on-site car parking.	A total of eight private car parking spaces and two visitor car parking spaces are required for the proposal.	Only six private car parking spaces are proposed, and the two visitor parking spaces proposed do not meet design and amenity criteria for the proposed development. Refer to detail at P.21	No
5.1.4 Landscaping			
<p>P6.1 Sufficiently dimensioned landscaping provides amenity to residents, effective screening and enables tree and large shrub planting.</p> <p>P6.2 A suitably sized deep soil planting area encourages:</p>	<p>A6.1 At least 10% of the site area is to include high quality formal landscaping, which:</p> <ul style="list-style-type: none"> • Has a minimum dimension of 1.5m in any direction. • Consists of 100% deep soil planting. 	In the original landscape plan, only about 40m ² of the site is shown with formal planted landscaping, and this did not include tree planting. This formal landscaping area was calculated using the planting schedule, plant species and dimensions, and resulted in a shortfall of quality deep soil planting of about 60m ² .	No, does not meet design criteria

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<ul style="list-style-type: none"> • Mature tree and shrub growth. • Opportunity for surface water to infiltrate naturally to groundwater. <p>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.</p> <p>P6.4 Major existing trees are retained wherever practicable through appropriate siting of dwellings, structures and driveways.</p>	<ul style="list-style-type: none"> • Is provided with an automated watering system. 	<p>In the August 2021 amended plan additional planting is shown along the dividing rear yard fence between Units 3 and 4, and denser planting is shown within all other areas where formal planting was shown on the original plan. Discounting areas that are not considered viable (given they conflict with parking, access and service areas), it is calculated that an area of approximately 50m² is shown with deep soil planting, which is considered a marginal increase over the original landscape plan, and a shortfall of about 50m² of quality deep soil planting.</p> <p>As discussed under G3: <i>Landscaping design guidelines</i>, the landscaping will not provide screening or be of a scale that would reduce the bulky appearance of the proposed development, provide shade, or have a cooling effect. Given the density of the development (considered to be unacceptable), the need for driveways, parking, service areas and outdoor terraces and recreation areas, there is limited room for deep soil planting and a satisfactory landscaped outcome for the proposed development can't be achieved.</p> <p>An automated watering system can be conditioned should the application be approved.</p>	
	<p>A6.2 In addition to the formal landscaping area required at A6.1, a further area of at least 20% of the site is to be provided, which:</p> <ul style="list-style-type: none"> • Has a minimum dimension of 1m in any direction. • Is inclusive of 40% deep soil planting. • Can include landscaped areas, decks, terraces, alfresco areas, swimming pools or other recreation areas / structures. 	<p>A total of 30% (307.29m²) of the site is required for landscaped area. From the plans the provided landscaped area is calculated to be about 200m². The proposal fails to provide about 100m² of the required 307.48m² of landscaped area. Areas excluded from the applicant's calculation of landscaped area include:</p> <ul style="list-style-type: none"> • Path to the rear yard of unit two and continuing along the fence where required for vehicle maneuvering • Area of visitor parking spaces • Side paths to units three and four <p>As discussed above the proposal fails to meet the initial requirement for deep soil planting under A6.1, so by default fails to meet the requirement that 40% of the additional landscaped area contain deep soil planting.</p>	<p>No, does not meet numeric or design criteria</p>
	<p>A6.3 At least 35% of the front setback is to be landscaped.</p>	<p>The proposal fails to provide approximately 12.5m² of the required landscaping within the front setback. The front setback is about 110m² in area and about 25m² is landscaped. The</p>	<p>No</p>

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		remainder is driveway, visitor parking space and fenced yard for unit one.	
	A6.4 The landscaping provided at A6.1, A6.2 and A6.3 excludes any areas used for storage, clothes drying, and water tanks.	In calculating the landscaping, the applicant included areas use for bin storage, clothes drying and water tanks. The applicant also included two visitor parking spaces and space need for circulation in the calculation.	No
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.		Council's Tree Preservation Officer states the street tree is of poor quality and can be removed. There is a replacement cost to the developer. The cost of the replacement tree is included as a consent condition.	Yes
P6.6 The visual impact of ancillary landscaping or retaining structures is considered.	A6.5 Retaining walls greater than 0.6m within the front setback are to be softened by planting for a minimum depth of 600mm on the low side of the retaining wall, for the entire length of the retaining wall.	The retaining wall on the southern boundary is 800mm high and within the front setback. The landscape plan shows minimal planting between the wall and the drive, using dwarf lilly pilly and one Kangaroo Paw. There is no space to provide adequate screening of the wall.	No
5.2 Siting the Development			
5.2.1 Local Character and Context			
P7 The scale and appearance of new development is compatible with, and sympathetic to, existing and future desired: • Development in the locality; and • Amenity and character of the locality; Particularly where the development site or its surrounds has some heritage significance or distinctive character.	A7.1 The development must consider/address the following: • The local character/ context of the area and streetscape • How the proposal is sympathetic and compatible with the existing or future desired character, development, and amenity of the locality • How the visual appearance and articulation of the development contributes to the existing streetscape and character of the local area	The approved residential flat building development at 44 Duncan Street is only possible given the corner site and non-developable land to the south, is atypical for this area of Duncan Street, and can't be used as a benchmark for character or consistency. Two to three dwellings per lot (in area similar to the subject site) is more characteristic. Older medium density developments are single storey, and more recently approved development is two storeys. The proposed development is not considered to be consistent with the density and design of characteristic medium density development in the vicinity due to it being four dwellings. For comparison, the approved medium density development on 40 Duncan Street comprises three units and has an FSR 0.41:1. All units have two car parking spaces within an attached garage (visitor parking spaces were not required at the time of approval), and all have larger areas of private open space	No

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		and better privacy than those proposed on the subject site.	
P8 Existing views from the private or public domain (including heritage or familiar dominant landmarks that are recognised and valued by community) are not substantially or unreasonably affected where it is possible to design for the sharing of views.	A8.1 Any reduction in views from existing dwellings or the public domain is not to be severe or devastating based on the following NSW Land & Environment Court Planning Principles: • Views – General principles. • Views - Impact on public domain views.	Refer to P3.2 – While there will be a loss of views across the subject site, properties in the vicinity will still be able to share in views to the rear lane and bushland to the east. There are no iconic views that would cause severe or devastating loss in terms of the NSW Land & Environment Court Planning Principles.	Yes
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.	A9.1 With the exception of land in the R3 Medium Density Residential zone, the cumulative impact of the development must be considered. A9.2 A9.3	The subject site is in the R3 Medium Density Zone. No clustering is proposed.	N/A
5.2.2 Orientation and Siting			
P10.1 The site analysis informs the site design and layout. P10.2 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. P10.3 The site layout enhances personal safety and minimises potential for crime and vandalism.	A10.1 A site analysis plan is submitted with the development application which: • Meets the requirements of Chapter G1: Site Analysis, Sustainable Design and Building Materials Rural, Coastal and Environmental Areas of this Development Control Plan. • Clearly provides the following detail for the site and adjoining/adjacent development: - Height and use of buildings. - Front setbacks. - Driveways. - Boundary treatments (including retaining walls). - Easements.	A plan labelled 'site analysis' was lodged with the amended plans. The plan does not provide any indication as to why the development has been designed in the way it has, or how the objectives of the DCP requirements are met. Specifically, the plan does not include: • Clear location of and heights of dwellings on adjoining land • Clear location of and heights of approved development on adjoining lots • How overshadowing impacts of on adjoining dwellings will be minimised. The site analysis lacks a scale and dimensions.	No

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	- Stormwater management. A10.2 The proposed site layout responds to and implements the findings of the site analysis		
P11.1 The frontage, entries and habitable room windows of dwellings address the street. P11.2 The design and orientation of the dwellings: • Enhance the streetscape. • Complement existing development in the vicinity. • Provide visual interest. • Allow casual surveillance of public or communal streets or public domain.	A11.1 Each dwelling adjacent to the street frontage must: • Address the street by having a front door facing the street at the ground level where dwellings are adjacent to the primary frontage. • 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. A11.2 In addition to A11.1 and where practical, the front door of all other dwellings are to be visible from the street.	Unit one, adjacent to the street frontage, has a porch, entry door and window facing the street. Unit 3 and 4 that are adjacent to Kent Lane at the rear of the site have widows and balconies that face the lane. Given the design of the development, it is not possible to have the the front door of all other dwellings visible from the street, but all entries will be visible from the common driveway. All walls facing the street and the public space of Kent Lane have windows.	Yes
5.2.3 Vehicles and Pedestrian Access			
P12.1 Access arrangements are suitable for the development. P12.2 The design of the site and driveways, including manoeuvring areas, has regard to the safety of pedestrians, cyclists and vehicles. P12.3 Multiple driveways are avoided.	A12.1 The site is designed to encourage pedestrian access by providing a continuous path of travel from the street to each dwelling.	A continuous path of travel from the street to each dwelling is provided via the common driveway. There will be one driveway. Adequate manoeuvring area has not been demonstrated on the submitted plans. Council's Subdivision Engineer commented - <i>The swept paths provided are insufficient as they use a B85 vehicle, whereas DCP G21 requires use of a B99 vehicle for all residential development. This is to ensure compatibility with the current vehicle market which has evolved significantly since the vehicle surveys informing AS2890.1 which are over 20 years old.</i>	No

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		<i>Unit 1 requires a three point turn on entry and exit which is unacceptable. Units 2 and 3 require a three point turn on exit which is also not ideal. Refer to DCP G21 P1.1. Swept paths should be provided for the visitor parking spaces.</i>	
<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>A13.1 Driveways must be designed to:</p> <ul style="list-style-type: none"> • Be all-weather and service every dwelling. • Minimise the hardstand/paved footprint. • Be setback a minimum of 0.5m from the side and/or rear boundary to accommodate appropriate landscape elements. • Accommodate all public services and infrastructure (e.g. street gully pits). • Avoid a gun-barrel effect down the side boundary. Where a gun-barrel driveway cannot be avoided, the driveway must be curved and landscaped to Council's satisfaction to break up the appearance of the gun-barrel design. • A grade no greater than 20%. • Maximise the availability of on-street parking. • Achieve minimum sight lines for pedestrian safety in accordance with AS2890.1 (Figure 3.3). 	<p>The driveway is 'L' shaped so does not run the full length of the site and create a gun barrel effect. The front of unit 4 will be visible from the street and will provide a visual backdrop to that part of the driveway that is visible from the street.</p> <p>In the August 2021 amended plan a row of lomandra is shown along the southern boundary (in an area that also accommodates a retaining wall, 1.8m high metal fence, the side pathway and bin storage for Unit 4, and space required for manoeuvrability). It is considered this area is not workable (not all of the infrastructure can be accommodated in such a narrow space) and that the planting shown on the plans will not be viable. The lack of significant landscaping along that boundary, and on the driveway in general, will mean that the visual dominance of the driveway is not minimised.</p> <p>Materials, grades and services location can be confirmed by consent conditions.</p>	<p>No, regarding landscape, shading and screening</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>P14.2 Direct overlooking of main internal living areas and</p>	<p>A14.1 All dwellings shall be designed and orientated to minimise overlooking of adjoining/ surrounding dwellings and private open space.</p>	<p>There is potential for overlooking of existing dwellings to the north and south (and their outdoor space), and into the approved developments on those lots from the first floor. However, the windows on the first floor (northern and southern elevations) appear to have high sill heights (1.7m to be confirmed by consent condition). While this may not</p>	<p>Yes, subject to conditions</p>

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<p>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>be ideal for residential amenity, it may help to reduce the impacts of overlooking. The exception is the window to bedroom one of unit three and this window needs to have a high sill height to reduce overlooking of the private open space of unit 2 on the subject site, and the private open space of approved unit one on 40 Duncan. This can be confirmed with consent conditions</p>	
	<p>A14.2 Habitable windows shall not be located adjacent to a shared driveway at the ground level.</p>	<p>The window to the rumpus room/bedroom of Unit 1 is adjacent the proposed visitor parking space. The window to the rumpus room/bedroom of Unit 2 is directly on the driveway. The privacy of both units is compromised and is further indication that the proposal represents and over-development of the site. Reduced density would enable more setback from the driveway and potentially a privacy fence. Screening is not considered appropriate as this will reduce daylight to the rooms and will not impede noise.</p>	No
	<p>A14.3 Direct views between living area windows of adjacent dwellings shall be screened or obscured where ground and first floor windows are located within the privacy sensitive zone area, being a 9m radius from any part of the window of the adjacent dwelling (Figure 6). A14.4 Direct views from living areas of dwellings into the principal area of private open space of adjacent dwellings shall be screened or obscured where located within a privacy sensitive zone within a 12m radius from the living area windows (Figure 7).</p>	<p>The living areas of the proposed units are on the ground floor (except for the windowless rumpus rooms in units 3 and four). The 1.8m high fence on the northern and southern boundaries should impede any direct views into the living areas and principal area of private opens space of the existing and approved dwellings on adjacent properties.</p>	Yes

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P15 Site layout and building design protects the amenity of residents and/or adjoining properties by minimising noise transfer and nuisance.	<p>A15.1 Dwellings adjacent to high levels of external noise shall be designed to minimise the entry of that noise.</p> <p>A15.2 The following shall be located away from the habitable rooms and private open space of dwellings:</p> <ul style="list-style-type: none"> • Communal swimming pools and ancillary facilities. • Communal open space areas. • Parking areas and vehicle access. <p>A15.3 Shared walls and floors between dwellings shall be constructed to limit noise transmission and, where possible, bedrooms of one dwelling are not to adjoin living area or garages of adjacent dwellings.</p>	<p>There are minimal sources of high levels of external noise at the subject site. No swimming pools, communal facilities or communal open space (apart from the front setback) are proposed on the subject site.</p> <p>Fire rated walls between the dwellings may help to reduce noise transmission between units.</p> <p>Bedrooms are generally separated, with adjoining walls only to the fifth bedroom in units 3 and 4. The first floors of units 1 and two (where three bedrooms are located) are separated by a space over the garage of unit 2.</p> <p>The ground floor rumpus/bedrooms in units 1 and 2 are separated from living areas and bedrooms adjoining. However, the proposed location of visitor parking will impact units 1 and 2 and this is discussed at A4.3 and below at A15.5.</p>	Yes
	<p>A15.4 All noise generating (mechanical) plant and equipment must:</p> <ul style="list-style-type: none"> • Not exceed an LAeq (15min) of 5dB(A) above background noise at the property boundary. • Be acoustically screened (where appropriate). • Be sited to minimise noise impacts. • Be located at least 3m away from bedroom windows. 	<p>Mechanical plant is not proposed. However, the requirements can be confirmed in consent conditions.</p>	Yes, subject to conditions

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	<p>Additional Provisions - Multi Dwelling Housing and Manor Houses</p> <p>A15.5 Where visitor parking areas are required, they are to be located at least 3m away from bedroom windows or the affected windows are to be provided with double glazing or other suitable acoustic treatments.</p>	<p>The window to the rumpus room/ bedroom of unit 1 is adjacent the proposed visitor parking space. The location of this parking space is not considered acceptable as it will impact negatively on the privacy for occupants in the affected room (that is capable of being used as a bedroom. The window to the rumpus room/ bedroom of unit 2 is adjacent to the driveway and will be impacted by driveway noise. Ideally there should be separation between the windows and noise source. However, double glazing for these windows can be confirmed in consent conditions should the application be approved.</p>	No
5.3.2 Solar and Daylight Access			
<p>P16 Dwellings are sited and designed to maximise solar access to living areas and private open space.</p>	<p>A16.1 Dwellings are to be:</p> <ul style="list-style-type: none"> • Oriented to make appropriate use of solar energy by maximising solar access to north-facing windows. • Sited and designed to ensure that the energy efficiency of existing dwellings on adjoining lots is not unreasonably reduced. • Designed to locate living areas and private open space on the northern side of the development and non-habitable areas to the south and west of dwellings. <p>A16.2 The number of single aspect south facing dwellings shall be limited.</p>	<p>Unit 1 has a full height window facing north and another high sill height window facing north. While the POS for unit one is to the west of the dwelling, the yard will have northern sunlight.</p> <p>Units 3 and 4, while orientated east/west, each have a full height sliding door and full height window facing east that will allow sunlight and daylight into the living areas. While the POS for units 3 and 4 are oriented to the east, the yards will have northern sunlight.</p> <p>Unit 2 is not well designed or oriented. The only full height sliding door faces south onto the fully enclosed hard stand and there is only one high sill height window facing north into the living areas. Further the POS for Unit 2 is squeezed between the visitor parking space and the covered hard stand and is likely to be overshadowed by the approved development to the north on 40 Duncan Street. The POS does not meet the minimum standard for POS and is further compromised by the water tank, bin storage and clothes drying areas.</p> <p>No single aspect units are proposed.</p>	No
5.3.3 Private Open Space			
<p>P17 Private open space is:</p> <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 	<p>A17.1 A minimum area of private open space shall be provided for each dwelling in accordance with Table 5. For multi dwelling housing 35m² required</p> <p>A17.2 Private open space shall have direct</p>	<p>The POS for Unit 1 is calculated to be about 35m². However, Unit 1 does not have the required partially covered 20m² hardstand. Rather, a 3mx3m open pergola is provided within the front setback. The POS for Unit 1 is also on a slope (batter for the cut required to accommodate the proposed development). The impact of this slope on the function and usability of the POS</p>	No

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<p>recreational needs and service functions.</p> <ul style="list-style-type: none"> • 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>access from a living area.</p> <p>A17.3 Where the private open space of a dwelling is provided at ground level, it shall:</p> <ul style="list-style-type: none"> • Include a defined hardstand area (e.g., concrete, paving, decking) of usable space which: <ul style="list-style-type: none"> - Is setback at least 1.2m from an external boundary. - Has a minimum dimension of 5m x 4m, of which 50% shall be covered to provide protection from the elements. • Have a minimum dimension of 2m for all other areas. • Have a gradient no steeper than 1:20. • Be adequately screened to provide privacy to residents. 	<p>has not been determined as the extent of the slope is not shown in section on</p> <p>The POS for Unit 2 is calculated to be about 28m², and the hardstand (fully covered rather than partially covered as required) is about 14m² rather than the required 20m². Unit two occupants will need to move the bins into the POS before being able to open the gate. The remaining POS is compromised by the service areas (the water tank is still not shown on the plans), reducing its useability for outdoor recreation, and providing an outlook from the patio that is only of the service areas and three lily pilly in the middle of the space that further interrupt its useability.</p> <p>As described above, the POS for Unit 2 is not well designed and will not be functional all year round and is not dimensioned to meet the requirements of residents for recreational needs and service functions.</p> <p>The usable private open space area is reduced by about 12m² for each unit through the exclusion of obstructions - clothes drying, bin storage areas, and the above ground rainwater tanks.</p>	
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>A18.1 Separate laundry and external clothes drying facilities shall be provided for each dwelling.</p> <p>A18.2 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. 	<p>Each unit is shown with separate laundry and clothes drying area.</p> <p>All drying areas are behind the front building line.</p>	Yes
<p>P19 Adequate space is provided to accommodate the laundry facilities, vehicle/s and associated circulation space in a garage.</p>	<p>A19.1 Where laundry facilities are provided in a garage, a clear space of at least 1.2m must be provided between any fixed laundry benches/ appliances and the car space (minimum of 5.5m long) as shown in Figure 8.</p>	<p>Laundries are not provided in the garages.</p>	N/A

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<p>P20.1 Adequate, well-designed storage areas are provided for each dwelling. P20.2 Storage areas are sympathetically integrated into the building design.</p>	<p>A20.1 In addition to storage in kitchens, bathrooms and bedrooms, the following storage is encouraged per dwelling: • 1 bed: 6m³. • 2 bed: 8m³. • 3+ bed: 10m³. A20.2 Storage areas not located in a dwelling are to be secure and clearly allocated to specific dwellings if in a common area.</p>	<p>10m³ of storage is required for each of the proposed units. Storage is shown under the stairs for units 1 and 2 of only about 1m². No storage is shown for units 3 and 4. Given the large size of the units storage is considered necessary and should be required by condition should he application be approved.</p>	<p>No</p>
<p>5.3.5 Car and Bicycle Parking</p>			
<p>P21 Parking is suitable for the development.</p>	<p>A21.1 Car parking is: • Provided in accordance with Chapter G21: Car Parking and Traffic of this Development Control Plan. • Wholly accommodated within the site. A21.2 For open car spaces, the maximum allowable grades are: • Longitudinal - 5%. • Cross fall - 6.25%. Additional Provisions - Multi Dwelling Housing, Multi Dwelling Housing (Terraces) and Manor Houses A21.3 Secure undercover bicycle parking/ storage shall be provided at a rate of 1 bicycle per dwelling.</p>	<p>Chapter G21 requires two parking spaces per dwelling (with three or more bedrooms or rooms capable of being used as a bedroom) and 0.5 the number of units in visitor parking. In this proposal therefore, each unit must have a double garage, and two visitor parking spaces must be provided on site for the proposed development. In accordance with SDCP 2014 two car parking spaces are required for a three-bedroom unit, for a unit with more than three bedrooms (this includes rooms capable of being used for a bedroom). Units 1 and 2 have a single car garage so there is a shortfall of one space per unit. In the August 2021 the partitions to a bedroom on the first floor of Units 1 and 2 are removed and the resulting room labelled 'lounge'. Notwithstanding, the BASIX and NatHERS certificates identify Units 1 and 2 as having 4 bedrooms. For the purposes of this assessment Units 1 and 2 are considered to have rooms capable of being used as a bedroom totalling four bedrooms per unit. Two visitor parking spaces are shown on the plans. However, the location of these visitor spaces is unacceptable as they have significant negative impact on the amenity of units one and two. One visitor parking space is located between the front building line and the street boundary and abuts unit one's entry door and front window (to the space that is capable of being used as a bedroom). There is no delineation between the communal space and the private entry space. To the dwelling.</p>	<p>No</p>

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		<p>This visitor parking space will impact negatively on the privacy of unit one and conflict with pedestrian access to the dwelling.</p> <p>The second visitor parking space is squeezed between the rear (northern) wall of unit two and the boundary, leaving a narrow path to a gate into the rear yard of unit two, that can't be opened because the bin storage area is in the way.</p> <p>G13 Medium density housing, and G3 Landscaping.</p> <p>Council has recognised the impact tourism and medium density development is having, and will continue to have, on the local area. There is already pressure on parking in this area of Huskisson, where there is potential for short term holiday rental that generates a high demand for parking beyond typical residential use. Council has, therefore, adopted an amended DCP aimed at reducing parking pressure on the streets and this is part of the desired future character. The proposal is not consistent with this desired future character, given there is, effectively, a shortfall of four car parking spaces. The proposal is not considered compatible or sympathetic to local development as it has the potential to create parking issues on the street and verge, beyond that of other multi unit dwellings in the vicinity, and, therefore, will not 'be able to live in harmony' as the SEE suggests.</p>	
5.4 Configuration and Design			
5.4.1 Building Form, Design and Materials			
<p>P24.1 The selection of building materials and design complements existing development 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</p>	<p>A24.1 New development, including alterations and additions, shall complement existing built form and be sympathetic to the streetscape.</p> <p>A24.2 Roof design is to be integrated harmoniously with the overall building form through the incorporation of:</p> <ul style="list-style-type: none"> • Complimentary building materials. 	<p>Pitched and raked roofs are generally consistent with newer and recently approved development in the vicinity. While the secondary roof to Units 3 and 4 is unusual, its primary purpose is to allow light into the rumpus that has no windows and is accepted.</p> <p>The facades of Units 1 and 2 are reasonably articulated with a ratio of solid to void and glazing. The building containing Units 3 and 4 is bulky. The view of this bulk is broken up by it being oriented across the rear of the site (rather than on the same alignment as Units 1 and 2). Some of the view of this bulk front the street is interrupted by Units 1 and 2). The major impact will be</p>	<p>Yes – subject to conditions</p>

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<p>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>	<ul style="list-style-type: none"> • Design proportionate to overall building size, scale and form. • Balanced composition of solid and void elements. • Integration of service elements. <p>A24.3 Building design shall use detail, modulation and articulation of building elements to:</p> <ul style="list-style-type: none"> • Enable each dwelling to be identified from a public road. • Articulate facades and to minimise the length of unbroken walls and glazed areas. <p>A24.4 Buildings shall have a maximum unarticulated length of 15m to a public street frontage.</p> <p>A24.6 External metallic walls and roof surfaces shall consist of colours and finishes that will minimise the reflectivity of the surface when viewed from the public domain or another dwelling.</p>	<p>along the side boundaries and particularly as viewed from</p> <p>Not all details of building materials are provided and no details of material and finishes is provided. The plans state walls and roof will be clad. It is suggested wall cladding is lightweight and horizontal (to resemble timber boards). In combination with Colorbond roof cladding and aluminium windows. This will give the proposal a character that is appropriate in coastal areas.</p> <p>The details can be confirmed by conditions, with Council to approve materials and finishes prior to issue of the construction certificate.</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>A25.1 Garages are compatible with design of the building.</p>	<p>Garages dominate the frontage of units 3 and 4 but they are setback and not on the street frontage. The garages for Units 1 and 3 face the internal driveway so do not impact on the street frontage and street aspect of the proposal. None of the garages provide visual interest. While there is not enough parking space in the garages the façades present as most multi-unit developments do and are accepted.</p>	Complies
<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>A26.1 Individual mailboxes shall be located close to each dwelling entry, or a mailbox structure located close to the major pedestrian entry to the site, that complies with the requirements of Australia Post.</p> <p>A26.2 Adequate numbering system and</p>	<p>There is no pedestrian entry to the proposed development. Pedestrians will need to use the driveway.</p> <p>The plans show a letter box at the street frontage on the southern side of the driveway, within proposed landscaping. It is unlikely the landscaping will be viable in the slither of garden bed that also accommodates the mailbox.</p> <p>Compliance with the requirements will be confirmed with standard conditions re</p>	Yes, subject to conditions

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	signage is to be provided.	compliance with Australia Post needs, numbering, and identification signage.	
5.4.2 Fences and Walls			
<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. <p>Are designed and detailed to provide visual interest to the streetscape.</p> <ul style="list-style-type: none"> • Are constructed of materials compatible with the proposed development and with examples of fences and walls in the streetscape to offer a sense of continuity. • 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/ environmental context.</p>	<p>A27.1 Front fences and walls along the primary frontage (see Figure 9), shall be no higher than 1.2m (averaged for sloping sites).</p> <p>A27.4 A fence or wall along a primary or secondary frontage must contain:</p> <p>Open elements that make it at least 50% transparent; or</p> <ul style="list-style-type: none"> • Where there are solid panels, articulated elements such as landscape screening, setbacks and varied materials. <p>A27.5 Despite A27.1 and A27.3, front fences and walls higher than 1.2m will only be supported where all the following is satisfied:</p> <ul style="list-style-type: none"> • The site is located on a classified road with high traffic volumes. • The site is not located in an area with an established heritage character. • The fence and/or wall does not exceed 10m in length without some articulation or detailing to provide visual interest. • Landscape planting is included within a 1.5m setback between the fence/wall and the boundary to achieve mature heights of at least 1.5m. <p>A27.6 Fences and walls along a primary or secondary frontage shall maintain appropriate sight distances for road users and pedestrians in accordance with the relevant Australian Standards.</p>	<p>A front fence is not shown on the fence plan and is not considered appropriate given a fence is proposed approximately 1.5m in from the front boundary for part of the width of the site and is required to delineate the private open space of unit 1. It is preferable that trees be planted in the front setback (to reduce the visual impact of the proposal and complement street trees) rather break the space up with another fence.</p> <p>The fence for Unit 1 is required to provide privacy. While the fence is 1.8m high, it is only but only about 6m long and will be semi-open. This is not ideal but given the constraints in achieving landscaped area and parking o the. Site is accepted.</p> <p>The 1.8m high metal fence along the side boundaries is relatively standard for development in the vicinity and will assist in providing privacy to the ground floor habitable rooms. In combination with the narrow open spaces between the fences and walls of the units, the 1.8m high fences could reduce daylight/ sunlight to those areas. This is particularly relevant for Units 1 and 2 and is discussed under landscape. Notwithstanding, this impact is considered a matter of overdevelopment rather than the fences themselves, and the side fences are accepted.</p> <p>Fence detail to the rear lane is not provided and can be conditioned.</p>	<p>Yes, subject to conditions</p>

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	A27.7 The design and materials of front fences or walls is to be compatible with the surrounding streetscape. A27.8 Solid metal fencing shall not be erected along a primary or secondary frontage.		
5.4.3 Universal Design			
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'. 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: a bedroom: laundry: bathroom that includes a shower, WC and vanity: kitchen: living area: external private open space.	A28.1 All Class 1a and 2 developments, as defined in the Building Code of Australia, should provide accessible or adaptable housing at the following rate: Developments containing 3-10 dwelling – 1 dwelling. A28.2 The required proportion of new Class 1a or 2 dwellings, should be designed so the dwelling can be easily and affordably adaptable at a later date. In this regard the Silver Standard for accessibility as outlined in the Liveable Housing Design Guidelines.	Given the proposal is for four units, one adaptable unit is required. Unit two has the ability to be adapted to meet the requirements for access from the car parking space to the types of rooms specified in P28.2. An area on the ground floor labelled 'rumpus room' was shown as a bedroom with ensuite bathroom and 820mm wide door. This area is clearly capable of being used as a bedroom. However, in the amended plans the ensuite bathroom is removed and part of the walls are removed. To fully comply the ensuite and walls need to be reinstated as per the original plan.	No
5.5 Environment			
5.5.1 Water Management and Conservation			
P29 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 areas associated with buildings and driveways are graded and drained to minimise the discharge	A29.1 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. This could be: a) A gutter or table drain in a road reserve, or b) A stormwater easement or easement to drain water, or	The SEE states the development can be drained to the Council's street system, as shown on the amended stormwater plans SW01-SW02 of Annexure D prepared by AE Consulting Engineers. The plans indicate that roof and hardstand/surface drainage can be directed to an onsite detention (OSD) system with a volume capacity of 7.2m ³ before being discharged to the rear lane via flow dissipators. Council's Subdivision Engineer commented - <i>A stormwater concept plan has been provided demonstrating OSD and a drainage layout from the site. The proposal to discharge stormwater into the unformed laneway by way of holes</i>	Yes, subject to conditions

Planning Report – S4.15 Assessment - 42 Duncan St, HUSKISSON - Lot 5 Sec 9 DP 758530

