Ordinary Meeting

Meeting Date: Monday, 14 March, 2022
Location: Council Chambers, City Administrative Building, Bridge Road, Nowra

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Shoalhaven DCP
DEVELOPMENT CONTROL PLAN

Summary of Submissions
DCP2014.45 – Chapter S8: Ulladulla Town Centre
Public Exhibition: Wednesday 18 August to Friday 17 September 2021.

No.	Submitter	Summary of Submission	Council Comment
PUBLIC SUBMISSIONS			
1	Individual (I. Carroll)	• Table 1 does not mention setbacks for Precinct 2 Mixed Use (Commercial Residential). Map 3 average setback of 5m is very open ended.	Noted. Setbacks for Precinct 2 are noted in accompanying Map 3. The 5m average setback is intended to provide some flexibility site-by-site whilst forming a generally consistent building line along the street.
		• There is no mention of side setbacks. This should be included in S8 instead of relying on other chapters	Side setbacks are stipulated in the DCP Generic Chapters according to the type of development. The approach for the overall DCP is not to duplicate them in the Area Specific chapters like S8.
		• For Precinct 2 there is no differential in setbacks between commercial and residential. This should be considered.	Precinct 2 is mixed use, the same front setback applies to all developments so as to create a generally consistent building line. No changes recommended.
2	Teraq Pty Ltd (22-24 Wason St Ulladulla)	• Chapter S8 discriminates against subject site.	Noted. In general, the submission raises issues with the DCP controls across the broader town centre area, not those over the southern part of the town centre which are the focus for this proposed DCP Amendment. As noted below, it is recommended that the issues be considered as part of the future proposed housekeeping amendment to Chapter S8.

No.	Submitter	Summary of Submission	Council Comment
		• Objection to paragraph in 3.1.1 (p. 9) and Table 2 (p. 22) regarding a lower floor space ratio for sites of less than 1,600m2 (FSR 1.0:1), compared to sites greater than 1,600m2 (FSR of 1.9:1). We believe 1,600 should be replaced with 1,100m2 in regard to FSR. • 3.1.1 and Table 2 suggest that the difference in FSR will "encourage amalgamation of lots". Yet the stated Objective (p. 13) are Economic, Environment, Built Form and Character, Accessibility, Urban Design/Lifestyle and Employment. • Council provides no evidence that amalgamation of larger sites in Ulladulla has been effective in achieving the stated objectives. The arbitrary selection of 1,600sqm, should be reduced to 1,100sqm. There is plenty of evidence, national and international, where sites of 1,100sqm, with adequate width for vehicle turning circles, can achieve Council stated objectives. • Table 2 (p. 22) is suggesting that sites under 1,600sqm will have a building height limit of 11m, yet larger sites will have height limit of 17m. We object to smaller sites be penalised. Council provides no evidence that larger sites, with greater height limits are more likely to achieve Council objectives.	Noted. This issue is outside the scope of this proposed DCP Amendment. **Recommendation: review FSR incentives for consolidation, including whether the incentive should apply to smaller lots, as part of the future housekeeping amendment to Chapter S8, to commence following the review of the Milton Ulladulla Structure Plan.**
		• Map 3 (p. 18) notes "provision of future pedestrian pathway 6m wide" on our site. Previous plans, including DCP 56, provide for a "pedestrian flow", but have not provided dimensions. By including width dimensions, Council is effectively putting an easement on our property, without any prior consultation and without any fair compensation. The imposition is inappropriate and an overreach of Council power. We object to the use of dimensions and demand "6m wide" be removed.	Noted. Map 6 identifies the subject pedestrian pathway for possible acquisition by Council. The submitter was separately advised that the DCP controls are a guide and can be considered flexibly in any future DA. This issue is outside the scope of this proposed DCP Amendment but should be reviewed as part of the review of planned infrastructure improvements in the future housekeeping DCP amendment. **Recommendation: planned pedestrian paths across the DCP area be reviewed and, if necessary, updated as part of the future proposed housekeeping amendment to Chapter S8.**

No.	Submitter	Summary of Submission	Council Comment
3	Individual (R. Olde)	DCP Boundary • From Map 1, the proposed Residential Unit Living Precincts do not include any characteristics of a town centre and should not be included in this DCP. Working waterfront precinct • From Map 4, Building Height Limits, It is proposed that a substantial area, if not all, of the waterfront on the south side of the harbour, with the exception of the breakwater and the wharves, will be developed by the introduction of two storey buildings with a height limit of 7.5 metres. • From the area shown on Map 4, does this mean that the current tuna processing plant, retail outlets and the large slipway will be removed/replaced? • Will the current trees on the south side of the harbour be removed? • I understand that there is a mini-marina proposed/planned/approved for the south side of the harbour. Should this also be included in the DCP? Building height limits • The apartment block (Pier 32) on the corner of Wason and Burrill Streets is five storeys in height. What safeguards will be in place to ensure that this height will not be used by developers as a precedent to override the height restrictions of this DCP relating to two, three and four storey constructions? • The proposed Residential Unit Living Precinct (Map 1 Area 4) on the eastern side of Burrill Street should be limited to two storeys.	Change not supported. The subject precincts are identified for higher density residential development, an important component that supports commercial activity and assists in activating the town centre. Noted. Map 4 sets maximum permissible height of buildings – future development may or may not utilise the full permitted height. The detail of any future development (height, uses, tree removal etc) in the Working waterfront precinct would be considered as part of a DA process. In general though, any proposal would need to align with the land's IN4 Working Waterfront zoning and with the precinct objectives in section 3.6 of Chapter S8 (in addition to other planning controls applicable to the site). The need (or otherwise) for the DCP to reference a mini-marina would be considered as part of the detail of that project if it proceeds. Noted. Building height limits are controlled by Shoalhaven LEP 2014 Clause 4.3 and its associated Height of Buildings Map. Any proposal seeking to vary the building height would need to be justified under existing criteria in LEP clause 4.6 and would be considered on its merits by Council. Noted, however outside the scope of this DCP Amendment. The LEP height of buildings for this precinct is 11m (north) and 8m (south) and is replicated in the DCP. Building heights for the southern part of the town centre were reviewed in 2017, no changes were recommended for this precinct.
4	Milton Ulladulla Bowling Club	• Clarification of seventh bullet point under 3.3 Precinct 3 "Encourage tourist accommodation uses in conjunction	The Milton-Ulladulla Bowling Club is zoned RE2 Private Recreation which permits *tourist and visitor accommodation*

No.	Submitter	Summary of Submission	Council Comment
		with private recreation facilities" that this would allow for some temporary accommodation (hotelling or serviced apartment style) to be part of a future development by the bowling club in Precinct 3.	with development consent. This includes hotels/motels and serviced apartments.
		Request additions to Precinct 3 (Recreation and Special Activities precinct) – development in this area should: • Demonstrate the compatibility of the proposed uses within a mixed-use development context with specific reference to adjoining and adjacent development such as leisure and entertainment uses. • Allow for a combination of temporary and short-term accommodation such as hotel and motel accommodation, serviced apartments and the like (also see Chapter G15 – Tourist and Visitor Accommodation). Accommodation must not dominate use of the site. • Compatible retail/commercial uses including restaurants and cafes, gift shops, galleries, personal services, leisure and indoor recreational facilities and the like. • Increase activity levels in the Town Centre outside of business hours and improve the quality of the urban environment adjacent to the retail area. • Promote shared use of privately funded facilities, new developments are encouraged to design future infrastructure so that it can be shared, particularly by adjoining users.	Noted, however outside the scope of this DCP Amendment. **Recommendation: Consider including additional development objectives in the Context statement for Precinct 3 as part of the future broader housekeeping amendment.** This would enable any proposed changes to be reviewed by other landowners in the precinct and the broader community.
		Reasoning for requested changes • The Bowling club is a successful community-based organisation. Our mission is to provide Ulladulla with entertainment, bowling and recreational facilities, meeting spaces and dining services, and to support the towns tourism and commercial growth. • We share the Council's commitment to a design-led, place-based revitalisation process for Ulladulla, and we can specifically confirm our complete alignment with the DCP's objectives.	Noted. The bowling club is encouraged to have a pre-DA lodgement meeting/discussion with Council staff to discuss its future development proposal at the appropriate point.

No.	Submitter	Summary of Submission	Council Comment
		• The Bowling club is a significant landholder in Precinct 3 adjacent to the harbour foreshore and the Ulladulla commercial centre. We have the desire and the resources to work with Council to enhance our connection to the Town Centre. • The Bowling club's location in Precinct 3 is appropriately identified as the "Northern Gateway to the Town Centre" from St Vincent Street. This "gateway" is not properly celebrated due to the disparate elements on the corner of Green Street. • Without compromising the intent of Precinct 3, the Bowling club will (in the future) seek Council's planning support for integration of the Bowling club's development aspirations with the adjacent park on the corner of Green Street and St Vincent Street, and the Fossil House on Green Street. • This integrated design approach is important in order to achieve highest and best use of the site in keeping with its 'gateway' status; Ensure access from the Town Centre to the recreational spaces and facilities for business and tourist users; Enhance the vista down Boree Street towards Millards Creeks, with accountability for view sharing; Provide a vibrant and safe street frontage to Green Street; and Improve the capacity in Precinct 3 for community events. • A specific design is yet to be developed. • Requested changes to the Draft Amendment No 45 are intended to ensure that the Bowling club's future plans are fully aligned to Council's aspirations.	
5	Martin Morris & Jones (MMJ) Pty Ltd on behalf of IRT Group	• Note there appears to be no direct changes to Precinct 4 or the site 60-88 Church Street, however, note the exhibition material states a future amendment to the whole of the Ulladulla Town Centre area is proposed. Note some discrepancies relating to this site (see below) and request they be addressed in the current or future housekeeping amendment. • We note that the current DCP Chapter includes discrepancies in Table 2 Development Standards and	Noted, see further responses to the noted discrepancies below. Noted and agree with the recommendation.

No.	Submitter	Summary of Submission	Council Comment
		Maps 4 and 5. The current DCP Chapter S8 identifies a maximum building height of three stories and 11 m with no minimum lot size area and a FSR of 1.0:1 in Table 2. This conflicts with the maps included in Map 4 (Figure 4) and Map 5 (Figure 5) which identify a maximum building height of four stories and 11 metres and a FSR of 1.5:1 and the Shoalhaven LEP 2014 which maps a maximum 14 m maximum building height and an FSR of 1.5:1. • Recommend that Council amend the development standards in Table 2 for consistency with Maps 4 and 5 and Shoalhaven LEP 2014 controls	**Recommendation: as part of the current DCP Amendment, amend/correct Table 2 to be consistent with the controls for Precinct 4 in Map 4, Map 5 and Shoalhaven LEP 2014.**
		• It appears that the southern boundary line has been updated as a result of the updated boundary in Council's cadastre for the DCP mapping and LEP mapping and the IRT support this change.	Noted.
		• The maximum building heights in the current and draft DCP Chapter S8 are mapped relative to the riparian corridor & buffer from Millards Creek – request that Council review the mapping in the current or future DCP amendment and through a future Planning Proposal to the LEP maximum building height mapping that reflects the amended southern boundary and the 10 m riparian corridor and buffer from the top Millard Creek's bank as has generally been accepted by Council and NRAR.	Noted, however this is outside the scope of the current DCP amendment. The mapping of the creek, riparian buffer and adjoining property boundaries in the draft DCP is based on the current cadastre and registered land titles. The Height of Building map can be reviewed, and if necessary, updated in light of the updated survey information as part of the future DCP housekeeping review. Any changes to the height of buildings map would also need to be reflected in the LEP via a future housekeeping Planning Proposal. **Recommendation: Review the height of buildings map for Lot 20 DP 1132846 relative to the riparian corridor and buffer from the top of Millards Creek bank.**
		• Adjust the location of creek boundary in the DCP mapping consistent with the amended survey plan and the 10m (from top of bank) agreed riparian corridor buffer with Council and NRAR from Millard's Creek. It is requested that the DCP refer to the *Water Management Act 2000* and separate approvals required rather than mapping a required distance in the DCP that is subject to change with	Noted, see comments above. The DCP does not specifically mention the WM Act however this may still need to be considered as part of any DA process.

No.	Submitter	Summary of Submission	Council Comment
		other legislation or through approvals. The DCP maps and other parts of the DCP chapter should be amended to reflect the Water Management Act 2000 rather than stating riparian corridors of certain distances etc. that are subject to a separate approval process through Natural Resources Access Regulator (NRAR). Refer to previous Notice sent to Council's Ulladulla Assessment Team and Survey Plan, Biosis Report and Landscape Plan attached. • Recommend that Council update the DCP Chapter S8 maps and any relevant sections of the DCP Chapter to reflect the revised site boundary and 10 m riparian buffer from the top of bank to Millard's Creek as detailed in the Restoration and Revegetation Plan prepared by Biosis (14 December 2018). It is requested that the 14 m building height or four storeys be extended to the southern section of the site in DCP Chapter S8 Map 4 and Table 2 and through a future amendment to Shoalhaven LEP 2014.	
6	Individual (J. Willmott)	• Objection to the amended view sharing principles. • I also remind you of the extensive work of DCP56 Amendment 4 as the legitimate DCP with extensive community involvement. You have seen the past decade of the watered-down Amendment 5 has not resulted in the needed urban consolidation as a result we have run out of low-density land. • The average 5m setback is not as I remember a feature of Amendment 4. • I and most of the town are happy with pier 32. We need to look at this and improve upon it.	Noted. There are significant views and vistas throughout the Ulladulla town centre. It is considered appropriate that developments consider views in line with the NSW Land and Environment Court Planning Principles and this was a recommendation of the Ulladulla Building Heights Review. It would also align with other DCP chapters which reflect the LEC planning principles, e.g. G13: Medium Density and Other Residential Development. The former DCP 56 Ulladulla Town Centre was repealed and replaced by the current DCP Chapter S8: Ulladulla Town Centre in 2014. It is noted that Amendment 4 to DCP 56 existed from August 2008 until March 2011. The following Amendment 5 was prepared with considerable community input resulting from concerns regarding the content of Amendment 4. Noted.

No.	Submitter	Summary of Submission	Council Comment
		• The face brick is not desirable especially on the levels where the building steps in and should read light weight. • I would not want to see another building of this mass constructed. My assessment in hindsight is it needs a 6m separation in the middle dividing into two towers. This principal in future developments will open up view corridors provide better air circulation and light. Can we have some sort of workshop to review pier 32 with the aim of guiding bulk scale and mass of future residential. We all did a good job in the approval of Pier 32 I think it's a positive for us left to get together and determine what has worked and what hasn't. Building height is the least of it. • 25% adaptable units is too great we need supply.	Face brick is already discouraged by the DCP (see A28.1) "Face brickwork is discouraged". Noted. The scope for the future DCP housekeeping review already includes reviewing built form controls and this issue will be considered at that time (see points listed under 'Proposed Future Housekeeping Amendment' in the report). The other issues raised are generally outside the scope of this DCP Amendment, as such no changes are recommended.
7	Individual (M. Puglisi)	• Objection to the view preservation clause - i.e. new Acceptable Solution for the Performance Criteria 'Maintain important views and vistas' (reproduced below): A2.2 Any reduction in views from the public domain or private property is not to be severe or devastating based on the following NSW Land & Environment Court Planning Principles: • Views - General principles. • Views - Impact on public domain views. **Note**: Where compliance with the objective, performance criteria and acceptable solution is achieved, the expectation of there being no change to existing views is considered unreasonable. •	Noted. There are significant views and vistas throughout the Ulladulla town centre. It is considered appropriate that developments consider views in line with the NSW Land and Environment Court Planning Principles and this was a recommendation of the Ulladulla Building Heights Review and is consistent with other existing DCP Chapters e.g. G13: Medium Density and Other Residential Development. The proposed amendment adds a new 'acceptable solution' to an existing performance criteria; there may be other ways of achieving the performance criteria which could be considered at DA stage. No change recommended.
8	Visionata Architects on behalf of F. Fitch & Sons Pty Ltd	• General concerns in relation to both the prescriptive controls outlined in the document specifically pertaining to	Noted. Further details and Council comments provided below.

No.	Submitter	Summary of Submission	Council Comment
		the Harbour Triangle precinct as well as the desired outcome of the control plan as a whole. • Support the objective for Sustainable Investment in the Ulladulla Town centre and Harbour. • Believe the DCP unfairly encumbers the majority of land in the Harbour Triangle precinct. • There is no incentive to develop land in the precinct. • Land is encumbered by a network of height controls, setbacks, pedestrian thoroughfares, heritage constraints and contributions.	
		Important views and vistas • Note that the Fitch development site provides no cross-site vistas or views from Wason St. Objection to 2 thoroughfares applied to the site.	Noted. It is understood that the '2 thoroughfares' referenced in the submission are the 'panoramic views' from the rear of the site over the harbour as indicated on Map 2 of the DCP. At this point no changes are recommended.
		Setbacks • Have received correspondence from council detailing a proposed realignment of the council public foreshore walkway which will be positioned on council-controlled land approximately 150mm beyond our boundary. However, the DDCP appears not to be updated reflecting this modification.	Noted. The DCP can be updated to reflect any changes to the walkway alignment once it is finalised. **Recommendation: Update relevant maps and figures for the final harbourside walkway alignment as part of the future housekeeping amendment.**
		Building height and floor space ratios • The DCP encourages consolidation of land by way of offering FSR incentives to 1.5:1 FSR for land over 1,600m2 however we believe the documents fail to recognize that it is extremely difficult to viably occupy levels above the ground level with anything other than a form of residential development in a regional township. Do not believe there is any incentive to capitalize on the available FSR without relaxing the controls on residential uses permitting Mixed use development in the commercial core. • An increase in the height control coupled with possible restrictions on footprint above the ground plane would	Noted. The suggested changes to building height and building footprint are beyond the scope of the proposed housekeeping amendments and would best be considered as part of a holistic review of the planning controls applying to the precinct. They would possibly also require a Planning Proposal to amend the equivalent LEP building height controls. It is noted however that the DCP is a guide and there is the ability to consider the controls flexibly if alternate design solutions are proposed as part of a DA. At this point no changes are recommended. It is noted that there are no restrictions on having residential accommodation in the Harbour Triangle precinct under the current B4 zoning.

No.	Submitter	Summary of Submission	Council Comment
		encourage development to use the FSR and generate more permeable development with vistas and sightlines to the harbour between buildings from the ground plane upwards. This is far more equitable than placing a blanket height plane benefitting only the top floor of the next row of buildings behind the subject development. We encourage council consider alternate controls along these lines and relax height plane restrictions.	
		Landscape • Do not believe the application of 25% of the site area being deep soil planting is appropriate in the commercial core or specifically the Harbour Triangle precinct. Suggest excluding the HTP from this obligation.	Noted. Issue is outside the scope of the current DCP amendment but can be reviewed as part of the future housekeeping amendment. **Recommendation: Review the appropriateness of the requirement for 25% of site area to be deep soil planting in the commercial core precinct (specifically the Harbour Triangle sub-precinct)**
		The public domain • Note the exclusion of permanent residential accommodation in the Harbour Triangle Precinct and request this is reconsidered.	There are no restrictions on having permanent residential accommodation in the Harbour Triangle Precinct (HTP) in the LEP or DCP. The current B4 zoning permits a range of permanent residential accommodation types and there are no restrictions on ground floor uses in the B4 zone. (It is assumed the submission is referring to Clause 7.14 of the LEP 'Permanent occupation in mixed use developments' however clause 7.14 does not apply to the HTP sites.)
		• Council should develop a CBD beautification masterplan for the public domain in the HTP such that coordinated interface between council assets and private development is maintained. We do not believe this to be the responsibility of private landowners.	Noted and generally agreed. Council could consider developing an Ulladulla CBD beautification masterplan for the public domain, subject to funding/resources and other priorities around the City.
		Land adjoining the foreshore • Relevant sections of the DCP should be amended to reflect the council proposed foreshore walkway realignment as issued to the landowners.	Noted. Any changes to the walkway as part of the current foreshore walkway project are minor and can be updated once plans have reached detailed design stage and this has been added to the scope for the future housekeeping amendment.

No.	Submitter	Summary of Submission	Council Comment
		• We believe a rationalization of the public access requirements through private land is required. The Fitch land is unfairly encumbered with many site specific controls which severely limit viable development of over 50% of the Harbour Triangle Precinct.	Noted. The suggested changes are beyond the scope of the proposed housekeeping amendments and would best be considered as part of a holistic review of the planning controls applying to the precinct. It is noted however that the DCP is a guide and there is the ability to consider the controls flexibly if alternate solutions are proposed as part of a DA. At this point no changes are recommended.
INTERNAL SUBMISSIONS – SHOALHAVEN CITY COUNCIL			
9	Development Services Department	• The reference to the pathway which is in the drainage reserve from North St to Church St Ulladulla in the maps should be removed as a recent DA for land on Church St that adjoins the reserve undertook flood modelling that indicated that it was not suitable for a future pedestrian pathway.	Noted. The reference to pathway can be deleted from Maps 2, 3 and 6 as part of the current DCP amendment. **Recommendation: delete references to the pathway in the drainage reserve from North St to Church St from Maps 2, 3 and 6**

Draft Chapter S8: Ulladulla Town Centre

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POST EXHIBITION CHANGES ARE SHOWN HIGHLIGHTED IN YELLOW

Amendment history

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

1 Purpose

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

2 Application

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

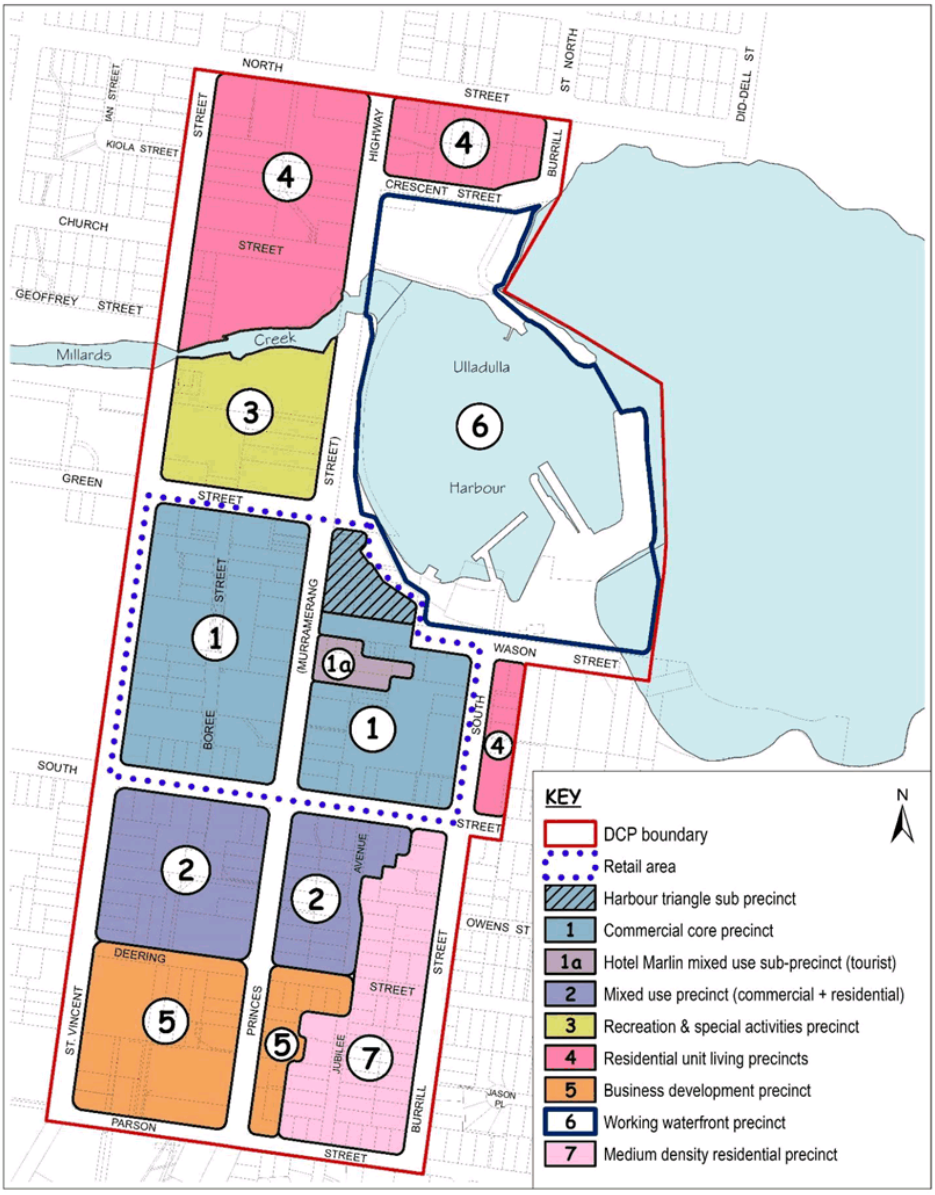


Figure 1: Subject Land Map

CL22.55 - Attachment 2

3 Context

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



Map 1: Land Use Precincts

CL22.55 - Attachment 2

3.1 Retail Area

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

Development within the precinct should:

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

3.1.1 Precinct 1: Commercial Core

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

Development within the precinct should:

- Not reduce opportunities for future retail floor space in the commercial core through incompatible land use or development.
- Only have commercial or retail development on the ground floor of developments and demonstrate compliance with Clause 7.16 in Shoalhaven LEP 2014.
- Sites with an area of less than 1600m^2 will be limited to a floor space ratio (FSR) of 1.0:1 to encourage amalgamation of lots and larger retail modules.
- Encourage opportunities for seniors living in the retail area. A minimum of 25% of the total number of residential units and apartments within any one development are to be designed for adaptable housing.

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

3.1.2 Precinct 1a: Marlin Hotel accommodation sub-precinct

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

CL22.55 - Attachment 2

Development in this precinct:

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

3.2 Precinct 2: Mixed Use (Commercial Residential)

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

Development within the precinct should:

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

CL22.55 - Attachment 2

3.3 Precinct 3: Recreation and Special Activities

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

Development in this precinct should:

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

3.4 Precinct 4: Higher Density Residential

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

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

Development within this precinct should:

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

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

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

3.5 Precinct 5: Business Development (Bulky Goods)

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

Development within this precinct should:

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

3.6 Precinct 6: Working Waterfront

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

Development in this precinct should:

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

4 Objectives

The objectives are to:

4.1 Economic

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

4.2 Environment

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

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4.3 Built Form and Character

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

4.4 Accessibility

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

4.5 Urban Design/Lifestyle

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

4.6 Employment

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

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5 Controls

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

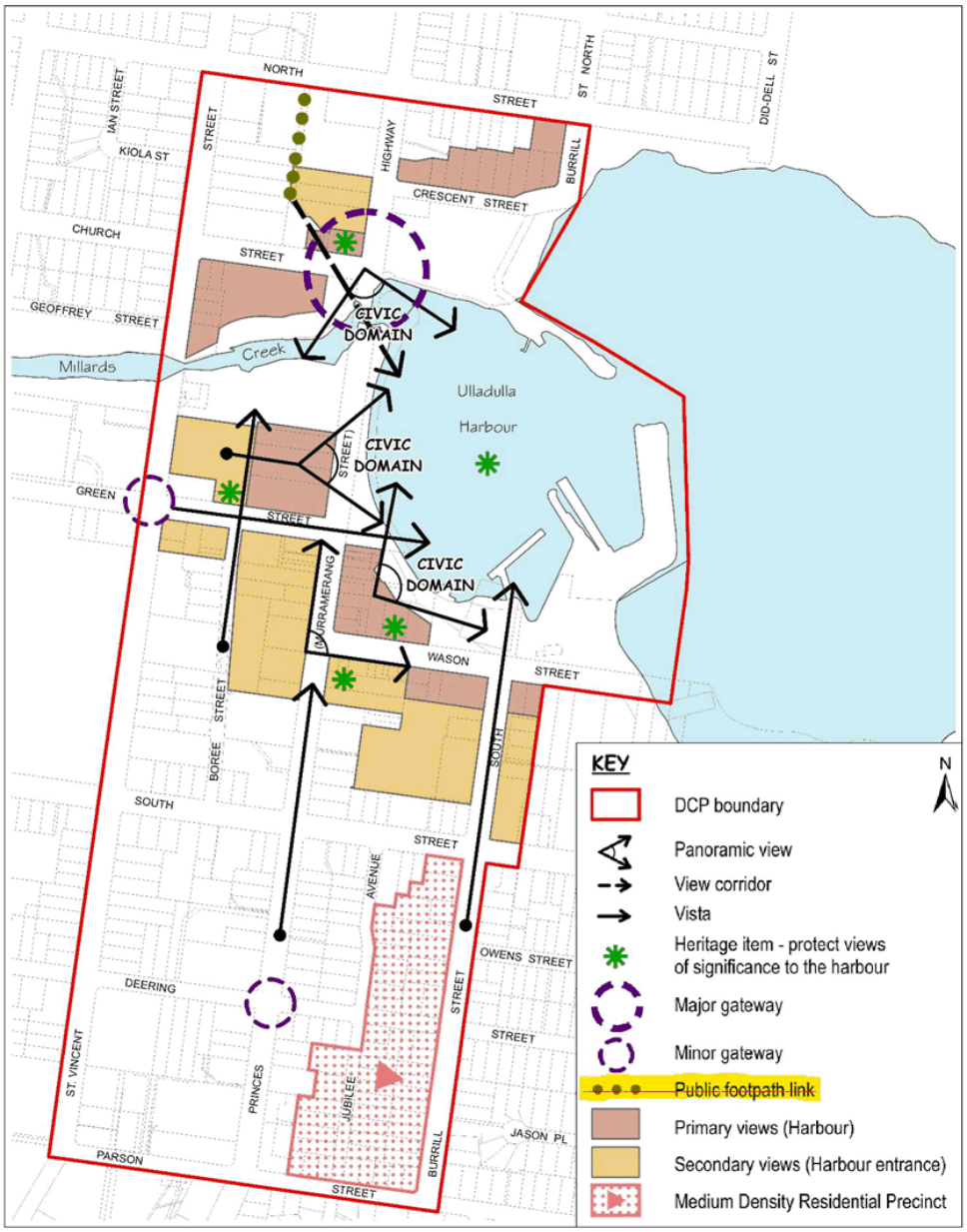
5.1 Subdivision

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

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

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5.1.1 Important views and vistas (see Map 2)

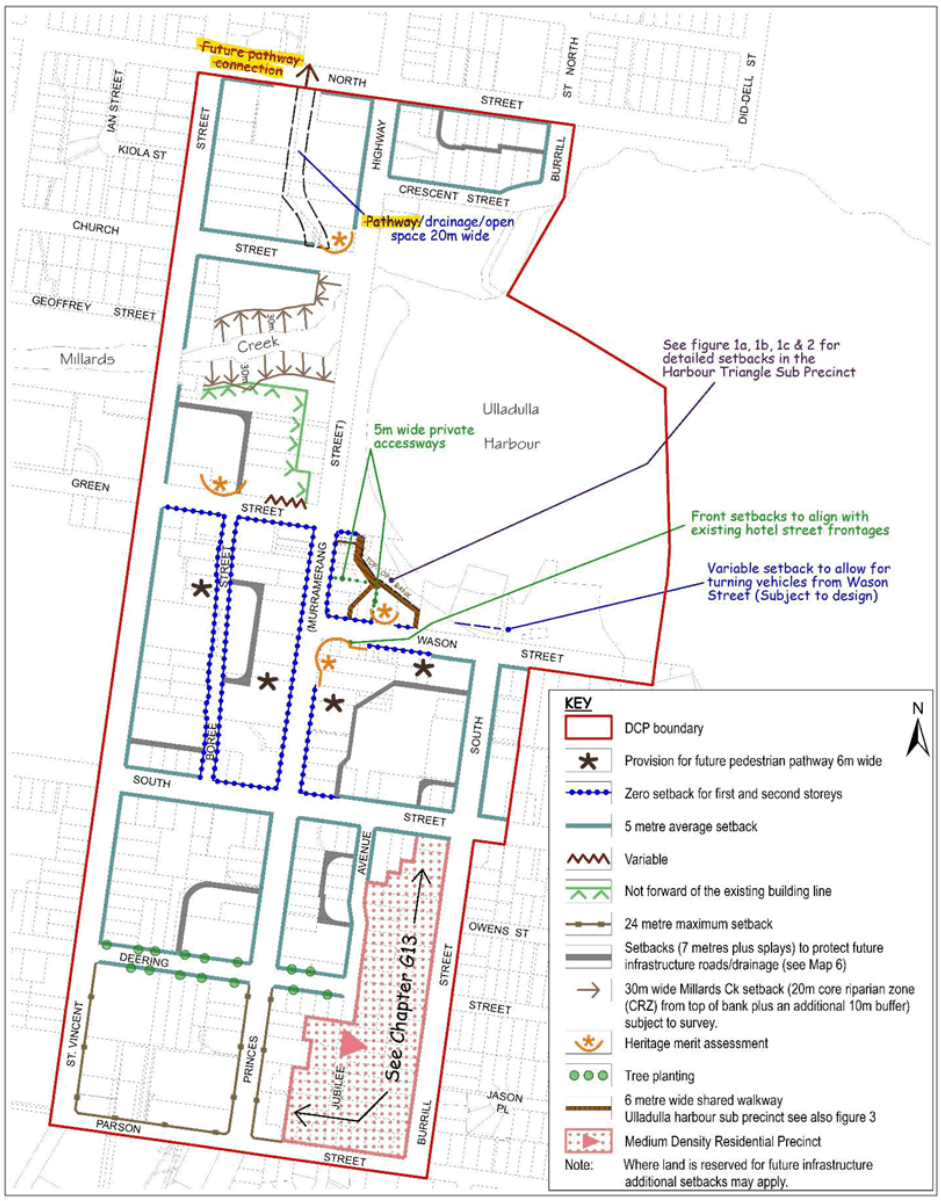


Map 2: View Analysis

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Performance Criteria	Acceptable Solutions
P2 Maintain important views and vistas.	A2.1 Views along public streets to the water and distant surrounding landscape are protected and embellished through framework planting and the like. A2.2 Any reduction in views from the public domain or private property is not to be severe or devastating based on the following NSW Land & Environment Court Planning Principles: • Views - General principles. • Views - Impact on public domain views. **Note**: Where compliance with the objective, performance criteria and acceptable solution is achieved, the expectation of there being no change to existing views is considered unreasonable.
P3 Development will contribute to the careful management and retention of strategic view corridors and filtered views of the coast, harbour and treed backdrop.	A3.1 You must consider opportunities to reinforce views to the harbour and mountains to the west as part of your development proposal. A3.2 You must consider the concept of view sharing in the siting and design of your development. A3.3 You must integrate large buildings with the scale of the overall built environment. A3.4 Your development should generally step buildings down the slope in line with the relevant contours. A3.5 Your development is to reinforce major or minor gateways as identified on Map 2 through high quality architectural and landscape design. A3.6 Development in the working harbour shall protect existing and future visual linkages from the Civic domain to the harbour as shown on Map 2.

5.1.2 Building setbacks (see Map 3)



Map 3: Setbacks

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

Note:

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

Table 1: Setbacks

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

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

5.1.3 Building height and floor space ratios (FSR)

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

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

To achieve implementation of the elevated walkway concept adjoining the harbour, an additional storey may be permitted on Lot 51 DP 828221 subject to the development site area being greater than 1600m^2.

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

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

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

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

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

Table 2: Building Heights and Floor Space Ratios

Land use Precinct (see Map 1)	**Max Building Height**		**Max Floor Space Ratio (FSR)**	
	Storeys	Metres	Min lot size m^2	Max FSR
Commercial Core Precinct 1.	2-5	7.5m, 11m, 14m, 17m	< 1600 1600-2000 + Orphan sites (see Dictionary) >2000	1.0:1 1.8:1 2.0:1
Ulladulla Harbour triangle sub-precinct	Two storeys and variable (see instrument)	7.5 m as measured from Wason Street or the Princes Highway top of kerb and horizontal plane	Up to1600 >1600	1.0:1 1.5:1
Ulladulla Harbour triangle precinct Lot 51 DP828221 only (min site area 1600m2)	Three to four storeys depending on slope of the natural surface	11 m as measured from Wason Street top of kerb & horizontal plane	>1600	1.5:1
Hotel Marlin Mixed Use Precinct (Tourist)	Three storeys	11m	As per commercial core	As per commercial core
Mixed use Precinct 2. (commercial + residential)	Three and Four	11 and 14	No minimum area	1.5:1
Recreation and Special activities Precinct 3.	Three and Four	11 and 14	No minimum area	1.5:1

Residential unit living Precinct 4.	2-4	8m, 11m, 14m	No minimum area	1.0:1 1.5:1
Lots 50-54 DP 263391, Wason Street and Burrill Street South	Three	11	No minimum area	1.5:1
Lot 1 DP 529128, South Street and Burrill Street South	Two	8	No minimum area	1:0:1
Business development Precinct (5)	Three	11	No minimum area	1.5:1
Working waterfront Precinct (6)	Two	7.5	No minimum area	1.0:1
Medium density residential Precinct (7) (west of Burrill Street South)	Three	11	No minimum area	1.0:1

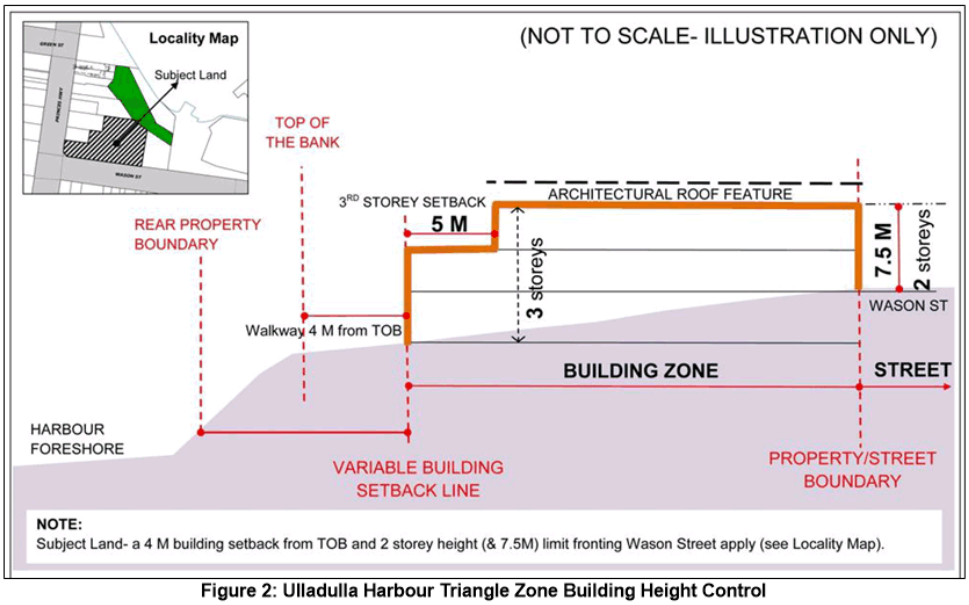


Figure 2: Ulladulla Harbour Triangle Zone Building Height Control

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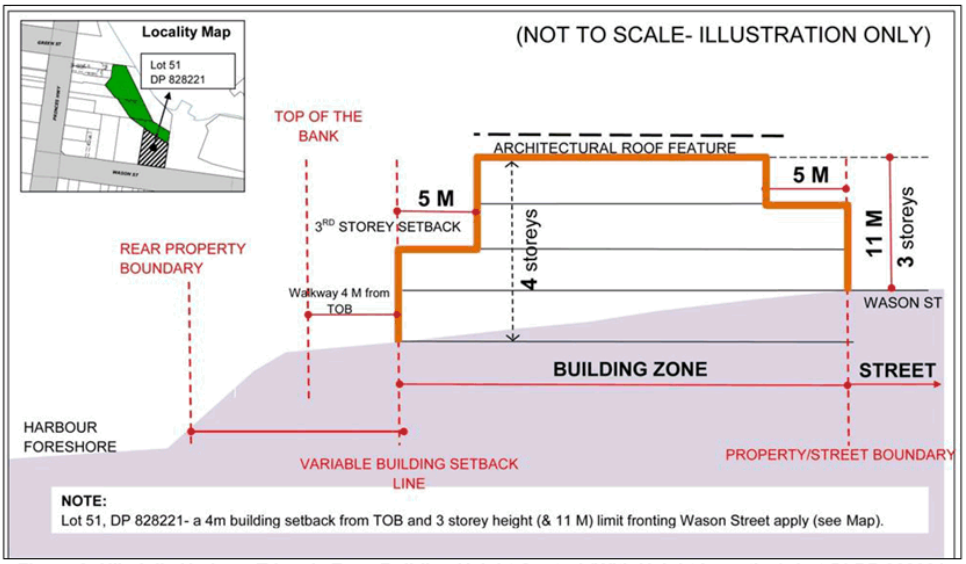
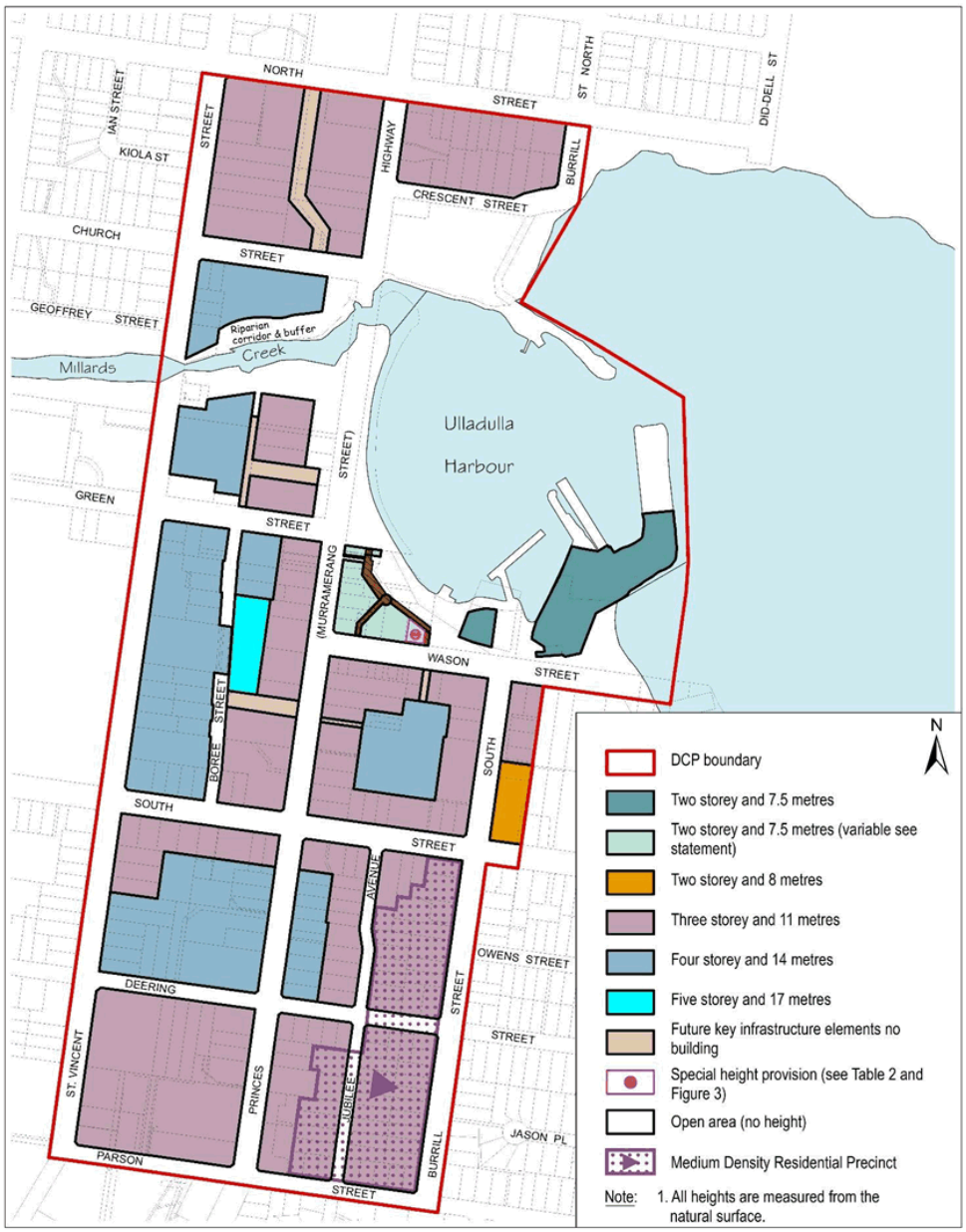
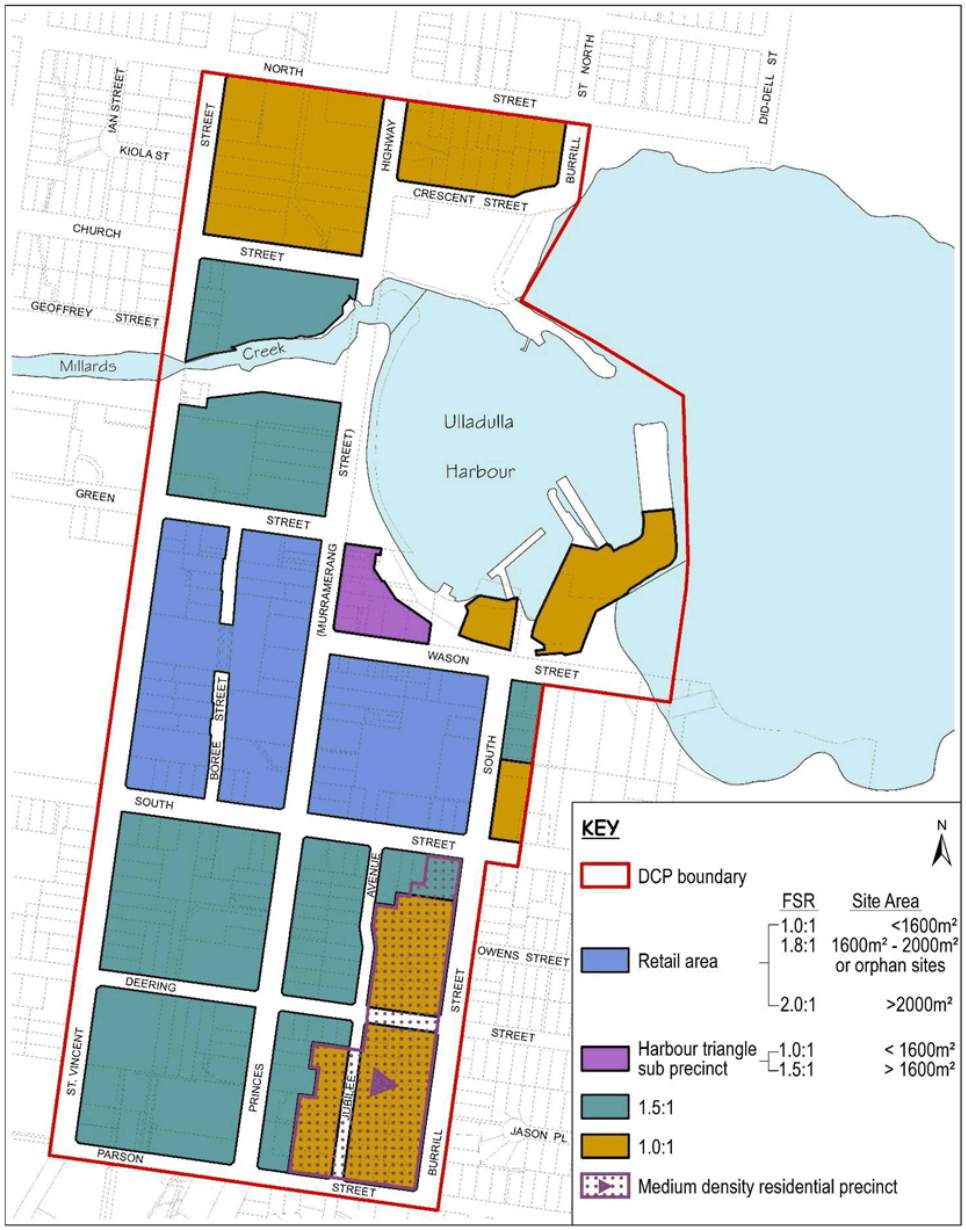


Figure 3: Ulladulla Harbour Triangle Zone Building Height Control (With Height Incentive): Lot 51 DP 828221 Only



Map 4: Building Height Limits



Map 5: Floor Space Ratio

5.1.4 Landscape

Performance Criteria		Acceptable Solutions	
P9	Landscaping shall provide a unifying framework and context for the revitalisation of the Town Centre. It will clearly define the street edge or space as well as creating a strong visual link with the public domain.	A9.1	Your development application must include a landscape plan that addresses: • Any adopted streetscape master plans. • General planting schemes within the site and indicative species. • Visual penetration into the site and embellishment of views. • Hard surface materials within the site including paving, terracing, ornaments, street furniture and the like. • Landscape management/maintenance strategies for short and long term. • Protection and treatment of vegetation proposed to be retained or established on site.
P10	Development should aspire to the highest standards in landscape design construction and maintenance, and exhibit themes that reflect and promote the achievement of the vision for the Town.	A10.1	You are to provide landscaping that is appropriately scaled and located relative to both the building bulk and incorporating existing vegetation where desirable or practical.
		A10.2	If you are planting adjacent to intersections and driveways, you must select vegetation that has a mature height of less than 900mm high to maintain safe sightlines.
		A10.3	Streetscape trees shall be tall branching species and be of a mature size (calliper width of 600mm minimum) and adequately staked to ensure survival from initial planting stage.
		A10.4	Ensure works are durable and resistant to damage.
		A10.5	If your development is a new development in Deering Street, it may need to be setback to accommodate future street tree planting of tall species (minimum mature height 15m) to

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

5.1.5 The public domain

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

It is proposed to achieve this through the use of:

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

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

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

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			of any utility services apart from street lighting.
		A12.4	Tree planning in the centre median south of Green Street and north of Church Street on the Princes Highway should occur following any highway bypass of the town.
		A12.5	Significant tree planning should be carried out on both sides of the St Vincent Street road reserve in locations which minimise impacts to resident's views.
P13	Streetscape and landscape works within public streets and places should be co-ordinated to reinforce the character of the Town and ensure the development of attractive, high quality, memorable and comfortable public places.	A13.1	You should aspire to the highest standards in landscape design, construction and maintenance and exhibit themes that reinforce the maritime character of the Town Centre.
		A13.2	Future works in the public domain should relate to any adopted Urban Design Concept or master plan and paving and street planting should be carried out in accordance with Council's Landscaping Design Guidelines.
		A13.3	When planting within the retail area, you must maintain the following existing themes: • Lophostemon conferta (Brushbox) on major thoroughfares interspersed with native or exotic shrubs. • Ground covers in garden beds. • Where appropriate, planting of annuals to give added colour.
P14	Ulladulla Harbour Walkway Development in the Harbour Triangle Precinct integrates with the Harbour Walkway and future shared way. The walkway will primarily be used by pedestrians but a section may be a shared way and will be designed for use by light service vehicles, emergency access, cyclist, maintenance vehicles and the like. The shared way would be subject to the completion of a servicing management plan. Servicing from the highway will be discouraged where possible.	A14.1	You are to incorporate an open dining area adjoining the walkway/shared way. Public access must be guaranteed. Specifically: • Your development should provide adequate at grade areas adjoining the pedestrian movement corridor to cater for outdoor sitting, cafes and other compatible activities. In this regard, development will be required to be set back a min 8-12m (average 10m) from the top of the bank facing the Harbour (see Figure 2). This area will be designed to allow a future shared way for light servicing,

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emergency access, maintenance vehicles and the like.

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

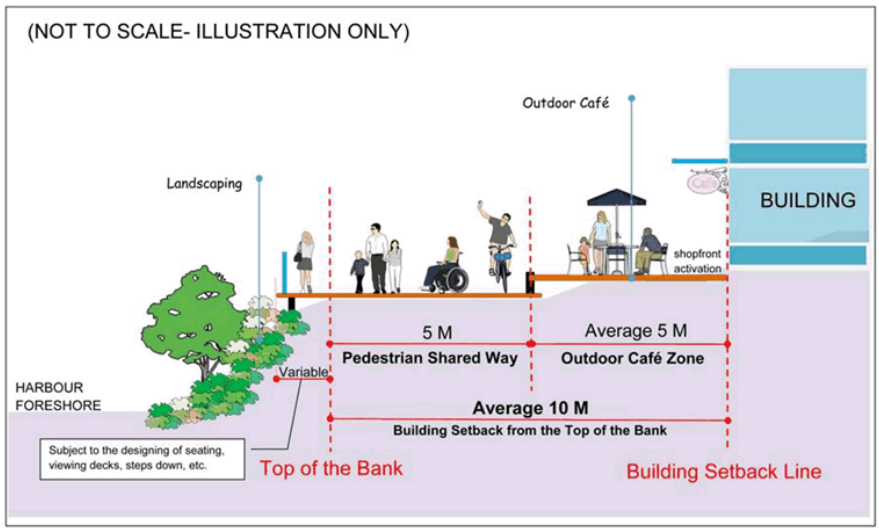


Figure 4: Ulladulla Harbour Triangle Zone Shared Way Concept (Typical Section)

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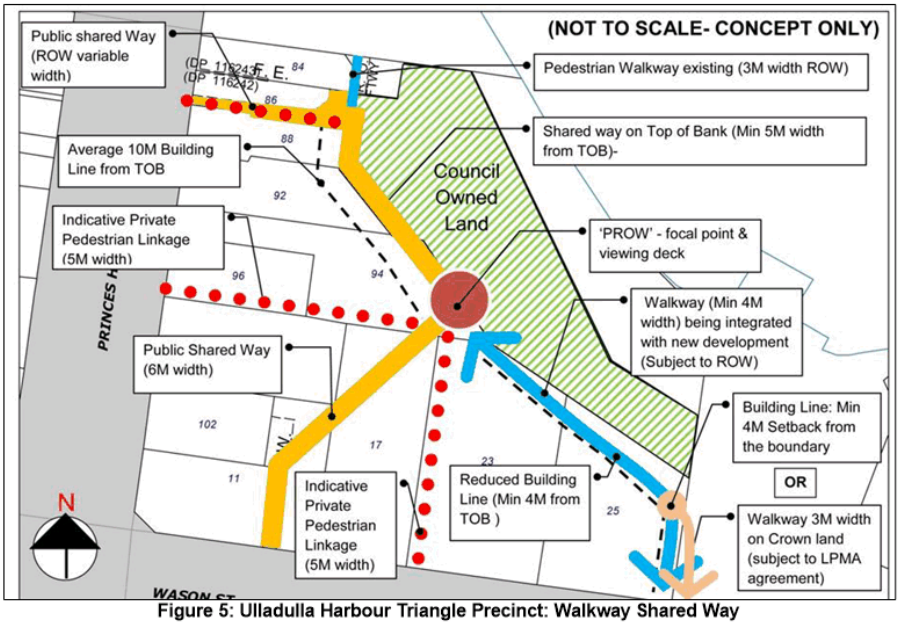


Figure 5: Ulladulla Harbour Triangle Precinct: Walkway Shared Way

5.1.6 Land adjoining the harbour foreshore

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

	harbour management plans and landscape master plans for the foreshore area around the Harbour.
A15.5	There shall be only one point of access from Crown land to Council land for the purpose of providing vehicle access to private land in the Harbour Triangle Sub Precinct, subject to legal access being able to be obtained.

5.1.7 Signage

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

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

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

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

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

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

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

5.2.1 Ecologically sustainable developments

Performance Criteria		Acceptable Solutions	
P19	Achieve energy and water efficient development by: • Reducing the necessity for mechanical heating and cooling. • Reducing reliance on fossil fuels. • Minimising greenhouse gas emissions. • Supporting and promoting renewable energy initiatives.	A19.1	You must consider the siting, layout and construction methods for your development to minimise the need for fuel based heating, cooling or lighting.
		A19.2	You should use water saving features and energy efficient water heating systems.
		A19.3	All buildings must: • Adopt waste recycling and water reuse strategies and actions. • Adopt energy and water efficient fittings. • Incorporate stormwater detention and treatment. • Comprise walls, fencing and screens that are designed and located to allow penetration by winter sun and provide shade against summer sun. • Set aside a waste recycling area. • Incorporate appropriate industrial and commercial waste treatment (including grease traps for restaurants and food manufacturing uses) where necessary.
P20	Deep soil zone	A20.1	You must provide a minimum of 25% of the total area of open space within the site as a deep soil planting zone.

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

5.2.2 Building form/orientation

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

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	parks and the elevated harbour walkway (see Figure 5).
A22.7	You must plan your site to optimise solar access by positioning buildings to maximise north facing walls where possible (within 30 degrees east and 20 degrees west of north).
A22.8	Select buildings types or layouts which respond to the streetscape.
A22.9	Optimise solar access to living spaces and associated private open spaces by orientating them to the north.

5.2.3 Accessibility

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

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5.2.4 Building roofscapes

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

5.2.5 Building appearance, materials and finishes

Performance Criteria		Acceptable Solutions	
P28	Development reflects the maritime character of the area and the positive contribution that the fishing industry and harbour infrastructure makes to the sense of place in the town.	A28.1	Your building materials, colours, textures and styles reflect a distinctive, contemporary maritime theme. In particular: • Lapped weatherboard or equivalent combined with coloured gable metal roofing or similar is encouraged as is rendered brick or block work. Face brickwork is discouraged. • Windows should be of timber construction or alternatively well detailed powder coated aluminium.
		A28.2	High quality durable UV stabilised/corrosion-resistant building materials are favoured. Materials should be durable and low maintenance.
		A28.3	A well-considered mix of materials is encouraged.

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

5.3 Infrastructure

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

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

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

5.3.1 Car parking and access

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

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P32	Car parking is adequate for the future requirements of the Town.	A32.1	Allow for the construction of 200 additional car parking spaces within the CBD to the year 2035.
		A32.2	The Boree Street and South Street public car parks are to be retained for public car parking with provision for multi-level car parks.
		A32.3	A site for long stay multi-level car parks is to be retained at the rear of the Civic Centre site.
		A32.4	Notwithstanding the above, the public car parks may be integrated in a future larger development site provided that: i. Identified infrastructure components are integrated into the development site including: • the provision of all development generated car parking and the replacement of existing public car parking on site; and • additional civic open space, typically 2000m^2; and • pedestrian linkages to the Princes Highway and/or Wason Street. and ii. provision of a next order retail facility e.g. discount department store; and iii. inclusion or residential/tourist accommodation.
P33	Car park entries and driveways are to be kept to a minimum and where practicable are not located in pedestrian areas.	A33.1	Car parking entries and driveways are to be avoided on the Princes Highway in favour of the provision of rear service access. Temporary access may be available until such laneways are available. Where alternative access via a secondary road or rear lane is available, access to the primary road frontage is to be avoided.
		A33.2	Where vehicle access across footpaths cannot be avoided, then a maximum of one access point for each road frontage for the development is provided.

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P34	The 30m wide road reserves are used where possible for on street public car parking.	A34.1	On street car parking is to be maintained in the following streets: • The Princes Highway between Deering Street and Millards Creek. • Wason Street between Burrill Street South and the Princes Highway. • Green Street between the Highway and St Vincent Street. • South Street between Burrill Street South and St Vincent Street. • St Vincent Street between Millards Creek and South Street.
P35	Prevent interruption to existing or potential active street frontages or public open spaces.	A35.1	Car parking structures at street level must present an active frontage preferably with ground level retail or residential tenancies and avoid being next to public places.
P36	Minimise the visual impacts of hard standing areas, maximise site area available for building footprints and maintain a compact and accessible centre.	A36.1	You must hide car parking areas from view. Car parking areas are ideally located in the basement of the building structure where possible.
		A36.2	Your development should not include basement car parks above the surface level. Basement car parks must be adequately screened by landscaping should this occur.
		A36.3	You should avoid at grade car parking or at least provide softening by generous landscaping and shade trees.

5.3.2 Traffic facilities, pedestrian movement and safety

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

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		A37.3 Where pedestrian desire lines cross roads, traffic lights should only require pedestrians to cross a maximum of five pedestrian lanes and a max of two traffic lanes in the case of pedestrian refuges. A37.4 The depth of any pedestrian refuge is to be designed to accommodate an aged person's electric cart or a parent with a baby's pram in accordance with Transport for NSW (TfNSW) and Council standards. A37.5 Mid-block pedestrian thresholds are to be provided to any street located within the retail core. A37.6 Wason Street, Boree Street and the area in Green Street between Boree Street and the Highway are to be designed as parking streets to improve pedestrian and tourist amenity and to allow for outdoor café precincts. A37.7 Traffic roundabouts are to be provided at the following intersections: • Boree Street and South Street. • Jubilee Avenue and South Street together with the relocated entrance to the South Street car park.
P38	Minimises the impacts of pedestrian traffic conflicts within the Town Centre	A38.1 Provision is made for median strips on the Princes Highway between Green Street and Parsons Street. A38.2 Traffic lights should be provided at the following intersections: • South Street and the Princes Highway. • St Vincent Street and South Street. • Wason Street and Burrill Street. A38.3 A mountable roundabout should be provided at the intersection of St Vincent Street and Parson Street. A38.4 Pedestrian facilities (mid-block crossing) should be provided at the following locations: • On the Princes Highway south of Church Street (mid-block crossing).

