

## Ordinary Meeting

**Meeting Date:** Tuesday, 10 June, 2025

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

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Local Government  
Remuneration Tribunal

# Annual Determination

Report and determination  
under sections 239 and 241 of the  
*Local Government Act 1993*

17 April 2025



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CL25.184 - Attachment 1

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# Executive Summary

The *Local Government Act 1993* (LG Act) requires the Local Government Remuneration Tribunal (the Tribunal) to report to the Minister for Local Government by 1 May each year on its determination of categories of councils and the maximum and minimum amounts of fees to be paid to mayors, councillors, as well as chairpersons and members of county councils.

## Categories

Section 239 of the LG Act requires the Tribunal to determine the categories of councils and mayoral offices at least once every 3 years. A review of categories was last carried out by the Tribunal in 2023.

The Tribunal will next consider the model, the criteria for each group, and the allocation of councils in the 2026 review.

The criteria for each category is published in Appendix 1 of the Determination and remains unchanged from 2023.

It should be noted that **the Tribunal determined that one Council - Mid Coast Council – would be re-categorised from a Regional Centre to Regional Strategic Area from 1 July 2025** as a result of meeting the criteria at Appendix 1.

## Fees

The Tribunal has determined a **3%** per annum increase in the minimum and maximum fees applicable to each category from **1 July 2025**.

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# Section 1 – Introduction

## Background

1. Section 239 of the LG Act requires the Tribunal to determine the categories of councils and mayoral offices at least once every 3 years. The Tribunal last undertook a comprehensive review of the categories and the allocation of councils into each of those categories in 2023.
2. The Tribunal will next conduct a full review of the categories and the allocation of councils as required by the LG Act in the 2026 Annual Review.
3. Section 241 of the LG Act provides that the Tribunal determine the minimum and maximum amount of fees to be paid to mayors and councillors of councils, as well as chairpersons and members of county councils for each of the categories determined under s.239.
4. The Tribunal can also determine that a council be re-categorised into a different category, existing or new, with a higher range of fees.
5. The Tribunal's Annual Determination takes effect from 1 July each year.

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# Section 2 – 2024 Determination

## 2024 Annual Determination

6. In 2024, the Tribunal received 19 written submissions, which included two requests for re-categorisation.
7. The Tribunal found that the current allocation of the councils remained appropriate, with the exceptions outlined below.
8. The Tribunal closely reviewed population and data relating to council operations in the 2024 Annual Determination process to ensure categorisation of councils was consistent with the criteria.
9. For reasons explained at paragraphs 35-39 of the Local Government Annual Determination 2024, Hilltops Council and Muswellbrook Shire Council were reclassified as Regional Rural Councils.
10. The Tribunal determined that fees would increase by 3.75% for the minimum and maximum fees applicable to each category from 1 July 2024.

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## Section 3 – 2025 Review

### 2025 Annual Review process

11. The Tribunal's 2025 Annual Review commenced in October 2024, when it wrote to all councils inviting submissions regarding fees. The Tribunal noted that it is only required to review the categories every three years and will next consider the model, the criteria applicable to each category and the allocation of councils in the 2026 Annual Review.
12. The invitation noted that it is expected that submissions are endorsed by respective councils.
13. The Tribunal also wrote to the President of Local Government NSW (LGNSW) inviting a submission.
14. The Tribunal received 16 written submissions from individual councils and one submission from LGNSW.
15. The Tribunal acknowledges and thanks all parties for their submissions.

### Submissions Received – Requests for Re-categorisation

16. Seven of the 16 council submissions received requested re-categorisation or changes to current category criteria.
17. LGNSW also advocated for changes to factors affecting categorisation of councils.
18. Berrigan, City of Parramatta, Gilgandra Shire, Lake Macquarie City, City of Ryde, City of Sydney and Blacktown put forward cases for re-

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categorisation, or changes to category criteria, and the creation of new categories, for the Tribunal's consideration.

### Requests for Re-classification

19. **Berrigan Shire Council** requested re-categorisation from Rural to Rural Large, despite acknowledging that they do not meet all the benchmarks in the criteria for this category.
20. The criteria for Rural Large is outlined at Appendix 1 of the 2024 Annual Determination, page 38 which states:

*“Councils categorised as Rural Large will have a residential population greater than 10,000, and a councillor to resident ratio of at least 1 to 1200.*

*Other features may include:*

- *one or two significant townships combined with a considerable dispersed population spread over a large area and a long distance from a major regional centre*
- *a limited range of services, facilities and employment opportunities compared to Regional Rural councils*
- *local economies based on agricultural/resource industries.”*

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21. Council's submission states they are currently at 86% of the population target threshold and 90% of the representation ratio but are meeting other criteria benchmarks.
22. Given that Council does not currently satisfy the population and ratio thresholds specified for Rural Large, the Tribunal is not persuaded to include Berrigan Shire Council in Rural Large at this time.
23. **City of Parramatta Council** requested that it be re-categorised to the highest category of general purpose councils, Principal CBD, in order to recognise its size, rate of growth, economic and global influence, operational budget, and strategic and geographical importance.
24. Council put forward a similar case for re-categorisation as part of the 2024 annual determination process, which was unsuccessful. In addition to the reasons put forth in paragraph 20 of the 2024 annual determination, the Council has included the following reasons for its re-categorisation request:
  - A local economy that has more than 30% of Australia's top 500 companies with offices in Parramatta, and estimated public and private investments in the next 5 years of \$20 billion
  - It is estimated by 2050 that Parramatta will be a city with a population of more than 500,000 people
  - The expected accessibility of the City, being a 'gateway to Sydney' with more people expected to live west of Parramatta than to its

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east by 2050, and being accessible by 2.3 million people within 45 minutes

- Key infrastructure in Parramatta, including but not limited to the Parramatta PHIVE, Commbank Stadium, the new Parramatta Light Rail, the Westmead Institute for Medical Research, Sydney Olympic Park and construction of Powerhouse Parramatta
- Expansion of education and innovation precincts, with Parramatta's education and training sector being valued at \$1.6 billion, and
- Significant operating and capital works budget of \$607 million, including multiple town centres, and sports and cultural hubs.

25. The Council also argues that a re-classification would reflect the additional skills and abilities that representing a growth council requires.

26. The City of Parramatta notes that the number of electors that each councillor represents is higher than the City of Sydney's. The submission states that the elected councillors represent more than 125,000 enrolled electors, compared to City of Sydney's elected councillors representing 45,891 enrolled electors.

27. Parramatta was classified as a Major CBD, following the 2017 Annual Determination. The Tribunal had found that Parramatta Council was significantly different from other large metropolitan councils on the basis of its secondary CBD status, as recognised by the State Government, at paragraph 21 of the 2017 annual determination. As a result, the

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description of Major CBD has remained specific to the City of Parramatta. Similarly, the Principal CBD criteria remained specific to the City of Sydney, since its inception in 2017.

28. Given the specific nature of both Major CBD and Principal CBD categories, the City of Parramatta's request for re-categorisation will require a change in the categories' criteria. As stated above, the Tribunal is not considering the criteria applicable to each category in the 2025 Annual Review process. The Tribunal will next consider the categories and criteria as part of the 2026 Annual Review process.
29. **Gilgandra Shire Council's** submission requests that it be re-categorised from Rural to Rural Large. Gilgandra Shire Council's case to be included in Rural Large category is based on two main points. The first point being Council offers a diverse range of services, and secondly these services result in higher levels of accountability and responsibilities for councillors.
30. Council submits it offers a diverse range of services over and above traditional local government services, which includes being the primary service provider for the community in the aged care and disability services. These include:
  - Age care and disabilities services
  - Meals on wheels and community transport
  - Home care package delivery
  - Operation of a villa retirement village
  - Indigenous specific residential age care facility

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- Residential aged care nursing home
  - Supported employment service for adults with intellectual disabilities
  - Special disability accommodation properties for adults with intellectual disabilities
  - Supported Living Services through the National Disability Insurance Scheme, and
  - Day activities centre to support clients with unique challenges.
31. The submission notes these services not only entail a higher level of accountability and responsibility from Council (due to changes in the regulatory environment) but also generate larger revenue and employment opportunities that is comparable to a Rural Large category.
32. Council further submits that when assessing categories to place councils in, the Tribunal should also give due consideration to other factors than those outlined in the s.240 of the LG Act, such as services provided; financial responsibility; scale of operation; and number of employees.
33. While the Tribunal notes Council's request, it does not satisfy the population and ratio thresholds specified for the category of Rural Large. Further, the changes to criteria suggested would require a change in categories, which is not being considered this year. For these reasons, the Tribunal is not persuaded to include Gilgandra Shire Council in Rural Large at this time.

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34. Similar to last year, **Lake Macquarie City Council** requested that it be re-categorised from Regional Strategic Area to Major Strategic Area. Council also advocated for the population threshold of Regional Strategic Area be adjusted from its current threshold of 300,000 down to 200,000.
35. Council argues that its population, scale and output of council operations is significantly greater than other councils categorised as Regional Strategic Area, and more aligns with the Central Coast, as the council classified as a 'Major Strategic Area'.
36. Lake Macquarie City Council's request for re-categorisation is based on the following:
  - Lake Macquarie being the second largest non-metropolitan council by population in NSW, with a larger population than Newcastle and Wollongong, which are classified as Major Regional Cities.
  - A population density that is 'significantly larger' than other Regional Strategic Areas and supported by 5 precincts in the Lake Macquarie LGA that have been identified for inclusion in the NSW Government Transport Oriented Development Program, which aims to encourage housing development near transport hubs, and are argued to lead to population growth near the hubs; and
  - A Gross Regional Product that is comparable to those of Major Strategic Areas and Major Regional City, rather than other Regional Strategic Areas.