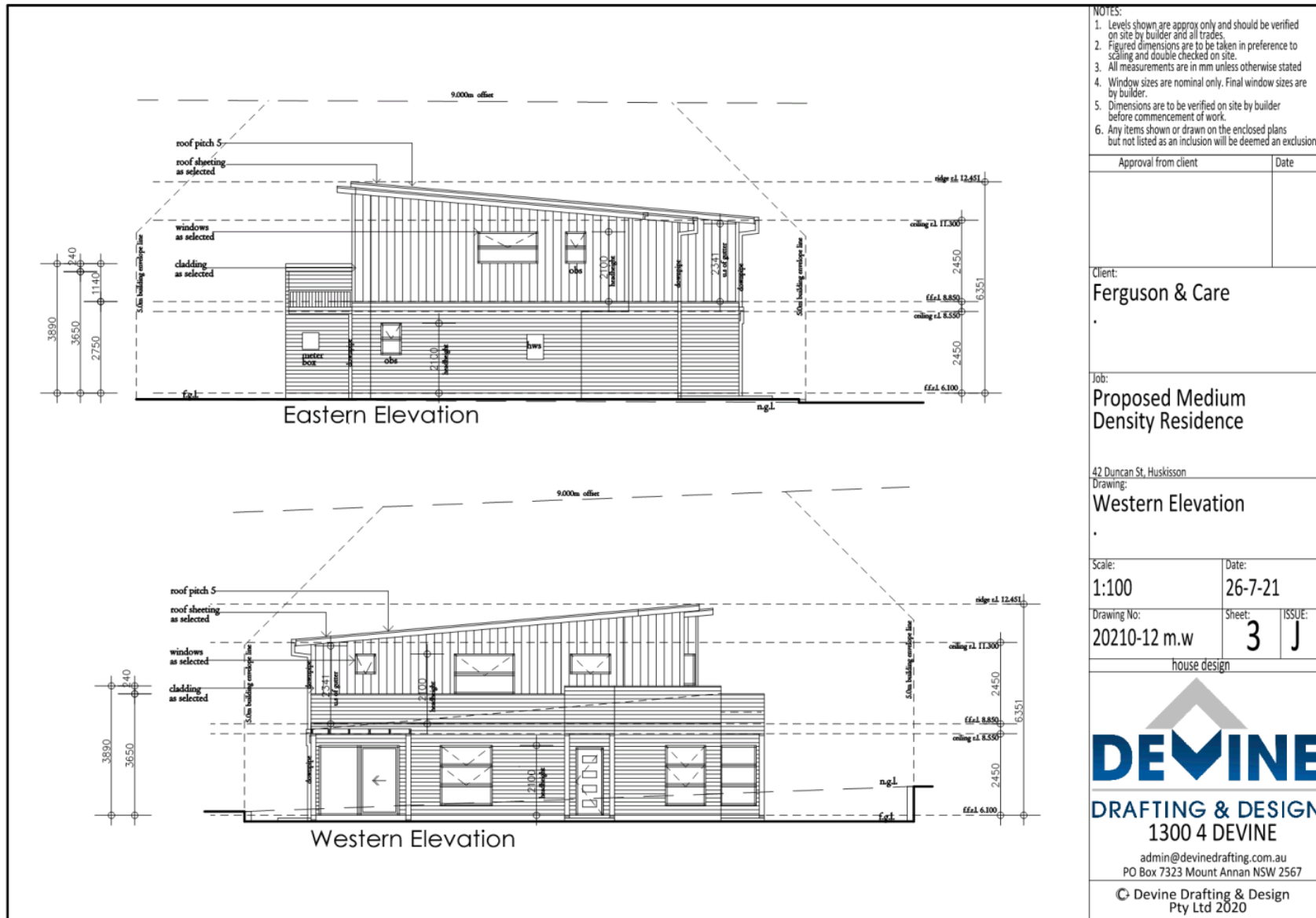
<p>of surface water onto adjoining land.</p> <ul style="list-style-type: none"> • Permeable areas are utilised to reduce stormwater runoff. 	<p>c) A disposal/absorption trench, where (a) and (b) above are not available, and soil conditions are suitable, or</p> <p>d) A water tank / on-site detention system with an overflow connected to a disposal method in (a), (b) or(c) above.</p> <p>A29.2 Surface water from paved areas including driveways is to be directed to an approved discharge point (see A29.1) that minimises impact on adjoining land.</p> <p>A29.3 Where the area of buildings, pavement and other impervious areas exceeds 65% of the site area, the proposal is to include details of the methods to be used to harvest rainwater and minimise increased runoff to surrounding land and public stormwater infrastructure. The details are to include assessment of pre-development and post development stormwater flows.</p>	<p><i>in the side of a pit is not accepted. However, it is believed that a drainage outcome can be conditioned – possibly by way of a level spreader within the unformed laneway, or by pipe or swale to the existing drainage within the laneway.</i></p>	
5.5.2 Servicing			
<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</p>	<p>A30.1 Services and utilities including electricity, gas, water, sewer, roads and drainage must be available for the initial development and ongoing development needs.</p> <p>A30.2 Where connection to the services outlined in A30.1 is not available, the development application must provide alternatives to Council's satisfaction.</p>	<p>The subject site is within a developed and serviced area. All services are available to the development site.</p> <p>Endeavour Energy requirements can be confirmed by condition should the application be approved.</p> <p>Shoalhaven Water have issued a Shoalhaven Water Notice.</p> <p>Individual water meters are proposed and will be required by consent condition to be shown on the construction certificate plans.</p> <p>Common trenching, where, appropriate will be required by consent condition to be shown on the construction certificate plans.</p>	<p>Yes</p>

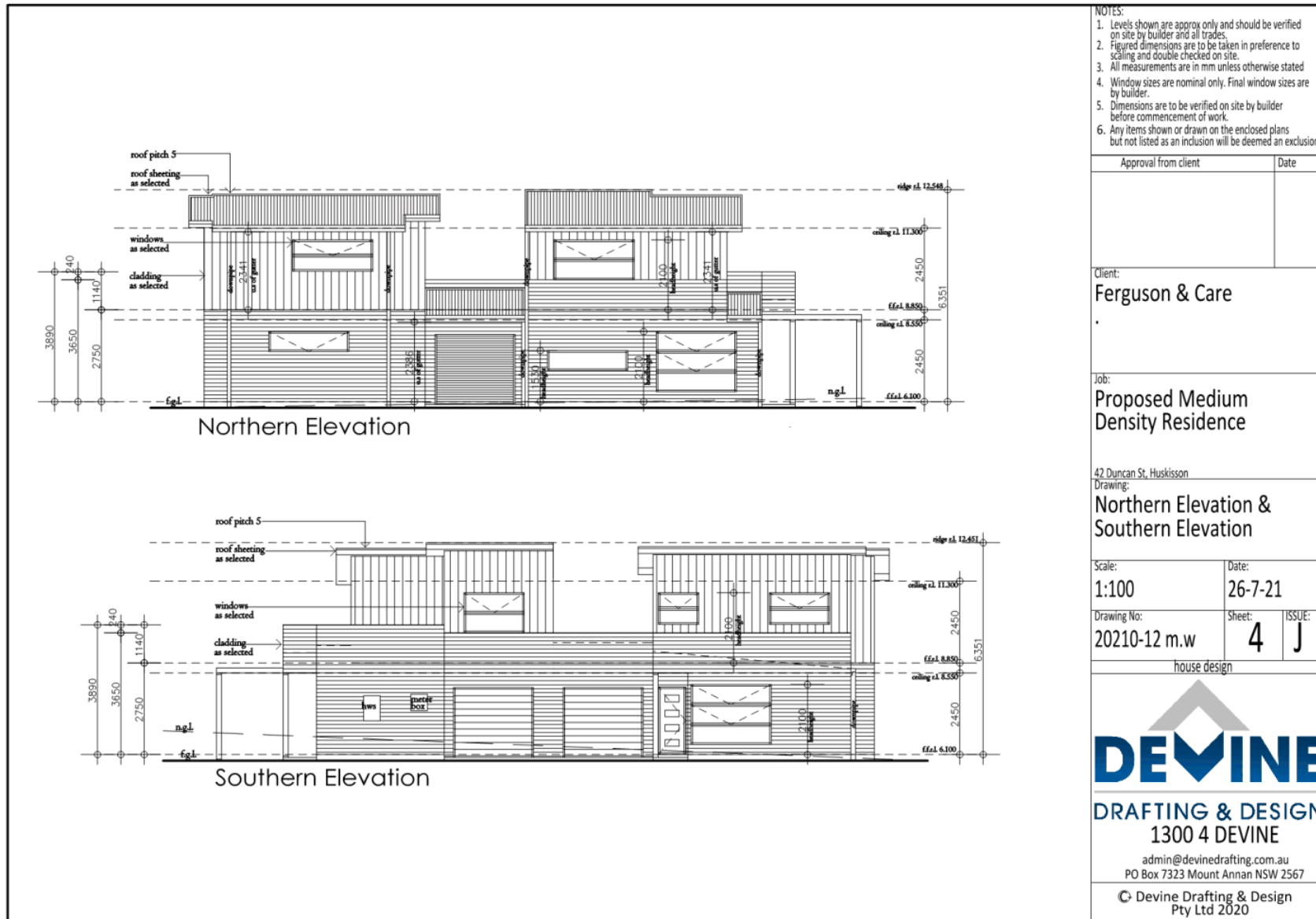
Planning Report – S4.15 Assessment - 42 Duncan St, HUSKISSON - Lot 5 Sec 9 DP 758530

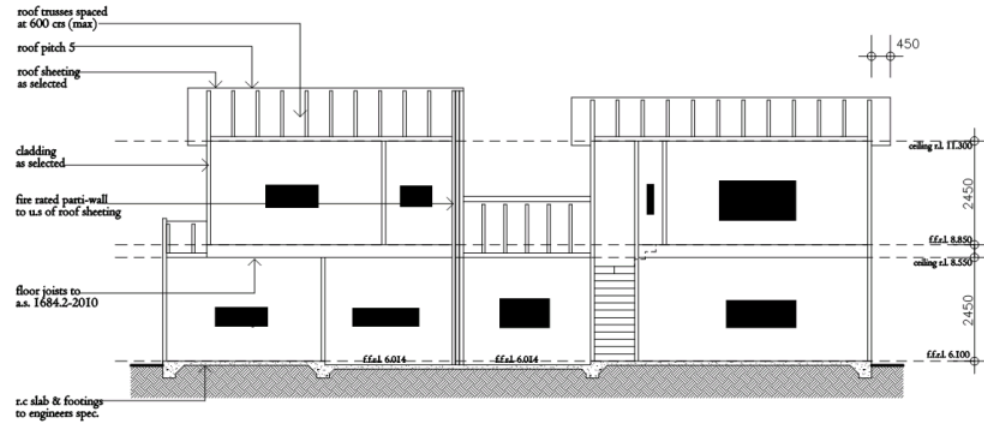
are co-ordinated in common trenching in order to minimise construction costs for underground services. P30.4 Water supply for domestic and firefighting purposes is appropriate for the location and development type.	A30.3 Individual water meters will be required to assist the individual billing of each dwelling.	The proposal was referred to the RFS as integrated development. the RFS have issued general terms of approval and it is, therefore, assume water supply if appropriate for firefighting.	
5.5.3 Waste Management			
P31.1 Bin storage, presentation and collection arrangements: • 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.	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. A31.4 Where a bin storage area is also the waste collection area or where a communal waste storage and recycling area is provided, it shall be:	There is about 14m of frontage exclusive of driveway. A minimum of 12m is required for eight bins (assume two per dwelling per week) and can be achieved. Bin storage areas are provided within the private gated area of each unit, and there is no communal waste collection/storage/recycling area. Compliance can be confirmed with standard conditions.	Yes
	A31.2 Bin storage area/s are required and must be identified on the site plan for all developments, regardless of whether waste is collected from the kerbside or via alternative waste servicing options.	Bin storage areas are identified on the site plan.	Yes
P31.2 Bin storage is sited and designed for attractive visual appearance and for efficient and convenient use.	A31.3 Bin storage areas must be located behind the front building line and where visible from the street, must be appropriately screened to conceal the contents from the public domain and adjacent properties	Bin storage areas for units two, three and four are located behind the front building line. The bin storage area for Unit 1 is forward of the front building line, within the front setback but behind the 1.8m metal fence that encloses the private open space (POS) for that unit. The bin storage area is approximately 2m from the front boundary and will need to be moved to the area of the existing services area to the north of Unit 1.	Yes, subject to conditions
	A31.5 Bins must be able to be easily manoeuvred from the bin storage area for	Bin storage for units three and four are located on the paths along the side setback, rendering these as non-operational for access to the rear yards, but allowing for access to the drive along	Yes, subject to conditions

Planning Report – S4.15 Assessment - 42 Duncan St, HUSKISSON - Lot 5 Sec 9 DP 758530

	<p>presentation at the kerbside.</p>	<p>which bins can be taken to the kerb. Note that this requires removal or reduction in the gardens adjacent to the gates, and while this can be a consent condition, it would reduce the already non-compliant area of deep soil landscaped space (which is already below the required minimum).</p> <p>Bin storage for unit one is within its POS, reducing the amount of POS which is already below the required minimum due to the location of the water tank and clothes drying area). The bins will need to be pulled through the communal open space and visitor car park to the driveway, which will inhibit manoeuvrability, especially if the visitor space is occupied.</p> <p>Bin storage area for unit two is within the POS (which is already below the required minimum due to the location of the water tank and clothes drying area). This bin storage area is adjacent to the gate into to the rear yard and will block access through that gate. Landscaping is also shown in the path leading from the drive to gate and needs to be removed if the path is to function.</p>	
--	--------------------------------------	--	--







Section A-A
Scale 1:100

EXTERNAL COLOUR SELECTIONS

Lower Cladding *****	Roof Sheeting *****	Downpipes *****	Upper Cladding *****
Fascia *****	Gutters *****	Garage Door *****	Cladding *****
Windows *****	Driveway *****	Front Door *****	Fencing *****

- NOTES:
1. Levels shown are approx only and should be verified on site by builder and all trades.
 2. Figured dimensions are to be taken in preference to scaling and double checked on site.
 3. All measurements are in mm unless otherwise stated.
 4. Window sizes are nominal only. Final window sizes are by builder.
 5. Dimensions are to be verified on site by builder before commencement of work.
 6. Any items shown or drawn on the enclosed plans but not listed as an inclusion will be deemed an exclusion.

Approval from client

Date

Client:
Ferguson & Care

Job:
Proposed Medium
Density Residence

42 Duncan St, Huskisson
Drawing:
Section A-A &
External Colour Selections

Scale:
1:100

Date:
26-7-21

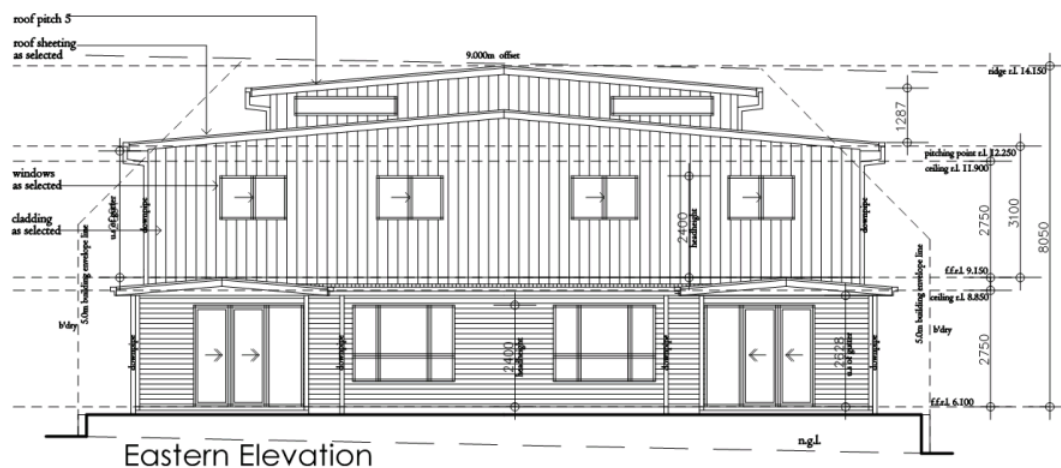
Drawing No:
20210-12 m.w

Sheet:
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ISSUE:
J

house design

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Approval from client	Date

Client:
Ferguson & Care

Job: Proposed Medium Density Residence

42 Duncan St, Huskisson

Drawing:
**Western Elevation &
Eastern Elevation**

Scale:
1:100

Date:
26-7-21

Drawing No:
20210-12 m.w

Sheet:	ISSUE:
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house design

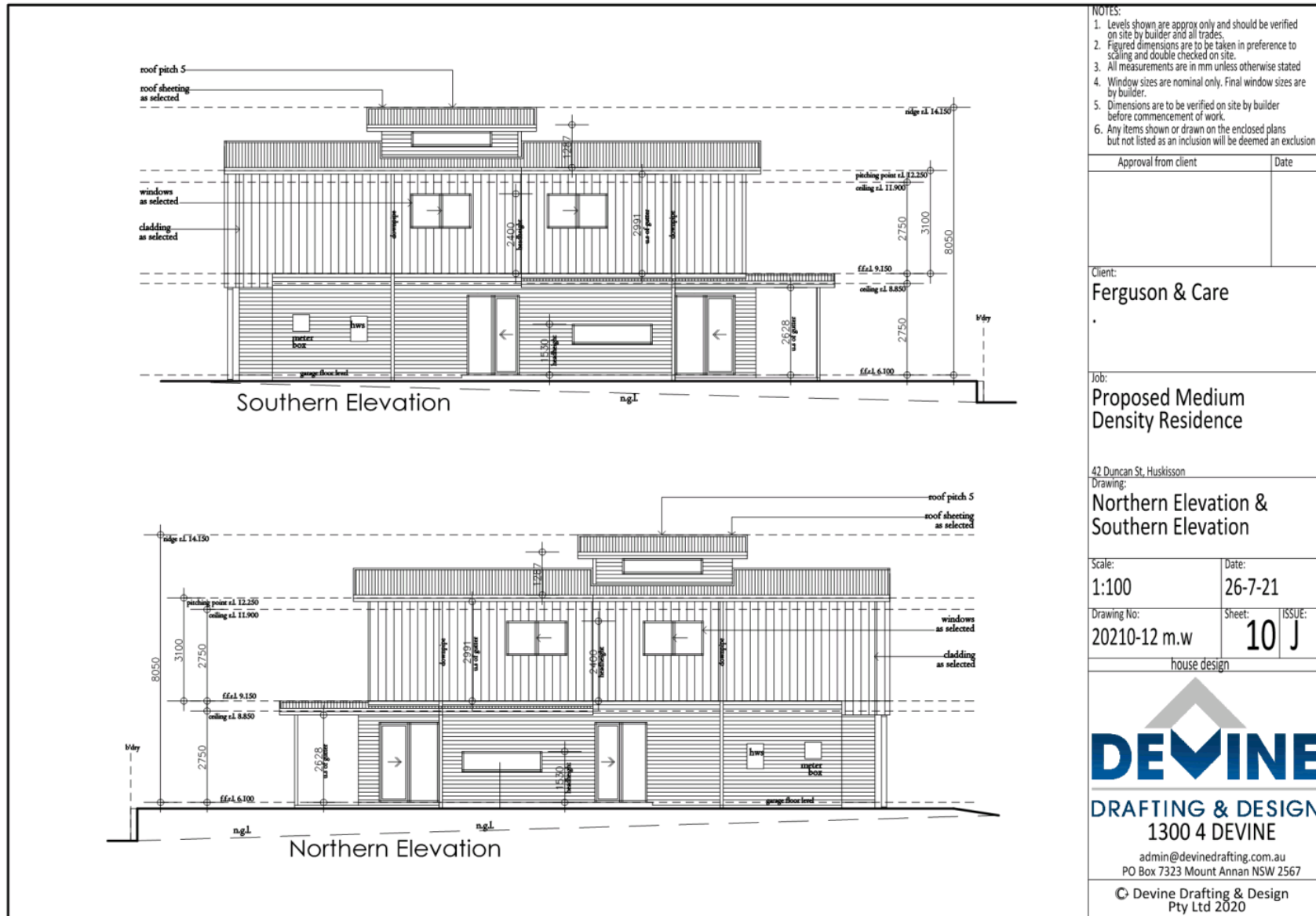


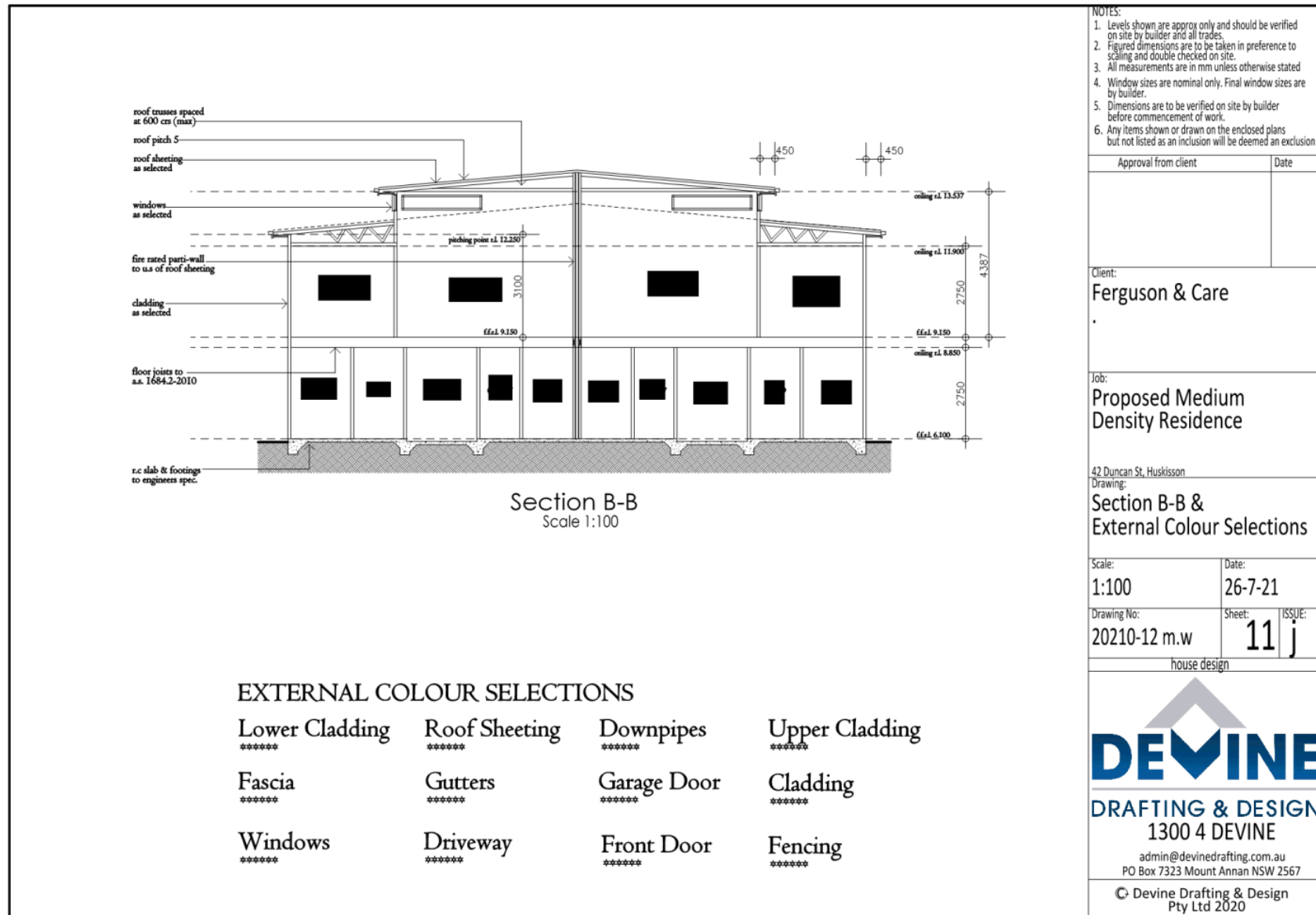
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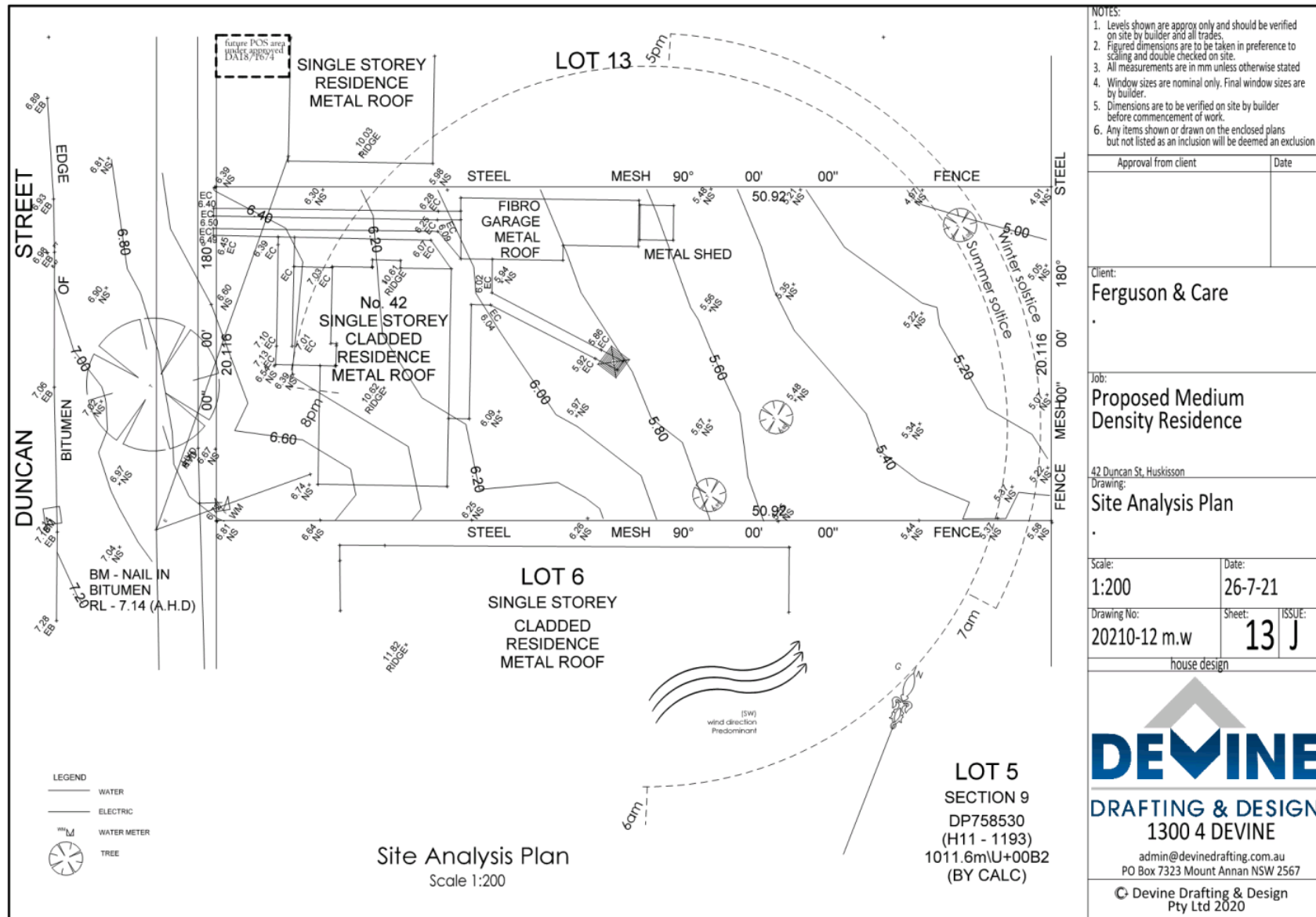
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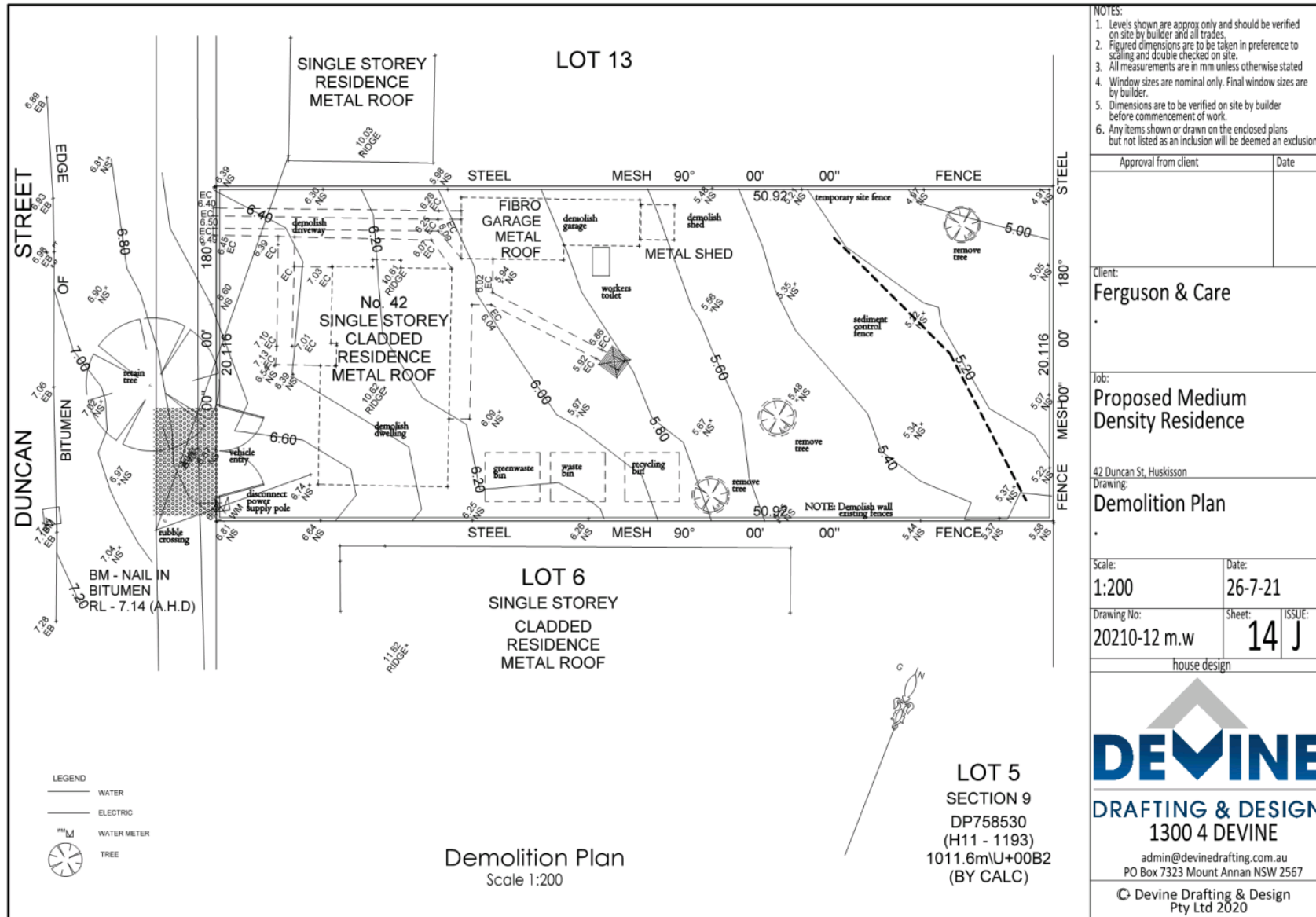
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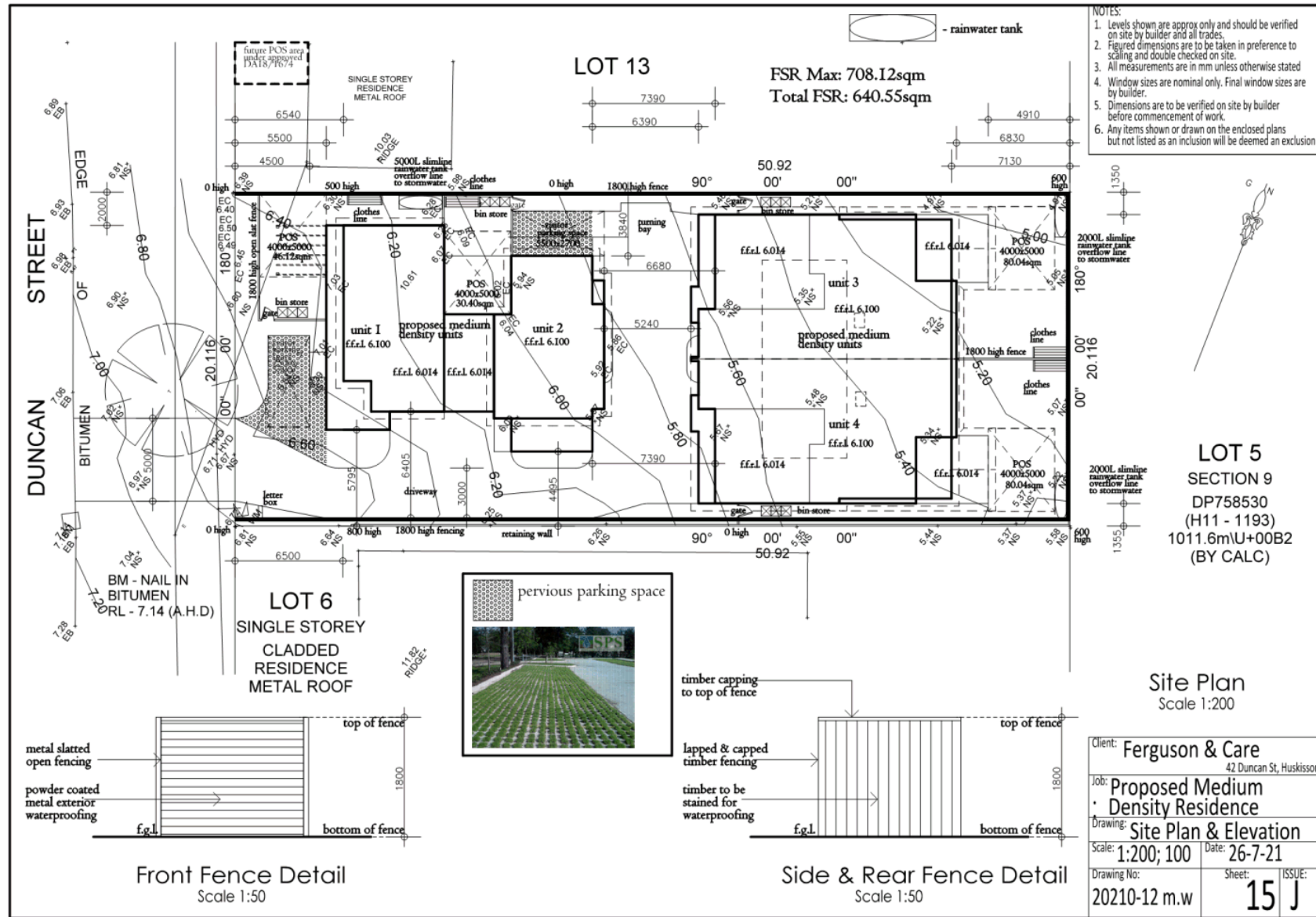
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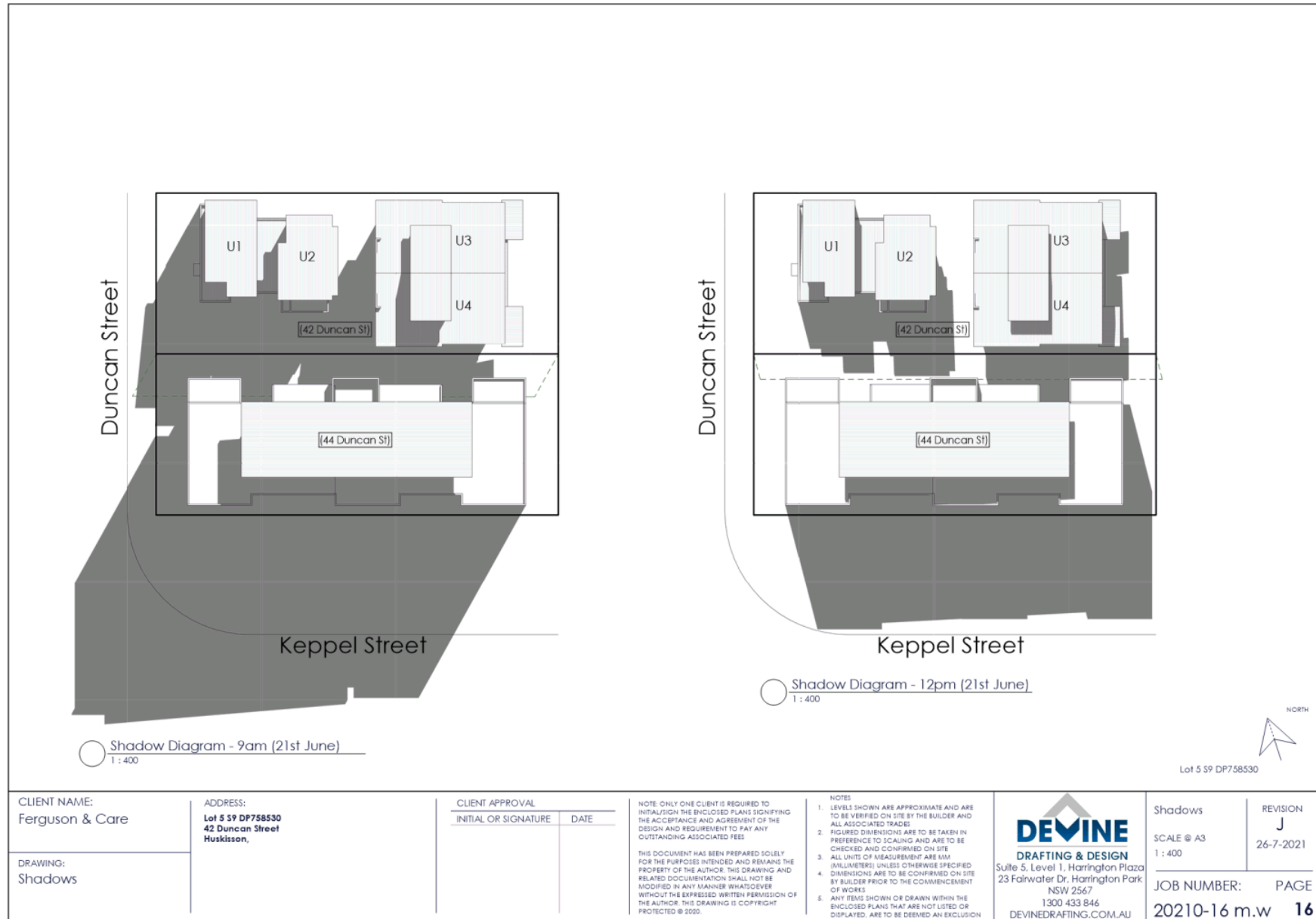