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			• On St Vincent Street north of Millards Creek (mid-block crossing). • On the Princes Highway opposite the Civic Centre (mid-block crossing). • On the Princes Highway between Wason Street and South Street (mid-block crossing). • On the Princes Highway between South Street and Deering Street (mid-block crossing). • On Wason Street (double mid block crossing or wombat).
		A38.5	The following key pedestrian links should be protected: • In the vicinity of 22-24 Wason Street – South Street car park to Wason Street café precinct and elevated harbour walkway. • Lot CP SP 69933 existing link from South Street to the Highway. • Lot 46 DP 597282 Boree Street car park to the Highway proposed vehicle and pedestrian thoroughfare. • Lot 2 DP 525618 Boree Street car park to the St Vincent Street Community Centre.
P39	Identifies major traffic access routed to the Town Centre and minimises their impacts on residential amenity.	A39.1	The main feeder roads to the business centre have been nominated as: • The Princes Highway (note: access from proposed bypass to the southern end of the CBD should be via Kings Point Road). • St Vincent Street and its extension south to the Princes Highway (see Chapter S10: Ulladulla South). • Green Street to St Vincent Street (access from future bypass). Where such streets are located in residential areas, traffic calming and noise reduction measures are to be undertaken to maintain satisfactory residential amenity.

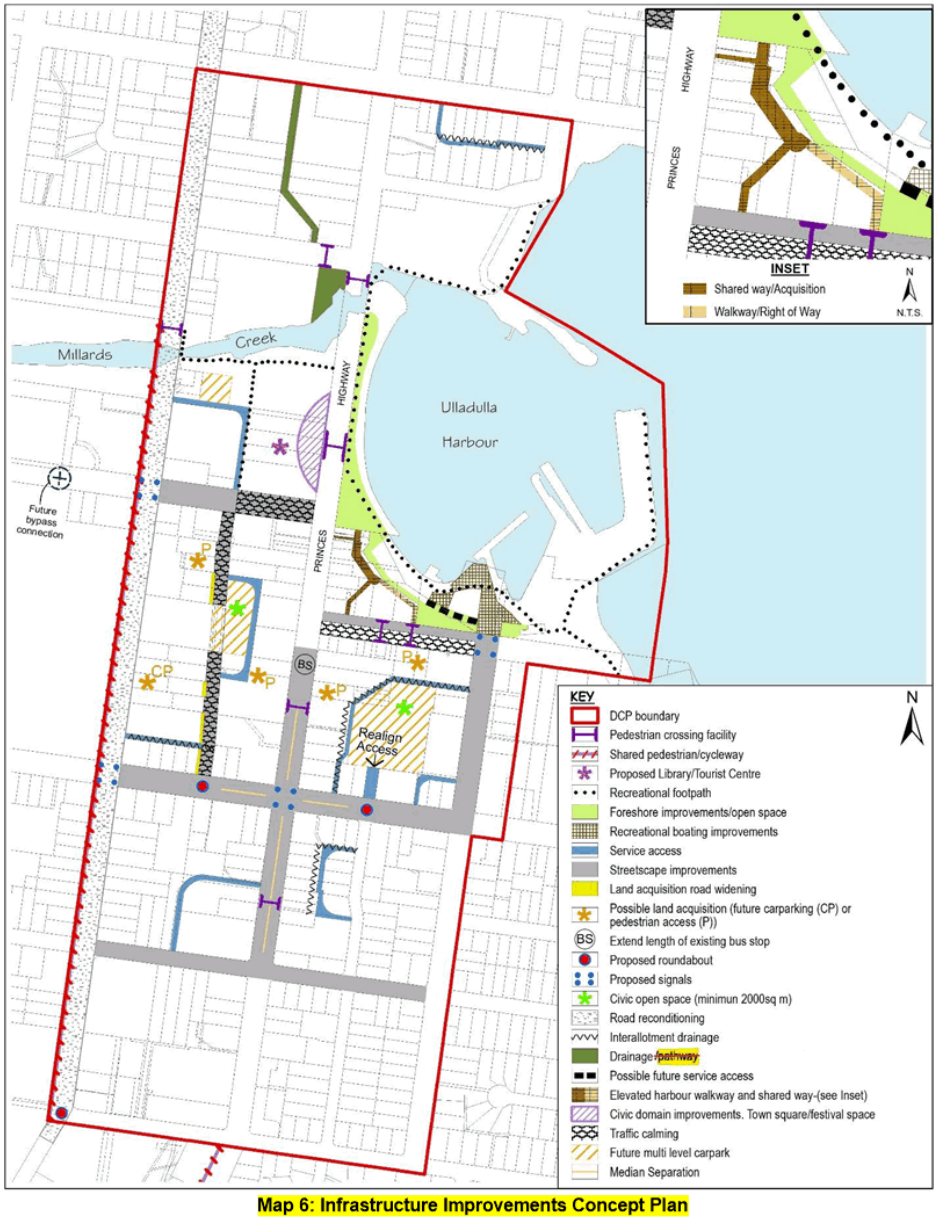
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P40	Ensures that pedestrian networks are accessible, safe and convenient and comply with the relevant Australian Standards.	A40.1	Ensure that all footpaths that contribute to the pedestrian network conform to the relevant Australian Standards.
		A40.2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

5.3.3 Roads and rear service lanes

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

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Map 6: Infrastructure Improvements Concept Plan

5.4 Utility Service, Waste Management and Soil and Stormwater Management

5.4.1 Waste

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

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

5.4.2 Water supply

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

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

Performance Criteria		Acceptable Solutions	
P45	Water supply infrastructure is provided to all development within the area to which this Chapter applies.	A45.1	You must make adequate provision for water supply: • Provision of components (stops valves, hydrants etc.) to ensure flexible operation of the reticulation in minimising disruption to customers. • Ensure sizing of infrastructure to allow possible future expansion, to

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			minimise pressure loss and maximise flows (within acceptable parameters). • Design shall minimise long term operational costs. • Minimum 150 diameter water mains shall be provided to commercial development where reticulated system cannot provide adequate customer levels of service (including requirements for firefighting). • Water supply shall be extended from suitably sized water mains and interconnected to other suitable sized main as required by Shoalhaven Water. • Water mains shall be located within public road reserves. • Minimisation of dead ends.
P46	Water services shall be provided to development within the area to which this Chapter applies.	A46.1	Water services shall be sized to support the overall development.
		A46.2	All metered services shall have unobstructed access at all times.
		A46.3	Commercial development shall minimise the number of connections to the water supply system.
		A46.4	Commercial developments will require backflow device(s).

5.4.3 Sewerage

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

Performance Criteria		Acceptable Solutions	
P47	Sewerage infrastructure is provided to all development within the area to which this Chapter applies.	A47.1	You must make adequate provision for sewerage infrastructure: • Minimisation of lengths of sewers. • Sewer designs being above the minimum design limitations to provide tolerances during construction. • Ensure sizing of infrastructure to allow possible future expansion (within acceptable parameters).

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		• Provision of components to ensure minimum operational costs to the sewerage system, minimise infiltration and inflow into the system and disruption to customers. • Sewerage infrastructure shall be located within private lands. • All access points shall have unobstructed access at all times. • Easements for drainage of sewage in favour of Council are required to be dedicated to ensure all lands can access the town sewerage system. Width of easement to be determined at development application stage. • Easement for drainage of sewage shall be required to extend across the property(s) to ensure future upstream developments to extend and connect to the sewerage system. • Pressure sewer systems may be required to serve development which cannot drain to the gravity sewerage system. • Sewerage systems must be integrated to service the whole sewerage system.
P48	Sewerage services shall be provided to development within the area to which this Chapter applies.	A48.1 Commercial development shall have one connection point to the sewerage system. A48.2 Individual pressure sewer units not part of a pressure sewer system must connect to a manhole. A48.3 All connection points shall have unobstructed access at all times. A48.4 Commercial development may require trade waste approval.

5.4.4 Soil and stormwater management

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

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	Ulladulla Harbour, is maintained both during and after construction. Prepare appropriate management strategies based on the principles of Ecologically Sustainable Development and Water Sensitive Urban Design. Management strategies should be prepared by suitably qualified persons and address: • The reduction of runoff from the area to pre-development levels of up to 1:100 year events using on site detention. • On-site infiltration. • The ability of existing structures and the subsoil to withstand the effects of retained water on site. • A site drainage system which can be economically maintained with ready access provided to all relevant components. • The minimisation of detrimental impacts on existing water balance. • The safety and convenience of pedestrians and people with disabilities using the site. • Provision is made to ensure damage or nuisance flows to adjoining properties are not exacerbated but reduced where possible. • The design of the minor drainage system takes full account of both upstream and downstream systems. • Community benefit is maximised through the retention of natural watercourses and vegetation where possible. • The system design optimises the interception, retention and removal of water borne pollutants through the use of appropriate fitness for use criteria. • Stormwater systems which are effective in reducing the overall cost of drainage within the catchment.	A49.2	Hard engineering solutions involving overly large piped drainage systems should be avoided. A49.3 Reduce runoff from area to pre-developed levels up to 1:100 year event by on site detention. A49.4 Adequate provision is to be made during construction to ensure that landform is stabilised and erosion is controlled. A49.5 Drainage easements in favour of Council may be required to be dedicated and constructed by the developer. A49.6 Natural floodway of all creek and drainage systems are not to be altered except where alterations are required to ameliorate problems caused by existing development to clear restrictions in natural watercourses. A49.7 No untreated stormwater from any future development within the DCP boundaries will directly enter any creek or drainage line, which ultimately drains into Ulladulla Harbour.
P50	Identify areas where drainage systems are inadequate or need to be upgraded.	A50.1	To adequately manage stormwater generated from the higher density residential areas bounded by Church Street, St Vincent Street, the Princes Highway and North Street, a drainage reserve is to be acquired. This drainage

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

5.4.5 Lighting

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

5.4.6 Statutory authorities

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

6 Advisory Information

6.1 Other legislation or policies you may need to check

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

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Council Policies & Guidelines	• Shoalhaven Contributions Plan 2019
External Policies & Guidelines	• Apartment Design Guide
Legislation	• Shoalhaven Local Environmental Plan 2014 • State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development • State Environmental Planning Policy (Coastal Management) 2018

Summary of Submissions

PP005: Deferred Land - Lots 21-24 DP 714096 Warrah Road, Bangalee

Public Exhibition: 12 May 2021 to 25 June 2021

No.	Submitter	Date Received	Summary of Submission	Staff Comments
1	Individual Bangalee	20/05/2021	**Not supported. Comments/concerns:** • Does not like and is not in favour of the planned proposal or the associated amendments to the Shoalhaven Local Environmental Plan (LEP) 2014. • All infrastructure should be upgraded before any other amendments or building takes place. • The minimum block size should be ≥2,500 m² consistent with the locality;	**Objection, comments/concerns noted.** 1.1 The Deferred Land is part of the 'Crams Road Investigation Area' (CRIA) identified in the Nowra-Bombaderry Structure Plan (NBSP) adopted by Council in 2006/07 and endorsed by the NSW Government in 2008. The regionally significant growth area of Nowra-Bomaderry remains a focus for housing supply in the Illawarra-Shoalhaven Regional Plan 2041. 1.2 The proposed development area will be mapped as an Urban Release Area (URA) under Part 6 of the Shoalhaven LEP 2014. Part 6 (Urban Release Areas) requires that the following matters must be addressed/resolved before land in a mapped area is subdivided/developed: • Arrangements for the provision of designated State public infrastructure (clause 6.1); • Public utility infrastructure (clause 6.2) • Preparation of a site-specific development control plan (DCP) (clause 6.3). 1.3 A detailed explanation of Part 6 of the LEP is provided in the PP. Council resolved (MIN19.289) that release of this land should not occur until both the Princes Highway Shoalhaven River Bridge duplication and the Far North Collector Road have been completed. 1.4 Existing lot sizes in Bangalee immediately north of the subject land range from (av) 2250 m² west of Warrah Road to (av) 4000 m² between Warrah Road and the proposed RU2 zone to the east. In the exhibited PP, land on the northern boundary, east of Warrah Road, was allocated a minimum lot size of 2,000 m² (V1) to provide a graduated buffer to the new higher density residential within the urban release area to the south. A minimum lot size of 1,000 m² (U1) was allocated west of Warrah Road to provide a graduated buffer for similar reasons. Larger lots were not considered necessary in this location due to the

No.	Submitter	Date Received	Summary of Submission	Staff Comments
				presence of the vegetated, unconstructed road reserve between the site and the existing development. 1.5 Revised proposal: The revised proposal provides for +2000m² lots as a transition/buffer between the existing development in Bangalee and the proposed URA. Subject to Council endorsement, a zoning of R5 Large Lot Residential is proposed for these lots. 1.6 The larger lots to the west of Warrah Road would, in part, limit the visual impacts of the loss of some vegetation within the unconstructed road reserve (approx. 300 metres). This road is required for access to the proposed URA and to meet the perimeter road requirements of Planning for Bushfire Protection (PBP) 2019. If the revised proposal is endorsed by Council, this part of the road reserve would be included in the R5 zone. The unconstructed road extending from the western boundary of Lot 212 Lochaven Drive to Gypsy Point Road is not required for access to the proposed URA and is zoned Environmental Conservation C2 under Shoalhaven LEP 2014. 1.7 The minimum lot size to be applied to the R2 zone in the revised proposal ranges from 500 m² to 700 m². Large lot residential (R5) across the entire development footprint would be inconsistent with the NBSP. Of the 80 ha site, only 16 ha (approx.) is proposed for urban release. The lot yield would be insufficient to respond to the urgent need for more housing and render the development economically unviable having regard to the measures proposed to conserve the biodiversity values of the proposed C2 land. (See also Response 7.1 below). 1.8 A revised subdivision concept plan suggests that proposed lot sizes could be in the approximate range of +700 m² (33 lots) and +500 m² (150 lots). The smaller lots would, in part, help to address the demonstrated housing shortage in the Shoalhaven and increase housing supply in proximity to Nowra-Bomaderry.
2	Individual Bangalee	3/06/2021	**Supported. Comments/concerns:** • Block size ≥1,000 m2 rising to 2,000+ m² for better integration with adjacent housing and to support new plantings and wildlife in the new estate. • Increased traffic/secondary access connecting to Pitt Street or Crams Road preferred. Detailed comments were provided to support this concern.	**Support, comments/concerns noted.** 2.1 See responses 1.4. to 1.8 above. 2.2 An additional/alternate access from Pitt Street is proposed to satisfy the requirements of PBP 2019. This alternate access is supported by the Biodiversity and Conservation Division (BCD)(DPIE) notwithstanding the impact on the area subject to the Remediation Order. BCD advised that it is *"open to amending the Remediation Order due to the planning proposal revisions as, on balance, the biodiversity package is considered more robust and assists integrating the bushfire requirements of the RFS while assisting SCC to achieve regional land supply."* 2.3 The design and approvals process for construction of this alternate access would be addressed in the DCP.

No.	Submitter	Date Received	Summary of Submission	Staff Comments
			• Shared public space including cycleways/paths and parks should be incorporated into the development.	2.4 City Lifestyles (Strategic Asset Planning) supports the dedication of a minimum of 4,000 m^2 as public open space within the proposed URA for use by future residents (approx. 500). A local park is considered justified on projected population increase as there are no suitable existing park lands in the vicinity. Ideally, a park would be centrally located to be accessible to all residents of Bangalee. 2.5 Controls for the provision of local infrastructure such as cycleways, shared paths, parks and sustainability infrastructure are more relevant to the subdivision design concept and development application stage if/when the land is rezoned and released for urban development. City Services has considered opportunities for shared user path options to provide important linkages to existing and new development in the area, in particular, the Bernie Regan sporting complex. These are design elements that can be explored in more detail and possibly negotiated via a Voluntary Planning Agreement (VPA) and included in the DCP. Proposals for on-road cycling and new footpath connections within the existing subdivision are included in Council's Pedestrian Access and Mobility Plan (PAMP). The PAMP is proposed to be updated in 2022 and there will be an opportunity for the public to comment. 2.6 A DCP must be prepared prior to release of the land for development in accordance with Part 6 of the Shoalhaven LEP 2014. If the land is rezoned, the community (including the submitter) will have the opportunity to comment on the DCP when it is exhibited for public comment. Any future DA will also be advertised and submissions invited.
3	Individual Bangalee	9/06/2021	**Comments/concerns:** • One entrance from Warrah Road to an additional 200 homes is unacceptable and Warrah Road is not equipped for an extra 300-500 cars. • Secondary access connecting to Pitt Street or Crams Road is essential for the proposal to proceed.	**Comments/concerns noted.** 3.1 See response 2.2 and 2.3 above. 3.2 Access via the northern extension of Warrah Road through to the intersection with Illaroo Road can be explored to reduce traffic impacts on Moondara Drive and Bimbimbie Avenue. This will be further considered at DCP stage if/when the land is rezoned.
4	Individual Bangalee	10/06/2021	**Comments/concerns:** • Access to the development would be via Moondarra Drive and Bimbimbie Avenue and the area currently supports large 1 acre blocks providing	**Comments/concerns noted.** 4.1 See response 2.2 and 2.3 above. 4.2 See response 3.2 above.

No.	Submitter	Date Received	Summary of Submission	Staff Comments
			a pleasant and quiet living environment. • The additional traffic on these streets will destroy that ambience. • Warrah Road should be completed through to Illaroo Road with construction of a new roundabout, or a completely new alternative access should be constructed.	
5	Jerringa Tribe – Traditional custodians	16/06/2021 & 23/06/2021	**Comments/concerns:** • Consultation with Jerringa Tribe required prior to re-zoning and development	**Comments/concerns noted.** 5.1 This submission was referred to Heritage NSW (HNSW). Comments and advice was received regarding continuous consultation with Registered Aboriginal Parties. A letter was sent to the submitter setting out details of the Aboriginal consultation process to date, outlining the next steps and seeking feedback on (a) whether Jerringa Tribe has any specific knowledge of the area that may impact the PP above and beyond that already presented in the ACHA; and/or (b) whether Jerrinja Tribe wish to be engaged, in due course, during the preparation of the DCP and preparation of an Aboriginal Heritage Management Plan as recommended by HNSW. No further correspondence has been received to date. 5.2 Consultation with Jerringa Tribe will continue during re-exhibition of the PP should Council endorse the revised proposal.
6	Individual Bangalee	16/06/2021	**Not supported. Comments/concerns:** • Strongly opposed unless existing residents affected by the Proposal are fairly and justly compensated for degradation of their living standards and property values caused by the increase in traffic on Warrah Road. • Access other than Warrah Road should be provided. • Powerful Owls have been heard calling and recorded on the property by iNaturalist.	**Objection, comments/concerns noted.** 6.1 The rezoning of land does not trigger compensation under the Land Acquisition (Just Terms Compensation) Act 1991. 6.2 See response 2.2 and 2.3 above. 6.3 The BCAR has recognised that the Powerful Owl has been previously recorded in the area, that it is likely that the species may occur and that there is limited potential habitat. The nest tree is located approx. 1 km distant.

No.	Submitter	Date Received	Summary of Submission	Staff Comments
7	Individual Bangalee	22/06/2021	**Not supported. Comments/concerns:** • The bushland/habitat/wildlife should be conserved for future generations. • Bangalee is a small community separated from the more urban area of North Nowra by the bushland. Development of so many dwellings would change the character of the area.	**Objection, comments/concerns noted.** 7.1 If the revised proposal is endorsed by Council and finalised, all land (45 ha+) zoned C2 Environmental Conservation is proposed to be dedicated to Council in perpetuity with a fully funded Biodiversity Stewardship Agreement registered on Title. BCD considers the transfer/dedication and BSA to be the more robust conservation outcome for long term management of the land. The transfer would most likely be given effect when biodiversity certification is conferred under the *Biodiversity Conservation Act 2016*. 7.2 See responses 1.4 to 1.8 above.
8	Individual Bangalee	22/06/2021	**Comments/concerns:** • Block size ≥2000 m² preferred consistent with current subdivision and rural character of Bangalee. • Impact on character of the area. • Secondary/alternate access required to Warrah Road. • Bushfire safety & evacuation concerns.	**Concerns/concerns noted.** 8.1 See responses 1.4 to 1.8 above. 8.2 See response 2.2 and 2.3 above.
9	Individual North Wollongong	21/06/2021	**Supported** • Pleased that the new bridge is opening opportunities for new homes and residents in the North Nowra area. • Hopes the Proposal moves forward quickly to reduce pressure on house prices for retirees and first home buyers.	**Support noted.**
10	Individual North Wollongong			
11	Individual Bangalee	22/06/2021	**Not opposed. Comments/concerns:** • Minimum block size should be kept at ≥2,500 m² to be environmentally sustainable and consistent with existing properties in Bangalee	**Comments/concerns noted.** 11.1 See responses 1.4 to 1.8 above. 11.2 See response 2.4, 2.5 and 2.6 above. 11.3 Council continues to liaise with NSW Department of Education (DE) in relation to the educational needs of the Shoalhaven more broadly. DE is aware of the regional

No.	Submitter	Date Received	Summary of Submission	Staff Comments
			• The proposed density and the amount of traffic likely to be generated on Warrah Road and associated bushfire safety and evacuation risks. • School facilities, stating that both primary schools are already full and overflowing.	significance of the Nowra-Bomaderry Growth Area and the projected population increase. Future needs and the capacity of existing education facilities in the area are being monitored by DE. Initially, DE intends to meet the increased demand for schooling by completing upgrades to one or more existing schools.
12	Individual Bangalee	23/06/2021	**Comments/concerns:** • The opportunity exists for a "best-in-class" sustainable development. • The proposal maximises residential loading in a rural setting, providing the living conditions of an urban suburb with none of the access to amenities which more dense urban planning includes. • Seeks design elements which foster a tight-knit, resilient and diverse community nurtured by a balance between residential, community and environmental space. • Concerned about the lack of provision for social infrastructure to allow residents to move freely and safely through the area and to converge in a basic community gathering area, e.g. footpaths, bike paths, green space, playgrounds and potentially, community gardens.	**Comments/concerns noted.** See responses 2.4, 2.5 and 2.6 above.
13	Individual Location unknown	20/06/2021	**Supported** • Supports a range of block sizes with reticulated water and sewer.	**Support noted.**

No.	Submitter	Date Received	Summary of Submission	Staff Comments
			• Keen to buy a larger block under 1 acre.	
14	Individual Bangalee	24/06/2021	**Not opposed. Comments/concerns:** • Lot size ≥ 2000m² preferred (R5) • Did not object to Council rezoning in 2020 to R5 to maintain low-density large lot characteristics of the land. • Proposal defeats the purpose of the 2020 rezoning. • Hundreds of smaller blocks will be available in the large subdivision in Moss Vale Road. • Inadequate infrastructure for proposed density. • Traffic/Access additional impact on Illaroo Road. • Bushfire safety & evacuation concerns.	**Comments/concerns noted.** 14.1 All residential land in Bangalee was rezoned from R2 to R5 by Amendment No 35 of 21 August 2020 (PP027). 14.2 Under Shoalhaven LEP 1985, residential land in Bangalee was zoned Residential 2(a2) to provide for a low density residential environment with a limited range of uses and a minimum lot size of 2000 m² primarily for detached housing. Concerns about onerous clearing restrictions on R5 land under the NSW Native Vegetation Act 2003 (NV Act) resulted in Bangalee being allocated an R2 zoning under Shoalhaven LEP 2014. The repeal of the NV Act provided an opportunity for Council to apply the most appropriate zone (R5) to reflect existing development in the area. 14.3 Land adjoining the southern boundary of the existing development is proposed to be zoned R5 for transitional purposes with a minimum lot size of 2,000 m². The R2 zone seeks to provide for a low density residential environment that also allows for facilities or services to meet the day to day needs of residents, such as childcare and respite day care centres, health consulting rooms and places of worship. Dual occupancy development is a permitted use in the R2 zone but most other forms of higher density housing (e.g., multi dwelling housing) are prohibited. 14.4 Like the CRIA, the Moss Vale Road Urban Release Areas were also identified in the NBSP adopted by Council in 2006/07 and endorsed by the NSW Government in 2008. The regionally significant growth area of Nowra-Bomaderry remains a focus for housing supply in the Illawarra-Shoalhaven Regional Plan 2041. Nowra-Bomaderry is identified as offering long-term capacity for 9,600 new dwellings. Some of this capacity can be met by the CRIA and, specifically, this PP which provides an estimated dwelling yield of 240, based on approximately 200 lots with a dual occupancy uptake of 20%. 14.5 See responses 1.2 to 1.8 above. 14.6 See responses 2.2, 2.3 and 3.2 above.
15	Individual Location unknown.	24/06/2021	**Supported** • Considering relocating but has been unable to identify new development areas north of the river.	**Support noted.**

No.	Submitter	Date Received	Summary of Submission	Staff Comments
			• Considers the land is well located and is an interested buyer.	
16	Individual Location unknown	19/06/2021	**Supported** • A young adult considering relocation but has found insufficient vacant land available north of the river. • Considers this to be a great opportunity.	**Support noted.**
17	Individual Sydney	19/06/2021	**Not supported. Comments/concerns:** • Not responsible/sustainable land use • No vegetation should be removed for housing. • Impacts on habitat/wildlife • Supports re-vegetation • Cleared land with poor soil should be utilised for housing • Bushland should be conservation and retained as National Park, Reserves, and the like.	**Objection, comments/concerns noted.** The PP seeks to balance the need for additional housing while protecting high value biodiversity land. The subject land forms part of the 'Crams Road Urban Investigation Area' identified in the Nowra Bomaderry Structure Plan (Shoalhaven City Council, 2007). The proposed residential area is in an area with lower biodiversity values. The higher biodiversity value land is proposed to be rezoned to C2 – Environmental Conservation and ultimately protected under a Biodiversity Stewardship Agreement. The revised proposal has a reduced, but more practical footprint is supported by the Biodiversity Conservation Division of DPE.
18	Individual Investor at Vincentia	23/06/2021	**Supported** • Owns holiday assets in the City. • Expressed support for implementation of the Nowra Bomaderry Structure Plan and land release in North Nowra. • Supports the proposal and looks forward to the benefits of additional housing.	**Support noted.**
19	Individual Bangalee	23/06/2021	**Comments/concerns:** • Concern about access via Bimbimbie, Moondara and Warrah Roads with poor visibility at the Moondara/Illaroo Road Intersection. Condition of all	**Comments/concerns noted.** 19.1 See responses 2.2, 2.3 and 3.2 above. 19.2 See response 11.3 above.

No.	Submitter	Date Received	Summary of Submission	Staff Comments
			roads would quickly deteriorate under the additional traffic load. • Existing congestion at Illaroo Road/Princes Highway intersection. • Bushfire safety and evacuation concerns arising from identified access and traffic issues as demonstrated during the January 2020 fires. Could be catastrophic. • Schooling - both existing primary schools already full and overflowing	
20	Individual Bangalee	25/06/2021	**Comments/concerns:** • Knows the subject land well and regrets the loss of a large area of native bush and wildlife to a 500m^2 residential subdivision. • Area is home to many native species, both common and endangered. • Future development should be larger block sizes and lower density considerate of the existing subdivision and amenity of Bangalee.	**Comments/concerns noted.** 20.1 See response 1.1 above 20.2 The subject land has an area of approximately 80 ha, of which 6 ha is currently subdivided into three rural residential lots each with a single dwelling. A further 12 ha is proposed to be retained as RU2 Rural Landscape to provide for the western by-pass. Land proposed be zoned for urban development comprises approximately 16 ha with a range of lot sizes from +500 m^2 (R2) to +2,000 m^2 (R5). 20.3 See response 7.1 above.
21	Individual Bangalee	25/06/2021	**Not opposed. Comments/concerns:** • Infrastructure needed to support the development is not addressed. • Land zoning immediately adjoining should be R5 (larger lots) graduating to smaller lots, be low density, sustainable and considerate of the existing subdivision, lifestyle and amenity of Bangalee. • Construction of the former Crown road reserve for access would have major impact. Would support creation of a	**Comments/concerns noted.** 21.1 See responses 1.2 to 1.8 above. 21.2 The R2 zone provides for a low density residential environment. A revised subdivision concept plan suggests varying lot sizes from +500m^2 to +1,000 m^2. Provisions could be formulated and included in the DCP to encourage a variety of lot sizes (in excess of the statutory minimum) to cater for different needs and services, should Council consider it appropriate. The R2 zone also provides for facilities and/or services to meet the day to day needs of residents, such as a childcare centre, respite day care centre, health consulting rooms and a place of worship. 21.3 See responses 2.2 to 2.6 21.4 See response 3.2

No.	Submitter	Date Received	Summary of Submission	Staff Comments
			buffer zone to be added to adjoining properties or retention of the unconstructed former Crown Road as a buffer. • Concerned about the lack of provision for social infrastructure to allow residents to move freely and safely through the area and to converge in a basic community gathering area, e.g. footpaths, bike paths, green space, playgrounds, etc.	
22	Individual Bangalee	25/06/2021	**Comments/concerns:** • Main concern is proposed housing density relative to the existing development. Preferred lot size is 2-4,000 m^2 to be consistent with existing subdivision in Bangalee. Minimum 1,000 m^2 lots. • Sole access via Bimbimbie/Warrah Road of concern as is bushfire safety and evacuation concerns arising from identified access and traffic issues. • Sealed access via Crams Road should be provided. • Proposal would create an urban development within a low density residential area that has limited services. Therefore, would expect to see new footpaths constructed, improved public transport, schooling, shops, day care/preschool playgrounds, greenspace, etc. • Warrah Road and Bimbimbie would need to be upgraded with footpaths, guttering and drainage to prevent further degradation. • Support for creation of C2 Zone	**Comments/concerns noted.** 22.1 See responses 1.4 to 1.8 above. 22.2 See responses 2.2 to 2.4 and 3.2 above. 22.3 See response 11.3 above. 22.4 See responses 14.3 and 21.3 above. 22.5 If/when the land is rezoned and released for urban development, upgrading of Warrah Road would be required as a condition of development consent. Upgrading of Bimbimbie Avenue (if required) would also be considered by the City Services Directorate as part of the assessment of a development application. 22.6 See response 7.1 above.

No.	Submitter	Date Received	Summary of Submission	Staff Comments
23	Individual Bangalee	08/06/2021	**Comments/concerns:** • Current proposal is better than previous suggestion, of a larger development footprint and approximately 400 lots. Understand need for growth but need to reduce impact on existing neighbours. • Primarily concerned about transition between lot sizes. Nearby residents will be impacted by abrupt change from 2000 m^2 to 500 m^2 block sizes. Too different in character to existing. Generally, support transition from 2000 m^2 to 1500 m^2/1000 m^2 block sizes. Some 500 m^2 block sizes ok, but currently too many are proposed. • Most concerned about traffic impacts – what roads will be proposed and how will traffic be managed? • Consider future buses – currently buses doing U-turn and this is not practical or safe. Need road upgrades – will there be kerb and gutter throughout Bangalee? • Would like to see more footpaths and has a playground/open space been considered? Will it be required?	**Comments/concerns noted.** 23.1 This submission was taken at the information session on 8 June 2021 and subsequently transcribed by staff at his request. 23.2 Support for the reduced lot yield is noted. 23.3 See responses 1.4 to 1.8 above. 23.4 See responses 2.2, 2.3 and 3.2 above. 23.5 See responses 2.3 and 2.4 regarding the need for a DCP. 23.6 The need for Bus turnarounds would be considered during preparation of the DCP and as part of assessing the future subdivision application. 23.7 New kerb and gutter (K&G) programs have not been funded for several years. Available funds are directed to replacement/drainage programs or where there is potential risk to property. Almost all new K&G construction is funded by property owners or developers. The need, if any, for K&G extension beyond the boundaries of the proposed URA will be considered during preparation of the DCP.
24	Individual Bangalee	26/06/2021	**Comments/concerns:** • Key concern is the impact of additional traffic on Illaroo Road which is already beyond capacity. Unable to leave the area during holiday seasons and weekends and the new Bridge/road system unlikely to improvement this situation.	**Comments/concerns noted.** 24.1 Late Submission 24.2 See responses 1.1 to 1.8 above. 24.3 See responses 2.2, 2.3 and 3.2. 24.4 See responses 6.3 and 7.1. 24.5 The proponent's Biodiversity Certification Application is supported by a Biodiversity Certification Assessment Report (BCAR). Biodiversity certification offers a

No.	Submitter	Date Received	Summary of Submission	Staff Comments
			• No development should occur until after the infrastructure has been improved, including public transport. • Future development should be larger block sizes considerate of the existing subdivision and amenity of Bangalee. • Concerned about access to and from the subject land generally and bushfire risk and evacuation arising from traffic and access issues. • Considers that the environmental study (BCAR) is ipso facto illegal clearing and therefore pointless. Powerful owls and other bird species have not returned since the clearing as a result	streamlined biodiversity assessment process under the NSW Biodiversity Conservation Act 2016 (BC Act) for areas of land that are proposed for development. The process identifies both areas that can be developed after they are 'certified', and measures to offset the impacts of development. Where land is 'certified', development may proceed without the usual requirement for site-by-site assessment as part of the DA process. Because biodiversity certification addresses the potential impacts on biodiversity during the early planning of land use change, it encourages planning authorities and landholders to design their development footprint in a way that avoids and minimises impacts on land with biodiversity values. Ideally these areas are protected from the impacts of future development, in accordance with the "avoid, minimise, offset" framework of the BC Act. Environmental credits calculated by the BCAR will fund one or more Stewardship Agreements

Summary of Key Issues:

1. Lot size. No support for 500 m² lots. Some support for ≥1,000 m². Preference is for a lot size that is in character with existing development, within the range of (av) 2,250 m² west of Warrah Road to (av) 4,000 m² between Warrah Road and the proposed RU2 zone to the east, i.e., R5 Large Lot Residential, noting that Bangalee was rezoned from R2 to R5 (Amendment No 35 of 21 August 2020)(PP027). All residential land in Bangalee is zoned R5. (10 submissions: 42%)
2. Traffic and access. Specifically, the need for an alternate and / or secondary access other than Warrah Road and concerns about bushfire risk and evacuation arising from the increased population, additional traffic, and access issues. (8 submissions: 34%)
3. Environmental. Loss of bushland and wildlife habitat. Impact on threatened species caused by previous clearing and proposed development. (6 submissions: 25%)
4. State and local infrastructure. The need for major infrastructure to be provided prior to development and the need for additional social infrastructure in the area, e.g. footpaths, public open space and a playground. (5 submissions: 21%)
5. Local Primary schools. Impact of additional population on capacity. (3 submissions: 12.5%)

Summary:

Total Submissions: 24 (16 from Bangalee landowners)
Objection stated: 4
Concerns/comments: 13

All submissions were from Bangalee landowners except for:

6 Submissions in Support
1 Objection from Sydney
1 Neutral - Jerrinja Tribe

A new approach to rezonings

Discussion paper

December 2021



NSW Department of Planning, Industry and Environment | dpie.nsw.gov.au

Published by NSW Department of Planning, Industry and Environment

dpie.nsw.gov.au

Title: A new approach to rezonings

First published: December 2021

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Acknowledgment of Country

The Department of Planning, Industry and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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CL22.121 - Attachment 1

Introduction

Ongoing reforms to the NSW planning system aim for a 'plan-led' system – an approach that ensures strategic planning is the foundation for all decisions about potential land-use changes.

We will achieve this by strengthening the strategic planning framework within planning legislation, giving greater emphasis to place-based planning early in the process and by addressing specific issues within the administration of the planning system.

Changing the zoning of land or the controls applying to land – referred to in this paper as the **rezoning process** – translates strategic planning into statutory controls. However, the rezoning process has become unwieldy, resulting in weaker planning outcomes, unnecessary delays and higher costs.

We continue to see a large volume of rezonings or changes to land-use controls happening within a process that can be complex and time-consuming. These inefficiencies create opportunities for delays.

As we strengthen strategic planning and place-based planning through ongoing reforms, we expect to see fewer ad hoc, site-specific rezonings that are more likely to cause these inefficiencies. However, we know that we need to improve current processes to optimise the economic and environmental benefits of development within an efficient planning system.

The economic benefits of an efficient and consistent rezoning process should not be underestimated – especially as we recover from the impact of the COVID-19 pandemic. A more streamlined and predictable process will help encourage investment, improve supply and create jobs.

This discussion paper outlines options to reframe existing processes within a plan-led system – whether the rezoning process applies to a review of an entire local environmental plan (LEP) or the assessment of an ad hoc rezoning application.

Land-use zones or controls can be changed by making or amending an LEP or state environmental planning policy (SEPP). This discussion paper focuses solely on the rezoning processes that happen using planning proposals to make or amend LEPs or SEPPs.[1] It does not include state-led rezonings.

Our proposed approach balances the need for a responsive and flexible planning system with the robust processes that maintains good planning outcomes. This new approach aims to support a stronger strategic planning process so that, collectively, we will continue to see great outcomes for people, places, jobs, housing and public spaces by:

- simplifying the rezoning process and minimising duplication
- improving transparency
- improving consultation processes
- reducing processing times
- creating more certainty and consistency
- empowering councils to make decisions on matters important to their communities while allowing the NSW Government to deal with matters where government intervention is beneficial
- giving private proponents control and responsibility for rezoning requests
- improving the quality of planning proposals.

[1] LEPs are sometimes used to amend SEPPs where provisions are site-specific or are specific to a local government area, for example SEPP (Sydney Region Growth Centres) 2006.

The reframing of the rezoning process is part of the NSW Government's Planning Reform Action Plan – a set of structural reforms to create a planning system that is transparent, faster, more certain and easier to use. The reforms include initiatives to:

- improve the planning proposal system and reduce processing times by a third by 2023
- establish an appeals pathway for planning proposals to overcome delays and progress rezonings that are consistent with strategic planning.

As part of the action plan, we have consulted with industry, councils and the planning profession on how best to address the current backlog of planning proposals and set the direction for improvements. From this work, we've established several initiatives to optimise the existing system. This includes the release of the new Local Environmental Plan Making Guideline (LEP Guideline), which implements several process improvement actions including:

- best-practice process and procedures to assist in the timely assessment of planning proposals
- targeted pre-lodgement services
- clear benchmark timeframes for steps in the process
- categorisation of planning proposals to inform timeframes as well as information and public exhibition requirements
- clearer roles and responsibilities throughout the process.

Through the processes outlined in this discussion paper, we're looking to consolidate and expand on these initiatives into the future.

Getting involved

We encourage feedback on the new approach to rezoning and the policy responses and options set out in this paper.

We have set out a proposed new approach by giving information on:

- the background, case for change and opportunity for reforms (Part A)
- the proposed new approach (Part B)
- the proposed appeals process (Part C)
- implementation (Part D).

Get involved by visiting www.planningportal.nsw.gov.au/rezoning-new-approach and provide your feedback by **Monday, 28 February 2022**.

From the feedback we receive, we will refine the rezoning approach with a view to implementing change in 2022.

We will work with councils, the development industry and state agencies to support the transition to a new approach. We will also prepare guidance material and provide training and ongoing policy support.

Before we begin: key concepts and terms

One of the aims of this discussion paper is to create a system that better aligns the rezoning process with strategic planning. Strategic planning guides long-term planning for the state's regions, districts and local communities, using a longer-term view to clarify what might happen, when, why and where.

Strategic planning requires a broader consideration of how best to shape a sustainable future for a region, district or local government area (LGA). The process guides the decisions that planning

authorities make about land use and development, environmental sustainability and the integration of transport and infrastructure.

By going beyond individual development proposals, strategic planning can capture an agreed vision for the future of an area, drawing from evidence about the attributes that makes places unique, the characteristics to retain and enhance, economics, the changing climate and the aspirations that people have for their community.

Higher-level strategic plans apply to:

- the 10 regions of NSW, through regional plans
- Greater Sydney, through the Greater Sydney Region Plan
- the 5 districts of Greater Sydney, through district plans that align with the Greater Sydney Region Plan.

These plans inform councils' local strategic planning statements for each LGA. Councils also develop local housing strategies or other strategies to further focus on requirements for their area.

Strategic plans are implemented through environmental planning instruments such as SEPPs and LEPs (supported by development control plans – DCPs).

The Minister for Planning and Public Spaces recently released the Minister's Planning Principles which will guide strategic and land use planning and strengthen the place-based approach.

The NSW strategic planning hierarchy is shown in Figure 1.

Refer to the list of regularly used terms or find out more in the Community Guide to Planning.

Regularly used terms

- **Development control plans** (DCPs) provide more detailed guidance for development.
- ***Environmental Planning and Assessment Act 1979*** (EP&A Act) is the primary planning legislation in NSW.
- **Independent Planning Commission** (IPC) makes independent decisions on complex development proposals of state significance and provides advice.
- **Land and Environment Court** hears merit appeals and process challenges between planning authorities and individuals or organisations.
- **Local environmental plans** (LEPs) set out rules to regulate development and land use in local government areas (LGAs). They are made by the Minister for Planning and Public Spaces or a council.
- **Local Environmental Plan Making Guideline** (LEP Guideline) provides a detailed explanation of the steps of the LEP-making process to assist and guide councils, communities, state agencies, proponents, and practitioners.
- **Minister's Planning Principles** guide strategic and land use planning and inform the development of planning policies. The principles seek to achieve outcomes across nine policy focus areas: planning systems; design and place; biodiversity and conservation; resilience and hazards; transport and infrastructure; housing; industry and employment and resources and energy.
- **Section 7.11 Infrastructure Contributions Plan** sets out how councils will levy contributions towards the cost of providing local infrastructure and lists a schedule of that infrastructure.
- **Section 9.1 ministerial directions** (s. 9.1 directions) provide broad policy directions that guide plan-making in the broad categories of employment and resources; environment and

heritage; housing; infrastructure and urban development; hazard and risk; regional planning; local plan-making and metropolitan planning.

- **Standard Instrument** is the basis for preparing a new LEP using standard zones, definitions, clauses and format.
- **State environmental planning policies** (SEPPs) allow for a consistent, state-wide approach to development, infrastructure, industry or other environmental or social matters, or they may apply to state-significant development. They have a wide scope and can apply to the whole of the state or a particular area. The Governor of New South Wales makes them on advice from the Minister for Planning and Public Spaces.
- **State-led rezonings** focus on precincts where there is a strategic imperative for the Department of Planning, Industry and Environment to lead the process, including places that benefit from current or future city-shaping infrastructure or investment, and where we can create great public spaces in collaboration with councils and communities. These rezonings generally occur under a SEPP.

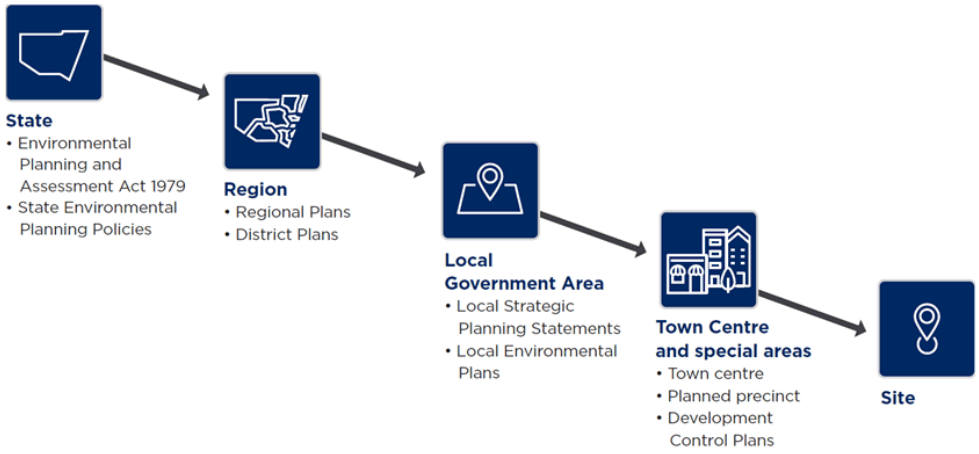


Figure 1. Strategic planning hierarchy

Part A: Background

The process today

Local environmental plans (LEPs) set out how land can be developed and used in a local government area through zoning and other development controls. They are the legal embodiment of planning controls necessary for strategic planning ambitions.

Land-use zones illustrate the objectives for that area – what land uses are allowed, and the approvals required. Zone types range from residential and commercial to those for industrial uses or open space.

Along with zoning, LEPs also contain development standards, specific considerations and site-specific controls such as additional permitted uses.

Rezoning and planning proposals

There are many reasons why land might need to be rezoned or other changes to a LEP might be needed. This might be to respond to strategic planning – for example, if new transport infrastructure is being developed, it makes sense for the area around the transport hub to include higher density housing or shops and services – or it could be to change a zoning to allow for new development envisaged in a local strategic planning statement.

Rezoning occurs when an LEP is made or amended – whether a zone and its objectives are amended, planning controls are amended or an LEP is reviewed. Rezoning occurs through a planning proposal that sets out the intended effect of the rezoning, or the new LEP, and the justification for the proposal.

A council or private landowner can initiate the rezoning process. Rezonings initiated by private landowners are often called 'spot rezonings' or 'proponent-initiated planning proposals' and must be supported by the council before they can progress further.

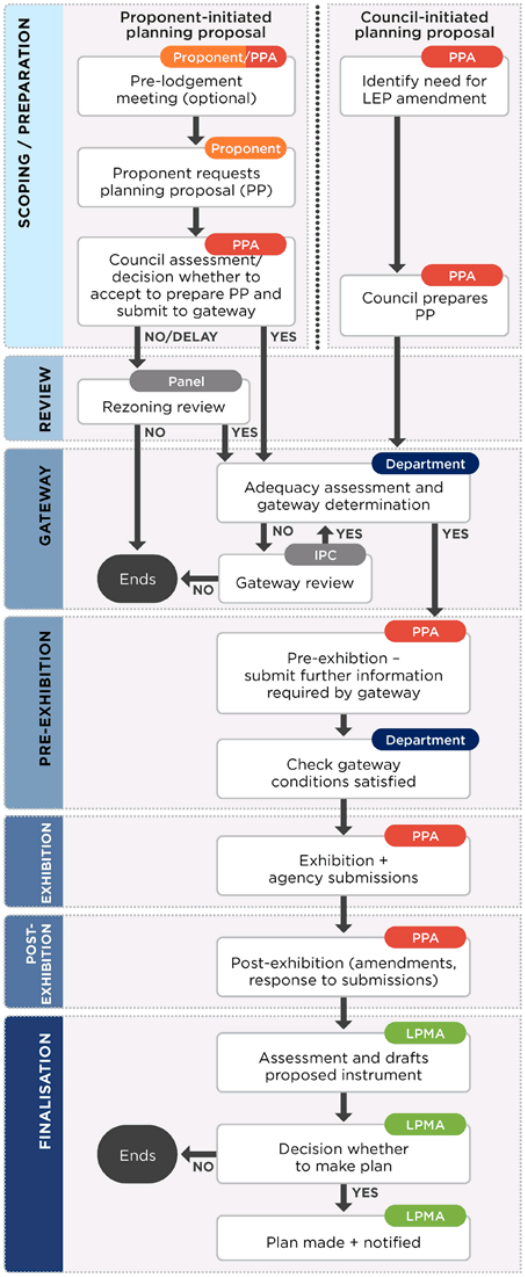
Councils, as the planning proposal authority (PPA), then submit planning proposals that they support to the department for gateway determination.

Gateway determination

The gateway determination ensures there is sufficient justification for a planning proposal to progress. It involves an early check on whether it is consistent with the strategic planning framework and relevant section 9.1 ministerial directions (s. 9.1 directions).

Gateway determinations are issued with conditions to guide the PPA for the next stage of the process: the exhibition of the planning proposal, community consultation and, if required, consultation with relevant state agencies. These conditions form the regulatory context for the preparation, exhibition and finalisation of the rezoning.

After council manages this process, the local plan-making authority (LPMA) – the minister, or a delegate, or the council – finalises the rezoning by drafting and publishing the new or amending LEP, along with maps, on the NSW Legislation website, www.legislation.nsw.gov.au.



PPA: Planning proposal authority (e.g. council)
LPMA: Local plan-making authority (e.g. the Department or council)
IPC: Independent Planning Commission
Panel: Regional planning panel, district planning panel or Independent Planning Commission

Figure 2. Current rezoning framework

The need for reform

As part of the Planning Reform Action Plan, we've talked to many stakeholders to understand how best we can reduce the processing time for planning proposals; increase quality, place-based outcomes; and establish a workable appeals pathway.

Rezonings need to be an effective planning tool that can meet the objectives of strategic plans in a certain and timely way. Uncertainty about rezoning timeframes and process can affect developer confidence and the overall viability of projects, or the timing of housing supply. Uncertainty can also cause community disengagement and less public participation in the planning system.

Engagement process

Our engagement process included:

- nine workshops, attended by 63 councils
- survey feedback from 75 councils
- internal workshops and meetings with state agencies
- presentations to industry representatives
- meetings with regional planning panel members
- one-on-one meetings with councils and industry, where required.

We also worked through working groups including councils, industry and Land and Environment Court users – as well as state agencies, and regional and district planning panels – on the initiative for a new appeals pathway.

Time and complexity

Stakeholders told us the planning proposal process takes too long, is overly complex, and needs more transparency and accountability. This is backed up by the recent work of both the NSW Productivity Commission and Australian Government's Productivity Commission:

- The NSW Productivity Commission found the NSW planning system has become too complex and inefficient. It has recommended the need to reduce red tape and complexity.
- The federal Productivity Commission found that the rezoning process can be time-consuming, costly and uncertain. It recommended shorter timeframes for planning proposals (while maintaining integrity) and a policy to avoid spot rezonings (the rezoning for a specific parcel of land), or to remove redundant requirements or apply statutory timeframes for decisions where they cannot be avoided.

This feedback is also backed up by the data: it can take several years to finalise a rezoning, with the average end-to-end processing times rising to an average of 114 weeks in 2019. Since 2019, the department has worked to clear the backlog of older planning proposals and reduce processing times, which was down to an average of 89 weeks as of 30 June 2021.

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Delays and complexity can be attributed to:

- **Timeframes –** There is a lack of accountability and certainty about timeframes, including for the exhibition process and agency submissions. For example, legislation prescribes timeframes and appeal rights for the assessment of development applications, but there is no equivalent legislative requirement for planning proposals.
- **Duplication of assessment –** Planning proposals often go twice to a council meeting (before gateway and before finalisation), and twice to the department (at gateway and finalisation).
- **Gateway process –** The gateway process can be onerous and is sometimes unnecessary, resulting in delays and transparency issues, according to some councils. We heard an idea to remove the gateway process for regional areas to speed up the assessment of projects that can add immediate value.
- **Finalisation stage –** Delays in the finalisation stage, particularly for the drafting of the LEP changes and mapping stages, are a concern for councils.

Inconsistencies

There are inconsistencies in documentation requirements, the availability and rigour of pre-lodgement processes, and consultation requirements before the gateway determination. We also heard that stakeholders find inconsistencies in assessment requirements, how 'strategic merit' is interpreted, and the roles and responsibilities of different government authorities.

Early documentation can be inadequate, as the requirements or documentation that must be submitted when lodging a planning proposal are unclear – the existing planning proposal guidelines[2] are not interpreted consistently. This adds time as additional information is often required. Conversely, documentation requirements for the assessment process can be onerous, too detailed and should instead be tailored to the scale and complexity of the planning proposal.

These issues could be addressed at meetings before lodgement, yet these are not mandatory. When offered, they vary in formality. There is no obligation for proponents to ensure their proposal is consistent with pre-lodgement advice.

Advice may also differ, given the different interpretations of strategic merit. A planning proposal should have strategic merit, yet there are mixed views about how to justify this and how a council will measure it before the planning proposal goes to gateway determination. Some councils use their own guidelines, while others test for strategic and site-specific merit.

We also see varied approaches to community consultation before the planning proposal goes to gateway determination. While it is not required, some councils will consult multiple times throughout the process, which can keep the community informed but is duplicative and extends timeframes.

Roles and responsibilities are not clear, so there is uncertainty about who is accountable for updating mapping and other issues.

Transparency and trust

Greater accountability and transparency are required for all parties involved in the planning proposal process. The community must be engaged in the strategic planning process, including how planning authorities consider and interpret the drivers and need for change. There is a perception among the community that, with considerable work completed before the gateway

[2] Planning Proposals: A guide to preparing Planning Proposals (December 2018)

determination, decisions are already made. Councils also want better communication with the department, particularly before planning proposals are exhibited and finalised.

Review mechanisms, such as planning panels, are not widely known and not clearly defined in legislation.

Transparency and trust issues arise when communities see a council reject a planning proposal that is later approved through the review process.

Council resourcing

Some councils have told us they do not have adequate resourcing and funding for strategic planning, assessing and progressing planning proposals, or for taking part in court proceedings. This means strategic planning documents may not be as detailed nor as up to date as they could be. Spot rezonings are then used to fill the gaps to provide land for housing, jobs or public spaces.

Councils have varying human and financial resources, which can make processes longer and inconsistent. There is limited funding for council-led strategic studies or planning, or for any additional training, education sources or templates. Councils, particularly in regional NSW, would welcome more support from the department through the planning proposal process.

Local decision-making is essential – council autonomy is important to both councils and their communities. Councils want greater empowerment to reject planning proposals in early stages of the process before doing a full assessment, and they seek a greater decision-making role. This is especially the case when a proposal is inconsistent with local strategic planning.

Recognition of proponents

Existing legislation does not directly acknowledge proponent-initiated planning proposals – instead, councils undertake these proposals on behalf of proponents. Around 45% of all planning proposals finalised between July 2018 and June 2020 were proponent-initiated. Review processes for proponents where there is a delay or proposals are rejected are only available the early stages of the planning proposal process.

Proponents want reform that acknowledges their role, provides greater access to state agencies and gives clearer, more consistent timeframes. Industry groups have highlighted the need for a circuit breaker when councils delay decisions or reject proposals that are consistent with strategic plans.

State agency input

State agencies would prefer to be involved earlier in the rezoning process, and for the right level and scope of input required to be clearer. They support the need for reasonable timeframes.

Without this early involvement, and potentially because of the lack of clarity, stakeholders reported that engagement with state agencies is a significant pain point. This leads to perceptions within industry that contact with or feedback from state agencies is difficult and that the agencies themselves lack accountability when responding to or resolving issues.

There is a further perception that state agencies are either under-resourced or reluctant to get involved unless the issue directly affects their work. Referrals seem to get lost in the system.

What do you think?

Is this a fair summary of some of the issues within the current framework? Are there any other problems you think we need to address?

Part B: The new approach

Introduction

In response to feedback, we have developed a new approach for rezonings which, with other reforms, could significantly improve the plan-making process.

In summary, the proposed new approach:

- creates a streamlined and efficient process for LEP amendments that align with strategic planning objectives
- sets clear matters for consideration, timeframes and a consistent fee regime to give greater certainty in the process
- allows councils to receive and determine private proponent-initiated LEP amendments, with no or minimal department involvement in assessment
- allows the minister to receive and determine, through the department, other LEP amendments, including those prepared by councils and public authorities
- bolsters the department's role in supporting, monitoring and assisting councils in the process
- requires LEP amendments to go through a mandatory and upfront pre-lodgement process
- shifts all merit assessment processes to after exhibition
- gives private proponents a right of appeal against the final decision.

The new approach has been designed to align more closely with the development application process. In addition to other benefits, we believe making the processes more consistent may increase the number of combined rezoning and development applications, a mechanism which is underused. Concurrent applications bring about greater economic benefits as development can happen more quickly. This approach also gives the community greater certainty as to the type and form of development that will ultimately end up on the rezoned site.

We estimate that the new approach will build on existing timeframe improvements from the last year and result in more time savings, especially for simple rezoning applications that are consistent with strategic plans.

These time savings will mainly happen by removing duplication in who assesses the application and how often it is assessed throughout the process.

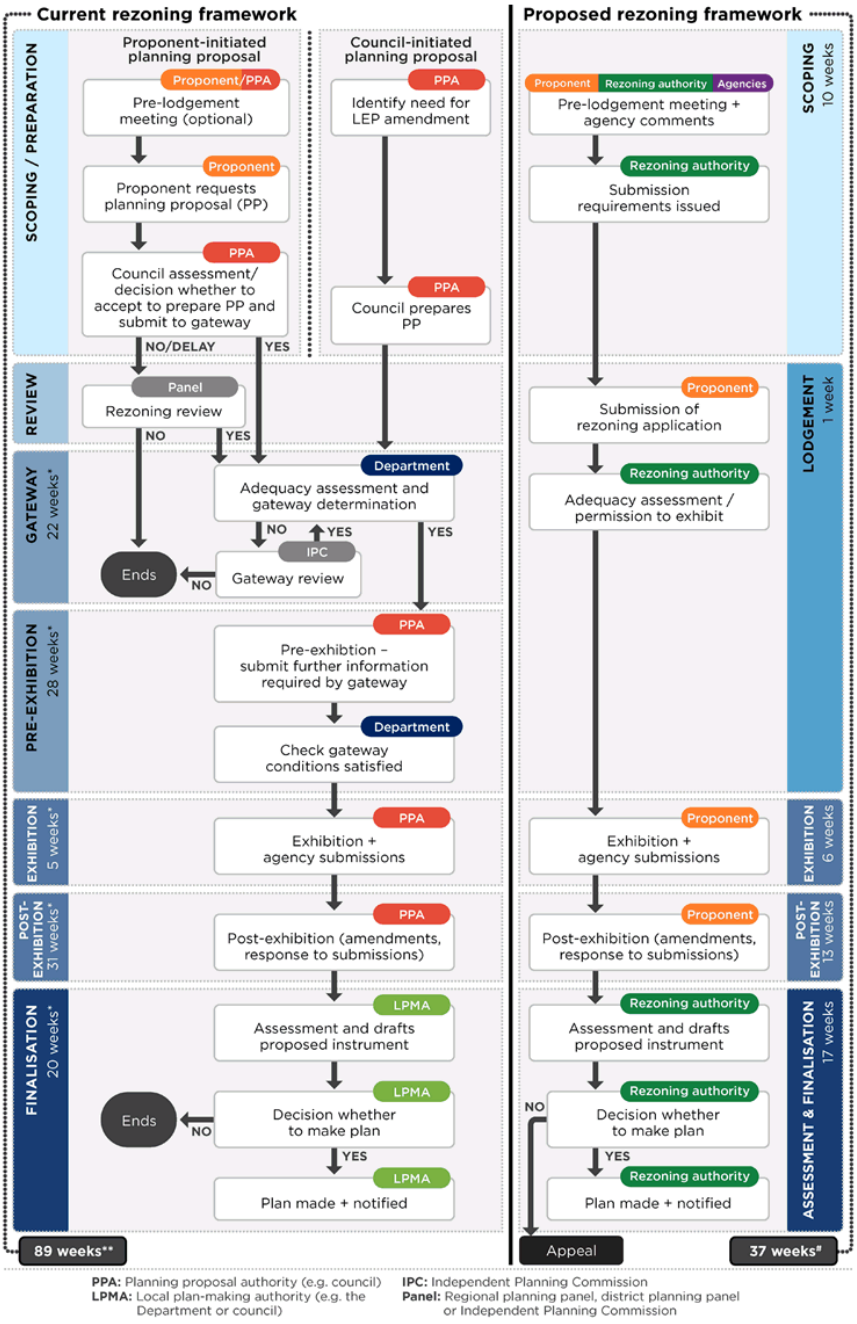


Figure 3. Comparing the current and proposed rezoning frameworks

Key for Figure 3

*Average assessment timeframe for each stage for the period of 1 January to 30 June 2021. There are no timeframes for the scoping/preparation stage (as these are not tracked) or rezoning review (which is optional).

**Reported end-to-end average assessment timeframe for planning proposals (between the gateway and finalisation stages) at 30 June 2021. The average assessment timeframes for each stage does not add up to the reported end-to-end average assessment timeframe.

#Proposed benchmark timeframes for each stage and end-to-end assessment timeframes are based on a standard rezoning application (total timeframe excludes scoping).

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New terminology

The new approach begins by clarifying the terms used for planning proposals.

A proponent-initiated application to amend an LEP is currently known as a rezoning request. It is only known as a planning proposal once a council supports it. All council-led processes are called planning proposals.

Our new approach suggests that all these processes should simply be called rezoning applications.

Planning proposals are currently led by the planning proposal authority (PPA), which is usually the council. The PPA is the 'owner' of a planning proposal and ultimately responsible for its progression. The minister[3] is then responsible for making a gateway determination. The local plan-making authority or LPMA (the minister or the council, where authorised) is then responsible for the final assessment and making (or not making) the LEP.

However, the EP&A Act does not directly recognise private proponents or public authorities who can submit a rezoning request to a council and who will often undertake or pay for most of the work to prepare a request.

The interaction between these parties is complicated and leads to duplication. For example, both a council and the minister will assess the merit of proposal at the gateway determination and the finalisation stage. A council can be both the PPA and the LPMA, which can be confusing.

Our proposed new terminology is a shift to a more streamlined process that reflects the roles played in practice.

Table 1. Current and proposed terminology

Current	Proposed	Description of proposed role
Rezoning request/planning proposal	Rezoning application	An application to make or amend an LEP.
• Private proponent (not recognised) • Public authority proponent (not recognised) • PPA ('owner' of the planning proposal, usually council)	Proponent (private, public authority or council)	A rezoning application lodged by a: • private individual or corporation • public authority, including a state-owned corporation • council for changes to their LEP.
LPMA (makes the LEP)	Rezoning authority	The party responsible for assessing and determining the rezoning application. This could be a council or the minister, depending on the type of rezoning application.
Gateway	N/A	Included in the rezoning authority function.

[3] Throughout this paper, references to functions of the Minister for Planning and Public Spaces will often be carried out by the department, as the minister's delegate.