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37. Council provided population data to support its case for the population threshold of Regional Strategic Area to be adjusted from its current threshold of 300,000 down to 200,000. The data was also provided as justification for its claim of a 'significant disparity within the Regional Strategic Area category' between Lake Macquarie and other councils:
- Lake Macquarie: 219,249 residents, 24,769 non-residents
  - Shoalhaven: 108,895 residents, 4,632 non-residents
  - Tweed: 98,967 residents, 7,755 non-residents
  - Maitland: 95,958 residents, 15,305 non-residents
38. As stated in paragraph 28 of the 2024 Annual Determination, all categories were determined by extensive evidence examined and considered by the Tribunal. It was determined that the population threshold for the Major Strategic Area was appropriate. As a result, the Tribunal is currently not persuaded to modify the criteria for the Major Strategic Area.
39. **City of Ryde Council** provided a submission requesting it be re-classified from its existing category of Metropolitan Large to Metropolitan Major. Council's case to be re-classified includes:
- The LGA having an area of 40.651 km<sup>2</sup>, 16 suburbs, 3 wards, a population of 135,000 residents and over 54,000 rateable properties within its boundaries
  - A local economy that consists of 92,000 local jobs, 14,300 businesses and a gross regional product of \$19.2 billion

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- An innovation district within its west ward that has a long history of investment from all tiers of government, ultimately contributing \$13.6 billion annually to the NSW economy
  - Future growth opportunities linked to the Governments Transport Oriented Development Accelerated Precincts, which Macquarie Park is identified as, that will bring increased housing, amenities and job retention, and
  - Plans to build 2 new schools, 11,600 new homes, the redevelopment of Ryde Hospital and bringing together a range of organisations to create a fully integrated academic health sciences centre at Macquarie University Hospital.
40. As stated in Council's own submission, currently it does not satisfy the population threshold criteria required for Metropolitan Major. Accordingly, the Tribunal is not persuaded at this time to include City of Ryde in the category of Metropolitan Major.
41. The Tribunal also notes **Wollondilly Council's** submission confirming its adopted position to remain classified as a Regional Centre.
42. The Tribunal acknowledges each of the Council's requests for re-categorisation. Whilst the Tribunal has not been persuaded at this time to grant these requests, any council that provides a submission in the 2026 annual review, which includes a request for re-categorisation, will of course be considered.

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### Requests for New Classifications

43. The **City of Sydney** Council requested the Tribunal change the classification name from Principal CBD to the previously used term “Principal City”.
44. The category “Principal City” was last used in the 2016 Determination. It was changed to Principal CBD in 2017 as a result of a review of categories. This review was undertaken in the context of Local Government reform, and council amalgamations, reducing the number of councils from 152 to 128.
45. Council’s submission outlines the history of boundary changes, including its expansion of the City of Sydney as a consideration in reverting to the 2016 category name.
46. Sydney City Council contends that reverting to the category term “Principal City” recognises that the council’s significance and contribution extends beyond the Sydney CBD.
47. The Tribunal notes the City of Sydney’s request would constitute modification to the category of “Principal CBD”. As stated above, the category “Principal CBD” is specific to City of Sydney and the Tribunal is not considering changes to the criteria applicable to each category in the 2025 Annual Review.
48. **Blacktown Council** requested re-categorisation from its current category of Metropolitan Major to a newly created category of “Metropolitan Major – High Growth”.

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49. Council's case to be re-categorised to a newly created category is based on the following:
- Council asserts that it is the largest and one of the fastest growing local government areas in NSW, and
  - It undertakes several transformational projects, including projects funded from NSW Government and Western Sydney Infrastructure Grants.
50. Further, Council submits that the category of Metropolitan Major fails to account for the transformational nature of projects undertaken by Council, including the economic and strategic impacts for NSW, and impact on its local government area (LGA), which results in attracting new residents and people to the LGA.
51. The Tribunal notes that a new category, Metropolitan Major, was introduced in 2023, to address generally the issues raised in the current submission.
52. As explained in the Tribunal's letter inviting submissions, the Tribunal is required to review the categories at least once every three years. The Tribunal will next consider the model, the criteria applicable to each category and the allocation of councils in the 2026 Annual Review process.
53. As such, the Tribunal is not persuaded at this time to create a new category.

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54. **LGNSW** submitted that the Tribunal should, as part of its determination for the categorisation of councils, consider the demographic and economic shifts impacting the complexity of council operations, and the communities that councils serve.
55. The LGNSW submission provides examples of recent demographic shifts the Tribunal should consider, as factors affecting categorisation of councils, including:
- The NSW Government's Transport Oriented Development Program, where the resulting accelerated growth drastically increases demands on the strategic and infrastructure planning functions of councils affected
  - The Renewable Energy Zones, which drive tens of billions of dollars of investment in rural and regional LGAs, and creates additional impacts in said councils, including population growth and growing infrastructure for transport and utilities, or
  - The Renewable Energy Planning Framework, which includes benefit sharing guidelines for councils to ensure their communities share the benefits of the project and require additional responsibility and management from affected councils.
56. Section 240 of the LG Act notes that the Tribunal is to determine categories for councils and mayoral offices according to prescribed matters. One such matter is the 'nature and extent of the development of areas', which could reasonably be accepted to include the items listed by LGNSW.

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57. However, this matter would also require a change to the categories' criteria, in order to identify areas of high development. As stated above, the Tribunal is not considering any modifications to the categories as part of the 2025 Annual Review process. However, the Tribunal will consider proposed modifications to categories as part of the 2026 Annual Review process.

### Reclassification due to population thresholds

58. As was the case last year, the Tribunal reviewed applicable data as part of this review, to determine if any councils have met relevant benchmarks, therefore requiring a move in category.
59. The Tribunal identified that **Mid-Coast Council** met the population benchmark to be considered a Regional Strategic Area. As a result, Mid-Coast Council will be classified as a Regional Strategic Area in the 2025 Annual Determination.
60. The Tribunal will continue to monitor and review applicable data to ensure categorisation of councils remain consistent with the current criteria.

### Submissions Received – Remuneration Structure

61. The current state of the remuneration structure continues to be a key issue of concern raised in submissions. A significant number of submissions received provide commentary on the structure, including examples of how it could be improved. These are addressed in the points below.

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### **Fees for Deputy Mayors**

62. The issue of fees for deputy mayors was once again raised.
63. Three submissions asserted that the position of deputy mayor should attract its own distinct independent fee, beyond the fee provided for in s.249(5) of the LG Act.
64. The Tribunal dealt with this issue in its 2024 Annual Determination at paragraph 53-55. It was noted that the Tribunal lacked the powers to implement changes to the fee structure that would include a distinct independent fee for the position of deputy mayor.
65. There has been no change to the legislation to permit such a change. Therefore, the Tribunal is currently unable to introduce a remuneration structure that would include a distinct independent fee for the position of deputy mayor.

### **Changes to the role of Mayors and Councillors**

66. It was suggested that the current remuneration structure is not fit for purpose as it no longer recognises the roles and responsibilities required of councillors and mayors.
67. Multiple submissions, including the LGNSW's submission, highlighted how the role of the councillor and mayor have changed over the past 9 years. Submissions identified a variety of factors that have impacted the roles of councillors and mayors, including the impact of NSW Government

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priorities and investments, and amendments to the LG Act (e.g. via the *Local Government Amendment (Governance and Planning) Bill 2016*).

68. It has been suggested that these changes have impacted the volume, nature and workload of the role, whilst remuneration has not been increased accordingly.
69. The recent submissions to the Tribunal, along with its own observations, highlight that the role of mayor in civic leadership, advocacy and representation has become more complex and demanding – an issue that must be addressed.
70. Community expectations are increasing on the mayor from both the council and the community to be seen and immediately present during times of natural disasters, major events or crisis.
71. Additionally, the disparity in the council categorisation between the annual fees for councillors and the mayor needs to be more consistent, so as not to be seen to be devaluing the role of mayor in some circumstances.
72. The Tribunal is not suggesting a fundamental review of the role of mayors and notes that people that enter local government representation do so from a sense of civic service, rather than remuneration.
73. However, the Tribunal has a statutory function, and not unlike the governing body of a council, mayors and councillors, its role, responsibility and functions are clear. The same can be said in relation to the clear functions of the general manager of a council.

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74. As previously stated, many of the matters raised in both council and LGNSW submissions are beyond the remit of the Tribunal, and to a degree, were addressed in the 2023 determination.

### **Regional and Rural mayors and councillors**

75. Several submissions, including LGNSW, also raised concerns regarding the inadequacy of the remuneration structure, for rural and regional councils.
76. Specifically, that the remuneration provided to regional and rural councillors does not reflect the significant stressors that regional and rural councils in NSW face and that consideration should be given to the additional demands placed on mayors and councillors in rural and regional councils.
77. One submission suggested that fees for rural councils should be commensurate with fees for regional and metropolitan councils – arguing that mayors and councillors, regardless of their location, are required to possess a wide range of skills and knowledge.

### **Fees set by councils**

78. Submissions received by the Tribunal regarding the current state of the remuneration framework raised concerns about councils setting their own fees, asserting that it could potentially be seen as a conflict of interest.

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79. It was suggested that a possible solution would be for the Tribunal to determine a fixed annual fee for mayors and councillors.
80. Whilst the Tribunal acknowledges and understands the concern raised, as explained in the 2024 Annual Determination at paragraph 68-69, such a change to the framework, to determine a fixed annual fee for mayors and councillors, would require legislative change.
81. As there has been no changes to the legislative scheme, it is not within the Tribunal's remit to determine a fixed annual fee for mayor and councillors' remuneration.

#### **Request for a Review of the Remuneration Structure**

82. For the reasons outlined above, several submissions suggested the Tribunal undertake a comprehensive review of the framework.
83. One submission went so far as to request the Tribunal recommend to the Minister for Local Government that a comprehensive review of the framework and LG Act be undertaken. Others suggested the Tribunal actively seek a referral from the Minister to undertake such a review.
84. The LG Act does not specify that the Tribunal is able to carry out a comprehensive review of the framework. As such, it is not within the Tribunal's remit to undertake such a review, unless such a function is conferred or imposed on it by the Minister, as per s.238(2) of the LG Act.
85. Should such a function be conferred on the Tribunal, it will of course carry out its functions and undertake a review.