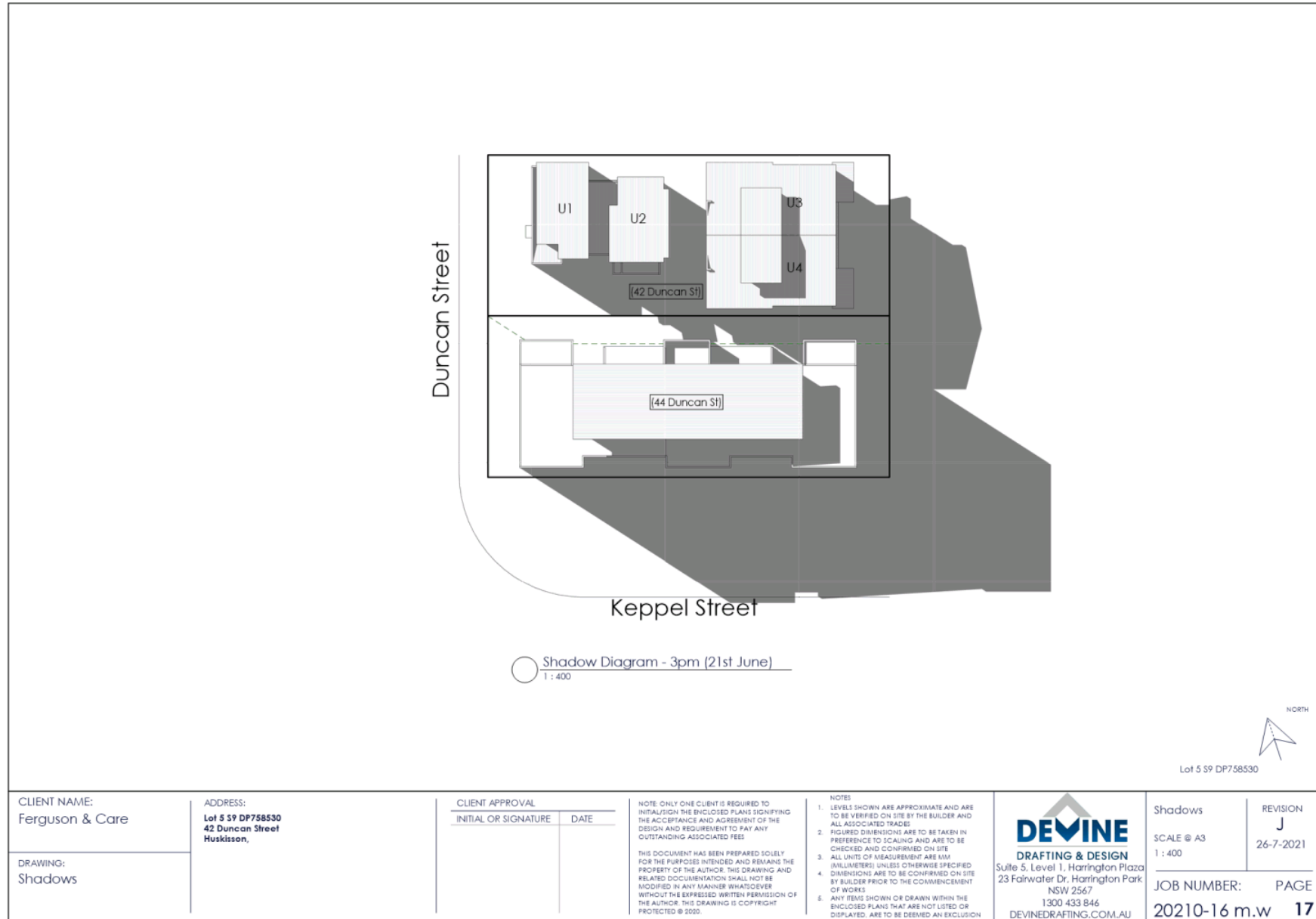


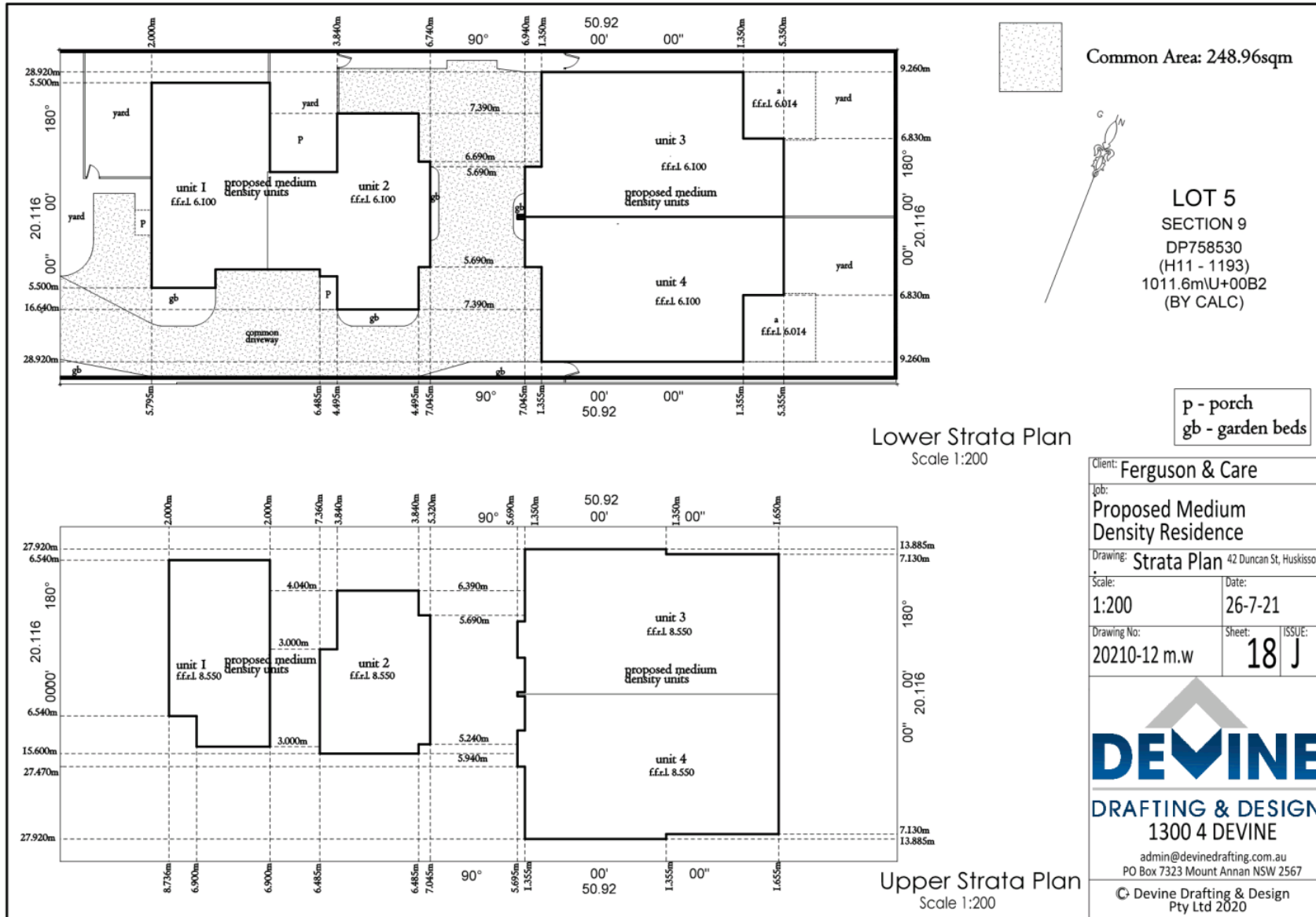


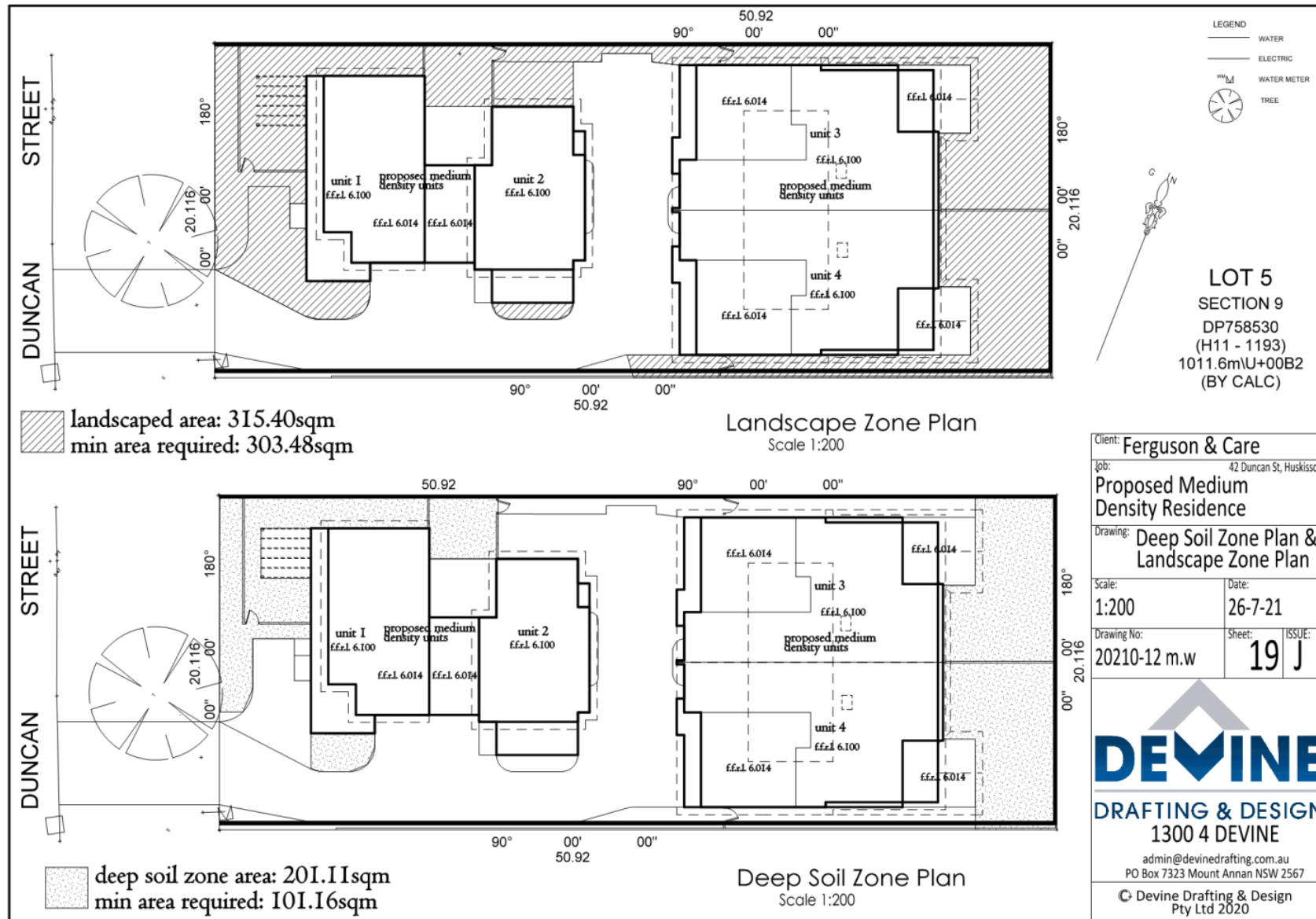


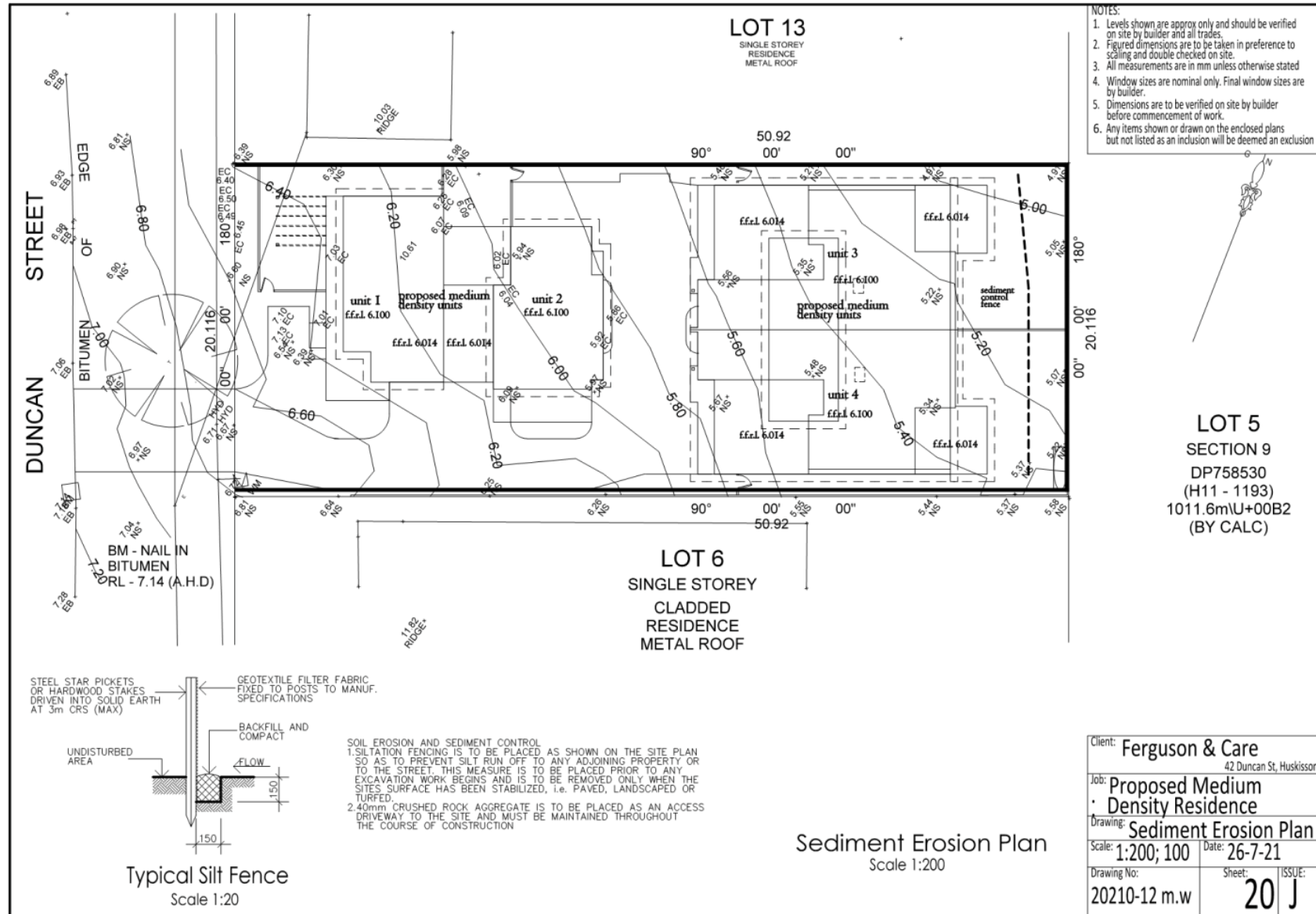












bathroom tiling as per
fender and bathroom
details

Lift off hinges to be fitted
to all hinged toilet doors

Note - All Dimensions to be
verified on site before
commencement of work

Construction to be
in accordance with
BCA and other relevant
Australian Standards

Granite guard
termite barrier

3.8.5 Ventilation

3.8.5.2 Ventilation requirements

Ventilation must be provided to a habitable room, sanitary compartment, bathroom, shower room, laundry and any other room occupied by a person for any purpose by any of the following means:

- (a) Openings, windows, doors or doors or other devices which can be opened
- (i) with a ventilating area not less than 5% of the floor area of the room required to be ventilated, &
- (ii) open to
 - (A) a suitably sized court, or space open to the sky; or
 - (B) an open verandah, carport, or the like; or
 - (C) an adjoining room in accordance with (b).

3.8.5.3 Location of sanitary compartments

Sanitary compartments must not open directly into a kitchen or pantry unless:

- (a) access is by an airlock, hallway or other room, or
- (b) the sanitary compartment is provided with an exhaust fan or other means of mech. exhaust ventilation.

NOTE: Plans to comply with the above clauses

3.8.7 compliance Notes

3.8.7.2 Pliable building membrane

(a) Where a pliable building membrane is installed in an external wall, it must—

- (i) comply with AS/NZS 4200.1; and
- (ii) be installed in accordance with AS 4200.2; and
- (iii) be a vapour permeable membrane for climate zones 6, 7 & 8
- (iv) be located on the exterior side of the primary insulation layer of wall assemblies that form the external envelope of a building.

(b) Except for single skin masonry or single skin concrete, where a pliable building membrane is not installed in an external wall, the primary water control layer must be separated from water sensitive materials by a drained cavity cavity.

3.8.7.3 Flow rate and discharge of exhaust systems

(a) An exhaust system installed in a kitchen, bathroom, sanitary compartment or laundry must have a min flow rate of:

- (i) 25 L/s for a bathroom or sanitary compartment; and
- (ii) 40 L/s for a kitchen or laundry.

(b) Exhaust from a bathroom, sanitary compartment, or laundry must be discharged—

- (i) directly or via a shaft or duct to outdoor air; or
- (ii) to a roof space that is ventilated in accordance with 3.8.7.4

3.8.7.4 Ventilation of roof spaces

(a) Where an exhaust system covered by 3.8.7.3 discharges into a roof space, the roof space must be ventilated to outdoor air through evenly distributed openings.

NOTE: ventilation to be ducted externally to eave facade for all laundry, bath, kitchen, wp, mudroom, wet areas and the alike

BASIX NOTES

TO APPLY TO EACH UNIT Unless otherwise indicated

WATER

1. Minimum 2000 litre rainwater tank for each dwelling collecting 100% of roof water with connections to gardens, toilets & Laundry
2. 3 star rated showerheads(> 7.5 but <= 9 L/min)
3. 4 star rated toilets & taps

THERMAL COMFORT

1. Waffle pod slab
2. Minimum R2.0 insulation to external walls(excludes garage)
3. R4.0 insulation to ceilings(excludes Garage)
4. R2.0 insulation to walls between house & garage
5. R2.0 insulation to the ceiling/floor between house & garage(units 1,3 & 4)
6. R2.0 insulation to the floor of first floor where it extends past lower level (units 2,3 & 4)
7. R2.0 Insulation to walls between house & roofspace(unit 1)
8. Foil + R1.0 insulation blanket to underside of roof
9. Medium wall & medium roof colours
10. Weatherseals to all external doors including internal access to garage
11. Floor coverings as per detail on floor plans
12. Insulation must be installed in accordance with NCC and relevant Australian Standards.
13. Recessed downlights have been included in the NatHERS rating(to be sealed LED downlights)
14. Low-e tinted glazing with aluminium frame to W1, W8, W9, D22 & W21 (Less than or = to U 5.60, within 10% of SHGC 0.41/0.36)(unit 1 only)
15. All other windows & glazed doors to be single glazed clear with aluminium frame(Less than or = to U 6.70, within 10% of SHGC 0.70/0.57)
16. Skylight to be single glazed clear(units 3 & 4)

ENERGY

17. Gas instantaneous 5 star HWS
18. No permanent active heating or cooling systems to be installed
19. Ducted rangehood to kitchen with manual on/off switch
20. Ducted exhaust fan to bathroom, ensuite & pdr with manual on/off switches
21. Ducted exhaust fan to laundry with manual on/off switch(units 1 & 2)
22. Gas cooktop & electric oven
23. Well ventilated fridge space
24. Permanent outdoors clothesline
25. Compact fluorescent, fluorescent or LED lights throughout(excluding bathrooms & toilets)

NOTES:

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Approval from client	Date

Client:
Ferguson & Care

Job:
Proposed Medium
Density Residence

42 Duncan St. Huskisson
Drawing:

BASIX NOTES

Scale: NTS	Date: 26-7-21	
Drawing No: 20210-12 m.w	Sheet: 21	ISSUE: J

house design

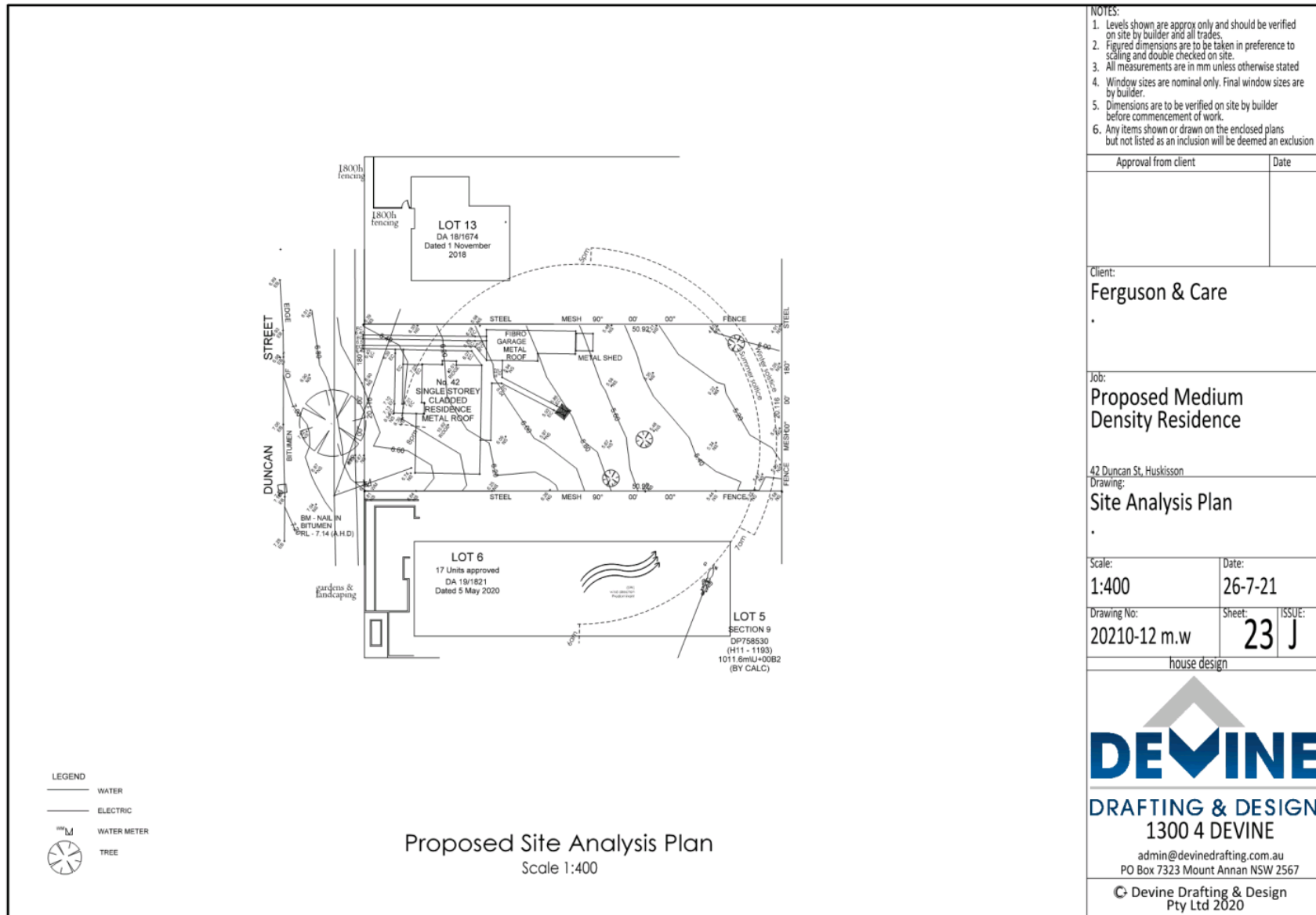


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Planning Report – S4.15 Assessment – Old Southern Rd SOUTH NOWRA – Lot 2 DP 1065105 & Lot 28 DP 17310

	Planning Report S4.15 Environmental Planning & Assessment Act 1979
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DA Number	DA21/1392
Property	Old Southern Rd SOUTH NOWRA – Lot 2 DP 1065105 & Lot 28 DP 17310
Applicant(s)	PDC Lawyers & Town Planners
Owner(s)	Care Living Nowra 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

Justin Lamerton

7/09/2021

Detailed Proposal

The application seeks consent for the construction of a staged residential flat building (RFB) development consisting of a total of 56 units across six (6) two-storey buildings, internal roads and parking facilities, communal facilities, and a fire trail in accordance with the architectural and landscape plans.

The construction of the development is proposed to be staged in the following format:

- Stage 1: Construction of Block A including:
 - construction of two buildings consisting of a total of 18 units across two levels (16 two bedroom and 2 one bedroom units);
 - internal ingress/egress road to Old Southern Rd;
 - gravel fire tail on the northern rear side of the development;
 - communal waste enclosure servicing the development;
 - communal facilities including the 'Hub' (to be temporarily used as a sales office during Stage 1) and village green; and
 - associated resident/visitor parking facilities including 21 private parking spaces, 13 visitor spaces, and 5 spaces dedicated to the communal facilities (i.e. Hub).
- Stage 2: Construction of Block B including:
 - construction of two buildings consisting of a total of 20 units across two levels (16 two bedroom and 4 one bedroom units);
 - use of the Hub temporarily as a sales office until the completion of the Stage 2 construction works.
 - construction of associated resident/visitor parking facilities including 17 private parking spaces and 2 visitor spaces.
- Stage 3: Construction of Block C including:
 - construction of two buildings consisting of a total of 18 units across two levels (14 two bedroom and 4 one bedroom units); and
 - associated resident/visitor parking facilities including 18 private parking spaces and 13 visitor spaces.

Planning Report – S4.15 Assessment – Old Southern Rd SOUTH NOWRA – Lot 2 DP 1065105 & Lot 28 DP 17310

The proposed development requires the removal of 1.22ha of vegetation to permit the construction of the proposed works. Vegetation to be removed includes a mix of trees and grassland vegetation which have been identified as falling under plant community types, Plant Type Community (PCT) 1080 – Red Bloodwood / Grey Gum Open Forest and PCT 1326 – Illawarra Lowland Grassy Woodlands. Given the extent of vegetation being removed from the property, the development was required to enter into the Biodiversity Offsets Scheme and was thus accompanied by the lodgement of a Biodiversity Development Assessment Report (BDAR).

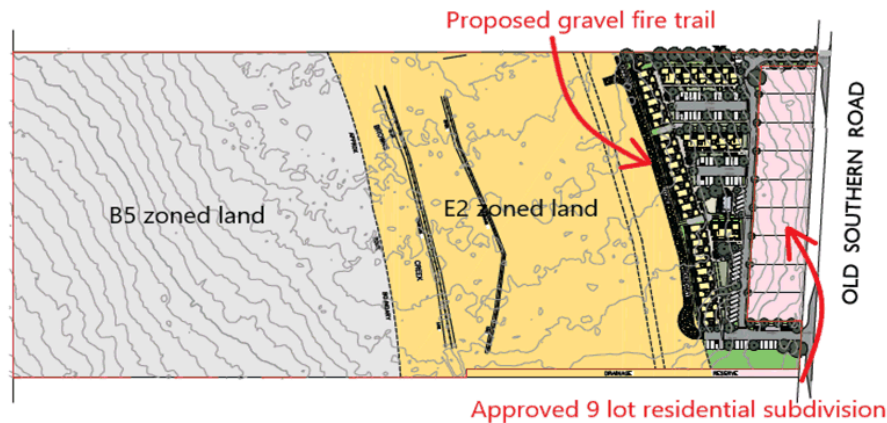


Figure 1 – Proposed Development with Zoning Overlay (also showing the adjacent Torrens title lots)

Figure 2 below shows the development as viewed from the internal driveway looking west. It is noted each block is made up of two buildings, one sited in a north-south orientation and one oriented east-west. The figure below depicts the east-west building for each block on the right of each elevation plan with car park areas in front of Blocks B and C.

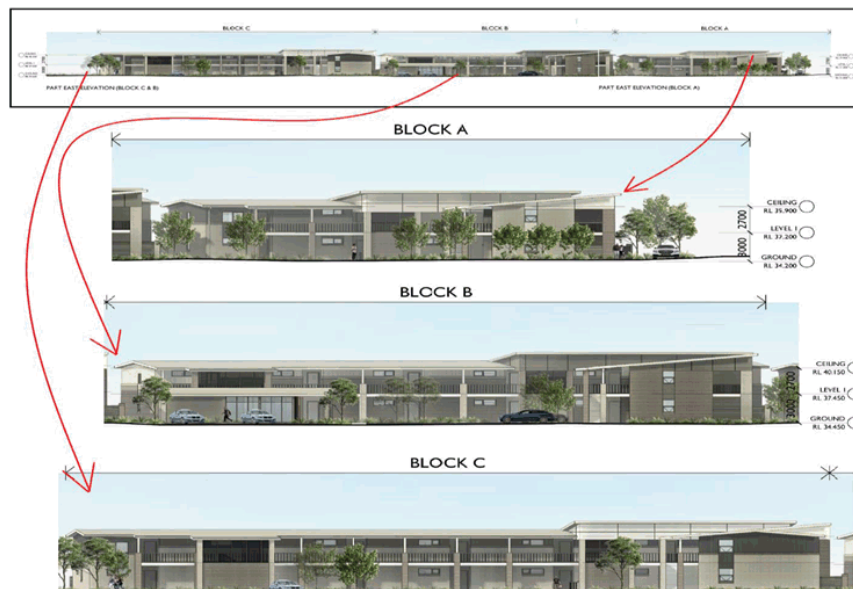


Figure 2 – Block B & C Elevations – East

Planning Report – S4.15 Assessment – Old Southern Rd SOUTH NOWRA – Lot 2 DP 1065105 & Lot 28 DP 17310

As detailed in the Report below, the proposed development would also involve the removal of 1.22ha of vegetation to permit the construction of the proposed works. The vegetation to be removed would involve a mix of trees and grassland vegetation which have been identified as falling under plant community types, PCT 1080 – Red Bloodwood / Grey Gum Open Forest and PCT 1326 – Illawarra Lowland Grassy Woodlands.