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New categories and timeframes

Clearer timeframes for completing each step in the rezoning process gives stakeholders certainty and encourages better performance. Our proposed timeframes will apply to councils, the department, state agencies and private proponents, depending on the category of the rezoning application.

Categorising all rezoning applications during a pre-lodgement process could inform timeframes, as well as information and public exhibition requirements, and fees.

We have developed 4 categories. These will first be applied in the existing process through the new LEP Guideline and, ultimately, as part of the new approach.

Table 2. New categories and descriptions

Category	Description
Category 1 (Basic)	Administrative, housekeeping and minor local matters such as: • listing a local heritage item, supported by a study endorsed by the department's Environment, Energy and Science group • reclassifying land where the Governor of NSW's approval is not required • attaining consistency with an endorsed local strategy, such as a local housing strategy • attaining consistency with section 3.22 (fast-tracked changes of environmental planning instruments of the EP&A Act).
Category 2 (Standard)	Site-specific rezoning applications seeking a change in planning controls consistent with strategic planning, such as: • changing the land-use zone if a proposal is consistent with the objectives identified in the LEP for that proposed zone • altering the principal development standards of the LEP • adding a permissible land use or uses and/or any conditional arrangements under Schedule 1 Additional Permitted Uses of the LEP • ensuring consistency with an endorsed strategic planning or local strategic planning statement • classifying or reclassifying public land through the LEP.
Category 3 (Complex)	Applications that may be not consistent with strategic planning, including any LEP amendment not captured under category 1 or 2. Examples include: • changing the land use zone and/or the principal development standards of the LEP, which would increase demand for infrastructure and require an amendment to or preparation of a development contribution plan • responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends • requiring a significant amendment to or preparation of a development contribution plan or a related infrastructure strategy • making amendments that aren't captured as principal LEP, standard or basic planning proposal categories.

Category	Description
Category 4 (Principal LEP)	A comprehensive or housekeeping rezoning application led by council, proposing broadscale policy change to the LEP for the whole LGA.

The introduction of categories:

- gives all parties certainty and consistent timeframes, fees and information requirements
- informs decisions about whether council can be the rezoning authority for straightforward rezoning applications where the council is also the proponent
- improves the department's ability to monitor the progress of different types of rezoning applications to identify common roadblocks or opportunities for greater efficiencies.

Table 3 sets out estimated benchmark timeframes for each stage and category of the new approach. This does not include scoping, nor the time between scoping and lodgement required to prepare the application. These are maximum timeframes; in most cases we anticipate a shorter timeframe.

The timeframes are based on analysis and stakeholder feedback. We may need to revisit them as councils, proponents and the department adapt to the new approach.

Table 3. Proposed categories and benchmark timeframes

Stage	Category 1 (Basic)	Category 2 (Standard)	Category 3 (Complex)	Category 4 (Principal LEP)
Scoping	6 weeks	10 weeks	12 weeks	10 weeks
Lodgement	1 week	1 week	1 week	1 week
Exhibition	4 weeks	6 weeks	8 weeks	6 weeks
Post-exhibition	10 weeks	13 weeks	15 weeks	17 weeks
Assessment and finalisation	11 weeks	17 weeks	24 weeks	26 weeks
Total, excluding scoping*	**26 weeks**	**37 weeks**	**48 weeks**	**50 weeks**

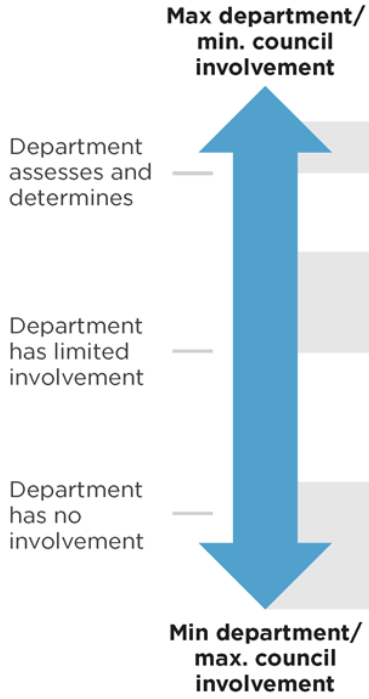
*The total timeframe does not include the scoping stage, which occurs before lodgement.

What do you think?

Do you think benchmark timeframes create greater efficiency and will lead to time savings?

New roles

The new approach changes the roles of the various parties in the rezoning process. It acknowledges the proponent by giving them ownership of the application throughout the process. It gives councils greater responsibility and accountability and allows the department to focus on strategically significant proposals, such as state-led rezonings.



Type of rezoning	Department role	Council role
Public authority proponent	Assesses and determines	Consultation
Council proponent (category 3 and 4)	Assesses and determines	Proponent
Council proponent (category 1 and 2)	Conducts scoping and adequacy at lodgement	Proponent + assesses and determines after permission to exhibit
Private proponent (categories 1, 2 and 3) – inconsistent with specified s9.1 direction/s	Given notice and opportunity to comment given during exhibition	Assesses and determines
Private proponent (categories 1, 2 and 3) – consistent with s9.1 directions	No involvement in assessment except support, case management and monitoring	Assesses and determines

Figure 4. The roles of councils and the department under the new approach

Proponents

Councils – rather than private proponents – usually make changes to LEPs to ensure that LEPs give effect to strategic plans. Councils are sometimes limited by financial and resourcing constraints, both at the planning and infrastructure servicing stages, especially in regional areas. We expect there will always be a need for private proponents to initiate rezoning applications.

The current rezoning request process shifts responsibility to council to progress a planning proposal, with costs covered by the private proponent. This means that although the private proponent has the cost burden, they are not considered the applicant. They have little control over the processes, or any changes to the proposal.

Our proposed approach aims to recognise private proponents as applicants, as they are in the development application process. This will give the private proponent the right to:

- meet with the rezoning authority to discuss a potential request
- submit a rezoning application and have it assessed and determined after public exhibition
- appeal a decision made about a rezoning application because of a delay or dissatisfaction with a decision (see Part C: New appeals pathways).

Along with these rights, the private proponent will be responsible for all fees, meeting information requirements, consulting with state agencies, and reviewing and responding to any submissions received during consultation.

A private proponent will only be able to lodge a rezoning application if they are the owner of the land or have obtained the consent of the landowner to which the application relates.

Councils

Councils will continue to have a role in all rezoning applications, whether this is as a proponent, or in an assessment and determination or consultation role. The new approach aims to empower councils to make decisions about their local area without unnecessary departmental intervention.

This means that for private proponent rezoning applications, councils will have full control of the process, including giving permission to exhibit, which is currently given by a gateway determination. Councils will review any changes after exhibition and make the final decision.

To support this expanded role, councils will be better resourced through a new fee scheme that will compensate councils for the full cost of assessing a rezoning application, while also enabling them to invest in staff and better systems.

The department would still be available to offer support and assistance where needed, as well as education and training.

If a council is the proponent of a rezoning application, they would continue to be appointed as the rezoning authority after scoping and once the department has given permission to exhibit.

The type of council proponent rezoning applications that a council can determine will also be streamlined to include all category 1 and 2 applications (unless there is a conflict of interest).

What do you think?

What do you think about giving councils greater autonomy over rezoning decisions?

What additional support could we give councils to enable high-quality and efficient rezoning decisions?

What changes can be made to the department's role and processes to improve the assessment and determination of council-led rezonings?

Department of Planning, Industry and Environment

Departmental resources will be refocused to state-led, strategic and collaborative planning. This will allow us to focus on the plan-led system and on matters of state and regional significance. The type of rezoning applications no longer assessed or determined by the minister through the department will include:

- private proponent rezoning applications (notice to the department may be needed if the rezoning application is inconsistent with a s. 9.1 direction)
- council proponent rezoning applications where the council is the rezoning authority (for example, mapping alterations, listing local heritage items, strategically consistent spot rezonings).

The minister, through the department, will assess and determine:

- rezoning applications initiated by public authorities
- rezoning applications accompanying a state-significant development application
- council proponent rezoning applications
- rezoning applications that propose to amend a SEPP
- rezoning applications that are state or regionally significant.

The department will also continue to lead state-led rezonings, which will be generally carried out through a SEPP process and not through our proposed new approach.

Case management, monitoring and reporting

The department's Planning Delivery Unit was established in 2020 to progress priority development applications and planning proposals that are stuck in the system. Under the new approach, the unit's role will continue and the department's regional teams will continue to assist councils, state agencies and private proponents at either the scoping stage or to help resolve issues after lodgement.

We will require rezoning applications to be lodged and progressed through the NSW Planning Portal. The portal offers capabilities that will improve how the department monitors the rezoning process and the types of decisions that are being made. It provides a publicly available register of decisions, including the reasons for those decisions. This will help to maintain the integrity of the planning system through transparency, consistent decision-making and checks and balances, and it will act as an important anti-corruption measure.

What do you think?

Is there enough supervision of the rezoning process? What else could we do to minimise the risk of corruption and encourage good decision-making?

Do you think the new approach and the department's proposed new role strikes the right balance between what councils should determine and what the department should determine?

Inconsistency with section 9.1 ministerial directions

The new approach gives us the opportunity to review current section 9.1 ministerial directions (there are 41 at the time of publication) and consider approaches to streamline the assessment process. The current s. 9.1 directions cover the following categories:

- employment and resources

- environment and heritage
- housing, infrastructure and urban development
- hazard and risk
- regional planning
- local plan making
- metropolitan planning.

You can view them on the department's policy directions for plan-making web page.

From 1 March 2022, the s. 9.1 directions will include a direction that states a planning authority must have regard to the Minister's Planning Principles and consider specific planning principles that are relevant to the preparation of a planning proposal.

Currently, the approval of the department's secretary may be required if a planning proposal is inconsistent with a s. 9.1 direction. In the new approach, we propose that:

- in some circumstances, a council can approve an inconsistency, rather than notifying the department and seeking approval from the secretary
- in other circumstances, the department will be given the opportunity to comment and/or approve an inconsistency.

What do you think?

Should councils be able to approve inconsistencies with certain s. 9.1 directions? If so, in what circumstances would this be appropriate?

Public authorities

State agencies

State agencies are the knowledge-holders on matters that can affect the viability and appropriateness of rezoning applications such as infrastructure provision, environmental impacts and bushfire safety.

The quality of the rezoning application and whether engagement has occurred with a particular agency before a rezoning application is lodged can affect the timeliness of a state agency's response.

Providing input into rezonings can also be resource-intensive for agencies. All of these things have the potential to delay assessment, especially if feedback comes late in the process and requires fundamental changes to a proposal.

To ensure state agencies share their knowledge without affecting timeframes and certainty, we're proposing changes to the agency referral process for rezoning applications as we continue to work to build a clearer role for state agencies in strategic planning.

- Councils, proponents and the department will have clear direction about the circumstances in which an agency referral is required at both the scoping and exhibition stages, tailored to individual agencies and circumstances.
- Proponents will have clear direction about the information they must give to agencies to allow study requirements to be issued and rezoning applications to be assessed.
- State agencies will have clarity about the appropriate level of assessment for rezoning applications.
- Requests for more information will be managed more closely.
- Strict timeframes for agency responses will be set, along with the ability for a rezoning authority to continue to progress and determine an application where an agency has not responded within the timeframe. If an agency objects, a rezoning authority could still approve the rezoning application, but will need to consider the objection when assessing it.

Many of these changes will be rolled out in the interim to realise immediate benefits and will be built on in the new approach.

Public authority proponents

There are also circumstances where public authorities that are holders of infrastructure and other assets are also proponents in the rezoning process. Under the new approach, if a rezoning application is initiated by a public authority, the application will be lodged with and determined by the department rather than a council.

What do you think?

Is it enough to have agencies involved in scoping and to give them the opportunity to make a submission during exhibition?

Do you think it would be beneficial to have a central body that co-ordinates agency involvement?

If a state agency has not responded in the required timeframe, are there any practical difficulties in continuing to assess and determine a rezoning application?

New steps

The proposed new process is outlined in the following diagram.

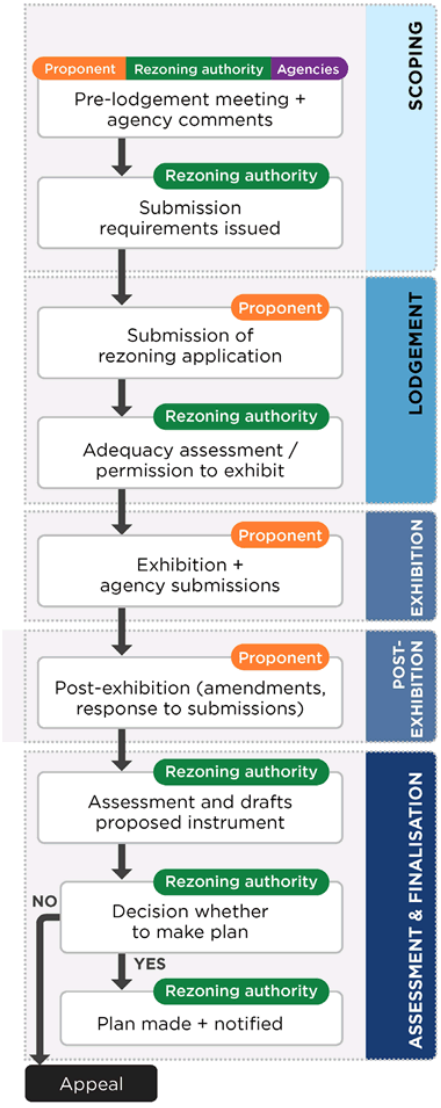


Figure 5. The proposed new process

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Scoping

The new approach includes a mandatory pre-lodgement stage for the standard, complex and principal LEP rezoning applications (optional for the basic applications) called scoping. The scoping process is the same as that set out in the new LEP Guideline, except that under the new approach, we propose that scoping should be mandatory.

Scoping allows relevant parties to come together early in the process to discuss the project and provide feedback and direction before detailed work has progressed. Early feedback saves time and costs later in the process and leads to better quality and complete applications. It can also give a proponent an early indication of whether or not an application is likely to be supported before significant time and costs have been expended.

Even before the scoping process begins, a proponent will have a good understanding of the information that will be required to accompany a rezoning application through publicly available, standardised information requirements.

The scoping process will build on these standard requirements by giving all parties the opportunity to:

- discuss and give feedback on a rezoning application early in the process
- clarify the standard information required (determined through the categorisation process), and any additional site-specific information required for that specific rezoning application.

Proponents will not be able to lodge a rezoning application without progressing through the scoping process. Failure to provide the information required in the study requirements may lead to rejection of a rezoning application at lodgement or refusal at the end of the process.

Study requirements will be valid for 18 months. If a rezoning application is not submitted in this timeframe, the scoping process will need to start again with new study requirements issued.

This stage also helps proponents to understand the nuances of certain issues and the concerns communities may have regarding proposals, allowing for a better and more acceptable response.

Scoping report

This process will begin with a high-level scoping report, prepared by the proponent, that overviews the proposal, how it aligns with the strategic context, any planning or site-specific issues, and any required studies.

Scoping meeting

A scoping meeting is held between the proponent and the rezoning authority and other relevant parties (including state agencies) to discuss the scoping report and provide preliminary feedback. Early agency input is important to allow agencies to shape proposals early on and avoid problems later in the assessment process by allowing proponents to adapt or change their proposal to address agency issues at the outset.

Written feedback

The rezoning authority will provide written feedback that indicates:

- the rezoning application's consistency with strategic planning
- agency feedback
- any recommended changes to the rezoning proposal
- the nominated rezoning application category.

This written feedback will also set out the standard information that should accompany the rezoning application including:

- intended objectives and outcomes of the proposal
- broad justification/case for change – need, strategic merit and site-specific merit of the proposal
- high-level evaluation against strategic planning (including any relevant SEPPs or s. 9.1 directions)
- any study requirements such as technical reports that demonstrate strategic and site-specific merit (the rezoning authority should seek input from relevant state agencies when determining these requirements)
- whether a section 7.11 infrastructure contributions plan is needed (consistent with ministerial directions).

Although the rezoning authority will provide feedback on whether the rezoning proposal is likely to be consistent with strategic plans, it will not be able to prevent the proponent from lodging an application. Study requirements must still be issued, and a proponent may still lodge a rezoning application, and have it assessed and determined.

What do you think?

Should a council or the department be able to refuse to issue study requirements at the scoping stage if a rezoning application is clearly inconsistent with strategic plans? Or should all proponents have the opportunity to submit a fully formed proposal for exhibition and assessment?

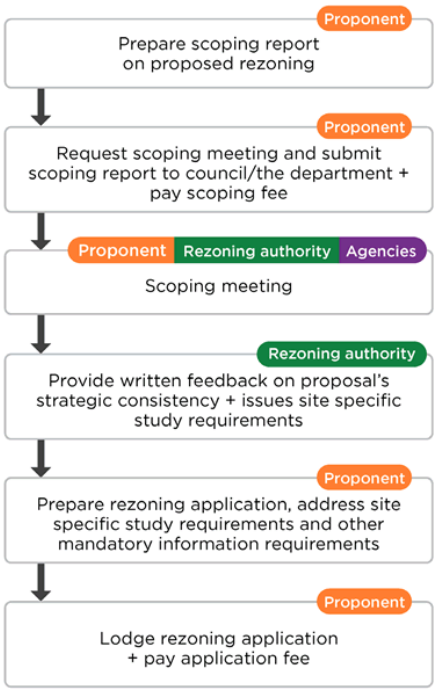


Figure 6. Framework for scoping

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Consistent documentation requirements

Given that a rezoning application is not a development application, technical information should be proportionate to the category of the rezoning application.

The LEP Guideline contains information to support proponents, councils and state agencies throughout the process, including:

- a new scoping template to help proponents prepare a scoping proposal
- a technical document that outlines the information and technical studies that may be required to support a planning proposal, based on the category of planning proposal and the types of planning proposals where a proponent should engage with a particular authority or government agency before lodgement
- the content requirements, structure and form of the planning proposal and matters that the planning proposal must address, including relevant state and local policies, section 9.1 directions, planning circulars and SEPPs. For example, the guidance indicates that a complex greenfield or urban renewal rezoning is likely to require an urban design study, but a basic rezoning will not.

The guidance will ensure a consistent approach across NSW, while accounting for metropolitan and regional differences. We will adapt it and incorporate it into the new approach to rezoning applications.

Lodgement

Rezoning applications are lodged on the NSW Planning Portal, the NSW Government's online planning system. The rezoning authority will check that the application is adequate and have 7 days to confirm that study requirements have been met.

This will align with the development application process, enabling greater opportunities to lodge concurrent rezoning applications and development applications.

Where requirements are met, this will trigger exhibition of the rezoning application, meaning the application will go live on the portal and the formal exhibition period begins. This is a significant change from the existing process. Currently, exhibition is determined as part of the gateway determination, when both the adequacy of information provided and the proposal's strategic alignment is assessed. A proposal might not proceed if it is found to be inadequate.

If study requirements have not been met, the rezoning application will be rejected and will need to be resubmitted.

Under the new approach, the only opportunity to refuse a rezoning application if it lacks strategic merit is after exhibition, in the final assessment stage. This means that the initial assessment effort will go into deciding if all required information has been provided, ensuring quicker adequacy checks and an opportunity for the public to scrutinise rezoning applications in an open and transparent way.

What do you think?

What sort of material could we supply to assure community members that exhibition does not mean the rezoning authority supports the application and may still reject it?

What do you think of removing the opportunity for a merit assessment before exhibition? Will it save time or money to move all assessment to the end of the process?

Should the public have the opportunity to comment on a rezoning application before it is assessed?

Exhibition

There will be a standard public exhibition period of between 14 and 42 days, depending on the category of rezoning application (as is currently the case, there could be circumstances where no exhibition is required).

A key shift in the new approach is to exhibit the rezoning application as soon as possible after lodgement, allowing early public scrutiny and saving time. Currently, there can be a considerable lag between issuing a gateway determination that allows exhibition and the start of the exhibition.

Additionally, we see an opportunity to improve the level of community engagement in strategic planning and the rezoning process by making it more accessible and simpler to understand. Effective community engagement is key to developing trust and transparency in the planning system.

The new approach will mean:

- The exhibition period automatically begins when the rezoning authority considers the rezoning application adequate and the rezoning application is visible on the NSW Planning Portal.
- Exhibition periods are determined according to the category of rezoning application (with an additional week included to allow the rezoning authority to send notification letters).
- Exhibition processes are automated as much as possible through the portal or, potentially, through integration with the Service NSW app.
- Proponents must provide a short, plain English summary of the proposal, its intent and justification and how it aligns with strategic plans, to be attached to notification letters.

What do you think?

What other opportunities are there to engage the community in strategic planning in a meaningful and accessible way?

Do you have any suggestions on how we could streamline or automate the exhibition process further?

Changes after exhibition

Following exhibition, a proponent must both summarise and respond to submissions received, including working with state agencies to resolve any objections. This will help the rezoning authority in its final assessment, while also giving the proponent the opportunity to respond to

issues raised. Those who provided submissions will know the proponent's response to their submissions.

As part of the response, the proponent will need to submit any changes or amendments to the rezoning application before final assessment.

Once the response to submissions and any amended rezoning application has been forwarded to the rezoning authority, assessment will begin. At this point, the assessment 'clock' will start. This is the time allowed for the rezoning authority to assess, finalise and determine a rezoning application before a proponent can:

- appeal (based on a decision that is deemed to be refused, a 'deemed refusal') and/or
- access a fee refund through a planning guarantee.

The deemed refusal and planning guarantee concepts are addressed in more detail in the next sections.

The finalisation timeframe is based on the category of rezoning application in Table 4.

Table 4. Assessment/finalisation timeframes

Category	1 (Basic)	2 (Standard)	3 (Complex)	4 (Principal LEP)
Assessment/finalisation timeframe	11 weeks	17 weeks	24 weeks	N/A (appeal only for private proponents)

What do you think?

Do you think the assessment clock should start sooner than final submission for assessment, or is the proposed approach streamlined enough to manage potential delays that may happen earlier?

Information requests

Ongoing requests for more information cause delays throughout the rezoning application process and create uncertainty for all parties to the process.

Requests for more information will be discouraged as the new approach is designed to:

- provide an opportunity for all necessary information to be identified upfront in the study requirements at scoping stage
- ensure that proponents resolve any outstanding agency and community concerns before submitting the final version of the rezoning application after exhibition.

Where requests for more information are unavoidable, or determining the application depends only on minor or unforeseen clarifications, requests for more information are allowed:

- from state agencies during exhibition/agency consultation, direct with the proponent
- within 25 days of being forwarded to the rezoning authority for assessment. Where this happens, the assessment clock (see Part D: Appeals) will be paused.

What do you think?

Do you think requests for more information should be allowed?

Assessment and finalisation

Following exhibition and any amendments, the rezoning authority will assess the rezoning application. The application may need to be exhibited again if changes made after the first exhibition are extensive – this will be determined by the rezoning authority.

If re-exhibition is not required and a rezoning application is supported, the rezoning authority will engage with the Parliamentary Counsel's Office to draft the instrument and mapping can be prepared.

As is currently the case, the rezoning authority can vary or defer any aspect of an amended LEP, if appropriate.

In assessing a rezoning application, all decision-makers need to address the same considerations when determining if a plan should be made. Decisions will also need to be published on the NSW Planning Portal and with the reasons for the decision clearly communicated.

Rather than different assessment processes at gateway determination and finalisation, we will standardise matters of consideration, as relevant to the final decision made by the rezoning authority. These standard matters will also inform advice given during scoping.

The kind of matters that could be considered include:

- whether the proposal has strategic merit
- provisions of any relevant SEPP or section 9.1 directions (including the Minister's Planning Principles)
- whether the proposal has site-specific merit
- any submissions made by the public or state agencies
- the public interest.

In considering strategic merit, the rezoning authority would consider whether the rezoning application:

- gives effect to the relevant strategic planning documents
- is consistent with the relevant local strategic planning statement or supporting strategy
- responds to a change in circumstances not yet recognised under the existing planning framework.

In considering site-specific merit, the rezoning authority would consider:

- the natural environment, built environment, and social and economic conditions
- existing, approved or likely future uses of land near the land subject to the application
- the services and infrastructure that are or will be available to meet demand arising from the rezoning application and any proposed financial arrangements for infrastructure provision.

What do you think?

Are there any other changes that we could make to streamline the assessment and finalisation process more? What roadblocks do you currently face at this stage of the process?

Do you think the public interest is a necessary consideration, or is it covered by the other proposed considerations?

Are there any additional matters that are relevant to determining whether a plan should be made?

Conflicts of interest

A conflict of interest may arise from certain voluntary planning agreements (VPA) or if council land is included in the rezoning application. This is separate to conflict of interest obligations on councillors under local government legislation.

Some of these potential conflicts of interest will be addressed in reforms to the NSW infrastructure contributions system, which funds the local and regional infrastructure needed to support new development. As part of the reforms, infrastructure contributions plans will be encouraged to be prepared alongside rezonings, minimising the need for VPAs.

A council with a conflict of interest should not assess and determine a proposal. Under the new approach, if a conflict of interest is unavoidable, the relevant local planning panel (or regional panel where no local panel exists) should determine the rezoning application.

What do you think?

Do you think a body other than the council (such as a panel) should determine rezoning applications where there is a VPA?

Where a council has a conflict of interest, should a rezoning application be determined by the local planning panel (as proposed), or should the department take full responsibility for the assessment and determination of the rezoning application?

New fee structure

Ad hoc rezonings led by private proponents may be used to achieve a different development outcome for a specific site than that permitted through the current controls. Typically, this relates to higher development yields, which can generate a better return on investment. This can mean private proponents stand to realise considerable economic benefits from a rezoning.

As this happens, we also need to ensure that any right to lodge a rezoning application comes with the responsibility to adequately compensate councils for the cost and time of assessing and determining applications. Councils should not be left short-changed or with stretched resources.

Currently, councils can charge fees for services under the *Local Government Act 1993* and rely on these fees for processing planning proposals. These fees are levied outside of the planning system.

Without relevant regulations, councils can structure and charge these fees as they wish, leading to varying fee payment structures between councils. We see fee variations for:

- pre-lodgement meetings
- categorising planning proposals (whether minor, major, complex or precinct-based)
- fees for public hearings or using external consultants to prepare additional supporting studies
- staging of payments proportionate to work done at any stage
- whether fee refunds are offered and the terms of the refund.

On average, Greater Sydney councils charge higher fees for pre-lodgement and the processing of planning proposals than regional councils. Some regional councils charge as little as $9,000 and some Greater Sydney councils charge as much as $150,000 for what they individually categorise as a major planning proposal.

Given the varying fees that councils charge and having heard that councils often have stretched resources, we have considered if it is appropriate to set a consistent structure for fees to proponents (other than council proponents). This could be done through 3 potential options, based on the following objectives:

- cost recovery for the rezoning authority, without creating a barrier to entry for rezoning applications that have strategic merit
- reasonableness for proponents (fees aligned with actual rezoning authority costs, including refund of fees not expended)
- transparency and predictability (proponents able to easily estimate fees with councils able to budget for quality staff and system improvements)
- ease of administration (administration minimised by limiting discretion, estimation or recording of assessment time by a rezoning authority).

Scoping fees

Any scoping fee structure would require a proponent to pay a fixed fee based on the application category (if known) when the scoping meeting is requested and a scoping report is submitted to the rezoning authority for preliminary feedback. Alternatively, the fee would be payable when the rezoning authority confirms the category.

The fee would cover the rezoning authority's costs for any activity during scoping, including consultation with state agencies and providing written feedback.

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Assessment fees

Any assessment fee structure would require the proponent to pay a fee at lodgement. This would cover the costs of the merit assessment and any associated work to make the plan. We are considering 3 options.

Option 1: Fixed assessment fees

- Assessment fees are fixed by the rezoning authority, based on the category of rezoning application and divided into sub-categories based on the complexity of the rezoning application.
- Sub-categories are based on the extent of change to zoning and/or development standards by location and site area, along with other matters that complicate the assessment process (such as whether a proposal includes a VPA). For example, a standard rezoning application that proposes a zone change and a significant increase in height of building and floor space ratio could attract a higher fee than a standard rezoning application that only seeks an additional permitted use or a minor increase to the height of building and floor space ratio.
- No fees would be charged for any other associated costs such as consultant fees for peer reviews.
- If a rezoning application is withdrawn after lodgement, the proponent could be entitled to a set percentage refund of fees, depending on the stage the rezoning application reaches.
- This option provides certainty for proponents and lessens the administrative burden for rezoning authorities. However, it may not always result in actual costs being recovered.

Option 2: Variable assessment fees

- Assessment fees are based on the estimated costs a rezoning authority would incur on a case-by-case basis, depending on the category of rezoning application, staff time in scoping meetings and a forward estimate of staff hours required to assess the rezoning application.
- Associated costs would be charged to the proponent based on actual costs incurred.
- If a rezoning application is withdrawn post-lodgement, the proponent could be entitled to a refund of fees not yet expended by the rezoning authority.
- This option will achieve actual cost recovery but will be time-consuming to administer and uncertain for proponents.

Option 3: Fixed and variable assessment fees

- Assessment fees have a fixed and variable component. The fixed fee would be charged upfront, based on the category of rezoning application (similar to option 1). In addition, a variable fee is charged once the rezoning application is finalised, based on actual staff hours that exceed the costs covered by the fixed fee.
- To reduce the risk of non-payment of the variable fee component, proponents of complex rezoning applications could be required to provide a bank guarantee at lodgement.
- Associated costs will be charged to the proponent based on the actual costs incurred.
- This option will achieve actual cost recovery and be less time-consuming to administer and more certain for proponents than option 2 (although less so than option 1).

What do you think?

Do we need a consistent structure for rezoning authority fees for rezoning applications?

What cost components need to be incorporated into a fee structure to ensure councils can employ the right staff and apply the right systems to efficiently assess and determine applications?

Should the fee structure be limited to identifying for what, how and when rezoning authorities can charge fees, or should it extend to establishing a fee schedule?

What is your feedback about the 3 options presented above?

Should fee refunds be available if a proponent decides not to progress a rezoning application? If so, what refund terms should apply? What should not be refunded?

Planning guarantee

A planning guarantee was introduced into the UK planning system in 2013. It provides for a fee refund if councils take too long to assess the equivalent of a development application and works to encourage the timely progress of applications. Even where a fee refund is given, assessment and determination of the application continues.

We are looking at mechanisms for rezoning authorities to determine rezoning applications more efficiently while being transparent and giving proponents certainty. As part of this, we have considered the potential for a planning guarantee scheme in NSW.

We have considered 4 elements:

- **The assessment clock** – when the clock starts and stops during the rezoning application process.
- **Timing** – how long the clock should run before a proponent is entitled to a fee refund.
- **Refund amount** – the percentage or component of fees to be refunded.
- **Extension of time agreements (EoT)** – the ability for a rezoning authority and proponent to agree on a longer timeframe.

We developed a potential planning guarantee option by applying the UK model to our own system, with the 4 elements aligning with the new approach and potential fee structure options.

- **The assessment clock** starts once the proponent submits the response to submissions and any amended rezoning application to the rezoning authority for assessment and finalisation.
- **Timing** is based on the assessment/finalisation timeframes for that category of rezoning application (see Table 4 – Assessment/finalisation timeframes) and are the same as deemed refusal timeframes discussed under Part C: New appeals pathways.
- **Refund amount**, whether full or a portion and staged, so that the longer a rezoning authority takes, the higher the refund (this could mean, for example, an additional 10% refund for every week the rezoning authority does not meet the determination timeframe).
- **EoTs** would be required if it becomes clear that more time is genuinely required. EoT requests and agreements would be in writing and agreed to before the end of the determination timeframe. Only one EoT can be agreed to and the extension cannot be longer than the original finalisation time for that category of rezoning application.

The following diagram shows how the planning guarantee would fit within the rezoning application process.



Figure 7. Example of planning guarantee timeframes in rezoning process

What do you think?

Do we need a framework that enables proponents to request a fee refund if a rezoning authority takes too long to assess a rezoning application?

If so, what mitigation measures (for example, stop-the-clock provisions, or refusing applications to avoid giving fee refunds) would be necessary to prevent a rezoning authority from having to pay refunds for delays it can't control?

If not, what other measures could encourage authorities to process rezoning applications promptly?

Part C: New appeals pathways

Introduction

As part of these overall reforms, we are considering a new appeals pathway for planning proposals.

There are currently 2 ways that decisions can be reviewed:

- **A rezoning review** – An appeal to the relevant planning panels where there is delay or a council has decided not to forward a planning proposal for gateway determination
- **A gateway review** – An appeal to the Independent Planning Commission where a council or proponent is dissatisfied with the gateway determination.

Both these reviews are non-statutory in that they are not specifically governed by the EP&A Act. They happen relatively early in the overall rezoning process, which means there is no opportunity for a review or appeal towards or at the end of the process – making the final decision beyond question.

There are benefits to some form of appeal mechanism at the end of the process:

- The opportunity to appeal where there is a delay encourages decision-makers to assess and determine applications promptly.
- An appeal on the final decision delivers a real and practical outcome if successful (for example, an LEP amendment), whereas reviews/appeals earlier in the process only move a proponent a step forward in the process.
- Written decisions about an appeal such as a judgment adds scrutiny to the decision-making process. This can guide and improve future decision-making as principles are developed, or highlight where there are gaps or inconsistencies in strategic planning documents.
- The appeal process can improve public visibility of decision-making and increases the accountability of decision-makers.

Our proposed approach will include a review opportunity for private proponents at the end of the process, if progress has been delayed or if the proponent is dissatisfied with the final decision. Proponents will have a certain timeframe within which to lodge an appeal, similar to the right to appeal a decision about the merit of a development application.

We do not propose allowing an appeal to public authorities such as councils or state-owned corporations. *Premier's Memorandum M1997-26 Litigation Involving Government Authorities,* although not strictly applying to all public authorities, discourages litigation between public authorities. Rather, other avenues, such as the Planning Delivery Unit, could resolve disputes between the department and other public authorities.

An appeal based on a delay would be available once set timeframes have passed, like a 'deemed refusal' of a development application. Under our proposed appeal pathway, the deemed refusal period would begin once a proponent lodges their final rezoning application or confirms that no changes are required and responds to submissions after exhibition.

The deemed refusal period would be based on the category of rezoning application as shown in Table 4 above.

This proposed pathway will allow the review body to look at the final decision and consider if a different decision ought to be made.

Options

We have already discussed a merit appeal right to the Land and Environment Court with stakeholders. While the Land and Environment Court is the primary institution in NSW for resolving environmental and planning disputes, stakeholder feedback prompted us to consider an appeal to the Independent Planning Commission as an alternative.

A Land and Environment Court merit appeal could operate similarly to development application merit appeals, with an opportunity for conciliation and a final hearing if an agreement cannot be reached. The court would have powers to make any decisions required to finalise the proceedings.

Appeals to the Independent Planning Commission will require us to develop a new process, allowing various parties to present their position and new procedures relating to amendments to rezoning applications or hearing from the public. This process could be similar to the determination process for state-significant development with appropriate changes to account for it being a review function and to allow the commission to make the final decision on a rezoning application.

Industry groups generally support an appeals pathway. They want greater certainty that proposals that are strategically aligned and address community needs can be approved in a mechanism that is apolitical.

However, there are concerns about the cost and complexity of Land and Environment Court proceedings, which may not be suited to strategic planning. Some industry stakeholders supported consideration of a non-judicial pathway, such as the Independent Planning Commission.

Councils are concerned that any proposed appeals pathway would add extra pressure and time. They feel the increase in costs, time and speculation would undermine strategic planning.

We have outlined advantages and disadvantages below.

Table 5. Land and Environment Court

Advantages	Disadvantages
• Established processes and procedures relating to merit review could be adapted. • Existing wide-reaching powers enable it to consider fresh evidence and exercise necessary powers. • Opportunity for conciliation allows parties to discuss and resolve issues. • Potential legal proceedings are a strong deterrent against delay or poor decision-making.	• Can be costly and time consuming – legal representation is not mandatory but is common. • No historical dealings with the merit of strategic planning decisions and may not currently have the expertise. • Adversarial process may not be suited to rezonings. • The court may have an issue intervening in the making of an LEP, being a form of delegated legislation (which is the role of the Minister for Planning and Public Spaces).

CL22.121 - Attachment 1

Table 6. Independent Planning Commission

Advantages	Disadvantages
• Likely to be quicker and cheaper. • More flexible procedure and less adversarial, meaning we can tailor a new process to strategic planning decisions. • Appropriately independent from government to review government decisions.	• Would be a significant shift in operations, requiring resourcing. • May not have the expertise to deal with strategic planning decisions. • No opportunity for conciliation – to maintain an efficient process, may need to limit opportunities for changes to proposals and fresh information on review.

What do you think?

Do you think public authorities (including councils) should have access to an appeal?

Which of these options – the Land and Environment Court or the Independent Planning Commission (or other non-judicial body) – do you believe would be most appropriate?

Part D: Implementation

Implementing the new approach

Our focus in this discussion paper is to seek feedback on the concepts or principles of the new approach, rather than the means of carrying it out. Once it is clear which of the proposed elements will have the greatest benefit, we will use what we've heard to determine how we will put the new approach into action.

Applying the new approach could involve both legislative and non-legislative changes.

We could implement the proposed new approach using existing legislative provisions, along with other existing mechanisms such as:

- ministerial directions to make assessment considerations more certain
- delegation to empower decision-makers
- departmental secretary's requirements to make application requirements clear
- amendments to the Standard Instrument to standardise common amendments
- new regulations to provide more certainty in the agency engagement process.

This would be supported with other policy and guidance material.

By using the existing statutory framework, the reforms are, necessarily, more limited in scope.

A legislative approach would involve amending the EP&A Act in addition to the mechanisms described above. This allows greater opportunity and flexibility in any reform. Importantly, legislative change would be needed to allow a rezoning application to be appealed in the Land and Environment Court.

The implementation of the new approach will be supported with policy guidance and education for industry and councils to ensure a smooth transition and minimise disruption and uncertainty. There will also be opportunity for councils to adjust their processes and resourcing.

NSW Planning Portal improvements

We will need to increase the capability and use of the NSW Planning Portal for triggering referrals, standardising requirements and ensuring accountability and transparency.

Much of this work is underway, including the ability to lodge a planning proposal online, which began in the middle of 2021.

The department's ePlanning team will continue to increase the capabilities of the portal and adjust the system to account for changes to the process.

PRELIMINARY TRANSLATION

Preliminary translation of the employment zones land use tables

Shoalhaven LEP 2014 land use tables (Version 1.0)

Employment zones reform

Preliminary translation of Shoalhaven LEP 2014 land use tables

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PRELIMINARY TRANSLATION

CL22.123 - Attachment 2

Employment zones reform

Preliminary translation of Shoalhaven LEP 2014 land use tables

Shoalhaven Local Environmental Plan 2014

Zone E1 Local Centre

Direction

The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone—

Building identification signs; Business identification signs; Home businesses; Home industries; Home occupations; Recreation areas; Roads

Guidance

The following needs to be considered by council in finalising the land use table:

1. Land uses - a decision by council as to whether council permits or prohibits –

   Pond-based aquaculture; Tourist and visitor accommodation (as the group term) and non-mandated land use sub-terms – backpackers' accommodation; bed and breakfast accommodation; farm stay accommodation; and serviced apartments.

2. Objectives – there may be guidance detailed in 1 Objectives of zone for council feedback. This includes whether to 'retain', 'delete' or 'amend' a local objective.

1 Objectives of zone

- To provide a range of retail, business and community uses that serve the needs of people who live, work or visit the area.
- To encourage investment in local commercial development that generates employment opportunities and economic growth.
- To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To ensure that development is of a scale that is compatible with the character of the surrounding residential environment. [retain]

2 Permitted without consent

Nil

3 Permitted with consent

Amusement centres; Backpackers' accommodation; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Home businesses; Home industries; Home occupations; Hotel or motel accommodation; Information and education facilities; Local distribution premises; Medical centres; Oyster aquaculture; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Registered clubs; Residential care facilities; Respite day care centres; Restricted premises; Roads; Service

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stations; Shop top housing; Tank-based aquaculture; Veterinary hospitals; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Residential accommodation; Resource recovery facilities; Rural industries; Sex services premises; Signage; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste disposal facilities; Water recreation structures; Wharf or boating facilities

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Employment zones reform

Preliminary translation of Shoalhaven LEP 2014 land use tables

Zone E2 Commercial Centre

Direction

The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone—

Building identification signs; Business identification signs; Home businesses; Home industries; Home occupations; Roads

Guidance

The following needs to be considered by council in finalising the land use table:

1. Land uses - a decision by council as to whether council permits or prohibits –

   Pond-based aquaculture

2. Objectives – there may be instructions detailed in 1 Objectives of zone for council feedback. This includes whether to 'retain', 'delete' or 'amend' a local objective.

1 Objectives of zone

- To strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity.
- To encourage investment in commercial development that generates employment opportunities and economic growth.
- To encourage development that has a high level of accessibility and amenity, particularly for pedestrians.
- To enable residential development that is consistent with the Council's strategic planning for residential development in the area.
- To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.

2 Permitted without consent

Nil

3 Permitted with consent

Amusement centres; Artisan food and drink industries; Backpackers' accommodation; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Home businesses; Home industries; Home occupations; Hotel or motel accommodation; Information and education facilities; Local distribution premises; Medical centres; Mortuaries; Oyster aquaculture; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Seniors housing; Shop top housing; Tank-based aquaculture; Vehicle repair stations; Veterinary hospitals; Any other development not specified in item 2 or 4

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4 Prohibited

Agriculture; Air transport facilities; Airstrips; Bed and breakfast accommodation; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Heavy industrial storage establishments; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Recreation facilities (major); Research stations; Residential accommodation; Residential care facilities; Resource recovery facilities; Rural industries; Signage; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste disposal facilities; Wharf or boating facilities

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Employment zones reform

Preliminary translation of Shoalhaven LEP 2014 land use tables

Zone E3 Productivity Support

Direction

The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone—

Building identification signs; Business identification signs; Home industries; Roads

Guidance

The following needs to be considered by council in finalising the land use table:

1. Land uses - a decision by council as to whether council permits or prohibits –

   Pond-based aquaculture

2. Objectives – there may be guidance detailed in 1 Objectives of zone for council feedback. This includes whether to 'retain', 'delete' or 'amend' a local objective.

1 Objectives of zone

- To provide a range of facilities and services, light industries, warehouses and offices.
- To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.
- To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.
- To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.
- To provide opportunities for new and emerging light industries.
- To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.
- To allow a diversity of activities that do not significantly conflict with the operation of existing or proposed development. [retain]

2 Permitted without consent

Nil

3 Permitted with consent

Animal boarding or training establishments; Backpackers' accommodation; Boarding houses; Boat building and repair facilities; Building identification signs; Business identification signs; Business premises; Centre-based child care facilities; Community facilities; Depots; Function centres; Garden centres; Hardware and building supplies; Hotel or motel accommodation; Industrial retail outlets; Industrial training facilities; Information and education facilities; Kiosks; Landscaping material supplies; Light industries; Local distribution premises; Markets; Mortuaries; Neighbourhood shops; Office premises; Oyster aquaculture; Passenger transport facilities; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Research stations; Respite day care centres; Roads; Rural supplies; Service stations; Serviced apartments; Shop top housing; Specialised retail

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premises; Storage premises; Take away food and drink premises; Tank-based aquaculture; Timber yards; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres; Wholesale supplies; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Eco-tourist facilities; Entertainment facilities; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Helipads; Highway service centres; Home businesses; Home occupations; Home occupations (sex services); Home-based child care; Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Registered clubs; Residential accommodation; Resource recovery facilities; Restricted premises; Retail premises; Rural industries; Sex services premises; Signage; Tourist and visitor accommodation; Transport depots; Truck depots; Waste disposal facilities; Water recreation structures; Wharf or boating facilities

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Employment zones reform

Preliminary translation of Shoalhaven LEP 2014 land use tables

Zone E4 General Industrial

Direction

The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone—

Building identification signs; Business identification signs; Roads

Guidance

The following needs to be considered by council in finalising the land use table:

1. Land uses - a decision by council as to whether council permits or prohibits –

   Pond-based aquaculture; Places of public worship

2. Objectives – there may be guidance detailed in 1 Objectives of zone for council feedback. This includes whether to 'retain', 'delete' or 'amend' a local objective.

1 Objectives of zone

- To provide a range of industrial, warehouse, logistics and related land uses.
- To ensure the efficient and viable use of land for industrial uses.
- To minimise any adverse effect of industry on other land uses.
- To encourage employment opportunities.
- To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.
- To allow a diversity of activities that do not significantly conflict with the operation of existing or proposed development. [retain]

2 Permitted without consent

Nil

3 Permitted with consent

Building identification signs; Business identification signs; Depots; Freight transport facilities; Garden centres; General industries; Goods repair and reuse premises; Hardware and building supplies; Industrial retail outlets; Industrial training facilities; Kiosks; Landscaping material supplies; Light industries; Local distribution premises; Markets; Neighbourhood shops; Oyster aquaculture; Plant nurseries; Roads; Specialised retail premises; Take away food and drink premises; Tank-based aquaculture; Timber yards; Warehouse or distribution centres; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Camping grounds; Caravan parks; Cemeteries; Centre-based child care facilities; Charter and tourism boating facilities; Correctional centres; Crematoria; Eco-tourist facilities; Educational establishments; Environmental facilities; Exhibition villages; Extractive industries; Farm buildings; Forestry; Function centres; Health services facilities; Highway service

PRELIMINARY TRANSLATION

centres; Home businesses; Home occupations; Home occupations (sex services); Home-based child care; Information and education facilities; Marinas; Mooring pens; Moorings; Office premises; Open cut mining; Registered clubs; Residential accommodation; Respite day care centres; Restricted premises; Retail premises; Sex services premises; Tourist and visitor accommodation; Water recreation structures; Wharf or boating facilities

PRELIMINARY TRANSLATION

Employment zones reform

Preliminary translation of Shoalhaven LEP 2014 land use tables

Zone MU1 Mixed Use

Direction

The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone—

Building identification signs; Business identification signs; Home industries; Roads

Guidance

The following needs to be considered by council in finalising the land use table:

1. Land uses - a decision by council as to whether council permits or prohibits –

   Pond-based aquaculture

2. Objectives – there may be guidance detailed in 1 Objectives of zone for council feedback. This includes whether to 'retain', 'delete' or 'amend' a local objective.

1 Objectives of zone

- To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.
- To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.

2 Permitted without consent

Nil

3 Permitted with consent

Amusement centres; Attached dwellings; Boarding houses; Building identification signs; Business identification signs; Car parks; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Group homes; Information and education facilities; Light industries; Local distribution premises; Medical centres; Multi dwelling housing; Oyster aquaculture; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Registered clubs; Residential flat buildings; Respite day care centres; Restricted premises; Roads; Seniors housing; Shop top housing; Tank-based aquaculture; Tourist and visitor accommodation; Vehicle repair stations; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Environmental facilities; Exhibition homes; Exhibition

PRELIMINARY TRANSLATION

villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Recreation facilities (outdoor); Research stations; Residential accommodation; Resource recovery facilities; Rural industries; Sex services premises; Signage; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste disposal facilities; Wharf or boating facilities

PRELIMINARY TRANSLATION

Zone W4 Working Waterfront

W4 Direction

The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone—

Roads

Guidance

The following needs to be considered by council in finalising the land use table:

Objectives – there may be guidance detailed in *1 Objectives of zone* for council feedback. This includes whether to 'retain', 'delete' or 'amend' a local objective.

1 Objectives of zone

- To retain and encourage industrial and maritime activities on foreshores.
- To identify sites for maritime purposes and for activities requiring direct foreshore access.
- To ensure that development does not have an adverse impact on the environment and visual qualities of the foreshore.
- To encourage employment opportunities.
- To minimise any adverse effect of development on land uses in other zones.

2 Permitted without consent

Building identification signs

3 Permitted with consent

Aquaculture; Boat building and repair facilities; Boat launching ramps; Heliports; Hotel or motel accommodation; Jetties; Kiosks; Light industries; Liquid fuel depots; Markets; Restaurants or cafes; Roads; Serviced apartments; Take away food and drink premises; Vehicle sales or hire premises; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Camping grounds; Caravan parks; Cemeteries; Centre-based child care facilities; Commercial premises; Correctional centres; Crematoria; Eco-tourist facilities; Educational establishments; Entertainment facilities; Environmental facilities; Exhibition homes; Exhibition villages; Farm buildings; Forestry; Function centres; Health services facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home businesses; Home occupations; Home occupations (sex services); Home-based child care; Industries; Information and education facilities; Local distribution premises; Mortuaries; Open cut mining; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Resource recovery facilities; Respite day care centres; Restricted premises; Rural industries; Service stations; Sex services premises; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste disposal facilities

PRELIMINARY TRANSLATION

Employment zones reform

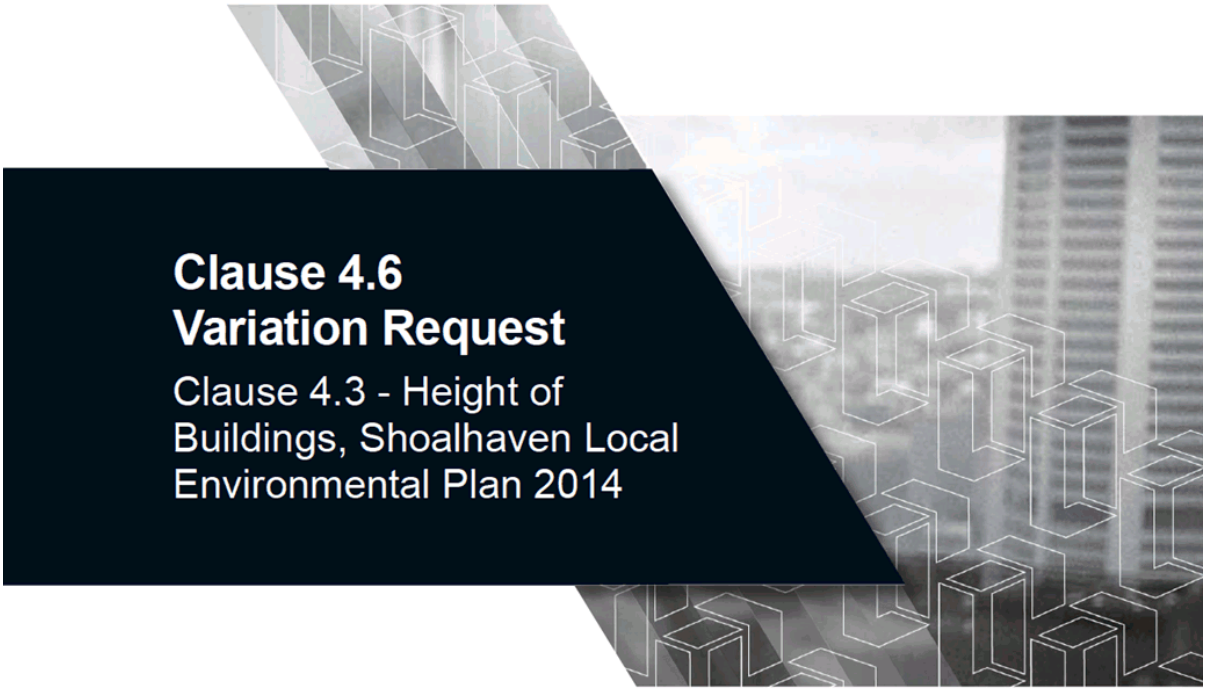
Preliminary translation of Shoalhaven LEP 2014 land use tables

Local Provisions and Schedule 1 – Additional permitted uses

This table lists Local Provisions and Schedule 1 – Additional permitted uses. The department, in reviewing these existing provisions, has prepared a recommendation for how to proceed as part of translation into the new employment zones. Council is asked to review, confirm, or amend the recommendations.

LEP	Clause/Schedule	Provision	Implications for implementation	Recommendation
Shoalhaven LEP 2014	**Part 7 Additional local provisions**			
	Cl.7.14 Permanent occupation in mixed use developments	Stipulates limitations on the amount of residential and/or tourist and visitor accommodation that can developed in mixed use developments, including in B4 zone.	Nil	Retain provisions.
	Cl.7.16 Ground floor development in Zone B3	Requirements for ground floor development, including no residential accommodation, in B3 zone.	Nil	Retain provision.
	Cl.7.19 Development of the Nowra Civic Precinct	Requirement for preparation and consideration of DCP before development is carried out (land zoned B4)	Site specific provision.	Retain provision.
	Cl.7.26 Increased building height Huskisson TC	Stipulates development criteria that, if met, would allow for increased building height	Site specific provision.	Retain provision.
	Schedule 1			
	Schedule 1, cl.7, 13 Wilfords Lane, Milton	Allows concrete batching plant (land zoned IN2)	Concrete batching plant considered a general industry and therefore not mandated in E4.	Provision can be deleted.
	Schedule 1, cl.9, certain land in Maisie Williams Dr, Mollymook	Allows dwelling houses or dual occupancies (land zoned B4)	Dwelling houses and dual occupancies not mandated in MU1.	Retain provision.
	Schedule 1, cl.12, 188 Camden St Ulladulla	Allows aquaculture (including pond-based aquaculture) (land zoned IN2)	Pond-based aquaculture prohibited in E4.	Retain provision.
	Schedule 1, cl.13, Vincentia District Town Centre	Allows specialised retail premises, garden centres, hardware and building supplies, landscaping material supplies, plant nurseries and timber yards (land zoned B2)	All uses mandated in E1.	Provision can be deleted.
	Schedule 1, cl.19, 9 Browns Rd, South Nowra	Allows caravan parks (land zoned B5)	Caravan parks not mandated in E3.	Retain provision.

PRELIMINARY TRANSLATION



Clause 4.6 Variation Request

Clause 4.3 - Height of Buildings, Shoalhaven Local Environmental Plan 2014

Proposed Concrete Batching Plant - 340 Bolong Road, Bolong, NSW

Submitted to Shoalhaven City Council
On behalf of Cleary Bros (Bombo) Pty Ltd

MAY 2021

REPORT REVISION HISTORY

Revision	Date Issued	Revision Description	
01	26/04/21	Draft	
		Prepared by	**Verified by**
		Elyse Kenny *Senior Project Planner*	[redacted] Paul Mitchell *Director - Major Projects*
02	19/05/21	Final	
		Prepared by	**Verified by**
		Elyse Kenny *Senior Project Planner*	[redacted] Paul Mitchell *Director - Major Projects*

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CL22.129 - Attachment 1

EXECUTIVE SUMMARY

Cleary Bros proposes development of a new concrete batching plant at 340 Bolong Road, Bolong (the site). The new plant will replace an existing one located some 3.5kms to the west where a conflict with the operations of the neighbouring Manildra industrial facilities exists. The new plant will operate at the same output and employment levels as the existing plant.

This clause 4.6 variation request is provided to justify the contravention of Clause 4.3 (Height of Buildings) of *Shoalhaven Local Environmental Plan 2014* (SLEP) proposed in the development application submitted to Shoalhaven City Council for a concrete batching plant at the site.

Clause 4.3(2) of SLEP specifies that the height of a building must not exceed the maximum height shown for the land on the height of buildings map. Clause 4.3 (2A) stipulates that, if the map does not show a maximum height for any land, the height of a building on the land is not to exceed 11 metres. As the map does not show a maximum height control for the site, the 11 metre requirement applies to the proposal. The new plant will include several buildings and structures, with the tallest structure being silos up to RL26, approximately 23.75 metres above existing ground levels, exceeding the control by 12.75 metres or 116%.

The proposed 23.75 metre height of the silos is required to meet operational requirements of the concrete batching plant. A compliant, 11 metre high silo, would not function effectively rendering the proposed development impractical. The height of the proposed silos has also been exacerbated by necessary raising of site by 1.5 metres to provide flood protection. Further, several existing buildings and structures located to the west of the proposed batch plant site range up to 33.5 metres high. Many of these structures are clearly visible from Bolong Road.

The variation is consistent with the objectives of Clause 4.3 as well as the IN1 General Industrial zone and will not cause adverse environmental impacts in the form of overshadowing, privacy and visual impacts. Apart from the lack of impacts the proposal will enable valuable industrial development that will support Shoalhaven's construction industry. For these reasons there are sufficient environmental planning grounds to justify the variation.

The variation to the standard will promote orderly and economic use and development of the land and therefore be in the public interest.

1. INTRODUCTION

This formal request has been prepared in accordance with clause 4.6 of the SLEP to justify a variation to the Height of Buildings development standard proposed in a development application for a concrete batching plant at the site.

The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying development standards to achieve better outcomes for, and from, development.

This request has been prepared having regard to the Department of Planning and Environment's Guidelines to Varying Development Standards (August 2011) and various relevant decisions in the New South Wales Land and Environment Court (LEC) and New South Wales Court of Appeal (Court).

Clause 4.6 requires that a consent authority must be satisfied about four matters before upholding a request to vary a development standard (see *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130, *Al Maha Pty Ltd v Huajun Investments Pty Ltd* (2018) 233 LGERA 170; [2018] NSWCA 245) at [23] and *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61 at [76]-[80] and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31]:

1. That the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case [clause 4.6(3)(a)].
2. That the applicant has provided sufficient environmental planning grounds to justify the contravention [clause 4.6(3)(b)].
3. That the consent authority itself is 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)].
4. That the consent authority is satisfied that the Planning Secretary's concurrence functions have been fulfilled (clause 4.6(4)(b)).

CL22.129 - Attachment 1

2. STANDARD TO BE VARIED

The standard that is proposed to be varied is the Height of Buildings development standard which is set out in clause 4.3 of the SLEP as follows:

> *(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.*

As the Height of Buildings Map does not show a maximum height for the site, the numerical value of the development standard applicable in this instance is 11m.

The development standard to be varied is not excluded from the operation of clause 4.6 of the LEP.

CL22.129 - Attachment 1

3. EXTENT OF VARIATION

The new plant will include several buildings and structures, with the tallest structure being silos up to RL26, approximately 23.75 metres above existing ground levels, exceeding the control by 12.75 metres or 116%.

Figure 1 and Figure 2 show the extent of the silos that exceed the maximum height standard.

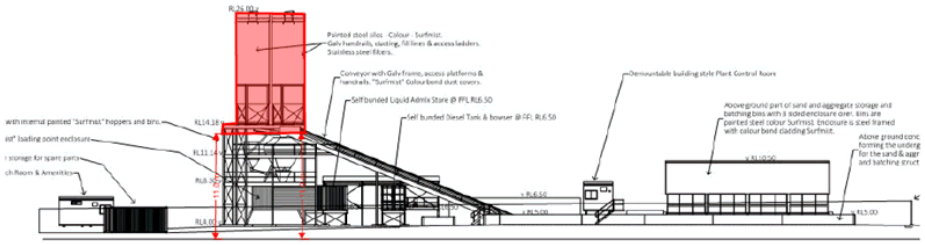


Figure 1: West elevation, height variation shaded red (Source: TCH)

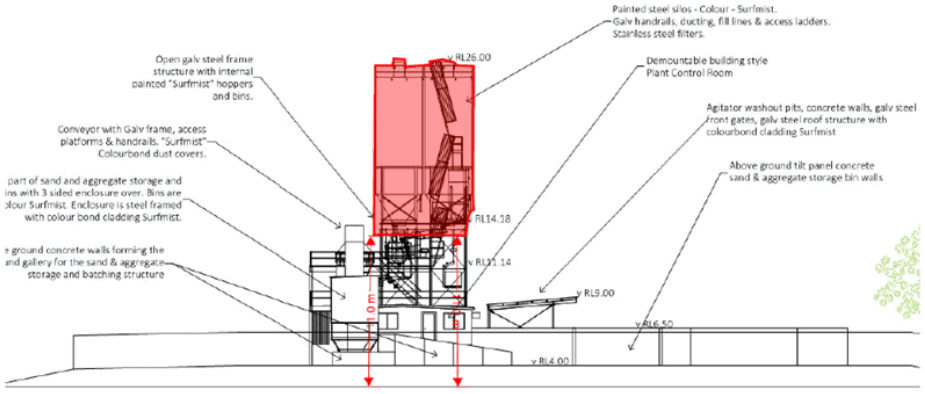


Figure 2: South elevation, height variation shaded red (Source: TCH)

CL22.129 - Attachment 1

4. UNREASONABLE OR UNNECESSARY

4.1. The statutory tests

This section demonstrates why compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by clause 4.6(3)(a) of the LEP.

The LEC has held that there are at least five different ways, and possibly more, by which an applicant might establish that compliance with a development standard is unreasonable or unnecessary (see *Wehbe v Pittwater Council* [2007] NSWLEC 827).

The five ways are:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
3. The objective would be defeated or thwarted if compliance was required with the consequence that 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 unreasonable and unnecessary; and
5. The zoning of the land is unreasonable or inappropriate.

For an application to be upheld it is sufficient to demonstrate that it satisfies only one of the five ways given above (*Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Limited v Woollahra Municipal Council* [2018] NSWLEC 118 at [22] and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 at [28]) and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31].

In this case, the variation would satisfy the first test for the reasons given below.

4.2. Objectives of the standard are achieved notwithstanding non-compliance

The following table shows that the objectives of the development standard would be achieved by the proposed variation.

Table 1: Achievement of Objectives of Clause 4.3 of LEP.