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# Section 4 – 2025 Fees

## Submissions – 2025 Fees

86. LGNSW’s submission to the Tribunal advocated for an increase in the minimum and maximum fees payable to mayors and councillors of at least 4%, to:

- Assist in reversing the fee erosion which occurred under the previous NSW Public Sector Wages Policy
- Mitigate economic pressures and the rising cost of living
- Ensure councillors and mayors receive fair and reasonable remuneration for the work they perform, and
- Address historic undervaluation of the work performed by elected representative in local government in NSW.

87. Economic data provided to the Tribunal by LGNSW to support their claim for an increase of at least 4% included:

- An annual Consumer Price Index (CPI) increase of 3.8% for the 12 months to June 2024
- The Fair Work Commission (FWC) awarding a 3.75% increase to the minimum pay for modern awards, and increasing the national minimum wage to \$915.90, as well as the FWC’s comments regarding the growing cost of living and deterioration of disposable income, and
- The rate peg for the 2025-26 financial year being between 3.6%-5.1%.

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88. LGNSW also noted that the annual wage review, state wage case, award increases and the Independent Pricing and Regulatory Tribunal all had a clear theme on the increasing financial pressures on councils and its officers, which warrant increases in revenue and wages.
89. During its meeting with the Tribunal and assessors, LGNSW asserted that the current fees paid to mayors and councillors do not reflect their responsibilities. Nor do the current level of fees contribute to attracting a diverse range of candidates to stand for local government elections.
90. LGNSW also raised the issue of superannuation. It was contended that the payment of superannuation be mandated. Current arrangements require that a council pass a resolution at an open meeting to make such payments.
91. Four submissions received from individual councils directly addressed the issue of quantum increase to the minimum and maximum fees. These submissions sought an increase ranging from 3% to 10%.
92. The City of Sydney Council notes in its submission that it was not seeking an increase in fees payable for the Lord Mayor of Sydney.
93. The Tribunal is empowered under the s.241 of the LG Act to set minimum and maximum fees payable. It is then up to council to fix payment of annual fees for the mayor as outlined in s.249 of the LG Act.
94. It was suggested that the current fees, particularly in rural and remote communities, do not recognise or value the role of mayor and councillor,

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with fees set at a level that is commensurate to unqualified or inexperienced personnel.

95. The Tribunal was provided with a number of examples to demonstrate the financial impact, by way of lost wages, under the current fee rates.
96. Furthermore, 4 submissions compared the remuneration for NSW mayors and councillors with mayors and councillors in Victoria and Queensland as well as state Members of Parliament. The figures were provided to the Tribunal to demonstrate that the remuneration for NSW mayors and councillors is lower than all comparison examples provided.
97. It was also asserted that the low level of fees set for mayors and councillors devalues the importance and responsibility of the roles, diminishing the work undertaken on behalf of the community and is a significant barrier as to why people do not run for council.  
  
*“If councillors were paid a full-time wage I would have run again. Nothing surer.”*
98. Another submission suggested that fees need to reflect the part-time or full-time nature of the work carried out by mayors and councillors. The setting of fees at such a rate would appropriately recognise and value this important work, whilst also mitigating any financial loss incurred by those members of the community elected to carry out these critical functions.
99. Nine submissions supported an increase, whilst not making a direct comment on the quantum. Other submissions advocated for remuneration to be set at a level that:

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- Is in line with responsibilities and challenges councillors' face
- Reflects the public profile and exposure of the role
- Reflects the growing complexity of the role
- Reduces the gap between minimum and maximum fees for each category
- Accounts for the rising cost of living challenges
- Reflects the commitment, accountability, workload, skills and knowledge required to perform the role of councillor and mayor regardless of location
- Establishes and maintains parity with mayors and councillors in other States and Territories
- Is 'determined outside of council so as councillors are not determining their own payments', and
- Overcomes economic barriers that prevent diverse members of the community from participating as a mayor or councillor.

## Fee Increase

100. The Tribunal considered a range of factors in determining the amount to increase minimum and maximum fees payable to councillors and mayors. This included a wide range of economic data such as:

- Consumer Price Index for the 12 months to December each year
- Wage Price Index for the 12 months to December each year

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- Full-time average weekly ordinary time earnings for the 12 months to November each year
- NSW Public Sector Salaries increases
- Local Government State Award increases
- IPART Rate Peg Base Cost Change
- Public Service Senior Executive remuneration determinations, by the Statutory and Other Offices Remuneration Tribunal, and
- State Members of Parliament Basic Salary remuneration determinations by the Parliamentary Remuneration Tribunal.

101. On this occasion the Tribunal has determined that a **3%** increase will apply to the minimum and maximum fees applicable to existing categories.

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## Conclusion

102. The Tribunal's determination has been made with the assistance of the Assessors, Ms Kylie Yates and Mr Brett Whitworth.
103. Determination 1 sets out the allocation of councils into each of the categories as per s.239 of the LG Act.
104. Determination 2 sets out the minimum and maximum fees paid to councillors and mayors and chairpersons of county concills as per s.241 of the LG Act.
105. The Tribunal acknowledges and thanks the Remuneration Tribunal secretariat for its excellent research and support to facilitate the successful completion the 2025 Annual Determination.



Viv May PSM

**Local Government Remuneration Tribunal**

Dated 17 April 2025

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# Section 5 – Determinations

Determination No. 1 – Allocation of councils into each of the categories as per section 239 of the LG Act effective 1 July 2025

## General Purpose Councils – Metropolitan

### Principal CBD (1)

- Sydney

### Major CBD (1)

- Parramatta

### Metropolitan Major (2)

- Blacktown
- Canterbury-Bankstown

### Metropolitan Large (10)

- Bayside
- Cumberland
- Fairfield
- Inner West
- Liverpool
- Northern Beaches
- Penrith
- Ryde
- Sutherland

- The Hills

### Metropolitan Medium (8)

- Campbelltown
- Camden
- Georges River
- Hornsby
- Ku-ring-gai
- North Sydney
- Randwick
- Willoughby

### Metropolitan Small (8)

- Burwood
- Canada Bay
- Hunters Hill
- Lane Cove
- Mosman
- Strathfield
- Waverley
- Woollahra

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## General Purpose Councils - Non-Metropolitan

### Major Regional City (2)

- Newcastle
- Wollongong

### Major Strategic Area (1)

- Central Coast

### Regional Centre (22)

- Albury
- Armidale
- Ballina
- Bathurst
- Blue Mountains
- Byron
- Cessnock
- Clarence Valley
- Coffs Harbour
- Dubbo
- Eurobodella

### Regional Strategic Area(5)

- Lake Macquarie
- Maitland
- Mid-Coast
- Shoalhaven
- Tweed
  
- Hawkesbury
- Lismore
- Orange
- Port Macquarie-Hastings
- Port Stephens
- Queanbeyan-Palerang
- Shellharbour
- Tamworth
- Wagga Wagga
- Wingecarribee
- Wollondilly

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**Regional Rural (14)**

- Bega
- Broken Hill
- Goulburn Mulwaree
- Griffith
- Hilltops
- Kempsey
- Kiama
- Lithgow
- Mid-Western
- Muswellbrook
- Nambucca
- Richmond Valleys
- Singleton
- Snowy Monaro

**Rural Large (16)**

- Bellingen
- Cabonne
- Cootamundra-Gundagai
- Cowra
- Federation
- Greater Hume
- Gunnedah
- Inverell
- Leeton
- Moree Plains
- Murray River
- Narrabri
- Parkes
- Snowy Valleys
- Upper Hunter
- Yass

**Rural (38)**

- Balranald
- Berrigan
- Bland
- Blayney
- Bogan
- Bourke
- Brewarrina
- Carrathool
- Central Darling
- Cobar
- Coolamon
- Coonamble
- Dungog
- Edward River

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- Forbes
- Gilgandra
- Glen Innes Severn
- Gwydir
- Hay
- Junee
- Kyogle
- Lachlan
- Liverpool Plains
- Lockhart
- Murrumbidgee
- Narrandera
- Narromine
- Oberon
- Temora
- Tenterfield
- Upper Lachlan
- Uralla
- Walcha
- Walgett
- Warren
- Warrumbungle
- Weddin
- Wentworth

### County Councils

#### Water (4)

- Central Tablelands
- Goldenfields Water
- Riverina Water
- Rous

#### Other (6)

- Castlereagh-Macquarie
- Central Murray
- Hawkesbury River
- New England Tablelands
- Upper Hunter
- Upper Macquarie

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## Determination No. 2 - Fees for Councillors and Mayors as per section 241 of the LG Act effective from 1 July 2025

The annual fees to be paid in each of the categories to Councillors, Mayors, Members, and Chairpersons of County Councils effective on and from 1 July 2024 as per section 241 of the *Local Government Act 1993* are determined as follows:

**Table 4: Fees for General Purpose and County Councils**

### General Purpose Councils – Metropolitan

#### Councillor/Member Annual Fee (\$) effective 1 July 2025

Category	Minimum	Maximum
Principal CBD	31,640	46,420
Major CBD	21,120	39,100
Metropolitan Major	21,120	36,970
Metropolitan Large	21,120	34,820
Metropolitan Medium	15,830	29,550
Metropolitan Small	10,530	23,220

#### Mayor/Chairperson Additional Fee\* (\$) effective 1 July 2025

Category	Minimum	Maximum
Principal CBD	193,650	254,810
Major CBD	44,840	126,320
Metropolitan Major	44,840	114,300
Metropolitan Large	44,840	101,470

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Metropolitan Medium	33,630	78,480
Metropolitan Small	22,420	50,650

### General Purpose Councils - Non-Metropolitan

#### Councillor/Member Annual Fee (\$) effective 1 July 2025

Category	Minimum	Maximum
Major Regional City	21,120	36,690
Major Strategic Area	21,120	36,690
Regional Strategic Area	21,120	34,820
Regional Centre	15,830	27,860
Regional Rural	10,530	23,220
Rural Large	10,530	18,890
Rural	10,530	13,930

#### Mayor/Chairperson Additional Fee\* (\$) effective 1 July 2025

Category	Minimum	Maximum
Major Regional City	44,840	114,300
Major Strategic Area	44,840	114,300
Regional Strategic Area	44,840	101,470
Regional Centre	32,940	68,800
Regional Rural	22,420	50,680
Rural Large	16,820	40,530
Rural	11,210	30,390

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### County Councils

#### Councillor/Member Annual Fee (\$) effective 1 July 2025

Category	Minimum	Maximum
Water	2,090	11,620
Other	2,090	6,930

#### Mayor/Chairperson Additional Fee\* (\$) effective 1 July 2025

Category	Minimum	Maximum
Water	4,490	19,080
Other	4,490	12,670

\*This fee must be paid in addition to the fee paid to the Mayor/Chairperson as a Councillor/Member (s.249(2)).