Subject Site and Surrounds

Site Description

The site:

- Is described as being Lot 2 DP 1065105 and Lot 28 DP 17310 at Old Southern Rd South Nowra.
- Has a total combined area across both lots making up the site of 8.16ha (Lot 2 – 4.17ha and Lot 28 – 3.99ha).
- Has a mixed zoning which includes the following:
 - R1 General Residential in the eastern front part adjacent to Old Southern Rd (the vast majority of the proposed development is located within this portion of the site).
 - E2 Environmental Conservation in the central part incorporating the Browns Creek (the proposed fire trail is located within this zone).
 - B5 Business Development in the western rear part of the site beyond the Browns Creek (no works are proposed within the part of the site zone B5).
- Has an approval for a nine (9) lot Torrens title subdivision development (approved under SF10679) which is under construction. Each of the approved lots would directly front Old Southern Rd.
- Is presently vacant of development and consists of a mix of cleared land in the eastern part to support the residential subdivision development, and vegetated land for the remainder of the site consisting of trees and grassland identified as plant community types PCT 1080 – Red Bloodwood / Grey Gum Open Forest and PCT 1326 – Illawarra Lowland Grassy Woodlands.
- Is traversed by Browns Creek which travels from north to south through the central part of the site.
- Is mapped as being partly flood prone land (i.e. subject to the 1% AEP flood level and flood planning level). The part of the site where the residential flat building development is proposed is not within the 1% AEP flood level but partly within the flood planning level. Further discussion is provided in the Report below.
- Is mapped as being bushfire prone land (Vegetation Category 2 and Buffer Area).
- Is partly mapped as containing 'Biodiversity – Significant Vegetation' and 'Excluded Land'. The location of the proposed works is outside of the mapped areas which are predominantly adjacent to the Browns Creek.
- Is located within a wider emerging urban residential area which would consist of the nine Torrens title lots being constructed adjacent to the development site and further detached residential housing located on the opposite side of Old Southern Rd.

The subject site and its context within the surrounding locality are depicted in the images below:

Planning Report – S4.15 Assessment – Old Southern Rd SOUTH NOWRA – Lot 2 DP 1065105 & Lot 28 DP 17310



Figure 3 – Subject Site



Figure 4 – Subject Locality

Deposited Plan and 88B Instrument

Lot 2 DP 1065105

In accordance with Figure 5 below, the lot was created as part of its registration with Land Registry Services on 30th March 2004). The below Figure shows that no easements / restrictions upon use would impact the development.

Planning Report – S4.15 Assessment – Old Southern Rd SOUTH NOWRA – Lot 2 DP 1065105 & Lot 28 DP 17310

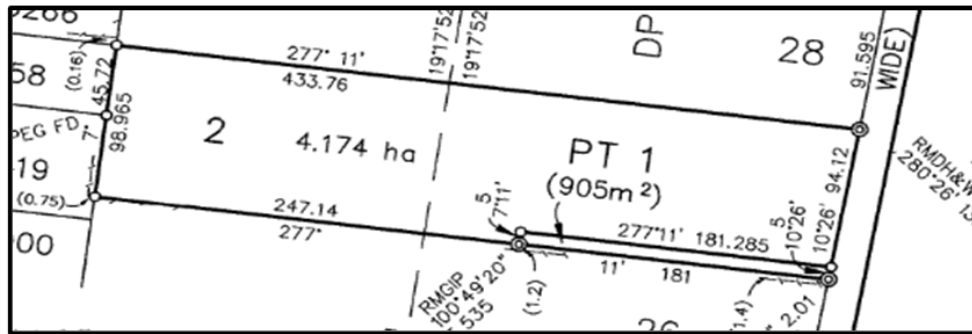


Figure 5 – Deposited Plan (Lot 2 DP 1065105)

Whilst the above plan does not depict the land as being burdened by any restrictions, Council notes that there is an easement (5m wide) for sewer which traverses from north to south across the site. The proposed development is located to the east of this easement, which would be unaffected by the subject application.

Lot 28 DP 17310

In accordance with Figure 6 below, the lot was created as part of its registration with Land Registry Services on 4th July 1933. The below Figure shows that no easements / restrictions upon use would impact the development.

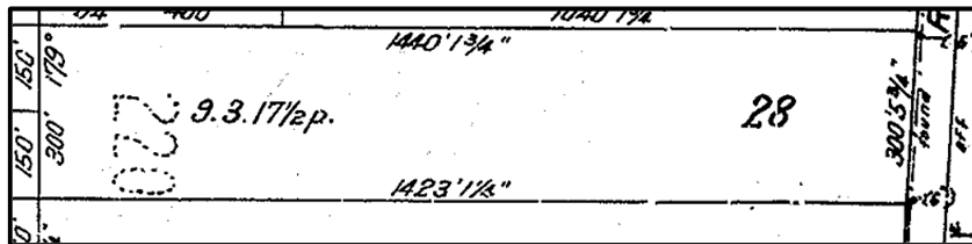


Figure 6 – Deposited Plan (Lot 28 DP 17310)

Subsequent to the registration of the lot and as detailed in the 'Site History / Previous Approvals' section below, Development Application No. SF9473 was granted on 16th January 2004, the purpose of which was for the establishment of the following:

- Easement (5 wide) for sewer – A sewer main traverses from north to south across the lot. The location of the residential flat building is to the east of this infrastructure which would not be impacted by the proposed works.

Planning Report – S4.15 Assessment – Old Southern Rd SOUTH NOWRA – Lot 2 DP 1065105 & Lot 28 DP 17310

Site History and Previous Approvals

Lot 2 DP 1065105

Darts - since 1st July 2005

Application	Appl. Date	Application Type	Proposal	Status	Completed
DA21/1392	21/04/2021	Development Application	Staged Residential Flat Building Development containing 56 Units	Incomplete	
DS21/1065	11/03/2021	Section 96 Amendment	S4.55(1A) – Modification to SF10679 – Modify the consent to refer to the amended Road and Drainage Plans	Approved	19/03/2021
RW21/1146	05/03/2021	S138 Approval	Water & Sewer Related Work, Pavement Work, Stormwater & Service Connection	Approved	10/03/2021
CC20/1926	17/09/2020	Subdivision Works Certificate	Concept Subdivision Application For Proposed 11 Lot Subdivision In Two Stages, And Approval For Stage 1	Approved	19/02/2021
SF10679	25/05/2018	Subdivision Application	Concept Subdivision Application For Proposed 11 Lot Subdivision In Two Stages, And Approval For Stage 1	Approved	11/06/2020
SF10629	20/11/2017	Subdivision Application	Residential Low Density - 10 Lots	Rejected	04/01/2018

Lot 28 DP 17310

Darts - since 1st July 2005

Application	Appl. Date	Application Type	Proposal	Status	Completed
DA21/1392	21/04/2021	Development Application	Staged Residential Flat Building Development containing 56 Units	Incomplete	
DS21/1065	11/03/2021	Section 96 Amendment	S4.55(1A) – Modification to SF10679 – Modify the consent to refer to the amended Road and Drainage Plans	Approved	19/03/2021
RW21/1146	05/03/2021	S138 Approval	Water & Sewer Related Work, Pavement Work, Stormwater & Service Connection	Approved	10/03/2021
CC20/1926	17/09/2020	Subdivision Works Certificate	Concept Subdivision Application For Proposed 11 Lot Subdivision In Two Stages, And Approval For Stage 1	Approved	19/02/2021
SF10679	25/05/2018	Subdivision Application	Concept Subdivision Application For Proposed 11 Lot Subdivision In Two Stages, And Approval For Stage 1	Approved	11/06/2020
SF10629	20/11/2017	Subdivision Application	Residential Low Density - 10 Lots	Rejected	04/01/2018

Plain Sailing - since 2nd September 1996

Application	Appl. Date	Proposal	Status	Status Date
SF9473	16/01/2004	SCC Easement (S)	Linen released (S)	16/01/2004

Post-Lodgement

The following Table lists the events / actions taken following the lodgement of the Development Application with Shoalhaven City Council:

Event / Action Taken	Date
Pre-lodgement Meeting held with the applicant and subsequent notes provided with recommendations regarding alterations to the design to enable the development to achieve compliance with applicable requirements such as the Apartment Design Guide (ADG).	07.10.2020
Formal lodgement of Development Application with Shoalhaven City Council and payment of application fees.	21.04.2021
1 st Request for information (RFI) sent to the applicant – with the following matters being requested: • amended plans addressing the following:	06.05.2021

Planning Report – S4.15 Assessment – Old Southern Rd SOUTH NOWRA – Lot 2 DP 1065105 & Lot 28 DP 17310

Event / Action Taken	Date
<ul style="list-style-type: none"> ○ secured all-weather car parking be provided to permit compliance with the ADG. This also reflects advice provided to the applicant at pre-lodgement stage within minutes issued to the applicant. ○ Secured all-weather bicycle parking be provided to permit compliance with the ADG. ○ An improved landscape buffer be provided separating the internal road servicing all residential flat building units from the neighbouring approved nine (9) Torrens title lots. • Request for the fire trail to be amended to enable it to be wholly located within the R1 zoned section of the site – noting that, given it is ancillary and incidental to the residential flat building development, such a proposal is prohibited within its present location within the E2 zone. • Request for all communal facilities including the village green to be included as part of Stage 1 of the development. • Request for review of the approved sewer design to ensure the proposed development is capable of being serviced by this infrastructure. 	
<p>Applicant response to 1st RFI Request provided with the following responses given to Council's request:</p> <ul style="list-style-type: none"> • No amended plans were provided with the following instead being noted: <ul style="list-style-type: none"> ○ No alteration to the design of the parking areas provided. ○ Requested bicycle parking spaces provided on amended Landscape Plans. ○ Amended Landscape Plans provided. • No alteration to the location of the fire trail provided. The applicant advised that the fire trail should be a separately defined use – Emergency Management Facility • Agreement provided that the village green should form part of Stage 1. • Confirmation provided as part of response that there is sufficient capacity within the sewer design to cater for the proposed development. 	07.06.2021
<p>2nd RFI sent to the applicant following consideration of the response – with the following matters being requested (reiteration of matters raised as part of 1st Request that were not adequately addressed):</p> <ul style="list-style-type: none"> • Request for amended plans addressing the following: <ul style="list-style-type: none"> ○ Reiteration of request for secured all-weather car parking to be provided for the development to permit compliance with the ADG. ○ Request for secured all-weather bicycle parking be provided for the development to permit compliance with the ADG, noting that the plans provided did not demonstrate that it would be all-weather. ○ Request for an improved landscape buffer and increased width to 1.5m to match that required for medium density developments per Chapter G13 of the Shoalhaven Development Control Plan 2014 (SDCP 2014). • Advice provided to the applicant that Council finds that the fire trail is effectively part of the Residential Flat Building development given it is <i>ancillary and incidental</i> to the overall development (noting that it would not be required were a development not proposed and that it would be for the sole purpose of the development – further discussion in Report below). 	13.07.2021

Planning Report – S4.15 Assessment – Old Southern Rd SOUTH NOWRA – Lot 2 DP 1065105 & Lot 28 DP 17310

Event / Action Taken	Date
<p>Applicant response to 2nd RFI Request reiterating their response provided in the 1st Request:</p> <ul style="list-style-type: none"> Request for amended plans addressing the following: <ul style="list-style-type: none"> Applicant advice that the Apartment Design Guide should not apply to the development and that they consider that the proposed parking area complies with the Apartment Design Guide, particularly as it relates to 3J-5. Advice provide that the bicycle parking is located in an accessible location. Applicant reiteration that a 1m vegetation strip separating the internal road from the adjacent residential lots is sufficient <p>Advice provided by applicant reiterating that the fire trail should be a separately defined use and stating why such a trail should be needed.</p>	23.07.2021
Internal and external referrals requested.	23.08.2021
<p>Completion of notification period.</p> <p>The application was notified for a period of two weeks in accordance with the Community Consultation Policy. No submissions were received during the notification period. (Note: the adjoining nine (9) residential lots have not been registered yet and are still on Council record as being under the ownership of Care Living Nowra Pty Ltd.)</p>	08.09.2021
Recommendation for refusal provided to the October Development and Environment Committee Meeting.	

Consultation and Referrals

Internal Referrals

Referral	Recommendation	Comment
Development Engineer	No response provided to referral request at the time of writing of this Report.	<p>Given the nature of the recommendation (refusal), a response to the referral is not required to be obtained.</p> <p>It is considered that any engineering matters required are capable of being resolved through the implementation of conditions of consent.</p>
Natural Resource & Floodplain Section	<p>Referral response provided on 3rd September 2021.</p> <p>Recommended conditions of consent provided detailing requirements to achieve compliance with flood requirements listed under Chapter G9 of the SDCP 2014.</p>	Conditions to be imposed with any consent.

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Building Surveyor	Referral response provided on 28 th August 2021. Recommended conditions of consent provided to ensure compliance with the Building Code of Australia.	Conditions to be imposed with any consent.
Environmental Assessment Team	No response provided to referral request at the time of writing of this Report.	Given the nature of the recommendation (refusal), a response to the referral is not required to be obtained. It is considered that subject to implementation of the recommendations of the submitted BDAR Report (provided at Sections 6 and 7), the development would appropriately address impacts to the environment.
Shoalhaven Water	No response provided to referral request at the time of writing of this Report.	Given the nature of the recommendation (refusal), a response to the referral is not required to be obtained. It is considered that water or sewer matters required are capable of being addressed through the issue of a Shoalhaven Water Notice and the subsequent construction of any required works.

External Referrals

Agency	Recommendation	Comment
Rural Fire Service	Referral response provided by the Rural Fire Service on 23 rd August 2021. Further information required to enable a further assessment to be undertaken which is summarised as follows: <i>1. Further information is required in support of the vegetation classification for the western elevation of the development. From the submitted documentation it appears the proposed revegetation works do not match the vegetation classification in the submitted</i>	The issues raised in the referral response issued by the Rural Fire Service would be required to be addressed prior to any consent being able to be issued.

Planning Report – S4.15 Assessment – Old Southern Rd SOUTH NOWRA – Lot 2 DP 1065105 & Lot 28 DP 17310

	<p><i>bushfire report. Confirmation of the revegetation works occurring on the site as part of the vegetation management plan shall be provided.</i></p> <p><i>2. A perimeter road shall be provided meeting the 'General Requirements' and 'Perimeter Road' provisions of section 5.3b of Planning for Bushfire Protection 2019.</i></p>	
Endeavour Energy	<p>Referral response received on 30th August 2021.</p> <p>Advice provided that Endeavour Energy (EE) supports the development, subject to the attached advice.</p>	EE advice to be provided to applicant to accompany any consent.

Statutory Considerations

Environmental Planning and Assessment Act 1979

Section 4.46 – Integrated Development

The proposal is not identified as being an Integrated Development in accordance with the provisions of Section 4.46 of the Environmental Planning and Assessment (EP&A) Act 1979.

Section 7.11 – Contribution towards provision or improvement of amenities or services

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 Medium Density/Dual Occupancy development for the purpose of calculating contributions under the Plan.

The following calculations apply to the development:

Stage 1:

Planning Report – S4.15 Assessment – Old Southern Rd SOUTH NOWRA – Lot 2 DP 1065105 & Lot 28 DP 17310

Section 7.11 ET Calculations - DA21/1392 (UPN: 41727)

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	0
3 Bedroom Dwelling (Affordable Rental Housing SEPP)	0	0
4 Bedroom Dwelling (Affordable Rental Housing SEPP)	0	0
Lots/Dwellings (not via Affordable Rental Housing SEPP)	0	18
Boarding House Bedrooms	0	0
Total ET		18
		0

Project	Description	Rate	Qty	Total	GST	GST Incl
01 AREC 5006	Northern Shoalhaven Sports Stadium	\$706.53	18	\$12,717.54	\$0.00	\$12,717.54
01 AREC 5007	Nowra Swimming Pool Expansion (Scenic Drive)	\$547.93	18	\$9,862.74	\$0.00	\$9,862.74
01 AREC 5009	Planning Area 1 recreational facilities upgrades (various locations)	\$739.61	18	\$13,312.98	\$0.00	\$13,312.98
01 CFAC 5012	Nowra Integrated Youth Services Centre (Cnr Kinghorn & Plunkett Streets)	\$30.25	18	\$544.50	\$0.00	\$544.50
01 OREC 0013	Old Southern Road Worrigee	\$1,883.85	18	\$33,909.30	\$0.00	\$33,909.30
01 ROAD 2038	Old Southern Road upgrade (1km south from Quinns Lane)	\$1,709.99	18	\$30,779.82	\$0.00	\$30,779.82
01 ROAD 3104	Construct Internal Service Rd & Loop Rd	\$2,358.17	18	\$42,447.06	\$0.00	\$42,447.06
01 ROAD 4039	Old Southern Road/Quinns Lane intersection roundabout	\$329.54	18	\$5,931.72	\$0.00	\$5,931.72
CW AREC 5005	Shoalhaven Community and Recreational Precinct SCArP Cambewarra Road Bomaderry	\$1,949.31	18	\$35,087.58	\$0.00	\$35,087.58
CW CFAC 5002	Shoalhaven Entertainment Centre (Bridge Road Nowra)	\$1,473.26	18	\$26,518.68	\$0.00	\$26,518.68
CW CFAC 5006	Shoalhaven City Library Extensions (Berry Street, Nowra)	\$1,292.05	18	\$23,256.90	\$0.00	\$23,256.90
CW CFAC 5007	Shoalhaven Regional Gallery	\$70.93	18	\$1,276.74	\$0.00	\$1,276.74
CW FIRE 2001	Citywide Fire & Emergency services	\$139.37	18	\$2,508.66	\$0.00	\$2,508.66
CW FIRE 2002	Shoalhaven Fire Control Centre	\$203.89	18	\$3,670.02	\$0.00	\$3,670.02
CW MGMT 3001	Contributions Management & Administration	\$579.56	18	\$10,432.08	\$0.00	\$10,432.08
				Sub Total:		\$252,256.32
				GST Total:		\$0.00
				Estimate Total:		\$252,256.32

Planning Report – S4.15 Assessment – Old Southern Rd SOUTH NOWRA – Lot 2 DP 1065105 & Lot 28 DP 17310

Stage 2:

Section 7.11 ET Calculations - DA21/1392 (UPN: 41727)

☒ 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	0
3 Bedroom Dwelling (Affordable Rental Housing SEPP)	0	0
4 Bedroom Dwelling (Affordable Rental Housing SEPP)	0	0
Lots/Dwellings (not via Affordable Rental Housing SEPP)	0	20
Boarding House Bedrooms	0	0
Total ET		20
		0

Project	Description	Rate	Qty	Total	GST	GST Incl
01 AREC 5006	Northern Shoalhaven Sports Stadium	\$706.53	20	\$14,130.60	\$0.00	\$14,130.60
01 AREC 5007	Nowra Swimming Pool Expansion (Scenic Drive)	\$547.93	20	\$10,958.60	\$0.00	\$10,958.60
01 AREC 5009	Planning Area 1 recreational facilities upgrades (various locations)	\$739.61	20	\$14,792.20	\$0.00	\$14,792.20
01 CFAC 5012	Nowra Integrated Youth Services Centre (Cnr Kinghome & Plunkett Streets)	\$30.25	20	\$605.00	\$0.00	\$605.00
01 OREC 0013	Old Southern Road Worrige	\$1,883.85	20	\$37,677.00	\$0.00	\$37,677.00
01 ROAD 2038	Old Southern Road upgrade (1km south from Quinns Lane)	\$1,709.99	20	\$34,199.80	\$0.00	\$34,199.80
01 ROAD 3104	Construct Internal Service Rd & Loop Rd	\$2,358.17	20	\$47,163.40	\$0.00	\$47,163.40
01 ROAD 4039	Old Southern Road/Quinns Lane intersection roundabout	\$329.54	20	\$6,590.80	\$0.00	\$6,590.80
CW AREC 5005	Shoalhaven Community and Recreational Precinct SCArP Cambewarra Road Bomaderry	\$1,949.31	20	\$38,986.20	\$0.00	\$38,986.20
CW CFAC 5002	Shoalhaven Entertainment Centre (Bridge Road Nowra)	\$1,473.26	20	\$29,465.20	\$0.00	\$29,465.20
CW CFAC 5006	Shoalhaven City Library Extensions (Berry Street, Nowra)	\$1,292.05	20	\$25,841.00	\$0.00	\$25,841.00
CW CFAC 5007	Shoalhaven Regional Gallery	\$70.93	20	\$1,418.60	\$0.00	\$1,418.60
CW FIRE 2001	Citywide Fire & Emergency services	\$139.37	20	\$2,787.40	\$0.00	\$2,787.40
CW FIRE 2002	Shoalhaven Fire Control Centre	\$203.89	20	\$4,077.80	\$0.00	\$4,077.80
CW MGMT 3001	Contributions Management & Administration	\$579.56	20	\$11,591.20	\$0.00	\$11,591.20

Sub Total: \$280,284.80
 GST Total: \$0.00
 Estimate Total: \$280,284.80

DE21.122 - Attachment 2

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Stage 3:

Section 7.11 ET Calculations - DA21/1392 (UPN: 41727)

☒ 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	0
3 Bedroom Dwelling (Affordable Rental Housing SEPP)	0	0
4 Bedroom Dwelling (Affordable Rental Housing SEPP)	0	0
Lots/Dwellings (not via Affordable Rental Housing SEPP)	0	18
Boarding House Bedrooms	0	0
Total ET		18
		0

Project	Description	Rate	Qty	Total	GST	GST Incl
01 AREC 5006	Northern Shoalhaven Sports Stadium	\$706.53	18	\$12,717.54	\$0.00	\$12,717.54
01 AREC 5007	Nowra Swimming Pool Expansion (Scenic Drive)	\$547.93	18	\$9,862.74	\$0.00	\$9,862.74
01 AREC 5009	Planning Area 1 recreational facilities upgrades (various locations)	\$739.61	18	\$13,312.98	\$0.00	\$13,312.98
01 CFAC 5012	Nowra Integrated Youth Services Centre (Cnr Kinghorn & Plunkett Streets)	\$30.25	18	\$544.50	\$0.00	\$544.50
01 OREC 0013	Old Southern Road Worrige	\$1,883.85	18	\$33,909.30	\$0.00	\$33,909.30
01 ROAD 2038	Old Southern Road upgrade (1km south from Quinns Lane)	\$1,709.99	18	\$30,779.82	\$0.00	\$30,779.82
01 ROAD 3104	Construct Internal Service Rd & Loop Rd	\$2,358.17	18	\$42,447.06	\$0.00	\$42,447.06
01 ROAD 4039	Old Southern Road/Quinns Lane intersection roundabout	\$329.54	18	\$5,931.72	\$0.00	\$5,931.72
CW AREC 5005	Shoalhaven Community and Recreational Precinct SCAEP Cambewarra Road Bomaderry	\$1,949.31	18	\$35,087.58	\$0.00	\$35,087.58
CW CFAC 5002	Shoalhaven Entertainment Centre (Bridge Road Nowra)	\$1,473.26	18	\$26,518.68	\$0.00	\$26,518.68
CW CFAC 5006	Shoalhaven City Library Extensions (Berry Street, Nowra)	\$1,292.05	18	\$23,256.90	\$0.00	\$23,256.90
CW CFAC 5007	Shoalhaven Regional Gallery	\$70.93	18	\$1,276.74	\$0.00	\$1,276.74
CW FIRE 2001	Citywide Fire & Emergency services	\$139.37	18	\$2,508.66	\$0.00	\$2,508.66
CW FIRE 2002	Shoalhaven Fire Control Centre	\$203.89	18	\$3,670.02	\$0.00	\$3,670.02
CW MGMT 3001	Contributions Management & Administration	\$579.56	18	\$10,432.08	\$0.00	\$10,432.08

Sub Total: \$252,256.32
 GST Total: \$0.00
 Estimate Total: \$252,256.32

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).

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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 where:
 - 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 subject site is partly 500m² (location of proposed development and associated clearing works), and partly 40ha. Council notes that the clearing threshold for the site is 0.25 ha given the minimum lot size of 500m². Given the clearing required for the proposed development is 1.22ha, the proposed clearing exceeds the threshold and triggers entry into the Biodiversity Offsets Scheme (BOS).

The applicant has subsequently submitted a Biodiversity Development Assessment Report (BDAR) prepared by OMVI Ecological dated March 2021. The Report discusses the vegetation types present on the site and also provides an assessment of the threatened fauna species likely to inhabit the vegetation which would be impacted by its removal.

Following consideration of the impacts associated with the proposed vegetation removal, the BDAR identifies that the proposed development is acceptable and would not result in a Serious or Irreversible Impact subject to compliance with the recommendations provided at Section 6 – Mitigating and Managing Impacts and the payment of the required biodiversity offsets required in accordance with Section 7 – Impact Summary.

Compliance with the recommendations and required offset credits would be required to be achieved as a condition of any development consent.

Council Policies

Nowra Bomaderry Structure Plan 2008

The proposed development is broadly consistent with the objectives and Intent of the Nowra Bomaderry Structure Plan 2008.

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

Instrument
State Environmental Planning Policy No 55—Remediation of Land
State Environmental Planning Policy (Koala Habitat Protection) 2021
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

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Instrument
Shoalhaven LEP 2014

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"> 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.

A review of the land use history of the site has not revealed any evidence of prior use for a purpose of a listed nature (per Table 1 to the Managing Contaminated Land Planning Guidelines). Further, no evidence of surface or sub-surface contamination is present given the land presently consists of native vegetation (i.e. PCTs 1080 and 1320).

Based upon the above assessment, it is found that the proposal achieves compliance with Clause of the SEPP and is unlikely to be contaminated in this instance.

SEPP (Koala Habitat Protection) 2021

In accordance with Clause 11(1), the provisions of this SEPP apply to the development given the site is within a Council area recognised within Schedule 1, the site has a total area which exceeds one (1) hectare, and does not have a koala plan of management which applies.

Clause 11(2) requires that before a consent authority determines a Development Application, it must consider whether or not the development is likely to impact upon habitat for koalas. A review of the submitted BDAR has revealed the following:

Koala (foraging)	Vulnerable	High Sensitivity	Site to degraded to provide habitat for species. - Not recorded during surveys.
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Based upon the above information, Council are satisfied that the site is not a koala habitat in this instance given that the vegetation on the site is recognised as being to degraded to support the presence of the species.

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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.

Shoalhaven LEP 2014

Land Zoning

The land is zoned partly R1 General Residential (location of proposed residential flat building development), partly E2 Environmental Conservation (location of proposed fire trail ancillary to the development), and partly B5 Business Development under the SLEP 2014.

Characterisation and Permissibility

The proposal is best characterised as 'Residential Flat Building' under the SLEP 2014. The applicant has made representations that the proposed fire trail should be separately characterised as an 'Emergency Services Facility'. However Council considers that the fire trail is ancillary to the development and not a separately defined use as it relies upon the residential flat building to be required and further, it is noted that the fire trail does not service any other properties / developments. There is no overriding purpose or community benefit for the fire trail other than to service the proposed development on the subject site only.

Council's position that the fire trail is not a separately defined use but subservient to the overall purpose of a Residential Flat Building development is further clarified in the NSW Land and Environment Court decision *Site Plus Pty Limited v Wollongong City Council and anor [2011] NSWLEC 1371*, where Brown ASC dismissed an appeal for use of part of a disused quarry for a resource recovery facility. The decision has direct relevance to the subject application as it required use of a road over adjoining property to which the overall proposed use was prohibited on this particular land:

26 The question of permissibility arises from the proposed access to Lot 2. The proposal provides for access from Five Islands Road over Lot 41 and 42 to Lot 2. While Lot 2 is not landlocked and has a street frontage to Jarvie Road, access to this street is not proposed. Access over Lot 41 is via an existing right of way, and access over Lot 42 (owned by the council) forms part of the lease of Lot 2 that the applicant proposes to enter into, if approval to the development application is granted.

27 There was agreement that the proposed development is permissible, and that there was also agreement that the proposed development was a prohibited use on Lot 41 and 42 as it was not included in Schedule 2. The only reference in Schedule 2 being to Lot 2.

31 Mr Clay SC, for the second respondent, relies on the decision in Chamwell Pty Limited v Strathfield Council (2007) 151 LGERA 400, where access was provided to a shopping complex and ancillary facilities on commercially zoned land over land zoned residential. In this case it was held that the access was part of the purpose of a shopping complex, and as such, prohibited in the residential zone.

32 In considering the competing submissions, I agree with the conclusions of Mr Clay. The general approach to characterisation for planning purposes is best set out by Preston CJ in Chamwell, where his Honour includes the relevant cases and relevantly states, at 27 and 28:

27. In planning law, use must be for a purpose: Shire of Perth v O'Keefe (1964) 110 CLR 529 at 534-535, and Minister Administering the Crown Lands Act v New South Wales Aboriginal Land Council (1993) 80 LGRA 173 at 188. The purpose is the end to which the land is seen to serve. It describes the character which is imparted to that land at which the use is pursued: Shire of Perth v O'Keefe (1964) 110 CLR 529 at 534.

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28. In determining whether land is used for a particular purpose, an enquiry into how that purpose can be achieved is necessary: Council of the City of Newcastle v Royal Newcastle Hospital (1957) 96 CLR 493 at 499-500. The use of land involves no more than the 'physical acts by which the land is made to serve some purpose' at 508.

The decision by Brown ASC in *Site Plus Pty Limited v Wollongong City Council and anor [2011] NSWLEC 1371* reflects that Council has accurately considered the fire trail and its characterisation as part of the overall development purpose.

Having regard for the above, the proposed use being 'Residential Flat Building' is permissible with consent within Zone R1 – General Residential however is prohibited within Zone E2 – Environmental Conservation.

Zone objectives – Zone R1

Objective	Comment
<i>To provide for the housing needs of the community.</i>	The proposed development would assist in the provision of the housing needs of the community through the provision of an additional 56 dwellings.
<i>To provide for a variety of housing types and densities.</i>	The proposal would assist in the provision of a variety of housing types/densities through a proposal for residential flat building living.
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	Not inconsistent. The proposal would be for residential use only however would be supported by central communal facilities.
<i>To identify land suitable for future urban expansion.</i>	Not inconsistent. The site is not within an urban release area.

Zone objectives – Zone E2

Objective	Comment
<i>To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.</i>	Inconsistent. The construction of a gravel fire trail ancillary to a residential flat building does not assist in the protection, management and restoration of areas of high ecological, scientific, cultural or aesthetic values.
<i>To prevent development that could destroy, damage or otherwise have an adverse effect on those values.</i>	Inconsistent. The construction of a gravel fire trail ancillary to a residential flat building does not assist in the prevention of damage to or destruction to those values.
<i>To protect water quality and the ecological integrity of water supply catchments and other catchments and natural waterways.</i>	Inconsistent. The construction of a gravel fire trail ancillary to a residential flat building does not assist in the conservation or restoration of native vegetation.
<i>To protect the scenic, ecological, educational and recreational values of wetlands, rainforests, escarpment areas and fauna habitat linkages.</i>	Inconsistent. The construction of a gravel fire trail ancillary to a residential flat building does not assist in the protection of scenic, ecological

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	educational and recreational values of wetlands, rainforests, escarpment areas and fauna habitat linkages.
<i>To conserve and, where appropriate, restore natural vegetation in order to protect the erosion and slippage of steep slopes.</i>	Inconsistent. The construction of a gravel fire trail ancillary to a residential flat building does not assist in the conservation or restoration of native vegetation.

Zone objectives – Zone B5

Objective	Comment
<i>To enable a mix of business and warehouse uses, and specialised retail premises that require a large floor area, in locations that are close to, and that support the viability of, centres.</i>	Not inconsistent – no works are proposed within the part of the site zoned B5.
<i>To allow a diversity of activities that do not significantly conflict with the operation of existing or proposed development.</i>	Not inconsistent – no works are proposed within the part of the site zoned B5.