Objective	Discussion
(1)(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of a locality,	The site is located in the IN1 General Industrial Zone and the existing character of the locality immediately to the west comprises industrial buildings and structures including a number that exceed the 11m height standard. The height of the proposed silos would be consistent with the height, bulk, scale and character of most buildings in the locality. The proposed buildings would have a different bulk and height to those in the neighbouring rural area. Notwithstanding, the character of the locality is of two types- industrial and rural- and the proposed development would be seen as being part of the industrial complex meaning no discernible change in the locality's character would occur.

CL22.129 - Attachment 1

Objective	Discussion
(1)(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,	The Visual Impact Assessment in the accompanying EIS shows that the tall silos would have minimal visual impacts because they would be viewed against the neighbouring industrial complex and be largely screened by trees in the foreground. The silos would not cause any loss of privacy or solar access (shadows would fall either on industrial or pasture lands) and there would be no material loss of views from any public viewpoint or residence because the proposed batch plant is located greater than 300m from the closest residence.
(1)(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 site of the proposed development does not contain any historic items, is not in or near a conservation area and has low Aboriginal heritage value. Only a single Aboriginal object was found during field investigations. The object is subsurface and will be reburied in a secure location as part of the development. The proposed variations will have no effect on heritage matters.

As demonstrated in Table 1 the proposed tall silos would be consistent with the objectives of the Height of Buildings standard notwithstanding the height variation involved. For this reason, compliance with the Height of Buildings development standard would be unnecessary and the requirements of clause 4.6(3)(a) have been met.

5. SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS

In *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, Preston CJ observed that for there to be 'sufficient' environmental planning grounds to justify a variation request, the focus must be on the aspect of the development that contravenes the development standard, not on the whole development.

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, Pain J observed that it is within the discretion of a consent authority to consider whether the environmental planning grounds relied on are particular to the circumstances of the proposed development or the particular site.

In this case the aspect of the development which contravenes the Height of Buildings standard are the upper part of the silos.

The environmental planning grounds to justify the proposed variation are as follows:

- The site is zoned for industrial purposes and therefore the proposed batching plant would be orderly and economic use and development of land. The height variation is required to enable use of the site as a concrete batching plant.
- Development of the site for a concrete batching plant would be economically and socially beneficial because it would contribute to a robust and competitive local construction industry and would also maintain local employment in concrete production.
- The adjoining industrial complex to the west comprises large scale built form including elevated water tanks and towers/stacks reaching up to 33.5m in height. The proposed silos will be consistent with the height and scale of the neighbouring development and will not change the character of the locality.

CL22.129 - Attachment 1

6. PUBLIC INTEREST

This section explains how 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)).

Section 4 above demonstrated that the proposed tall silos would be consistent with the objectives of the height of buildings standard notwithstanding the variation.

The table below considers whether the silos would also be consistent with the objectives of the zone.

Table 2: Consistency with Zone Objectives.

Objectives of Zone IN1 General Industrial	Discussion
To provide a wide range of industrial and warehouse land uses.	The proposed concrete batching plant is consistent with the industrial use envisaged for the subject site. It is not possible to develop a concrete plant without the proposed tall silos.
To encourage employment opportunities.	The new plant will maintain the jobs provided in Cleary Bros existing concrete plant and will create additional jobs during the construction phase.
To minimise any adverse effect of industry on other land uses.	The site is well separated from sensitive receivers, with the nearest residential development approximately 300m to the south-east. The accompanying EIS contains detailed studies of all potential impacts - noise, dust, visual, flooding and traffic. The studies show that all applicable assessment criteria will be satisfied and that no neighbouring receiver will experience any unsatisfactory impact. As such, the proposed development will not have any adverse effect on an adjoining land use.
To support and protect industrial land for industrial uses.	The proposal involves the use of a currently vacant parcel of industrial-zoned land for industrial purposes. Its development for industry as proposed is thus an appropriate use of the land.
To allow a diversity of activities that do not significantly conflict with the operation of existing or proposed development.	See above.
To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.	Not relevant.

As demonstrated in Table 2, the proposal is consistent with the objectives of the zone and in Section 5 it was demonstrated that the proposal is consistent with the objectives of the development standard. According to clause 4.6(4)(a)(ii), therefore, the proposal in the public interest.

7. STATE OR REGIONAL ENVIRONMENTAL PLANNING

This section considers whether contravention of the development standard raises any matter of significance for State or regional environmental planning, the public benefit of maintaining the development standard, and any other matters required to be taken into consideration by the Secretary before granting concurrence required by clause 4.6(5).

There is no identified outcome which would be prejudicial to planning matters of state or regional significance that would result because of varying the development standard as proposed by this application.

As demonstrated already, the proposal is consistent with the objectives of the zone and the objectives of the development standard and there are no additional matters which would indicate there is any public benefit of maintaining the development standard in the circumstances of this application.

We are not aware of any other matters required to be taken into consideration by the Secretary before granting concurrence.

CL22.129 - Attachment 1

8. CONCLUSION

This submission requests a variation, under clause 4.6 of the SLEP to the height of buildings development standard and demonstrates that:

- Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this development;
- The development achieves the objectives of the development standard is consistent with the objectives of the IN1 zone.
- There are sufficient environmental planning grounds to justify the contravention;

The consent authority can be satisfied to the above and that the development achieves the objectives of the development standard and is consistent with the objectives of Zone IN1 notwithstanding non-compliance with the height of buildings standard and is therefore in the public interest.

The concurrence of the Secretary can be assumed in accordance with Planning Circular PS 18-003.

On this basis, therefore, it is appropriate to exercise the flexibility provided by clause 4.6 in the circumstances of this application.

CL22.129 - Attachment 1

GROUPGSA

340 BOLONG RD: VISUAL IMPACT ASSESSMENT

Visual Impact Assessment for a proposed concrete batching plant

Prepared for Cleary Bros | GroupGSA | 19 March 2021

CL22.129 - Attachment 2

We acknowledge the traditional custodians of the land, and pay our respects to their elders past present and emerging, recognising their continuing connection to land, waters and culture.

Issue	Reason	Date	Prepared by	Checked by
1	Issue for DA submission	19/03/2021	AH	JH
2	Revised for DA submission	06/04/2021	AH	JH

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EXECUTIVE SUMMARY

The proposal

A new concrete batching plant is proposed at 340 Bolong Road, Bomaderry to replace an existing concrete batching plant facility at 34 Bolong Road.

The site

The site is located on land zoned IN1 General Industrial and is situated next to a large paper mill operated by Manildra Group. The site is currently open space, with a significant tree buffer to the Bolong Road frontage.

The batching plant is proposed to sit on a subdivided block of land adjacent to Bolong Road. The larger lot behind has direct access to the Shoalhaven River in the south.

Landscape character

The site proposed for the new batching plant borders RU1 Primary Production land and has an open, green outlook to the east and south towards the Shoalhaven River. Although in close proximity, the river is not visible from the site itself.

A significant tree buffer exists along Bolong Road, providing a visual buffer to the proposed batching plant on approach along Bolong Road. The view to the west of the site is dominated by the neighbouring paper mill, with large scale built form including elevated water tanks, and two towers/stacks reaching heights of up to 33.5m.

The topography of the surrounding land is generally very flat, with a small fall towards the east of the site. The closest elevated land to the east is the base of Mount Coolangatta, approximately 3.8km distance. The closest elevated land to the west is marked by the Bomaderry urban area to the west of the Illawarra Railway, at approximately 2.1km distance.

Visual impact assessment

This visual impact assessment is based on as assessment of expected views towards the proposed concrete batching plant at 340 Bolong Road.

Sixteen (16) viewing locations were tested, with a total of eight (8) views assessed. The remaining eight (8) view locations were found to have no views towards the proposed site due to distance, topography or existing established screening.

Two (2) view locations were assessed from areas immediately adjacent or in close proximity to areas identified for Scenic Protection under Shoalhaven LEP 2014.

The visual impact ratings ranged as follows:

Visual impact rating	Number of views
Negligible	5
Low	1
Moderate-Low	1
Moderate	1
High-Moderate	0
High	0

Mitigation

The landscape plan included in the development application proposes significant vegetative screening to the eastern boundary of the batching plant, complementing existing screening and reducing the visual impact of the new infrastructure at low level. It is expected that only the top of the silo structures will be visible from most locations.

The neighbouring existing industrial built form is significantly larger and higher than the proposed works and this industrial context plays a significant role in reducing the visual significance of the proposed works.

The site plans included in the development application denote that the silo structures are to be painted in 'Surfmist' colour. It is expected that this will reduce any visual intrusion of the silos in views, being a reflective colour that typically does not stand out against the sky.

Conclusion

The presence of established vegetative screens and absence of significant topography features nearby limits views towards the site and reduces the number of locations that it will be possible to view the proposed works from.

Overall the proposed development will have mostly negligible (or barely evident) visual impacts and no publicly accessible viewpoint will experience significant visual impact as a result of the proposal.

INTRODUCTION

Purpose of this report

GroupGSA have been engaged by Cleary Bros to undertake an independent visual impact assessment in relation to the proposed concrete batching plant construction at 340 Bolong Road, Bomaderry. The site is adjacent to an existing Manildra Group manufacturing facility and is currently owned by Manildra Group, to be sold to Cleary Bros.

An assessment of the potential visual impacts of the development was undertaken on the basis of fieldwork and observations carried out in December 2020.

The field assessment included documenting and assessing the potential visual exposure of the proposal, the potential effect of the proposal on the existing and future character of the immediate and wider context and the potential effects on existing views from the public domain including roads, infrastructure and reserves.

Terms used in this report

The following provides a brief description of the terms which have been used within this report

- Landscape character: The aggregate of built, natural and sense of place. Landscape in this context is taken to include all aspects of a tract of land - the built, planted and natural topographical and ecological features
- Magnitude: The scale, form and character of a development proposal. In the case of visual assessment also how far the proposal is from the viewer. Combined with sensitivity, magnitude provides a measurement of impact
- Sensitivity: The sensitivity of a landscape character zone or view and its capacity to absorb change. Combined with magnitude, sensitivity provides a measurement of impact
- View: The sight or prospect of some landscape or scene
- Visual catchment: The extent of the area that the proposal will be visible from
- Visual impact: The impacts on the views from residences and public places
- Visual impact rating: A visual impact rating is determined by cross-referencing magnitude with sensitivity and is measured in the following grades:
  - High
  - High to Moderate
  - Moderate
  - Moderate to Low
  - Low
  - Negligible
- Further information relating to the assessment methodology and calculation of ratings is provided in section 9.0.

CL22.129 - Attachment 2

THE PROPOSAL

Site use

The site is proposed to be used for a new concrete batching plant facility to replace an existing aged facility at 34 Bolong Road. The site is zoned IN1 General Industrial and is situated next to a large paper mill operated by Manildra Group.

Access into the site will be via a driveway from Bolong Road.

Site layout

The new batching plant is located within a new lot created within a larger land parcel zoned for industrial use. The larger parcel has existing vegetative screening along its north, east and south boundaries.

Between the proposed site and the neighbouring paper mill, an electrical easement accommodates above ground power lines.

The proposed site is to be raised approximately 1.2m above existing levels, with most of the built form located centrally, allowing truck movements around the perimeter of the site. The site boundaries are fully fenced, with dense shrub planting proposed for the batters down to existing grades. Additional screen trees are to be planted along the eastern boundary.

The existing vegetative screening to Bolong Road will be thinned along length of the site frontage to allow for regrading and site access.

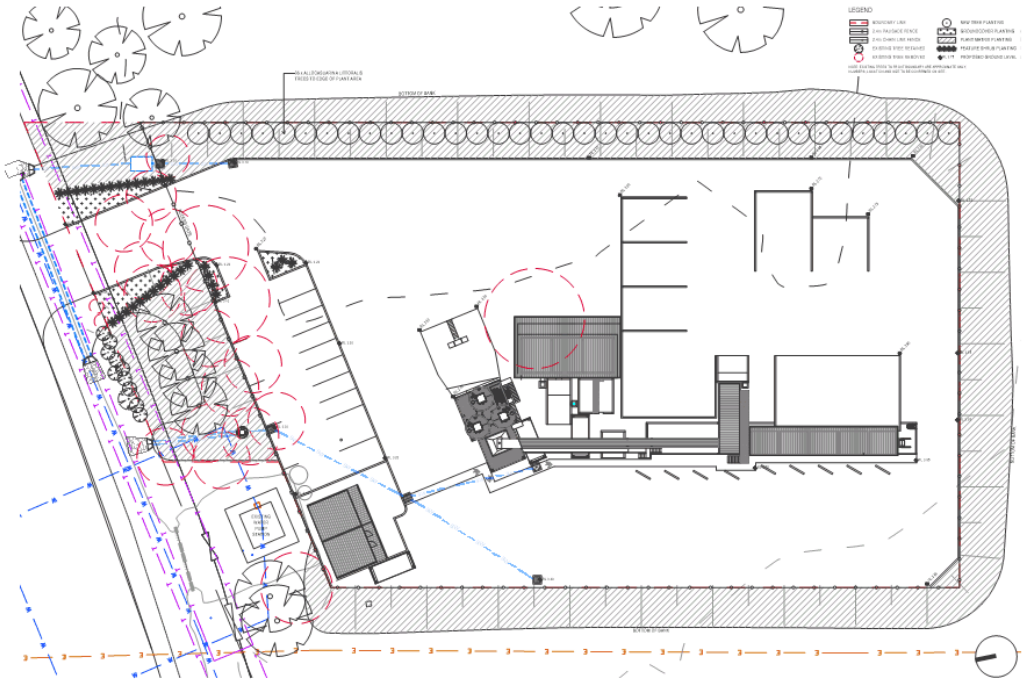
Built form

The dominant built form elements are the painted steel silos located in the central portion of the site, reaching a maximum RL of 26.00 (approximately 22.6m high). Above ground storage bins and walls stretch south from the silos, reaching a maximum RL of 10.50 (approximately 6.6m high).

A single storey, demountable-stype building is located in the north-west corner of the site, behind the existing water pumping station.

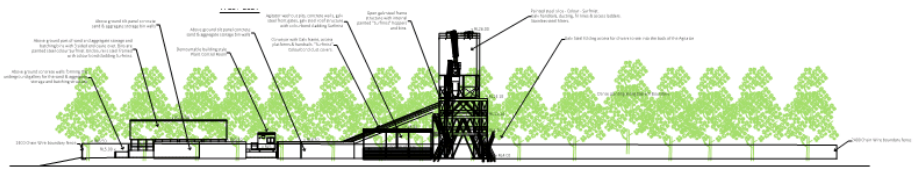


LEGEND
- LOT BOUNDARIES
- SITE AREA
- SCREENING TREES



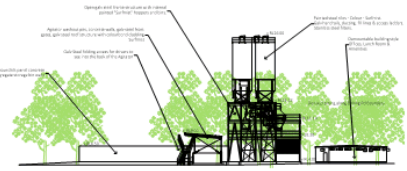
LANDSCAPE PLAN (for DA submission)

Plan prepared by Group GSA



EAST ELEVATION (facing from rural land towards proposed batching plant)

Elevation prepared by TCH



NORTH ELEVATION (facing from Bolong Road towards proposed batching plant)

Elevation prepared by TCH

GROUPGSA

SITE ANALYSIS

Landscape and visual character

The site proposed for the new batching plant borders RU1 Primary Production land and has an open, green outlook to the east and south towards the Shoalhaven River. Although in close proximity, the river is not visible from the site itself due to slight level changes and an established vegetative buffer along the river bank.

A significant tree buffer exists along Bolong Road, providing a visual buffer to the proposed batching plant (albeit thinned to allow for access and re-grading). The view to the west of the site is dominated by overhead power lines in the foreground and the neighbouring paper mill, with large scale built form including elevated water tanks, and two towers/stacks reaching heights of up to 33.5m.

An established windbreak of mature trees exists within the larger site to the east.

In the wider context, the land to the north, east and immediate south of the site is a rural landscape, dominated by grazing. Much of the land to the north is low lying and flood-affected, with pockets of similar land to the south of the Shoalhaven River.

To the south of the site, the Shoalhaven River and Pig Island are included within an area of Scenic Protection as idenitified within the Shoalhaven LEP 2014. Additional scenic protection areas are identified around the Bomaderry urban area and to the western base of Mount Coolangatta but these areas are not impacted by the proposals.

Context

The site is located to the east of the main Bomaderry urban area, at the end of a strip of industrial land use which stretches east along Bolong Road and north alongside the Illawarra Railway line. The larger site abuts RU1 Primary Production land.

Topography

The topography of the surrounding land is generally very flat, with a small, localised fall towards the east of the site.

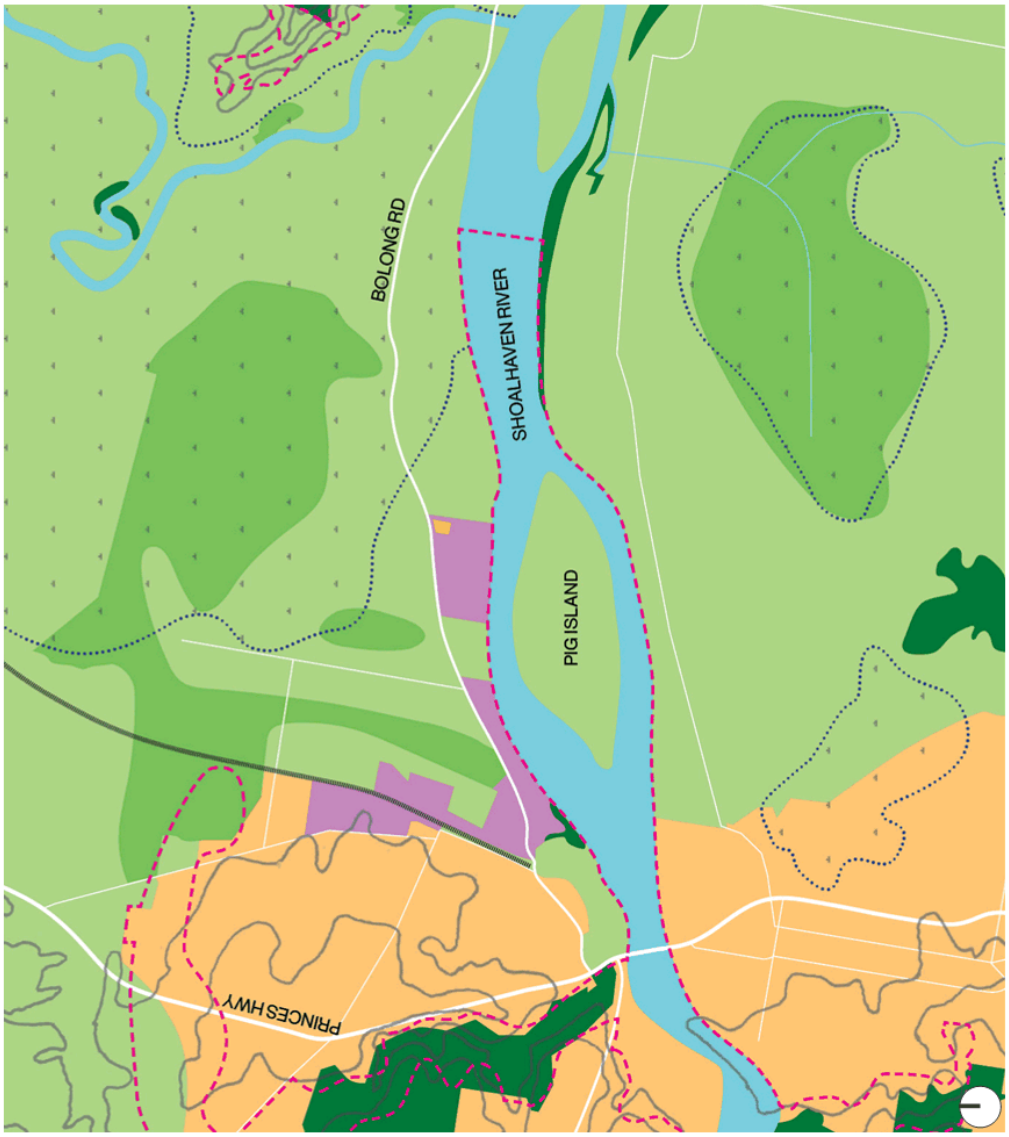
The closest elevated land is approximately 2.1km to the west at the Bomaderry urban area, the edge of which is marked by the Illawarra Railway. The closest elevated land to the east is the base of Mount Coolangatta, at a distance of approximately 3.8km.

The site sits within the floodplain of the Shoalhaven River, an area of low-lying land which extends north towards the Princes Highway, wrapping around Mount Coolangatta towards Coolangatta Road in the north-east. To the south of the Shoalhaven River, the floodplain extends approximately to Greenwell Point Road.

Future context

Given the RU1 and RU2 zoning of much of the nearby land, it can be reasonably assumed that the character of much of the surrounding agricultural land will change very little in the years to come. The land uses allow for a variety of primary industry production enterprises and is intended to minimise the fragmentation of resource lands.

The larger lot that surrounds the proposed batching plant site is zoned IN1 General Industrial and could reasonably be expected to accommodate additional industrial uses in the future, although there are no current proposals for this to occur.



LEGEND

- SITE AREA
- URBAN AREA
- INDUSTRIAL
- ENVIRONMENTAL
- PRIMARY PRODUCTION
- RURAL LANDSCAPE
- LOW-LYING FLOODPLAIN
- SCENIC PROTECTION

Figure 01: Local context

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VISUAL CATCHMENT

Catchment mapping

The following visual catchment map shows in yellow the approximate extent to which it is expected that elements of the proposed concrete batching plant will be visible from the public domain. The public domain is defined as open space and park areas, footpaths and roadways generally accessible to the public. Where private land is included in the visual catchment area, it should be noted that these views have not been tested as they cannot be reliably assessed without incursion into private property.

The visual catchment is primarily limited to the rural land to the east, north-east, north and north-west of the proposed batching plant. The area of the map highlighted in yellow is the approximate view shed, including all tested view locations.

Assumptions have been made regarding views from private property as views have not been tested from private land, comprising large parts of the mapped catchment area. It must also be noted that not all parts of the visual catchment will have direct views as localised built form and/or screening may interrupt or block views.

Impacts of vegetation and built form

The most significant impact to views towards the site are existing established trees and vegetation which provide dense visual screens which shape and define views from the surrounding land. Many of these screens follow natural or man-made features such as rivers and creeks, roads or property boundaries.

It can be assumed that some of these plantings were carried out for agricultural purposes, to act as windbreaks or shade, and some have been planted to provide privacy, screening, or edge definition to properties.

Some natural or remnant vegetation likely exists along the banks of the Shoalhaven River and Broughton Creek.

Where built form exists in the nearby context, it is largely industrial in character, with typically large scale built form that limits views and dominates the immediate landscape. The existing Paper Mill at 340 Bolong Road provides significant built form scale and context, significantly exceeding the proposed concrete batch built form in both height and scale.

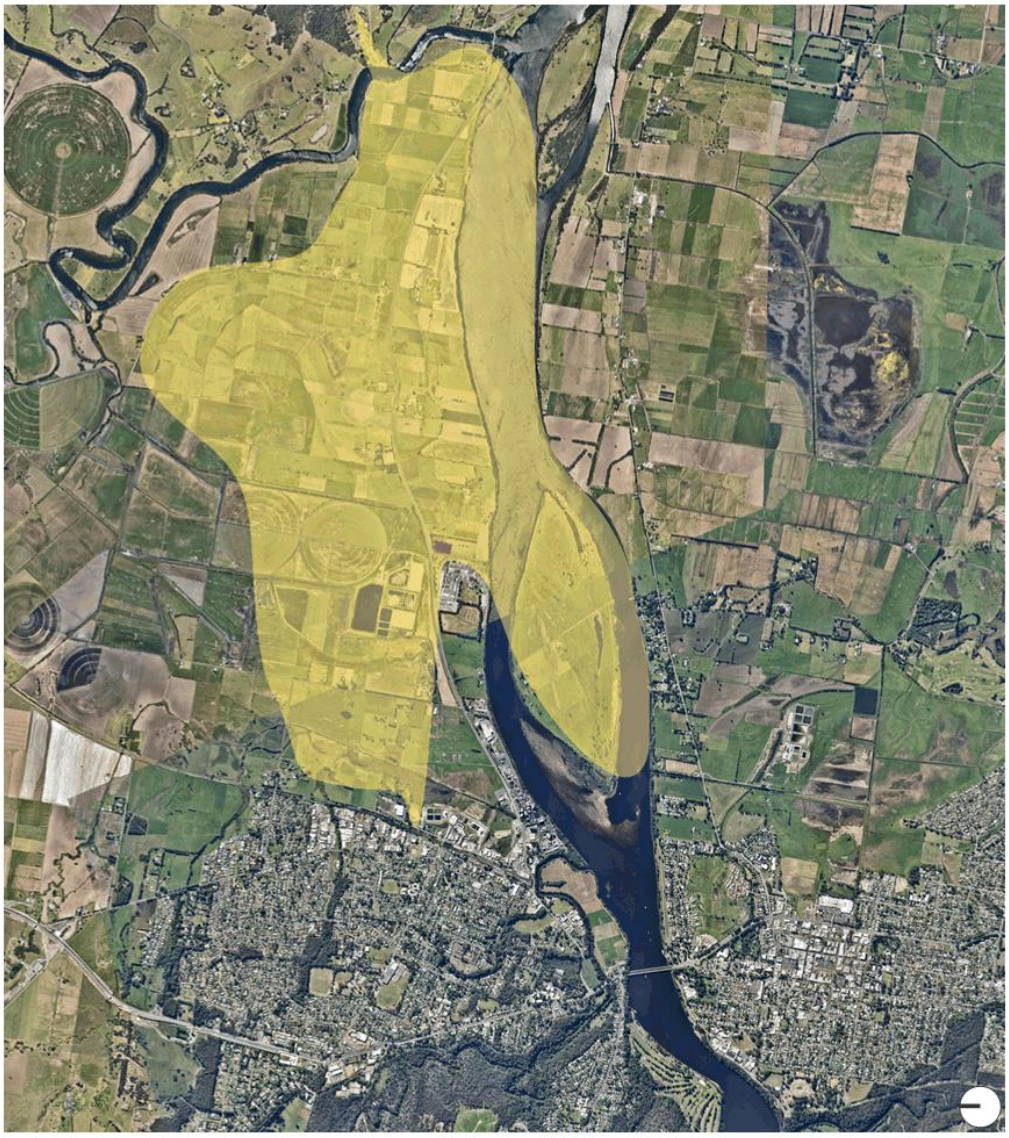


Figure 02: Visual catchment

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VISUAL IMPACT METHODOLOGY

Desktop study

A desktop study was carried out to identify the likely view sheds for the proposed concrete batching plant based on mapping and aerial photography of the surrounding areas. These mapping exercises were used to identify locations of likely or possible views to be investigated during the fieldwork phase.

Fieldwork and photography

Following the desktop study, the fieldwork component involved site inspections during which the existence and extent of views was explored in detail from surrounding areas. Site inspections were carried out on 14 December 2020.

Assessment of visual impact

Following desktop study, sixteen (16) viewing locations were tested on site, with eight (8) view loations found to have no views towards the proposed site due to distance, localised topography features or existing established vegetative or built form screening. The remaining eight (8) views assessed.

Two (2) view locations were assessed from areas immediately adjacent or in close proximity to areas identified for Scenic Protection under Shoalhaven LEP 2014.

For each view, visual sensitivity and visual magnitude have been rated as per the definitions on the opposite page. A visual impact rating has been determined by cross-referencing visual sensitivity with magnitude. Table 1 has been used to identify the visual impact rating of the views.

An explanation of each visual impact rating is explained below:

High: The visual impact on these views is significant and would typically require amelioration at the site planning stage.

Moderate: The visual impact on these viewers is at a localised scale and can be mitigated or already has some existing screening or an existing setback which minimises visual impact.

Low: The visual impact on these viewers is considered low and no or very little amelioration is required.

Negligible: The visual impact on these viewers is considered very low or non-existant and no amelioration is required.

Table 1: Visual impact rating table

		Magnitude					
		High	High - moderate	Moderate	Moderate - Low	Low	Negligible
Sensitivity	High	High	High	High - moderate	High - moderate	Moderate	Negligible
	High - moderate	High	High - moderate	High - moderate	Moderate	Moderate	Negligible
	Moderate	High - moderate	High - moderate	Moderate	Moderate	Moderate - Low	Negligible
	Moderate - Low	High - moderate	Moderate	Moderate	Moderate - Low	Moderate - Low	Negligible
	Low	Moderate	Moderate	Moderate - Low	Moderate - Low	Low	Negligible
	Negligible	Negligible	Negligible	Negligible	Negligible	Negligible	Negligible

Sensitivity

Sensitivity can be described by the following definition:

The sensitivity of a landscape character zone or view and its capacity to absorb change. Combined with magnitude, sensitivity provides a measurement of impact.

- Sensitivity is determined by assessing the context at the view location. The following examples are provided as a guide:
- Residential context - Low capacity to absorb change due to potential impacts on day-to-day lives of local residents. High sensitivity.
- Industrial context - High capacity to absorb change due to dynamic use patterns, limited hours of high use levels and regular change within character area. Typically self-contained built form with limited views in/out. Low sensitivity.
- Commercial context - High to moderate capacity to absorb change depending on land use and built form character. May include office blocks or low-rise business parks. Moderate to low sensitivity depending on type.
- Open space context - Highly varied capacity to absorb change depending on open space typology and character. An expansive open space dominated by views to further green areas will have a low capacity to absorb change. A linear pedestrian link in an urban context may have a high capacity to absorb change if it is in a dynamic location with competing demands on users. High to Low sensitivity depending on character.
- Transport corridor - High to moderate capacity to absorb change depending on surrounding character and context. As a dynamic environment typically experienced from a moving position, transport corridors can tolerate high levels of change and are typically expected to continually change and adapt. Low sensitivity.

Magnitude

Magnitude can be described by the following definition:

The scale, form and character of a development proposal. In the case of visual assessment also how far the proposal is from the viewer. Combined with sensitivity, magnitude provides a measurement of impact.

Magnitude is assessed by determining the overall significance of the proposal each view. It can be summarised simply as the level of change proposed.

The following factors are key measurements to be taken into consideration:

- Existing screening
- Apparent size (often determined by distance between the viewer and the proposal)
- Visual context - Presence (or absence) of any items which provide context and scale to the proposal from each viewpoint

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VISUAL IMPACT ASSESSMENT

View locations

These viewpoints have been selected to consider a variety of viewpoints from surrounding areas and reflect the extent of the visual catchment identified in Figure 2. Each view location is identified on Figure 3 opposite and a written description is provided below.

All photographs were taken with a Pentax K10D DSLR camera with a focal length of 18mm.

An visual impact assessment of all critical view locations is included on the following pages.

View location descriptions

1. Bolong Road near 505 Bolong Road
2. Jennings Lane, between Sopers Road and Horseshoe Creek
3. Bailleul Lane near Black Forest Road
4. Bolong Road near Broughton Creek
5. Railway Street, near 80 Railway Street
6. West Berry Street near Holme Street
7. Hanigans Lane near Edwards Avenue
8. Bolong Road near 340 Bolong Road

Locations with no views

- Back Forest Road near 235A Back Forest Road
- Back Forest Road near 213 Back Forest Road
- Bolong Road at Hanigans Lane
- Railway St at Camberra Road
- Terara Road near Ferry Lane
- Comerong Island Road near 330 Comerong Island Road
- Comerong Island Road near 470 Comerong Island Road
- Greenwell Point Road near 368 Greenwell Point Road



Figure 03: View locations

VIEW 01

Direction and distance

This view to the proposed concrete batching plant is in a south-westerly direction looking along Bolong Road from nearby to 505 Bolong Road.

The viewing distance is approximately 950m.

View description

The view is dominated by Bolong Road in the fore and mid-ground, with trees framing the northern side of the road corridor. The view towards the site is over agricultural land and is currently used for grazing cattle.

In the background, an established line of screen tree planting blocks the view towards the lower portion of the site. The Manildra Group industrial site is visible beyond the tree line.

It is expected that the silos for the new concrete batching plant will be visible beyond the screening trees. The new silos will be at alower maximum height than the existing industrial structures visible from this view point.

Visual sensitivity

Moderate

Transport corridor located within a rural landscape but with views to an established industrial precinct.

Visual magnitude

Low

The significant viewing distance reduces the scale of the proposal and established screen trees blocks all low-level views into the site. The existing industrial site provides a much larger backdrop to the view and outscales the proposal significantly.

Visual impact rating

Moderate-Low



CL22.129 - Attachment 2



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VIEW 02

Direction and distance

This view to the proposed concrete batching plant is in a south-westerly direction looking over agricultural land from Jennings Road, between Sopers Road and Horseshoe Creek.

The viewing distance is approximately 2.7km.

View description

The view is dominated by agricultural land, with distant views towards Bolong Road. Established screen tree planting along Bolong Road and the flat topography combine to provide a dense, green backdrop to the view.

Intermittent tree groups within the mid-ground provide scale and frame smaller windows of longer views within the otherwise open landscape.

The upper built form of the existing industrial site at 340 Bolong Rd is visible over the top of existing established vegetative screening in the distance.

Visual sensitivity

High

The rural landscape is uninterrupted at this site, with views stretching south towards Bolong Road and west towards Bomaderry urban area. The scale of infrastructure such as roads is small and open, green space dominates the views.

Visual magnitude

Negligible

The proposal is expected to be barely visible from this location. Only the very tops of the proposed silos will extend above the existing established vegetative screening. It is anticipated that the retention of one row of existing trees along Bolong Road will maintain a visual screen to the proposed new infrastructure.

Visual impact rating

Negligible





VIEW 03

Direction and distance

This view to the proposed concrete batching plant is in a westerly direction looking over agricultural land from Bailleul Lane near Black Forest Road.

The viewing distance is approximately 3.8km.

View description

The view is framed by established trees and vegetation, limiting views over the flat landscape below. There are filtered views to Broughton Creek beyond Back Forest Road. The expanse of agricultural land to the far side of the creek is only partially visible through vegetation.

Over the top of Broughton Creek riparian vegetation, there are distant views towards Bolong Road. Established screen tree planting along Bolong Road provides a dense, green backdrop to the view.

The upper built form of the existing industrial site at 340 Bolong Rd is just visible over the top of existing established vegetative screening in the distance.

Visual sensitivity

High

The rural landscape is split into smaller residential lots at this location, with filtered views stretching south-west over agricultural land towards Bolong Road. The scale of infrastructure such as roads is small and open, green space dominates the views.

The viewpoint is close to an area of identified scenic protection but access to this land is restricted as it is under private ownership.

Visual magnitude

Negligible

The proposal is expected to be barely visible from this location. Only the very tops of the proposed silos may extend above the established vegetative screening.

Visual impact rating

Negligible





VIEW 04

Direction and distance

This view to the proposed concrete batching plant is in a westerly direction looking over agricultural land and the Shoalhaven River from Bolong Road near Broughton Creek.

The viewing distance is approximately 3.6km.

View description

At this location on Bolong Road, the view is dominated by the Shoalhaven River which, given the natural bend in the river, provides both short and long distance views across the water.

The immediate context is rural land to both sides of Bolong Road at this location. Intermittent trees along the edge of the road corridor provide visual interest and scale to the otherwise flat landscape.

A dense vegetative screen borders the northern bank of Shoalhaven River, starting in the mid-ground and extending into the background. This screening largely hides the site of the proposed batching plant from view. The upper built form of the existing industrial site at 340 Bolong Rd is just visible over the top of the existing vegetation.

Distant views terminate in the ridges and slopes of Morton National Park and Bugong National Park.

Visual sensitivity

High

The rural landscape is uninterrupted at this site, with views stretching south towards Bolong Road and west towards Bomaderry urban area. The scale of infrastructure such as roads is small and open, green space dominates the views.

Visual magnitude

Negligible

The proposal is expected to be barely visible from this location. Only the very tops of the proposed silos may extend above the existing established vegetative screening.

Visual impact rating

Negligible



CL22.129 - Attachment 2



VIEW 05

Direction and distance

This view to the proposed concrete batching plant is in an easterly direction looking over unbuilt industrial land from Railway Street, near 80 Railway Street.

The viewing distance is approximately 2.1km.

View description

The view is currently dominated by open space, with distant views towards Bolong Road. Established screen tree planting along Bolong Road and the flat topography combine to provide a dense, green backdrop to the view.

The land to the immediate foreground of the view is zoned for industrial use and is partially used for sewage treatment plant infrastructure. The view may be built out completely in the future given the land zoning.

Tree and shrub groups in the fore-ground and mid-ground provide additional screening and limit longer views within the otherwise open landscape.

The upper built form of the existing industrial site at 340 Bolong Rd is visible over the top of existing established vegetative screening in the distance.

Visual sensitivity

Low

The industrial context is largely inward facing and views are limited from public areas such as roads.

Visual magnitude

Negligible

The proposal is expected to be barely visible from this location. Only the very tops of the proposed silos may extend above the existing established vegetative screening.

Visual impact rating

Negligible





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VIEW 06

Direction and distance

This view to the proposed concrete batching plant is in a north-easterly direction looking over the Shoalhaven River and Pig Island from the levee nearby to West Berry St and Holme Street.

The viewing distance is approximately 1.6km.

View description

The view from the top of the levee is dominated by the Shoalhaven River, with the agricultural land of Pig Island providing a bucolic mid-ground behind the waterway. Intermittent low tree planting along the river edge provides visual interest and breaks up an otherwise largely horizontal view.

Tree planting along the northern bank of the Shoalhaven River (adjacent to the industrial land) provides signfiicant vegetative screening and forms a visual barrier to the mid-ground view. Elements of the existing paper mill site are visible above and through gaps in the vegetative screening.

Distant views terminate in the elevated landform of Bellawongarah Mountain to Berry Mountain and the ridge line between them.

Visual sensitivity

High

The viewing location is from public open space to the top of a levee alongside the Shoalhaven River. The visual context is primarily rural and the river and Pig Island are identified as areas for Scenic Protection in the Shoalhaven LEP.

Visual magnitude

Negligible

The proposed batching plant is located behind existing established vegetative screening along the banks of the Shoalhaven River and the new built form is expected to be largely hidden from view.

Visual impact rating

Negligible





VIEW 07

Direction and distance

This view to the proposed concrete batching plant is in a south-easterly direction looking over agricultural land from Hanigans Lane near Edwards Avenue.

The viewing distance is approximately 1.5km.

View description

The view is dominated by agricultural land, with distant views towards Bolong Road. Established screen tree planting along Bolong Road and the flat topography combine to provide a dense, green backdrop to the view.

A dense tree group in the mid-ground provides additional screening and limits longer views within the otherwise open landscape.

The built form of the existing industrial site at 340 Bolong Rd is visible through gaps and over the top of existing established vegetative screening. The majority of the proposed new built form is expected to be hidden behind the existing screening.

Visual sensitivity

High-Moderate

The rural landscape dominates this view, with views stretching south towards Bolong Road and east over agricultural land. There are visual clues to the nearby industrial uses, such as large powerlines and significant grading and level changes creating artificial landform within the view.

Visual magnitude

Low

The proposal is expected to have minimal visual impact, with the majority of the built form concealed behind established vegetative screening. It is anticipated that the retention of one row of existing trees along Bolong Road will maintain a visual screen to the proposed new infrastructure.

Visual impact rating

Moderate





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VIEW 08

Direction and distance

This view to the proposed concrete batching plant is in a easterly direction looking along Bolong Road from nearby to 340 Bolong Road.

The viewing distance is approximately 500m.

View description

The approach along Bolong Road from the west takes the viewer through significant industrial land use, with a pattern of large-scale built form dominating the landscape between the road and the Shoalhaven River. The northern side of the road is a flat, rural landscape.

Prior to arriving at this view point, a patch of rural landscape interrupts the continuous industrial land use, allowing a brief opening of views to both sides of the road. The edge of the rural and industrial landscape interface is buffered by a significant stand of established trees and vegetation, visible in the edge of this view.

Arriving at the view point, the large scale of the paper mill built form is revealed. This built form largely blocks views towards the proposed batching plant site and the scale of existing structures is significantly higher than those proposed.

Visual sensitivity

Low

The view heading east along Bolong Road is dominated by industrial land uses and at this point of the road, the immediate and dominant visual context is industrial built form.

Visual magnitude

Low

Only the silo elements of the proposal are expected to be visible from this location. Views are expected to be fleeting given the natural movement of road users. The existing built form of the paper mill dwarfs the proposed plant and conceals the majority of the proposed built form.

Visual impact rating

Low





CL22.129 - Attachment 2

CONCLUSION

Visual impacts

The visual impacts of the proposed concrete batching plant from the assessed views ranges from Negligible to Moderate. A summary of the assessed visual impact is provided in the table below.

Visual impact rating	Number of views	% of views
Negligible	5	62.5%
Low	1	12.5%
Moderate-Low	1	12.5%
Moderate	1	12.5%
High-Moderate	0	-
High	0	-

No view locations were assessed to be likely to suffer from significant visual impacts as a result of the proposed concrete batching plant works.

The following explanations were found to be key factors at a number of sites and consistently affected the magnitude ratings generated:

- Existing vegetative screening limiting exposure
- Viewing distances are long and any visible elements are difficult to distinguish
- Existing industrial built form on neighbouring site provide context and scale

Mitigation

The landscape plan included in the development application proposes significant vegetative screening to the boundaries of the batching plant, reducing the visual impact of the new infrastructure at low level. It is expected that only the top of the silo structures will be visible from most locations.

The neighbouring existing industrial built form is significantly larger and higher than the proposed works and this industrial context plays a significant role in reducing the visual significance of the proposed works.

The site plans included in the development application denote that the silo structures are to be painted in 'Surfmist' colour. It is expected that this will reduce any visual intrusion of the silos in views, being a reflective colour that typically does not stand out against the sky.

Future changes

Given the RU1 and RU2 zoning of much of the nearby land, it can be reasonably assumed that the character of much of the surrounding agricultural land will change very little in the years to come.

The larger lot that surrounds the proposed batching plant site is zoned IN1 General Industrial and could reasonably be expected to accommodate additional industrial uses in the future, although there are no current proposals for this to occur.

Summary

The presence of established vegetative screens and absence of significant topography features nearby limits views towards the site and reduces the number of locations that it will be possible to view the proposed works from.

Overall the proposed development will have mostly negligible (or barely evident) visual impacts and no publicly accessible viewpoint will experience significant visual impact as a result of the proposal.

CL22.129 - Attachment 2



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Shanghai 200041
PR China

HO CHI MINH CITY
19th Floor – Havana Tower, 132 Ham Nghi,
Ben Thanh Ward, District 1, Ho Chi Minh City
Vietnam

Shoalhaven City Council	Planning Report S4.15 Environmental Planning & Assessment Act 1979

DA Number	DA21/1612
Property	Bolong Road, BOLONG Lot 1 DP 531429
Applicant(s)	Cleary Bros (Bombo) Pty Ltd
Owner(s)	Manildra Energy Australia 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 manager.
Name
Choose an item.
1/02/2022

Detailed Proposal

Development application DA21/1612 seeks approval for the construction and use of a concrete batching plant and ancillary works at Lot 1 DP 531429, Bolong Road, Bolong.

The applicant proposes replacing an existing concrete plant at 26 and 34 Bolong Road with the proposed new plant at Lot 1 DP 531429 for operational efficiency and longevity (refer to Figure 1).

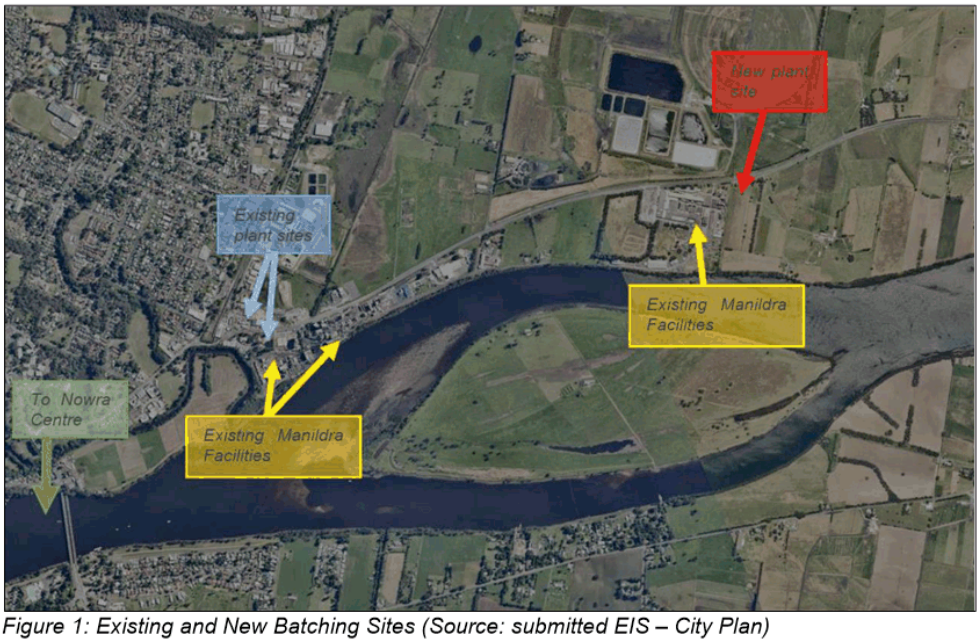


Figure 1: Existing and New Batching Sites (Source: submitted EIS – City Plan)

The remaining working life of the existing plant is approximately 5-10 years (should the site continue to operate). After this date, the Environmental Impact Statement (EIS) noted it is unlikely that a new plant would be developed on the current site due to site fragmentation and is incompatibility with Manildra operations. The decommissioning of the existing plant however is not proposed as part of this application.

The proposed plant on Lot 1 DP 531429 will produce concrete. The concrete product will be provided in ready mixed form (RMC). The RMC is batched or manufactured and tailored to individual construction projects, combining gravel, sand, water, cement and admixtures to meet the structural specifications of a project. The current proposal is for a dry plant only - individual components are weighed in individual batches, then discharged into a chute into the mixer truck where mixed in the agitator at the plant and during transportation.

The plant output will be maintained at the current levels of the existing concrete plant site – that is no greater than 30,000m^3 or 72,000 tonnes per annum (tpa), with projected similar employment and traffic generation levels.

Hours of operation are proposed to be 24 hours, 7 days a week.

More specifically, the application seeks approval for the following works:

- The construction of:
  - a batch point with slump inspection point, five aggregate and sand weigh bins, a conveyor, stackers, six (6) aggregate/sand storage bays, three (3) cement silos, a batch control room; and
  - various supporting structures/facilities including: a new office, lunchroom, toilets, and showers.

- Civil works, including:
  - road shoulder widening of Bolong Road and construction of a new signalised right hand turning lane;
  - driveway and parking arrangements onsite; and
  - road and directional signage.

- Fencing and identification signage, including:
  - fencing around the development (located on part of Lot 1) to be 2.4m in height. Along the front, fencing will be a palisade (vertical steel pales secured to horizontal rails) and along the remaining three boundaries, chain and wire; and
  - four (4) business identification signs (2.4m x 1.2m) to be placed on either side of the front entrance gates – one sign on both sides of each gate to enable identification when the gates are open and closed.

- Stormwater drainage works. This includes gross pollutant traps (GPTs), pits and pipes to the existing Bolong Road system and rainwater tanks for reuse onsite.

- Earthworks, filling and sediment and erosion controls. The area of the development is proposed to be filled to approximately 3m AHD for flood planning levels (approximately 11,500m^3 of fill to be imported by truck).

- Vegetation clearance. This includes trees within the footprint of the driveway, carpark area and drainage lines and a single hollow bearing tree in the centre of the development footprint.

- Landscaping and lighting.

- Pump out sewerage system.

The development is classed as Designated Integrated development. This means it requires an EIS (see D21/246591) in accordance with requirements specified by the Planning Secretary's Environmental Assessment Requirements (SEARs) and approval(s) from another State Agency. The approval sought is an Aboriginal Heritage Impact Permit under the *National Parks and Wildlife Act 1974*.

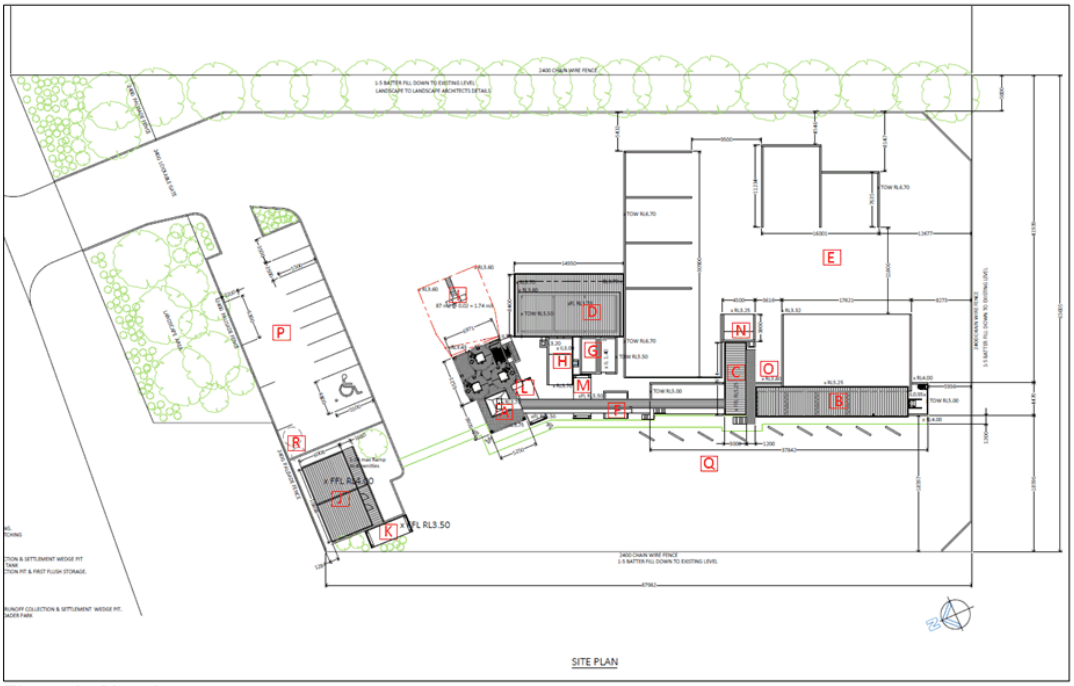


Figure 2: Site plan

FLOOD LEVEL DATA
RL5.44 FPL (Flood Planning Level)
RL4.94 1-100 yr
RL4.52 1-50 yr
RL3.99 1-20 yr
RL3.45 1-10 yr

LEGEND
A. SILOS, BATCHING AND MIXER LOADING.
B. SAND & AGGREGATE STORAGE & BATCHING
C. BATCH OFFICE
D. AGITATOR WASHOUT
E. SAND & AGGREGATE STORAGE
F. CONVEYOR SPILL TRAY WASH COLLECTION & SETTLEMENT WEDGE PIT
G. RECYCLED WATER STORAGE STIRRER TANK
H. RECYCLE WATER AGGREGATE COLLECTION PIT & FIRST FLUSH STORAGE.
I. SLUMP STANDS
J. SALES OFFICE & AMENITIES
K. PARTS STORE - 20ft CONTAINER
L. SELF BUNDED LIQUID ADMIX STORE
M. SELF BUNDED DIESEL STORE
N. SAND & AGGREGATE STORMWATER RUNOFF COLLECTION & SETTLEMENT WEDGE PIT.
O. SPECIAL AGGREGATE BATCHING & LOADER PARK
P. CAR PARK
Q. AGITATOR PARK
R. PUMP OUT SEPTIC SYSTEM

Figure 3: Key to Site Plan

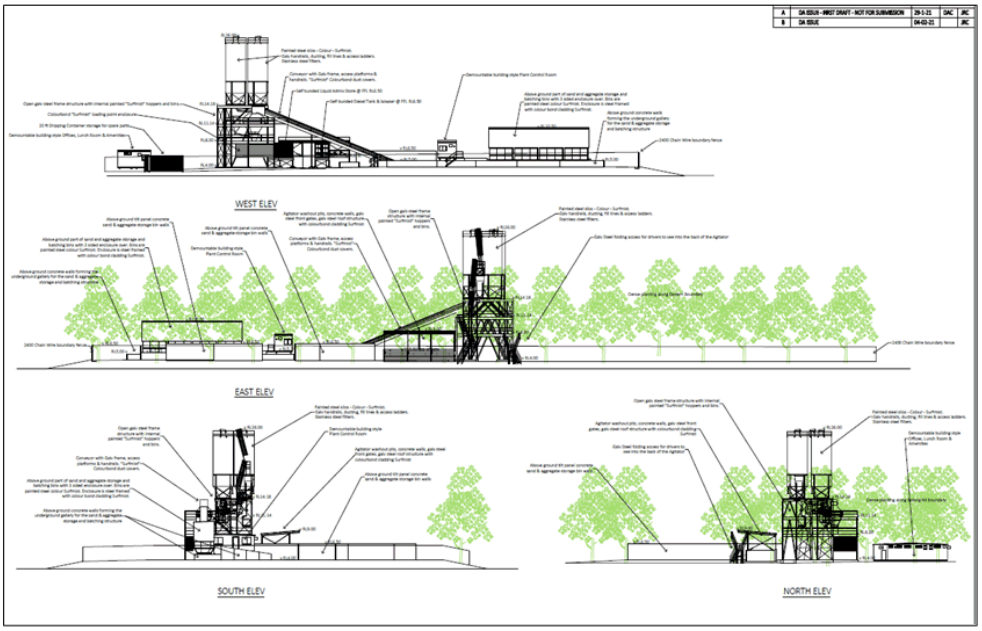


Figure 4: Elevations

Subject Site and Surrounds

Site Description

Subject Land

The subject site is located in an industrial area (land zoned IN1 – General Industry) on the northern side of the Shoalhaven River, identified as Lot 1 DP 531429, Bolong Road, Bolong.

The subject site is regular in nature with frontage to Bolong Road. The site is largely clear of vegetation and structures, aside from an existing water pumping station at the front of the allotment and Endeavour Energy overhead power lines running along the western boundary. The site is mapped as flood prone land, containing acid sulfate soils and as having the potential to be contaminated. At the time of lodgement the site was not identified as bushfire prone land.

While the site is not identified as containing any locally listed items of heritage significance under Schedule 5 of the Shoalhaven Local Environmental Plan 2014 (SLEP 2014), the supplied Aboriginal Cultural Heritage Assessment has confirmed one subsurface archaeological deposit consisting of a chert flake (known as Bolong-1A-1 / AHIMS# 52-5-0968) is located at the front of the site - Heritage NSW have provided General Terms of Approval (GTA's) to be included in any determination.

The development is proposed on the front portion of Lot 1 only, this is proposed Lot 101 in SF10831 – A consolidation and two lot subdivision of the site approved 30 November 2020 but has yet to be registered (see 'History' section for details).



Figure 5: Aerial Photography of Subject Site

Site & Context

Land to the west is similarly zoned IN1, with Manildra Group's facilities located in the area – wheat starch and gluten plants which operate in conjunction with an ethanol distillery. The Manildra facilities directly adjoins the subject site to the west and extends along Bolong Road towards Bomaderry.

To the northwest is a wastewater plant which treats effluent from the Manildra's operations.

Land to the north, east and wider area surrounding IN1 zone, is zoned RU1 – Primary Production and comprises mainly agricultural land and rural residential development. The nearest residence is approximately 470m to the southeast (see Figure 6).



Figure 6: Site and Context Plan (Source: submitted EIS – City Plan)

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Deposited Plan and 88B Instrument

- No 88B on Council records.
- The Survey Plan registered in1968 does not indicate any easements and/or restrictions onsite, it was noted in the EIS however that an easement for Endeavour Energy overhead power lines run along the western boundary (see Endeavour Energy comments for details).

Site History and Previous Approvals

Darts - since 1st July 2005

Application	Appl. Date	Application Type	Proposal	Status	Completed
SC21/1149	16/12/2021	Subdivision Certificate	Boundary Adjustment	Incomplete	
DA21/1612	16/06/2021	Development Application	Industrial Development	Incomplete	
SF10831	15/09/2020	Subdivision Application	Boundary Adjustment	Approved	30/11/2020
SF10435	15/01/2015	Subdivision Application	Boundary Adjustment	Approved	17/03/2015

Plain Sailing - since 2nd September 1996

Application	Appl. Date	Proposal	Status	Status Date
DA00-2651	01/09/2000	Industrial Additions	Approved (T)	01/09/2000
DA00-2651	08/08/2000	Industrial Additions	Approved (T)	01/09/2000

Old Applications prior to 2nd Sept 1996

Application	Proposal	Decision	Owner	Original Lot
BA73/2038	Water Station	Approved	Wiggins Teape P/L	
BA74/1815	Security Watch House	Approved	Wiggins Teape P/L	
ST74/0951		Approved	Wiggins Teape P/L	

Background Information - SF10831

Application SF10831 for consolidation and two lot subdivision of the subject site was approved on 30 November 2020 (See Figure 7). This subdivision has yet to be registered.

Following lot registration, the development (DA21/1612) is to be located wholly on Lot 101 with the exception of batters required for the fill platform. Owners consent for the entire site (Lot 1) has been provided with DA21/1612.

A condition to be placed on any consent requiring a surveyor confirm structures are located as per approved plan and proposed boundary setbacks to avoid possible NCC and DCP non compliances following lot registration.

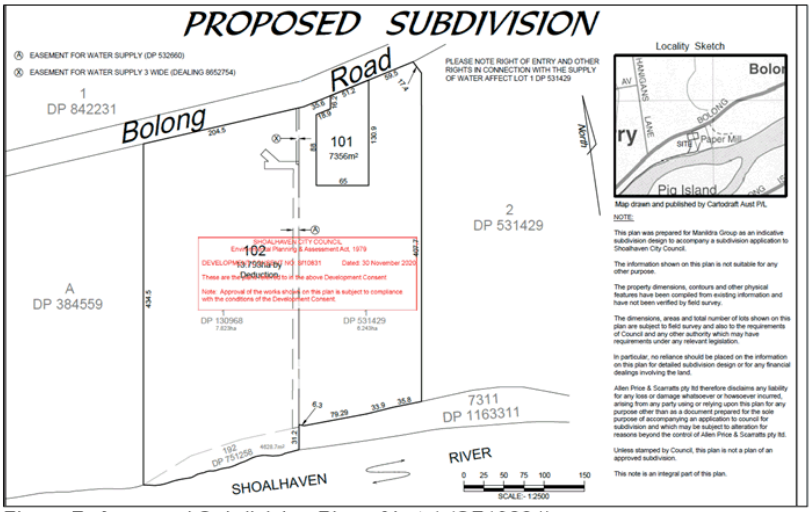


Figure 7: Approved Subdivision Plan of Lot 1 (SF10831)

Post-Lodgement

- The Development Application (DA) was lodged 10/06/21.
- The DA was notified in accordance with Shoalhaven Council's Community Consultation Policy for Development Applications and EP&A Act requirements, advertised from 30/06/21 to 30/07/21.
- During the assessment period six (6) submissions by way of objection were received and have been considered within the report (see submission section for further details).
- The application was referred internally to Council's Development Engineers, Environmental Health Officer, Building Surveyor, Environmental Assessment Officer, Natural Resources & Floodplain Section, Shoalhaven Water Group, City Services and City Futures
- The application was referred externally to Heritage NSW – Department of Premier and Cabinet, the Department of Planning, Industry and Environment, the Department of Primary Industries (Fisheries), Endeavour Energy, Environment Protection Agency, and Transport for NSW
- A request for additional information was sent 21/07/21, which requested:
    - an amended Floor Plan be provided - to be drawn to scale and include the fitout of the office and amenities building.
    - amended Elevations and Section Plans of the amenities and office building be provided, detailing NGL, FGL and FFL provided to AHD.
    - a Cut and Fill Plan be provided for the site
- Amended plan set provided, however applicant requested Council allow for the Cut and Fill Plan to be provided during construction certificate (CC) stage, following detailed design and compliance with Council's conditions of consent. No concern in this regard raised by engineers.
- Following internal and external referral responses additional information was requested 29/07/21 and 18/08/21, which requested the applicant:
    - demonstrate right hand turn design compliance with Austroad guidelines
    - provide left hand turn treatment design
    - provide detail regarding impact on overtaking zones and site distances
    - provide owners consent for the development
    - provide comment in response to Endeavour Energy concerns

  See D21/349402 for full details.
- Additional information was provided 27/08/21 and referred through to Council's Engineers (Development, City Futures and City Services) and Endeavour Energy.
- Following further consultation with the Applicant and Transport for NSW, Council's Engineers provided consolidated conditions of consent, noting that the CHR and AUL treatment can be accommodated without impacting overtaking opportunities along Bolong Road and will maintain compliance with AS1742.2.
- BCA issues raised were raised with the applicant 25/01/22 following Building Surveyor consultation, the applicant was asked to demonstrate compliance with Part D3 of the National Construction Code 2019 Volume 1 Amdt 1 and the Disability (Access to Premises – Buildings) Standards 2010 (Premises Standards).
- The applicant has responded to the BCA issue, providing a BCA compliance capability statement and access capability statement 18/02/22
- Concerns raised by internal or external departments addressed subject to conditions of consent (see below consultation section of the report for details).
- The applicant was supplied a copy of the draft determination 21/01/21 and provided track changes for Council consideration 4/02/22 (D22/51744).
- Track changes were reviewed by internal departments and comments provided and changes made where considered appropriate – see trim file for details.