Viv May PSM

**Local Government Remuneration Tribunal**

Dated: 17 April 2025

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# Appendices

## Appendix 1 Criteria that apply to categories

### Principal CBD

The Council of the City of Sydney (the City of Sydney) is the principal central business district (CBD) in the Sydney Metropolitan area. The City of Sydney is home to Sydney's primary commercial office district with the largest concentration of businesses and retailers in Sydney. The City of Sydney's sphere of economic influence is the greatest of any local government area in Australia.

The CBD is also host to some of the city's most significant transport infrastructure including Central Station, Circular Quay and International Overseas Passenger Terminal. Sydney is recognised globally with its iconic harbour setting and the City of Sydney is host to the city's historical, cultural and ceremonial precincts. The City of Sydney attracts significant visitor numbers and is home to 60 per cent of metropolitan Sydney's hotels.

The role of Lord Mayor of the City of Sydney has significant prominence reflecting the CBD's importance as home to the country's major business centres and public facilities of state and national importance. The Lord Mayor's responsibilities in developing and maintaining relationships with stakeholders, including other councils, state and federal governments, community and business groups, and the media are considered greater than other mayoral roles in NSW.

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## Major CBD

The Council of the City of Parramatta (City of Parramatta) is the economic capital of Greater Western Sydney and the geographic and demographic centre of Greater Sydney. Parramatta is the second largest economy in NSW (after Sydney CBD) and the sixth largest in Australia.

As a secondary CBD to metropolitan Sydney the Parramatta local government area is a major provider of business and government services with a significant number of organisations relocating their head offices to Parramatta. Public administration and safety have been a growth sector for Parramatta as the State Government has promoted a policy of moving government agencies westward to support economic development beyond the Sydney CBD.

The City of Parramatta provides a broad range of regional services across the Sydney Metropolitan area with a significant transport hub and hospital and educational facilities. The City of Parramatta is home to the Westmead Health and Medical Research precinct which represents the largest concentration of hospital and health services in Australia, servicing Western Sydney and providing other specialised services for the rest of NSW.

The City of Parramatta is also home to a significant number of cultural and sporting facilities (including Sydney Olympic Park) which draw significant domestic and international visitors to the region.

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### **Metropolitan Major**

Councils categorised Metropolitan Major will typically have a minimum residential population of 400,000.

Councils may also be categorised Metropolitan Major if their residential population combined with their non-resident working population exceeds 400,000. To satisfy this criteria the non-resident working population must exceed 50,000.

Other features may include:

- total operating revenue exceeding \$300M per annum
- the provision of significant regional services to greater Sydney including, but not limited to, major education, health, retail, sports, other recreation and cultural facilities
- significant industrial, commercial and residential centres and development corridors
- high population growth.

Councils categorised as Metropolitan Major will have a sphere of economic influence and provide regional services considered to be greater than those of other metropolitan councils.

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### **Metropolitan Large**

Councils categorised as Metropolitan Large will typically have a minimum residential population of 200,000.

Councils may also be categorised as Metropolitan Large if their residential population combined with their non-resident working population exceeds 200,000. To satisfy this criteria the non-resident working population must exceed 50,000.

Other features may include:

- total operating revenue exceeding \$200M per annum
- the provision of significant regional services to greater Sydney including, but not limited to, major education, health, retail, sports, other recreation and cultural facilities
- significant industrial, commercial and residential centres and development corridors
- high population growth.

Councils categorised as Metropolitan Large will have a sphere of economic influence and provide regional services considered to be greater than those of other metropolitan councils.

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### **Metropolitan Medium**

Councils categorised as Metropolitan Medium will typically have a minimum residential population of 100,000.

Councils may also be categorised as Metropolitan Medium if their residential population combined with their non-resident working population exceeds 100,000. To satisfy this criteria the non-resident working population must exceed 50,000.

Other features may include:

- total operating revenue exceeding \$100M per annum
- services to greater Sydney including, but not limited to, major education, health, retail, sports, other recreation and cultural facilities
- industrial, commercial and residential centres and development corridors
- high population growth.

The sphere of economic influence, the scale of council operations and the extent of regional servicing would be below that of Metropolitan Large councils.

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### **Metropolitan Small**

Councils categorised as Metropolitan Small will typically have a residential population less than 100,000.

Other features which distinguish them from other metropolitan councils include:

- total operating revenue less than \$150M per annum.

While these councils may include some of the facilities and characteristics of both Metropolitan Large and Metropolitan Medium councils the overall sphere of economic influence, the scale of council operations and the extent of regional servicing would be below that of Metropolitan Medium councils.

### **Major Regional City**

Newcastle City Council and Wollongong City Councils are categorised as Major Regional City. These councils:

- are metropolitan in nature with major residential, commercial and industrial areas
- typically host government departments, major tertiary education and health facilities and incorporate high density commercial and residential development

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- provide a full range of higher order services and activities along with arts, culture, recreation, sporting and entertainment facilities to service the wider community and broader region
- have significant transport and freight infrastructure servicing international markets, the capital city and regional areas
- have significant natural and man-made assets to support diverse economic activity, trade and future investment
- typically contain ventures which have a broader State and national focus which impact upon the operations of the council.

### Major Strategic Area

Councils categorised as Major Strategic Area will have a minimum population of 300,000. To satisfy this criteria the non-resident working population can be included.

Other features may include:

- health services, tertiary education services and major regional airports which service the surrounding and wider regional community
- a full range of high-order services including business, office and retail uses with arts, culture, recreation and entertainment centres
- total operating revenue exceeding \$250M per annum

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- significant visitor numbers to established tourism ventures and major events that attract state and national attention
- a proximity to Sydney which generates economic opportunities.

Currently, only Central Coast Council meets the criteria to be categorised as a Major Strategic Area. Its population, predicted population growth, and scale of the Council's operations warrant that it be differentiated from other non-metropolitan councils. Central Coast Council is also a significant contributor to the regional economy associated with proximity to and connections with Sydney and the Hunter Region.

### Regional Strategic Area

Councils categorised as Regional Strategic Area are differentiated from councils in the Regional Centre category on the basis of their significant population and will typically have a residential population above 100,000. To satisfy this criteria the non-resident working population can be included.

Other features may include:

- health services, tertiary education services and major regional airports which service the surrounding and wider regional community
- a full range of high-order services including business, office and retail uses with arts, culture, recreation and entertainment centres
- total operating revenue exceeding \$250M per annum

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- significant visitor numbers to established tourism ventures and major events that attract state and national attention
- a proximity to Sydney which generates economic opportunities.

Currently, only Lake Macquarie Council meets the criteria to be categorised as a Regional Strategic Area. Its population and overall scale of council operations will be greater than Regional Centre councils.

### Regional Centre

Councils categorised as Regional Centre will typically have a minimum residential population of 40,000. To satisfy this criteria the non-resident working population can be included.

Other features may include:

- a large city or town providing a significant proportion of the region's housing and employment
- health services, tertiary education services and major regional airports which service the surrounding and wider regional community
- a full range of high-order services including business, office and retail uses with arts, culture, recreation and entertainment centres
- total operating revenue exceeding \$100M per annum
- the highest rates of population growth in regional NSW

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- significant visitor numbers to established tourism ventures and major events that attract state and national attention
- a proximity to Sydney which generates economic opportunities.

Councils in the category of Regional Centre are often considered the geographic centre of the region providing services to their immediate and wider catchment communities.

### **Regional Rural**

Councils categorised as Regional Rural will typically have a minimum residential population of 20,000. To satisfy this criteria the non-resident working population can be included.

Other features may include:

- a large urban population existing alongside a traditional farming sector, and are surrounded by smaller towns and villages
- health services, tertiary education services and regional airports which service a regional community
- a broad range of industries including agricultural, educational, health, professional, government and retail services
- large visitor numbers to established tourism ventures and events.

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Councils in the category of Regional Rural provide a degree of regional servicing below that of a Regional Centre.

### **Rural Large**

Councils categorised as Rural Large will have a residential population greater than 10,000, and a councillor to resident ratio of at least 1 to 1200.

Other features may include:

- one or two significant townships combined with a considerable dispersed population spread over a large area and a long distance from a major regional centre
- a limited range of services, facilities and employment opportunities compared to Regional Rural councils
- local economies based on agricultural/resource industries.

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### **Rural**

Councils categorised as Rural will typically have a residential population less than 10,000.

### **County Councils - Water**

County councils that provide water and/or sewerage functions with a joint approach in planning and installing large water reticulation and sewerage systems.

### **County Councils - Other**

County councils that administer, control and eradicate declared noxious weeds as a specified Local Control Authority under the Biosecurity Act 2015.