SLEP 2014 Clauses

Clause	Comments	Consistent
Part 4 Principal development standards		
4.3 – Height of buildings	The site is not mapped as being subject to a specified maximum building height limit. As such, a maximum building height of eleven (11) metres applies. As depicted on the submitted architectural plans, the maximum building height of the development is depicted as being 5.70m.	Yes
Part 5 Miscellaneous provisions		
5.21 – Flood Planning	Development consent is not permitted to be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development— (a) is compatible with the flood function and behaviour on the land, and (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and (d) incorporates appropriate measures to manage risk to life in the event of a flood, and (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian	Yes

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	<p><i>vegetation or a reduction in the stability of river banks or watercourses.</i></p> <p>The proposal has been assessed by Council's Floodplain Engineer and has been determined to be compliant with the provisions of Clause 5.21, subject to the implementation of conditions of consent (i.e. construction being required to be undertaken using flood compatible materials and finished floor levels matching the flood planning level).</p>	
Part 7 Additional local provisions		
7.1 – Acid sulfate soils	<p>The site is mapped as being located within a class 5 acid sulfate soils area.</p> <p>However, given it is not located within 500m of any class 1 to 4 mapped areas, no acid sulfate soils management plan is required to be lodged in this instance.</p>	Yes
7.5 – Terrestrial biodiversity	<p>The site is mapped as being partially 'Biodiversity – Significant Vegetation' and 'Excluded Area'. However, it is noted that the proposed development is not located within any of the mapped areas and are instead within a part of the site which is not mapped as being of terrestrial biodiversity value.</p> <p>As such, the proposed development is considered to be consistent with the provisions of Clause 7.5 – Terrestrial Biodiversity of the SLEP 2014.</p>	Yes
7.6 – Riparian land and watercourses	<p>A Category 2 water course traverses from north to south through the subject site (Browns Creek). Before determining a development application for development on land to which this clause applies, the consent authority must consider—</p> <p><i>(a) whether or not the development is likely to have any adverse impact on the following—</i></p> <p><i>(i) the water quality and flows within the watercourse,</i></p> <p><i>(ii) aquatic and riparian species, habitats and ecosystems of the watercourse,</i></p> <p><i>(iii) the stability of the bed and banks of the watercourse,</i></p> <p><i>(iv) the free passage of fish and other aquatic organisms within or along the watercourse,</i></p> <p><i>(v) any future rehabilitation of the watercourse and its riparian areas.</i></p> <p>The location of the proposed residential flat building development is more than 100m away from the subject water course. The construction of the development would not be likely to have an adverse impact upon riparian vegetation, the water course, or associated ecosystems.</p>	Yes

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7.11 – Essential services	<p>The proposed development is considered to have a suitable supply of essential services, subject to the following:</p> <ul style="list-style-type: none"> • Sewer – A sewer main traverses from north to south within the site (immediately west of the development site). A suitable supply of services would be available subject to the connection of internal sewer services and compliance with any Shoalhaven Water Notice. • Water – A water main traverses past the site within the Old Southern Rd road reserve. A suitable supply of services would be available subject to the connection of internal water services and compliance with any Shoalhaven Water Notice. • Electricity – A suitable supply of electricity would be provided subject to compliance with the advice provided by Endeavour Energy (EE) 	<p>Yes</p>
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ii) Draft Environmental Planning Instrument

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.*

A review of the proposed development has found that it is generally consistent with the themes and objectives of the DISRP.

iii) Any Development Control Plan

Shoalhaven DCP 2014

Applicable DCP Chapters
Chapter 2: General Environmental Considerations
G1: Site Analysis, Sustainable Design and Building Materials
G2: Sustainable Stormwater Management and Erosion/Sediment Control
G3: Landscaping Design Guidelines

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G4: Removal and Amenity of Trees
G5: Biodiversity Impact Assessment
G7: Waste Minimisation and Management Controls
G9: Development on Flood Prone Land
G13: Medium Density and other Residential Development
G21: Car Parking and Traffic
N10: Worrigeer Residential Area

Chapter 2: General Environmental Considerations

Matter	Response
Potentially Contaminated Land <i>The objectives are to:</i> <ul style="list-style-type: none"> i. Consider the likelihood of contamination upfront in the planning and development process. ii. Ensure that planning decision-making takes into account all relevant information relating to the likelihood of site contamination. iii. Ensure that any proposed development on an identified contaminated site will not result in any unacceptable levels of risk to human health or the environment. iv. Avoid inappropriate restrictions on the development of known or potential contaminated sites. v. Ensure site investigations and remediation work is carried out in a satisfactory manner and where appropriate is subject to independent validation and site audit certification by contaminated site remediation experts. vi. Ensure Council exercises its functions relating to the assessment of known or potentially contaminated sites with a reasonable standard of care and due diligence. 	Potentially Contaminated Land <p>Council finds that the proposed development satisfies the objectives for Potentially Contaminated Land for the following reasons:</p> <ul style="list-style-type: none"> i. The likelihood of contamination has been considered in the assessment of this DA. An assessment has been carried out against SEPP 55 – Remediation of Land (refer above). ii. The planning decision-making in this instance is taking into consideration past land use activities which have taken place at the site as well as visual evidence of onsite-contamination. iii. The results of Council's assessment has found that the site is unlikely to be contaminated in this instance. iv. Given the site is found to be not likely to be contaminated, no conditional restrictions would be placed upon the development within any consent. v. No such remediation work is required to be undertaken on the site to enable the development to be fit for purpose. vi. Council has exercised its functions properly with regard to contamination by considering known factors such as past land uses as well as any visual evidence present on the site.
European Heritage <p>The objectives are:</p> <ul style="list-style-type: none"> i. to ensure the significance of heritage items is identified and retained; ii. to ensure the special streetscape, pastoral or natural character of the conservation areas is maintained; 	European Heritage <p>Council finds that the proposed development satisfies the objectives for Potentially Contaminated Land for the following reasons:</p> <ul style="list-style-type: none"> i. A review of the site as it relates to European heritage finds that there are such known items located on the property.

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<p>iii. to ensure alterations and extensions to existing buildings respect those buildings and do not compromise the significance and character of the individual items or of the conservation areas;</p> <p>iv. to ensure new development respects its context and is sympathetic in terms of form, scale, bulk, fabric, colours and textures and does not mimic or adversely affect the significance of heritage items and conservation areas and their settings;</p> <p>v. to encourage a high quality of design for any new development in achieving compatibility with the heritage significance of individual heritage items and conservation areas;</p> <p>vi. To provide guidelines for assessment of demolition applications.</p>	<p>ii. The streetscape would be maintained where possible and would be supported by landscaping where required to offset any changes created by the construction of the ingress/egress driveway.</p> <p>iii. There are no existing buildings located on the property.</p> <p>iv. The proposed development is considered acceptable in terms of its proposed materials and colours. It is also noted however that the site is not located within the immediate vicinity of any heritage items located external to the property.</p> <p>v. The proposed development is being assessed against the provisions of the Apartment Design Guide as it relates to the quality of the design – refer assessment below for further information in this regard.</p> <p>vi. The objectives provided have been appropriately considered in the assessment of this application.</p>
<p>Aboriginal Cultural Heritage</p> <p>The objectives are to:</p> <p>i. Consider the effect of the proposal on the heritage significance of any Aboriginal object or site known or reasonably likely to be located at the site.</p>	<p>Aboriginal Cultural Heritage</p> <p>Council finds that the proposed development satisfies the objectives for Aboriginal Cultural Heritage for the following reasons:</p> <p>i. Given the location and disturbed nature of the development site, it is considered unlikely that any items of aboriginal cultural heritage significance would be present. The applicant has further clarified within their Statement of Environmental Effects that no such items would be impacted and that no AHIP permit would be required to be obtained for the carrying out of the development.</p>
<p>Crime Prevention Through Environmental Design</p> <p>Crime Prevention Through Environmental Design (CPTED) incorporates basic design principles which contribute to the safety and security to users and the community and seek to minimise crime risk. There are four broad principles of CPTED: surveillance, access control, territorial re-enforcement and space management.</p> <p>The objectives are to:</p> <p>i. enhance and improve community safety;</p>	<p>Crime Prevention Through Environmental Design</p> <p>Council finds that the proposed development <u>DOES NOT SATISFY</u> the objectives for Crime Prevention Through Environmental Design and therefore represents a departure to Chapter of the SDCP 2014 for the following reasons:</p> <ul style="list-style-type: none"> The provision of secured, all weather car parking (i.e. such as a basement car park) would provide for appropriate levels of access control through security access doors / boom gates, etc. However the applicant has not proposed any methods of

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<p>ii. encourage a built environment that encourages a sense of community safety;</p> <p>iii. address community safety and crime prevention;</p> <p>iv. minimise crime risk in the City of Shoalhaven; and</p> <p>v. prevent the opportunity for crime and antisocial behaviour.</p>	<p>access control to separate the proposed on-grade parking area from the general public.</p> <ul style="list-style-type: none"> • The construction of secured, all weather car parking would also afford the opportunity for better passive surveillance of the car parking area through the use of CCTV cameras. Given the wide expanse of on-grade parking proposed, opportunities for CCTV coverage of the entire car parking area are minimal. • The construction of secured, all weather car parking also affords the opportunity for the level of lighting within the car parking to be managed and also for any light spill to be avoided. The applicant has not submitted a car parking lighting plan which explains how the wide expanse of on-grade parking would be appropriately lighted for security purposes. • Council also finds that any extensive on-grade lighting regime would also cause considerable amenity impacts due to light spill affecting the neighbouring nine (9) Torrens title lots which are adjacent to the car park and internal driveway areas. • Council finds that there are improved options for space management available. The relocation of on-grade parking to a secured, all weather facility would provide increased opportunity for internal communal recreation facilities – which would result in the improvement in function of the space and increase the opportunities for passive surveillance within the development.
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Chapter G1: Site Analysis, Sustainable Design and Building Materials

The submitted Site / Site Analysis Plans submitted as part of architectural plans provide sufficient detail to satisfactorily address the requirements of Chapter G1 of the SDCP 2014 and are also found to have been prepared in accordance with Schedule 1 of the Environmental Planning and Assessment (EP&A) Regulation 2000.

Chapter G2: Sustainable Stormwater Management and Erosion/Sediment Control

The proposed method of stormwater drainage from the site is depicted on the Civil Engineering Design Plans prepared by SET Consultants (Drawing No.s 103519 Sheets DA-CIV-001 to DA-CIV-011, dated 29th March 2021) in support of the proposed development.

The subject plans depict drainage as being disposed in accordance with the following means:

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- Drainage from internal driveways to be directed to a series of surface inlet pits and disposal to one of two OSD tanks.
- Drainage from impervious roof surface areas to one of the two proposed OSD tanks.
- Disposal of runoff from OSD tanks via bio-retention and filter media to infiltration and overflow trenches before disposal into the existing natural area.

Subject to review by Council's Development Engineers in accordance with the applicable acceptable solutions of Chapter G2 of the SDCP 2014, the proposed stormwater disposal system is capable of support subject to the application of conditions of consent.

Chapter G3: Landscaping Design Guidelines

The proposed development has been assessed against the applicable acceptable solutions of Chapter G3: Landscaping Design Guidelines and has been found to be consistent with the majority of provisions relating to Chapter G3. However Council finds the following non-compliance with the acceptable solutions / performance criteria:

NON-COMPLIANCE WITH ACCEPTABLE SOLUTION A2.2 / PERFORMANCE CRITERIA P2.2

Acceptable Solution A2.2 of Chapter G3 states the following:

"The landscape plan must:

- *Relate to the site plan for the proposed development.*
- *Address P2.1 and P2.2.*
- *Include the landscape plan and planting schedule requirements at Section 6.1 of this Chapter, as appropriate to the scale of the development".*

The submitted landscape plan relates to the site plan associated with the development and has been accompanied by a planting schedule consistent with the requirements. However Council finds that the proposal is non-compliant with P2.1 and P2.2 of the Chapter G3 – an assessment is provided in this regard below.

Performance Criteria P1 and P2 states the following:

"The landscape plan:

- *Is designed to meet user requirements taking into account maintenance, exercise opportunities, shade provision and aesthetic quality.*
- *Enhances the appearance of the streetscape through the provision of substantial landscaping to the street frontage.*
- *Integrates the development into the streetscape".*

"The landscape plan:

- *Specifies the location and species of trees, shrubs and ground cover.*
- *Uses vegetation types and landscaping styles that blend the development in with the streetscape*
- *Complements the functions of the street and reinforce desired traffic speed and behaviour.*
- *Is an appropriate scale relative to both the street reserve width and the building bulk.*
- *Considers personal safety (safety by design) by ensuring good visibility and lighting at dwelling entries, along paths and driveways and avoids shrubby landscaping near thoroughfares.*
- *Contributes to energy efficiency and amenity by providing substantial shade in summer especially to west facing windows and open car park areas and admitting winter sunlight to outdoor and indoor living areas.*
- *Improves privacy and minimises overlooking between dwellings.*
- *Minimises risk of damage to proposed buildings, overhead and underground power lines and other services.*

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- *Minimises the risk of damage due to bushfire if the land is within a bushfire prone area as mapped by Council.*
- *Retains or plants mature shade trees to assist in reducing the urban heat effect.*
- *Reduces the removal of native vegetation and dominant locally occurring native trees”.*

It is considered that the proposed development does not satisfactorily address the requirements of Performance P2.1 and P2.2 for the following reasons:

- The proposed landscaping does not improve or minimise overlooking of the proposed building towards neighbouring properties (being the nine approved and under construction Torrens title residential allotments).
- This is given the narrow nature of the landscaping strip separating the Torrens title lots from the adjoining internal road and nearby two storey apartment buildings which is shown to consist of only hedge species and a single tree per every 20m of road length.
- The landscaping strip separating the adjoining Torrens title lots and internal road is not considered to be of an appropriate scale relative to both the street reserve width and the building bulk.
- This is given the internal road is likely to service a minimum of 504 vehicle trips per day (based upon a minimum of nine vehicle trips per dwelling as specified by the RMS Guide to Traffic Generating Developments) and the considerable impacts upon amenity that would be created should an insufficient landscaping buffer be provided within the location.

Chapter G4: Removal and Amenity of Trees

Given the zoning of the development site as R1 General Residential, any vegetation proposed to be removed are considered to be ‘declared’ and therefore require consent from Council prior to any such removal taking place.

The applicant has submitted a landscaping plan which details the planting of native species of trees which would be planted to offset any vegetation removal on the site. Council further notes that, given the extent of clearing proposed on the site (1.22ha), the proposal triggers entry into the Biodiversity Offsets Scheme (BOS). Biodiversity offset credits are therefore also required to be paid to offset any vegetation removal taking place on the site (further discussion in this regard is provided in the assessment against Chapter G5 : Biodiversity Impact Assessment of the SDCP 2014 below.

Chapter G5: Biodiversity Impact Assessment

The development controls applying under Chapter G5: Biodiversity Impact Assessment of the SDCP 2014 require the following considerations to be made as part of the assessment of a proposal involving the removal of vegetation:

A.1.1 Native vegetation and threatened species habitats are retained in perpetuity on sites identified with high ecological value

A.2.1 Where possible avoid either directly or indirectly impacting threatened species, populations and TECs.

The applicant proposes the removal of 1.22ha of vegetation from the site in order to accommodate for the construction of the proposed residential flat building development. The vegetation proposed to be removed is a mixture of grassland and trees which fall under plant community types PCT 1080 – Red Bloodwood / Grey Gum Open Forest and PCT 1326 – Illawarra Lowland Grassy Woodlands.

Given the extent of vegetation removal proposed, the development triggers entry into the Biodiversity Offsets Scheme (BOS) pursuant to the Biodiversity Conservation (BC) Act 2016 for the following reason:

- The proposed area of clearing is based off the minimum lot size. The minimum lot size for the subject site is partly 500m² (location of proposed development and associated clearing works), and partly 40ha. Council notes that the clearing threshold for the site is 0.25 ha given the minimum

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lot size of 500m². Given the clearing required for the proposed development is 1.22ha, the proposed clearing exceeds the threshold and triggers entry into the Biodiversity Offsets Scheme (BOS).

In support of the Development application and as required under the BC Act, a Biodiversity Development Assessment Report (BDAR) has been prepared in support of the proposal which discusses the impacts associated with the proposed vegetation removal. The BDAR Report states that the proposal would not be likely to have a Serious or Irreversible Impact on any threatened species of fauna or flora subject to implementation of recommendations provided at Section 6 – Mitigating and Managing Impacts and the payment of the required biodiversity offsets required in accordance with Section 7 – Impact Summary.

Subject to implementation of conditions within any consent recommended by OMVI Ecological within the submitted BDAR Report, the proposal is considered to satisfy the development controls of Chapter G5 – Biodiversity Impact Assessment of the SDCP 2014.

Chapter G7: Waste Minimisation and Management Controls

The applicant has submitted a Construction Waste Management Plan which identifies the method for disposal of waste generated during the construction phase of the development. Compliance with this Plan would be required as a condition of any consent.

The following comments were provided by the applicant addressing waste disposal during the operational phases of the development:

- 1) *A communal waste enclosure 8.5m x 2.4m is provided within the combined entry/exit access handle. Communal bins will be stored in this location with individual unit occupants responsible for depositing their waste into the bins;*
- 2) *The bins will be serviced by Council's contractor through onsite collection from the communal bin enclosure;*
- 3) *According to the 'Better Practice Guide for Waste Management in Multi-Use Dwellings', a development of this size would require the provision of 5,400 litres of storage for general waste & 5,400 litres for recycling. Given the volume of waste bulk bins are proposed;*
- 4) *The communal waste enclosure will be provided with appropriate drainage facilities and a tap for cleaning. It will be appropriately secured and bins screened from view;*
- 5) *Two drop off zones are provided, one either side of the waste enclosure, to allow residents to pull up adjacent to the storage location for waste deposition.*

Appropriate conditions would be applied within any development consent to ensure the applicant's waste disposal requirements are adequately addressed. Such conditions would include the requirement for a waste collection agreement to be made with Council, the requirement for dedicated waste collection points to be established, and general waste disposal operating procedures for the development.

Chapter G9: Development on Flood Prone Land

Council's Natural Resources / Floodplain Section has assessed the proposed development against the requirements of Chapter G9 – Development on Flood Prone Land of the SDCP 2014. The proposal has been found to be consistent with the provisions of Chapter G9, subject to the implementation of the following conditions of consent:

- Flooding – Construction Certificate Requirements on Flood Prone Land.
- Flooding – Construction Certificate Structural Soundness Requirements within Flood Prone Land.

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Chapter G13: Medium Density and other Residential Development

The proposed development has been assessed against the applicable acceptable solutions of Chapter G13 of the SDCP 2014 – refer Assessment Table at **Appendix A**. The following provides an assessment of non-compliances with the Acceptable Solutions and Performance Criteria:

NON-COMPLIANCE WITH ACCEPTABLE SOLUTION A32.2 AND PERFORMANCE CRITERIA P32.2

Acceptable Solution A32.2 states the following:

“Where SEPP 65 does not apply (see clause 4 of SEPP 65), the development must be designed in accordance with the Apartment Design Guide”.

Council notes that State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development does not apply to the proposed development as the development has a maximum of two storeys only, whereas the SEPP applies only to development of a minimum three storeys in height. As such, the provisions of the Apartment Design Guide (ADG) are called up under A32.2. A full assessment of the proposed development against Chapter G13 and Apartment Design Guide provisions are included at Appendix A.

However it is noted that non-compliances exist with the following ADG standards (with a full assessment of the non-compliances being located at Appendix A):

- Objective 3C-1 – *Opportunities for people to be concealed should be minimised.*
- Objective 3D-3 – *Communal open space should be well lit.*
- Objective 3J-5 – *On-grade car parking should be avoided.*

Performance Criteria P32.2 states the following:

“Development is liveable, protects surrounding amenity and promotes resident amenity”.

The proposed development is found to be non-compliant with the Performance Criteria P32.2 for the following reasons:

- The proposed development is not considered to protect surrounding amenity as the buffer between the development and the nine (9) adjacent Torrens title lots is considered to be in adequate for amenity and liveability to be maintained.
- Resident amenity is not promoted by the provision of on-grade parking which has a significant impact upon the amenity of the site and reduces the amount of communal recreation space which would otherwise be available.
- The design creates opportunities for concealment, noting the lack of lighting, access control, and night time surveillance proposed.
- The car parking design reduces amenity for residents, noting that some residents will have a path or travel distance of up to 50m from their designated parking space to their front door. This is considered unacceptable noting that some residents may be elderly and is inappropriate to protect residents in times of inclement weather.

Chapter G21: Car Parking and Traffic

The proposed development has been found to be compliant with the required number of car parking spaces as required in accordance with Section 5.1 – Car Parking Schedule of Chapter G21 of the SDCP 2014.

Development for the purposes of a Residential Flat Building is required to provide car parking at the following rate:

- *1 space per dwelling containing no more than 2 bedrooms or rooms capable of use as a bedroom.*
- *2 spaces per:*

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- Dwelling containing 3 or more bedrooms or rooms capable of use as a bedroom; or
- Dual occupancy dwelling where the lot is located in a cul-de-sac, regardless of lot size or number of bedrooms. At least one on-site car space shall be provided behind the building line.
- For developments with 3 or more dwellings, 0.5 car parking spaces per dwelling for visitors

Council notes that the proposed development would consist of a total of 56 units, all of which would consist of either one or two bedrooms. As such the following car parking provisions are required for the development:

- Residential car parking spaces required – 56 units x 1 space per unit = 56 spaces required.
- Visitor car parking spaces required – 56 units x 0.5 spaces per unit = 28 spaces required.
- Total car parking required = 84 spaces required
- Total car parking provided for development = 84 spaces including 56 resident spaces and 28 visitor spaces. Compliance is therefore achieved.

Compliance of the remainder of the development including construction requirements for the internal road and manoeuvring areas would be assessed by the Development Engineer as part of their referral response. The proposal is considered to comply with these requirements, subject to the implementation of appropriate conditions of consent.

Chapter N10: Worrigeer Residential Area

The proposed development is considered to comply with the provisions of Chapter N10: Worrigeer Residential Area, in particular with regard to the requirements relating to flooding and drainage – noting that appropriate conditions of consent would be applied to ensure the development is constructed to comply with applicable requirements.

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

There are no planning agreements or draft planning agreements which apply to the site or the development proposal.

iv) Environmental Planning and Assessment Regulation 2000

Clause	Comment
cl.92 Additional matters that consent authority must consider	Council notes that the proposed development does not involve any of the following: <ul style="list-style-type: none"> • Works involving demolition. • Works relating to a paper subdivision.
cl.97A Fulfilment of BASIX commitments	Compliance with the commitments listed within the submitted BASIX Certificate for the development (Certificate No. 1165088M_02) would be required as a condition of any consent.
Division 8A Prescribed conditions of consent	Compliance with the prescribed conditions of development consent would be required as a condition of any consent.

(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>A Biodiversity Development Assessment Report (BDAR) was submitted as part of the application – noting that 1.22 ha of vegetation (mix of trees and associated grasslands) would be removed within the following vegetation categorisations:</p> <ul style="list-style-type: none"> • PCT 1080 – Red Bloodwood / Grey Gum Open Forest. • PCT 1326 – Illawarra Lowland Grassy Woodlands. <p>Subject to compliance with Section 6 – Mitigating and Managing Impacts and Section 7 – Impact Summary of the BDAR, it is assessed that the proposal would not have an adverse impact upon the natural environment.</p>
Built Environment	<p>It is assessed that the proposed development would have an adverse impact upon the surrounding built environment for the following reasons:</p> <ul style="list-style-type: none"> • Has the potential to introduce crime to the site and surrounding locality noting the proposed development's non-compliance with CPTED principles. • The insufficient landscape buffer between the internal road and neighbouring nine (9) Torrens title allotments which will shortly be registered. • The impacts associated with a minimal landscape buffer include increased traffic noise with minimal amelioration provided and potential for overlooking of neighbouring properties noting that the landscaping buffer consists of only shrub species and a tree at only every 20m (approx.) interval.
Social Impacts	<p>Subject to the abovementioned built environment impacts being appropriately addressed through a redesign of the development to meet the required controls and standards, the proposal is capable of not having an adverse social impact upon the surrounding locality.</p>
Economic Impacts	<p>The proposed development would not be likely to have any adverse economic impacts upon the surrounding locality.</p>

(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 proposed development is depicted on the submitted plans as being partly carried out within Zone E2 – Environmental Conservation (Fire Trail). The proposed development (Residential Flat Building for which the fire trail is ancillary and incidental to) is not permitted within Zone E2.
- The proposed development does not adequately address Crime Prevention Through Environmental Design (CPTED) principles as required in accordance with Chapter 2 – General Environmental Considerations, Section 5 of the SDCP 2014.
- The proposed development has been found to be non-compliant with A2.2 and P2.2 of Chapter G3 – Landscaping Design Guidelines of the SDCP 2014.
- The proposed development has been found to be non-compliant with A32 and P32 of Chapter G13 – Medium Density and Other Residential Development of the SDCP 2014 given the following non-compliances with the Apartment Design Guide were noted:

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- Objective 3C-1 – *Opportunities for people to be concealed should be minimised.*
- Objective 3D-3 – *Communal open space should be well lit.*
- Objective 3J-5 – *On-grade car parking should be avoided.*
- Based upon the above factors, Council cannot be satisfied that the proposed development would not have an adverse impact upon the surrounding built environment.

(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. No submissions were received by Council during the notification period.

(e) The Public Interest

The public interest has been taken into consideration as part of the assessment of the Development Application against relevant Council Acts, EPIs, plans and policies.

Based upon the above assessment, and having regard for the fact that the site is not considered to be suitable for the proposed development, it is considered that the proposal would not be within 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 recommendation for determination of the application, 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. DA21/1392 be refused.

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Appendix – Assessment Checklist: Chapter G13: Medium Density and Other Residential Development

6 Residential Flat Buildings and Shop Top Housing	
<p>A32.1 <i>The development is designed in accordance with State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide.</i></p> <p>A32.2 <i>Where SEPP 65 does not apply (see clause 4 of SEPP 65), the development must be designed in accordance with the Apartment Design Guide</i></p>	<p>A32.1 – The SEPP 65 does not apply to the development as the proposal is for two storey residential flat buildings only and does not contain three or more storeys.</p> <p>A32.2 – DEPARTURE – Council notes that SEPP 65 does not apply and that provision calls up the requirement for the development to comply with the Apartment Design Guide (ADG).</p> <p>An assessment against the ADG is provided in the Table below, which has identified non-compliances with the relevant provisions.</p>

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Part 3B - Orientation			
Objective	Design Criteria or Guidance	Comment	Compliance
Objective 3B-1 Building types and layouts respond to the streetscape and site while optimising solar access within the development.	Buildings along the street frontage define the street, by facing it and incorporating direct access from the street (see figure 3B.1).	The proposed development does not directly front the street and is instead accessed by an access driveway off Old Southern Rd.	Complies
	Where the street frontage is to the east or west, rear buildings should be orientated to the north.	Given the layout of the and the fact it does not directly front a street (as stated above), the development layout provides a mix of orientations including north/south and east/west. A BASIX Certificate submitted with the application confirms that the orientations provided can meet solar access and energy efficiency requirements.	Satisfactory
	Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west (see figure 3B.2).	N/A – street frontage is to Old Southern Rd via an access driveway to the east.	N/A
Objective 3B-2 Overshadowing of neighbouring properties is minimised during mid-winter	Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access.	All living areas, private open space and public open space areas receive adequate solar access.	Complies
	Solar access to living rooms, balconies and private open spaces of neighbours should be considered.	Solar access is appropriate.	Complies
	Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%.	The proposed development is found to achieve the solar access and energy efficiency requirements as provided within the BASIX Certificate. The proposed development does not cause unreasonable overshadowing to adjoining developments.	Complies

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	If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy.	Adequate solar access to neighbouring developments is maintained.	Complies
	Overshadowing should be minimised to the south or downhill by increased upper level setbacks.	Adequate solar access to neighbouring developments is maintained.	Complies
	It is optimal to orientate buildings at 90 degrees to the boundary with neighbouring properties to minimise overshadowing and privacy impacts, particularly where minimum setbacks are used and where buildings are higher than the adjoining development.	The proposed building is appropriately orientated and sited. The proposal responds to the opportunities and constraints of the site and is compatible with adjoining development.	Complies
	A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings.	Adequate solar access to neighbouring developments is maintained.	Complies
Part 3C – Public Domain Interface			
Objective	Design Criteria or Guidance	Comment	Compliance
Objective 3C-1 Transition between private and public domain is achieved without compromising safety and security.	Terraces, balconies and courtyard apartments should have direct street entry, where appropriate.	Direct access to the internal driveway areas and road network is provided for all units.	Complies.
	Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy for ground level dwellings (see figure 3C.1).	Notwithstanding the comments made in the Report above regarding the on-grade parking area (i.e. with reference to the lack of access control, CCTV cameras, and car park lighting), the balconies from First Floor Apartments provide passive surveillance.	Complies
	Upper level balconies and windows should overlook the public domain.	Upper level balconies are orientated and designed to reduce overlooking of adjoining properties.	Complies

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	Front fences and walls along street frontages should use visually permeable materials and treatments. The height of solid fences or walls should be limited to 1m.	The proposed development does not directly front a road reserve and is instead accessed by a driveway from Old Southern Rd, thus front fencing does not apply.	N/A
	Length of solid walls should be limited along street frontages.	As Above – not applicable.	N/A
	Opportunities should be provided for casual interaction between residents and the public domain. Design solutions may include seating at building entries, near letter boxes and in private courtyards adjacent to streets.	Communal facilities including a Hub and Village Green are centrally located, where access for all residents is provided.	Complies
	In developments with multiple buildings and/or entries, pedestrian entries and spaces associated with individual buildings/entries should be differentiated to improve legibility for residents, using a number of the following design solutions: <ul style="list-style-type: none"> • architectural detailing • changes in materials • plant species • colours 	Multiple buildings and entries are provided noting that the development consists of six separate buildings. Council finds that sufficient differentiation exists within the design to provide for legibility for residents. Noting the nature of the determination recommendation (refusal as detailed in the Report above), a Design Review by a Qualified Designer has not taken place at this time – and a review of the design would be required in the event that the development proceeds to confirm that sufficient detailing exists within the design as supported by Council.	Complies
	Opportunities for people to be concealed should be minimised.	Council are not satisfied that the development appropriately addresses CPTED principles, noting in particular the design of the development which consists of on-grade car parking. The provision of on-grade parking (which represents a non-compliance with Objective 3J-5) has resulted in the following issues which	Non-compliant

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		<p>represent a concern from a CPTED perspective and could potentially lead to the concealment of people:</p> <ul style="list-style-type: none"> • As opposed to basement parking which has more appropriate means of access control such as the use of boom gates and/or fob only access for residents, on grade parking does not have the same opportunity for access control where spaces can be accessed by the general public or anyone walking past. • Similarly, garages and access thereto are controlled by occupants. Many modern garages have an internal access point. (The design of the development however will influence how a development is characterised (legally defined) and thus assessed.) • Use of CCTV cameras within a development decreases the opportunity for concealment given the level of surveillance it provides and also acts as a deterrent to criminal behaviour where people may otherwise be looking for opportunities for concealment. Given the wide expanse of on-grade parking proposed, opportunities for CCTV coverage of the entire car parking area are minimal, which therefore creates possibilities for concealment. • The applicant has not submitted a car parking lighting plan which explains how the wide expanse of on-grade parking would be appropriately lit for security purposes. This lighting has potential amenity impacts for adjoining residences and as such should be assessed prior to determination. • The distance of the parking spaces to resident front doors exceeds 50m for some dwellings. 	
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		<p>Given the extent of this separation, opportunities for concealment are created given the lower level of surveillance afforded to residents of their parking spaces.</p> <ul style="list-style-type: none"> The relocation of on-grade parking to a secured, all weather facility would provide increased opportunity for internal communal recreation facilities – which would result in the improvement in function of the space and increase the opportunities for passive surveillance within the development. 	
<p>Objective 3C-2</p> <p>Amenity of the public domain is retained and enhanced.</p>	Planting softens the edges of any raised terraces to the street, for example above sub-basement car parking.	Not applicable – the site does not have direct frontage to a public road.	N/A
	Mail boxes should be located in lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided.	Letter boxes would be required to be provided in a legible location at the entry to buildings. Whilst the submitted plans do not specifically show the location of proposed letter boxes – the location is capable of being resolved with the applicant subject to the provision of amended plans.	Complies
	The visual prominence of underground car park vents should be minimised and located at a low level where possible.	Not applicable – no underground car parking areas have been proposed by the applicant	N/A
	Substations, pump rooms, garbage storage areas and other service requirements should be located in basement car parks or out of view.	A waste enclosure area has been provided adjacent to the internal access road for ease of access by waste collection trucks. The location is appropriately screened and separated from the apartments.	Complies
	Ramping for accessibility should be minimised by building entry location and setting ground floor levels in relation to footpath levels.	Suitable accessibility is provided with continuous paths or travel between the proposed disabled access spaces and entrances to ground floor and	Complies

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		adaptable units – as marked on the architectural plans.	
	Durable, graffiti resistant and easily cleanable materials should be used.	Building materials are appropriate.	Complies
	Where development adjoins public parks, open space or bushland, the design positively addresses this interface and uses a number of the following design solutions: <ul style="list-style-type: none"> • street access, pedestrian paths and building entries which are clearly defined • paths, low fences and planting that clearly delineate between communal/private open space and the adjoining public open space • minimal use of blank walls, fences and ground level parking 	The development site does not directly adjoin any areas of public open space.	N/A
	On sloping sites protrusion of car parking above ground level should be minimised by using split levels to step underground car parking.	N/A – the subject site is largely flat.	Complies
Part 3D – Communal and Public Open Space			
Objective	Design Criteria or Guidance	Comment	Compliance
Objective 3D-1 Amenity of the public domain is retained and enhanced.	Communal open space has a minimum area equal to 25% of the site (see figure 3D.3).	Council finds that an appropriate amount of communal open space is provided to support the development, noting facilities including the Hub, Village Green, park areas, and landscaped pathways. Notwithstanding, a redesign of the on-grade parking area (by providing secured, all-weather basement car-parking) would provide additional space on the site for improved communal open space in order to further satisfy this requirement.	Complies

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Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	As shown in the submitted shadow diagrams, adequate solar access is provided to the COS areas.	Complies
Communal open space should be consolidated into a well-designed, easily identified and usable area.	COS areas are consolidated and easily accessible and identifiable.	Complies
Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions.	COS areas have adequate dimensions.	Complies
Communal open space should be co-located with deep soil areas.	Given the constraints of the site – the COS has been appropriately located adjacent to deep soil planting wherever possible.	Complies
Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies.	COS areas are directly accessible from entries and from the lobby area.	Complies
Where communal open space cannot be provided at ground level, it should be provided on a podium or roof.	COS areas are provided at ground level.	Complies
Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should: <ul style="list-style-type: none"> provide communal spaces elsewhere such as a landscaped roof top terrace or a common room provide larger balconies or increased private open space for apartments demonstrate good proximity to public open space and facilities and/or provide contributions to public open space 	The development is appropriately designed.	Complies

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Objective 3D-2 Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.	Facilities are provided within communal open spaces and common spaces for a range of age groups (see also 4F Common circulation and spaces), incorporating some of the following elements: <ul style="list-style-type: none"> • seating for individuals or groups • barbecue areas • play equipment or play areas • swimming pools, gyms, tennis courts or common rooms 	Appropriate facilities are provided in COS areas. Refer to submitted plans for details.	Complies
	The location of facilities responds to microclimate and site conditions with access to sun in winter, shade in summer and shelter from strong winds and down drafts.	COS areas are appropriate providing a mix of sunny open areas and indoor areas (i.e. Hub) to cater for all weather and seasons.	Complies
	Visual impacts of services should be minimised, including location of ventilation duct outlets from basement car parks, electrical substations and detention tanks.	Plant and service areas are appropriately designed and located to minimise visual impact.	Complies
Objective 3D-3 Communal open space is designed to maximise safety.	Communal open space and the public domain should be readily visible from habitable rooms and private open space areas while maintaining visual privacy. Design solutions may include: <ul style="list-style-type: none"> • bay windows • corner windows • balconies 	Notwithstanding the above comments made in relation to non-compliance with CPTED principles, the design includes first floor balconies with passive surveillance over the communal areas.	Complies
	Communal open space should be well lit.	A detailed lighting design plan has not been provided detailing how lighting would be provided to comply with CPTED principles. As such, Council cannot be satisfied that the communal open space areas, pathways leading from car parks to buildings, and other internal areas would be well lit.	Non-compliant.