Consultation and Referrals

Internal Referrals

Referral	Recommendation	DAO Comment
City Services (Asset Team)	Initial comments (D21/259753) • The proposed CHR(s) dimensions are to be compliant with figure 7.7 of Austroads Guide to Road Design Part 4a: Unsignalised and signalised intersections, 2021. Given the proposed treatments are for heavy vehicles a compliant turning lane length must be proposed. • Shoulder widths of the proposed solution must match the existing shoulder widths (2.6m both west and eastbound) • Traffic counts for the existing site have been done within a single day. Given the speed conditions and the nature of turning traffic a BAL treatment must be provided, concepts showing the extent of works including the CHR(s) treatment into the site are to be provided prior to determination. • An assessment on the impacts to the existing overtaking zone northeast of the proposed site are to be provided. Approach and stopping sight distances are to be assessed as part of this review, relative to the proposed left and right turning treatments. Additional information supplied The applicant provided additional information to address comments received from City Services, City Futures and Development Engineers 27/08/21. Above material was referred and further comments provided 05/10/21 (D21/378942) Final comments (D21/378941) Comments and conditions included in Development Engineer referral (see below Development Engineer section).	Noted. City Services conditions have been incorporated into Development Engineer's final referral response and to be included in any determination.
City Futures	Initial comments (D21/25973) • The traffic count data documented in the TTW traffic report appears to have only been reported in the westbound direction. Notwithstanding, City Futures reviewed the latest traffic count information collected by Council in February 2021 to assess the impacts based on the site generation traffic reported, and noted no additional traffic count information for Bolong Road is required. • Proposed CHR(s) treatment for the right turn in to the site considered satisfactory, although the proposed design parameters are required to be checked by the District Engineer to ensure the design will be satisfactory for the 100kph speed environment. • Given the 100kph speed environment, treatment required for the left turn into the site. The traffic count data provided shows that whilst the predominant	Noted. City Services and Development Engineer combined response and conditions to be included in any determination. Conditions included for treatment of both right and left turn requirements. Development's Engineer referral

	movements from the site are to/from the west, the demands to/from the east are not NIL. Only a single day was surveyed at the site access, notwithstanding, of the total movements surveyed there was a demand to/from the east (5%), and it stands to reason that relocating the batching plant approximately 2.5km further to the east might generate more demand for movements to/from the north, although it is still not expected to be the predominant movement. Because the demands to/from the east are not NIL, and because of the safety concerns with introducing new turning movements into the 100kph speed environment, a BAL treatment should be provided to address left turn movements into the site. • Assessment required in regards to the impact of a new access on the existing overtaking zone which is located to the east of the proposed new access - It is not clear whether the treatments required to safely accommodate the new access point (CHR(s) and BAL) will have the effect of marginally reducing the overtaking zone, and an assessment needs to be done to confirm that any reduction will not reduce the zone to the point where the overtaking zone may need to be removed. • There is no discussion regarding sight distance at the proposed access point. There is significant amount of vegetation along the property boundaries in both directions at the proposed access point, and an assessment will need to be undertaken to confirm that safe sight distances can be provided or identify the extent of vegetation impacts to address sight distance. This is likely to be worse looking back to the east. <u>Additional information supplied</u> The applicant provided additional information to address comments received from City Services, City Futures and Development Engineers 27/08/21. <u>Final comments (D21/378945)</u> City Futures noted that no direct response will be provided, the Strategic Transport Engineer will liaise with City Services and if needed will provide input into their referral comments.	noted the construction of a CHR and AUL will not impact overtaking opportunities and the post construction arrangement will remain in accordance with AS1742.2.
Development Engineer	<u>Initial comments (D21/378941)</u> Earthworks: The submitted site section plans indicate that the finish surface level of RL 4.0m is proposed with existing site RL's approx. 2-2.5m - Refer to Floodplain Engineer comments on filling in flood prone areas. Stormwater Drainage: The development proposes to manage stormwater through the use of pit and pipes and proprietary stormwater quality devices. Results of the MUSIC model were provided and meet the requirements	Recommended conditions to be included in any determination.

	in DCP G2. OSD was discussed at a pre-lodgement and was agreed that it was not required to be provided as the site is inundated in a 10% AEP event. Road/Access: • Car parking - The proposed car park has been designed in accordance with AS2890 and provides sufficient spaces for the proposed use of the development. DCP G21 does not specify a rate of spaces for this type of development however justification for number of spaces has been provided and generally accepted. Swept path plans have been provided and demonstrate the largest vehicle anticipated to enter the site can enter and exit in a forward direction, as well as being able to exit without travelling over the centreline of Bolong Road. • Access via Bolong Road - Bolong Road is a Classified Regional Road, in the letter provided from TfNSW in the pre-da minutes, they advise that consultation should be undertaken with Council on preferred access treatment. TfNSW referral advice should clarify if a ROL is required prior to works commencing on Bolong Road. • Heavy duty vehicular crossover will be conditioned with proposed culvert within the existing table drain. Carparking and driveway construction standards will be conditioned. Comments are required from City Services on appropriate turn treatments to Bolong Road and additional information requested to determine if loss of overtaking lane length will cause any detrimental effects. <u>Additional information supplied</u> Additional information provided 27/08/21 to address Council concerns and was referred through to Council Engineers (Development, City Services and City Futures) Further correspondence was provided by the applicants traffic consultant (TTW) regarding the impact the required turning treatments will have on the existing overtaking arrangements - see D21/502260. <u>Final comments (D21/378941)</u> Council's Engineers noted the existing line marking has been installed in accordance with AS1742.2-2009. In consultation with City Services and review of the site distance analysis undertaken by TTW, it was considered that the construction of a CHR and AUL will not impact overtaking opportunities and the post construction arrangement will still be in accordance with AS1742.2. Conditions of consent recommended.	

Natural Resource & Floodplain Section	Initial comments (D21/259726) The hazard-hydraulic category of the site is assessed as a high hazard flood storage. Industrial and commercial establishment are permissible within this flood hazard zone. The consultant simulated the flood model for different hydrological event and the model results are similar with the current Lower Shoalhaven Flood Study. According to EIS, the ground level of the site varies from 1.89 to 2.2 m AHD. The applicant is proposing to fill the site to reduce the impact of flood. Though the definite level of filling is not identified yet it is understood from the EIS, and Flood Impact Assessment that propose filling level will vary between 3 to 3.5 m AHD. The Flood Impact Assessment demonstrated that with filling up to 3 m AHD, the maximum increase of water level is up to 14 mm for the 1% AEP event. This is an acceptable limit of afflux which will be due to filling depth of 0.8 m to 1.11 m. According to the DCP, the acceptable limit of filling depth is 1 m. Even with the 1m filling depth the loss of storage volume will exceed the 6000 cubic meters. However, when compared to large floodplain, this volume of storage loss seems negligible and impact on other properties is insignificant. It is understood that flood impact has been assessed only considering the proposed earthworks. It did not consider the filling plus the proposed developments such as the batching plant and all the related developments such as new buildings, parking, sealing, fencing etc. In that case the change in peak flood level would be higher than 14 mm for the 1% AEP event. By considering all the justification provided in the Flood Impact Assessment report, it is recommended that the filling level should not exceed more than 3 m AHD. Conditions of consent recommended for inclusion in any consent. Final comment Clarification was sought from the Floodplain Officer following receipt of applicant comments on draft determination - The applicant requesting fill to 3.5m AHD. On further review the Flood Officer noted that the report had considered the proposed developments (such machinery, buildings etc) in the model by using higher roughness. This is documented at end of the report. The flood report also demonstrates that there will be localised flood impact only within the Manildra site to west even if the filling is up to 4.5m AHD. By considering this, filling up to maximum 3.5 m AHD can be supported. This	Development to be conditioned for a maximum filling level of 3.5m AHD. Recommended conditions to be included in any determination.

	excludes foundational subbase and concreate finish as these were already considered in the model.	
Environment Officer	Provided comments (D21/259716) **Review of provided Flora and Fauna Assessment** The applicant has submitted a Flora and Fauna Assessment by Niche Environment and Heritage dated 16 February 2021 in support of the application Niche describe the study area as the area that is likely to be affected by the proposal, either directly or indirectly, including the construction footprint and an approximate 10m buffer around the construction footprint. They describe that the study area contains minimal native vegetation, restricted to linear plantings along the northern boundary and an isolated tree in the centre of the proposed construction footprint. Niche determine that the planted Swamp Oak, River Oak and Swamp Mahogany aligns with PCT 1232 *Swamp Oak floodplain swamp forest, Sydney Basin Bioregion and South East Corner Bioregion*, an endangered ecological community (EEC). Niche calculate that approximately 0.03 ha of the EEC, along with one hollow-bearing Prickly-leaved Tea Tree will require removal for the proposal. The hollow-bearing tree was determined to provide habitat for the following four threatened microbats: • Eastern False Pipistrelle *Falsistrellus tasmaniensis* • Eastern Freetail-bat *Micronomus norfolkensis* • Yellow-bellied Sheathtail-bat *Saccolaimus flaviventris* • Greater Broad-nosed Bat *Scoteanax rueppellii* A s 7.3 Test of Significance (BC Act 2016) on Swamp Oak Floodplain Swamp Forest EEC and those threatened microbats considered likely to occur within the study area. Niche conclude that the proposal is unlikely to significantly impact the above species pursuant to s 7.3 due to: • The poor condition of the Swamp Oak Floodplain Swamp Forest EEC being planted wind rows with no structural integrity. • The limited impacts of the proposal. • The presence of suitable or better hollow-bearing trees outside the study area. • Threatened microbats are unlikely to rely on minimal habitat available within the study area. **Site inspection notes**	Recommended conditions to be included in any determination.

	The site was inspected on 29/07/21 following a review of the provided plans, the EIS (including Flora & Fauna Assessment), and Council's planning and environmental data. The inspection involved a general search for signs of threatened species and supporting habitat components such as hollow-bearing trees. No nocturnal or specialised targeted surveys were undertaken. Based on the results of the inspection of the site, Council can generally concur with the descriptions and assessment of the impacts by Niche. It is noted that a Prickly-leaved Tea Tree located approximately 17m to the east of the proposal also contains hollow-bearing sections. As such, the proposal may result in additional indirect impacts to the threatened microbats Niche considered likely to be present. While the outcome of the S 7.3 Test of Significance is not likely to change due to this find given the type of hollow (vertical trunk hollow) and the existing surrounds, additional conditions relating to the installation of supplementary habitat are recommended to ameliorate the proposal. The recommendations provided in Section 5 of *the Flora and Fauna Assessment* have been incorporated into the recommended conditions. **Review of Landscape Plan** A Landscape Plan has been provided with the application (ref. D21/246603). The landscape plan identifies approximately 19 trees to be removed, the retention of some trees lining Bolong Rd and proposes mostly locally occurring native species for landscaping within the compound and as a planted bund surrounding the proposal. The Landscape Plan is fit for purpose and has been referred to in the recommended conditions.	
Environmental Health Officer	<u>Initial referral (D21/259716)</u> Water pollution and proximity to the Shoalhaven River: The proposed site is situated in close proximity to the Shoalhaven River and is inundated by 10% AEP storm events. It will be filled as part of the proposed development to enable the structures to be above Council's flood planning level. Fill will be shaped to ensure all rainfall falling on the site drains via the new stormwater network to Bolong Road. The eastern drainage line proposes an *Ocean Protector Filterra Bioscape* device. The device directs runoff through two treatment media to capture sediment and debris, nutrients, metals and hydrocarbons. Treated water then	Recommended conditions including the requirement for a S68 to be included in any determination

	leaves through an underdrain pipe. Maintenance of this filter system will be required and shall be undertaken as outlined in the Filterra Owner's Manual found on the Filterra Website. The western drainage line will include a conventional gross pollutant trap to remove general debris and heavier sediments, a condition regarding maintenance of the GPT is recommended. A number of hazardous or dangerous contaminants are proposed to be stored onsite including concrete admixture chemicals, oils and lubricants and diesel. These shall all be stored in covered, bunded areas and refuelling shall only occur underneath a roofed structure. Conditions regarding this are recommended. Fill: The development will be raised to a height of approximately 3.5m AHD by the importation of approximately 11,500m^3 of fill. All fill must be virgin excavated natural material or excavated natural material, a condition regarding this is recommended. Acid Sulfate Soils: An Acid Sulfate Soil Management Plan (ASSMP) was prepared and associated testing occurred in 2015. It is anticipated that ground disturbance will be associated with the removal of topsoil for the importation of fill to lift the ground surface above the flood level. Additional sampling and analysis is to be carried out, either prior, or during construction, to confirm the preliminary liming rate given in the ASSMP. A condition regarding this is recommended. Sewage: Reticulated sewerage is not provided to this site, the EIS specifies *"Extending sewerage into this area is not envisaged and, as such, the proposal includes a pump out tank to allow for off-site sewage disposal."* A Section 68 Application with details of the pump out tank will be required and should be conditioned to ensure stringent conditions be proposed around the sewerage pump out system due to flood prone nature of the site (D21/353401). Dust: An Air Quality Assessment was undertaken using CALPUFF dispersion modelling. The modelling results indicated all potential residential receptors would experience dust levels below the relevant EPA criteria and the proposal will have negligible impacts under the conservative worst-case conditions. Mitigation measures are proposed as outlined in Table 13 of the EIS to ensure there are not excessive air emissions from the use of the site. Conditions are recommended regarding these. Contamination: A Supplementary Contamination Assessment was submitted to address Clause 7 of SEPP 55 and build upon previous Detailed Site Investigation. Exceedances of Zinc, Mercury, Acetone were detected in the results, as were detectable concentrations of Per and	

	polyfluroalkyl compounds (PFAS). As the site is proposed for industrial purposes and change of use is not occurring, remediation is not necessary at this time. Any excess material generated during earthworks which will be disposed of off-site must be analysed for PFAS in accordance with NSW EPA waste classification guidelines. A condition regarding this is recommended. Noise: A Noise Impact Assessment was undertaken by Todoroski Air Sciences, including noise modelling, to predict potential off-site noise impacts. The assessment specifies the proposal, including traffic, construction and operating noise, is below the relevant EPA acceptable noise criteria at all sensitive receivers. No additional operational controls or mitigation measures are required to be conditioned. <u>Additional conditions</u> Further conditions were recommended separate to the initial referral to limit sediment tracking onto Bolong Road - see D21/345758 and D22/10288. Amended conditions were recommended in relation to onsite sewerage management following applicant review of draft conditions and provision of a sewerage management report - D22/61776	
Shoalhaven Water	Noted that the application will be required to lodge a Certificate of Compliance for the development and provided conditions ensuring this requirement be met - see D21/259744 except as amended by D22/34107.	Conditions to be included in any determination.
Building Surveyor	<u>Initial comments (D22/26475)</u> Council's Building Surveyor provided conditions of consent and noted below in relation to accessibility. **Accessibility** The proposal must demonstrate compliance with Part D3 of the National Construction Code 2019 Volume 1 Amdt 1 and the Disability (Access to Premises – Buildings) Standards 2010 (Premises Standards). This includes access to all buildings unless a compelling case can be made for an exemption under D3.4 of the National Construction Code. Access requirements include but are not restricted to, accessible carparking, access to buildings, circulation within buildings, accessible sanitary facilities, continuous accessible paths of travel, etc.	Noted, conditions to be included in any consent ensuring the proposal comply with accessibility and BCA requirements.

	Accessibility compliance should be demonstrated on DA plans to reduce the necessity for a S.4.55 at CC stage. Additional Information Applicant was advised to consider accessibility in the design to avoid requirement for a modification at a later date. Additional information in the form of a BCA Compliance Capability Statement and Access Capability Statement, was supplied 18/02/22 noting developments ability to comply with requirements (see D22/68666 and D22/68660).	

External Referrals

Referral	Recommendation	DAO Comment
Environmental Protection Agency (EPA)	Comments (D21/342746) Referral response received 9/07/21. EPA noted the proposed activity is **not a scheduled activity** under the Protection of the Environment Operations Act 1997 (the Act) and therefore does not need to hold an Environment Protection Licence (EPL) however, the EPA is the appropriate regulatory authority for the proposed activity under clause 92(b) of the Protection of the Environment Operations (General) Regulation 2009 (the Regulation). The following comments were provided for Council's consideration. **Noise and Vibration** The EPA considers that the EIS has appropriately considered noise and vibration during both construction and operation. Noise from the operation of the concrete batching plant has been assessed in accordance with the Noise Policy for Industry (EPA 2017). Hours of Operation The EPA notes that construction is proposed to occur from Monday to Friday (7am to 6pm) and Saturday (8am to 1pm). No Sunday construction works are proposed. Operation is proposed to occur 24 hours and 7 days per week. *The EPA recommends that the hours of operation for construction and operation are captured as conditions of consent* Mitigation and management measures	Noted, Council has considered recommendations and notes: **Noise and Vibration** Hours of Operation Construction hours to be conditioned as follows: 1. to be carried out between 7.00am and 5.00pm only between Monday to Saturday and, 2. no construction is to be carried out at any time on a Sunday or a public holiday Operational hours to be as requested i.e., 24/7 however, to be conditioned to ensure all activities that have the potential to create noise amenity issues for neighbouring sensitive receivers be undertaken in the daylight hours. No concern raised by

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	The EIS identifies that noise is not likely to impact nearby sensitive receivers. Notwithstanding, the EPA reiterates that all reasonable and feasible noise mitigation and management measures should be considered for nearby sensitive receivers. The proponent is encouraged to: - Develop a communication strategy for the management of complaints. - Effectively engage with nearby sensitive receivers. - Use alternatives to tonal reversing alarms (beepers) such as broadband alarms, reversing cameras, proximity alarms or a combination; and - Manage operational activities to avoid excessive noise during night time periods to minimise potential impacts during this time. **Water Quality** The proposed development is located on the large floodplain of the lower Shoalhaven River. The EIS identifies that the receiving waterway is Broughton Creek to the north of the premises, which discharges into the high conversation value waters of Shoalhaven River. The EIS also identifies that the Shoalhaven River borders the southern end of the premises, and the premises is impacted in part by a 10% AED flood level. The EIS does not consider the NSW Water Quality Objectives in the receiving waters. The NSW Water Quality Objectives (NSW WQOs) and Australian and New Zealand Guidelines for Fresh and Marine Water Quality (the ANZECC Guidelines) provide the general framework to assess the potential impacts of a discharge on the environmental values of the receiving waters. The EPA recommends consideration of the NSW WQOs and ANZECC Guidelines in relation to the proposed works. <u>Construction</u> The EIS identifies that a soil and water management plan complying with Managing Urban Stormwater: Soils and Construction (Landcom 2004) will be implemented following completion of filling. The EIS does not contain specific information on the sediment and erosion controls that will be adopted during construction to ensure no pollution of waters. The EPA advises that appropriate sediment and erosion controls must be in place prior to the commencement of filling activities. These controls should then be adapted according to the needs of the project as it progresses.	Council's EHO in relation to operations proposed subject to conditions. <u>Mitigation and Management measures</u> Noted, recommendations included as conditions in any determination. **Water Quality** Council's Engineers have requested the development be conditioned to provide detailed design of permanent stormwater quality improvement devices during CC. The applicant to demonstrate the appropriateness of the proposed design for the site in accordance with Council's Engineering Design and Construction Specifications and WSUD. Condition to also require applicant consider The NSW Water Quality Objectives (NSW WQOs) and Australian and New Zealand Guidelines for Fresh and Marine Water Quality (the ANZECC Guidelines). No concerns raised by Council Engineers or Floodplain Officer in regard to this approach. <u>Construction</u>

	The EPA reiterates that it is an offence under section 120 of the Act to pollute waters. This includes the discharge of sediment laden water which does not meet ambient water quality. The EPA recommends that a detailed Sediment and Erosion Control Management Plan is developed for the proposed construction works prior to the commencement of works. The EPA recommends that the consent reminds the proponent that it is an offence under section 120 of the Act to pollute waters. <u>Operation</u> The EIS identifies: 1. Appropriate measures to manage the risk of pollution of waters from flooding. 2. Stormwater runoff within the operational footprint is proposed to be captured by a 'first flush' system. Water from the first flush system will be reused in the batching plant. 3. Stormwater which falls outside of the first flush will be discharged through structural measures designed to capture coarse sediment, metals, hydrocarbons and nutrients. 4. All water from the agitator loading area and washing apron will be captured and reused in the concrete batching plant. The EPA reminds the proponent that it is an offence under section 120 of the Act to pollute waters. <u>Hazardous materials</u> The EIS identifies hazardous materials such as fuel, oils, lubricants and concrete admixture chemicals will be stored at the premises. The EPA considers that appropriate controls including appropriate bunding design have been adopted in the EIS. The EPA recommends that an Environmental Management Plan (EMP) is developed for the site. The EMP should include appropriate measures for the management of hazardous materials. **Air Quality** The EIS identifies that a range of management measures will be implemented during operation to minimise dust emissions. These include, but may not be limited to: 1. Managing dust during construction through using water for dust suppression;	Conditions included in any determination requiring a detailed Sediment and Erosion Management Plan be provided and implemented prior to any works commencing on the site. Determination to remind applicant that it is an offence under section 120 of the Act to pollute waters. <u>Operation</u> Noted, EIS to be listed in determination and applicant reminded it is an offence under 120 of the Act to pollute waters. <u>Hazardous Material</u> Noted, to condition Environmental Management Plan be developed for the site in any determination. **Air Quality** Noted, EIS to be listed in any determination. Conditions to be included requiring all reasonable and feasible dust mitigation measures be implemented during construction and operation to prevent dust emissions. **Waste Management** Noted, determination to condition that all waste is to be classified in

	2. Enclosing areas where there is a risk of dust emissions, including loading/unloading areas, weigh hopper and storage areas; 3. Installing a pneumatic system with the storage silos fitted with dust filters; and 4. Adopting suitable management measures such as washdown facilities with negative pressure The EPA recommends all reasonable and feasible dust mitigation measures must be implemented during construction and operation to prevent dust emissions. **Waste Management** The EIS identifies that fill material may need to be brought on site during construction. The EPA advises that any fill material imported to the premises must comply with the relevant Resource Recovery Order and Exemption. The EPA recommends that the consent identifies that all waste should be classified in accordance with the NSW EPA's Waste Classification Guidelines and disposed of at a facility that can lawfully accept that waste. **Acid Sulphate Soils** The EIS identifies that the premises has the potential to contain acid-sulphate soils. The EPA acknowledges that a preliminary Acid Sulphate Soil Management Plan (ASSMP) has been developed for the premises. The plan identifies that additional sampling and analysis will need to be carried out either prior to or during construction to confirm the preliminary liming rate given in the ASSMP. The EPA advises that the ASSMP will need to be revised once results of a supplementary Acid Sulphate Soil Investigation are available. This ASSMP must provide site specific information on the depth of Acid Sulphate Soils including liming rates and excavation methodology. The EPA reiterates that Acid Sulphate Soil should be avoided wherever possible. Where it is unavoidable, it should be managed appropriately as per the ASSMP. The EPA recommends that the consent identifies that an updated Acid Sulphate Soil Management Plan is required to be in place prior to construction work commencing. See D21/342746 for full referral response.	accordance with the NSW EPA's Waste Classification Guidelines and disposed of at a facility that can lawfully accept that waste. **Acid Sulphate Soils** Noted, determination to condition revised ASSMP prior to commencement of works and compliance with ASSMP throughout the duration of works.

Transport for NSW (TfNSW)	Initial referral (D21/342736) Correspondence received 8/07/21 in which TfNSW noted that for the development the key State Road is the Princes Highway, and TfNSW does not believe the development will have a significant impact on the State Road Network, and on this basis, does not object to the development application. Given that Bolong Road is a Regional Classified Road, TfNSW entrusted Council to manage the traffic implications of this development application. Further correspondence (D21/433928) Further guidance from TfNSW was sought by Council Engineers 8/10/21 due to Engineering concerns in relation to the potential impacts on overtaking zones and compliance with Australian Standards as a result of right and left turn treatment. A possible solution if noncompliance proposed was speed zone reductions. TfNSW noted: 1. TfNSW would need to look at a broad extent of Bolong Road to assess a speed zone change, rather than the limited section in the vicinity of the proposed development. It is therefore not appropriate to consider this as part of addressing the issues associated with the DA. A speed zone review can be undertaken after the DA has been determined, if Council would still like to explore this option. 2. TfNSW maintains its position that the overtaking zone on Bolong Road is sufficient (per the RTA Delineation Manual Section 4 – Longitudinal Markings). As discussed with Council, pushing the BS line to the east to meet the start of the new CHR treatment would be a viable solution. Council would be responsible for managing this through detailed design. 3. TfNSW supports Council's concerns about the proposed arrangements, namely: • Adequate storage (i.e. more than the 40m currently proposed) needs to be provided for the right turn into the site. This needs to accommodate the largest vehicle likely to use the access, i.e. the truck and dog used elsewhere in the plans. The sizing of the proposed CHR treatment needs to be increased to Council's satisfaction. • The existing width of the Bolong Road shoulder needs to be maintained on the back of the CHR treatment.	Noted. Following submission of additional information, Council's Engineers were satisfied the existing line marking has been installed in accordance with AS1742.2-2009 and construction of a CHR and AUL will not impact overtaking opportunities and the post construction arrangement will still be in accordance with AS1742.2. Conditions have been recommended for inclusion in any determination in relation CHR, these reflect TfNSW comments and require: • detailed designs of the CHR to be provided prior to the issue of a construction certificate. • The works are to include all required road and shoulder widening. • The current existing road shoulder width is to be maintained. Where additional width is required for the CHR additional shoulder pavements is to be constructed. • The storage length is to be at least the length of the largest vehicle expected to enter the site.

	See D21/433928 for full comments.	
Endeavour Energy (EE)	Initial referral (D21/342754) Original referral response received 24/06/21 in which the below clarification was requested: • Confirmation the notional easement width for the 33 kV high voltage overhead power lines is not affect proposed Lot 101. As a minimum Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights' requires an 18 metre easement for 33 kV high voltage overhead power lines i.e.. 9 metres to both sides of the centre lines of the poles / conductors. • Impact of the development on flood levels in the area occupied by overhead power lines • Impact of air quality and dust on Endeavor Energy electrical infrastructure • Encroachment of the batter and fill into the easement for power lines – it was noted for any encroachment contact must be first made with Endeavour Energy Easement Officer. Additional information RHDHV prepared a detailed response regarding potential flood impacts, the summary of the assessment is that the proposed development: a) Does not result in increased local stormwater discharge to the area near the power poles under typical condition b) Does not reduce the effective drainage of the area near the power poles after a flood event. In regard to air quality, the applicant noted that dust deposition prediction show that compliance with all applicable EPA criteria will occur, and additional suite of dust control measures implemented, resulting in no noticeable effect on air quality. In relation to batters, the applicant noted a small section will extend onto neighbouring land owned by Manildra. The extent of the fill is not anticipated to inhibit vehicular access for maintenance vehicles or reduce the ground clearance of the transmission lines. Final comments (D21/436720) Endeavour Energy advised they had no objections to the proposal.	Standard Endeavour Energy documentation package (D21/342724) to be provided to the applicant with any determination
Heritage NSW	Comments (D21/371447)	GTAs to be included in any determination.

	General Terms of Approval (GTAs) provided by Heritage NSW 6/08/21, these require compliance with submitted studies except as modified by the below conditions: 1. A s.90 Aboriginal Heritage Impact Permit (AHIP) for the proposed works must be sought and granted prior to the commencement of works. 2. The AHIP application must be accompanied by appropriate documentation and mapping as outlined in Applying for an Aboriginal Heritage Impact Permit: Guide for applicants (2011). 3. Consultation with the Aboriginal community undertaken as part of the AHIP application must be in accordance with the Aboriginal cultural heritage consultation requirements for proponents 2010 (2010). 4. The AHIP application must be completed with reference to the requirements of the Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW (2011). 5. The AHIP application must include complete records satisfying the requirements of the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (2010). 6. Long term management of Aboriginal objects must be considered as part of the AHIP application.	
Department of Primary Industries (DPI)	<u>Initial comments (D21/342759)</u> Referral response received 26/07/21. DPI advised that priority oyster aquaculture areas are present in estuarine waters in proximity to the development. Given the sensitivity of adjacent waters, the most critical issue for consideration in the proposed on-site treatment and/or disposal system is the ability of the system to adequately remove or inactivate human pathogenic viruses and bacteria that may be present. This is to ensure the protection of the sanitary water quality of adjacent oyster growing areas. DPI provided a host of recommendations for onsite sewerage management including requesting the avoidance of pump-out systems. It was further noted the NSW Food Authority administers for the NSW Shellfish Program were consulted and noted: 'Appropriate sediment controls must be employed throughout construction of the proposed development and ongoing controls to prevent excessive discharge of sediment into nearby receiving waters. Stormwater diversion should employ best practice and aim to capture and re-use onsite. It is noted the sewerage network will connect the reticulated municipal sewerage network'	Sediment and erosion controls, as noted by the Food Authority in the initial referral response, to be conditioned in any determination. Recommendations from DPI in the amended referral response to be included in any determination.

	Clarification sought Following DAO consultation with Council's EHO, a further referral was sent to DPI seeking clarification in relation to recommended conditions, noting the site is subject to a recent approval for subdivision and the area available to accommodate on-site effluent management (with current DA design) is limited. A number of proposed conditions for stringent requirements in relation to pump out were provided by Council as a suggested alternative (see D21/364572). Amended referral (D21/365497) DPI adopted EHO recommendations, and issued amended referral response. These recommended that with any pump out system: - The collection well is emptied at least once a week and the contents removed in an approved vehicle to the sanitary depot for disposal - The sewerage storage tanks are to be fitted with an audible and visual dual alarm system at 50% and 75% capacity. The tank is to be pumped out at 75% capacity point. A secondary electronic notification system shall also be installed 75% capacity point. Testing of the alarm and notification system shall occur on a 6 monthly basis - The pump out tank shall be appropriately sealed to prevent stormwater or flood water ingress into the system - Council shall be notified in the event of a discharge of the effluent tank. NSW DPI also liaised with Food Authority who noted: 'Given there is no option for reticulated sewerage network connection and onsite treatment and disposal is not possible, then the only option remaining is pump out. In light of the recommended functions of fuel float alarms and ongoing routine weekly collection and no other viable option, a pump-out system in this instance is supported' *NOTE: the requirement for the well-being emptied at least once a week was removed from the draft determination at the EHO Officers request (D22/61776), noting the applicant had subsequently submitted a Wastewater Report and management of the system will be assessed in detail during the s68 application.*	
NSW RFS	NSW RFS have provided generic Council wide advice in relation to recent bushfire mapping amendments,	The proposal was lodged prior to

	advising that old mapping will continue to apply to applications that were lodged prior to 14 October 2021 – See TRIM D21/520006.	bushfire mapping amendments. At the time of lodgement, the site was not identified as bushfire prone land.

Statutory Considerations

Environmental Planning and Assessment Act 1979

Section 4.10 - Designated Development

The proposal is declared to be designated development as per Schedule 3 or the Environmental Planning and Assessment Regulation 2000.

14 Concrete works

(1) Concrete works that produce pre-mixed concrete or concrete products and—
- *(a) that have an intended production capacity of more than 150 tonnes per day or 30,000 tonnes per year of concrete or concrete products, or*
- *(b) that are located—*
  - *(i) within 100 metres of a natural waterbody or wetland, or*
  - *(ii) within 250 metres of a residential zone or dwelling not associated with the development.*

(2) This clause does not apply to concrete works located on or adjacent to a construction site exclusively providing material to the development carried out on that site—
- *(a) for a period of less than 12 months, or*
- *(b for which the environmental impacts were previously assessed in an environmental impact statement prepared for that development.*

See Section "Environmental Planning Assessment Regulation 2000"

Section 4.46 – Integrated Development

Agency	Recommendation
Heritage NSW	General Terms of Approval have been issued by Heritage NSW for the above integrated development application for those known Aboriginal sites which would require an Aboriginal Heritage Impact Permit pursuant to s.90 of the National Parks and Wildlife Act 1974.

Biodiversity Conservation Act 2016 and Biodiversity Conservation Regulation 2017

Under the BC Act, impacts to native vegetation and/or threatened flora and fauna habitat may be required to be offset. This is not required for the development as vegetation is not shown on Biodiversity Value Map, and vegetation clearance (0.03 ha) is below trigger threshold requirements (0.25ha).

Shoalhaven Contribution Plan 2019

The proposed development is considered to increase the demand for community facilities in accordance with the Shoalhaven Contributions Plan 2019 (the Plan). The development is most aptly characterised as an Industrial Development for the purpose of calculating contributions under the Plan (see below calculations). Conditions to be placed on any determination requiring payment of required contributions prior to the issue of a CC.

Section 7.11 ET Calculations - DA21/1612 (UPN: 42261)

Close | Reset | Print | Return Calc

○Residential ◉Non-Residential

Non Residential

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

	Existing	Proposed
Retail (Gross Floor Area m2)	0	0
Commercial Office (Gross Floor Area m2)	0	0
Hotel / Restaurant(Gross Floor Area m2)	0	0
Bulky Goods (Gross Floor Area m2)	0	0
Industrial (Gross m2, include parking/landscape)	0	7356
Total ET		**36.78**
Management Project ETs		**36.78**

PO Box 42 **Tel: 44293111**
Nowra **Fax: 44221816**

Application: (Stage: 1)
Property: Bolong Rd, BOLONG - Lot 1 DP 531429
UTE: 42261

Fee Estimate Date: 11 Jan 2022

Project	Description	Rate	Qty	Total	GST	GST Incl
CWFIRE2001	Citywide Fire & Emergency services	$139.37	36.78	$5,126.03	$0.00	$5,126.03
CWFIRE2002	Shoalhaven Fire Control Centre	$203.89	36.78	$7,499.07	$0.00	$7,499.07
CWMGMT3001	Contributions Management & Administration	$579.56	36.78	$1,262.51	$0.00	$1,262.51
					Sub Total:	$13,887.61
					GST Total:	$0.00
					Estimate Total:	$13,887.61

Notes:

1. **This is an estimate only and is not a payment advice.**
2. **Valid for the date of issue only, as these rates / projects may change over time.**
3. **Shoalhaven Contributions Plan 2019 commenced on 29th May 2019.**

Table 3.7.4: ET rate applied to industrial developments

Development type	ETs applied	Relevant community infrastructure levied
Per 200m^2 of land to be developed (including car park and landscaped areas)	1	FIRE (Fire & emergency ser.) MGMT (Plan Management) ROAD (Road & traffic)
	DRAI (Drainage) – in m^2 (see 'Drainage calculations' above)	

Note SF10831 approved lot 101 with a total area of 7356m^2. The proposed development including landscaping and carparking (per table 3.7.4 of the Contributions Plan) includes the entire 7356m^2 site which has been used for the calculations above.

Council Policies

Nowra Bomaderry Structure Plan 2008

Proposal is consistent with the Nowra Bomaderry Structure Plan, being located in a nominated area for industrial development and considered consistent with the objectives under section 4.2 for 'Industrial Areas':

Objective	Comment
Provide sufficient industrial land to meet future demands	Objective considered outside the scope of the application (DA); however the proposal is noted to be located on only a portion of Lot 1 – allowing for potential industrial development of the wider lot at a later date.
Encourage economic diversification and long-term growth of Nowra Bomaderry's industrial base to expand employment opportunities	Development considered consistent with this objective. The proposal adds to industries functioning in the industrial area (and the longevity of concrete batching in the area). The development, being located on only a portion of the site, also retains usable areas for further industrial development surrounding (should it be proposed in future). The development will retain jobs from the existing plant and extend the company's operation longevity (and employment opportunities) with updated equipment/technology at a new site location. Additional job opportunities will also be created with facility construction.
Make provision for a range of non-industrial uses to serve the needs of the locality's workforce	Development is primarily for industrial use however additional workforce in the area may work to support/encourage wider uses in the area.
Provide Nowra Bomaderry residents convenient access to jobs, goods and services provided in industrial areas	Consistent. The proposal will provide for an industry in the Nowra Bomaderry locality which may contribute to local job retention/creation with both operation and construction stages.
Ensure that unacceptable impacts of industrial development on the environment are minimised and do not exceed prescribed standards	Consistent. The development is situated a significant distance from nearest residential development. Noise, dust, flooding and traffic studies have accompanied the application in support of the proposal and have demonstrated the development can be managed with minimal impact on adjoining land uses. No concerns raised by Council's Environment Team in relation to minor vegetation clearance. Stormwater and effluent management have been considered able to be appropriately managed with limited risk to the natural environment, subject to suitable conditions of consent.

Contaminated Lands Policy – POL18/35

As per Council's Policy, contamination and implications have been considered with the proposal. A Supplementary Contamination Assessment was submitted to address Clause 7 of SEPP 55 and build upon earlier investigations of the Manildra property and subject site. The report indicated exceedances of Zinc, Mercury, Acetone, as were detectable concentrations of Per and polyfluroalkyl compounds (PFAS). Council's EHO noted that as the site is proposed for industrial purposes and change of use is not occurring, remediation is not necessary at this time subject to suitable conditions (see SEPP 55 assessment for further details).

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 (Coastal Management) 2018
State Environmental Planning Policy (Infrastructure) 2007
State Environmental Planning Policy No 33—Hazardous and Offensive Development
State Environmental Planning Policy No 55—Remediation of Land
State Environmental Planning Policy No 64—Advertising and Signage
Shoalhaven LEP 2014

SEPP (Coastal Management) 2018

The site is identified as a 'Coastal Environment Area' and 'Coastal Use Area' under the SEPP (Coastal Management) 2018. The proposal is considered consistent with requirements in these areas (see below).

Division 3 Coastal Environment Area	
(1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—* *(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,* *(b) coastal environmental values and natural coastal processes,* *(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the*	The consent authority has considered (a) - (g) and notes: (a) Proposal is not considered to adversely impact the integrity and resilience of the biophysical, hydrological and ecological environment – Stormwater runoff, flooding and pollutant potential assessed by Council's Engineers, Environmental Health Officer, and Natural Resources and Floodplain Section and potential impacts considered suitable managed subject to conditions of consent. No concern was raised by EPA subject to recommendations for Council consideration – these being incorporated into the draft determination. No concern raised by Council's Environment section subject to appropriate conditions of consent. (b) Proposal not considered to impact coastal values and natural coastal processes – the development is located in an established industrial area, and not considered to detract from the amenity of the area. The site is largely clear of significant strands of vegetation. The proposal will be conditioned for the installation of permanent water quality improvement devices and the requirement for ongoing site management. No

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sensitive coastal lakes identified in Schedule 1, *(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,* *(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,* *(f) Aboriginal cultural heritage, practices and places,* *(g) the use of the surf zone.*	concerns raised by internal and external referrals subject to recommendations and conditions (see referral responses for further details). (c) Proposal not considered to impact water quality – Stormwater to be connected to existing street network, generally in accordance with the provided Stormwater Management Plan. Additional conditions to be included in any determination, requiring stormwater design incorporate WSUD design, as well as the requirement for ongoing maintenance of pollutant traps and proposed Ocean Protector Filterra Bioscape device. Appropriate sediment and erosion controls to also be included in any determination for both construction and operation phases. (d) Development not considered to impact marine vegetation, undeveloped headlands and rock platforms. Some impact to native vegetation anticipated - Supplied Flora and Fauna Assessment noted approximately 0.03 ha of the EEC (Swamp Oak Floodplain Swamp Forest) and a hollow bearing tree to be impacted. EEC however noted to be in poor condition - being planted wind rows with no structural integrity. It was further noted development is in the presence of suitable or better hollow-bearing trees outside the study area. Council's Environment Team concurred with finding of the report (see referral response for details) and conditions recommended to be included in any consent. (e) Proposal not located in an area that would cause impact to public space and safe access to and along the foreshore, beach, headland or rock platform. Proposal located wholly on private land zoned for industrial purposes with limited passing foot traffic. (f) The archaeological assessment of the study site identified the following aboriginal site in the study area: Bolong-1A-1 (AHIMS #52-5-0969) – a subsurface archaeological deposit of a chert complete flake. Development was referred through to Heritage NSW who provided GTAs for the development, which included requirement the applicant obtain A s.90 Aboriginal Heritage Impact Permit (AHIP) prior to the commencement of works. An unexpected finds condition to also be included in any determination to ensure appropriate management should further artifacts be found during the construction phase. (g) Proposal not located in an area that would impact surf zone.
(2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—* *(a) the development is designed, sited and will be managed to*	2(a) The development is considered designed, sited, and will be managed to avoid an adverse impact referred to in subclause (1), with the exception of **1(f).** In relation to 1(f) the development will involve the removal of the item, GTAs have been provided by Heritage NSW and impacts considered managed in accordance with (2)(c)(iii).

avoid an adverse impact referred to in subclause (1), or *(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or* *(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.* *(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or* *(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	
(3) *This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*	Proposal not located within the Foreshores and Waterway Area within the meaning of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*.

Division 4 Coastal Use Area	
(1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—* *(a) has considered whether the proposed development is likely to cause an adverse impact on the following—* *(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,* *(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*	The consent authority has considered 1(a)(i) – (v) and notes: (i) Due to proposal location it is not anticipated to adversely impact on existing safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability. (ii) – (iii) Development is not anticipated to result in undue overshadowing, wind funnelling or loss of views from public places to foreshores. A Visual Impact Assessment was supplied in support of the application. Due to existing and proposed landscaping (to provide partial screening along the eastern boundary), the existing industrial built form on neighbouring sites, the topography of the land, the distance of the development from residential dwellings and the proposed siting of the development (on only a portion of Lot 1), the development is not anticipated to cause significant unacceptable visual impact, disruption of views, loss of privacy or impact to neighbouring property solar access.

(iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,* *(iv) Aboriginal cultural heritage, practices and places,* *(v) cultural and built environment heritage, and*	(iii) development in light of above rational, and considering development location, is not considered to cause undue impacts to visual amenity and scenic qualities of the coast, including coastal headlands. (iv) As noted in Division 3 The archaeological assessment of the study site identified Item Bolong-1A-1 (AHIMS #52-5-0969) onsite –Development was referred through to Heritage NSW who provided GTAs for the development. An unexpected finds condition to be included in any determination should further artifacts be found during the construction phase. (v) The subject site does not contain any listed items in Schedule 5 of the SLEP 2014, nor is it located within a conservation area. There are locally listed Items (Number 117 and 116 in schedule 5, known as 'Berry Estate' which includes vertical timber slab cottage and outbuildings and "Beuna Vista" a dairy farm complex including Berry Estate vertical timber slab barn) along Bolong Road. The closest item is approximately 600m from the development. Due to the nature of the development structures, proposed mitigation measures (landscape screening along the eastern perimeter of the development) and the existing character/impact of the industrial area, the proposed development is not anticipated to detract from existing heritage significance.
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* *(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 development is considered designed, sited, and will be managed to avoid an adverse impact referred to in paragraph 1(a) with the exception of 1(a)(iv) In relation to 1(a)(iv) the development will involve the removal of the item, GTAs have been provided by Heritage NSW and impacts considered managed in accordance with 1(b)(iii).
(c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*	The development is of a size and scale consistent with development in the area and anticipated within an industrial zone. The height of the development exceeds 11m height limit, however this has been considered acceptable in the circumstances – see cl 4.6 assessment below for further details.

SEPP (Infrastructure) 2007

The development has been considered consistent with Policy requirements:

Electricity Transmission Lines	
Clause 45 Determination of development applications – other development	
(1) *This clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—* *(a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,* *(b) development carried out—* *(i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or* *(ii) immediately adjacent to an electricity substation, or* *(iii) within 5m of an exposed overhead electricity power line,* …	(1)(b)(i) applicable - being development immediately adjacent to an easement for electricity purposes and fill identified as encroaching within this easement area.   *Figure 8 & 9: Google Street View of Subject Site and Powerlines*
(2) *Before determining a development application (or an application for modification of a consent) for development to which this clause applies, the consent authority must—* *(a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and* *(b) take into consideration any response to the notice that is received within 21 days after the notice is given.*	Complies, Endeavour Energy was notified of the proposal and raised no objections following provision of standard EE information package (see referral comments for further details).
Railway Corridors	
87 Impact of rail noise or vibration on non-rail development	
Developments potentially affected by noise and vibration: *(a) a building for residential use,* *(b) a place of public worship,* *(c) a hospital,* (d) an educational establishment or child care centre	The development is not for a use nominated to be adversely impacted by noise and vibration associated with the rail line.

Classified Roads	
101 Development with frontage to classified road	
(1) *The objectives of this clause are—* *(a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and* *(b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*	The development has frontage to a Classified Regional Road, Bolong Road. The proposal is considered compliant with objectives subject to conditions.
(2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—* *(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and* *(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—* *(i) the design of the vehicular access to the land, or* *(ii) the emission of smoke or dust from the development, or* *(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and* *(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*	TfNSW was notified of the proposal and entrusted Council to manage the traffic implications of this development application. The consent authority has considered 2(a) –(b) and notes: (a) Vehicle access is required via Bolong Road (no alternate access point), however subject to conditions (including appropriate treatment for right and left turn), access, safety and traffic implications considered suitably managed. (b) The safety, efficiency and ongoing operation of the Classified Road is not considered to be adversely affected as a result of: (i) the design of the access arrangements – Design of the access arrangements has been considered appropriate and consistent with Australian Standards, see Engineering referral comments and conditions for details. (ii) emission of smoke or dust from the development – Emissions of smoke and dust managed see referral comments and conditions in draft determination, these include air quality and dust mitigation measures. (iii) the nature, volume or frequency of vehicles using the road to gain access to the site – It is noted the site will generate additional traffic on the road, however this is considered relatively low. The submitted Traffic Impact Assessment (TIA) notes the development is anticipated to generate similar traffic volumes to the existing plant, traffic count data at the existing site identified a peak vehicle volume of 9 vehicles per hour. With volumes at or below this peak from 6:00am to 3:00pm. Based on the traffic counts provided,15% of traffic consisted of light vehicles, with 85% heavy vehicle traffic. Subject to appropriate road treatment (including right and left-hand turn treatment), Council Engineers have considered additional vehicle movement and frequency

	generated by the development suitable in the context. (c) The development is a type not considered sensitive to traffic noise or vehicle emissions.
102 Impact of road noise or vibration on non-road development	
(1) *This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration—* *(a) residential accommodation,* *(b) a place of public worship,* *(c) a hospital,* *(d) an educational establishment or centre-based child care facility.*	The development is not for a nominated use considered to be adversely impacted by noise and vibration associated with the road corridor.
Traffic Generating Development (Clause 104)	
(1) This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves: *(a) new premises of the relevant size or capacity, or* *(b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.*	The proposed development is appropriately characterised as an 'industry' ***Column 1 - Purpose of the Development*** *Industry* ***Column 2 - Size or capacity—site with access to a road (generally)*** *20,000m² in site area or (if the site area is less than the gross floor area) gross floor area* ***Column 3 - Size or capacity—site with access to classified road or to road that connects to classified road (if access within 90m of connection, measured along alignment of connecting road)*** *5,000m² in site area or (if the site area is less than the gross floor area) gross floor area* *Comment:* The total area of the site is 7,356m² and heavy vehicles generated by the project would gain access from a Regionally Classified Road – Bolong Road. The development is therefore considered to be traffic generating development under column 3 and referral to TfNSW was undertaken.

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(3) Before determining a development application for development to which this clause applies, the consent authority must: *(a) give written notice of the application to RMS within 7 days after the application is made, and* *(b) take into consideration:* *(i) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, RMS advises that it will not be making a submission), and* *(ii) the accessibility of the site concerned, including:* *(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and* *(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and* *(iii) any potential traffic safety, road congestion or parking implications of the development.*	Complies - TfNSW was notified of the proposal and entrusted Council to manage the traffic implications of this development application. The consent authority (Council) has considered: (i) *any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, RMS advises that it will not be making a submission), and* Comment: While noting TfNSW entrusted traffic management to Council, TfNSW provided additional guidance (following further discussions with Council) and this was incorporated into the draft determination (see Engineering recommended conditions of consent). *(ii) the accessibility of the site concerned, including:* *(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and* Comment: Concept access treatment and turning circles provided with the application. There are currently no footpaths or crossings in close proximity to the site, and the site is located a distance from public transport options, the submitted TIA anticipated that the majority of movement to and from site would be via vehicle. Onsite parking spaces for visitor and staff have been provided for in the development design, this consists of 13 spaces in total, one (1) to be dedicated for accessible parking. The onsite car parking is located in a dedicated car park to the north of the site separate from the concrete vehicle movements. Internal to the site, walkways are provided to delineate the pedestrian paths of travel from the proposed loading vehicle paths. TIA rational regarding parking and general movement to/from the site considered appropriate. Vehicle movements and accessibility of the site via vehicle considered suitable by Council Engineers subject to conditions.

	Development to be conditioned for BCA compliance to ensure movement internal to the site is accessible. *(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and* Comment: Due to development location and nature, staff and visitors are anticipated to travel to/from the site via car or truck. Potential to minimise these movements is limited in light of the above comments and nature of the development (product to be moved offsite in agitator trucks). *(iii) any potential traffic safety, road congestion or parking implications of the development.'* Comment: The proposal is anticipated to generate additional traffic on the road. Following review by Council's Engineers, the proposal was considered suitable to mitigate any impacts to road users, congestion and ensure safety subject to conditions of consent – development being conditioned to ensure the road design comply with the following: - To facilitate right turn movements from Bolong Road into the site, a CHR is to be designed and constructed. The works are to include all required road and shoulder widening. The current existing road shoulder width is to be maintained. Where additional width is required for the CHR additional shoulder pavements is to be constructed. The storage length is to be at least the length of the largest vehicle expected to enter the site. - To facilitate left turn movements from Bolong Road into the site, a AUL is to be designed and constructed. The works are to include all necessary road and shoulder widening. The current existing road shoulder width is to be maintained. Where additional width is required for the AUL additional shoulder pavements is to be constructed. - Council's Engineering Design Specifications Sections D1 – Geometric Road Design and D2 – Flexible Pavement Design. - AUSTROADS Design Requirements and Specifications. - The road table drain adjacent Bolong Road is to be reconstructed as required to prevent ponding of water, including any adjustment or reconstruction of nearby driveways.

	As noted above, the development has also provided for 13 car spaces for staff and visitors to be located wholly onsite. No concerns raised in relation to parking proposed, its location or safety, it was also noted provision of parking onsite is in excess of Council DCP requirements.

SEPP 55 Remediation of Land

Clause 7 (1) of SEPP55 states:

(1) A consent authority must not consent to the carrying out of any development on land unless—

(a) it has considered whether the land is contaminated, and

(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

A Supplementary Contamination Investigation (D21/246582) of the site was submitted with the application. The investigation builds on earlier investigations of the Manildra property and the site. The Supplementary Investigation (GHD 2021) included a review of activities undertaken on the site between 2015-2020, drilling new groundwater wells, sampling from these and existing wells, and analysing the samples for a suite of contaminants of potential concern.

The findings of the investigations are as follows:

- Activities undertaken on the site between 2015-2020 are relatively unchanged from earlier years although the neighbouring Australian Paper facility ceased operations in 2015 meaning this potential source of contamination was no longer present.
- Detectable concentrations of Per and polyfluroalkyl compounds (PFAS, a fire-resistant coating) were recorded but none exceeded the EPA assessment criteria for protection of human health, recreation activities and ecology.
- The source of PFAS could be the neighbouring paper mill site. As such, it is recommended that pre-construction sampling and analysis of groundwater be undertaken to determine if there is seasonal variation in PFAS concentrations or whether they are always present.
- Any excess material generated during earthworks which will be disposed of off-site must be analysed for PFAS in accordance with NSW EPA waste classification guidelines.
- From a contamination perspective, the site is suitable for the proposed use.

No concerns raised by Council's EHO following review of material, it was noted that as the site is proposed for industrial purposes and change of use is not occurring, remediation is not necessary at this time. Any excess material generated during earthworks which will be disposed of off-site must be analysed for PFAS in accordance with NSW EPA waste classification guidelines.

It is considered that the proposed development has undertaken suitable investigations with regard to contamination and while the site is found to have detectable concentrations of contamination Council is satisfied that the land is suitable in its contaminated state for the proposed industrial purposes. Accordingly the provisions of SEPP55 are considered to be satisfied and the Supplementary Contamination Report is to be listed in approved documents in any determination.

SEPP 64 – Advertising and Signage

SEPP 64 applies to all signage that— Section 6(1):

(a) can be displayed with or without development consent under another environmental planning instrument that applies to the signage, and
(b) is visible from any public place or public reserve,
except as provided by this Policy.

Four business identification signs are proposed to be placed either side of the front entrance gates, one sign on both sides of each gate to enable identification when gates are open or closed (i.e. only two (2) visible at any one time). SEPP 64 is accordingly applicable as the proposed signage is visible from a public space.

The proposed business identification signs have the following dimensions: 2.4m X 1.2m.

Clause 8 of SEPP 64 states:

A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied—
(a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and
(b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.

The assessment under the provisions of Schedule 1 is provided below, further it is considered that the signage meets the objectives in clause (1)(a) of the SEPP as

(i) it is considered to be compatible with the desired amenity and visual character of the area being minimal in size and consistent with anticipated style of signage for the proposed permissible use, and
(ii) provides effective communication in suitable locations being on either side of the entry points of the site, and
(iii) is of high quality design and finish which will be durable and require minimal maintenance.

SEPP 64 – Schedule 1	**Comment**
1 Character of the Area	
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Business identification signage is compatible with existing signage found along Bolong Street industrial areas. Design details will be required to be provided at construction stage for Council/Certifier approval.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	Complies, as above.
2 Special areas	
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposal is not considered to detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas. The signage to be located on entrance gates only, not considered to obscure any special areas.
3 Views and vistas	
Does the proposal obscure or compromise important views?	The location of the signage will not impede any important views/ vistas, being located on the entrance gates only.

Does the proposal dominate the skyline and reduce the quality of vistas?	The signage to be located on the entrance gates only, this will not dominate the skyline and/or reduce quality of vistas
Does the proposal respect the viewing rights of other advertisers?	The proposal will not impede the view rights enjoyed by advertisers in the locality.
4 Streetscape, setting or landscape	
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Complies, the proposed signage scale, location (setback from the road) and number (only two (2) visible at any given time) is considered consistent with signage in the area. Design details are to be provided at CC stage for Council/Certifier approval.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	Complies.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	No existing signage onsite, however the appearance of only two (2) identification signs from the public domain is not considered to cause excessive clutter.
Does the proposal screen unsightliness?	The signage will be located on entrance gate only, adding visual interest to the fencing of the site.
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No.
Does the proposal require ongoing vegetation management?	No.
5 Site and building	
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	It is considered that the proposed signage is compatible with the scale, proportion and other characteristics of the site or building on which the proposed signage is to be located
Does the proposal respect important features of the site or building, or both?	Yes. Signage is located on entrance gate, setback 15m from the boundary – location will not detract from any important features onsite.
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposal is consistent with the existing signage in the locality.
6 Associated devices and logos with advertisements and advertising structures	
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	None nominated.
7 Illumination	
Would illumination result in unacceptable glare?	Signs are not identified as being illuminated, a condition to this effect to be placed on any determination ensuring signage is not illuminated.
Would illumination affect safety for pedestrians, vehicles or aircraft?	
Would illumination detract from the amenity of any residence or other form of accommodation?	
Can the intensity of the illumination be adjusted, if necessary?	

Is the illumination subject to a curfew?	
8 Safety	
Would the proposal reduce the safety for any public road?	The signs are not anticipated to impact safety due to: - The positioning of signs (setback 15m from the boundary on the entrance gate only), - nature of the signs (identification only), and, - subject to conditioning regarding no illumination.
Would the proposal reduce the safety for pedestrians or bicyclists?	
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	

Shoalhaven LEP 2014

Land Zoning

The land is zoned IN1 General Industrial under the SLEP 2014.

Characterisation and Permissibility

The proposal is considered an industrial activity:

> ***industrial activity*** *means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing, recycling, adapting or servicing of, or the research and development of, any goods, substances, food, products or articles for commercial purposes, and includes any storage or transportation associated with any such activity.*

The concrete batching plant, being a development proposed for 'processing' and 'recycling' of 'substances' for commercial purposes.

The type of industry is best characterised as 'general industry',

> ***general industry*** *means a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity.*
>
> ***Note—***
>
> *General industries are a type of* ***industry****—see the definition of that term in this Dictionary*

The development not considered a scale/type that would be characterised as heavy industry (requiring separation for other land uses) or light industry (having no interference to amenity of the neighbourhood) – See SLEP 2014 definitions for further details.

General industry is permitted in the zone with development consent.

Zone objectives

Objective	Comment
• To provide a wide range of industrial and warehouse land uses.	The proposal adds to industries functioning in the industrial area (and the longevity of concrete batching in the area). The development, being located on only a portion of the site, also

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	retains usable areas for further industrial development surrounding (should it be proposed in future).
• To encourage employment opportunities.	The proposed development will retain jobs from the existing plant and extend the company's operation longevity (and employment opportunities) with updated equipment/technology at new site location. Additional job opportunities will also be created with facility construction.
• To minimise any adverse effect of industry on other land uses.	The development is situated a significant distance from nearest residential development. Noise, dust, flooding and traffic studies have accompanied the application in support of the proposal and have been considered by Council staff appropriate in demonstrating impacts can be managed with minimal impact on adjoining land uses.
• To support and protect industrial land for industrial uses.	The proposal is for industrial use on a site currently vacant but zoned for industrial use. The proposal is therefore consistent with this objective.
• To allow a diversity of activities that do not significantly conflict with the operation of existing or proposed development.	As above, the development is considered capable of satisfactorily addressing this objective.
• To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.	The proposal is not inconsistent with this objective. Additional facilities and employment associated/ generated could work to encourage supporting facilities and services to meet worker's needs.

SLEP 2014 Clauses

Clause (cl)	Comments	Complies/ Consistent
Part 2 Permitted or prohibited development		
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	None proposed as part of this application.
Part 4 Principal development standards		
4.3 Height of buildings	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. 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 proposed development does not comply with this development standard. The new plant will include several buildings and structures, with the tallest structure being silos up to RL26, approximately 23.75	Variation requested and recommended for support, see cl 4.6 assessment below.

	metres above existing ground levels, exceeding the control by 12.75 metres or 116% Variation to this control has been requested pursuant to clause 4.6 of the SLEP2014.	
4.4 Floor space ratio	None nominated for the area	Noted.
4.6 Exceptions to development standards	*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.* The application is supported by 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. The written justification also considered those matters required to be considered by the Secretary under subclause (5).	Variation to cl 4.3 requested and recommended for approval, see cl 4.6 table below for detailed assessment.
Part 5 Miscellaneous provisions		
5.10 Heritage conservation	The subject site does not contain any listed items in Schedule 5 of the SLEP 2014.	Noted.
Part 7 Additional local provisions		
7.1 Acid sulfate soils	The site is identified as containing class 2, 3 and 4 acid sulphate soils. A Preliminary Acid Sulphate Soil Management Plan (ASSMP) accompanied the application. The ASSMP provides control measures that will be used when disturbing acid sulphate soils. EPA considered report appropriate subject to an amended document being submitted prior to works being undertaken (this to include recommended additional sampling and analysis as outlined in the	Conditions to reflect EPA comments have been included in the draft determination.

	preliminary report). No concern raised by Council's EHO subject to conditions.	
7.2 Earthworks	The area of the development is to be filled to approximately 3 – 3.5m AHD for flood planning levels (approximately 11,500m^3 of fill to be imported). The EIS notes that the site varies from 1.89 to 2.2 m AHD, therefore requiring a maximum amount of fill (should 3.5m AHD be required) is of 1.61m to raise the proposed development to 3.5m AHD. Note: Council's Flood and Development Engineers have recommended conditions ensuring a maximum fill height of fill does not exceed 3.5m AHD. Clause 7.2 notes: *(2) Development consent is required for earthworks unless—* *(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or* *(b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.* Comment: Earthworks require development consent as they are not exempt development under this plan, nor ancillary to development permitted without consent. *(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—* *(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,* Comment: Noted that the site is located on the northern floodplain of the Shoalhaven River. A Flood Impact Assessment (FIA) was provided with the application and concluded that the development will have minimal impact on available flood storage volume and that in most events the development will not increase flood levels – See FIA for details. A Concept Stormwater Management Plan was also supplied with the development. The concept plan proposes to install pit and pipes to convey stormwater runoff (designed to convey up to the 10% AEP storm event) to existing Bolong Road table drain.	Proposal considered consistent with subclause (3)(a) – (h) subject to appropriate conditions of consent.