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	2024/2025 FINANCIAL YEAR (Current)			OPTIONS THAT COUNCIL MAY CONSIDER FOR 2025/2026 FINANCIAL YEAR				
	Total Cost of Annual Current Fees (24/25 FY) determined by Council - \$32,590 per Clr	Superannuation Contribution of 11.5% (\$3,747.85 per Clr)	Total Fees and Superannuation costs 24/25 FY	25/26 Fees – Options	Total 25/26 Fee Cost for this option	25/26 Superannuation Costs for this option	Total Fee and Superannuation costs 25/26 FY	Difference from 24/25 Expenditure
Councillor Fees – applied to 13 Councillors	\$ 423,670.00	\$ 48,722.05	\$ 472,392.05	Payment of Minimum Fee as set by Tribunal (\$21,120 per Clr)	\$ 274,560.00	\$ 32,947.20	\$ 307,507.20	\$ 197,832.05
				Payment of Middle of Permissible Fee Range set by Tribunal (\$27,970 per Clr)	\$ 363,610.00	\$ 43,633.20	\$ 407,243.20	\$ 65,148.85
				Payment of Maximum Fee set by Tribunal (\$34,820 per Clr)	\$ 452,660.00	\$ 54,319.20	\$ 506,979.20	\$ (34,587.15)
				Application of 3% Increase to the fee that Council determined for 24/25 FY (\$33,567.70 per Clr)	\$ 436,380.10	\$ 52,365.61	\$ 488,745.71	\$ (16,353.66)
Mayoral Additional Fee	\$ 94,950.00	\$ 10,919.25	\$ 105,869.25	Payment of Minimum fee set by Tribunal	\$ 44,840.00	\$ 5,380.80	\$ 50,220.80	\$ 55,648.45
				Payment of Middle of Permissible Fee Range set by Tribunal	\$ 73,155.00	\$ 8,778.60	\$ 81,933.60	\$ 23,935.65
				Payment of Maximum Fee set by Tribunal	\$ 101,470.00	\$ 12,176.40	\$ 113,646.40	\$ (7,777.15)
				Application of 3% Increase to the fee the Council determined for 24/25 FY	\$ 97,798.50	\$ 11,735.82	\$ 109,534.32	\$ (3,665.07)

Planning Report – **S4.55(2) - Other Modification remain the same** Assessment – MA2024/1134

	<b>Section 4.55 Assessment Report</b> <i>Environmental Planning &amp; Assessment Act 1979</i>
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<b><u>Conflict of interest declaration</u></b>			
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.			
<i>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.</i>			
Affiliations and Pecuniary Interests	Have any affiliations or pecuniary interests been identified by the Applicant in the Portal lodgement form?  <i>Note: Where a pecuniary interest is identified ensure appropriate actions are taken (e.g. blocking access to TRIM folder for affected staff)</i>  <i>Note: For applications lodged by Council staff, Councillors and Council refer to POL22/149. A conflict of interest management statement may be required.</i>		<b>No</b>
Councillor Representations	<i>Councillor</i>	<i>Date</i>	<i>TRIM Reference</i>
	Clr White Called in to Council for determination – due to public interest	03/06/2024	D24/220826 D24/220816
Delegation Level Required	CL24.171 To be reported to the elected Council for Determination		

Parent SF Number	SF5332
MA Number	MA24/1134
PAN	PAN-427614
Property Address	Wells Place SHOALHAVEN HEADS - Lot 22 DP 717323
Proposal	S4.55(2) to SF5332 - changes to subdivision layout
Applicant(s)	Allen Price Pty Ltd
Owner(s)	Linda E Leach (D24/184037)
Owner's consent?	Yes
Date Lodged	06/05/2024
Date of site inspection	10/02/2025
Date clock stopped	Clock not stopped (RFI issued past clock stoppable date)
Date clock started	n/a

Planning Report – **S4.55(2) - Other Modification remain the same** Assessment – MA2024/1134

RFIs	Additional Information	Outcome
	RFI 1 – D24/404614	Response provided Letter D24/497106 15/11 Eng plans – D24/497108 15/11 Plans – D24/497981 18/11
Related Application in NSW Planning Portal?	<input checked="" type="checkbox"/> Concurrence and/or external agency referral – CNR-68925 <input checked="" type="checkbox"/> Endeavour Energy <input type="checkbox"/> Section 68 <input type="checkbox"/> Section 138 <input type="checkbox"/> Construction Certificate <i>Note: s138 and CC applications will not be incorporated into the Development Consent and will be determined separately.</i>	
Number of submissions	Notification period 16 May – 30 May 2024 4 unique letters, Multiple (37) same standard letter, different signatures. 1 – CCB (Feb 2025) <i>Note: where submissions are received Council must give notice of the determination decision to all submitters.</i>	

## 1. Detailed Proposal

### Approval History

Development consent for SF5332 was issued on 13 July 1983, for the subdivision as shown on sketch plan dated 16.02/83 Ref no.83/9 showing 27 lots, see Figure 1 below. The original application was over Lot 1 DP547887, Lot 6 DP518639, Lot 9 DP243489. 21 lots have been registered to date. The remaining 6 lots have been held as one lot, Lot 22 DP 717323.

Condition 4 required creation of lot 27 as a public reserve, together with monetary contribution in lieu of public reserve, by virtue of creation of the additional lots.

Works pertaining to Lots 22 – 27 are yet to be completed.

Planning Report – S4.55(2) - Other Modification remain the same Assessment – MA2024/1134



Figure 1 Approved Plan of Subdivision (by ES Turnbull dated 16.02.83 Ref no.83/9)

CL25.185 - Attachment 1



Planning Report – S4.55(2) - Other Modification remain the same Assessment – MA2024/1134

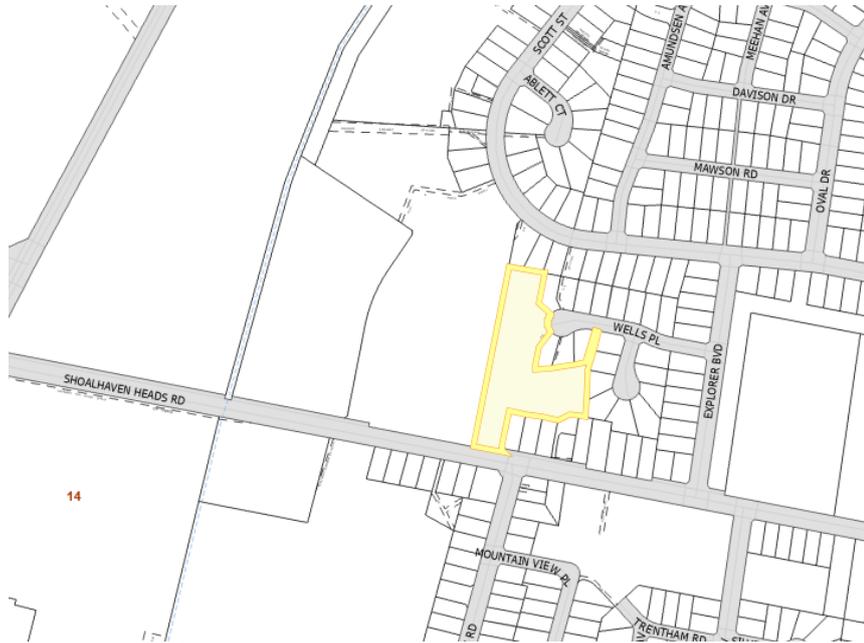


Figure 3 Location of Subject Land - Lot 22 DP 717323

**Consent Trim References:**

Development Consent: Issued 13/07/1983	D24/210952
Approved Plans and Documents: Plan by ES Turnbull dated 16.02.83 Ref no.83/9	D24/210944

Planning Report – **S4.55(2) - Other Modification remain the same** Assessment – MA2024/1134

**Current Application:**

The current application being considered is an application to modify the consent, in accordance with the provisions of Section 4.55(2) of the Environmental Planning and Assessment Act 1979 (EPAA).



Figure 4 – approved lots subject to proposed modification (other lots have already been created/registered)

Planning Report – S4.55(2) - Other Modification remain the same Assessment – MA2024/1134



Figure 2. Excerpt of proposed Subdivision Sketch Plan (Dwg no. N25577-05, Sheet 1 of 1, Rev PO, 11.04.2024)

Figure 5 Proposed modification plan Dwg no.N25577-05 Sheet 1 of 1, Rev PO, 11.04.204

Further, a slightly revised plan was submitted on 15 November 2024, referencing part of the land adjacent to Shoalhaven Heads Road being zoned SP2, as below:

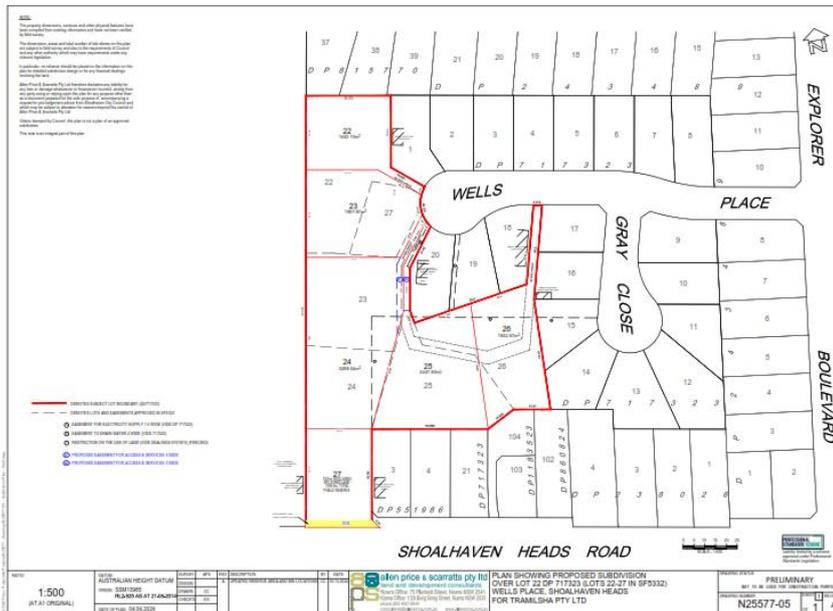


Figure 6 - Allen Price plan submitted 15/11/2024

Planning Report – **S4.55(2) - Other Modification remain the same** Assessment – MA2024/1134

The applicant has advised:

- *“With regard to the repositioning of the public reserve within the development, this is a necessary requirement to ensure that the proposed public reserve can meet the four strategies of CPTED of territorial re-enforcement, surveillance, access control and space/activity management.”*
- *“The positioning of the public reserve within a concealed end of a cul-de-sac, provided little opportunity for the creation of a safe public area where users could see and interaction with others with poor supervision. Natural surveillance would be limited to residents of Wells Place, leading to poorly-planned, poorly-designed and likely a poorly-used space. NSW Police Safer-by-Design guidelines state “All space, even well planned and well-designed areas need to be effectively used and maintained to maximise community safety”. The positioning of the public reserve at the end of Wells Place would likely be sparsely-used and ineffectual at maximising public safety. The relocated reserve will facilitate natural surveillance of passers-by, with Shoalhaven Heads Road a more trafficked road within the area and the repositioned public reserve being adjacent and accessible by residents or visitors of Tall Timbers Caravan Park. Further, the positioning is more suitable for the protection of natural vegetation along the Shoalhaven Heads Road frontage, while providing cleared areas for future embellishment of the park should Council desire.”*
- *The proposed modifications will not result in any known additional social or economic impacts that have already been assessed in the original development consent.*

This current Modification Application proposes to make the following modifications to the development consent.

a) modification of consent to the description of the development

As originally requested by applicant -

Your application for subdivision of the above land as indicated on your revised sketch plan dated 16.2.83 Ref No 83/9 as modified by Subdivision Plan (Dwg No. N25577-05, Sheet 1 of 1, Rev P0), showing 27 lots which was enclosed with your letter of is given consent under Section 91(1) of the Environmental Planning & Assessment Act 1979, subject to the following conditions:-

The plan was updated and re-submitted on 18/11/2024. Accordingly, description would need to be amended to read:

Your application for subdivision of the above land as indicated on your revised sketch plan dated 16.2.83 Ref No 83/9 as modified by Subdivision Plan (Dwg No. N25577-05, Sheet 1 of 1, Rev A dated 30/10/2024), showing 27 lots which was enclosed with your letter of is given consent under Section 91(1) of the Environmental Planning & Assessment Act 1979, subject to the following conditions:-

b) to delete condition 3 – Right-of-carriageway

~~Creation of the right-of-carriageway 4m wide and variable, as indicated on the attached plan.~~

Planning Report – **S4.55(2) - Other Modification remain the same** Assessment – MA2024/1134

c) to modify condition 12

To delete current wording - ~~The construction of concrete (exposed aggregate) driveway 5m wide for proposed lot 22; 6m wide for proposed lots 23 and 25 and 3m wide for proposed lot 26.~~

And replace with standard condition for layback for Lot 22 – 26:

Prior to the commencement of works in the road reserve, engineering design plans must be prepared by a suitably qualified person and approved by Council. The layback/footpath crossing 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 75mm compacted fine crushed rock base with centrally placed slab of minimum 3 metres width and minimum 100mm depth.
- c) Removal of sufficient width of existing road seal and pavement to allow placing of formwork and laying/compaction of suitable pavement material for the driveway layback with a minimum 300mm offset to the kerb lip line.

d) to modify condition 18

Following referral to, and recommendation from Councils Flood Engineer, the applicant has advised in their letter from 15/11, that they now also seek modification of this condition as follows:

Proposed lots 22 to ~~24~~ 25 are to be filled up to the 2100 scenario 1% AEP flood level in areas mapped as Low Hazard Flood Fringe, as documented on a Flood Certificate obtained from Council that is based on the latest flood information held, and graded to the satisfaction of Council's Lead – Development Engineering. All filling to be compacted to at least 95% standard proctor. The specification shall require the supervision of the filling works by consulting engineer and the monitoring of any settlement over the subdivision during the construction and maintenance periods. On completion of the filling, the subdivisor is to submit an Engineer's Certificate confirming the satisfactory compaction of the filling and the suitability of the lots for the construction of dwellings. The result of test bores should be shown.

Noting no fill proposed over Lots 26 and/or Lot 27.

## 2. Background

### Site History and Previous Approvals

#### One Council Applications

Trim Application	Date Lodged	Portal No	Application Type	Proposal	Decision	Status	Determined
 MA2024/1134	06/05/2024	PAN-427614	S4.55(2) - Other Modification remain the same	Proposed modification of consent – modification of subdivision layout to proposed Lots 22–27, and location of proposed reserve.	UnderAss	Current	

#### Plain Sailing - since 2nd September 1996

Application	Appl. Date	Proposal	Status	Status Date
 DA99-3735	22/11/1999	Flat's, Units, Villas, Townhouses	Approved (T)	19/12/2002
 DB99-10684	22/11/1999	Sewer Application	Approved (P)	19/12/2002

Planning Report – **S4.55(2) - Other Modification remain the same** Assessment – MA2024/1134

SF5332

See above “Approval History”.

Since the subdivision was approved, and lot registered, houses have been erected on 20 lots registered from the approved subdivision,

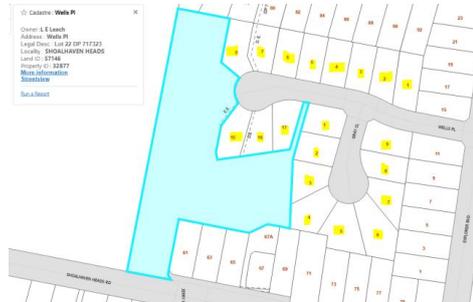


Figure 7 - Other lots created from SF5332



Figure 8 Aerial Image of Locality

DA99/3735

A development application DA99/3735 was approved over Lot 22, for twenty-six x 3 bedroom, single storey brick villas, and strata subdivision was submitted on 22/11/1999. During the assessment process a petition by residents concerned about that development was submitted.

DA99/3735 was granted a staged non-operational consent on 19 Dec 2002, conditions requiring changes to design, deletion of unit 20, provision of information addressing stormwater management, Shoalhaven Water issues, flooding, parking, etc. That development would have resulted in no public reserve being created.

It appears that the approval lapsed 19 December 2004. Also, at that time DCP No.8 applied to the land, however this was rescinded when Shoalhaven Development Control Plan 2014 became effective.

#### Pre-Lodgement Information

Advice was sought by Allen Price (APS at that time), (74386e/6) with regard to a different version of a modification over this same site – refer to D23/366283.

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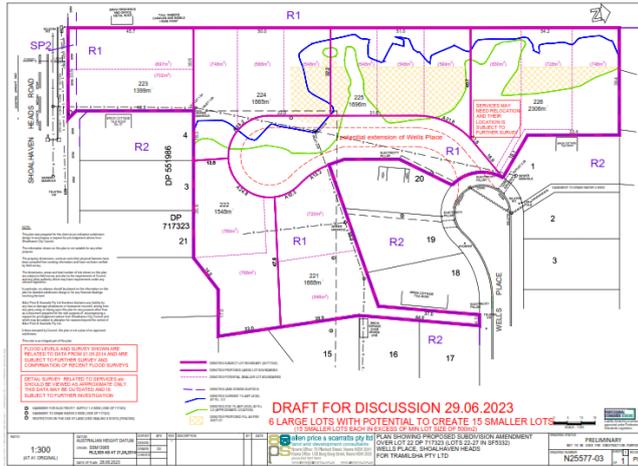


Figure 9 - Draft for Pre Lodgement Discussion

However, that version was not considered to be substantially the same as the development as originally approved, due to the proposed changes including removal of the reserve, lot layouts, number of lots, increased fill levels, changes to services and proposed extension of Wells Place.

Pre-Lodgement Advice was not sought with regard to the current proposal.

Post-Lodgement Information

**Timeline**



Modification History

06/05/2024	Mod lodged
14/05/2024	Referrals issued
18/05 – 30/05/2024	Notification period Submissions were received
21/05/2024	Shoalhaven Water referral received
28/05/2024	GIS referral received
31/05/2024	Open Space / Rec Planning referral received.
03/06/2024	Application called in by Council (Clr White) for determination due to public interest CL24.171
03/06/2024	Flood Eng referral received
11/06/2024	Property referral received
13/06/2024	Strategic Planning referral received

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12/09/2024	Dev Eng referral received
17/09/2024	RFI Letter to applicant issued
21/10/2024	Asset custodian / District Eng referral received
29/10/2024	2 <sup>nd</sup> Property referral received
15/11/2024	Response from applicant received
18/11/2024	Revised plan received
18/11/2024	Re-referrals issued
02/12/2024	2 <sup>nd</sup> Flood Eng referral received
10/02/2025	Site inspected
02/04/2025	2 <sup>nd</sup> Dev Eng referral received
07/04/2025	Applicant meeting request with Mayor (declined)
28/04/2025	Applicant meeting request with Senior Staff
06/05/2025	Applicant meeting with Senior Staff
13/05/2025	Referred for peer review Assessment report Draft determination Report to Council

Site Observations

The site was inspected by Council's Assessing Officer on 10 Feb 2025.

Photos D25/150469

Parking along Shoalhaven Heads Road is restricted due to the intersection of Shoalhaven Heads Road with Jerry Bailey Road to the south. There are dwellings to the east of the land along Shoalhaven Heads, and to the west is an existing caravan park.

At that time, it was noted that the land generally falls away from Wells Place to the west.

The land subject of this modification whilst largely cleared does contain some vegetation, adjacent to Shoalhaven Heads Road, and within the site.

There is existing driveway access via both Shoalhaven Heads Road and Wells Place.