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		Given the location of the nine (9) Torrens title lots within close vicinity to facilities such as the internal road, there is also concern that extensive lighting of all on-grade areas of the development would lead to light spill and negative amenity impacts for future residents of those lots.	
	Where communal open space/facilities are provided for children and young people they are safe and contained.	N/A – the development does not provide child play areas.	N/A
Objective 3D-4 Communal open space is designed to maximise safety.	The public open space should be well connected with public streets along at least one edge.	The COS is provided directly adjacent to the proposed internal ingress/egress road.	Complies
	The public open space should be connected with nearby parks and other landscape elements.	COS areas are appropriately designed and located – i.e. The Hub and Village Green are adjacent to one another.	Complies
	Public open space should be linked through view lines, pedestrian desire paths, termination points and the wider street grid.	COS areas are appropriately designed and located.	Complies
	Solar access should be provided year-round along with protection from strong winds.	Solar access is appropriate and COS areas provide protection from winds and weather.	Complies
	Opportunities for a range of recreational activities should be provided for people of all ages.	COS areas are appropriately designed and allow for a range of activities.	Complies
	A positive address and active frontages should be provided adjacent to public open space.	COS areas are appropriately designed and located.	Complies
	Boundaries should be clearly defined between public open space and private areas.	Landscaping and fencing provides a clear distinction between POS and the other domains.	Complies
Part 3E – Deep Soil Zones			
Objective	Design Criteria or Guidance	Comment	Compliance

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<p>Objective 3E-1</p> <p>Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality</p>	<p>Deep soil zones are to meet the following minimum requirements:</p> <table><tr><th>Site Area</th><th>Minimum Dimensions</th><th>Deep Soil Zones (% Site Area)</th></tr><tr><td>Less than 650m²</td><td>-</td><td rowspan="4">7%</td></tr><tr><td>650m² - 1,500m²</td><td>3m</td></tr><tr><td>Greater than 1,500m²</td><td>6m</td></tr><tr><td>Greater than 1,500m² with significant existing tree cover</td><td>6m</td></tr></table>	Site Area	Minimum Dimensions	Deep Soil Zones (% Site Area)	Less than 650m ²	-	7%	650m ² - 1,500m ²	3m	Greater than 1,500m ²	6m	Greater than 1,500m ² with significant existing tree cover	6m	<p>The Landscaping Plan submitted provides a sufficient amount of landscaping as a whole and meets the required standards.</p> <p>Council notes however the comments made above in relation to Chapter G3 – Landscaping Design Guidelines of the SDCP 2014. Non-compliance with this Chapter was found given the inappropriate width and buffer between the internal road and neighbouring Torrens title lots. Notwithstanding this non-compliance, Council finds that the landscaping as a whole meets Objective 3E-1.</p>	Complies.
Site Area	Minimum Dimensions	Deep Soil Zones (% Site Area)													
Less than 650m ²	-	7%													
650m ² - 1,500m ²	3m														
Greater than 1,500m ²	6m														
Greater than 1,500m ² with significant existing tree cover	6m														
	<p>On some sites it may be possible to provide larger deep soil zones, depending on the site area and context:</p> <ul style="list-style-type: none">10% of the site as deep soil on sites with an area of 650m² - 1,500m²15% of the site as deep soil on sites greater than 1,500m²	<p>Deep soil planting zones are appropriate and consistent with adjoining developments.</p>	Complies												
	<p>Deep soil zones should be located to retain existing significant trees and to allow for the development of healthy root systems, providing anchorage and stability for mature trees. Design solutions may include:</p> <ul style="list-style-type: none">basement and sub-basement car park design that is consolidated beneath building footprintsuse of increased front and side setbacksadequate clearance around trees to ensure long term health	<p>Important stands of vegetation, in particular those mapped as 'Excluded Land' and 'Biodiversity – Significant Vegetation on Council's SLEP 2014 terrestrial biodiversity mapping, would be retained.</p> <p>Vegetation removal taking place on the site would be subject to recommendations and offsets as</p>	Complies												

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	<ul style="list-style-type: none">co-location with other deep soil areas on adjacent sites to create larger contiguous areas of deep soil	detailed in the submitted BDAR Assessment supporting the application.													
	<p>Achieving the design criteria may not be possible on some sites including where:</p> <ul style="list-style-type: none">the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres)there is 100% site coverage or non-residential uses at ground floor level. <p>Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure.</p>	Suitable deep soil planting is provided on site.	Complies												
Part 3F – Visual Privacy															
Objectives	Design Criteria or Guidance	Comment	Compliance												
<p>Objective 3F-1</p> <p>Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy</p>	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table><tr><th>Building Height</th><th>Habitable Rooms and Balconies</th><th>Non-Habitable Rooms</th></tr><tr><td>Less than 650m²</td><td>6m</td><td>3m</td></tr><tr><td>650m² - 1,500m²</td><td>9m</td><td>4.5m</td></tr><tr><td>Greater than 1,500m²</td><td>12m</td><td>6m</td></tr></table>	Building Height	Habitable Rooms and Balconies	Non-Habitable Rooms	Less than 650m ²	6m	3m	650m ² - 1,500m ²	9m	4.5m	Greater than 1,500m ²	12m	6m	All setbacks to habitable room windows and balconies and also non-habitable room windows are in accordance with the ADG requirements.	Complies
Building Height	Habitable Rooms and Balconies	Non-Habitable Rooms													
Less than 650m ²	6m	3m													
650m ² - 1,500m ²	9m	4.5m													
Greater than 1,500m ²	12m	6m													

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	<p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2)</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties</p>		
	<p>Generally one step in the built form as the height increases due to building separations is desirable. Additional steps should be careful not to cause a 'ziggurat' appearance.</p>	<p>The design avoids a 'ziggurat' appearance.</p>	<p>Complies</p>
	<p>For residential buildings next to commercial buildings, separation distances should be measured as follows:</p> <ul style="list-style-type: none"> for retail, office spaces and commercial balconies use the habitable room distances for service and plant areas use the non-habitable room distances 	<p>N/A – the site is not located directly adjacent to any commercial buildings.</p>	<p>N/A</p>
	<p>New development should be located and oriented to maximise visual privacy between buildings on site and for neighbouring buildings. Design solutions include:</p> <ul style="list-style-type: none"> site layout and building orientation to minimise privacy impacts (see also section 3B Orientation) on sloping sites, apartments on different levels have appropriate visual separation distances (see figure 3F.4) 	<p>The development is suitably designed to maintain privacy between units and between neighbouring lots.</p>	<p>Complies</p>
	<p>Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping (figure 3F.5).</p>	<p>N/A – The subject site does not adjoin a lower density zone.</p>	<p>N/A</p>

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	Direct lines of sight should be avoided for windows and balconies across corners.	Direct lines of sight are avoided maintaining a high level of privacy between units and neighbouring developments.	Complies
	No separation is required between blank walls.	Noted.	Noted.
Objective 3F-2 Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space	Communal open space, common areas and access paths should be separated from private open space and windows to apartments, particularly habitable room windows. Design solutions may include: <ul style="list-style-type: none"> • setbacks • solid or partially solid balustrades to balconies at lower levels • fencing and/or trees and vegetation to separate spaces • screening devices • bay windows or pop out windows to provide privacy in one direction and outlook in another • raising apartments/private open space above the public domain or communal open space • planter boxes incorporated into walls and balustrades to increase visual separation • pergolas or shading devices to limit overlooking of lower apartments or private open space • on constrained sites where it can be demonstrated that building layout opportunities are limited, fixed louvres or screen panels to windows and/or balconies 	The building is suitably designed so that COS and common access walkways are separated from POS and windows into units.	Complies
	Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	The units are appropriately separated from COS and common circulation areas.	Complies

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	Balconies and private terraces should be located in front of living rooms to increase internal privacy.	Balconies are suitable located in front of living room areas.	Complies
	Windows should be offset from the windows of adjacent buildings.	Windows are appropriately located and offset where required.	Complies
	Recessed balconies and/or vertical fins should be used between adjacent balconies.	The proposal maintains suitable levels of privacy to adjoining developments.	Complies
Part 3G – Pedestrian Access and Entries			
Objective	Design Criteria or Guidance	Comment	Compliance
Objective 3G-1 Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.	Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge.	Not applicable – the site does not have direct street frontage.	N/A
	Entry locations relate to the street and subdivision pattern and the existing pedestrian network.	Not applicable – the site does not have direct street frontage.	N/A
	Building entries should be clearly identifiable and communal entries should be clearly distinguishable from private entries.	The elevation plans submitted clearly distinguish entry to dwellings from entrances to communal areas such as stairwell access to first floor apartments.	Complies
	Where street frontage is limited and multiple buildings are located on the site, a primary street address should be provided with clear sight lines and pathways to secondary building entries.	Access from Old Southern is clearly delineated, which provides access to the internal road servicing the development.	Complies
Objective 3G-2 Access, entries and pathways are accessible and easy to identify.	Building access areas including lift lobbies, stairwells and hallways should be clearly visible from the public domain and communal spaces.	The building access is easy to identify.	Complies
	The design of ground floors and underground car parks minimise level changes along pathways and entries.	The development suitably locates the ground floor and entry at grade.	Complies

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	Steps and ramps should be integrated into the overall building and landscape design.	The development suitably locates the ground floor and entry at grade minimising the need for steps or ramps.	Complies
	For large developments 'way finding' maps should be provided to assist visitors and residents (see figure 4T.3).	Way finding maps are not considered necessary for this development.	Satisfactory
	For large developments electronic access and audio/video intercom should be provided to manage access.	Access is capable of being appropriately managed, subject to the provision of a car parking areas which addresses the requirements of the ADG and which addresses CPTED principles.	Satisfactory
Objective 3G-3 Large sites provide pedestrian links for access to streets and connection to destinations.	Pedestrian links through sites facilitate direct connections to open space, main streets, centres and public transport.	Pedestrian links from the internal road and parking network to the building entrance and also COS areas are appropriate.	Complies
	Pedestrian links should be direct, have clear sight lines, be overlooked by habitable rooms or private open spaces of dwellings, be well lit and contain active uses, where appropriate.	Pedestrian links are satisfactory.	Complies
Part 3H – Vehicle Access			
Objective	Design Criteria or Guidance	Comment	Compliance
Objective 3H-1 Vehicle access points are designed and located to achieve safety,	Car park access should be integrated with the building's overall facade. Design solutions may include: <ul style="list-style-type: none"> the materials and colour palette to minimise visibility from the street security doors or gates at entries that minimise voids in the façade 	Not applicable – an on-grade parking area is instead proposed.	N/A

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minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	<ul style="list-style-type: none"> where doors are not provided, the visible interior reflects the facade design and the building services, pipes and ducts are concealed 		
	Car park entries should be located behind the building line.	Not applicable – an on-grade parking area is instead proposed.	N/A
	Vehicle entries should be located at the lowest point of the site minimising ramp lengths, excavation and impacts on the building form and layout.	Not applicable – an on-grade parking area is instead proposed.	N/A
	Car park entry and access should be located on secondary streets or lanes where available.	Car parking access is via the internal road network.	Complies
	Vehicle standing areas that increase driveway width and encroach into setbacks should be avoided.	The carparking design ensures that vehicle standing areas are avoided.	Complies
	Access point locations should avoid headlight glare to habitable rooms.	Not applicable – an on-grade parking area is instead proposed.	N/A
	Adequate separation distances should be provided between vehicle entries and street intersections.	Not applicable – an on-grade parking area is instead proposed.	N/A
	The width and number of vehicle access points should be limited to the minimum.	Not applicable – an on-grade parking area is instead proposed.	N/A
	Visual impact of long driveways should be minimised through changing alignments and screen planting.	The driveway access is suitably integrated into the overall development.	Complies
	The need for large vehicles to enter or turn around within the site should be avoided.	Vehicle manoeuvring within the internal road has been provided for a garbage truck. This area is separated from access into parking areas.	Complies

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	Garbage collection, loading and servicing areas are screened.	Bin storage areas are suitably located and screened from view. Waste collection will be via internal road collection.	Complies
	Clear sight lines should be provided at pedestrian and vehicle crossings.	Clear sight lines are provided across the basement car park access.	Complies
	Traffic calming devices such as changes in paving material or textures should be used where appropriate.	Vehicle access and movement areas are appropriately designed.	Complies
	Pedestrian and vehicle access should be separated and distinguishable. Design solutions may include: <ul style="list-style-type: none"> • changes in surface materials • level changes • the use of landscaping for separation 	Pedestrian access is separate and distinct from the vehicle driveway access.	Complies
Part 3J - Bicycle and Car Parking			
Objective	Design Criteria or Guidance	Comment	Compliance
Objective 3J-1 Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.	For development in the following locations: <ul style="list-style-type: none"> • on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or • on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street.	N/A – The subject site is located on R1 zoned land, but is not within a nominated regional centre. <div style="border: 1px solid orange; padding: 5px;"> Nominated regional centres Albury, Ballina, Batemans Bay, Bathurst, Bega, Bowral, Cessnock, Charlestown, Coffs Harbour, Dapto, Dubbo, Glendale-Cardiff, Gosford, Goulburn, Grafton, Lismore, Maitland, Morisset, Newcastle, Nowra, Orange, Port Macquarie, Queanbeyan, Raymond Terrace, Shellharbour, Tamworth, Taree, Tuggerah-Wyong, Tweed Heads, Wagga Wagga, Warrawong and Wollongong </div>	N/A

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	Where a car share scheme operates locally, provide car share parking spaces within the development. Car share spaces, when provided, should be on site.	N/A – There is no car share operating locally.	N/A
	Where less car parking is provided in a development, council should not provide on street resident parking permits.	N/A - The proposed development meets the parking required by Chapter G21 of the Shoalhaven DCP 2014.	N/A
Objective 3J-2 Parking and facilities are provided for other modes of transport.	Conveniently located and sufficient numbers of parking spaces should be provided for motorbikes and scooters.	There is sufficient area for motorbike and scooter parking.	Complies
	Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas.	The applicant has marked the location of bicycle parking on the submitted plans.	Complies
	Conveniently located charging stations are provided for electric vehicles, <i>where desirable</i> .	Electric vehicle charging stations are not considered necessary for the proposed development.	Satisfactory
Objective 3J-3 Car park design and access is safe and secure.	Supporting facilities within car parks, including garbage, plant and switch rooms, storage areas and car wash bays can be accessed without crossing car parking spaces.	Services and facilities are appropriately located.	Complies
	Direct, clearly visible and well-lit access should be provided into common circulation areas.	Not applicable – an on-grade parking area is instead proposed.	N/A
	A clearly defined and visible lobby or waiting area should be provided to lifts and stairs.	Not applicable – an on-grade parking area is instead proposed.	N/A
	For larger car parks, safe pedestrian access should be clearly defined and circulation areas have good lighting, colour, line marking and/or bollards.	The car park has appropriate signing and marking to direct residents and visitors to parking spaces. Further discussion regarding issues associated with lighting is discussed in the Report above.	Complies

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Objective 3J-4 Visual environmental impacts of underground parking are minimised.	Excavation should be minimised through efficient car park layouts and ramp design.	Not applicable – an on-grade parking area is instead proposed.	N/A
	Car parking layout should be well organised, using a logical, efficient structural grid and double loaded aisles.	Not applicable – an on-grade parking area is instead proposed.	N/A
	Protrusion of car parks should not exceed 1m above ground level. Design solutions may include stepping car park levels or using split levels on sloping sites.	Not applicable – an on-grade parking area is instead proposed.	N/A
	Natural ventilation should be provided to basement and sub-basement car parking areas.	Not applicable – an on-grade parking area is instead proposed.	N/A
	Ventilation grills or screening devices for car parking openings should be integrated into the facade and landscape design.	Not applicable – an on-grade parking area is instead proposed.	N/A
Objective 3J-5 Visual environmental impacts of on-grade car parking are minimised.	On-grade car parking should be avoided.	<p>The applicant has provided wide expanses of on-grade parking in a situation where the provision of such parking is avoidable, representing a non-compliance with Objective 3J-5.</p> <p>Council made the following requests for the provision of secured, all-weather parking be provided by the applicant (preferably in the form of basement parking):</p> <ul style="list-style-type: none"> • Pre-Lodgement Meeting Notes issued to applicant dated 7th October 2020. • 1st Request for Further Information sent to applicant on 6th May 2021. • 2nd Request for Further Information sent to applicant on 13th July 2021. 	Non-compliance

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		<p>Despite Council's repeated requests for the provision of a secure, all-weather parking facility, the applicant chose to lodge the application with the same on-grade proposal as was presented at pre-lodgement stage and has not altered the development to permit compliance with the objective.</p> <p>Council notes that the non-compliance with the objective has resulted in the following issues being present with regard to the design of the development as it relates to the on-grade car parking:</p> <ul style="list-style-type: none"> • It results in an impracticable design having regard for the significant length residents are required to walk to get from their designated car space to the front door – with no weather protection. The distance in some instances is greater than 50m. This is of particular concern for elderly residents and young families, particularly in instances of inclement weather. • Remote car parking, lack of cover ie weather protection and associated inconvenience of such an arrangement are not commensurate with modern living expectations and standards in newly designed and modern developments. This goes to providing a reasonable and basic level of amenity for occupants, regardless of socio economic status. Further, garaging and the like can also provide for storage of household items (assuming appropriate design and dimensions). • It results in a less attractive design appearance, in that the car parking areas 	
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		<p>represents one of the most visible design elements of the development.</p> <ul style="list-style-type: none"> • The inclusion of on-grade parking has resulted in the total footprint of the development being expanded, which has resulted in the need for the fire trail to be located within the E2 Environmental Conservation zoned portion where such a development is prohibited. • The areas presently taken up by on grade parking would be reclaimed for use as part of the development – which would be an improved and more efficient design outcome. Such areas could be utilised for further residential development or the provision of an improved network of recreational and communal areas. This would possibly enhance residential amenity of occupants. • The design results in concerns from a CPTED perspective, given the lack of access control, the lack of lighting, and the lack of night time surveillance opportunities. 	
	<p>Where on-grade car parking is unavoidable, the following design solutions are used:</p> <ul style="list-style-type: none"> • parking is located on the side or rear of the lot away from the primary street frontage • cars are screened from view of streets, buildings, communal and private open space areas • safe and direct access to building entry points is provided • parking is incorporated into the landscape design of the site, by extending planting and materials into the car park space 	<p>Not applicable – an on-grade car parking facility is not unavoidable in this instance.</p>	<p>N/A</p>

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	<ul style="list-style-type: none"> stormwater run-off is managed appropriately from car parking surfaces bio-swales, rain gardens or on site detention tanks are provided, where appropriate light coloured paving materials or permeable paving systems are used and shade trees are planted between every 4-5 parking spaces to reduce increased surface temperatures from large areas of paving 		
Objective 3J-6 Visual and environmental impacts of above ground enclosed car parking are minimised.	Exposed parking should not be located along primary street frontages.	The car park is not visible from any public roads such as Old Southern Road.	Complies
	Screening, landscaping and other design elements including public art should be used to integrate the above ground car parking with the facade. Design solutions may include: <ul style="list-style-type: none"> car parking that is concealed behind the facade, with windows integrated into the overall facade design (approach should be limited to developments where a larger floor plate podium is suitable at lower levels) car parking that is 'wrapped' with other uses, such as retail, commercial or two storey Small Office/Home Office (SOHO) units along the street frontage (see figure 3J.9) 	Landscaping has been integrated into the design of the overall development as a whole.	Complies
	Positive street address and active frontages should be provided at ground level.	The building design provides active street frontages.	Complies
Part 4A – Solar and Daylight Access			
Objective	Design Criteria or Guidance	Comment	Compliance
Objective 4A-1			N/A

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To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.	N/A – the site is not located within the Sydney Metropolitan area or in the Newcastle or Wollongong LGAs.	
	In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter.	The proposed development has been found to receive an appropriate amount of direct sunlight. The application has been accompanied by a BASIX Certificate which complies with energy efficiency initiatives.	Complies
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	This is achieved.	Complies
	The design maximises north aspect and the number of single aspect south facing apartments is minimised.	The building orientation is limited by the orientation and shape of the lot. All units have dual aspects and there are no single aspect south facing apartments.	Complies
	Single aspect, single storey apartments should have a northerly or easterly aspect.	All apartments have dual aspects allowing for increased solar access.	Complies
	Living areas are best located to the north and service areas to the south and west of apartments.	The building design and orientation is limited by the orientation and shape of the lot. Orientation, design and location of apartments is consistent with development on adjoining properties and is considered satisfactory.	Complies
	To optimise the direct sunlight to habitable rooms and balconies a number of the following design features are used: <ul style="list-style-type: none"> dual aspect apartments shallow apartment layouts two storey and mezzanine level apartments bay windows 	The building design ensures all units are dual aspect apartments so optimising opportunities for direct sunlight to habitable rooms.	Complies

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	To maximise the benefit to residents of direct sunlight within living rooms and private open spaces, a minimum of 1m ² of direct sunlight, measured at 1m above floor level, is achieved for at least 15 minutes.	Noted – Direct sunlight controls is considered accordingly.	Noted.
	<p>Achieving the design criteria may not be possible on some sites. This includes:</p> <ul style="list-style-type: none"> • where greater residential amenity can be achieved along a busy road or rail line by orientating the living rooms away from the noise source • on south facing sloping sites • where significant views are oriented away from the desired aspect for direct sunlight <p>Design drawings need to demonstrate how site constraints and orientation preclude meeting the design criteria and how the development meets the Objective</p>	<p>The building design is limited by the shape and orientation of the lot. Significant views are to the west.</p> <p>The building design and orientation is consistent with development on adjoining lots and is considered appropriate.</p>	Complies
Objective 4A-2 Daylight access is maximised where sunlight is limited	Courtyards, skylights and high level windows (with sills of 1,500mm or greater) are used only as a secondary light source in habitable rooms.	Appropriate windows are provided.	Complies
	<p>Where courtyards are used:</p> <ul style="list-style-type: none"> • use is restricted to kitchens, bathrooms and service areas • building services are concealed with appropriate detailing and materials to visible walls • courtyards are fully open to the sky • access is provided to the light well from a communal area for cleaning and maintenance • acoustic privacy, fire safety and minimum privacy separation distances (see section 3F Visual privacy) are achieved. 	N/A - The building design does not rely on solar access to habitable rooms from courtyard areas.	Complies

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	<p>Opportunities for reflected light into apartments are optimised through:</p> <ul style="list-style-type: none"> • reflective exterior surfaces on buildings opposite south facing windows • positioning windows to face other buildings or surfaces (on neighbouring sites or within the site) that will reflect light • integrating light shelves into the design • light coloured internal finishes. 	Solar access to the apartments is appropriate.	Complies
<p>Objective 4A-3</p> <p>Design incorporates shading and glare control, particularly for warmer months</p>	<p>A number of the following design features are used:</p> <ul style="list-style-type: none"> • balconies or sun shading that extend far enough to shade summer sun, but allow winter sun to penetrate living areas • shading devices such as eaves, awnings, balconies, pergolas, external louvres and planting • horizontal shading to north facing windows • vertical shading to east and particularly west facing windows • operable shading to allow adjustment and choice • high performance glass that minimises external glare off windows, with consideration given to reduced tint glass or glass with a reflectance level below 20% (reflective films are avoided). 	The building design incorporates appropriate features to provide shade when needed whilst also maintaining opportunities for direct solar access.	Complies
Part 4B – Natural Ventilation			
Objective	Design Criteria or Guidance	Comment	Compliance
<p>Objective 4B-1</p> <p>All habitable rooms are naturally ventilated.</p>	The building's orientation maximises capture and use of prevailing breezes for natural ventilation in habitable rooms.	All apartments are appropriately orientated to allow for suitable natural ventilation.	Complies
	Depths of habitable rooms support natural ventilation.	Room depths support natural ventilation.	Complies

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	The area of unobstructed window openings should be equal to at least 5% of the floor area served.	Windows are appropriate.	Complies
	Light wells are not the primary air source for habitable rooms.	All habitable rooms are appropriately ventilated.	Complies
	Doors and openable windows maximise natural ventilation opportunities by using the following design solutions: <ul style="list-style-type: none"> adjustable windows with large effective openable areas a variety of window types that provide safety and flexibility such as awnings and louvres windows which the occupants can reconfigure to funnel breezes into the apartment such as vertical louvres, casement windows and externally opening doors. 	Windows are appropriate.	Complies
Objective 4B-2 The layout and design of single aspect apartments maximises natural ventilation	Apartment depths are limited to maximise ventilation and airflow (see also figure 4D.3).	Apartment depths are appropriate with regard to natural ventilation.	Complies
	Natural ventilation to single aspect apartments is achieved with the following design solutions: <ul style="list-style-type: none"> primary windows are augmented with plenums and light wells (generally not suitable for cross ventilation) stack effect ventilation / solar chimneys or similar to naturally ventilate internal building areas or rooms such as bathrooms and laundries courtyards or building indentations have a width to depth ratio of 2:1 or 3:1 to ensure effective air circulation and avoid trapped smells. 	N/A – There are no single aspect apartments within the development.	N/A
Objective 4B-3	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten	A sufficient amount of cross-ventilation is provided to service the apartments within the	Complies

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The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents	storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	development – noting the dual aspect and multiple windows provided to individual units.									
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Apartment depths are appropriate and achieve adequate natural cross-ventilation.	Complies								
	The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths.	The building design provides dual aspect apartments where possible.	Complies								
	In cross-through apartments external window and door opening sizes/areas on one side of an apartment (inlet side) are approximately equal to the external window and door opening sizes/areas on the other side of the apartment (outlet side) (see figure 4B.4).	Cross through apartments achieve appropriate natural ventilation.	Complies								
	Apartments are designed to minimise the number of corners, doors and rooms that might obstruct airflow.	Apartment layouts are appropriate.	Complies								
	Apartment depths, combined with appropriate ceiling heights, maximise cross ventilation and airflow.	Apartment depths are appropriate.	Complies								
Part 4C – Ceiling Heights											
Objective	Design Criteria or Guidance	Comment	Compliance								
Objective 4C-1 Ceiling height achieves sufficient natural ventilation and daylight access	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table><tr><th colspan="2">Minimum Ceiling Height for Apartment and Mixed-use Buildings</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor</td></tr></table>	Minimum Ceiling Height for Apartment and Mixed-use Buildings		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor	Ceiling heights are adequate.	Complies
Minimum Ceiling Height for Apartment and Mixed-use Buildings											
Habitable rooms	2.7m										
Non-habitable	2.4m										
For 2 storey apartments	2.7m for main living area floor										

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		2.4 for second floor, where its area does not exceed 50% of the apartment area.			
	Attic Spaces	1.8m at edge of room with a 30 degree minimum ceiling slope.			
	If located in mixed use areas	3.3m from ground and first floor to promote future flexibility.			
	These minimums do not preclude higher ceilings if desired				
	Ceiling height can accommodate use of ceiling fans for cooling and heat distribution.		Ceiling heights are adequate.	Complies	
Objective 4C-2 Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms	A number of the following design solutions can be used: <ul style="list-style-type: none"> the hierarchy of rooms in an apartment is defined using changes in ceiling heights and alternatives such as raked or curved ceilings, or double height spaces well-proportioned rooms are provided, for example, smaller rooms feel larger and more spacious with higher ceilings ceiling heights are maximised in habitable rooms by ensuring that bulkheads do not intrude. The stacking of service rooms from floor to floor and coordination of bulkhead location above non-habitable areas, such as robes or storage, can assist. 		Ceiling heights are appropriate.	Complies	

Objective 4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building	Ceiling heights of lower level apartments in centres should be greater than the minimum required by the design criteria allowing flexibility and conversion to non-residential uses (see figure 4C.1).	Ceiling heights for ground level apartments are larger allowing for flexibility and potential conversion to non-residential land uses.	Complies										
Part 4D – Apartment size and layout													
Objective	Design Criteria or Guidance	Comment	Compliance										
Objective 4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity	<p>Apartment Type</p> <table border="1"> <thead> <tr> <th>Apartment Type</th> <th>Minimum Internal Area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m²</td> </tr> <tr> <td>1 bedroom</td> <td>50m²</td> </tr> <tr> <td>2 bedroom</td> <td>70m²</td> </tr> <tr> <td>3 bedroom</td> <td>90m²</td> </tr> </tbody> </table> <p>Apartment areas are required to have the following minimum internal areas:</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	Apartment Type	Minimum Internal Area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	<p>Apartment areas proposed within the development contain a mix of one and two bedroom units. The proposal complies with this requirement with the following minimum areas being provided:</p> <ul style="list-style-type: none"> • One bed units – Min 55m² GFA. • Two bed units – Min 72m² GFA. <p>Internal areas account for one bathroom only.</p>	Complies
Apartment Type	Minimum Internal Area												
Studio	35m ²												
1 bedroom	50m ²												
2 bedroom	70m ²												
3 bedroom	90m ²												
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	All habitable rooms have an appropriately sized external window.	Complies										
	Kitchens should not be located as part of the main circulation space in larger apartments (such as hallway or entry space).	Kitchens are appropriately designed and located.	Complies										