	Following review of supplied material, flood and drainage have been considered suitably managed by Council Flood and Development Engineers subject to conditions of consent. No concern regarding soil stability have been raised, subject to conditions in relation to compaction and sediment and erosion controls. *(b) the effect of the development on the likely future use or redevelopment of the land,* Comment: The fill is required due to the nature of the site (flood prone land). The importation of the fill is not considered to impact development on the site in future subject to suitable conditions (ensuring fill be clean and compacted to current standards). *(c) the quality of the fill or the soil to be excavated, or both,* Comment: Should soil be removed from site, testing and appropriate disposal will be required (see draft determination and EPA and EHO referral comments). *(d) the effect of the development on the existing and likely amenity of adjoining properties,* Comment: The addition of the fill has been considered in the development proposal overall height and scale. It is noted that adjoining sites are industrial and agricultural in nature and the area of fill will only be located on a portion of lot 1. The fill will be battered down and landscaped in the front setback, working to soften the development appearance from the streetscape (see cl 4.6 for further assessment of general amenity of the development). *(e) the source of any fill material and the destination of any excavated material,* Comment: All fill brought to the site, is to be conditioned to be only virgin excavated natural material (VENM) or excavated natural material (ENM) as defined in Part 3 of schedule 1 to the *Protection of the Environment Operations Act 1997 (POEO Act).* *(f) the likelihood of disturbing relics,* Comment: The Archaeological Assessment Report provided with the application identified an aboriginal site in the study area, suitably conditions to be included in any determination requiring applicant obtain an AHIP prior to works. Further conditions regarding unexpected finds to be included in any	

	determination should further artifacts be found during the construction phase. *(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,* Comment: Impacts on any waterway, drinking water catchment or environmentally sensitive area have been considered by internal and external departments, no concerns have been raised subject to recommendations and conditions. *(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.* Comment: Treatment - Conditions have also been proposed by Council staff to mitigate impacts associated with fill in both the construction and operation phases, including requiring: - the height of fill does not exceed 3.5m AHD onsite. - appropriate compaction levels - appropriate type of fill - installation of sediment and erosion controls Bulk and scale – The fill will be battered down and landscaped in the front setback, working to soften the development appearance from the streetscape. Flood and stormwater impacts- Appropriate system and controls to be in place to mitigate any impacts from runoff and flooding on joining properties see referral responses and recommended conditions of consent	
7.7 Landslide risk and other land degradation	The site is identified as 'sensitive land' (3) *Before determining a development application for development on land to which this clause applies, the consent authority must consider any potential adverse impact, either from, or as a result of, the development in relation to—* *(a) the geotechnical stability of the site, and* *(b) the probability of increased erosion or other land degradation processes.* The EIS notes: "The site is level land and there is no risk of landslides nor of accelerated erosion because all cleared areas will subsequently be sealed. The development footprint will be filled and compacted as	Considered appropriate subject to conditions of consent.

	necessary to ensure stability. Geotechnical Investigations of the fill and underlying material will be undertaken prior to detailed design occurring to ensure suitable foundation conditions are provided." Comment: Noted, subject to appropriate conditions regarding sediment and erosion and compaction the proposal is considered consistent with clause requirements. No concerns noted by Council Engineers regarding this matter. (4) *Before granting consent to development on land to which this clause applies, the consent authority must be satisfied that—* *(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or* *(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or* *(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.* Comment: The proposal is considered to be designed sited and will be managed to avoid any significant adverse environmental impact subject to conditions of consent.	
7.9 HMAS Albatross airspace operations	The development appears to be outside the mapped obstacle limitation zone for runway 3 (see Figure 10 overlay below). The development is also approx. 11,666m from the aerodrome and should the development have fallen within the mapped area, the scale is such that it would not penetrate the obstacle limitation area (see below Figure 11 below). ***The Limitation or Operations Surface*** *means the Obstacle Limitation Surface or the Procedures for Air Navigation Services Operations Surface as shown on the Obstacle Limitation Surface Map or the Procedures for Air Navigation Services Operations Surface Map for the HMAS Albatross Military Airfield.* **HMAS ALBATROSS MILITARY AIRCRAFT OPERATING AREA - HELO NORTH** In addition to the above, previous advice to Council on 3 November 2006 confirms that the subject land is within HMAS Albatross Military Aircraft Operating Area. Specifically, the subject land is within an area known as Helo North and information provided to Council advises:	In relation to obstacle penetrated, noted that the development is outside area as indicated on the Obstacle Limitation Surface Map. In relation to Helo North, noted that Helicopter training occurs in this area, from surface to 3000ft (914.4 m). The development is considered appropriately located being in an area containing numerous large-scale developments to which flight vehicles currently accommodate - adjoining industrial complex to the west

	"Helo North Helicopter Training Area Operating heights - Surface to 3000ft Military helicopters conduct training evolutions in this area. The area is available for this type of operation 24 hours per day. However, operations are generally weekdays between 8.00am and 5.00pm. Occasionally night flying is conducted in this area. This activity is normally completed by 11.00pm."	comprises large scale-built form including elevated water tanks and towers/stacks up to 33.5m in height, the maximum of proposed silos is 23.75 metres. HMAS Albatross to be notified in the event of determination for their records to ensure ongoing safety with their operation and flight training paths.

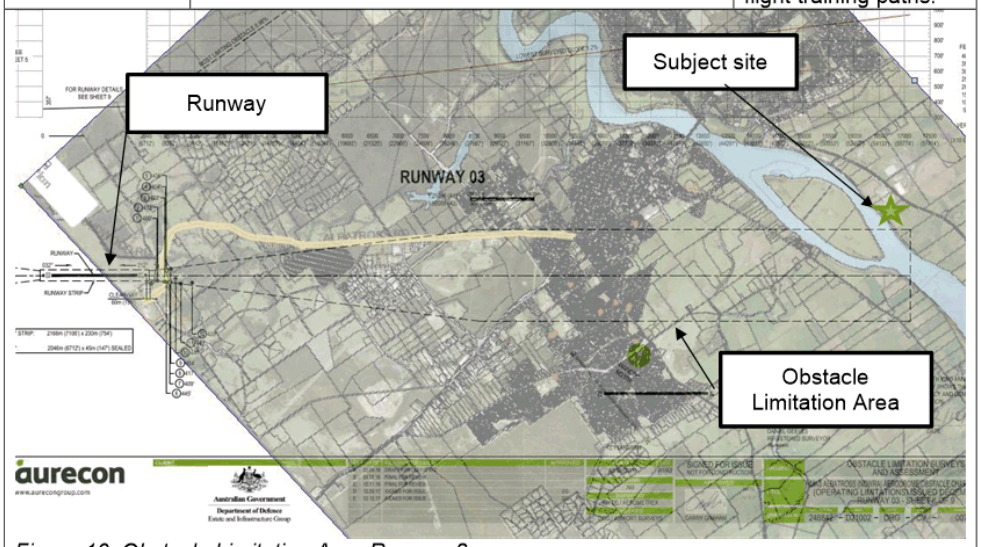


Figure 10: Obstacle Limitation Area Runway 3

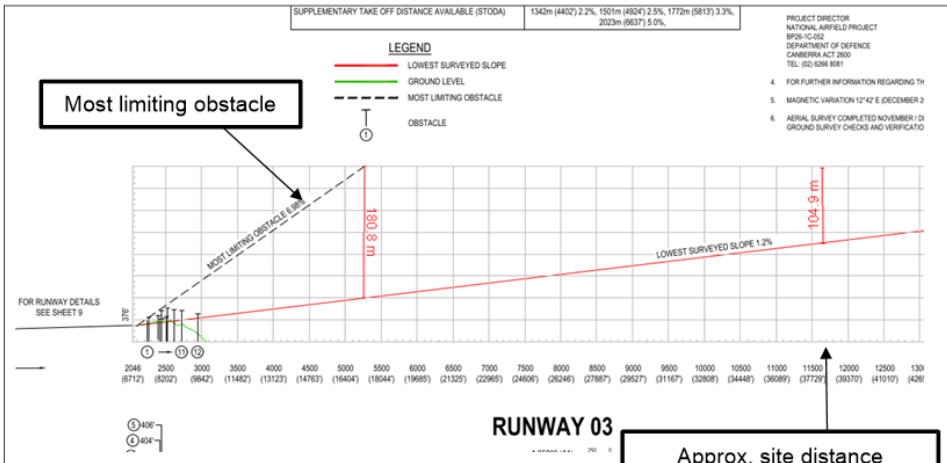


Figure 11: Most Limiting Obstacle Path

7.11 Essential services	EIS notes: 'The site is served by all essential infrastructure except for sewer. Extending sewerage into this area is not envisaged and, as such, the proposal includes a pump out tank to allow for off-site sewage disposal.' <u>Comment:</u> - Proposal able to be serviced with reticulated water. - Proposal able to be serviced with electricity. - Proposal unable to be serviced by reticulated sewerage – Pump out sewerage management was considered appropriate by DPI and Council's EHO subject to stringent requirements – see referral comments and recommended conditions of consent.	To condition accordingly.

Assessment pursuant to clause 4.6 of SLEP 2014:

Subclause	Council Comment
4.6(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.*	Noted. There is merit to applying flexibility in this circumstance, noting: - The variation achieves the underlying objectives of cl 4.3 notwithstanding the non-compliance; - The variation is required specifically for the development type proposed, which has been demonstrated to be consistent with zone objectives. - There are sufficient environmental planning grounds to justify contravening the development standard; and - the contravention is in the public interest because it is consistent with the objectives of the zone and development standard.

4.6(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.	Development Standards' are defined under Section 4(1) of the *Environmental Planning & Assessment Act 1979* as follows: *"development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of: …* *(c) the character, location, siting, bulk, scale, shape, size, **height**, density, design or external appearance of a building or work…"* [Council **emphasis**] The building height of development under cl4.3 of the SLEP 2014 is therefore clearly a development standard. The development standard is not a prohibition.
4.6(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.* *(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*	A written request to vary the standard has been provided in which the applicant assessed the proposal against 4.6(3)(a) and (b). It is noted the below decisions by NSW Land Environment Court assisted in understanding parameters for contravention to a development standard: 1. Wehbe v Pittwater Council [2007] NSW LEC 827; 2. Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009; 3. Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 (Initial Action); A detailed assessment against subclause (a) and (b) is provided below.
(3)(a) that compliance with the development standard is unreasonable or unnecessary	
Comment: The LEC has held that there are at least five different ways, an applicant might establish that compliance with a development standard is unreasonable or unnecessary (Wehbe v Pittwater Council [2007]). For an application to be upheld it is sufficient to demonstrate that it satisfies only one of the five ways. The five ways are: **1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard;** 2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary. 3. The objective would be defeated or thwarted if compliance was required with the consequence that 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 unreasonable and unnecessary; and

5. The zoning of the land is unreasonable or inappropriate.

In this circumstance, the applicant requests consideration under the **first test.**

The objectives of cl 4.3 and Council comments are as follows:

(a) To ensure that buildings are compatible with the height, bulk, scale, or the existing and desired character of the locality

The proposal is consistent with the IN1 zone objectives (see 4.6(4)(a)(ii) for details) and existing character of the industrial land in the area - this comprising of industrial buildings and structures including a number over 11m in height. The height of the silos is considered a similar height, bulk, scale, and character to industrial development in the area and not inconsistent with anticipated industrial development of the site.



Figure 12: Street view of neighbouring industrial development to the west of the subject site.

(b) To minimise visual impact, disruption of views, loss of privacy and solar access to existing development

A Visual Impact Assessment was supplied in support of the application. Due to existing and proposed landscaping (screening along the eastern boundary), proposed finish colours (surfmist), the existing industrial built form on neighbouring sites, the topography of the land, the distance of the development from residential dwellings and the proposed siting of the development (on only a portion of Lot 1), the development is not anticipated to cause significant unacceptable visual impact, disruption of views, loss of privacy or impact to neighbouring property solar access.

(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 subject site does not contain any listed items in Schedule 5 of the SLEP 2014, nor is it located within a conservation area. However for the sake of completeness the below is noted:

- There are locally listed Items (Number 117 and 116 in schedule 5, known as 'Berry Estate' which includes vertical timber slab cottage and outbuildings and "Beuna Vista" a dairy farm complex including Berry Estate vertical timber slab barn) along Bolong

Road. The closest item is approximately 600m from the development. Due to the nature of the development structures, proposed mitigation measures (landscape screening along the eastern perimeter of the development) and the existing character/impact of the industrial area, the proposed development is not anticipated to detract from existing heritage significance.

- An Aboriginal object was found onsite during field investigations. General Terms of Approval have been issued by Heritage NSW, these require an AHIP be obtained prior to works onsite. This requirement is not a result of height variation but due to likely ground disturbance with any development onsite.

Due to reasons outlined above the application is considered consistent with the underlying objectives of cl4.3 (Height of buildings) notwithstanding non-compliance, and is therefore considered to satisfy 4.6(3)(a) - that compliance with a development standard is unreasonable or unnecessary.

(3)(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment: The environmental planning grounds to justify the proposed variation are as follows:

- The exceedance of the height of the development is consistent with height and scale of development within immediate IN1 zone. The adjoining industrial complex to the west comprises large scale built form including elevated water tanks and towers/stacks up to 33.5m in height. The proposed silos will be consistent with the height and scale of the neighbouring development and will not fundamentally change the character of the locality. The proposed vegetation screening will also work to soften the overall industrial area when viewed from the east of the development.
- The additional height (12.75m or 116%) above the 11m maximum building height will not result in unreasonable overshadowing, or overlooking, due to location on site and nature of the area.
- The site is zoned for industrial purposes, the proposed use of the site as a batching plant is consistent with zone objectives and the height variation is required for the proposed use.
- The development provides economic and social benefits, contributing to local construction industry and local employment in concrete production - encourage additional employment and retention of employment opportunities (through construction of the plant and ongoing operations of a new facility with a longer production lifecycle then the existing).
- The proposal provides for an industrial activity that does not significantly conflict with neighbouring operations and will operate consistent with current environmental controls and management requirements.

Due to reasons outlined above the application is considered consistent with subclause 4.6(3)(b), demonstrating there are sufficient environmental planning grounds to justify contravening the development standard.

Subclause	**Council Comment**
(4) Development consent must not be granted for development that contravenes a development standard unless— *(a) the consent authority is satisfied that—*	4.6(4)(a)(i) Written request received and addressing the matters as required in subclause (3). 4.6(4)(a)(ii) The proposal is considered in the public interest being consistent with objectives of the standard (listed in 4.6(3)(a)) and consistent with zone objectives, as follows:

(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 Planning Secretary has been obtained.*	*•To provide a wide range of industrial and warehouse land uses.* The proposal adds to industries functioning in the industrial area (and the longevity of concrete batching in the area). The development, being located on only a portion of the site, also retains usable areas for further industrial development surrounding (should it be proposed in future). *• To encourage employment opportunities.* The proposed development will retain jobs from the existing plant and extend the company's operation longevity (and employment opportunities) with updated equipment/technology at new site location. Additional job opportunities will also be created with facility construction. *• To minimise any adverse effect of industry on other land uses.* The development is situated a significant distance from nearest residential development. Noise, dust, flooding and traffic studies have accompanied the application in support of the proposal and considered appropriate by Council staff in demonstrating impacts can be managed with minimal impact on adjoining land uses. *• To support and protect industrial land for industrial uses.* The proposal is for industrial use on a site currently vacant but zoned for industrial use. The proposal is therefore consistent with this objective. *• To allow a diversity of activities that do not significantly conflict with the operation of existing or proposed development.* As above, the development is considered capable of satisfactorily addressing this objective. *• To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.* The proposal is not inconsistent with this objective. Additional facilities and employment associated/ generated could work to encourage supporting facilities and services to meet worker's needs. <u>4.6(4)(b)</u> Council can assume the concurrence of the Secretary of the Department of Planning and Environment for cl 4.6 variations to vary a development standard. Further information is available in the Department's Circular PS18-003. Due to the conditions of that assumed concurrence, that concurrence may not be assumed by a delegate of Council as the development contravenes the numerical

	standard by more than 10%, in this case, the contravention is 116%.
(5) In deciding whether to grant concurrence, the Planning Secretary must consider— *(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and* *(b) the public benefit of maintaining the development standard, and* *(d) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*	4.6(5)(a) The contravention does not raise any matters of significance having regard to State or regional environmental planning. It does not have implications for any State Environmental Planning Policies in the locality or impacts which are considered of a State or regional scale. 4.6(5)(b) There is limited public benefit in maintaining the development standard given that there are no unreasonable impacts that will result from the variation to the height of buildings standard, while there are sufficient environmental planning grounds to justify contravening the development standard. The extent of the departure from the height control, whilst numerically large is essential for the efficient operation of the concrete batching plant. 4.6(5)(c) Not applicable
(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 Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—	Not appliable – proposed variation does not relate to subdivision.
(7) After determining a development application made pursuant to this, 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).	Noted
(8) This clause does not allow development consent to be granted for development that would contravene any of the following—	The variation is not to a development standard listed in subclause (8).

ii) Draft Environmental Planning Instrument

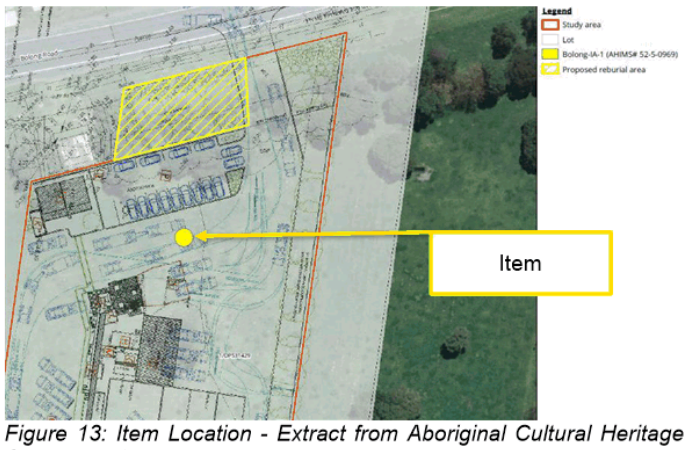
There are no current relevant draft EPIs that apply to the subject site and proposed development.

http://www.planning.nsw.gov.au/Policy-and-Legislation/State-Environmental-Planning-Policies-Review

Draft Illawarra Shoalhaven Plan

iii) Any Development Control Plan

Shoalhaven DCP 2014

Chapter 2 General and Environmental Considerations	
Potentially Contaminated Land	Proposal consistent with objectives. A contamination assessment prepared by GHD, March 2021 was submitted with the application. The report found the site suitable for intended use subject to conditions. Council's EHO raised no concerns subject to suitable conditions of consent
Aboriginal Cultural Heritage	The Aboriginal Cultural Heritage Assessment provided with the application found one subsurface archaeological deposit which was assessed as possessing low archaeological significance. There is the potential for proposed works to impact upon the object through the removal of topsoil and placement of fill, resulting in a total loss of value to the site.  *Figure 13: Item Location - Extract from Aboriginal Cultural Heritage Assessment* The report recommended either application for AHIP or reburial of object (in yellow hatched area). The proposal was referred through to Heritage NSW and GTAs provided, these included the requirement for an AHIP to be obtained prior to works onsite. GTAs to condition accordingly in any determination.

Generic Chapters
G1: Site Analysis, Sustainable Design and Building Materials
Site analysis has been provided with the development application. Details provided in relation to site constraints and opportunities: Constraints (including but not limited to):

- Location of services such as power and water,
- Location of existing structures, and
- Existing vegetation.

G2: Sustainable Stormwater Management and Erosion/Sediment Control

5.1 Stormwater

Council's Development Engineer noted the application proposes to manage stormwater through the use of pit and pipes and proprietary stormwater quality devices. Results of the MUSIC model were provided and meet the requirements in DCP G2.

5.2 Onsite Stormwater Detention (OSD)

Council's Engineers noted OSD was discussed at a pre-lodgement and was agreed that it was not required to be provided as the site is inundated in a 10% AEP event.

5.2 Stormwater Quality and Waterway Protection

5.2.1 Erosion and Sediment Control

Comment: Noted some vegetation to be removed as part of the application. No concern raised by Council's Engineers in relation to erosion and/or siltation. Replacement vegetation proposed, this includes vegetation along northern and eastern boundary. Sediment and erosion control measures to be conditioned accordingly.

5.2.2 Stormwater Retention and Reuse

Development includes water reuse and retention onsite. Both rainwater and first flush runoff will be collected and reused in concrete batching, reducing runoff and the need to draw on external water sources. No concern raised by Council Engineers subject to conditions.

5.2.4 Large Scale Development

Large scale developments are required to reduce the post development average annual load of pollutants in accordance with Table 3 in chapter G2. A MUSIC model was prepared by the applicant - the proposed treatments include a combination of Ocean Guard pits, rainwater tanks, filters and bioretention.

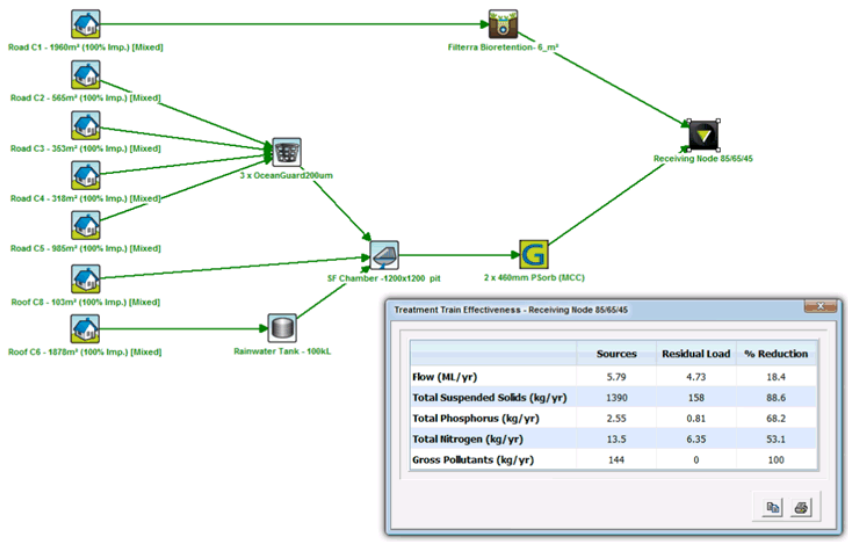


Figure 14: Music Model – Extract from Concept Stormwater Management Plan

Proposal was considered suitable by Council Engineers subject to conditions of consent.

5.2.5 Design and Maintenance of Stormwater Treatment Measures

Proposal conditioned for ongoing maintenance of stormwater treatment measures and water sensitive urban design (WSUD) elements.

G3: Landscaping Design Guidelines

A Landscape Plan has been provided with the application (D21/246603). The Landscape Plan identifies approximately 19 trees to be removed, the retention of some trees lining Bolong Road and proposes mostly locally occurring native species for landscaping within the compound and as a planted bund surrounding the proposal.

The Landscape Plan provided and considered appropriate by Council's Environment Team.

G4: Removal and Amenity of Trees

Tree removal included as part of application – see supplied Landscape Plan. As noted above removal considered appropriate by Council's Environment Officer subject to suitable conditions (see referral comments for full details).

G5: Biodiversity Impact Assessment

A Flora and Fauna Assessment was provided with the application. The proposal includes the removal of 0.03ha of native vegetation. The report has been reviewed by Council's Environment Team and considered appropriate subject to conditions of consent (see referral comments for further details).

G7: Waste Minimisation and Management Controls
A Waste Minimisation and Management Plan (WMMP) is to be conditioned for construction and operation phase, in accordance with Council Policy. Additional conditions around waste have also been included as per EHO referral and recommended EPA considerations.
G8: Onsite Sewage Management
No concerns raised by EHO in relation to proposed pump out sewerage management, subject to conditioning S68 be obtained for works and additional requirements be conditioned due to the flood prone nature of the site (see referral comments and recommended conditions for further details).
G9: Development on Flood Prone Land
A Flood Impact Assessment accompanied the application. The proposal was referred through to Council's Natural Resource & Floodplain Section and the development was considered appropriate and consistent with requirements and objectives of this chapter subject to conditions of consent.
G20: Industrial Development
Proposal was considered consistent with the requirements of this chapter. Development features two non-compliances to this chapter, one relating to height compliance with SLEP 2014 (considered addressed with 4.6 assessment), the other in relation to fill: • A1.1: Cut and fill on the site does not exceed 1.0m. Development requires 3 – 3.5m AHD for flood planning levels. Site contains levels from 1.89 – 2.5. Due to this requirement, portions of the site will exceed the 1m fill requirement – at its extremity being 1.61m in fill (see area of natural depression indicated in purple box below).

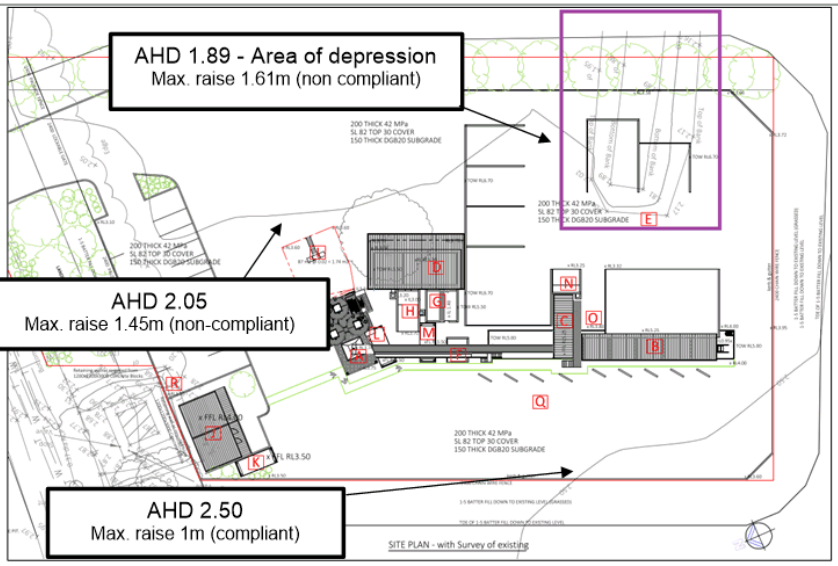


Figure 15: Area of Fill Noncompliance

Despite partial noncompliance, the proposal was considered satisfactory in this circumstance, the variation considered consistent with objectives and performance criteria for this control - Noting the noncompliance is varied through the site, required to achieve appropriate flood planning levels and has been shown to have limited adverse impacts on the surrounding area in terms of displaced water and amenity impacts.

See Appendix A for detailed assessment.

G21: Car Parking and Traffic

5.1 Car Parking Schedule

The closest applicable category being for the purpose of general industry (factory) which requires 1 car space per 100m^2 of gross floor area (GFA) of the development (which excludes storage areas, access, and parking) is below 300m^2 (i.e. requiring 3 spaces). The development proposing 13 car parking spaces is in excess of these requirements.

The applicant has provided a Traffic Impact Assessment which has adopted the following approach to determining the quantum of car parking required for the development:

> *"Based on the JTW mode share summary data presented in Table 3.3, 86% of workers in the area are travelling to the site [existing concrete batching plan] via car (as driver) or truck (likely to comprise of small commercial vehicles). This suggests a large demand for car utilisation and the significance of providing adequate car parking at the site….*
>
> *From a demand perspective, the number of staff on site is typically 1 batch operator and 6 agitator drivers on average, with a peak of up to 10 agitator drivers. As such a total of 13 parking spaces have been provided on site, allowing for some visitor spaces for those travelling to the sales office"*

Council's Engineers have noted that the applicant's approach is valid and would provide sufficient car parking for employees and visitors to the site.

5.2 Traffic Waiver

No parking waivers requested.

5.3 Parking Layout and Dimensions

No concerns raised by Council's Engineers subject to conditions of consent. Noted that parking to be located wholly onsite and accessible parking provided for in accordance with Australian Standards.

5.4 Car Park Landscape Design

A6.1 A development application must include detailed landscape plans indicating dimensions, levels and drainage, existing vegetation as well as location, type and character of proposed plantings.

Satisfied. Plans included and considered appropriate by Council's Development Engineers.

A7.1 Car parks should be located to complement existing streetscape qualities. Consideration should be given to the streetscape qualities of the locality and the possibility of locating a car park to the rear of a site, or the provision of suitable landscaping to minimise any visual intrusion.

Suitable landscaping at the front of site to minimise any visual impact of the car park. Development not considered to cause adverse impact to the amenity to the area.

A7.2 Perimeter planting to screen the proposed car park is to be defined in the landscape plan. The minimum width of perimeter planting is 1m and 0.5m for driveways.

The proposed landscaping is consistent with this acceptable solution. The perimeter planting proposed is compliant with width requirements. Perimeters in which planting proposed (north and west) are those boundaries that can be viewed from a public domain, considered appropriate by Council Staff.

A7.3 Internal plantings in a car parking area are to be of a nature to shade cars and soften the impact of hard paved surfaces without obscuring visibility.

Satisfied.

A7.4 Consideration should be given to incorporating stormwater control measures in the design of landscaped areas to control and reduce the level of stormwater which enters Council's stormwater drainage systems.

Noted, landscape areas considered in overall development design.

A8.1 Planting is to be designed appropriately so as not to impact upon minimum sight distance requirements at access points consistent with the requirements of AS2890, but also considering intersections, around curves, clearance requirements (horizontal and vertical) and clear zone requirements.

Satisfied.

6 Traffic, Access, Manoeuvring and Construction

TIA provided with the application. The development access, spaces and manoeuvring considered suitable by Council Engineers.
G22: Advertising Signs and Structures
The proposal is considered consistent with the requirements of this chapter: • The location of the signs is compliant with requirements. • Area of signs is compliant: A3.10 – 3.11 allows for signage on structures to have area to be 1% of the site area for industrial uses, the site area occupied is 7356m^2 allowing for signage area of 73.56m^2. Proposal complies with maximum signage face of 11.52m^2 (2.88m^2 per sign).
G26: Acid Sulphate Soils and Geotechnical (Site Stability) Guidelines
The proposal is considered consistent with chapter requirements. The following outlines compliance with the applicable controls of this Chapter. 5.1 Acid Sulphate Soils • A1.1: Clause 7.1 of the SLEP 2014 has been complied with (see SLEP 2014 section of report for details) • A1.3: Clause 7.2 of the SLEP 2014 has been complied with (see SLEP 2014 section of report for details). • A Preliminary Acid Sulfate Soil Management Plan (D21/246602) has been reviewed by the EHO (D21/259716) and deemed satisfactory, suitable condition to be imposed. 5.2 Geotechnical – Site Stability • A2.1: Buildings and structures are not located on land with a slope more than 20% • A2.2: Noted • A3.1: Filled areas to be conditioned appropriately for drainage and stability • A3.2: Complies, development will establish vegetation and retain existing vegetation where possible, conditions for erosion and sediment controls also recommended in draft determination • A4.2: Conditioned for compliance • A4.2: Conditioned for compliance

Area specific Chapters – North Shoalhaven
Not applicable.

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

N/A

iv) Environmental Planning and Assessment Regulation 2000

Clause	Comment
Clause 4 - What is designated development?	The proposed development constitutes a designated development. The proposal requires the submission of an EIS. The application is supported by a duly prepared EIS.

CL22.129 - Attachment 3

Clause 5 - Advertised development	The development application was referred and notified in accordance with this Division. Six (6) submissions were received in response to the application.
Division 3 Development applications for integrated development	The development is integrated development and requires an approval specified under section 4.46 of the Act – GTAs provided.
Clause 92 Additional matters that consent authority must consider	**Cl.92** (a) Repealed (b) The proposed development does involve demolition works. (c) Site is not subject to a subdivision order made under Schedule 7 of the Act (d) Development does not relate to these areas (e) Development not for the purpose of a manor house or multi dwelling housing (f) Development not located in specified area
Clause 93 Fire safety and other considerations	Cl.93 The proposal does involve a change of use. The proposed development must comply with the requirements of the BCA standards. Relevant conditions would be imposed to ensure compliance with Category 1 fire safety provisions.
Clause 96 Imposition of conditions—ancillary aspects of development	Ancillary conditions are recommended.
Division 8A Prescribed conditions of development consent	Prescribed conditions are to be imposed as required under third Division.
Part 1 of Schedule 3	Clause 4(1) of the EP&A Regulation states that *'development described in Part 1 of Schedule 3 of the EP&A Regulation is declared to be designated development for the purposes of the Act unless it is declared not to be designated development by a provision of Part 2 or 3 of that Schedule.'* Part 1 of Schedule 3 identifies the following development to be Designated Development ***14 Concrete works*** *(1) Concrete works that produce pre-mixed concrete or concrete products and:* *(a) that have an intended production capacity of more than 150 tonnes per day or 30,000 tonnes per year of concrete or concrete products, or* *(b) that are located:* *(i) within 100 metres of a natural waterbody or wetland, or* *(ii) within 250 metres of a residential zone or dwelling not associated with the development.*

	(2) This clause does not apply to concrete works located on or adjacent to a construction site exclusively providing material to the development carried out on that site: *(a) for a period of less than 12 months, or* *(b) for which the environmental impacts were previously assessed in an environmental impact statement prepared for that development.* The development is for "concrete works" and will have an intended combined production capacity of more than 150 tonnes per day or 30,000 tonnes per year of concrete or concrete products. The application is, therefore, **designated development**. Part 2 or 3 the Schedule do not apply to the development.

v) REPEALED

Nil applicable

(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 proposal is not considered to have significant adverse impacts on the natural environment, noting below: • the development is for industrial development in an industrial zone, • air quality to be maintained in accordance with EPA requirements, • stormwater runoff considered able to be appropriately treated and directed to Council's Street system, • hazardous materials are to be kept in secure area above 1% Annual Exceedance Probability (AEP) Flood Level, • an EMP to be conditioned to ensure ongoing appropriate management of hazardous materials, • stringent measures are required on the sewerage management system to ensure no impact to nearby waterways, • while some vegetation is nominated for removal – vegetation is considered poor in condition (see Environment Comments) and appropriate subject to conditions, • suitable and appropriate conditions have been recommended are able to be included to ameliorate any potential adverse impacts on the natural environment.
Built Environment	The proposal is not considered to adversely impact the built environment. The nature of the development is consistent with the zone and neighbouring industrial development. The exceedance of the height of the development is consistent with height and scale of development within immediate IN1 zone. The adjoining industrial complex to the west comprises large scale built form including

Head of Consideration	Comment
	elevated water tanks and towers/stacks up to 33.5m in height. The proposed silos will be consistent with the height and scale of the neighbouring development and will not fundamentally change the character of the locality. The proposed vegetation screening will also work to soften the overall industrial area when viewed from the east of the development.
Social Impacts	The development provides economic and social benefits, contributing to local construction industry and local employment in concrete production - encourage additional employment and retention of employment opportunities (through construction of the plant and ongoing operations of a new facility with a longer production lifecycle then the existing).
Economic Impacts	

(c) Suitability of the site for the development

The site is considered suitable for the proposed development for the following reasons:

- The site is considered suitable for intended use under SEPP55 without the need for any remediation.
- The site is considered consistent with requirements of SEPP (Coastal Management) 2018
- The site is zoned IN1 under SLEP 2014 and the development is permitted in the zone and is consistent with zone objectives, providing:
  - an industrial land use,
  - employment opportunities,
  - a development that minimises adverse effects on existing industries and other land uses,
  - support and protection for industrial land for industrial land uses, and
  - a development that does not significantly conflict with any existing or proposed development
- The development has demonstrated compliance with the objectives and requirements of SLEP 2014 more broadly – see SLEP 2014 assessment section
- The proposal is considered consistent with objectives and performance criteria outlined in SDCP 2014 – see Appendix A
- Adverse impacts associated with the development (i.e flood, traffic, noise, air quality, ecology, cultural heritage, and visual impacts) have been addressed in the assessment process and considered suitably mitigated.
- The proposal is considered compatible with existing character of the area - The height of the silos is considered a similar height, bulk, scale, and character to industrial development in the area and not inconsistent with anticipated industrial development of the site.
- The proposal is compatible with existing surrounding land uses. Noise, air quality and flood impacts have been shown to be suitably mitigated and will not cause significant adverse impacts on wider agricultural zones or rural residential development.

The site is considered to have relatively low ecological value, therefore is considered suitable for further development.(d) Submissions made in accordance with the Act or the regulations

The DA was notified in accordance with Council's Community Consultation Policy for Development Applications. Submissions were received by Council objecting to the proposal. The concerns raised are outlined below:

Issue	Comment
Traffic and safety • Adequacy of treatment of the right-hand lane • Lack of consideration of left lane treatment – turning and de-acceleration lane • Provisions made for the trucks turning right from the pant – travelling in an easterly direction towards Shoalhaven Heads • Safety and neighbouring driveway locations • exclusion of bus counts in traffic report • Road congestion	Additional information was provided during the assessment process in response to Engineering and submitter concerns in relation to road treatment. Following review by Council Engineers the proposal was considered suitable subject to conditions in relation to road design and access treatment to mitigate any impacts to road users, congestion and ongoing safety, more specifically: <u>Adequacy of treatment of the right-hand lane</u> To facilitate right turn movements from Bolong Road into the site, Council Engineers have conditioned a CHR (right hand turn treatment) be constructed prior to site operations commencing. The works will include all required road and shoulder widening and conditioned to ensure existing road shoulder width be maintained. Where additional width is required for the CHR, additional shoulder pavements is to be constructed. The storage length will be required to be at least the length of the largest vehicle expected to enter the site. <u>Lack of consideration of left lane treatment – turning and de-acceleration lane</u> To facilitate left turn movements from Bolong Road into the site, Council Engineers have conditioned an AUL be constructed prior to site operations. The works are to include all necessary road and shoulder widening and conditioned to ensure the current existing road shoulder width is to be maintained. Where additional width is required for the AUL additional shoulder pavements is to be constructed. Note: • All road works will be required to be compliant with Councils Engineering Design Specifications Sections D1 – Geometric Road Design and D2 – Flexible Pavement Design and AUSTROADS Design Requirements and Specifications. • Council Engineers have noted the construction of a CHR and AUL will not impact overtaking opportunities and the post construction arrangement will still be in accordance with AS1742.2. <u>Provision made for the trucks turning right from the plant</u> The Environmental Impact Statement (EIS) noted that vehicle movement to the right from the plant are not anticipated. Access to the worksite for construction and delivery vehicles will be via Bolong Road. Construction vehicles

	travelling from the north and south of the site will access the site via the following route: - travel on Princes Highway, - turn left/right onto Bolong Road, - enter the site via a right turn in a forward direction at the designated access point, - turnaround within the site, - egress the site via a left turn onto Bolong Road, and - turn left/right onto Princes Highway. No additional requirements in this regard requested or conditioned by Council Engineers, Council Engineers noting that in relation to right hand turns, trucks/vehicles must exit when it is safe to do so and abide by the road rules. <u>Safety and neighbouring driveway locations</u> Council Engineers have noted the neighbouring driveway will be approximately 70m from the driveway for the batching plant, and extension of the right turn lane for a single driveway considered unreasonable. It was noted that the batching plant will see Bolong Road widened adjacent the neighbouring driveway allowing additional manoeuvring when turning right. <u>Road congestion</u> Development will generate traffic on Bolong Road. The submitted Traffic Impact Assessment (TIA) notes the number of daily vehicles is expected to be minimal in comparison to the total volumes of traffic on Bolong Road. Subject to above road treatment conditions, road congestion considered suitably managed by Council Engineers. <u>Bus counts in traffic report</u> The applicant has noted that the TIA details the existing traffic movements on Bolong Road, although school buses have not been specifically referenced, they form part of the existing local traffic. Council Engineers reviewed the latest traffic count information collected by Council in February 2021 in order to assess the impacts based on the site generation traffic reported, no further information in this regard was required to be submitted to Council for the assessment.
Stormwater and flooding • Excess run off during water during heavy rain has the potential to impact surrounding pastureland • Site prone to flood events	Noted that the development is on only a portion of Lot 1 (zoned for industrial use). Stormwater runoff, flooding and pollutant potential has been assessed by Council Engineers, Environmental Health Officer (EHO) and Natural Resources and Floodplain Section during s4.15 assessment.

• filling the land to raise the height above existing level, will displace flood water higher onto existing properties causing increase damage. • Shoalhaven City Council has yet to complete or adopt the flood review of the Lower Shoalhaven River. Concerns that the Flood Report is not an informed assessment • Hazardous Material Management	<u>Excess run off during water during heavy rain</u> Runoff has been considered suitably managed subject to conditions of consent. The proposal will manage stormwater through the use of pit and pipes and proprietary stormwater quality devices. Results of the MUSIC model were provided and meet the requirements in of Chapter G2 – Sustainable Stormwater Management and Sediment/Erosion Control of the Shoalhaven Development Control Plan 2014 (SDCP 2014). Council's EHO noted the eastern drainage line proposes an Ocean Protector Filterra Bioscape device. The device directs runoff through two treatment media to capture sediment and debris, nutrients, metals and hydrocarbons. Treated water then leaves through an underdrain pipe. Maintenance of this filter system will be required and conditioned. The western drainage line will include a conventional gross pollutant trap (GPT) to remove general debris and heavier sediments, a condition regarding maintenance of the GPT is proposed. <u>Site prone to flood events</u> A Flood Impact Assessment (FIA) and Flood Evacuation Management Plan (FEMP) were submitted with the application. Council's Natural Resources and Floodplain Section have noted the hazard-hydraulic category of the site is assessed as a high hazard flood storage. Industrial and commercial establishments are however permissible within this flood hazard zone. <u>Filling and displaced water</u> The proposal includes fill on the portion of the site for development to reduce the impact of flood on the development. The FIA demonstrated that filling to 3.5m AHD (max. 1.61m) and modelled a 1% AEP event flood impact. The FIA indicates a small area of increased peak flood levels immediately to the west of the fill pad with a maximum increase in flood levels of 14mm. These increased flood levels are considered insignificant and are restricted to approximately 250m from the site boundary. Outside the immediate area the flood impact is less then +/- 2mm. Council's Natural Resources and Floodplain section noted this is an acceptable limit of afflux, with minimal impact on adjacent properties and have recommended conditions on any consent ensuring appropriate areas of storage of hazardous substances and structure location and construction to withstand flood events. <u>Concerns that the Flood Report is not an informed assessment</u>

	Council's Natural Resources and Floodplain Section have reviewed supplied documentation, no concern was raised in relation to the information presented in the site-specific report. Hazardous material management The EIS identifies those hazardous materials such as fuel, oils, lubricants and concrete admixture chemicals will be stored at the premises. As per Environmental Protection Agency (EPA) recommendations, an Environmental Management Plan (EMP) is to be developed for the site and approved by the Certifier prior to the issue of a Construction Certificate. The EMP is to include appropriate measures for the management of hazardous materials. Conditions have also been included to ensure: a) The location of all hazardous substances are located at or above the 1% Annual Exceedance Probability (AEP) Flood Level. b) All potentially hazardous materials are to be stored in a roofed and bunded area. The bund capacity will be sufficient to fully contain a minimum of 110% of the largest volume vessel stored in the container.
Air quality and dust • Currently westerly winds bring clouds of dust rise from Manildra farm roads on the opposite side. Unless the grounds are kept watered down, it is going to occur in the proposed plant. Further exacerbated by truck movements. • Concerns about monitoring, including alarm systems, human error and onsite supervision 24/7 • Concern about cleaning roads covered in dust	Westerly winds and dust An Air Quality Assessment was provided with the application. The modelling results indicated all potential residential receptors would experience dust levels below the relevant EPA criteria and the proposal will have negligible impacts under the conservative worst-case conditions. Mitigation measures are also proposed, as outlined in Table 13 of the Environmental Impact Statement (EIS), to ensure there are not excessive air emissions from the use of the site. This document and requirements have been referenced in the draft determination. Concerns about monitoring Table 13 of the EIS outlines monitoring procedures to be in place for the development, this includes: - weekly visual checks for dust beyond the site boundary will be conducted and should any evidence of dust deposition be observed investigations to identify the source will be undertaken followed by implementation of necessary mitigation measures. A record of check results and any mitigation measures adopted will be kept on-site.

	- cement silos will be equipped with filter units and an alarm system to warn management about the need to replace or clean the filters. - records of any air quality complaints, follow-up investigations and response measures will also be maintained. Additional conditions have been included in the draft determination, ensuring: - a requirement for maintenance of the gross pollutant trap, including the removal of all debris and sediments shall occur every six months. - a supervisor be present onsite during operational hours. <u>Cleaning roads</u> In addition to mitigation measures outlined in the EIS, additional conditions have been included in the determination informed by EPA recommendations and Council's Health Officer referral, including: - A rumble or cattle grid, wheel wash and wash down area is to be installed for vehicles leaving the site. Runoff from the wash down area shall be diverted to the contaminated water treatment collection pit. - A supplementary street sweeper shall be employed when the public roads experience mud tracking from the site. - Water sprays shall be used when high levels of dust are generated on site. - A complaints register is to be kept on site and available for Council officers to inspect upon request. In light of the above and subject to appropriate conditions of consent, the potential impacts in relation to air quality and dust have been considered suitably mitigated.
Noise • Houses already experience noise impacts from Manildra's works. On a still night or when the wind is blowing in the right/wrong direction, noise can travel far across a flood plain or river and therefore their base background levels are already higher. • Have houses on Bolong Road (to the west), on Hannigans Lane and across the river on Terrara been considered? Can noise	<u>Noise impact</u> A Noise Impact Assessment was submitted with the application which included noise modelling to predict potential off-site noise impacts. The applicant has noted that the nearest properties are located a significant distance from the site and further away than the nearest receiver locations considered in the report. The assessment specifies the proposal, including traffic, construction, and operating noise, is below the relevant EPA acceptable noise criteria at all sensitive receivers. Council's EHO reviewed supplied documentation and the proposal was considered suitable. Additional conditions have been included in the consent to ensure compliance and incorporate EPA recommendations. These includes:

impact also be completed at these locations. • Can monitoring of noise levels be included regularly • Can green barrier of trees/shrubs be planted to reduce noise impacts	- Construction hours to be conditioned to only be carried out between 7.00am and 5.00pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday. - The noise from all demolition and construction activities associated with the approved development must comply with the work practices as outlined in the NSW Department of Environment & Climate Change Interim Construction Noise Guideline. The LA10 level measured over a period of not less than 15 minutes during works must not exceed the background (LA90) noise level by more than 10dB(A) when assessed at any sensitive noise receiver. - All activities that have the potential to create noise amenity issues for neighbouring sensitive receivers shall be undertaken in the daylight hours. - Vehicles, forklifts and similar equipment with reversing alarms shall be fitted with low tonal broadband reversing alarms (non-beeping). Only appropriately silenced vehicles shall be used in order to reduce noise generation. - A complaints register is to be kept on site and available for Council officers to inspect upon request. <u>Houses on Bolong Road and Terrara</u> The noise assessment was reviewed and found adequate by Council's EHO and EPA. As noise monitoring has been undertaken in closer proximity to the development then requested monitoring location (Hannigans Lane and Terara), and this monitoring has demonstrated appropriate criteria met in worst case scenario (see report for details), further testing at these locations considered unnecessary as noise impacts will be further reduced with distance to these receivers. <u>Monitoring</u> No additional monitoring requirements have been suggested by Council's EHO or EPA, however any determination will include additional conditions for noise mitigation and management measures – as noted above. <u>Vegetation barrier</u> Vegetation is proposed along the northern and eastern boundary. This barrier considered to enhance amenity and assist in noise management.

	In light of the above and subject to appropriate conditions of consent, the concerns have been considered suitably managed.
Rural landscape • Noted that more appropriate locations can be found that do not impact rural land	The application was proposed on this subject site and assessed as such. The site is zoned for industrial use and the proposal found consistent with zone objectives. A Visual Impact Assessment was provided with the application and demonstrates limited impact of the development on surrounding amenity. The proposal is considered consistent with existing character of the industrial land in the area and aspects of the development (landscaping screening) considered to provide some benefit to the overall industrial area visual impact.

(e) The Public Interest

The public interest has been taken into consideration, including assessment of the application with consideration of relevant policies and process.

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 variation request pursuant to cl 4.6 of the SLEP 2014 the application must be determined by the Council.

Recommendation

This application has been assessed having regard for Section 4.15 (Matters for consideration) under the Environmental Planning and Assessment Act 1979. As such, it is recommended that Development Application No. DA21/1612 be approved subject to appropriate conditions of consent.

CL22.129 - Attachment 3

Appendix A – Assessment Checklist: Chapter G20 Industrial Development

5.1 Site Suitability			
Performance Criteria	**Acceptable Solutions**	**Proposal**	**Compliance**
P1 The development is compatible with the character of the site. P2 The site has sufficient area and dimensions to accommodate all areas necessary for the proposed industrial development. P3 Adjoining sites are not negatively impacted by the proposed development and drainage works	A1.1 Cut and fill on the site does not exceed 1.0m. A1.2 A site plan and site analysis plan is submitted with the development application. A2.1 A site plan showing location and dimensions of buildings, parking area, service vehicle areas, storage and landscaping is submitted with the development application. A3.1 Adequate drainage is designed and provided to ensure stormwater is discharged to an approved discharge point, easement or road drainage system. A3.2 A drainage plan is submitted with the development application.	A1.1 Development conditioned for maximum 3 AHD. According to the EIS ground levels vary between site varies from 1.89 to 2.2 m AHD, therefore requiring a maximum amount of fill of 1.11m A1.2 A site plan with included elements required with site analysis was submitted with the application A2.1 A site plan was provided with the application which depicted requirements as outlines in this control A3.1 A concept stormwater plan was provided with the application which provided for discharge to the road system and was considered appropriate y Council Engineers subject to conditions. A3.2 As above.	**A1.1** Non-compliance of 61%, The non-compliance however has been considered satisfactory in this circumstance, required to achieve flood planning levels and consistent with objectives and performance criteria – See table below for details A1.2 Complies A2.1 Complies A3.1 Complies A3.2 Complies
5.2 Building Setbacks			
Performance Criteria	**Acceptable Solutions**	**Proposal**	**Compliance**
		A4.1 – proposal has a front setback of 15m	A4.1 Complies

P4 The building setbacks are consistent with adjoining development and enable: • the efficient use of the site; • vehicle manoeuvring areas where vehicles can enter and exit the site in a forward direction; • visible staff and visitor parking; • an attractive streetscape character; • the location of utility services, storage and drainage paths; and • Unimpeded development of adjacent sites.	A4.1 A minimum front setback of 10m is provided. A4.2 A minimum secondary setback of 5m is provided. A4.3 The side and rear setbacks satisfy: • The fire safety construction requirements of the Building Code of Australia for the proposed building, and • Site development requirements for drainage, landscaping, vehicle access and manoeuvring.	A4.2 – N/A no secondary frontage A4.3 – Development appears to contain appropriate setbacks from existing and proposed boundaries. The EIS noting the development setback have been dictated by drainage, vehicle movements, landscaping and positioning of the batching plant on the site. Development is considered consistent with BCA standards.	A4.2 N/A A4.3 Complies
5.3 Building and Site Design			
Performance Criteria	**Acceptable Solutions**	**Proposal**	**Compliance**
P8 The building has a height and bulk consistent with the streetscape.	A8.1 The building complies with the height limits in the Shoalhaven LEP 2014. A8.2 If Shoalhaven LEP 2014 does not specify a height limit,	A8.1 No height limit nominated for the site. A8.2 Proposal exceeds 11m – see clause 4.6 for details of noncompliance.	A8.1 Noted A8.2 Partial Noncompliance see clause 4.6 variation request A9.1 Complies

P9 Visual elements are introduced to reduce the bulk, height and scale of the building. P10 The front of the building addresses the road frontage.	the building does not exceed 11m above the natural ground level. A9.1 The elevation closest to the road includes additional design relief or a lower scale building form. A10.1 The main entry to the building is easily identifiable from the street and directly accessible through the front of the building. A10.2 Street numbering that is at least 300mm high and easily visible for pedestrians and motorists in identifying the premises is provided. A10.3 Showroom display areas and other low scale building elements are located at the front of the building and face the road frontage.	A9.1 Elevation closest to the road includes lower scale buildings and landscaping for design relief. A10.1 The main Officer area is located at the north of the site and considered in an area easily identified. A10.2 Noted, business identification signage to be provided to allow for identification of premise A10.3 Office/sales room located at the front of the site	A10.1 Complies A10.2 Complies A10.3 Complies
P11 The design incorporates the use of materials appropriate to the emerging character of the locality, with innovation being encouraged.	A11.1 The building surfaces, texture, colours or material arrangement are sympathetic to the emerging character of the area.	A11.1 Office buildings identified as surfmist colourbond exterior, EIS has noted silos to also be painted in surfmist colour. The development materials are consistent with industrial development in the area and provided landscaping to soften appearance from the streetscape.	A11.1 Complies A11.2 Complies A11.3 Complies A13.1 Complies

P12 The development recognises and implements energy and water conservation principles. P13 The roof/wall design and materials avoid glare hazard to traffic users in the adjacent road system. P14 Car parking is located to avoid conflict and promote safety.	A11.2 Building materials provide interest and variation to complement the streetscape. A11.3 Building design does not include large unbroken expanses of wall or building mass. A12.1 The industrial development is designed to reduce reliance on energy consumption and water usage. A13.1 Roof and wall materials (especially uncoloured or light-coloured metal cladding) do not cause excessive glare to traffic using the adjacent roads. A14.1 Visitor and customer car parking is separated from delivery and operational vehicle movements.	A11.2, Not inconsistent. Materials consistent with industrial developments in the area and landscaping to obscure structures from the streetscape. A11.3 Development does not include large unbroken expanses of wall. A13.1 Roof sheeting to be colourbond surfmist and not anticipated to cause excessive glare A14.1 Visitor and customer car parking is separated from delivery and operational vehicle movements.	A14.1 Complies
5.4 Provisions for Fences and Screen Walls			
Performance Criteria	**Acceptable Solutions**	**Proposal**	**Compliance**
P15 The development provides fences and walls which: • are attractive and blend with landscaping on the premises;	A15.1 Fencing forward of the front building line is of an open form and a maximum of 2.4m in height above the natural ground level.	A15.1: fencing open style palisade fencing with a maximum height of 2.4m A15.2, as above, proposal includes open style fencing.	A15.1: Complies A15.2: Complies A15.3: Complies

• consider location, height, materials and colours to provide compatibility with and compliment or enhance the streetscape; • Do not impede the sight lines of vehicles using the driveway. • provide effective screening of external storage areas or incompatible uses on the site, and • Assist in highlighting entrances and paths.	A15.2 Fence materials do not conceal the area between the road frontage and the building. A15.3 Fences do not obstruct sight distances for traffic, the entry and exit of vehicles or pedestrian safety. A15.4 Gates that are on or close to the road frontage do not open in the direction of the footpath and must be fixed open within the site. A15.5 Where a site has direct frontage to the Princes Highway or other major road, gates are located away from the front boundary to allow the largest vehicle to normally use the premises to park onsite while the gate is opened. A15.6 Solid fences or screen walls are located along the side and rear site boundary (and around external storage areas) as long as they are behind the front building line. A15.7 Fence materials do not cause excessive glare to traffic using the adjacent roads.	A15.3 fencing setback 15m onto property, no concern raised by Council's Engineers in relation to sight distances A15.4 considered an appropriate distance from property boundary and measures for fixed opening and closing proposed A15.5 Noted, considered appropriate, gate located 15m from boundary. A15.6 no solid fencing proposed. A15.7 fence materials not anticipated to cause excess glare. A15.8 fence location not anticipated to impact utilities or operations onsite.	A15.4: Complies A15.4: Complies A15.5: Complies A15.6: Complies A15.7: Complies A15.8: Complies

	A15.8 The location of fencing does not interfere with utilities, services, operational requirements or other sites.		
5.5 Landscaping			
Performance Criteria	**Acceptable Solutions**	**Proposal**	**Compliance**
P16 Landscaping softens the building/site when viewed from public roads and provides a landscaping buffer where an industrial area is adjacent to residential areas.	A16.1 Landscaping is provided between the front boundary and the building line. A16.2 Defined landscaping beds are a minimum of 1m in width not including kerbs or borders. A16.3 Deep soil plantings, low maintenance planting and low water use species are provided where appropriate. A16.4 Landscaping does not interfere with the sight lines required for pedestrian and vehicles both internal and external to the site.	A16.1, Landscaping proposed between the front boundary and building line A16.2: Defined landscaping area proposed, in excess of 1m in width A16.3: Noted, Landscape Plan considered appropriate by Council Environment Team. A16.4: Noted, considered appropriate, no concerns raised by Council Engineers	A16.1: Complies A16.2: Complies A16.3: Complies A16.4: Complies

Variation Assessment

Details:

- Applicant has requested consideration of fill to ensure all vulnerable structures are located above the flood planning level of between 3 and 3.5 AHD.
- Council Engineers have requested a condition be included to limit fill to a height of 3.5m AHD.
- Existing levels are generally 2m – 2.5 AHD, at the lowest level, a portion of the site (indicated in the purple box in Figure 13) contains a natural depression with level of 1.89m.
- Should the development area be filled to 3.5m (conservative max. calculation), portions of the development area (under level 2.5 AHD) will feature a variation (of varying amounts) to Council's fill controls – at its extremity will be the area of depression requiring approximately 1.61m of fill, 61cm over DCP requirements.

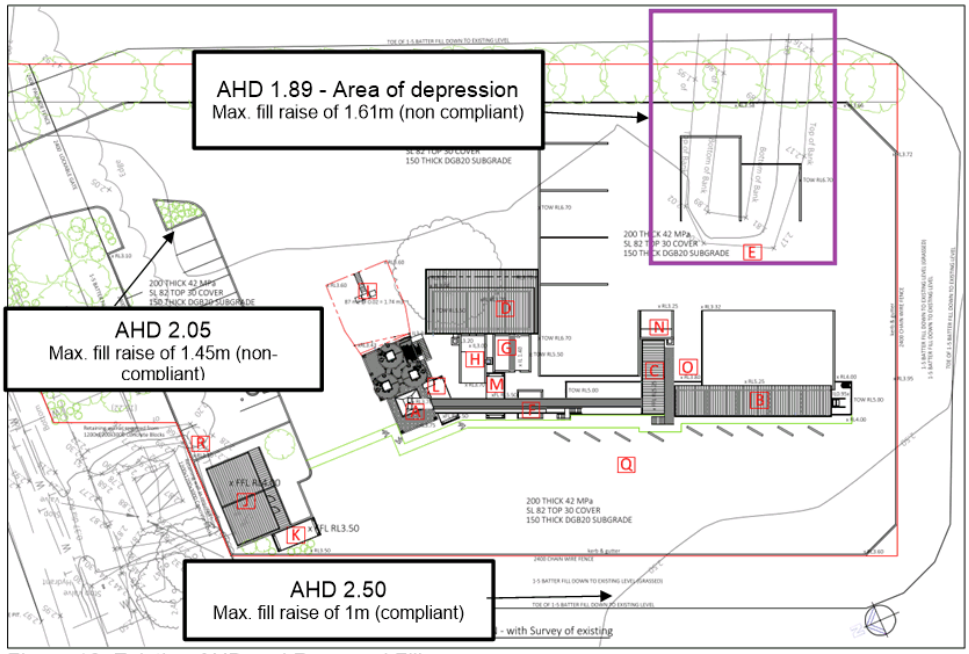


Figure 16: Existing AHD and Proposed Fill

SDCP 2014 Requirements	Assessing Officer Comment
a. Control being varied	A1.1 Cut and fill on the site does not exceed 1.0m.
b. The extent of the proposed variation and the unique circumstances as to why the variation is being sought;	The development area is proposed to be filled 3 - 3.5m AHD for flood planning levels. While portion of the site will comply with fill requirements (ADH 2.5), based on conservative maximum allowance of 3.5m AHD, the majority of that area will feature a variation, albeit of varying degree (1m to 1.61m), to achieve flood planning levels. DAO calculation the variation at its extremity of 61%
a. Demonstrate how the relevant objectives and	Objectives

performance criteria (as appropriate) are being met with the proposed variations; and,	Despite noncompliance, the development considered consistent with objectives, see below: *i. Foster economic growth and employment generation through the promotion of industrial land that is well serviced or able to be well serviced.* The development provides economic and social benefits, contributing to local construction industry and local employment in concrete production on a site able to be serviced and impacts on neighbouring land uses mitigated. *ii. Encourage innovative, well-designed, quality industrial development.* The development is considered to be appropriately designed for the site constraints and will produce a quality industrial development. The site is zoned for industrial uses and the development an industrial use. Noting the site is flood impacted, appropriate AHD are required to be achieved for development to ensure ongoing safety of the development and surrounding uses. Council's Flood Plain Officer and Engineer have considered the development design suitable for the site with limited impacts on surrounding development/ land uses. Additional measures have been included to ensure appropriateness in terms of visual impact have been achieved, see below. *iii. Protect the amenity and privacy of adjoining premises and occupiers.* The addition variation to fill (of fill of varying amounts but up to 61cm at its extremity) is not anticipated to impact the amenity of adjoining premises. Due to existing and proposed landscaping (screening along the eastern boundary which features fill variation), the existing industrial built form on neighbouring sites, the topography of the land, the distance of the development from residential dwellings and the proposed siting of the development (on only a portion of Lot 1), the development is not anticipated to cause significant unacceptable visual impact, disruption of views, loss of privacy or impact to neighbouring property solar access. *iv. Recognise the risk of natural hazard and ensure that development is designed and located to minimise this risk.* Development has been designed and located to minimise risk of natural hazard, see Flood Impact Assessment and Floodplain Officer comments for further details. *v. Ensure there is adequate vehicular access and on-site manoeuvring for the scale of the proposed development.*

	No concern raised by Council Engineers in relation to manoeuvrability onsite and subject to conditions access arrangements considered appropriate. Performance Criteria *The development is compatible with the character of the site.* The addition of varying amounts of fill (up to 61cm at its extremity) is not considered inconsistent with the character of the site and nature of the industrial area, and not anticipated to impact the overall development presentation to the street and wider area. Please see comments in relation to Visual Impact Assessment provided earlier in the report.
b. Demonstrate that the development will not have any additional adverse impacts as a result of the variation.	The partial noncompliance is not anticipated to create additional adverse impacts. Noting the noncompliance is varied through the site, required to achieve appropriate flood planning levels and has been shown to have limited adverse impacts on the surrounding area in terms of displaced water and amenity impacts.