**3. Consultation and Referrals**

Internal Referrals	
Referral	Comments
GIS House Numbering D24/199125	No objections, recommended house numbers provided.
Development Engineering D24/199127	<p><b>Easements:</b> The site is currently burdened by easements and restrictions as follows:</p> <ul style="list-style-type: none"> <li>Easement for Electricity Supply 1.5m wide – Endeavor Energy has approved with conditions.</li> <li>Restrictions on the Use of Lane (Fencing) – does not seem it would affect the proposal.</li> </ul> <p><b>Earthworks:</b> Initially, the applicant had not provided any earthworks plans or details despite earthworks being required to support the development and address flooding impacts on the proposed lots.</p>

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	<p>It would typically be expected that the impacts associated with earthworks are addressed as part of the DA. Accordingly, a cut and fill plan, earthworks sections and retaining wall details (if required) were requested.</p> <p>A concept earthworks plan has now been submitted to support the application. Fill is proposed across the western half of the site however is only proposed up to 0.765m in height. No retaining walls are proposed. Given the filling is relatively minor in nature and is proposed to provide flood immunity and has been supported by the Floodplain Engineer, it is considered acceptable. Recommended conditions provided to ensure the fill is placed in accordance with Council's specifications.</p> <p><b>Roads/Access:</b> The pre-lodgement information provided indicated that Council would be unlikely to support extension of the existing cul-de-sac. The applicant has taken this advice on board and has provided access to each lot from the existing road. It is understood that Proposed Lots 22a and 26 will be accessed from their own 4m access handle. This will be conditioned to require a 3.0m wide pavement. It is understood that Proposed Lots 24 and 25 will be accessed from a reciprocal right of way 6m wide. It will be conditioned to be provided with a 5m wide access handle. It is noted that no further development besides two dwellings (dual occupancy) on each lot will be able to occur these lots and will therefore be enforced by a 88b Instrument Restriction. Proposed Lot 23 will have direct street access to the cul-de-sac. Proposed Lot 27 will have direct access to Shoalhaven Heads Road. Recommended conditions provided for all accessways required to be designed and constructed as part of the subdivision development stage.</p> <p>Access to the proposed public reserve (Proposed Lot 27) is considerable worse through the development modification application as the frontage on Shoalhaven Heads Road is a no-stopping zone and therefore any parking will be prohibited along the frontage. It is also on a much busier road than currently proposed as a 'pocket park' within the centre of the subdivision and the location is less desirable from a flooding perspective. The applicant provided further information to support the relocation of the public reserve as currently proposed. This information is generally supported and has provided a satisfactory justification to relocate the public reserve.</p> <p><b>Stormwater:</b> <i>Initial comment - The applicant has not provided any concept stormwater plans to support the development. It is noted that the site current falls towards the east and therefore away from the existing drainage network within Wells Place. Accordingly, it is not supported to proceed without this information.</i></p> <p>Revised comment - The applicant has now submitted a concept drainage plan for the site. The plan is considered generally acceptable and can be addressed through imposed conditions</p>
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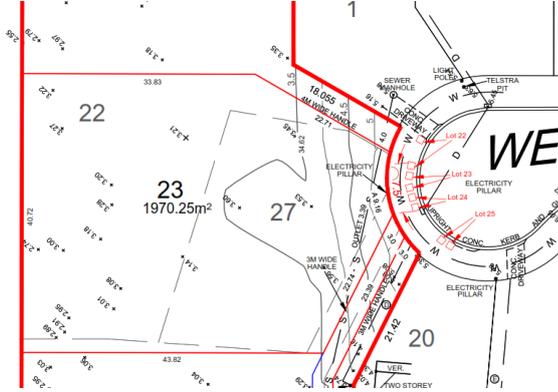
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	<p>below. For example, the stormwater infrastructure within the public reserve needs to be to a public drainage standard. It is therefore requested that concept stormwater drainage plan is provided for assessment.</p> <p>As discussed during the pre-lodgement meeting:</p> <ul style="list-style-type: none"> <li>• Concept stormwater plan required to be lodged with DA modification.</li> <li>• Likely to discharge to Shoalhaven Heads Road as the lowest part of the site.</li> <li>• Detention required as per SCC DCP G2.</li> <li>• All stormwater outlets required to be above the 20% AEP flood level. This has not yet been addressed but can be conditioned.</li> </ul> <p><b>General</b> The following general items were also requested during the pre-lodgement meeting:</p> <ul style="list-style-type: none"> <li>• Shared user path required across Shoalhaven Heads Road frontage per Council's PAMP. This has been countered by the applicant as not being within Council's PAMP which is correct. However, the requirement for a footpath should be confirmed by the DAO with Council's Open Space team. I believe it should be provided to provide all-weather access to the public reserve.</li> </ul> <p><u>DAO Comment</u> <i>DAO has liaised with Council's Open Space Team have confirmed footpath not required along Shoalhaven Heads Road frontage.</i></p> <ul style="list-style-type: none"> <li>• Kerbside collection is proposed. Application to confirm there is enough space along the frontage for bins. Especially for ROW and battleaxe lots. The applicant has demonstrated the bin servicing locations on the revised plans however they will conflict with future access point for the lots, in particular Proposed Lots 20, 22 and 23. DAO to assess the matter further to ensure they are satisfied.</li> </ul> <p><u>DAO Comment</u> <i>Both the approved and proposed layout include battle-axe lots: As approved, Lots 22, 23, 24, 25 &amp; 26; As proposed Lots 22, 24, 25 &amp; 26. There would be 1 less battle-axe lot.</i></p> <p><i>In both scenarios, bins would need to be placed in the road reserve area in front of adjoining lots, similar to many other locations where there are battle-axe lots in cul-de-sac heads.</i></p> <p><i>The approved reserve in Wells Place would have provided some frontage for bins to be placed in front of, now instead that frontage is proposed to be in front of lot 23. As denoted on applicant's revised plan.</i></p> <p><i>The applicant has responded to this issue by stating</i></p>
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	<p><b>“3.4 Waste collection</b> Council’s RFI requests confirmation there is enough space along the frontage for bins, especially for ROW and battleaxe lots. The amended plans at Appendix 2 indicate that there is sufficient space for all lots, but particularly the 4 on the Wells Place cul-de-sac lots to present their bins to the street without impeding access into or out of lots. The amended Subdivision Plans show the indicative areas that bins would be capable of being presented to the street, noting the proposed modified arrangement is an improved outcome from the existing approved layout with regard to positioning of bins along the street frontage.</p> <p>It is noted in this regard that the distance between 8 Wells Place to the north and 15 Wells Place to the south has not changed. That is, the 20.167m frontage to Wells Place to present bins to remains the same with the key change to the proposed subdivision plan being an additional residential lot presenting bins to the street on Wells Place.</p> <p>By comparison, the existing approved layout would have the approved Lot 24 presenting bins to Shoalhaven Heads Road, in a no-stopping location with a central median preventing cars from passing a waste collection truck. The alternate proposal of having all proposed residential lots presenting waste bins to Wells Place, being a quiet residential cul-de-sac is an improved outcome whereby only those within the new subdivision areas are affected.</p> <p>This matter is not a reason for the refusal or deferral of this proposal, with alternative waste collection capable of being resolved prior to the issue of a Subdivision Works Certificate (SWC) if required.”</p>
 <p>Figure 10 - extract of plan showing bin locations</p>	
	<p>The proposed condition amendments have been reviewed.</p> <p><b>Conclusion</b> The applicant was required to submit a concept stormwater management plan and concept earthworks documentation to</p>

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	<p>address the below comments. These plans have now been provided and are considered acceptable, subject to conditions proposed below. I have provided conditions below and far below which I believe are the <b>bare minimum</b> which should be modified or introduced resulting from the proposed modification.</p> <p><b>Condition 18: generally support the condition as proposed by the applicant with one minor amendment:</b> Proposed lots 22 to 24 25 are to be <b>filled up to the 2100 scenario 1% AEP flood level in areas mapped as Low Hazard Flood Fringe, as documented on a Flood Certificate obtained from Council that is based on the latest flood information held, and graded to the satisfaction of Council's Lead – Development Engineering City Engineer however, must generally be a minimum of 0.5% grade.</b> All filling to be compacted to at least 95% standard proctor. The specification shall require the supervision of the filling works by consulting engineer and the monitoring of any settlement over the subdivision during the construction and maintenance periods. On completion of the filling, the subdividor is to submit an Engineer's Certificate confirming the satisfactory compaction of the filling and the suitability of the lots for the construction of dwellings. The result of test bores should be shown.</p> <p><u>DAO note</u> <i>Additional conditions have been recommended to be included that address the proposed lot layout design – these conditions have been reviewed and are reasonable for inclusion in determination.</i></p>
<p>Floodplain Unit D24/199128</p>	<p><i>According to Council's Lower Shoalhaven River Flood Study (2022), a portion of the proposed site is affected by the 2100 scenario 1% AEP flood event and comprises Low Hazard Flood Fringe, Low Hazard Flood Storage, and High Hazard Flood Storage areas. The 2100 scenario Flood Planning Level is 4.2m AHD and the 2100 scenario 1% AEP flood level is 3.3m AHD.</i></p> <p><i>It should be noted that the previous determination did not incorporate any flood-related development controls as no flood information for the site existed at the time of the consent. Consent condition 18 requires filling of the land. However, no plans have been provided to detail the extent and level of the approved filling for Council's assessment. These plans should have been submitted to Council within 12 months of determination as per consent condition 17. There is a risk that significant amount of fill may have adverse impacts on adjacent land, especially the caravan park directly to the west of the site. Creating adverse flood impacts as a result of filling of the land is inconsistent with the NSW Flood Risk Management Manual (2023) and clause 5.21 of the LEP and should therefore be avoided. As such, the applicant needs to work with Council to determine suitable dwelling size and location on the lots to firstly reduce the requirement of fill, and its potential adverse impacts on the existing caravan park. If the proposed fill, in Council's opinion, may result in adverse impacts on neighbouring land, then a hydraulic impact assessment will be required to be submitted with the engineering plans demonstrating no flood afflux from the proposed fill.</i></p> <p><i>From a flood risk perspective, the proposed modification to the lot layout is an improvement to the approved subdivision plan as all</i></p>