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	A window should be visible from any point in a habitable room.	Windows are clearly visible from any point within main living areas.	Complies
	Where minimum areas or room dimensions are not met apartments need to demonstrate that they are well designed and demonstrate the usability and functionality of the space with realistically scaled furniture layouts and circulation areas. These circumstances would be assessed on their merits.	All room dimensions are adequate.	Complies
Objective 4D-2 Environmental performance of the apartment is maximised	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	Habitable room depths are appropriate.	Complies
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Habitable room depths are appropriate.	Complies
	Greater than minimum ceiling heights can allow for proportional increases in room depth up to the permitted maximum depths.	Ceiling heights are appropriate.	Complies
	All living areas and bedrooms should be located on the external face of the building.	All living areas and bedrooms are appropriately located on the external face of a building	Complies
	Where possible: <ul style="list-style-type: none"> bathrooms and laundries should have an external openable window main living spaces should be oriented toward the primary outlook and aspect and away from noise sources 	Due to site constraints, some bathrooms and laundries are unable to include external windows. The building layout and design is satisfactory. Living spaces are appropriately orientated.	Satisfactory.
Objective 4D-3 Apartment layouts are designed to	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	Master bedrooms are appropriately sized.	Complies

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accommodate a variety of household activities and needs	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All bedrooms are appropriately sized.	Complies
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 	Living rooms are appropriately sized.	Complies
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	N/A - The proposal does not include any cross-over or cross-through apartments.	N/A
	Access to bedrooms, bathrooms and laundries is separated from living areas minimising direct openings between living and service areas.	Apartment layouts are appropriate.	Complies
	All bedrooms allow a minimum length of 1.5m for robes.	All bedrooms have suitable wardrobe area.	Complies
	The main bedroom of an apartment or a studio apartment should be provided with a wardrobe of a minimum 1.8m long, 0.6m deep and 2.1m high.	All main bedrooms have appropriately sized wardrobes.	Complies
	Apartment layouts allow flexibility over time, design solutions may include: <ul style="list-style-type: none"> • dimensions that facilitate a variety of furniture arrangements and removal • spaces for a range of activities and privacy levels between different spaces within the apartment • dual master apartments • dual key apartments <p>Note: dual key apartments which are separate but on the same title are regarded as two sole occupancy units for the purposes of the Building</p>	Apartments are appropriately designed to allow for flexibility in their use and furnishing.	Complies

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	<p><i>Code of Australia and for calculating the mix of apartments</i></p> <ul style="list-style-type: none">room sizes and proportions or open plans (rectangular spaces (2:3) are more easily furnished than square spaces (1:1))efficient planning of circulation by stairs, corridors and through rooms to maximise the amount of usable floor space in rooms.																	
Part 4E – Private Open Space and Balconies																		
Objective	Design Criteria or Guidance	Comment	Compliance															
<p>Objective 4E-1</p> <p>Apartments provide appropriately sized private open space and balconies to enhance residential amenity</p>	<p>All apartments are required to have primary balconies as follows:</p> <table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3 bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	Dwelling Type	Minimum Area	Minimum Depth	Studio	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3 bedroom apartments	12m ²	2.4m	<p>All apartments have appropriately sized balcony or courtyard areas.</p>	<p>Complies</p>
Dwelling Type	Minimum Area	Minimum Depth																
Studio	4m ²	-																
1 bedroom apartments	8m ²	2m																
2 bedroom apartments	10m ²	2m																
3 bedroom apartments	12m ²	2.4m																
	<p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.</p>	<p>Ground level apartments have suitable courtyard areas.</p>	<p>Complies</p>															
	<p>Increased communal open space should be provided where the number or size of balconies are reduced.</p>	<p>Balcony size is appropriate.</p>	<p>Complies</p>															

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	Storage areas on balconies is additional to the minimum balcony size.	The apartment design does not rely on balcony storage.	Complies
	<p>Balcony use may be limited in some proposals by:</p> <ul style="list-style-type: none"> consistently high wind speeds at 10 storeys and above close proximity to road, rail or other noise sources exposure to significant levels of aircraft noise heritage and adaptive reuse of existing buildings <p>In these situations, Juliet balconies, operable walls, enclosed wintergardens or bay windows may be appropriate, and other amenity benefits for occupants should also be provided in the apartments or in the development or both. Natural ventilation also needs to be demonstrated.</p>	There are no limiting factors for the provision of balconies. Each apartment includes a suitable balcony or courtyard area.	Complies
Objective 4E-2 Primary private open space and balconies are appropriately located to enhance liveability for residents.	Primary open space and balconies should be located adjacent to the living room, dining room or kitchen to extend the living space.	Balconies and courtyard areas are appropriately located.	Complies
	Private open spaces and balconies predominantly face north, east or west.	Balconies and courtyards are appropriately orientated.	Complies
	Primary open space and balconies should be orientated with the longer side facing outwards or be open to the sky to optimise daylight access into adjacent rooms.	Balconies and courtyards are appropriately designed and orientated.	Complies
Objective 4E-3 Private open space and balcony design is integrated into and contributes to the overall architectural	Solid, partially solid or transparent fences and balustrades are selected to respond to the location. They are designed to allow views and passive surveillance of the street while maintaining visual privacy and allowing for a range of uses on the balcony. Solid and partially solid balustrades are preferred.	Fencing is appropriate and consistent with nearby development.	Complies

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form and detail of the building.	Full width full height glass balustrades alone are generally not desirable.	Balustrades for balcony areas are appropriate.	Complies
	Projecting balconies should be integrated into the building design and the design of soffits considered.	Balconies are appropriately designed and integrated into the building design.	Complies
	Operable screens, shutters, hoods and pergolas are used to control sunlight and wind.	Eave overhangs provide protection from inclement weather.	Complies
	Balustrades are set back from the building or balcony edge where overlooking or safety is an issue	Balustrades will be appropriately setback.	Complies
	Downpipes and balcony drainage are integrated with the overall facade and building design.	Downpipes are appropriately integrated into the building design.	Complies
	Air-conditioning units should be located on roofs, in basements, or fully integrated into the building design.	Air conditioning plant is appropriately located in the collective plant area.	Complies
	Where clothes drying, storage or air conditioning units are located on balconies, they should be screened and integrated in the building design.	Balconies are appropriately design and provide for a range of uses.	Complies
	Ceilings of apartments below terraces should be insulated to avoid heat loss.	The application has been supported by appropriate BASIX and NatHERS statements.	Complies
	Water and gas outlets should be provided for primary balconies and private open space.	Balconies can provide suitable amenities.	Complies
Objective 4E-4 Private open space and balcony design maximises safety	Changes in ground levels or landscaping are minimised.	Landscaping is appropriate. The subject site maintains a flat at grade ground level.	Complies
	Design and detailing of balconies avoids opportunities for climbing and falls.	Balconies are suitably designed.	Complies
Part 4F- Common Circulation and Spaces			

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Objective	Design Criteria or Guidance	Comment	Compliance
Objective 4F-1 Common circulation spaces achieve good amenity and properly service the number of apartments	The maximum number of apartments off a circulation core on a single level is eight.	No more than 7 apartments are accessed from a single circulation core for that level (Building C).	Complies
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	N/A – The building is 2 storeys.	N/A
	Greater than minimum requirements for corridor widths and/ or ceiling heights allow comfortable movement and access particularly in entry lobbies, outside lifts and at apartment entry doors.	Lobbies and circulation spaces are appropriately designed.	Complies
	Daylight and natural ventilation should be provided to all common circulation spaces that are above ground.	Adequate daylight and ventilation is provided to ground floor lobby areas.	Complies
	Windows should be provided in common circulation spaces and should be adjacent to the stair or lift core or at the ends of corridors.	Windows are provided to all lobbies and circulation spaces.	Complies
	Longer corridors greater than 12m in length from the lift core should be articulated. Design solutions may include: <ul style="list-style-type: none"> a series of foyer areas with windows and spaces for seating wider areas at apartment entry doors and varied ceiling heights 	Whilst the proposal does incorporate long hallways, this design is considered appropriate and compliant given the multiple stairwell access points.	Complies
	Design common circulation spaces to maximise opportunities for dual aspect apartments, including multiple core apartment buildings and cross over apartments.	Circulation areas are appropriately located to maximise amenity for apartments.	Complies
	Achieving the design criteria for the number of apartments off a circulation core may not be possible. Where a development is unable to achieve the design criteria, a	The building has been appropriately designed and achieves a high level of amenity for the apartments.	Complies

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	<p>high level of amenity for common lobbies, corridors and apartments should be demonstrated, including:</p> <ul style="list-style-type: none"> • sunlight and natural cross ventilation in apartments • access to ample daylight and natural ventilation in common circulation spaces • common areas for seating and gathering • generous corridors with greater than minimum ceiling heights • other innovative design solutions that provide high levels of amenity 		
	Where design criteria 1 is not achieved, no more than 12 apartments should be provided off a circulation core on a single level.	No more than 7 apartments are accessed from a single circulation core for that level.	Complies
	Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Living room and bedroom windows are appropriately located.	Complies
Objective 4F-2 Common circulation spaces promote safety and provide for social interaction between residents	Direct and legible access should be provided between vertical circulation points and apartment entries by minimising corridor or gallery length to give short, straight, clear sight lines.	Building circulation is appropriate.	Complies
	Tight corners and spaces are avoided.	Building circulation is appropriate.	Complies
	Circulation spaces should be well lit at night.	Building circulation is appropriate.	Complies
	Legible signage should be provided for apartment numbers, common areas and general wayfinding.	Building circulation is appropriate.	Complies
	Incidental spaces, for example space for seating in a corridor, at a stair landing, or near a window are provided.	Building circulation is appropriate.	Complies

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	<p>In larger developments, community rooms for activities such as owners corporation meetings or resident use should be provided and are ideally co-located with communal open space.</p>	<p>A Hub facility would be constructed as part of the development.</p>	<p>Satisfactory.</p>										
	<p>Where external galleries are provided, they are more open than closed above the balustrade along their length.</p>	<p>The building does not provide any external galleries.</p>	<p>N/A</p>										
Part 4G - Storage													
Objective	Design Criteria or Guidance	Comment	Compliance										
<p>Objective 4G-1</p> <p>Adequate, well designed storage is provided in each apartment</p>	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling Type</th><th>Minimum Area</th></tr><tr><td>Studio apartments</td><td>4m²</td></tr><tr><td>1 bedroom apartments</td><td>6m²</td></tr><tr><td>2 bedroom apartments</td><td>8m²</td></tr><tr><td>3+ bedroom apartments</td><td>10m²</td></tr></table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling Type	Minimum Area	Studio apartments	4m²	1 bedroom apartments	6m²	2 bedroom apartments	8m²	3+ bedroom apartments	10m²	<p>Adequate storage is provided for each apartment.</p>	<p>Complies</p>
Dwelling Type	Minimum Area												
Studio apartments	4m²												
1 bedroom apartments	6m²												
2 bedroom apartments	8m²												
3+ bedroom apartments	10m²												
	<p>Storage is accessible from either circulation or living areas.</p>	<p>Storage areas are appropriately located within each apartment.</p>	<p>Complies</p>										
	<p>Storage provided on balconies (in addition to the minimum balcony size) is integrated into the balcony design, weather-proof and screened from view from the street.</p>	<p>The proposal does not include any dedicated balcony storage areas.</p>	<p>Complies</p>										

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	Left over space such as under stairs is used for storage.	Adequate storage is provided for each apartment. Un-utilised space is avoided.	Complies
Objective 4G-2 Additional storage is conveniently located, accessible and nominated for individual apartments	Storage not located in apartments is secure and clearly allocated to specific apartments.	Not Applicable	N/A
	Storage is provided for larger and less frequently accessed items.	Adequate storage is provided for each apartment.	Complies
	Storage space in internal or basement car parks is provided at the rear or side of car spaces or in cages so that allocated car parking remains accessible.	Not Applicable	N/A
	If communal storage rooms are provided they should be accessible from common circulation areas of the building.	Not Applicable	N/A
	Storage not located in an apartment is integrated into the overall building design and is not visible from the public domain.	Not Applicable	N/A
Part 4H – Acoustic Privacy			
Objective	Design Criteria or Guidance	Comment	Compliance
Objective 4H-1 Noise transfer is minimised through the siting of buildings and building layout	Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses (see also section 2F Building separation and section 3F Visual privacy).	Adequate building separation distances are achieved.	Complies
	Window and door openings are generally orientated away from noise sources.	Windows and doors are appropriately located.	Complies
	Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas	Building entries and corridors are appropriately located.	Complies

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	Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources.	The building is designed appropriately to reduce noise impacts.	Complies
	The number of party walls (walls shared with other apartments) are limited and are appropriately insulated.	Walls will be appropriately constructed and insulated.	Complies
	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	Bedrooms are largely located away from potential noise sources.	Complies
Objective 4H-2 Noise impacts are mitigated within apartments through layout and acoustic treatments	Internal apartment layout separates noisy spaces from quiet spaces, using a number of the following design solutions: <ul style="list-style-type: none"> rooms with similar noise requirements are grouped together doors separate different use zones wardrobes in bedrooms are co-located to act as sound buffers 	Apartment layouts are appropriate.	Complies
	Where physical separation cannot be achieved noise conflicts are resolved using the following design solutions: <ul style="list-style-type: none"> double or acoustic glazing acoustic seals use of materials with low noise penetration properties continuous walls to ground level courtyards where they do not conflict with streetscape or other amenity requirements 	Noise impacts can be minimised. Further a condition of consent can be imposed to ensure that noise impacts does not cause a disturbance to a place of different occupancy.	Complies
Part 4J – Noise and Pollution			
Objective	Design Criteria or Guidance	Comment	Compliance
Objective 4J-1	To minimise impacts the following design solutions may be used:		Complies

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<p>In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.</p>	<ul style="list-style-type: none"> physical separation between buildings and the noise or pollution source residential uses are located perpendicular to the noise source and where possible buffered by other uses non-residential buildings are sited to be parallel with the noise source to provide a continuous building that shields residential uses and communal open spaces non-residential uses are located at lower levels vertically separating the residential component from the noise or pollution source. Setbacks to the underside of residential floor levels should increase relative to traffic volumes and other noise sources buildings should respond to both solar access and noise. Where solar access is away from the noise source, non-habitable rooms can provide a buffer where solar access is in the same direction as the noise source, dual aspect apartments with shallow building depths are preferable (see figure 4J.4) landscape design reduces the perception of noise and acts as a filter for air pollution generated by traffic and industry 	<p>The building has been appropriately designed to minimise impact from external noise and pollution.</p>	
	<p>Achieving the design criteria in this Apartment Design Guide may not be possible in some situations due to noise and pollution. Where developments are unable to achieve the design criteria, alternatives may be considered in the following areas:</p> <ul style="list-style-type: none"> solar and daylight access private open space and balconies natural cross ventilation 	<p>N/A - It is considered that the ADG design criteria with regard to noise and pollution are achieved.</p>	<p>N/A</p>

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Objective 4J-2 Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission	Design solutions to mitigate noise include: <ul style="list-style-type: none"> • limiting the number and size of openings facing noise sources • providing seals to prevent noise transfer through gaps • using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens) • using materials with mass and/or sound insulation or absorption properties e.g. solid balcony balustrades, external screens and soffits. 	Impacts from external noise sources can be minimised.	Complies
Part 4K – Apartment Mix			
Objective	Design Criteria or Guidance	Comment	Compliance
Objective 4K-1 A range of apartment types and sizes is provided to cater for different household types now and into the future	A variety of apartment types is provided	A mix of 1 and 2 bedroom apartments are provided.	Satisfactory
	The apartment mix is appropriate, taking into consideration: <ul style="list-style-type: none"> • the distance to public transport, employment and education centres • the current market demands and projected future demographic trends • the demand for social and affordable housing • different cultural and socioeconomic groups. 	The apartment mix is appropriate and is consistent with apartment demand within the Nowra locality.	Complies
	Flexible apartment configurations are provided to support diverse household types and stages of life including single person households, families, multi-generational families and group households.	Apartment layouts and designs are appropriate.	Complies

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Objective 4K-2 The apartment mix is distributed to suitable locations within the building	Different apartment types are located to achieve successful facade composition and to optimise solar access (see figure 4K.3).	The building is appropriately designed.	Complies
	Larger apartment types are located on the ground or roof level where there is potential for more open space and on corners where more building frontage is available.	The building is appropriately designed.	Complies
Part 4L – Ground Floor Apartments			
Objective	Design Criteria or Guidance	Comment	Compliance
Objective 4L-1 Street frontage activity is maximised where ground floor apartments are located	Direct street access should be provided to ground floor apartments	NA – the site does not have direct frontage with a street.	N/A
	Activity is achieved through front gardens, terraces and the facade of the building. Design solutions may include: <ul style="list-style-type: none"> • both street, foyer and other common internal circulation entrances to ground floor apartments • private open space is next to the street • doors and windows face the street 	The front façade provides an active street frontage.	Complies
	Retail or home office spaces should be located along street frontages	The proposal does not include any mixed uses.	Satisfactory
	Ground floor apartment layouts support small office home office (SOHO) use to provide future opportunities for conversion into commercial or retail areas. In these cases provide higher floor to ceiling heights and ground floor amenities for easy conversion	Ground floor apartments are suitably designed.	Satisfactory
Objective 4L-2 Design of ground floor apartments delivers amenity and safety for residents	Privacy and safety should be provided without obstructing casual surveillance. Design solutions may include: <ul style="list-style-type: none"> • elevation of private gardens and terraces above the street level by 1-1.5m (see figure 4L.4) • landscaping and private courtyards • window sill heights that minimise sight lines into apartments 	The building is appropriately designed to achieve privacy but also provide passive surveillance.	Complies

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	<ul style="list-style-type: none"> integrating balustrades, safety bars or screens with the exterior design 		
	Solar access should be maximised through: <ul style="list-style-type: none"> high ceilings and tall windows trees and shrubs that allow solar access in winter and shade in summer 	Ground floor apartments achieve appropriate solar access.	Complies
Part 4M - Facades			
Objective	Design Criteria or Guidance	Comment	Compliance
Objective 4M-1 Building facades provide visual interest along the street while respecting the character of the local area	Design solutions for front building facades may include: <ul style="list-style-type: none"> a composition of varied building elements a defined base, middle and top of buildings revealing and concealing certain elements changes in texture, material, detail and colour to modify the prominence of elements. 	Building facades are appropriately designed and provide visual interest.	Complies
	Building services should be integrated within the overall façade.	Building services are appropriately located and integrated into the building design.	Complies
	Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale. Design solutions may include: <ul style="list-style-type: none"> well composed horizontal and vertical elements variation in floor heights to enhance the human scale elements that are proportional and arranged in patterns public artwork or treatments to exterior blank walls grouping of floors or elements such as balconies and windows on taller buildings. 	The building is appropriately designed.	Complies

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	Building facades relate to key datum lines of adjacent buildings through upper level setbacks, parapets, cornices, awnings or colonnade heights.	The building is appropriately designed.	Complies
	Shadow is created on the facade throughout the day with building articulation, balconies and deeper window reveals.	The building is appropriately designed.	Complies
Objective 4M-2 Building functions are expressed by the facade	Building entries should be clearly defined.	The entry to the development is adequately defined.	Complies
	Important corners are given visual prominence through a change in articulation, materials or colour, roof expression or changes in height.	The building is appropriately designed.	Complies
	The apartment layout should be expressed externally through facade features such as party walls and floor slabs.	The building is appropriately designed.	Complies
Part 4N – Roof Design			
Objective	Design Criteria or Guidance	Comment	Compliance
Objective 4N-1 Roof treatments are integrated into the building design and positively respond to the street	Roof design relates to the street. Design solutions may include: <ul style="list-style-type: none"> special roof features and strong corners use of skillion or very low pitch hipped roofs breaking down the massing of the roof by using smaller elements to avoid bulk using materials or a pitched form complementary to adjacent buildings. 	The building and roof are appropriately designed.	Complies
	Roof treatments should be integrated with the building design. Design solutions may include: <ul style="list-style-type: none"> roof design proportionate to the overall building size, scale and form roof materials compliment the building 	The building and roof are appropriately designed.	Complies

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	<ul style="list-style-type: none"> service elements are integrated. 		
Objective 4N-2 Opportunities to use roof space for residential accommodation and open space are maximised	Habitable roof space should be provided with good levels of amenity. Design solutions may include: <ul style="list-style-type: none"> penthouse apartments dormer or clerestory windows openable skylights. 	The roof space is appropriately utilised providing room for solar panels etc.	Complies
	Open space is provided on roof tops subject to acceptable visual and acoustic privacy, comfort levels, safety and security considerations.	The development does not provide roof top open space. This is appropriate and consistent with other nearby development.	Complies
Objective 4N-3 Roof design incorporates sustainability features	Roof design maximises solar access to apartments during winter and provides shade during summer. Design solutions may include: <ul style="list-style-type: none"> the roof lifts to the north eaves and overhangs shade walls and windows from summer sun. 	The roof and building design maximises opportunities for solar access.	Complies
	Skylights and ventilation systems should be integrated into the roof design.	The roof is appropriately designed.	Complies
Part 4O – Landscape Design			
Objective	Design Criteria or Guidance	Comment	Compliance
Objective 4O-1 Landscape design is viable and sustainable	Landscape design should be environmentally sustainable and can enhance environmental performance by incorporating: <ul style="list-style-type: none"> diverse and appropriate planting bio-filtration gardens appropriately planted shading trees areas for residents to plant vegetables and herbs composting green roofs or walls. 	Proposed landscaping is appropriate, notwithstanding the comments made in relation to Chapter G3 – Landscaping Design Guidelines of the SDCP 2014.	Complies

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	Ongoing maintenance plans should be prepared.	Ongoing maintenance of landscaped areas does not present a significant issue.	Satisfactory
	Microclimate is enhanced by: <ul style="list-style-type: none"> appropriately scaled trees near the eastern and western elevations for shade a balance of evergreen and deciduous trees to provide shading in summer and sunlight access in winter shade structures such as pergolas for balconies and courtyards. 	Proposed landscaping is appropriate.	Complies
	Tree and shrub selection considers size at maturity and the potential for roots to compete (see Table 4).	Proposed landscaping is appropriate.	Complies
Objective 4O-2 Landscape design contributes to the streetscape and amenity	Landscape design responds to the existing site conditions including: <ul style="list-style-type: none"> changes of levels views significant landscape features including trees and rock outcrops. 	Proposed landscaping is appropriate.	Complies
	Significant landscape features should be protected by: <ul style="list-style-type: none"> tree protection zones (see figure 4O.5) appropriate signage and fencing during construction. 	Proposed landscaping is appropriate.	Complies
	Plants selected should be endemic to the region and reflect the local ecology.	Proposed landscaping is appropriate.	Complies
Part 4P – Planting on Structures			
N/A – The proposal does not involve any planting on structures.			

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Part 4Q – Universal Design			
Objective	Design Criteria or Guidance	Comment	Compliance
Objective 4Q-1 Universal design features are included in apartment design to promote flexible housing for all community members	Developments achieve a benchmark of 20% of the total apartments incorporating the Liveable Housing Guideline's silver level universal design features.	The building design provides three adaptable apartments and the design of the units and common areas permits future flexibility and life cycle options.	Complies
Objective 4Q-2 A variety of apartments with adaptable designs are provided	Adaptable housing should be provided in accordance with the relevant council policy.	The building design provides three adaptable apartments.	Complies
	Design solutions for adaptable apartments include: <ul style="list-style-type: none"> • convenient access to communal and public areas • high level of solar access • minimal structural change and residential amenity loss when adapted • larger car parking spaces for accessibility • parking titled separately from apartments or shared car parking arrangements. 	Adaptable units are designed to comply with adaptable housing requirements.	Complies
Objective 4Q-3 Apartment layouts are flexible and accommodate a range of lifestyle needs	Apartment design incorporates flexible design solutions which may include: <ul style="list-style-type: none"> • rooms with multiple functions • dual master bedroom apartments with separate bathrooms • larger apartments with various living space options 	Adaptable units are designed to comply with adaptable housing requirements.	Complies

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	<ul style="list-style-type: none"> open plan 'loft' style apartments with only a fixed kitchen, laundry and bathroom. 		
Part 4R – Adaptive Reuse			
N/A – The proposal does not involve adaptive reuse of an existing building.			
Part 4S – Mixed Use			
N/A – The proposal is not for a mixed use development.			
Part 4T – Awnings and Signage			
N/A – The proposal does not include any awnings or signage.			
Part 4U – Energy Efficiency			
Objective	Design Criteria or Guidance	Comment	Compliance
Objective 4U-1 Development incorporates passive environmental design.	Adequate natural light is provided to habitable rooms (see 4A Solar and daylight access).	Adequate solar access is provided to all apartments.	Complies
	Well located, screened outdoor areas should be provided for clothes drying.	There is adequate space for clothes drying areas for each apartment on balcony areas.	Complies
Objective 4U-2 Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer.	A number of the following design solutions are used: <ul style="list-style-type: none"> the use of smart glass or other technologies on north and west elevations thermal mass in the floors and walls of north facing rooms is maximised polished concrete floors, tiles or timber rather than carpet insulated roofs, walls and floors and seals on window and door openings 	The building design maximises solar opportunities.	Complies

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	<ul style="list-style-type: none"> overhangs and shading devices such as awnings, blinds and screens 		
	Provision of consolidated heating and cooling infrastructure should be located in a centralised location (e.g. the basement)	Heating and cooling infrastructure will be appropriately located in the communal plant area.	Complies
Objective 4U-3 Adequate natural ventilation minimises the need for Mechanical ventilation.	A number of the following design solutions are used: <ul style="list-style-type: none"> rooms with similar usage are grouped together natural cross ventilation for apartments is optimised natural ventilation is provided to all habitable rooms and as many non-habitable rooms, common areas and circulation spaces as possible. 	All apartments achieve adequate natural ventilation. Mechanical ventilation is required where bathroom and laundry areas do not provide an external window.	Complies
Part 4V – Water Management and Conservation			
Objective	Design Criteria or Guidance	Comment	Compliance
Objective 4V-1 Potable water use is minimised.	Water efficient fittings, appliances and wastewater reuse should be incorporated.	The BASIX certificate identifies appropriate water saving fittings will be used.	Complies
	Apartments should be individually metered.	Recommended conditions of consent will require that all apartments are separately metered.	Complies
	Rainwater should be collected, stored and reused on site.	The development provides opportunities for rainwater re-use	Complies
	Drought tolerant, low water use plants should be used within landscaped areas.	Proposed landscaping is appropriate.	Complies
Objective 4V-2 Urban stormwater is treated on site before being	Water sensitive urban design systems are designed by a suitably qualified professional.	Stormwater disposal from the development has been designed in accordance with the submitted Civil Engineering Drawings prepared by a qualified professional.	Complies

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discharged to receiving waters	A number of the following design solutions are used: <ul style="list-style-type: none"> runoff is collected from roofs and balconies in water tanks and plumbed into toilets, laundry and irrigation porous and open paving materials is maximised on site stormwater and infiltration, including bio-retention systems such as rain gardens or street tree pits. 	Stormwater disposal for the site has been designed to include a series of design solutions including OSD, bio-retention, and filter media.	Complies
Objective 4V-3 Flood management systems are integrated into site design	Detention tanks should be located under paved areas, driveways or in basement car parks.	OSD facilities are appropriately located and positioned in ground so as not to impact upon the development layout.	Complies
	On large sites parks or open spaces are designed to provide temporary on site detention basins.	The site does not have enough area to provide temporary on site detention basins.	Complies
Part 4W – Waste Management			
Objective	Design Criteria or Guidance	Comment	Compliance
Objective 4W-1 Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	Adequately sized storage areas for rubbish bins should be located discreetly away from the front of the development or in the basement car park.	Adequate bin storage areas are provided. The application would be conditioned to ensure appropriate waste management at the site.	Complies
	Waste and recycling storage areas should be well ventilated.	Bin storage areas are appropriately ventilated.	Complies
	Circulation design allows bins to be easily manoeuvred between storage and collection points.	Bin storage areas are appropriately located and designed.	Complies
	Temporary storage should be provided for large bulk items such as mattresses.	Bin storage areas are appropriate.	Satisfactory
	A waste management plan should be prepared.	The application has been supported by an appropriate WMP.	Complies

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Objective 4W-2 Domestic waste is minimised by providing safe and convenient source separation and recycling	All dwellings should have a waste and recycling cupboard or temporary storage area of sufficient size to hold two days' worth of waste and recycling.	There is adequate area within each apartment for the provision of a temporary waste storage area.	Complies
	Communal waste and recycling rooms are in convenient and accessible locations related to each vertical core.	Bin storage areas are appropriately located.	Complies
	For mixed use developments, residential waste and recycling storage areas and access should be separate and secure from other uses.	N/A – the development is not a mixed use development.	N/A
	Alternative waste disposal methods such as composting should be provided.	Waste disposal is appropriate for the site.	Satisfactory
Part 4X – Building Maintenance			
Objective	Design Criteria or Guidance	Comment	Compliance
Objective 4X-1 Building design detail provides protection from weathering	A number of the following design solutions are used: <ul style="list-style-type: none"> • roof overhangs to protect walls • hoods over windows and doors to protect openings • detailing horizontal edges with drip lines to avoid staining of surfaces • methods to eliminate or reduce planter box leaching • appropriate design and material selection for hostile locations 	The building has been designed to provide protection from weathering and inclement weather.	Complies
Objective 4X-2 Systems and access enable ease of maintenance	Window design enables cleaning from the inside of the building.	Windows are appropriate.	Complies
	Building maintenance systems should be incorporated and integrated into the design of the building form, roof and façade.	Opportunities for effective building management are provided.	Complies

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	Design solutions do not require external scaffolding for maintenance access.	Ongoing building maintenance will not likely require external scaffolding.	Complies
	Manually operated systems such as blinds, sunshades and curtains are used in preference to mechanical systems.	Building fixtures are appropriate.	Complies
	Centralised maintenance, services and storage should be provided for communal open space areas within the building.	Communal facilities and areas are appropriately located.	Complies
Objective 4X-3 Material selection reduces ongoing maintenance costs	A number of the following design solutions are used: <ul style="list-style-type: none"> • sensors to control artificial lighting in common circulation and spaces • natural materials that weather well and improve with time such as face brickwork • easily cleaned surfaces that are graffiti resistant • robust and durable materials and finishes are used in locations which receive heavy wear and tear, such as common circulation areas and lift interiors 	Building materials and fixtures are appropriate.	Complies

PROPOSED RESIDENTIAL
DEVELOPMENT

AT

OLD SOUTHERN ROAD,
SOUTH NOWRA

ARCHITECTURAL DRAWING SCHEDULE

No.	DESCRIPTION	SCALE @ A3
A-000	TITLE SHEET	NTS
A-001	DEVELOPMENT SUMMARY	NTS
A-002	STAGING PLAN	NTS
A-003	SITE ANALYSIS	NTS
A-101	OVERALL SITE PLAN	1:600
A-102	OVERALL GROUND FLOOR PLAN	1:600
A-103	OVERALL LEVEL 1 FLOOR PLAN	1:600
A-104	OVERALL ROOF PLAN	1:600
A-105	BLOCK A - GROUND FLOOR	1:250
A-106	BLOCK A - LEVEL 1 FLOOR PLAN	1:250
A-107	BLOCK A - ROOF PLAN	1:250
A-108	BLOCK B - GROUND FLOOR	1:250
A-109	BLOCK B - LEVEL 1 FLOOR PLAN	1:250
A-110	BLOCK B - ROOF PLAN	1:250
A-111	BLOCK C - GROUND FLOOR	1:250
A-112	BLOCK C - LEVEL 1 FLOOR PLAN	1:250
A-113	BLOCK C - ROOF PLAN	1:250
A-201	ELEVATIONS AND SECTIONS	1:400
A-202	ELEVATIONS AND SECTIONS	1:400
A-301	PRE & POST ADAPTATION PLANS	1:100
A-401	SHADOW ANALYSIS	NTS
A-402	SOLAR ACCESS STUDY 01	NTS
A-403	SOLAR ACCESS STUDY 02	NTS
A-501	COLOUR & MATERIALS SCHEDULE	NTS
A-502	ARTIST IMPRESSION 2	NTS



ARTIST IMPRESSION 1



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Proposed STAGED RESIDENTIAL DEVELOPMENT
COMPRISING OF 1 AND 2 BED APARTMENTS WITH
PARKING AND ASSOCIATED LANDSCAPING
At
OLD SOUTHERN ROAD, SOUTH NOWRA
For



Title DEVELOPMENT APPLICATION TITLE SHEET	
Scale NTS	Date DECEMBER 2020
Drawn LAW SJ	Checked ADM
Project No. 2017-32	Drawing No. A-000
	Issue A

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Project :	Old Southern Road, South Nowra
Project No:	2017-32
Controls	
Site Area (m ²)	9382m ² (excluding E2 and B5)
Shoalhaven City Council LEP 2014	
Land use	R1 General Residential
FSR	0.5:1
Height (m)	11m

STAGE 1	BLOCK A			
Level	1 bdrm	2 bdrm	Unit Totals	
Ground	1	8	9	
Level 1	1	8	9	
Unit Mix	2	16	18	
	%	%	100%	
Total Units	18			

Car Parking Requirements	Min Rate	Required	Provided
Residential	1 parking space per dwelling	18	
Visitor	0.5 parking spaces per dwelling	9	27
Total		27	27

STAGE 2	BLOCK B			
Level	1 bdrm	2 bdrm	Unit Totals	
Ground	2	8	10	
Level 1	2	8	10	
Unit Mix	4	16	20	
	%	%	100%	
Total Units	20			

Car Parking Requirements	Min Rate	Required	Provided
Residential	1 parking space per dwelling	20	
Visitor	0.5 parking spaces per dwelling	10	30
Total		30	30

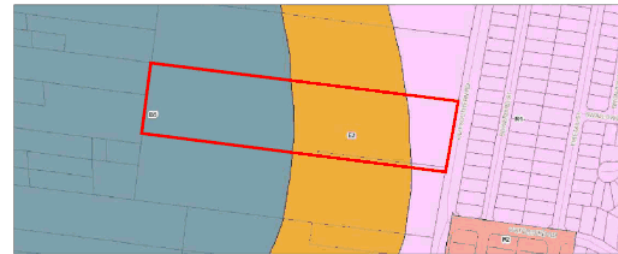
STAGE 3	BLOCK C			
Level	1 bdrm	2 bdrm	Unit Totals	
Ground	2	7	9	
Level 1	2	7	9	
Unit Mix	4	14	18	
	%	%	100%	
Total Units	18			

Car Parking Requirements	Min Rate	Required	Provided
Residential	1 parking space per dwelling	18	
Visitor	0.5 parking spaces per dwelling	9	27
Total		27	27

STAGES 1, 2 & 3	BLOCK A, B & C			
Level	1 bdrm	2 bdrm	Unit Totals	
Ground	10	46	56	
Level 1	10	46	56	
Unit Mix	2	16	18	
	%	%	100%	
Total Units	18			

Car Parking Requirements	Min Rate	Required	Provided
Residential	1 parking space per dwelling	18	
Visitor	0.5 parking spaces per dwelling	9	27
Total		27	27

Figure A: Land Zoning Map



R1 General Residential, E2 Environmental Conservation & B5 Business Development

Figure B: Height of Building Map

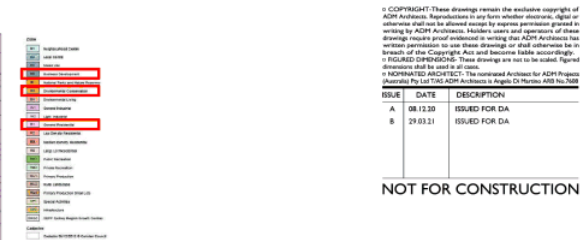


11m

Figure C: Floor Space Ratio Map



0.5:1



NABERS Thermal Performance Specification			
Wall Type	Insulation	Colour	Comments
Cavity Brick	R0.8 Fullboard	Light - SA < 0.475	Through
Metal Clad	R1.5	Light - SA < 0.475	Through
SA - Solar Absorptance			
Wall Type	Insulation	Colour	Comments
Plaster board on Stud	None	Internally in units	
Cavity Brick	None	None	Party walls
Cavity Brick	R0.8 Fullboard	None	Chamfer walls with corner
Floor Type	Insulation	Colour	Comments
Concrete	None	Slab on ground	
Concrete	None	Unit below	
Ceiling Type	Insulation	Colour	Comments
Plasterboard	None	Unit above	
Plasterboard	R2.5	Roof above	
Insulation loss due to downlights has been modelled in this assessment. A sealed recessed fan has been included in every kitchen, bathroom and laundry.			
Roof Type	Insulation	Colour	Comments
Metal	R1.3 Full Panel Barbed	Light - SA < 0.475	Through
SA - Solar Absorptance			
Opening Style	U-Value	SHGC	Comments
Sliding + Fixed (Through)	6.7	0.70	e.g. Single glazed clear Aluminium frame
Awning (Through)	6.7	0.57	e.g. Single glazed clear Aluminium frame
U and SHGC values are based on the NABERS Default Windows Set. Sliding systems to be modelled must have an equal or lower U-value and a SHGC value < 10% of the above specified values.			