Address all correspondence to: The Chief Executive Officer,
PO Box 42, Nowra NSW 2541 Australia
shoalhaven.nsw.gov.au/contact | 1300 293 111
shoalhaven.nsw.gov.au

NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION
DEVELOPMENT CONSENT
(Designated Integrated)

Environmental Planning and Assessment Act, 1979
DA21/1612

TO:

Cleary Bros (Bombo) Pty Ltd
39 Five Island Road,
Port Kembla, 2505

being the applicant(s) for DA21/1612 relating to:

Lot 1 DP 531429 Bolong Road, BOLONG

APPROVED USE AND DEVELOPMENT:

Concrete batching plant, ancillary structures, associated signage and civil and landscape works

DETERMINATION DATE: **XX March 2022**

Pursuant to the Section 4.18 of the Act, notice is hereby given that the above application has been determined by granting consent, subject to the conditions listed below.

CONSENT TO OPERATE FROM: **XX March 2022**

CONSENT TO LAPSE ON: **XX March 2027**

This consent is valid for five years from the date hereon.

In accordance with Section 4.53 of the Act, development consent for the use of the land or the erection of a building does not lapse if building, engineering or construction work relating to the building or work or the use is physically commenced on the land to which the consent applies before the lapse date.

DETAILS OF CONDITIONS:

The conditions of consent and reasons for such conditions are set out as follows:

DRAFT

PART A: GENERAL CONDITIONS

1. **General**

The consent is for **construction and use of a concrete batching plant, ancillary structures, associated signage and civil and landscape works** at Bolong Road, BOLONG, Lot 1 DP 531429, as documented on the stamped plans/documentation, or as modified by the conditions of this consent. The development must be carried out in accordance with this consent. If there is inconsistency between the stamped plans/documentation and the conditions of consent, the conditions prevail to the extent of that inconsistency.

Stamped plans	Ref/sheet no.	Prepared by	Dated
Site Plan – with Survey of Existing, Vehicles, Vehicle Turning Circles	CB-20-2704-DA-A1, Revision C	TCH Tait Condon Pty Ltd	15/06/21
Site Plan – with Survey of Existing	CB-20-2704-DA-A2, Revision C	TCH Tait Condon Pty Ltd	15/06/21
Site Plan	CB-20-2704-DA-A3, Revision C	TCH Tait Condon Pty Ltd	15/06/21
West Elev, East Elev, South Elev, North Elev	CB-20-2704-DA-A4, Revision C	TCH Tait Condon Pty Ltd	15/06/21
Cement & Admix Contamination Area Process Water Management, Cement and Admix Contaminated Area. First Flush Stormwater Management, Cement & Admix Contaminated Area. After First Flush Stormwater Management Cement & Admix Contaminated Area Flood Planning	CB-20-2704-DA-A5, Revision C	TCH Tait Condon Pty Ltd	15/06/21
Landscape Plan	200762 Drag No. 1000, Issue C	Group GSA	01/03/21
Title Page: Office Complex	A000, Revision A	ATCO	-
Plan	210628B-A200, Revision A	ATCO	05/07/21
Elevations	210628B-A300, Revision A	ATCO	05/07/21
Sale Schedules 1 of 2	210628B-A500, Revision A	ATCO	05/07/21
Sale Schedules 2 or 2	210628B-A501, Revision A	ATCO	05/07/21
Title Page: Office/Lunchroom	A000, Revision A	ATCO	-
Plan	210628A-A200, Revision A	ATCO	05/07/21
Elevations	210628A-A300, Revision A	ATCO	05/07/21

Sales Schedules	210628A-A500, Revision A	ATCO	05/07/21

Documents	Ref/sheet no.	Prepared by	Dated
Environmental Impact Statement, Proposed Concrete Batching Plan	#20-151, Revision 2	City Plan	19/05/21
Mitigation Measures	EIS Appendix A	City Plan	19/05/21
Concept Stormwater Management Plan	DN200118.R01, Revision 2	MIEngineers	23/03/21
Air Quality Impact Assessment	Job Number 20051127	Todoroski Air Sciences'	25/03/21
Noise Impact Assessment	Job Number 20051127	Todoroski Air Sciences'	18/03/21
Visual Impact Assessment	Issue 2	Group GSA	06/04/21
Aboriginal Cultural Heritage Assessment	33967	Biosis	13/04/21
Archaeological Report	33967	Biosis	12/02/21
Flora and Fauna Assessment	5944, Revision 1	Niche Environment and Heritage	16/02/21
Supplementary Contamination Assessment	12536316, Revision 0	GHD	March 2021
Flood Impact Assessment	PA2455_v2a, 0.1/S0	Royal HaskningDHV	10/12/20
Flood Evacuation Management Plan	PA2455_Flood Evacuation Plan_v1e, 0.1/S0	Royal HaskningDHV	04/03/21
Preliminary Acid Sulfate Soil Management Plan	-	GHD	March 2021
Traffic Impact Assessment	201409, Revision 2	TTW	13/04/21
Letter: Bomaderry Concrete Batching Plant Response to Council Feedback	201409 TAAB	TTW	25/08/21

Note: Any alteration to the plans and/or documentation must be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under section 4.55 of the Environmental Planning and Assessment Act, or a new development application.

2. **Prescribed Conditions**

The development must comply with the Prescribed Conditions of Development Consent, Division 8A, *Environmental Planning and Assessment Regulation 2000*, as applicable.

3. **Occupation / Use**

The development must not be occupied or used before an Occupation Certificate has been issued by the Principal Certifier. If an Occupation Certificate is not required, the use must not commence until all conditions of development consent have been met or other satisfactory agreements have been made with Council (i.e. a security).

4. **Shoalhaven Water - Certificate of Compliance**

A Certificate of Compliance must be obtained to verify that all necessary requirements for matters relating to water supply and sewerage (where applicable) for the development have been made with Shoalhaven Water. A Certificate of Compliance must be obtained from Shoalhaven Water after satisfactory compliance with all conditions as listed on the Notice of Requirements and prior to the issue of an Occupation Certificate, Subdivision Certificate or Caravan Park Approval, as the case may be.

An application for a Certificate of Compliance is to be made once the Development Consent has been granted.

5. **Native Vegetation and Habitat**

The removal and/or disturbance of native vegetation and habitat on the property, including canopy trees, understorey and groundcover vegetation, is restricted to that required to construct and maintain the development in accordance with the approved *Landscape Plan*.

PART B: INTEGRATED DEVELOPMENT AND CONCURRENCE CONDITIONS

6. **Heritage NSW**

The conditions of the General Terms of Approval issued by Heritage NSW, Reference No: DOC21/659284, dated 6 August 2021, are included as conditions of this consent and must be complied with.

PART C: PRIOR TO THE COMMENCEMENT OF WORKS

7. **Construction Certificate**

A Construction Certificate must be obtained from either Council or a certifier before any building work can commence.

8. **Appointment of Principal Certifier Authority**

Prior to the commencement of building or subdivision work, a Principal Certifier Authority (PCA) must be appointed.

9. **Notice of Commencement**

Notice must be given to Council at least two (2) days prior to the commencement of building or subdivision work by completing and returning the form 'Commencement Notice for Building or Subdivision Work and Appointment of Principal Certifying Authority'

10. **Toilet Facilities - Temporary**

Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must:

a) Be a standard flushing toilet connected to a public sewer, or

b) Have an onsite effluent disposal system approved under the *Local Government Act 1993*, or

c) Be a temporary chemical closet approved under the *Local Government Act 1993*.

11. **Waste Management Plan**

A Waste Management Plan (WMP) must be prepared in accordance with Chapter G7 of Shoalhaven Development Control Plan 2014 and so as to be consistent with the relevant mitigation measures in Appendix A of the EIS. The WMP must be approved by Council or the Certifier prior to any demolition or vegetation clearing works commencing.

12. **Clearing of Hollow Bearing Trees - Supervision**

Prior to the commencement of work, a suitably qualified and licensed ecological consultant with microbat handling experience must be engaged to guide and supervise the clearing of the hollow-bearing tree identified in Figure 3 of the approved *Flora and Fauna Assessment* (Niche 2021). Evidence of engagement must be submitted to Council.

13. **Tree and Vegetation Protection**

Prior to the commencement of any clearing works the following requirements must be met to the satisfaction of the Certifier:

a) The developer must identify the extent of clearing work as shown on the approved plans. A temporary protective barrier or similar visible material must be installed in accordance with the approved Landscape Plan and retained until all work are complete.

b) The dripline of trees to be retained must be clearly identified and protected with temporary barrier fencing in accordance with *AS 4970: Protection of trees on development sites.*

14. **Microbat Roost Boxes**

Prior to the commencement of any clearing work, two (2) microbat roost boxes must be installed within the property, at least 100m from the proposal and as directed by a suitably qualified ecological consultant.

15. **Inspection of Tree and Habitat Protection Measures**

Shoalhaven City Council must inspect and certify in writing that tree protection measures and including microbat roost boxes, are in place before any work on site can commence (an inspection fee may apply).

16. **Works within the Road Reserve**

Prior to undertaking any works within an existing road reserve, the developer must obtain the consent of Council under *section 138 of the Roads Act, 1993.*

The following details must be submitted to Council as part of the application:

a) Any civil works design required by this consent.

b) Evidence of the contractor's Public Liability Insurance to an amount of $20 million.

c) Name and contact information of the person responsible for all relevant works.

d) A Traffic Control Plan prepared, signed and certified by a person holding the appropriate Transport for NSW (TfNSW) accreditation.

e) Where the Traffic Control Plan requires a reduction of the speed limit, a 'Application for Speed Zone Authorisation' must be obtained from the relevant road authority.

17. **Run-off and Erosion Controls**

Prior to the commencement of site works, run-off and erosion controls must be implemented and maintained during construction to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

a) diverting uncontaminated run-off around cleared or disturbed areas.

b) erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties.

c) preventing the tracking of sediment by vehicles onto roads.

d) stockpiling topsoil, excavated materials, construction and landscaping supplies and debris within the lot.

Note: all implemented measures must not cause water pollution as defined by the Protection of the Environment Operations Act (POEO).

PART D: PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

18. **Local Infrastructure Contributions**

This development will generate a need for the additional services and/or facilities described in Shoalhaven Contributions Plan 2019 and itemised in the following table:

Project	Description	Rate	Qty	Total	GST	GST Incl
CWFIRE2001	Citywide Fire & Emergency services	$139.37	36.78	$5,126.03	$0.00	$5,126.03
CWFIRE2002	Shoalhaven Fire Control Centre	$203.89	36.78	$7,499.07	$0.00	$7,499.07
CWMGMT3001	Contributions Management & Administration	$579.56	36.78	$1,262.51	$0.00	$1,262.51
					Sub Total:	$13,887.61
					GST Total:	$0.00
					Estimate Total:	$13,887.61

The total contribution, identified in the above table or as indexed in future years, must be paid to Council prior to the issue of a Construction Certificate. Evidence of payment must be provided to the Certifying Authority.

Contributions Plan 2019 can be accessed on Council's website www.shoalhaven.nsw.gov.au or may be inspected on the public access computers at the libraries and the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.

19. **Long Service Levy**

Prior to the issue of a Construction Certificate any long service levy payable under the *Building and Construction Industry Long Service Payments Act 1986* and prescribed by the *Building and Construction Industry Long Service Payments Regulation 2017* must be paid or, where such a levy

is payable by instalments, the first instalment of the levy must be paid. Council is authorised to accept payment. Proof of payment must be submitted to the Certifying Authority.

20. **Section 68 Application**

Prior to the issue of a Construction Certificate, an application for installation of plumbing & drainage, stormwater must be approved under section 68 of the *Local Government Act 1993.*

21. **Section 68 Application – Sewerage**

An application for installation of an on-site sewage management system must be approved under section 68 of the Local Government Act 1993. The application must:

a) be consistent with the recommendations of the report entitled "Pump-Out for Onsite Wastewater management for proposed Bolong Batch Plant, 340 Bolong Road, Bomaderry - Lot 1 DP 5314429" prepared by Harris environmental Consulting, dated 22 December 2020, reference number 4140WW Version 1.0; or an alternative report approved by Council in writing.

b) include a detailed Management Plan for the operation, testing and maintenance of the on-site sewage management system.

22. **Sewerage Management**

The pump out sewerage system onsite is required to comply with the following:

a) the sewerage storage tanks are to be fitted with an audible and visual dual alarm system at 50% and 75% capacity. The tank is to be pumped out at 75% capacity point. A secondary electronic notification system shall also be installed 75% capacity point. Testing of the alarm and notification system shall occur on a 6 monthly basis.

b) The pump out tank shall be appropriately sealed to prevent stormwater or flood water ingress into the system.

c) Council shall be notified in the event of a discharge of the effluent tank.

23. **Retaining Walls - Design**

Prior to the issue of a Construction Certificate for approved retaining walls exceeding 0.6m in height above ground level (existing) and/or within 1m of a property boundary, detailed design plans must be prepared and submitted to the Certifier for approval. The retaining walls must satisfy the following:

a) For retaining walls exceeding 0.6m in height above natural ground level (existing) a professional engineer has certified the retaining walls as structurally sound, including in relation to (but not limited to) the ability to withstand the forces of lateral soil load; and

b) For retaining walls less than 0.6m in height above natural ground level (existing) the Certifier must be satisfied that the retaining walls are structurally sound, including in relation to (but not limited to) the ability to withstand the forces of lateral soil load.

Retaining walls, footings and drainage must be contained wholly within the development site. Construction within a registered easement is prohibited.

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Retaining walls not shown on the approved plan must meet the criteria for Exempt retaining walls and comply with the relevant criteria listed in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, or be approved by way of Complying Development prior to construction and comply with the relevant criteria listed in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

24. **National Construction Code**

The proposal must demonstrate compliance with Part D3 of the National Construction Code 2019 Volume 1 Amdt 1 and the Disability (Access to Premises – Buildings) Standards 2010 (Premises Standards).

25. **Existing Infrastructure**

Prior to the issue of a Construction Certificate, all infrastructure, existing and proposed, are to be shown accurately on the engineering plans including longitudinal sections with clearances clearly labelled confirming that the proposed works do not affect any existing infrastructure. Any required alterations to infrastructure will be at the developer's expense.

26. **Soil and Water Management Plans (SWMP)**

Prior to the issue of a Construction Certificate, a Soil and Water Management Plan must be prepared by a Professional Engineer, (as defined in the National Construction Code) to the satisfaction of the Certifier.

All implemented measures must:

a) not cause water pollution as defined by the Protection of the Environment Operations Act (POEO);

b) be maintained at all times; and

c) not be decommissioned until at least 70% revegetation cover has been established.

Note: it is an offence under section 120 of *the Protection of the Environment Operations Act 1997* to pollute waters.

27. **Road Design Standards**

Prior to the issue of a Construction Certificate, certified road design engineering plans must be prepared by a suitably qualified engineer or surveyor and approved by Council. The road design must comply with the following:

a) to facilitate right turn movements from Bolong Road into the site, a CHR is to be designed and constructed. The works are to include all required road and shoulder widening. The current existing road shoulder width is to be maintained. Where additional width is required for the CHR additional shoulder pavements is to be constructed. The storage length is to be at least the length of the largest vehicle expected to enter the site.

b) To facilitate left turn movements from Bolong Road into the site, a AUL is to be designed and constructed. The works are to include all necessary road and shoulder widening. The current existing road shoulder width is to be maintained. Where additional width is required for the AUL additional shoulder pavements is to be constructed.

c) Councils Engineering Design Specifications Sections D1 – Geometric Road Design and D2 – Flexible Pavement Design.

d) AUSTROADS Design Requirements and Specifications except in relation to overtaking sight distance where the design must be consistent with the approved concept design in Appendix U of the EIS (plan SK02 Rev P2) and the line marking measures recommended by TTW in their letter to Council of 25/8/21 as included in Condition 1.

e) The road table drain adjacent Bolong Road is to be reconstructed as required to prevent ponding of water, including any adjustment or reconstruction of nearby driveways.

28. **Access Driveway Design Standards**

Prior to the issue of a Construction Certificate, certified engineering design plans must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier. The access driveway design must comply with the following:

a) Council's Engineering Design Standard Drawings.

b) Constructed using 20 MPa reinforced concrete, reinforced with SL72 mesh, on a 150mm compacted fine crushed rock base with centrally placed slab a minimum 150mm depth.

c) Generally in accordance with the plans prepared by Tait Condon Pty Ltd, reference CD-20-2704-DA-A1 Rev B

d) Removal of sufficient width of existing road seal and pavement to allow placing of formwork and laying/compaction of suitable pavement material for the driveway layback with a minimum 300mm offset to the kerb lip line.

e) Indented "rural" access at the approved driveway location in accordance with Council's Engineering Specification Plan D1.21 which must:

i. ensure that the largest expected vehicle does not overhang the public road travel lane.

ii. configured to accommodate a minimum distance of 13 metres between the gate and the table drain or 15 metres to the road shoulder if there is no table drain.

iii. have the same standard of construction from the road alignment to the gate as is required for the driveway crossing.

iv. be fenced where the remainder of the road property boundary is fenced.

29. **Car Parking Design Standards**

Prior to the issue of a Construction Certificate, certified engineering design plans and specifications must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The car parking and access design must comply with the following:

a) A minimum number of 13 spaces must be provided on site.

b) Constructed in accordance with the following:

i. with a flexible pavement, surfaced with 30mm of AC10 asphaltic concrete or two coat bitumen seal using 14mm and 7mm aggregate (for areas outside of heavy vehicle use only) or;

ii. with a concrete pavement designed and constructed for a minimum traffic loading of 1 x 10^6 ESA or;

iii. with an asphaltic concrete (AC) flexible pavement designed and constructed for a minimum traffic loading of 1 x 10^6 ESA. Where asphaltic concrete surfaced pavements are likely to be subject to bogie-axle vehicles turning tightly, the asphaltic concrete is to include a rubber base to improve durability and manufacturer's product details.

c) Bordered in accordance with Council's Standard Drawings by:

i. concrete kerbing, except where surface runoff is concentrated, in which case concrete integral kerb and gutter must be constructed.

30. **Stormwater Drainage Design – Car Park and Driveway**

Prior to the issue of a Construction Certificate, certified engineering design plans and specifications must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The stormwater drainage design must comply with the following:

a) Generally in accordance with the Concept Stormwater Management Report prepared by MI Engineers dated 23/03/2021 reference DN200118.R01, Revision 2

b) Major and minor drainage systems in accordance with Council's Engineering Design Specifications - Section D5 - Stormwater Drainage Design.

c) The minor and major systems must be designed for a 10% AEP and 1% AEP rainfall events, respectively.

d) Discharged by pipework or overland flow to Council's stormwater system

31. **WSUD Devices – Private Property**

Prior to the issue of a Construction Certificate, detailed design of permanent stormwater quality improvement devices consistent with Plan DN 200118 COO2 Rev C (EIS Appendix T) must be certified by a professional engineer, (as defined in the National Construction Code) demonstrating the appropriateness of the proposed design for the site in accordance with Council's Engineering

Design and Construction Specifications and approved by the Certifier. Specifications can be found on Council's web site.

The drainage design must also not include any uncoated metal (i.e. Copper etc.) surfaces such as roofs, facades and/or downpipes.

Any design should further consider the NSW Water Quality Objectives in the receiving waters. The NSW Water Quality Objectives (NSW WQOs) and Australian and New Zealand Guidelines for Fresh and Marine Water Quality (the ANZECC Guidelines) provide the general framework to assess the potential impacts of a discharge on the environmental values of the receiving waters.

32. **Hydraulic Engineering Details for Water, Sewer & Drainage**

Prior to the issue of a Construction Certificate, an application to carry out water supply works, sewerage works, and stormwater drainage works must be obtained from Council under Section 68 of the Local Government Act 1993. The application is to include hydraulic designed by a professional engineer* (as defined by the National Construction Code) for **water, sewerage and stormwater** drainage for the development. The hydraulic detail must reference the following:

a) the relevant National Construction Code such as - NCC 2019 Volume 1, 2 & 3 Amendment One.

b) Relevant Australian Standard/s and correct standard years.

c) Must also reference the suite of AS 1170.

d) List Signatory Qualification and Accreditation details.

**Must be National Engineers Register (NER) or NSW Fair Trading Registered Engineer.*

33. **Flood controls**

Prior to the issue of a Construction Certificate, a professional engineer, (as defined in the National Construction Code) must submit to the satisfaction of the Certifier, certification that the following items have been detailed on the construction drawings:

a) all habitable floor levels must be constructed at or above the Flood Planning Level (FPL) (1% Annual Exceedance Probability (AEP) flood level plus 500mm freeboard).

b) All fences must be designed with openings below the Flood Planning Level to allow free flow of floodwater.

c) Any proportion of the structure below the Flood Planning Level (FPL) must be built from flood compatible materials.

d) All electrical installations must be constructed above the Flood Planning Level (FPL) or be able to be isolated prior to a flood event.

e) The location of all hazardous substances are located at or above the 1% Annual Exceedance Probability (AEP) Flood Level.

f) A flood evacuation plan must be prepared to ensure permanent, fail-safe, maintenance-free measures are incorporated in the development to ensure that the timely, orderly and safe

evacuation of people is possible from the area and that it will not add significant cost and disruption to the community or the SES. This plan is to consider for pre-flood event planning the use of Flood Warning Products available from the Bureau of Meteorology.

34. Prior to the issue of a Construction Certificate, a professional engineer, (as defined in the National Construction Code) must submit to the satisfaction of the Certifier, certification that the building and associated structure(s):

a) can withstand forces of floodwaters including debris and buoyancy forces up to a 0.2% Annual Exceedance Probability (AEP) flood event.

b) Will not become floating debris during a 1% Annual Exceedance Probability (AEP) flood event.

35. **Site Filling Design Standards**

Prior to the issue of a Construction Certificate, certified engineering design plans and specifications must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The site filling design must not be filled above 3.5m AHD. This excludes foundational subbase and concrete finishes.

The filling specification must be approved by Certifier and require all allotment filling to be placed in accordance with *AS 3798 Guidelines on earthworks for commercial and residential developments* and compacted at least to the minimum relative compaction listed in the standard applicable to the type of development.

36. **Shoalhaven Water – Prior to the Issue of a Construction Certificate**

Prior to the issue of a Construction Certificate, all conditions listed on the Shoalhaven Water Notice of Requirements under the heading "Prior to the Issue of a Construction Certificate" must be complied with and accepted by Shoalhaven Water. Written notification must be issued by Shoalhaven Water and provided to the Certifier.

37. **Environmental Management Plan**

The Environmental Impact Statement identifies that hazardous materials such as fuel, oils, lubricants and concrete admixture chemicals will be stored at the premises. An Environmental Management Plan (EMP) is to be developed for the site showing how all proposed mitigation measures given in Appendix A of the EIS are to be implemented and approved by the Certifier prior to the issue of a Construction Certificate. The EMP must include appropriate measures for the management of hazardous materials.

38. **Acid Sulphate Soil Management Plan**

An updated Acid Sulphate Soil Management Plan (incorporating the recommended additional sampling and analysis in the Preliminary Acid Sulfate Soil Management Plan by GHD dated March 2021) is required to be submitted to the Certifier and approved prior to construction work commencing. This ASSMP must provide site specific information on the depth of Acid Sulphate Soils including liming rates and excavation methodology.

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Acid Sulphate Soil should be avoided wherever possible. Where it is unavoidable, it must be managed appropriately as per the approved updated ASSMP.

39. **Signage**

Prior to the issue of a Construction Certificate, detailed design of the business identification signage proposed shall be provided to the Certifier for approval. The number and dimensions of the signage shall not exceed those nominated within the Environmental Impact Statement approved as part of this determination.

Signage must not be illuminated.

PART E: PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

NIL

PART F: DURING WORKS

40. **Hours for Construction**

Construction may only be carried out between 7.00am and 5.00pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday. Proposed changes to hours of construction must be approved by Council in writing.

Note: A COVID Order *may* apply to construction work hours.

41. **Noise**

The noise from all demolition and construction activities associated with the approved development must comply with the work practices as outlined in the NSW Department of Environment & Climate Change Interim Construction Noise Guideline. The LA10 level measured over a period of not less than 15 minutes during works must not exceed the background (LA90) noise level by more than 10dB(A) when assessed at any sensitive noise receiver.

42. **Felling of Trees**

Trees to be cleared must be felled into the development area carefully so as not to damage trees to be retained in or beyond the development footprint.

43. **Pruning or Trimming**

Pruning or trimming of any trees to be retained must be undertaken in accordance with *AS 4373 Pruning of amenity trees.*

44. **Unexpected Finds – Fauna**

If any wildlife is disoriented or injured during clearing works, works must stop immediately, and a consultant ecologist experienced in wildlife handling and rescue is to advise and responsibly rescue and relocate the animal(s).

45. **Hollow-bearing Tree Removal Protocol**

a) All trees and hollows are to be checked for resident fauna prior to felling by a qualified ecologist experienced in handling wildlife. If nests or roosts are present, they are to be carefully relocated in nearby trees/roost boxes, or as directed by the supervising ecologist.

b) The hollow-bearing tree must be gently nudged with felling equipment prior to felling to encourage safe fauna evacuation. The tree must be then felled carefully in sections to allow the rescue of native fauna. Hollow-bearing sections must be carefully lowered to the ground so as not to injure native fauna. Once the tree has been felled the hollows are to be inspected again for fauna and relocated in an appropriate location determined by the ecologist.

c) If animals are injured, they will need to be assessed and either taken to the nearest veterinary clinic or placed into care with South Coast Wildlife Rescue.

d) Within 10 days of completing clearing work, the engaged ecological consultant must provide to Council written evidence of any fauna detected during clearing.

46. **Parking and Storing of Building Equipment and Materials**

The parking of machinery and vehicles or the storing of building or landscaping materials, soil, spoil, or rubbish, within the fenced area around trees to be retained is prohibited.

47. **Waste Material**

Waste material, other than vegetation and tree mulch, is not to be left on site once the works have been completed.

48. **Aboriginal Objects Discovered During Excavation**

If an Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:

a) all excavation or disturbance of the area must stop immediately.

b) Additional assessment and approval pursuant to the National Parks and Wildlife Act 1974 may be required prior to works continuing the affected area(s) based on the nature of the discovery.

c) Work may recommence in the affected area(s) if Heritage NSW advises that additional assessment and/or approval is not required (or once any required assessment has taken place or any required approval has been given).

d) The Heritage NSW must be advised of the discovery in accordance with section 89A of the National Parks and Wildlife Act 1974.

49. **Archaeology Discovered During Excavation**

If any object having interest due to its age or association with the past is uncovered during the course of the work:

a) All work must stop immediately in that area.

b) Work may recommence in the affected area(s) if Heritage NSW advises that additional assessment and/or approval is not required (or once any required assessment has taken place or any required approval has been given).

c) In accordance with the Heritage Act 1997, the Heritage NSW must be advised of the discovery.

50. **Contamination - Unexpected Finds**

If unexpected contaminated soil and/or groundwater is encountered during any works:

a) all work must cease, and the situation must be promptly evaluated by an appropriately qualified environmental consultant*.

b) The contaminated soil and/or groundwater must be managed under the supervision of the environmental consultant, in accordance with relevant NSW Environment Protection Authority (EPA) Guidelines.

c) If unexpected contaminated soil or groundwater is treated and/or managed on-site; an appropriately qualified environmental consultant must verify that the situation was appropriately managed in accordance with relevant NSW EPA guidelines prior to recommencement of works. The verification documentation must be provided to the satisfaction of the Certifier and Shoalhaven City Council prior to the recommencement of any works.

d) If contaminated soil or groundwater is to be removed from the site, it must be transported to an appropriately licensed waste facility by an NSW EPA licensed waste contractor in accordance with relevant NSW EPA guidelines including the Waste Classification Guidelines (2014).

**An appropriately qualified environmental consultant will have qualifications equivalent to CEnvP "Site Contamination" (SC) Specialist - by Certified Environmental Practitioner or 'Certified Professional Soil Scientist' (CPSS CSAM) by Soil Science Australia (SSA).*

51. **Fill**

a) All fill brought to the site, must contain only virgin excavated natural material (VENM) or excavated natural material (ENM) as defined in Part 3 of schedule 1 to the Protection of the Environment Operations Act 1997 (POEO Act).

b) Sampling for acid sulfate soils is to occur for all displaced soil.

c) Stockpiles of fill materials shall be stored separately from displaced soils.

d) Stockpiles shall be kept moist and weekly monitoring of the pH is to be undertaken at a rate of 1 sample per 500 m^3.

e) Any soil disposed of off-site must be analysed for PFAS in accordance with NSW EPA waste classification guidelines.

52. **Survey Certification**

A survey must be undertaken by a registered surveyor and provided to the Certifier on completion of the ground floor slab formwork prior to the concrete being poured and any manufactured structures installed.

The surveyor must certify all of the following:

a) The distance of the structures to all proposed boundaries of the allotment are in accordance with the approved plan.

53. **Tree Removal**

Trees approved for removal must carefully so as not to damage trees to be retained in or beyond the development footprint.

Any hollow-bearing trees must be felled carefully in sections utilising handheld tools to allow the rescue of native fauna. Hollow-bearing sections must be carefully lowered to the ground so as not to injure native fauna.

54. **Maintenance of Site and Surrounds**

During works, the following maintenance requirements must be complied with:

a) all materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.

c) Where tree or vegetation protection measures are in place, the protected area must be kept clear of materials and / or machinery.

d) The developer must maintain the approved soil water management / erosion and sediment control measures to the satisfaction of the Certifier for the life of the construction period and until runoff catchments are stabilised.

e) During construction:
   i. all vehicles entering or leaving the site must have their loads covered, and
   ii. all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.

f) At the completion of the works, the work site must be left clear of waste and debris.

55. **Waste Management Plan**

All waste must be contained within the site during construction and then be recycled in accordance with the approved Waste Management Plan (WMP) or removed to an authorised waste disposal facility. All waste is to be classified in accordance with the NSW EPA's Waste Classification Guidelines and disposed of at a facility that can lawfully accept that waste.

Waste must not be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site. Compliance with the WMP must be demonstrated by the submission of tip receipts to the Certifier.

Note: "Waste" is defined in the Dictionary to the Protection of the Environment Operations Act 1997 (POEO Act).

56. **Earthworks**

Prior to completion of works, the developer must ensure that the following requirements are met in relation to lot filling:

a) completed in accordance with AS3798-2007.

b) Performed under Level 1 supervision by a professional engineer, (as defined in the National Construction Code).

c) A Level 1 Supervision Report is to be approved by Council or PCA prior to the issue of an Occupation Certificate.

d) Any fill must:

i) have a maximum batter of 25% (1v:4h) at any location.
ii) not encroach onto adjoining land unless otherwise approved by the adjoining landowner and the fill is minor in nature.
iii) not cause the diversion or concentration of natural overland stormwater runoff onto adjoining property.
iv) be protected against erosion, with measures incorporated in the erosion and sediment control plan.

57. **Acid Sulfate Soils**

Excavation of acid sulfate soils, or potential acid sulfate soils must be carried out in accordance with the approved updated Acid Sulfate Soils Management Plan (ASSMP) to the satisfaction of the Certifier. Excavated material must be treated on site in accordance with the ASSMP or taken to an approved waste disposal facility.

58. **Air Quality**

All reasonable and feasible dust mitigation measures must be implemented during construction and operation to prevent dust emissions. These include, but may not be limited to:

a) Managing dust during construction through using water for dust suppression;

b) Enclosing areas where there is a risk of dust emissions, including loading/unloading areas, weigh hopper and storage areas;

c) Installing a pneumatic system with the storage silos fitted with dust filters; and

d) Adopting suitable management measures such as washdown facilities with negative pressure

PART G: PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

59. **Compliance**

The Occupation Certificate must not be issued until all relevant conditions of development consent have been met or other satisfactory arrangements have been made with council (i.e. a security).

60. **Works as Executed Plans**

Prior to the issue of an Occupation Certificate, Works as Executed Plans must be prepared by a registered surveyor / professional engineer, (as defined in the National Construction Code) and be submitted to Council and the Certifier demonstrating compliance with the approved design plans.

The Works as Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans and comply with the following requirements:

a) council's Development Engineering Construction Specification.

b) Show compliance with the approved design plans of all road and drainage works.

c) Certify that all storm water pipes, and other services are wholly within an appropriate easement.

d) Show the extent, depth and final levels of filling.

e) Show any retaining walls including footings and agricultural drainage lines.

f) Show the location of all underground service conduits.

g) Include all deviations from the approved Civil Engineering Plans.

Where the system includes an underground tank, a certificate of structural adequacy must be prepared and provided by a professional engineer (as defined in the National Construction Code).

61. **Water Sensitive Urban Design (WSUD) Elements**

The registered proprietor must not make or permit or suffer the making of any alterations to any stormwater treatment measures/ water sensitive urban design (WSUD) elements which is, or must be, constructed on the lot(s) burdened without the prior consent in writing of Shoalhaven City Council.

The expression "stormwater treatment measures/ water sensitive urban design elements" means the infiltration systems, porous pavement, sediment basins, bio-retention swales, bioretention basins, rain gardens, landscaped or vegetated swales, vegetated buffers, swale/ buffer systems, sand filter, wetlands, ponds, retarding basins, aquifer storage and recovery, rainwater reuse tanks, stormwater reuse tanks, gross pollutant traps, pit inserts, silt/ oil arrestors or other proprietary products including all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins or surfaces graded to direct stormwater to the stormwater treatment measures/ water sensitive urban design elements.

62. **Maintenance Bond – Subdivision Works**

Prior to the issue of an Occupation Certificate, the developer must submit a cash bond or irrevocable bank guarantee equal to 5% (or other agreed amount) of the cost of the civil works (excluding water supply and sewerage) to Council to provide security and assurance that the developer will repair any defective works or re-establish ground cover where this has not been maintained for a period of 12 months.

63. The *Ocean Protector Filterra Bioscape* device shall be installed prior to the issue of an Occupation Certificate. The installation in accordance with the manufacturers specifications and requirements outlined in the Filterra Owner's Manual.

64. Prior to the issue of an Occupational Certificate, a cattle or rumble grid at the exit of the site shall be installed to prevent dust tracking onto the road.

65. **Landscaping Compliance**

Prior to the issue of an Occupation Certificate, the developer must provide the Certifier with written evidence from a suitably qualified landscape professional that all landscape works have been completed in accordance with the approved landscape plan.

66. **Boundary Fencing**

Fencing must be constructed as shown on approved plans, prior to the issue of an Occupation Certificate for the development.

67. **Retaining Walls – Certification**

Prior to the issue of an Occupation Certificate, the Certifier must be satisfied that all retaining walls have been constructed in accordance with the relevant retaining wall plans and specifications, and in accordance with the requirements of any other conditions of this consent.

Note: This condition does not prevent a partial occupation certificate to be issued for the parts of the development that have been completed.

68. **Section 68 Approval to Operate**

Prior to the Issue of an Occupation Certificate:

a) Approval is required under section 68 of the *Local Government Act 1993* to operate the onsite system of sewage management.

b) Evidence of approval must be provided to the Certifier.

69. **Plumbing & Drainage Requirements**

All the conditions under Section 68 of the Local Government Act 1993 are to be complied with prior to the issue of an occupation certificate.

70. **Fire Safety**

Prior to the issue of a partial or whole Occupation Certificate, a final fire safety certificate is to be issued to Council and Fire & Rescue NSW by or on behalf of the owner of a building to the effect that each essential fire safety measure specified in the current fire safety schedule for the building to which the certificate relates—

a) has been assessed by a properly qualified person, and

b) was found, when it was assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.

71. **Shoalhaven Water – Certificate of Compliance**

Prior to the issue of any Occupation Certificate, a Certificate of Compliance under section 307 of the *Water Management Act 2000* must be obtained from Shoalhaven Water to verify satisfactory compliance with all conditions for the supply of water and sewerage, as listed on the Notice of Requirements.

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If the development is to be completed in approved stages, or application is subsequently made for staging of the development, separate Compliance Certificates must be obtained for each stage of the development.

72. **Driveway – Evidence of Completion**

Prior to the issue of an Occupation Certificate, all driveway works internal to the site as shown on the approved plans must be completed.

73. **Works in the Road Reserve - Evidence of completion**

Prior to the issue of an Occupation Certificate, the developer must provide the Certifier with a Construction Inspection Ticket / Completion of Works in Road Reserve Letter provided by council, confirming compliance with the requirements of section 138 of the *Roads Act 1993*.

PART H: PRIOR TO THE ISSUE OF A SUBDIVISION / STRATA CERTIFICATE

NIL

PART I: ONGOING USE OF THE DEVELOPMENT

74. **Overland Stormwater Flow, Redirecting and/or Concentrating Stormwater**

All excavation, backfilling and landscaping works must not result in:

a) Any change to the overland stormwater flow path on your property and or a neighbouring property. If any change to the overland flow path occurs on a property, the stormwater runoff shall be collected and directed to a legal point of discharge.

b) The redirection and/or concentration of stormwater flows onto neighbouring properties.

75. **Landscaping**

For the life of the development:

a) Landscaping must be maintained in accordance with the approved Landscape Plan.

b) The planting of plant species listed in the *South East Regional Strategic Weed Management Plan 2017 – 2022* is prohibited.

76. **Microbat Roost Boxes**

The microbat roost boxes must be maintained for the life of the development including repair and replacement where required, as instructed by a suitably qualified ecological consultant.

77. **Cement Storage Silos Filtering Equipment**

Cement storage silos must be fitted with filtering equipment to minimise the amount of cement dust blown or washed away from the Study Area.

78. **Loading Trucks and Transportation**

a) To prevent raw materials spilling and entering the surrounding environment, a telescopic chute or a flexible sleeve must be used when loading trucks.

b) Sand and aggregates must be transported in covered trucks and be watered when delivered to the plant. A dampened state must be maintained to prevent dust emissions.

79. **Site Supervision**

During hours of operation a site supervisor is to be present onsite at all times to monitor ongoing operations.

80. **Additional Mitigation Measures**

a) All potentially hazardous materials are to be stored in a roofed and bunded area. The bund capacity will be sufficient to fully contain a minimum of 110% of the largest volume vessel stored in the container.

b) Refuelling shall only occur within a roofed and bunded area above the flood planning level.

c) The Ocean Protector Filterra Bioscape device shall be maintained in accordance with the maintenance checklist found in the Filterra Owner's Manual. Maintenance shall occur at least twice a year and the Filterra Inspection & Maintenance Log shall be filled out each time the system is maintained and shall be made available for inspection by Council Officer's.

d) Maintenance of the gross pollutant trap, including the removal of all debris and sediments shall occur every six months.

e) Cement silos shall be equipped with filter units and an alarm system to alert management when the filters require replacement or cleaning.

f) Water sprays shall be used when high levels of dust are generated on site.

g) All dust producing materials shall be stored in designated storage bins.

h) All vehicle loads shall be covered when materials are transported to and from site.

i) A rumble or cattle grid, wheel wash and wash down area is to be installed for vehicles leaving the site. Runoff from the wash down area shall be diverted to the contaminated water treatment collection pit.

j) A supplementary street sweeper shall be employed when the public roads experience mud tracking from the site.

k) Vehicles, forklifts and similar equipment with reversing alarms shall be fitted with low tonal broadband reversing alarms (non-beeping). Only appropriately silenced vehicles shall be used in order to reduce noise generation.

l) A complaints register is to be kept on site and available for Council officers to inspect upon request.

m) All activities that have the potential to create noise amenity issues for neighbouring sensitive receivers shall be undertaken in the daylight hours.

n) The sewage storage tanks are to be fitted with an audible and visual dual alarm system at 50% and 75% capacity. The tank is to be pumped out at the 75% capacity point. A secondary electronic notification system shall also be installed at the 75% capacity point. Testing of the alarm and notification system shall occur on a 6 monthly basis.

o) The pump out tank shall be appropriately sealed to prevent stormwater or flood water ingress into the system.

p) Council shall be notified in the event of a discharge of the effluent holding tank.

81. **Fire Safety – Annual Statement**

A building owner must ensure that an annual fire safety statement prepared by a competent fire safety practitioner is issued each year and that a copy of the statement is provided to the Shoalhaven City Council and the Commissioner of Fire and Rescue NSW. An application form is available on Council's website.

Note: An annual fire safety statement is a declaration by, or on behalf of a building owner that an accredited practitioner – fire safety (APFS) has:

a) assessed, inspected and verified the performance of each existing essential fire safety measure that applies to the building

b) inspected the exit systems serving the building and found that the exit systems within the building do not contravene the provisions of Division 7 of Part 9 of the Environmental Planning and Assessment Regulation 2000

Note that a failure to give Council an annual fire safety statement by the due date constitutes a separate offence for each week beyond that date for which the failure continues. Substantial penalties for non-compliance apply under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

PART J: OTHER COUNCIL APPROVALS AND CONSENTS

NIL

PART K: REASONS FOR CONDITIONS

The application has been assessed as required by section 4.15 of the *Environmental Planning and Assessment Act 1979* and has been determined by the granting of conditional development consent.

Statutory requirements

The development proposal, subject to the recommended conditions, is consistent with:

a) the objects of the Environmental Planning and Assessment Act, 1979.

b) the aims, objectives and provisions of the applicable environmental planning instruments,

c) the aims, objectives and provisions of Shoalhaven Development Control Plan 2014 (SDCP 2014).the aims, objectives and provisions of relevant Council policies.

Public notification

The application was publicly notified in accordance with the *Environmental Planning and Assessment Regulation 2000* and Council's Community Consultation Policy for Development Applications (Including Subdivision) and the Formulation of Development Guidelines and Policies (POL 16/230).

Submissions

Any submissions received during the public notification period are available on DA Tracking

Community views

Issues and concerns raised by the community in submissions have been considered in the assessment of the application and, where appropriate, conditions have been included in the determination to mitigate any impacts.

Suitability of the Site

The application has been approved because the development proposal is considered to be suitable for the site.

The relevant public authorities and the water supply authority have been consulted and their requirements met, or arrangements made for the provision of services to the satisfaction of those authorities.

The increased demand for public amenities and services attributable to the development has been addressed by the requirement to pay contributions in accordance with section 7.11 of the *Environmental Planning and Assessment Act 1979* and Council's Contribution Plan 2019. Contributions under Section 307 of the Water Management Act 2000 have been applied as required.

Impacts of the Development

The application was considered to be suitable for approval. Conditions have been imposed to ensure that:

a) the development will not result in unacceptable adverse impacts on the natural and built environments.

b) the amenity and character of land adjoining and in the locality of the development is protected.

d) c) any potential adverse environmental, social or economic impacts of the development are minimised.

e) all traffic, car parking and access arrangements for the development will be satisfactory.

f) the development does not conflict with the public interest.

PART L: RIGHTS OF REVIEW AND APPEAL

Determination under Environmental Planning and Assessment Act, 1979

Division 8.3 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised within the prescribed period.

An appeal under Division 8.3 of the EP&A Act, 1979 by an objector may be made only within the prescribed period.

Approvals under Local Government Act, 1993

Section 100 of the Local Government Act, 1993 provides that an applicant may request Council to review its determination of an application.

Section 176 of the Local Government Act, 1993 provides that an applicant who is dissatisfied with the determination of the Council may appeal to the Land and Environment Court. The appeal must be made within the prescribed period.

PART M: GENERAL ADVICE

In this consent the term developer means any person or corporation who carries out the development pursuant to that consent.

Disability Discrimination Act 1992

This application has been assessed in accordance with the *Environmental Planning & Assessment Act, 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references *AS1428.1 - "Design for Access and Mobility"*.

Disclaimer – Conveyancing Act 1919 – Division 4 – Restrictions on the Use of Land

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

Under Clause 1.9A of *Shoalhaven Local Environmental Plan 2014* agreements, covenants or instruments that restrict the carrying out of the proposed development do not apply to the extent necessary to enable the carrying out of that development, other than where the interests of a public authority is involved.

DBYD Enquiry - 'Dial Before You Dig'

In order to avoid risk to life and property it is advisable that an enquiry be made with "Dial Before You Dig" on 1100 or www.dialbeforeyoudig.com.au prior to any excavation works taking place to ascertain the location of underground services. You must also contact your Local Authority for locations of Water and Sewer Mains.

Existing and proposed Swimming Pool/ Spa Barrier

Existing and proposed swimming pools or spas on the premises must comply with the provisions of the *Swimming Pools Act 1992, Swimming Pools Regulation 2018* and comply with all the relevant Australian Standards.

SIGNED on behalf of Shoalhaven City Council:

Signature
Position Title
City Development

DRAFT

Our ref: DOC21/659284

Ms Elisabeth Bailey
Shoalhaven City Council
Email: rebecca.lockart@shoalhaven.nsw.gov.au

Letter uploaded to the Concurrence and Referral (CNR) portal

Dear Ms Bailey

GENERAL TERMS OF APPROVAL
INTEGRATED DEVELOPMENT APPLICATION
NATIONAL PARKS AND WILDLIFE ACT 1974

Address: 340 Bolong Road, Bolong NSW 2540
Proposal: Construction of a concrete batching plant and associated works
IDA application no: DA21/1612, CNR-24183, A-28301, received 7 July 2021

This letter contains our general terms of approval for the above integrated development application for those known Aboriginal sites which would require an Aboriginal Heritage Impact Permit pursuant to s.90 of the *National Parks and Wildlife Act 1974*.

We have reviewed the Aboriginal Cultural Heritage Assessment Report, dated 13 April 2021, prepared by Biosis. The report has identified that Aboriginal objects at site 52-5-0969 will be impacted by the proposed development.

Considering the above, and in accordance with Section 4.47 of the *Environmental Planning and Assessment Act 1979*, the following general terms of approval are granted:

APPROVED DEVELOPMENT

1. Development must be in accordance with:
   a. Aboriginal Cultural Heritage Assessment Report titled "Bolong Batch Plant: Aboriginal Cultural Heritage Assessment" prepared by Biosis and dated 13 April 2021 (Biosis 2021a).
   b. "Bolong Batch Plant Archaeological Report" prepared by Biosis and dated 12 February 2021 (Biosis 2021b).
   c. "Environmental Impact Statement, Proposed Concrete Batching Plant" prepared by City Plan and dated May 2021.

Please note that any modification of the above development that will result in impacts to Aboriginal cultural heritage must be referred to us to determine whether changes to these general terms of approval are required.

EXCEPT AS AMENDED by the following general terms of approval:

1. A s.90 Aboriginal Heritage Impact Permit (AHIP) for the proposed works must be sought and granted prior to the commencement of works.

2. The AHIP application must be accompanied by appropriate documentation and mapping as outlined in *Applying for an Aboriginal Heritage Impact Permit: Guide for applicants* (2011).

3. Consultation with the Aboriginal community undertaken as part of the AHIP application must be in accordance with the *Aboriginal cultural heritage consultation requirements for proponents 2010* (2010).

4. The AHIP application must be completed with reference to the requirements of the *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW* (2011).

5. The AHIP application must include complete records satisfying the requirements of the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (2010).

6. Long term management of Aboriginal objects must be considered as part of the AHIP application.

Advice
We recommend the applicant consider the following advice in relation to preparing their AHIP application in accordance with the above general terms of approval.

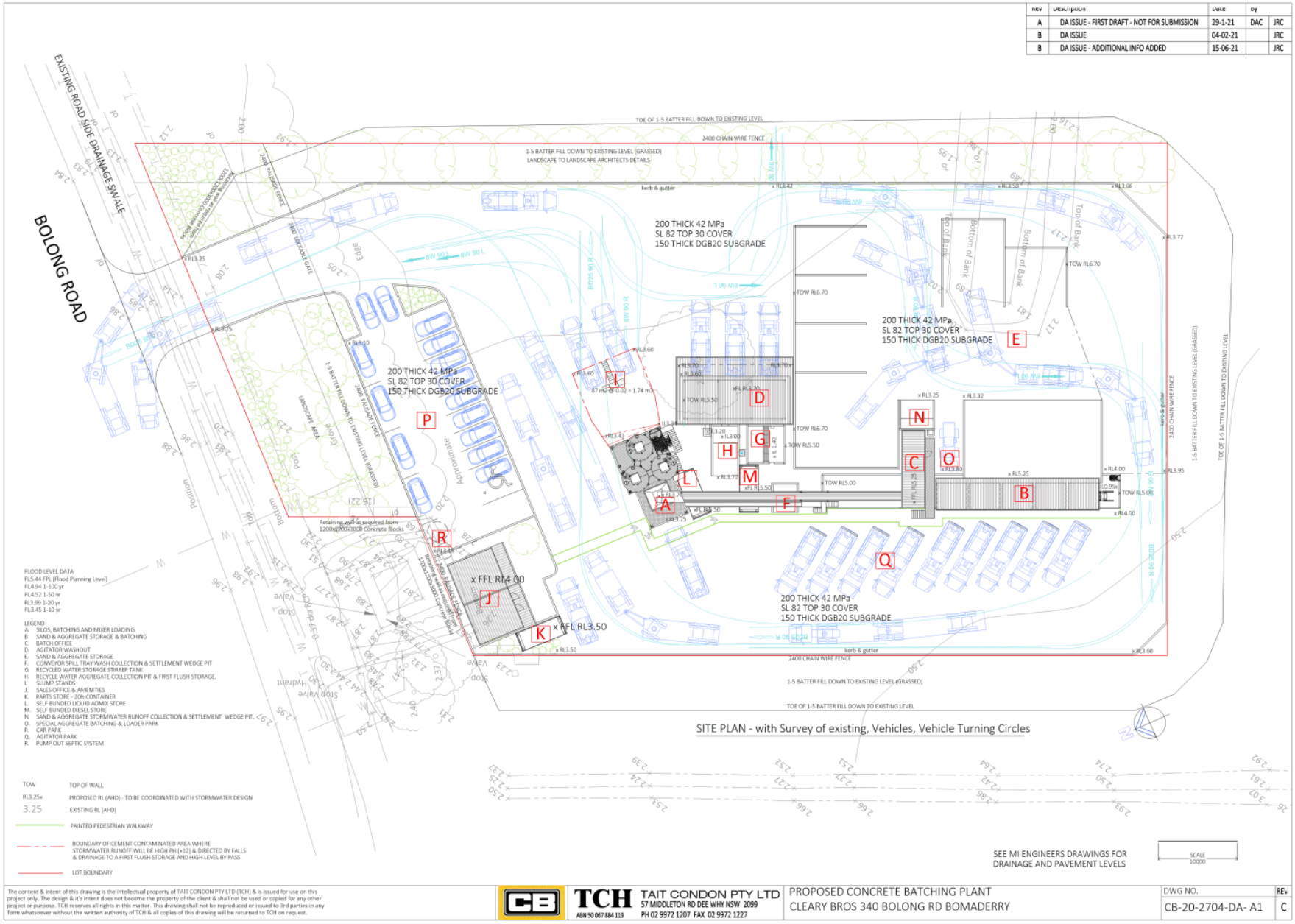
The AHIP application must be accompanied by:

- Records demonstrating that consultation with the Registered Aboriginal Parties has been continuous. We recommend updates on the project are provided to the RAP group every **6 months** to ensure the consultation is continuous.
- Complete test excavation records to satisfy Requirement 16(11) of the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW 2010) that is available online at: https://www.heritage.nsw.gov.au/assets/Code-of-Practice-for-Archaeological-Investigation-in-NSW.pdf
- Contemporaneous AHIMS search results that are less than 12 months old and any subsequent amendment of the ACHAR that may be required based on these results.
- Evidence of landowner agreement to the reburial occurring at the designated location where the reburial is on land not owned by the AHIP applicant and a commitment to protecting the reburial location from any future harm.
- An adequate discussion of how the principles of ecologically sustainable development (ESD) have been considered in preparing the AHIP application.

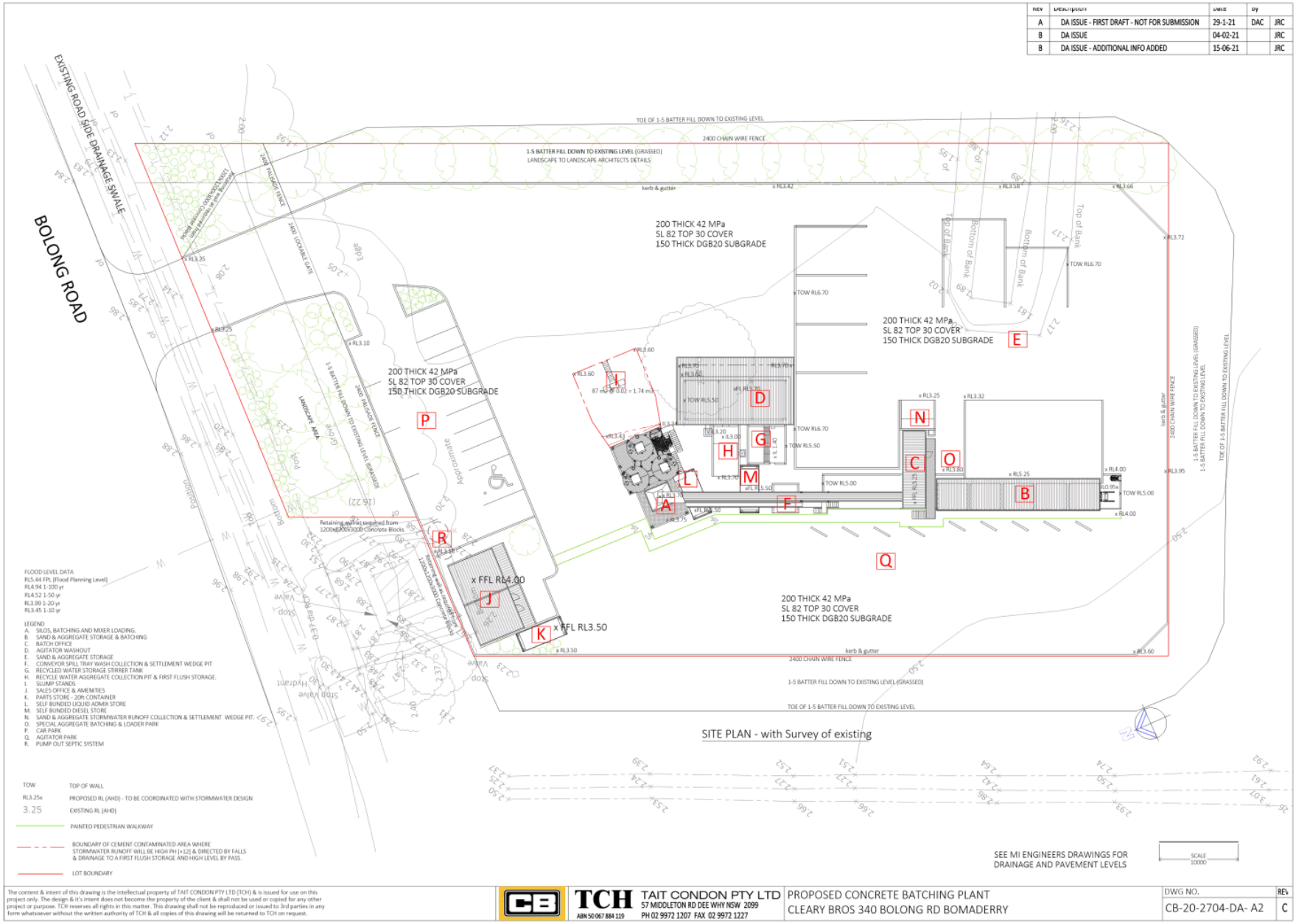
If you have any questions regarding these general terms of approval, please contact Rose O'Sullivan, Archaeologist, Aboriginal Cultural Heritage Regulation at Heritage NSW, on 4224 4177 or email rose.osullivan@environment.nsw.gov.au.