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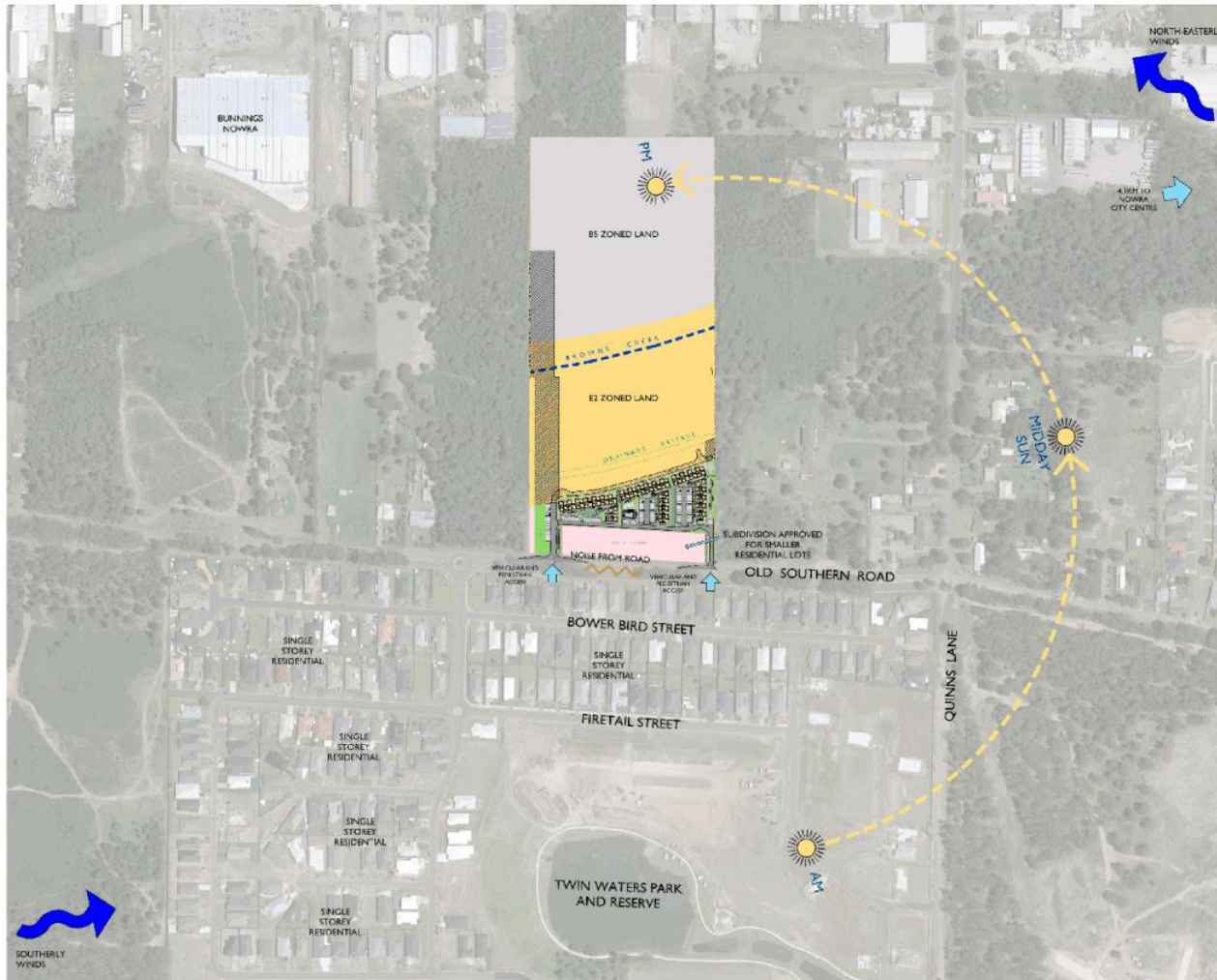
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0005533360 18 Dec 2020

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Accreditation No: DNV131645
Address: Old Southern Road, South Nowra, NSW, 2541

7.0 Average star rating
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At: OLD SOUTHERN ROAD, SOUTH NOWRA



THE DEVELOPMENT APPLICATION SITE ANALYSIS			
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LEGEND

- SITE AREA ZONED R1 GENERAL RESIDENTIAL - 9 RESIDENTIAL LOTS
- SITE AREA ZONED E2 ENVIRONMENTAL CONSERVATION
- SITE AREA ZONED B5 BUSINESS DEVELOPMENT AND SUBJECT OF FUTURE DEVELOPMENT PROPOSAL UNDER SEPARATE DA

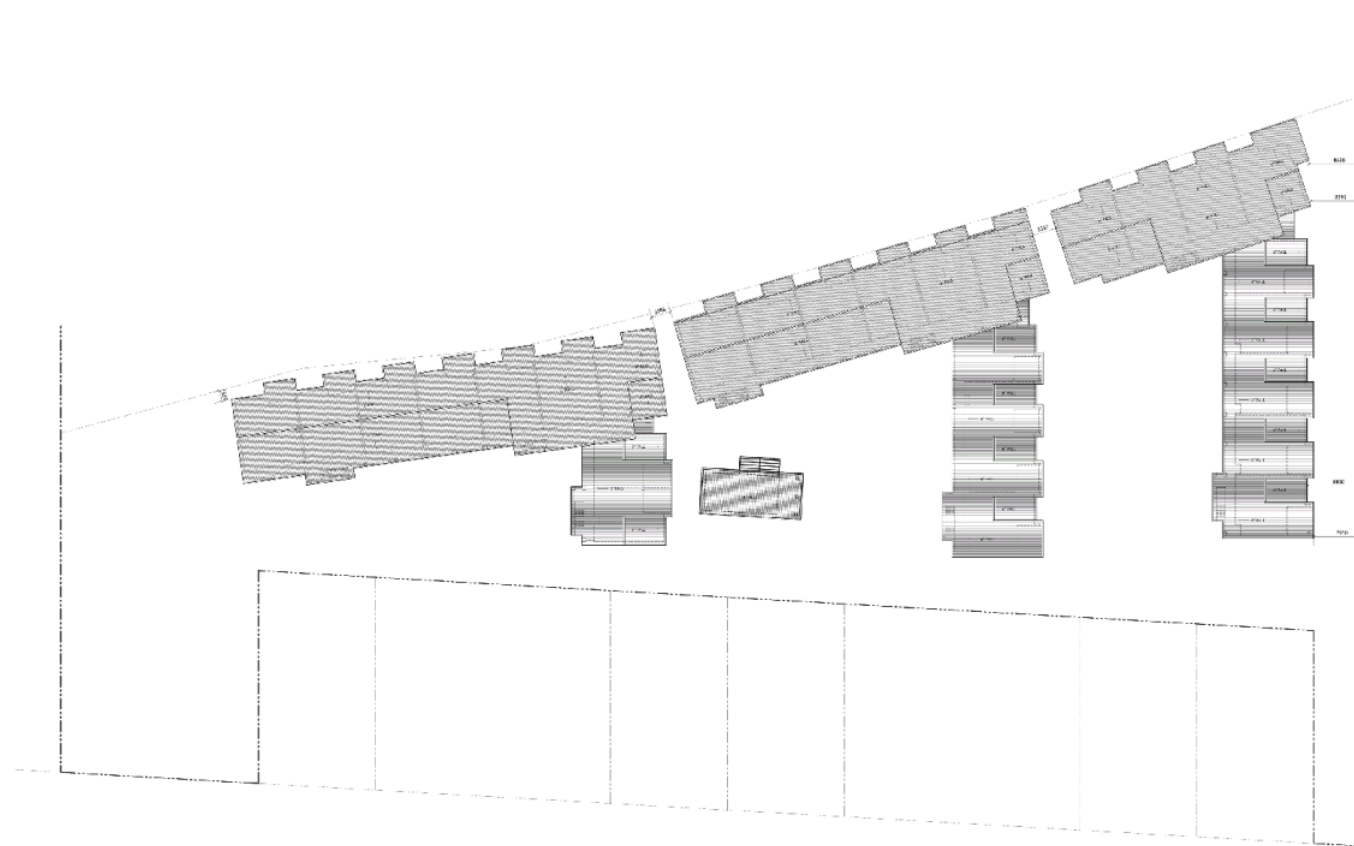


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At:
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For:



Title DEVELOPMENT APPLICATION OVERALL SITE PLAN			
Scale 1:1000 @ A1 1:2000 @ A3	Date DECEMBER 2020		
Drawn LAW SJ	Checked ADM		
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OVERALL ROOF PLAN



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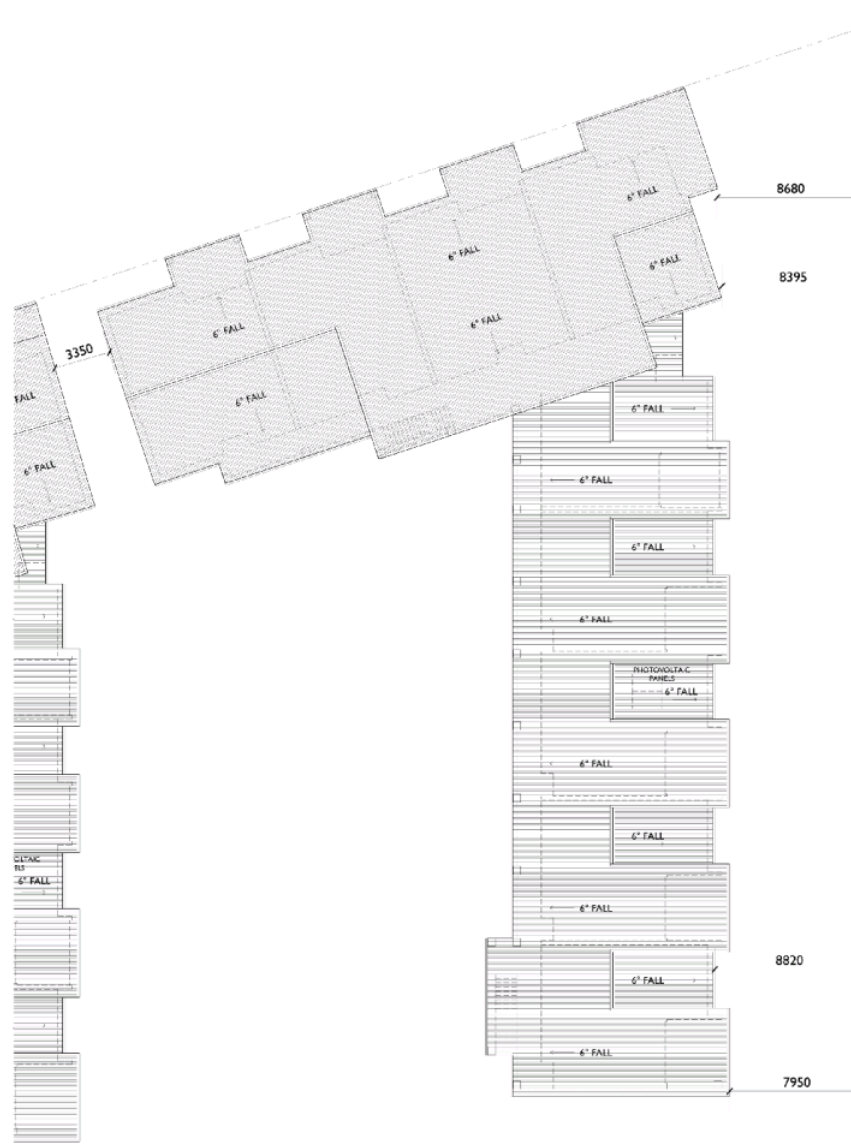
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Drawn LAW SJ	Checked ADM
Project No. 2017-32	Drawing No. A-104
	Issue A

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BLOCK A - ROOF PLAN

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ITEMS) (WATER COLLECTION & ALL EXTERNAL SURFACE LEVELS
REFER TO LANDSCAPE ARCHITECTS DOCUMENTATION FOR
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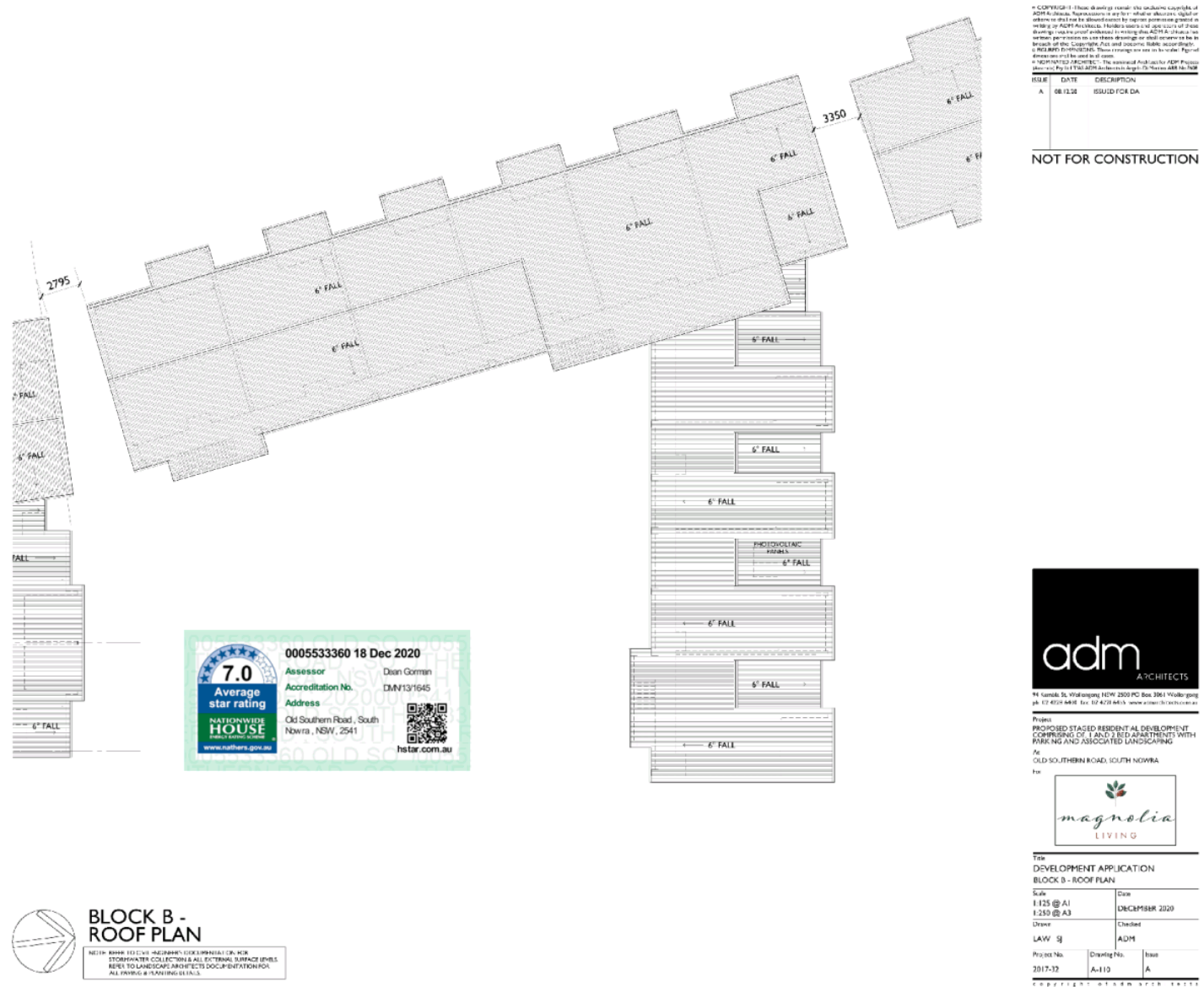


Project:
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Title:
DEVELOPMENT APPLICATION
BLOCK A - ROOF PLAN
Scale:
1:125 @ A1
1:250 @ A3
Date:
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Drawn:
LAW SJ
Checked:
ADM
Project No:
2017-32
Drawing No:
A-107
Issue:
A

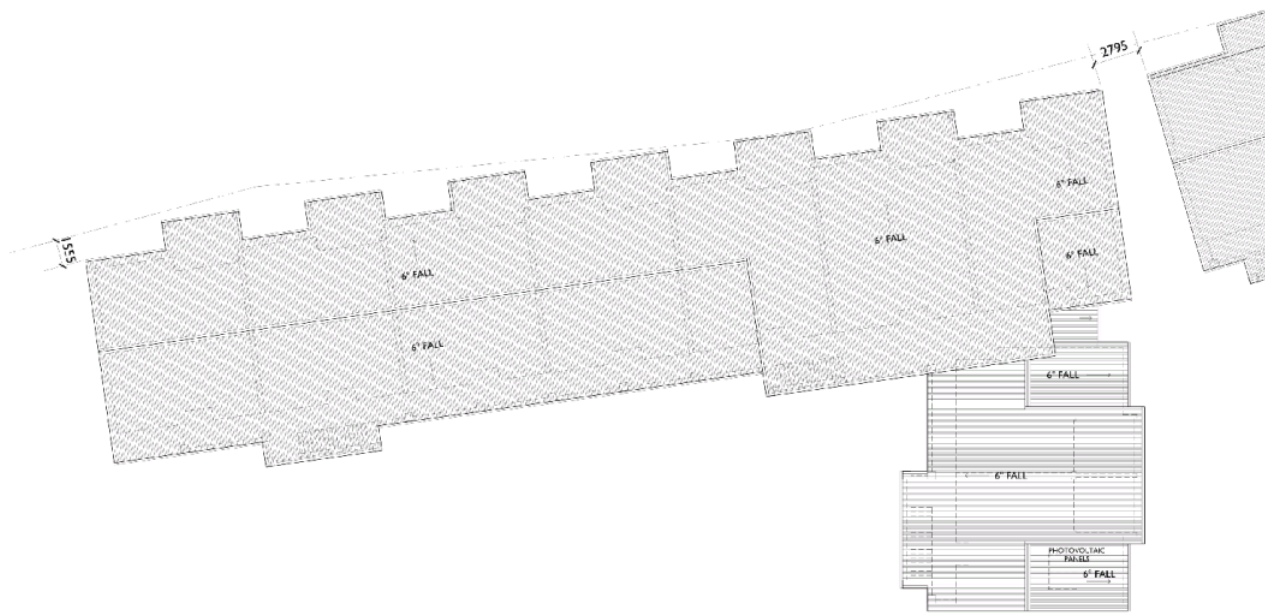
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BLOCK C - ROOF PLAN

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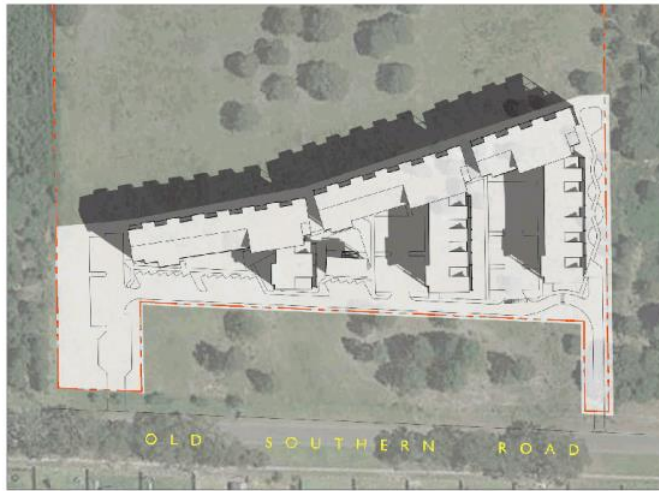


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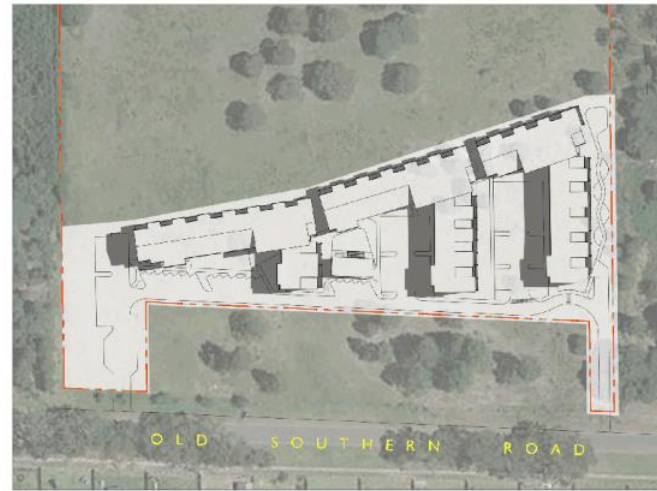
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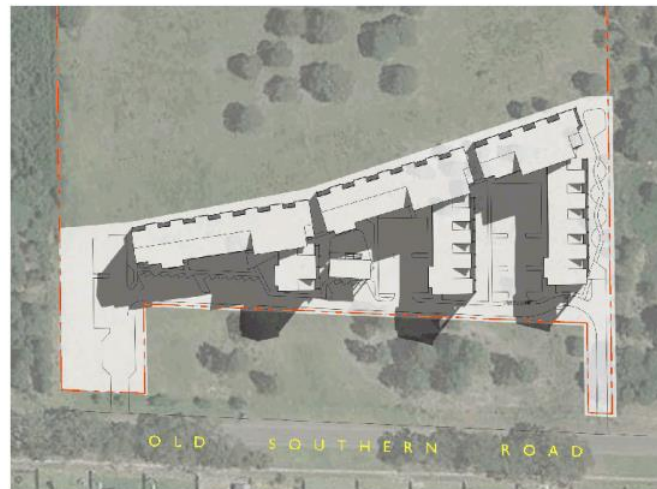




9AM



12PM



3PM



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Accreditation No.: DMN13/1645
Address: Old Southern Road, South Nowra, NSW, 2541

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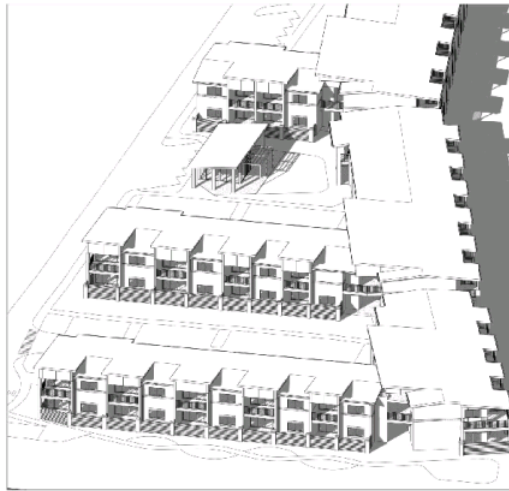
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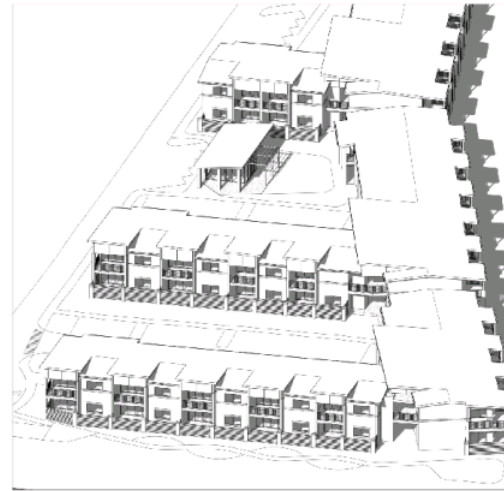
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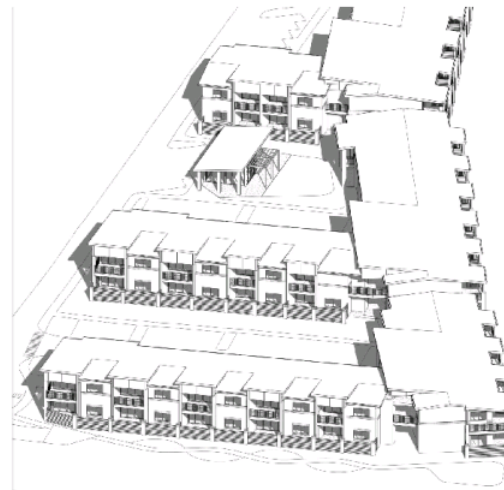
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I AM



12PM



1 PM

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Title	DEVELOPMENT APPLICATION
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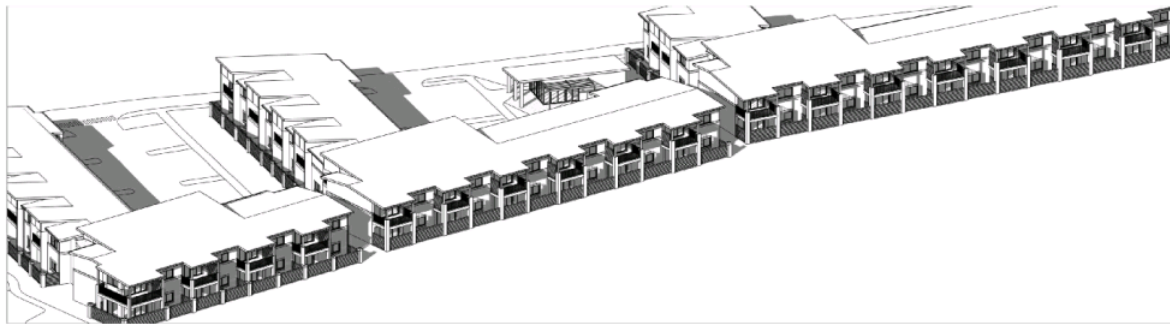
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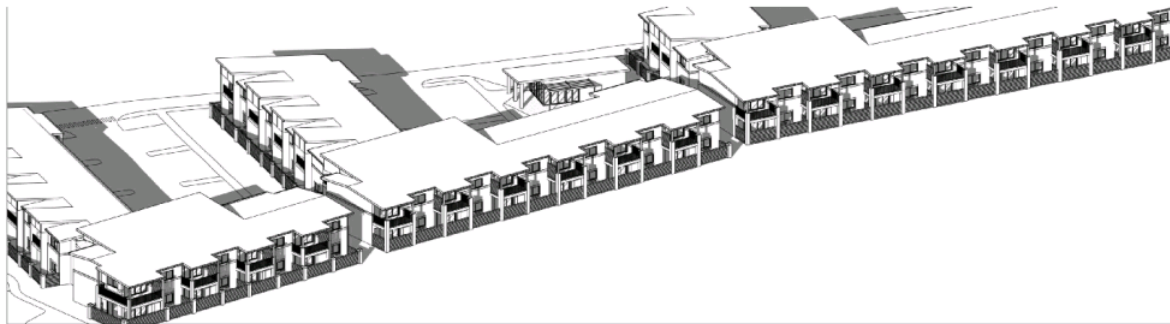
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2017-32 A-402 A

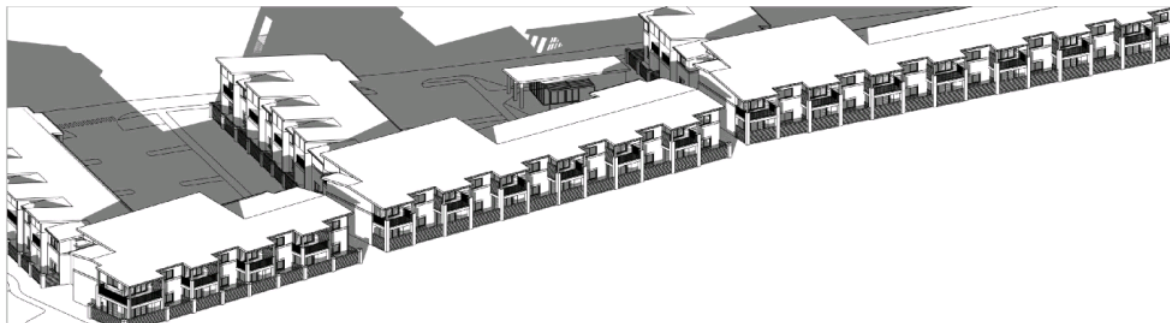
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3PM



4PM

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COLOUR & MATERIALS SCHEDULE

AUSTRAL
BLUE GUM
WALLING



1

AUSTRAL
GREY GUM
WALLING



2

COLORBOND
SHALE GREY
ROOFING, WINDOW
FRAMES, PRIVACY SCREENS,
ALUMINIUM PRODUCTS



3

JAMES HARDIE
SYCON AXON
SURMIST
CLADDING



4

JAMES HARDIE
SYCON AXON
BASALT
CLADDING



5

JAMES HARDIE
SYCON MATRIX
SURMIST
CLADDING



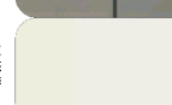
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JAMES HARDIE
SYCON MATRIX
BASALT
CLADDING



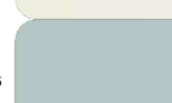
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DULUX
VIVID WHITE
SLAB EDGE



8

CLEAR GLAZING



9

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THE
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COLOUR AND MATERIALS SCHEDULE

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2017-32	A-502	A	