Yours sincerely

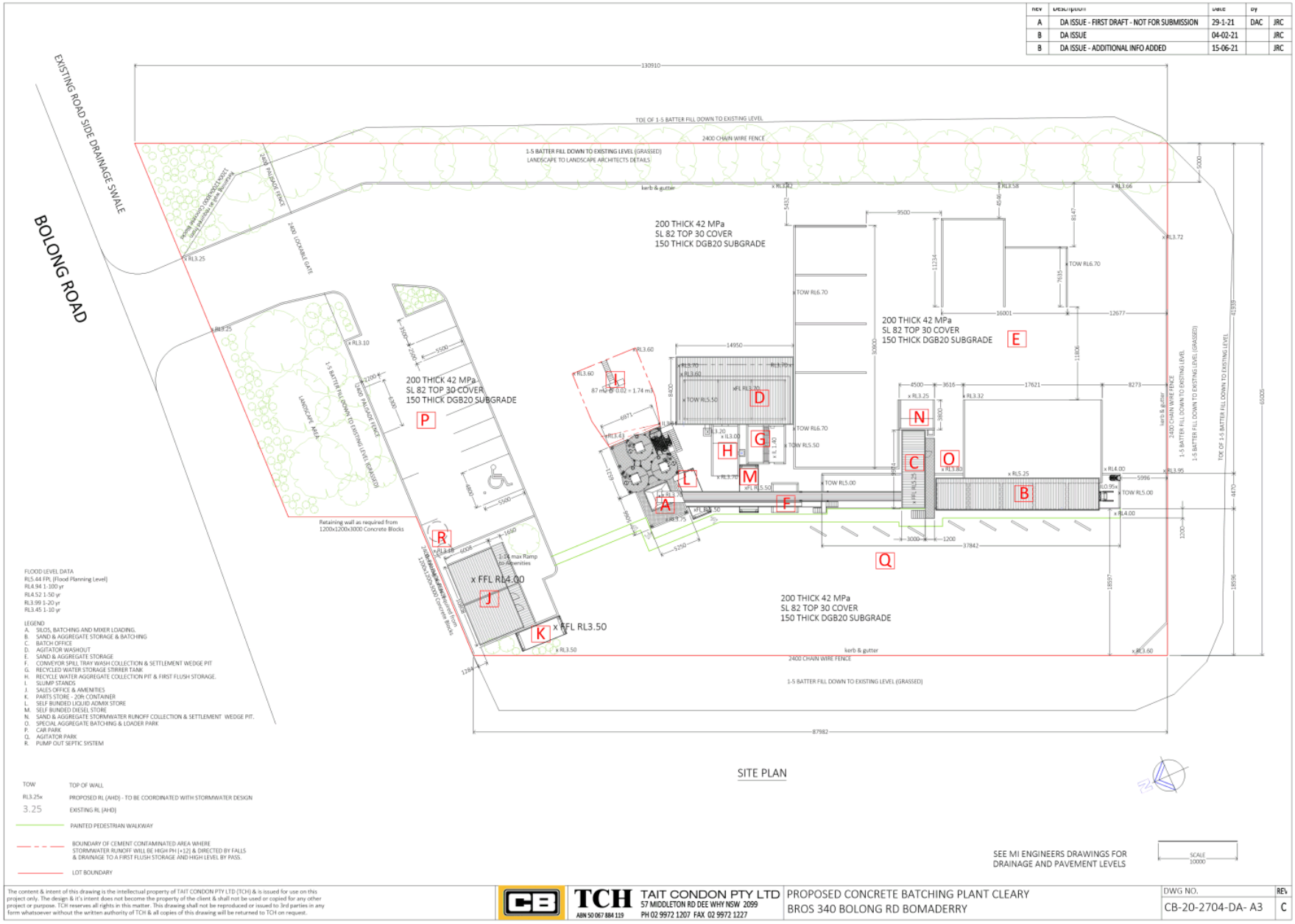
Jackie Taylor
Senior Team Leader
Aboriginal Cultural Heritage Regulation – South
Heritage NSW
Department of Premier and Cabinet
6 August 2021



CL22.129 - Attachment 5

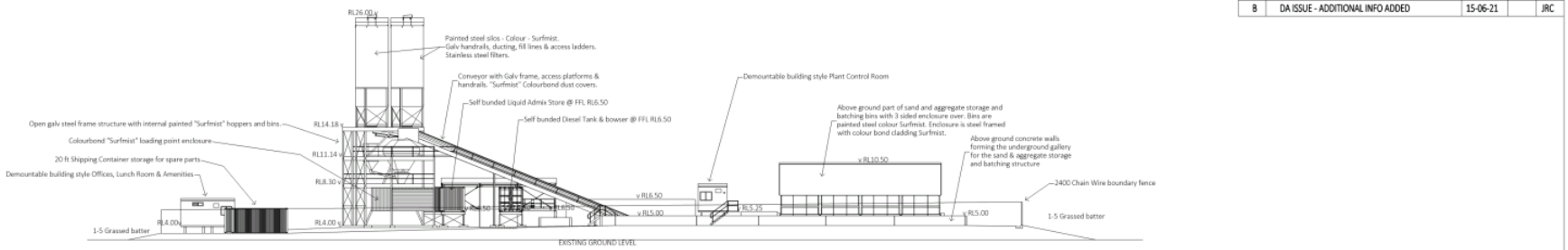


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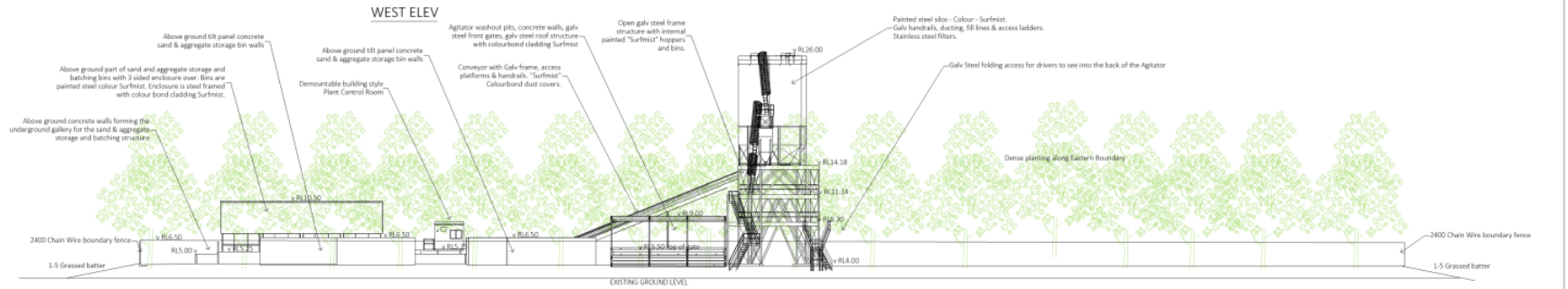


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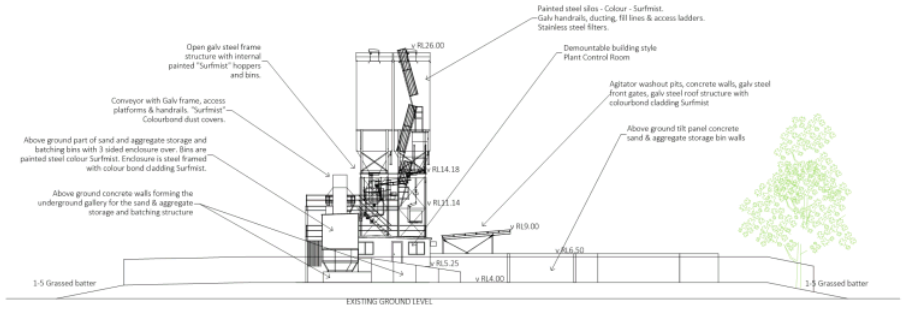
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A	DA ISSUE - FIRST DRAFT - NOT FOR SUBMISSION	29-1-21	DAC	JRC
B	DA ISSUE	04-02-21		JRC
B	DA ISSUE - ADDITIONAL INFO ADDED	15-06-21		JRC



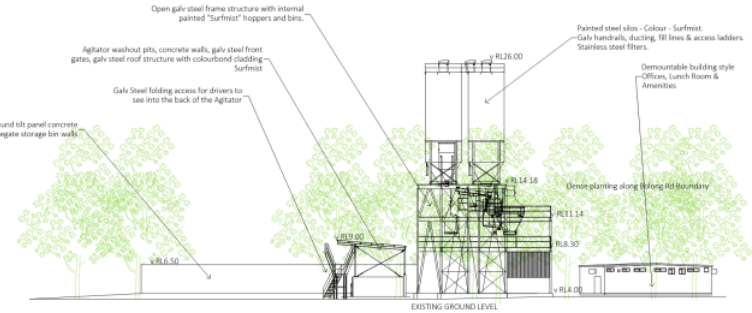
WEST ELEV



EAST ELEV



SOUTH ELEV



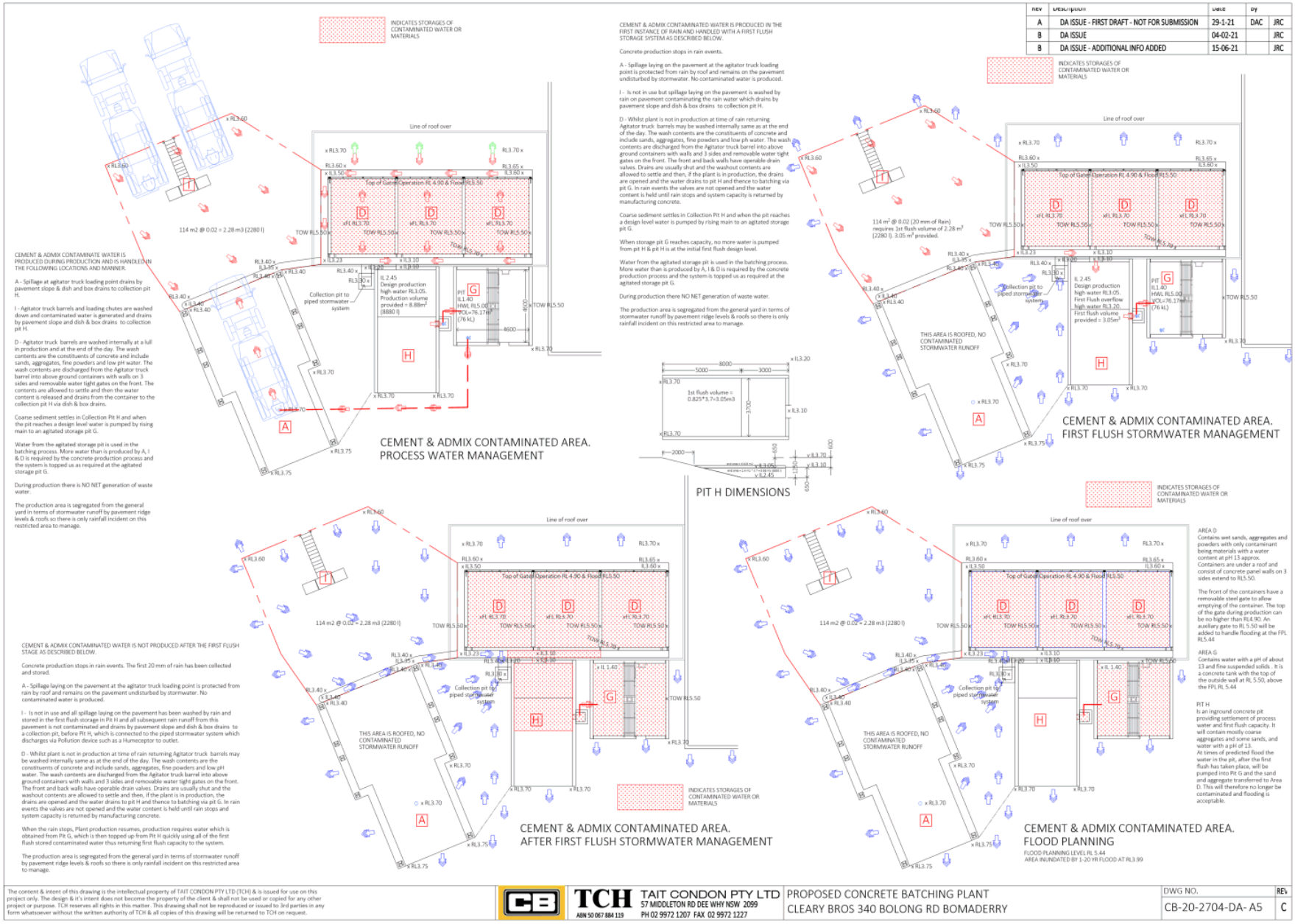
NORTH ELEV

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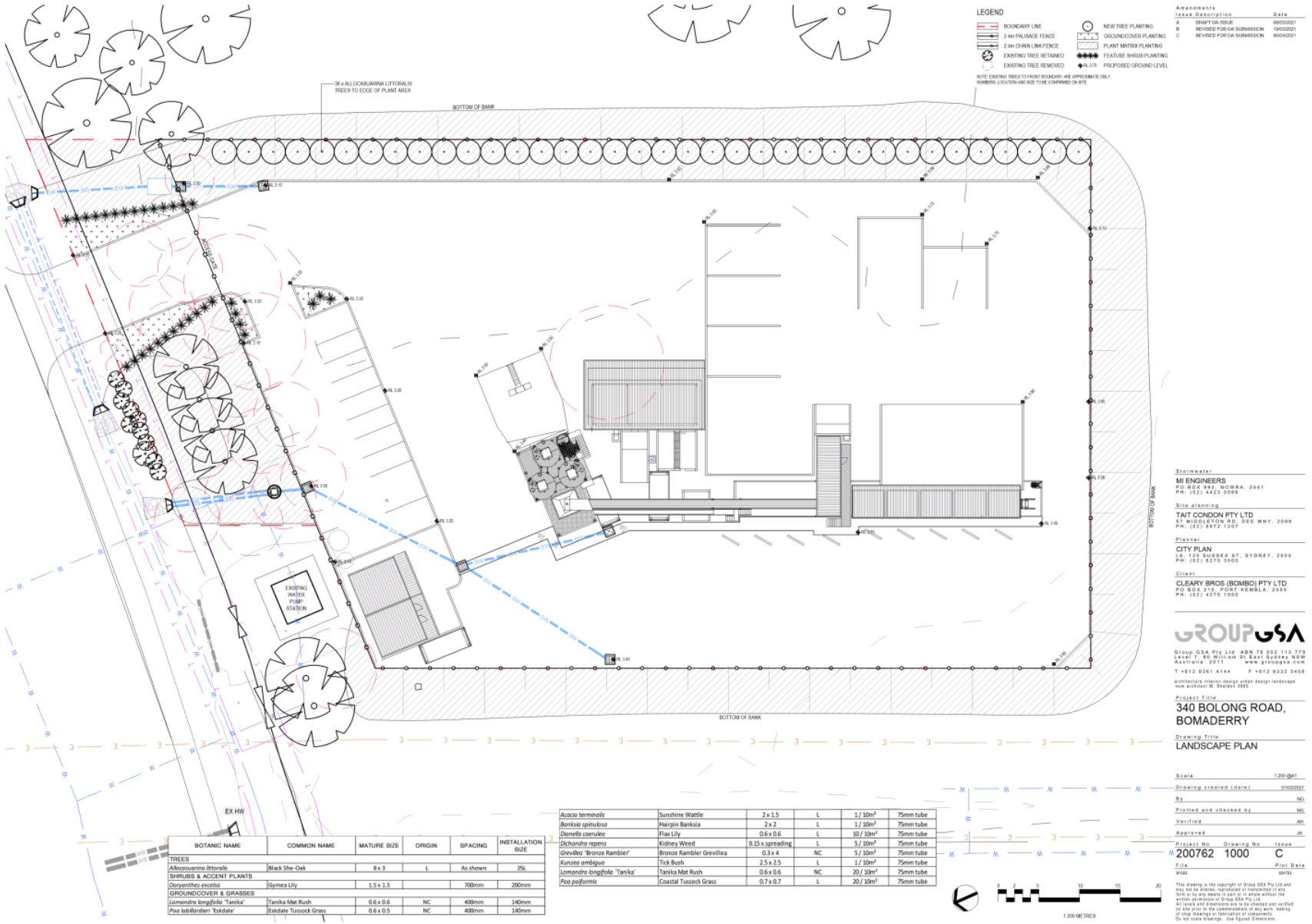
TCH TAIT CONDON PTY LTD
ABN 50 067 884 119
57 MIDDLETON RD DEE WHY NSW 2099
PH 02 9972 1207 FAX 02 9972 1227

PROPOSED CONCRETE BATCHING PLANT
CLEARY BROS 340 BOLONG RD BOMADERRY

DWG NO. CB-20-2704-DA- A4
REV C



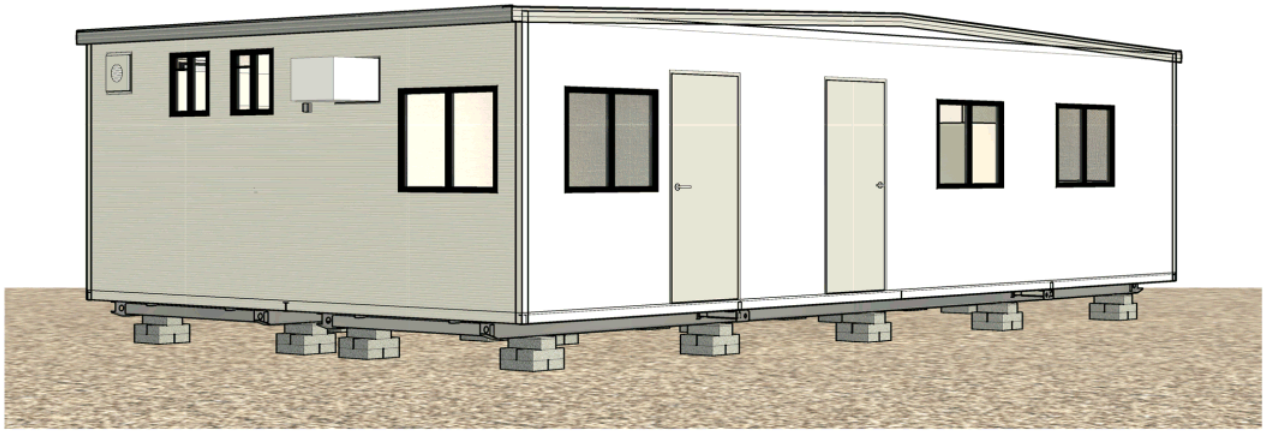
CL22.129 - Attachment 5



BOTANIC NAME	COMMON NAME	MATURE SIZE	ORIGIN	SPACING	INSTALLATION SIZE
TREES					
Allocasuarina littoralis	Black She-Oak	8 x 3	L	As shown	25L
SHRUBS & ACCENT PLANTS					
Doryanthes excelsa	Gymea Lily	1.5 x 1.5		700mm	200mm
GROUNDCOVER & GRASSES					
Lomandra longifolia 'Tanika'	Tanika Mat Rush	0.6 x 0.6	NC	400mm	140mm
Poa labillardieri 'Eskdale'	Eskdale Tussock Grass	0.6 x 0.5	NC	400mm	140mm

Acacia terminalis	Sunshine Wattle	2 x 1.5	L	1 / 10m²	75mm tube
Banksia spinulosa	Hairpin Banksia	2 x 2	L	1 / 10m²	75mm tube
Dianella caerulea	Flax Lily	0.6 x 0.6	L	10 / 10m²	75mm tube
Dichondra repens	Kidney Weed	0.15 x spreading	L	5 / 10m²	75mm tube
Grevillea 'Bronze Rambler'	Bronze Rambler Grevillea	0.3 x 4	NC	5 / 10m²	75mm tube
Kunzea ambigua	Tick Bush	2.5 x 2.5	L	1 / 10m²	75mm tube
Lomandra longifolia 'Tanika'	Tanika Mat Rush	0.6 x 0.6	NC	20 / 10m²	75mm tube
Poa poiformis	Coastal Tussock Grass	0.7 x 0.7	L	20 / 10m²	75mm tube

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Do not scale drawings. Use figured Dimensions.



View indicative only

DRAWING LIST		
SHEET NUMBER	SHEET NAME	CURRENT REVISION
A000	TITLE PAGE	A
A200	PLAN	A
A300	ELEVATIONS	A
A500	SALES SCHEDULES 1 OF 2	A
A501	SALES SCHEDULES 2 OF 2	A

210628B

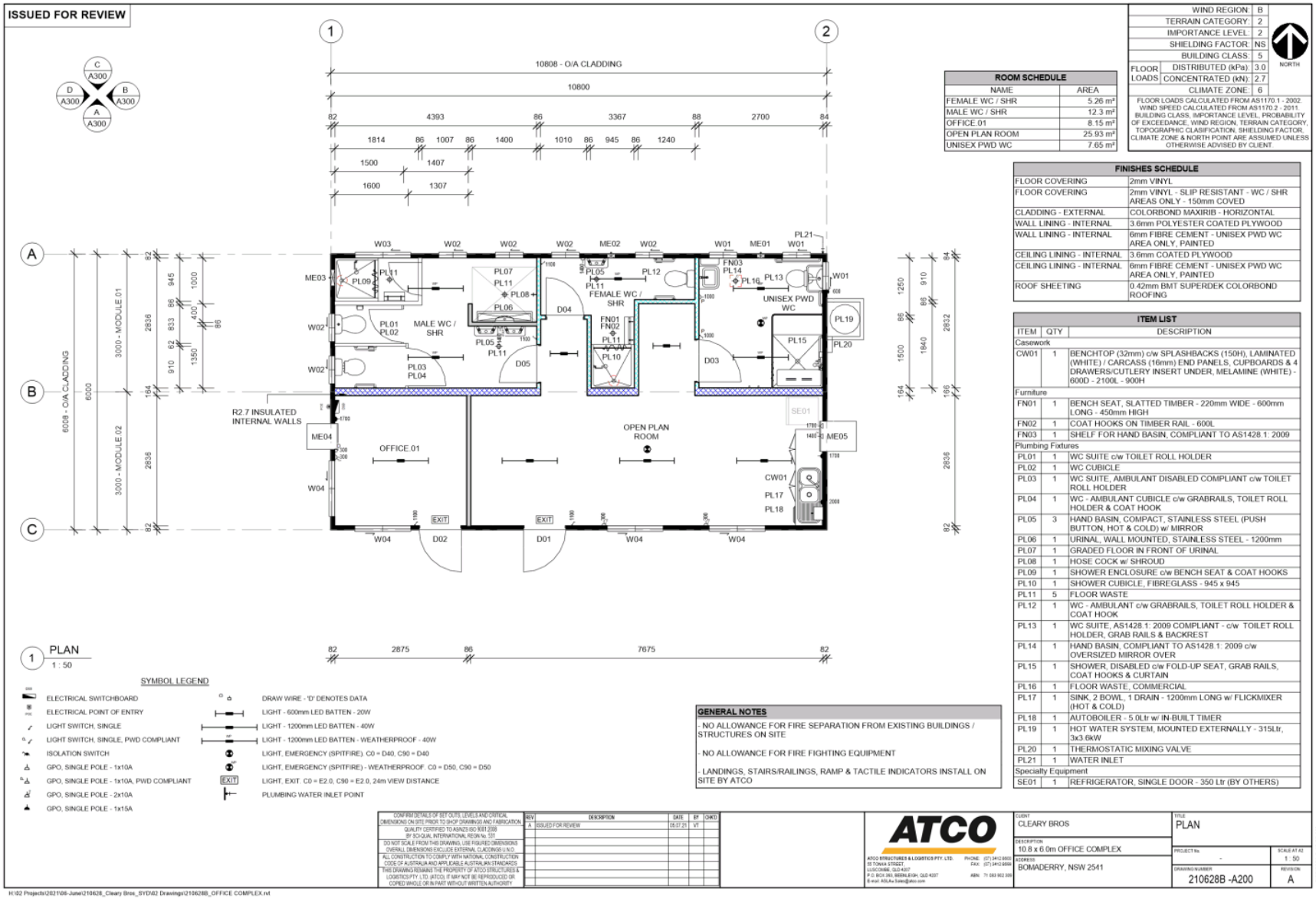
CLEARY BROS
BOMADERRY, NSW 2541

10.8 x 6.0m OFFICE COMPLEX

ATCO

ATCO STRUCTURES & LOGISTICS PTY. LTD.
55 TONKA STREET,
LUSCOMBE, QLD 4207
P.O. BOX 360, BEENLEIGH, QLD 4207
E-mail: ASLAu.Sales@atco.com
PHONE: (07) 3412 8800
FAX: (07) 3412 8899
ABN: 71 083 902 309

CL22.129 - Attachment 5



ROOM SCHEDULE	
NAME	AREA
FEMALE WC / SHR	5.26 m²
MALE WC / SHR	12.3 m²
OFFICE.01	8.15 m²
OPEN PLAN ROOM	25.93 m²
UNISEX PWD WC	7.65 m²

WIND REGION:		B
TERRAIN CATEGORY:		2
IMPORTANCE LEVEL:		2
SHIELDING FACTOR:		NS
BUILDING CLASS:		5
FLOOR LOADS	DISTRIBUTED (kPa):	3.0
	CONCENTRATED (kN):	2.7
CLIMATE ZONE:		6

NORTH

FLOOR LOADS CALCULATED FROM AS1170.1 - 2002. WIND SPEED CALCULATED FROM AS1170.2 - 2011. BUILDING CLASS, IMPORTANCE LEVEL, PROBABILITY OF EXCEEDANCE, WIND REGION, TERRAIN CATEGORY, TOPOGRAPHIC CLASIFICATION, SHIELDING FACTOR, CLIMATE ZONE & NORTH POINT ARE ASSUMED UNLESS OTHERWISE ADVISED BY CLIENT.

FINISHES SCHEDULE	
FLOOR COVERING	2mm VINYL
FLOOR COVERING	2mm VINYL - SLIP RESISTANT - WC / SHR AREAS ONLY - 150mm COVED
CLADDING - EXTERNAL	COLORBOND MAXIRIB - HORIZONTAL
WALL LINING - INTERNAL	3.6mm POLYESTER COATED PLYWOOD
WALL LINING - INTERNAL	6mm FIBRE CEMENT - UNISEX PWD WC AREA ONLY, PAINTED
CEILING LINING - INTERNAL	3.6mm COATED PLYWOOD
CEILING LINING - INTERNAL	6mm FIBRE CEMENT - UNISEX PWD WC AREA ONLY, PAINTED
ROOF SHEETING	0.42mm BMT SUPERDEK COLORBOND ROOFING

ITEM LIST		
ITEM	QTY	DESCRIPTION
Casework		
CW01	1	BENCHTOP (32mm) c/w SPLASHBACKS (150H), LAMINATED (WHITE) / CARCASS (16mm) END PANELS, CUPBOARDS & 4 DRAWERS/CUTLERY INSERT UNDER, MELAMINE (WHITE) - 600D - 2100L - 900H
Furniture		
FN01	1	BENCH SEAT, SLATTED TIMBER - 220mm WIDE - 600mm LONG - 450mm HIGH
FN02	1	COAT HOOKS ON TIMBER RAIL - 600L
FN03	1	SHELF FOR HAND BASIN, COMPLIANT TO AS1428.1: 2009
Plumbing Fixtures		
PL01	1	WC SUITE c/w TOILET ROLL HOLDER
PL02	1	WC CUBICLE
PL03	1	WC SUITE, AMBULANT DISABLED COMPLIANT c/w TOILET ROLL HOLDER
PL04	1	WC - AMBULANT CUBICLE c/w GRABRAILS, TOILET ROLL HOLDER & COAT HOOK
PL05	3	HAND BASIN, COMPACT, STAINLESS STEEL (PUSH BUTTON, HOT & COLD) w/ MIRROR
PL06	1	URINAL, WALL MOUNTED, STAINLESS STEEL - 1200mm
PL07	1	GRADED FLOOR IN FRONT OF URINAL
PL08	1	HOSE COCK w/ SHROUD
PL09	1	SHOWER ENCLOSURE c/w BENCH SEAT & COAT HOOKS
PL10	1	SHOWER CUBICLE, FIBREGLASS - 945 x 945
PL11	5	FLOOR WASTE
PL12	1	WC - AMBULANT c/w GRABRAILS, TOILET ROLL HOLDER & COAT HOOK
PL13	1	WC SUITE, AS1428.1: 2009 COMPLIANT - c/w TOILET ROLL HOLDER, GRAB RAILS & BACKREST
PL14	1	HAND BASIN, COMPLIANT TO AS1428.1: 2009 c/w OVERSIZED MIRROR OVER
PL15	1	SHOWER, DISABLED c/w FOLD-UP SEAT, GRAB RAILS, COAT HOOKS & CURTAIN
PL16	1	FLOOR WASTE, COMMERCIAL
PL17	1	SINK, 2 BOWL, 1 DRAIN - 1200mm LONG w/ FLICKMIXER (HOT & COLD)
PL18	1	AUTOBOILER - 5.0Ltr w/ IN-BUILT TIMER
PL19	1	HOT WATER SYSTEM, MOUNTED EXTERNALLY - 315Ltr, 3x3.6kW
PL20	1	THERMOSTATIC MIXING VALVE
PL21	1	WATER INLET
Specialty Equipment		
SE01	1	REFRIGERATOR, SINGLE DOOR - 350 Ltr (BY OTHERS)

GENERAL NOTES

- NO ALLOWANCE FOR FIRE SEPARATION FROM EXISTING BUILDINGS / STRUCTURES ON SITE
- NO ALLOWANCE FOR FIRE FIGHTING EQUIPMENT
- LANDINGS, STAIRS/RAILINGS, RAMP & TACTILE INDICATORS INSTALL ON SITE BY ATCO

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REV	DESCRIPTION	DATE	BY	CHKD
A	ISSUED FOR REVIEW	05.07.21	VT	

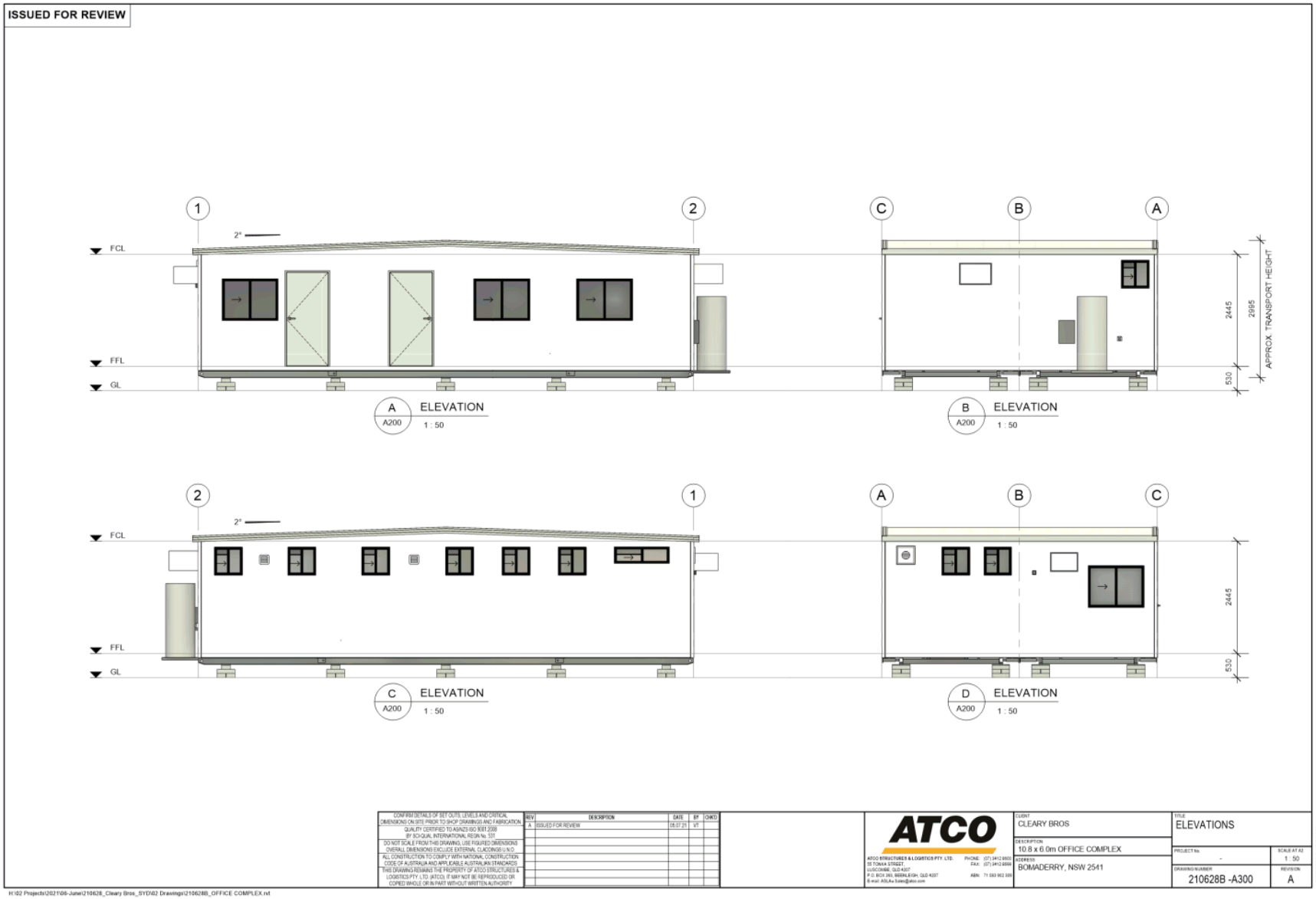
ATCO STRUCTURES & LOGISTICS PTY. LTD. 55 TONKA STREET, LUSCOMBE, QLD 4207. P.O. BOX 393, BEENLEIGH, QLD 4207. E-mail: AISLAu.Sales@atco.com. PHONE: (07) 3412 8600. FAX: (07) 3412 8699. ABN: 71 083 962 399.

CLIENT: CLEARY BROS
DESCRIPTION: 10.8 x 6.0m OFFICE COMPLEX
ADDRESS: BOMADERRY, NSW 2541
TITLE: PLAN
PROJECT No: -
SCALE AT A2: 1 : 50
DRAWING NUMBER: 210628B -A200
REVISION: A

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CL22.129 - Attachment 5



CL22.129 - Attachment 5

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BASEFRAME SCHEDULE	
DESCRIPTION	BACK TO BACK
150 PFC SKID BEAMS	2000
150 PFC SKID BEAMS	2100

FLOORING SCHEDULE	
ITEM	DESCRIPTION
FLOOR - 50mm SHS JOISTS, 18mm CFC, GRADING COMPOUND WITH SLIP RESISTANT VINYL (COVED)	
FLOOR FRAMING	50mm STEEL JOIST (REFER STRUCTURAL SPECIFICATION)
FLOORING	18mm COMPRESSED FIBRE CEMENT (CFC) - UNISEX PWD WC AREA ONLY
FLOORING	GRADING COMPOUND TO CREATE FALL TO WASTE
FLOOR COVERING	2mm VINYL - SLIP RESISTANT - WC / SHR AREAS ONLY - 150mm COVED
FLOOR - 75mm JOISTS, 17mm PLY WITH SLIP RESISTANT VINYL (COVED)	
FLOOR FRAMING	75mm STEEL JOIST (REFER STRUCTURAL SPECIFICATION)
FLOORING	17mm F11 T&G PLYWOOD
FLOOR COVERING	2mm VINYL - SLIP RESISTANT - WC / SHR AREAS ONLY - 150mm COVED
FLOOR - 75mm JOISTS, 17mm PLY WITH VINYL E/E	
FLOOR FRAMING	75mm STEEL JOIST (REFER STRUCTURAL SPECIFICATION)
INSULATION - UNDER FLOOR	R2.1 HEAVY DUTY FOIL FACED BATTS
FLOORING	17mm F11 T&G PLYWOOD
FLOOR COVERING	2mm VINYL

CEILING & ROOF SCHEDULE	
ITEM	DESCRIPTION
CEILING (INTERNAL) - 75mm w/ FC LINING	
CEILING LINING - INTERNAL	6mm FIBRE CEMENT - UNISEX PWD WC AREA ONLY, PAINTED
JOIST	75mm JOIST (REFER STRUCTURAL SPECIFICATION)
CEILING (INTERNAL) - 75mm w/ PLY LINING	
CEILING LINING - INTERNAL	3.6mm COATED PLYWOOD
JOIST	75mm JOIST (REFER STRUCTURAL SPECIFICATION)
ROOF - SUPERDEK CBD (0.42mm) w SISALATION	
INSULATION	R2.3 FOIL BACKED FIBREGLASS INSULATION
SISALATION	YES
ROOF SHEETING	0.42mm BMT SUPERDEK COLORBOND ROOFING

WALL SCHEDULE	
ITEM	DESCRIPTION
WALL - EXT FC / MRIB - E/E	
CLADDING - EXTERNAL	COLORBOND MAXIRIB - HORIZONTAL
WALL LINING - INTERNAL	6mm FIBRE CEMENT - UNISEX PWD WC AREA ONLY, PAINTED
SISALATION	YES
THERMAL BREAK BETWEEN FRAMING & CLADDING	YES
FRAMING	78mm STEEL STUD (REFER STRUCTURAL SPECIFICATION)
INSULATION	R2.7 HP BATTS
WALL - EXT PLY / MRIB - E/E	
CLADDING - EXTERNAL	COLORBOND MAXIRIB - HORIZONTAL
WALL LINING - INTERNAL	3.6mm POLYESTER COATED PLYWOOD
SISALATION	YES
THERMAL BREAK BETWEEN FRAMING & CLADDING	YES
FRAMING	78mm STEEL STUD (REFER STRUCTURAL SPECIFICATION)
INSULATION	R2.7 HP BATTS
WALL - INT DBL PLY / FC - INSULATED	
WALL LINING - INTERNAL	3.6mm POLYESTER COATED PLYWOOD
WALL LINING - INTERNAL	6mm FIBRE CEMENT - UNISEX PWD WC AREA ONLY, PAINTED
FRAMING	78mm STEEL STUD (REFER STRUCTURAL SPECIFICATION)
INSULATION	R2.7 HP BATTS
WALL - INT DBL PLY / PLY - INSULATED	
WALL LINING - INTERNAL	3.6mm POLYESTER COATED PLYWOOD
FRAMING	78mm STEEL STUD (REFER STRUCTURAL SPECIFICATION)
INSULATION	R2.7 HP BATTS
WALL - INT PLY / FC - INSULATED	
WALL LINING - INTERNAL	3.6mm POLYESTER COATED PLYWOOD
WALL LINING - INTERNAL	6mm FIBRE CEMENT - UNISEX PWD WC AREA ONLY, PAINTED
FRAMING	78mm STEEL STUD (REFER STRUCTURAL SPECIFICATION)
INSULATION	R2.7 HP BATTS
WALL - INT PLY / PLY	
WALL LINING - INTERNAL	3.6mm POLYESTER COATED PLYWOOD
FRAMING	78mm STEEL STUD (REFER STRUCTURAL SPECIFICATION)
WALL - INT PLY / PLY - INSULATED	
WALL LINING - INTERNAL	3.6mm POLYESTER COATED PLYWOOD
FRAMING	78mm STEEL STUD (REFER STRUCTURAL SPECIFICATION)
INSULATION	R2.7 HP BATTS

FINISHES SCHEDULE		
ITEM	DESCRIPTION	COLOUR/ TREATMENT
FLOORING	18mm COMPRESSED FIBRE CEMENT (CFC) - UNISEX PWD WC AREA ONLY	
FLOOR COVERING	2mm VINYL	LIGHT GREY
FLOOR COVERING	2mm VINYL - SLIP RESISTANT - WC / SHR AREAS ONLY - 150mm COVED	SILVER
CLADDING - EXTERNAL	COLORBOND MAXIRIB - HORIZONTAL	SURFMIST
WALL LINING - INTERNAL	3.6mm POLYESTER COATED PLYWOOD	GREY EMBOSSED
WALL LINING - INTERNAL	6mm FIBRE CEMENT - UNISEX PWD WC AREA ONLY, PAINTED	WHITE
SKIRTING	PVC	GREY
WALL JOINT - PLY LINING	PVC	GREY
WALL JOINT - FC OR PLASTERBOARD LINING	FLUSH SET, PAINTED	-
CORNICE - FC OR PLASTERBOARD LINING	55mm PLASTERBOARD CORNICE, PAINTED	TO MATCH CEILING COLOUR (GLOSS)
CORNICE	PVC	GREY
CEILING LINING - INTERNAL	3.6mm COATED PLYWOOD	SILVER CLOUD
CEILING LINING - INTERNAL	6mm FIBRE CEMENT - UNISEX PWD WC AREA ONLY, PAINTED	WHITE
ROOF SHEETING	0.42mm BMT SUPERDEK COLORBOND ROOFING	SURFMIST
EXTERNAL DOOR	COLORBOND	WINDSPRAY
EXTERNAL DOOR EXT. JAMB	COLORBOND	WINDSPRAY
INTERNAL DOOR LEAF	TIMBER, PAINTED	GREY
INTERNAL DOOR FRAME	COLORBOND	NIGHT SKY
INTERNAL DOOR FRAME	TIMBER, PAINTED	BLACK (GLOSS)
WINDOW FRAME	POWDERCOATED	BLACK
WINDOW ARCHITRAVE	PVC	GREY
WINDOW ARCHITRAVE	TIMBER, PAINTED	WHITE (GLOSS)
TOILET CUBICLE DOOR	PAINTED	GREY
TOILET CUBICLE PARTITION	3.6mm POLYESTER COATED PLYWOOD	GREY EMBOSSED
TOILET CUBICLE POST	PAINTED	GREY
FASCIA	COLORBOND - WINDSPRAY	
GUTTER	HI-SQUARE, COLORBOND	WINDSPRAY
VERTICAL CORNER ANGLE	COLORBOND - SURFMIST	

TOILET CUBICLE DOORS			
HEIGHT	WIDTH	QTY	COMMENTS
1500	720	1	
1500	820	1	

GENERAL NOTES

- NO ALLOWANCE FOR FIRE SEPARATION FROM EXISTING BUILDINGS / STRUCTURES ON SITE

- NO ALLOWANCE FOR FIRE FIGHTING EQUIPMENT

- LANDINGS, STAIRS/RAILINGS, RAMP & TACTILE INDICATORS INSTALL ON SITE BY ATCO

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A	ISSUED FOR REVIEW	05.07.21	VT	

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ATCO STRUCTURES & LOGISTICS PTY. LTD.
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LUSCOMBE, QLD 4207
P.O. BOX 393, BEENLEIGH, QLD 4207
E-mail: AISLAu.Sales@atco.com
PHONE: (07) 3412 6600
FAX: (07) 3412 6699
ABN: 71 083 962 399

CLIENT: CLEARY BROS
DESCRIPTION: 10.8 x 6.0m OFFICE COMPLEX
ADDRESS: BOMADERRY, NSW 2541

TITLE: SALES SCHEDULES 1 OF 2
PROJECT No: -
SCALE AT A2:
DRAWING NUMBER: 210628B -A500
REVISION: A

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FITTINGS SCHEDULE

ITEM	DESCRIPTION	QTY
Casework		
CW01	BENCHTOP (32mm) c/w SPLASHBACKS (150H), LAMINATED (WHITE) / CARCASS (16mm) END PANELS, CUPBOARDS & 4 DRAWERS/CUTLERY INSERT UNDER, MELAMINE (WHITE) - 600D - 2100L - 900H	1
Electrical Fixtures		
	DRAW WIRE, DATA	1
	ELECTRICAL - SWITCHBOARD & POINT OF ENTRY	1
	GPO, SINGLE POLE - 1x10A	1
	GPO, SINGLE POLE - 1x10A FOR REFRIGERATOR	1
	GPO, SINGLE POLE - 1x10A IPX5	1
	GPO, SINGLE POLE - 1x10A, PWD COMPLIANT	1
	GPO, SINGLE POLE - 1x15A FOR AIR CONDITIONER	2
	GPO, SINGLE POLE - 1x15A FOR BOILING WATER UNIT	1
	GPO, SINGLE POLE - 2x10A	4
	ISOLATION SWITCH FOR HOT WATER SYSTEM	1
Furniture		
FN01	BENCH SEAT, SLATTED TIMBER - 220mm WIDE - 600mm LONG - 450mm HIGH	1
FN02	COAT HOOKS ON TIMBER RAIL - 600L	1
FN03	SHELF FOR HAND BASIN, COMPLIANT TO AS1428.1: 2009	1
Lighting Fixtures		
	LIGHT - 600mm LED BATTEN - 20W	2
	LIGHT - 1200mm LED BATTEN - 40W	4
	LIGHT - 1200mm LED BATTEN - WEATHERPROOF - 40W	5
	LIGHT SWITCH, SINGLE	4
	LIGHT SWITCH, SINGLE, PWD COMPLIANT	1
	LIGHT, EMERGENCY (SPITFIRE) - CEILING MOUNTED. C0 = D40, C90 = D40	1
	LIGHT, EMERGENCY (SPITFIRE) - WEATHERPROOF, CEILING MOUNTED. C0 = D50, C90 = D50	1
	LIGHT, EXIT - WALL MOUNTED. C0 = E2.0, C90 = E2.0, 24m VIEW DISTANCE	2
Plumbing Fixtures		
PL01	WC SUITE c/w TOILET ROLL HOLDER	1
PL02	WC CUBICLE	1
PL03	WC SUITE, AMBULANT DISABLED COMPLIANT c/w TOILET ROLL HOLDER	1
PL04	WC - AMBULANT CUBICLE c/w GRABRAILS, TOILET ROLL HOLDER & COAT HOOK	1
PL05	HAND BASIN, COMPACT, STAINLESS STEEL (PUSH BUTTON, HOT & COLD) w/ MIRROR	3
PL06	URINAL, WALL MOUNTED, STAINLESS STEEL - 1200mm	1
PL07	GRADED FLOOR IN FRONT OF URINAL	1
PL08	HOSE COCK w/ SHROUD	1
PL09	SHOWER ENCLOSURE c/w BENCH SEAT & COAT HOOKS	1
PL10	SHOWER CUBICLE, FIBREGLASS - 945 x 945	1
PL11	FLOOR WASTE	5
PL12	WC - AMBULANT c/w GRABRAILS, TOILET ROLL HOLDER & COAT HOOK	1
PL13	WC SUITE, AS1428.1: 2009 COMPLIANT - c/w TOILET ROLL HOLDER, GRAB RAILS & BACKREST	1
PL14	HAND BASIN, COMPLIANT TO AS1428.1: 2009 c/w OVERSIZED MIRROR OVER	1
PL15	SHOWER, DISABLED c/w FOLD-UP SEAT, GRAB RAILS, COAT HOOKS & CURTAIN	1
PL16	FLOOR WASTE, COMMERCIAL	1
PL17	SINK, 2 BOWL, 1 DRAIN - 1200mm LONG w/ FLICKMIXER (HOT & COLD)	1
PL18	AUTOBOILER - 5.0Ltr w/ IN-BUILT TIMER	1
PL19	HOT WATER SYSTEM, MOUNTED EXTERNALLY - 315Ltr, 3x3.6kW	1
PL20	THERMOSTATIC MIXING VALVE	1
PL21	WATER INLET	1
Specialty Equipment		
SE01	REFRIGERATOR, SINGLE DOOR - 350 Ltr (BY OTHERS)	1

DOOR SCHEDULE

No.	DOOR LEAF	DOOR LEAF GRILLE	DOOR GRILLE SIZE H	DOOR GRILLE SIZE W	SIZE H	SIZE W	DOOR FRAME	DOOR HARDWARE HANDLE TYPE	DOOR HARDWARE LOCKING	DOOR HARDWARE CLOSER	DOOR HARDWARE SEALS	QTY	COMMENTS
D01	SOLID CORE MC	No	[redacted]		2040	920	COLORBOND	LEVER	ENTRANCE	Yes	E/E	1	
D02	SOLID CORE MC	No			2040	920	COLORBOND	LEVER	ENTRANCE	Yes	E/E	1	
D03	SOLID CORE	No			2040	920	COLORBOND	LEVER	PASSAGE w/ INDICATOR BOLT	Yes		1	TIMBER ARCHITRAVE
D04	SOLID CORE	No			2040	820	COLORBOND	LEVER	PASSAGE w/ INDICATOR BOLT	Yes		1	
D05	SOLID CORE	No			2040	820	COLORBOND	LEVER	PASSAGE	Yes		1	

WINDOW SCHEDULE

No.	TYPE	GLAZING TYPE	SIZE H	SIZE W	SILL HEIGHT	MOULDS	SECURITY	QTY	COMMENTS
W01	SLIDING, PV	3mm OBSCURE	600	600	1703	TIMBER	-	3	
W02	SLIDING, PV	3mm OBSCURE	600	600	1703	PVC	-	6	
W03	SLIDING, PV	3mm OBSCURE	350	1200	1960	PVC	-	1	
W04	SLIDING	5mm GREY	900	1208	1000	PVC	-	4	

MECHANICAL SCHEDULE

No.	DESCRIPTION	SILL HEIGHT	QTY	COMMENTS
ME01	EXHAUST FAN, WALL MOUNTED	1960	1	
ME02	EXHAUST FAN, WALL MOUNTED	1960	1	
ME03	EXHAUST FAN, WALL MOUNTED w/ HOUSING	1960	1	
ME04	AIR CONDITIONER, R/C, WALL MOUNTED - 2.2kW	1800	1	
ME05	AIR CONDITIONER, R/C, WALL MOUNTED - 6.0kW	1800	1	

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REV	DESCRIPTION	DATE	BY	CHKD
A	ISSUED FOR REVIEW	05.07.21	VT	

ATCO STRUCTURES & LOGISTICS PTY. LTD.
55 TONKA STREET,
LUSCOMBE, QLD 4207
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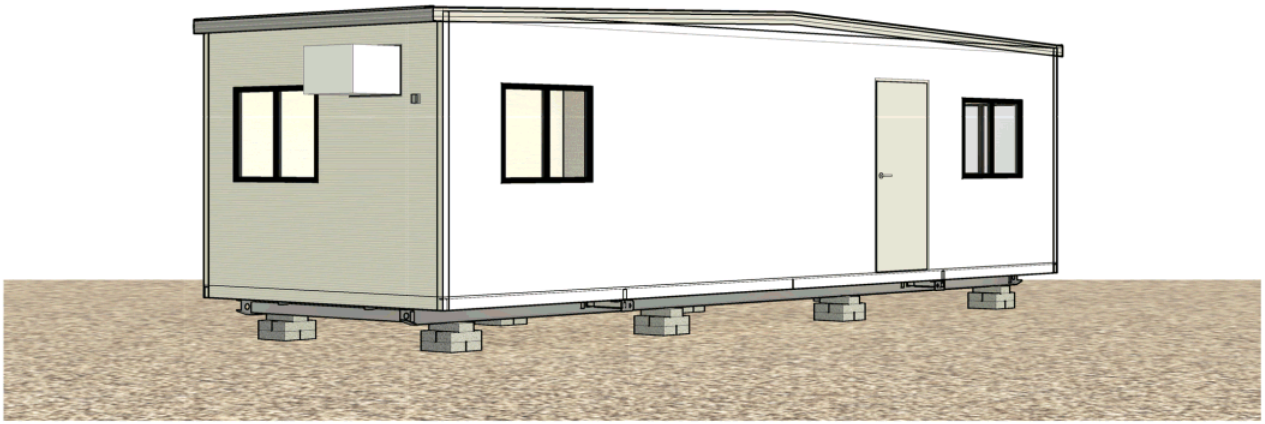
CLIENT: CLEARY BROS
DESCRIPTION: 10.8 x 6.0m OFFICE COMPLEX
ADDRESS: BOMADERRY, NSW 2541

TITLE: SALES SCHEDULES 2 OF 2
PROJECT No: -
SCALE AT A2
DRAWING NUMBER: 210628B -A501
REVISION: A

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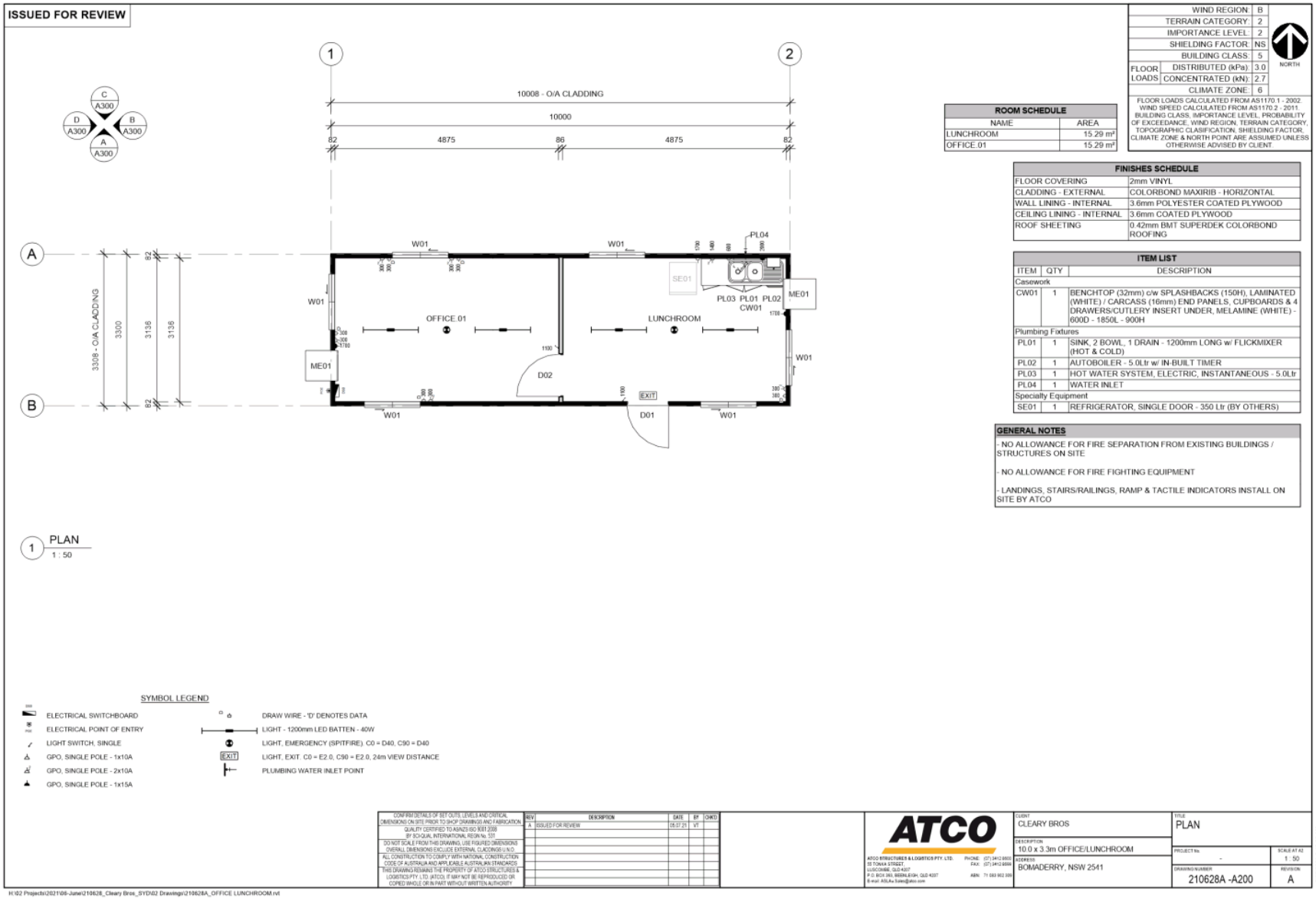
CLEARY BROS
BOMADERRY, NSW 2541

10.0 x 3.3m OFFICE/LUNCHROOM

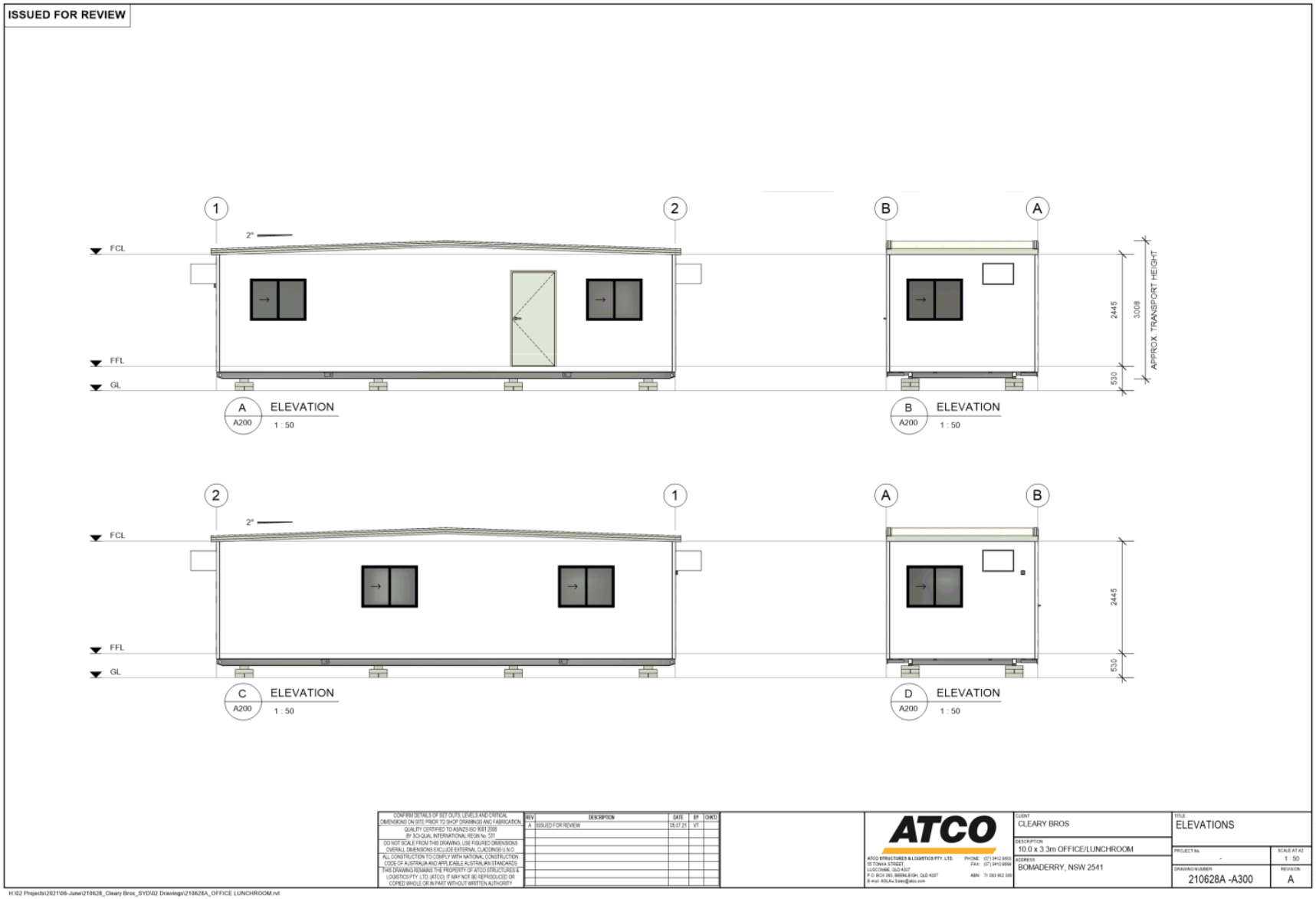
DRAWING LIST		
SHEET NUMBER	SHEET NAME	CURRENT REVISION
A000	TITLE PAGE	A
A200	PLAN	A
A300	ELEVATIONS	A
A500	SALES SCHEDULES	A

ATCO

ATCO STRUCTURES & LOGISTICS PTY. LTD.
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CL22.129 - Attachment 5

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BASEFRAME SCHEDULE

DESCRIPTION	BACK TO BACK
150 PFC SKID BEAMS	2200

FLOORING SCHEDULE

ITEM	DESCRIPTION
FLOOR - 100mm JOISTS, 17mm PLY WITH VINYL E/E	
FLOOR FRAMING	100mm STEEL JOIST (REFER STRUCTURAL SPECIFICATION)
INSULATION - UNDER FLOOR	R2.1 HEAVY DUTY FOIL FACED BATTS
FLOORING	17mm F11 T&G PLYWOOD
FLOOR COVERING	2mm VINYL

WALL SCHEDULE

ITEM	DESCRIPTION
WALL - EXT PLY / MRIB - E/E	
CLADDING - EXTERNAL	COLORBOND MAXIRIB - HORIZONTAL
WALL LINING - INTERNAL	3.6mm POLYESTER COATED PLYWOOD
SISALATION	YES
THERMAL BREAK BETWEEN FRAMING & CLADDING	YES
FRAMING	78mm STEEL STUD (REFER STRUCTURAL SPECIFICATION)
INSULATION	R2.7 HP BATTS
WALL - INT PLY / PLY	
WALL LINING - INTERNAL	3.6mm POLYESTER COATED PLYWOOD
FRAMING	78mm STEEL STUD (REFER STRUCTURAL SPECIFICATION)

CEILING & ROOF SCHEDULE

ITEM	DESCRIPTION
CEILING (INTERNAL) - 75mm w/ PLY LINING	
CEILING LINING - INTERNAL	3.6mm COATED PLYWOOD
JOIST	75mm JOIST (REFER STRUCTURAL SPECIFICATION)
ROOF - SUPERDEK CBD (0.42mm) w SISALATION	
INSULATION	R2.3 FOIL BACKED FIBREGLASS INSULATION
SISALATION	YES
ROOF SHEETING	0.42mm BMT SUPERDEK COLORBOND ROOFING

FINISHES SCHEDULE

ITEM	DESCRIPTION	COLOUR/ TREATMENT
FLOOR COVERING	2mm VINYL	LIGHT GREY
CLADDING - EXTERNAL	COLORBOND MAXIRIB - HORIZONTAL	SURFMIST
WALL LINING - INTERNAL	3.6mm POLYESTER COATED PLYWOOD	GREY EMBOSSED
SKIRTING	PVC	GREY
WALL JOINT - PLY LINING	PVC	GREY
CORNICE	PVC	GREY
CEILING LINING - INTERNAL	3.6mm COATED PLYWOOD	SILVER CLOUD
ROOF SHEETING	0.42mm BMT SUPERDEK COLORBOND ROOFING	SURFMIST
EXTERNAL DOOR LEAF	COLORBOND	WINDSPRAY
EXTERNAL DOOR FRAME	COLORBOND	WINDSPRAY
INTERNAL DOOR LEAF	TIMBER, PAINTED	GREY
INTERNAL DOOR FRAME	COLORBOND	NIGHT SKY
WINDOW FRAME	POWDERCOATED	BLACK
WINDOW ARCHITRAVE	PVC	GREY
FASCIA	COLORBOND - WINDSPRAY	
GUTTER	HI-SQUARE, COLORBOND	WINDSPRAY
VERTICAL CORNER ANGLE	COLORBOND - SURFMIST	

GENERAL NOTES

- NO ALLOWANCE FOR FIRE SEPARATION FROM EXISTING BUILDINGS / STRUCTURES ON SITE

- NO ALLOWANCE FOR FIRE FIGHTING EQUIPMENT

- LANDINGS, STAIRS/RAILINGS, RAMP & TACTILE INDICATORS INSTALL ON SITE BY ATCO

FITTINGS SCHEDULE

ITEM	DESCRIPTION	QTY
Casework		
CW01	BENCHTOP (32mm) c/w SPLASHBACKS (150H), LAMINATED (WHITE) / CARCASS (16mm) END PANELS, CUPBOARDS & 4 DRAWERS/CUTLERY INSERT UNDER, MELAMINE (WHITE) - 600D - 1850L - 900H	1
Electrical Fixtures		
	DRAW WIRE, DATA	5
	ELECTRICAL - SWITCHBOARD & POINT OF ENTRY	1
	GPO, SINGLE POLE - 1x10A FOR INSTANTANEOUS HOT WATER SYSTEM	1
	GPO, SINGLE POLE - 1x10A FOR REFRIGERATOR	1
	GPO, SINGLE POLE - 1x15A FOR AIR CONDITIONER	2
	GPO, SINGLE POLE - 1x15A FOR BOILING WATER UNIT	1
	GPO, SINGLE POLE - 2x10A	6
Lighting Fixtures		
	LIGHT - 1200mm LED BATTEN - 40W	4
	LIGHT SWITCH, SINGLE	2
	LIGHT, EMERGENCY (SPITFIRE) - CEILING MOUNTED. C0 = D40, C90 = D40	2
	LIGHT, EXIT - WALL MOUNTED. C0 = E2.0, C90 = E2.0, 24m VIEW DISTANCE	1
Plumbing Fixtures		
PL01	SINK, 2 BOWL, 1 DRAIN - 1200mm LONG w/ FLICKMIXER (HOT & COLD)	1
PL02	AUTOBOILER - 5.0Ltr w/ IN-BUILT TIMER	1
PL03	HOT WATER SYSTEM, ELECTRIC, INSTANTANEOUS - 5.0Ltr	1
PL04	WATER INLET	1
Specialty Equipment		
SE01	REFRIGERATOR, SINGLE DOOR - 350 Ltr (BY OTHERS)	1

DOOR SCHEDULE

No.	DOOR LEAF	DOOR GRILLE			SIZE		DOOR FRAME	DOOR HARDWARE				QTY	COMMENTS
	DOOR LEAF	GRILLE	H	W	H	W		HANDLE TYPE	LOCKING	CLOSER	SEALS		
D01	SOLID CORE MC	No	[redacted]		2040	920	COLORBOND	LEVER	ENTRANCE	Yes	E/E	1	
D02	SOLID CORE	No			2040	920	COLORBOND	LEVER	PASSAGE	No		1	

WINDOW SCHEDULE

No.	TYPE	GLAZING TYPE	SIZE H	SIZE W	SILL HEIGHT	MOULDS	SECURITY	QTY	COMMENTS
W01	SLIDING	5mm GREY	900	1208	1000	PVC	-	6	

MECHANICAL SCHEDULE

No.	DESCRIPTION	SILL HEIGHT	QTY	COMMENTS
ME01	AIR CONDITIONER, R/C, WALL MOUNTED - 4.0kW	1800	2	

CONFIRM DETAILS OF SET OUTS, LEVELS AND CRITICAL DIMENSIONS ON SITE PRIOR TO SHOP DRAWINGS AND FABRICATION.
QUALITY CERTIFIED TO AS/NZS ISO 9001:2008
BY SCHOUAL INTERNATIONAL REGN No. 531
DO NOT SCALE FROM THIS DRAWING, USE FIGURED DIMENSIONS
OVERALL DIMENSIONS EXCLUDE EXTERNAL CLADDING U.N.O.
ALL CONSTRUCTION TO COMPLY WITH NATIONAL CONSTRUCTION CODE OF AUSTRALIA AND APPLICABLE AUSTRALIAN STANDARDS
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REV	DESCRIPTION	DATE	BY	CHKD
A	ISSUED FOR REVIEW	05.07.21	VT	

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CLIENT: CLEARY BROS
DESCRIPTION: 10.0 x 3.3m OFFICE/LUNCHROOM
ADDRESS: BOMADERRY, NSW 2541
TITLE: SALES SCHEDULES
PROJECT No: -
SCALE AT A2:
DRAWING NUMBER: 210628A -A500
REVISION: A

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