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	<p>properties have flood free access in a 2100 scenario 1% AEP flood event.</p> <p>The following updates (in red) to the approved conditions of consent 18 are recommended to ensure consistency with current legislation and best practice guidelines:</p> <p>18. Proposed lots 22 to 24 are to be filled and graded to the satisfaction of <b>Council's Lead – Development Engineering</b>. <del>City Engineer</del>. The extent of fill is to be accepted by Council's Lead – Floodplain Management. A hydraulic impact assessment may be required by Council's Lead – Floodplain Management to demonstrate no adverse impact on neighbouring lots. All filling to be compacted to at least 95% standard proctor. The specification shall require the supervision of the filling works by consulting engineer and the monitoring of any settlement over the subdivision during the construction and maintenance periods. On completion of the filling, the Subdivisor is to submit an Engineer's Certificate confirming the satisfactory compaction of the filling and the suitability of the lots for the construction of dwellings. The result of test bores should be shown.</p>
Property D24/199118	Referral – nil comments
Open Space & Recreation Planning D24/199119	<p><u>Referral - 'Nil' comments</u></p> <p><u>Note of call - 31/05/2024</u></p> <ul style="list-style-type: none"> <li>• 1<sup>st</sup> preference is no reserve at all</li> <li>• acknowledges reserve is required under existing consent</li> <li>• Need to refer to Asset Custodian – Area Eng – (requested 31/05/24)</li> <li>• Proposed location preferred due to larger frontage, lot 27 if in Wells Place could be surrounded with 1.8m fences – problematic for surveillance, either has little recreational value, potentially better outcome if trees on Shoalhaven Heads frontage are significant and being retained.</li> <li>• Recommended driveway over lot 27 be provided to offer alternate access to proposed lots to Shoalhaven Heads Rd.</li> </ul> <p><u>Note of call– 11/04/2025</u></p> <ul style="list-style-type: none"> <li>• Long standing expectation that reserve would be located in Wells Place</li> <li>• Footpath along Shoalhaven Heads Rd if reserve relocated – not required, not in PAMPs, and existing footpath on other side of road.</li> <li>• Safe Pedestrian Crossing could be warranted – matter for Dev Engineer to consider</li> <li>• Reserve on Shoalhaven Heads Rd better than Wells Place as more visible and accessible to wider community</li> <li>• Ideally reserve should be included in Community Infrastructure Plan. Neither approved nor proposed reserve is in current Plan.</li> <li>• Land may/not be surplus to actual requirements in the area.</li> <li>• Approved area 788m<sup>2</sup>, proposed 1300m<sup>2</sup> – difference in area not significant with regard to ongoing operational / maintenance burden</li> </ul>

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	<ul style="list-style-type: none"> <li>• Due to flooding, area adjacent to Wells Place better suited for residential development – better urban design / planning outcome</li> <li>• no embellishment of reserve proposed/required. No WIK/VPA</li> <li>• Some existing trees located along Shoalhaven Heads Road – landscape/amenity suited for reserve</li> <li>• Higher traffic along Shoalhaven Heads Rd = higher natural surveillance</li> <li>• If reserve located in Wells Place – narrow frontage, narrow opening, and likely to have fences to rear &amp; side boundaries – CPTED concern</li> <li>• Lighting not proposed to either reserve</li> <li>• Wider frontage along Shoalhaven Heads Rd – better CPTED outcome</li> <li>• If reserve located in Wells Place – reserve would be somewhat isolated from CPTED perspective.</li> <li>• If this was a new proposal with reserve located in Wells Place would require – min. 15m walkway connection with footpath and lighting to Shoalhaven Heads – to ensure open sightlines &amp; meets CPTED requirements.</li> <li>• CPTED safety considerations support Shoalhaven Heads Rd location.</li> <li>• Vic Zealand Reserve located to East of Wells Place. Wells Place residents are well provisioned in terms of open space.</li> <li>• From an open space and CPTED perspective:             <ul style="list-style-type: none"> <li>○ First preference, no reserve.</li> <li>○ Second preference would be to support current modification to change location of reserve to Shoalhaven Heads Rd is supported.</li> <li>○ Third preference would be to retain reserve in Wells Place, only because of existing consent.</li> </ul> </li> </ul> <p><i>Note if the reserve were to be deleted altogether, it is considered that the proposal would no longer be substantially the same development. That would necessitate a new DA. That is not the application that has been lodged, Council must assess the application that has been submitted, as proposed</i></p>
<p>Water &amp; Asset Planning D24/199116</p>	<p>Water Development Notice Required No other comments</p>
<p>Asset Custodian – Area Eng D24/230767 (received 21/10/2024, after RFI issued)</p>	<p><i>Works and Services has no objection to the removal of the requirement for the reserve if it is not required from a strategic perspective or a requirement of current DCP. This approach is considered acceptable as it mitigates an increase to Councils maintenance liability noting that its existing liability is not fully funded. If this position were adopted, appropriate compensation should be sought from the developer to address Council change in position while not undermining the drivers that facilitated the original development approval.</i></p> <p><i>If the new reserve is strategically required, then Works and Services is supportive of the proposal put forward by the developer that the lot adjoining Shoalhaven Heads Road be dedicated as a reserve. This position is based on higher levels of access and natural surveillance associated with this lot.</i></p>

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	<i>All structure that are to be handed over to Council must have designs submitted to council for approval prior to construction.</i>
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External Referrals	
Referral	Comments
Endeavour Energy	See letter – D24/202304 CNR- 68925 Dated 16/05/2024.

Integrated Development - no	
Agency	Recommendation

Note: the land is not mapped as bushfire prone land.

#### 4. Section 4.55(2) Other modifications

The proposed modification is considered a s4.55(2) modification. The following provides an assessment of the submitted application against the matters for consideration under Section 4.55(2) and Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- 1. it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all).***

Council is satisfied that the proposed modification would be substantially the same as the development which was originally approved.

The modified development will result in several changes, including the relocation of the proposed reserve. However, overall the proposal is considered to be quantitatively and qualitatively the same as the development as originally approved.

- 2. it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent.***

The proposed modification does not involve modification to a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of approval.

- 3. it has notified the application in accordance with the Regulations or a DCP.***

The modification application 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 in Part 5 of this Report.

- 4. it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan.***

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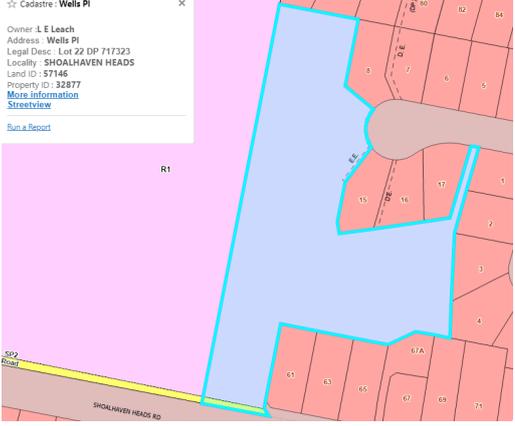
Council has taken into consideration the submissions regarding this application. See consideration of submissions received in Part 5 of this report. Further, this application has been called in for consideration by Council.

**5. Section 4.55(3) – Matters Relevant to the Application**

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

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

**i) Environmental Planning Instruments**

EPI	Affected Clause / Provision	Comment
Shoalhaven Local Environmental Plan 2014		<p>At the time when approved, the land was zoned Residential 2(c) - Living Area Zone under SLEP 1985.</p> <p>The objectives of that zone were to <i>provide for new residential areas with a range of housing types with provision for urban facilities to serve the local community.</i></p> <p>The Land is now zoned R1 and a small section of the land adjacent to Shoalhaven Heads Road is zoned SP2, under Shoalhaven Local Environmental Plan 2014.</p>  <p><i>Figure 11 SLEP 2014 Zone Map</i></p> <p>The small part of land zoned SP2 – Road is located adjacent to Shoalhaven Heads Road. That area zoned SP2 would be required for future road.</p> <p>This was not addressed by the applicant in initial submission/plan. However, the applicant in their letter of 15/11 and plan submitted 18/11 has addressed this matter. The proposed reserve would be total area of 1301m2, and 1398.5m2 excl SP2 zoned land.</p>

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		Also, part of the land is mapped as being flood prone – see 'internal referrals' as above.
		The land is mapped with a minimum lot size of 500m <sup>2</sup> . (Lot 22 = 1449.17m <sup>2</sup> , Lot 23 = 1970.25m <sup>2</sup> , Lot 24 = 3264.33m <sup>2</sup> , Lot 25 = 2442.55m <sup>2</sup> , Lot 26 = 1832.97m <sup>2</sup> and Lot 27 = total area of 1398.42m <sup>2</sup> ).  The approved lots, and the proposed lots will remain compliant with SLEP minimum lot size requirements.
State Environmental Planning Policies		The modification application raises no additional matters for consideration under any applicable State Environmental Planning Policy.

ii) **Draft Environmental Planning Instrument**

Draft EPI	Affected Clause / Provision	Comment
Draft PP073 – Local Character Enhancement		The Planning Proposal (PP073) Local Character amendment to Shoalhaven Local Environmental Plan has recently been notified, but is not completed. Submissions closing on 26 July 2024. Submissions having been received and yet to be considered by Council.  Additional objective proposed for R1 zoned land: <i>To ensure development is compatible with the identified future desired character of the area.</i>  <i>Note: This modification application was lodged 06/05/2024, prior to commencement of that notification period.</i>

iii) **Any Development Control Plan**

There was a Development Control Plan, DCP no.8 that specifically related to this land. However, that Plan was rescinded with the gazettal of the SLEP 2014 & SDCP 2014.

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Figure 12 – DCP No.8 subject land, effective 16/04/1988 - 22/10/2014

DCP no.8 was rescinded because:

*“most of the development has been completed. The remaining land is zoned R1 General Residential and is part flood affected. R1 zoning permits single dwellings, dual occupancies and multi-dwelling housing. The DCP is no longer relevant.”*

SDCP 2014 Chapter	Affected Clause / Provision	Comment
SDCP Chapter 1	Crime Prevention Through Environmental Design	See more detailed comments below
Chapter G11 – Subdivision		The relocation of the public reserve, amendments to the lot layout and access handle widths have been taken into consideration. In this respect, refer to referral comments from Council’s Development Engineer, who has reviewed the amended subdivision layout and civil plans. Support for the proposed modifications has been expressed and additional conditions recommended to address fill and road handle requirements.
Chapter G11 – Subdivision Supporting Document 1: Subdivision	Section 4 Minimum Land Requirements for Informal Active and Passive Recreation Areas/Public Reserves	Neither the approved reserve nor proposed reserve meet all the requirements of these Guidelines.  See more detailed comments below

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<p>Technical Guidelines</p> <p><a href="#">Chapter 1: Introduction &amp; how this plan works</a></p>		
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**SDCP Chapter 1 – CPTED (Crime Prevention Through Environmental Design)**

CPTED is a multi-disciplinary approach that uses architectural and urban design to reduce crime and the fear of crime. CPTED aims to deter criminal activity by influencing the way people perceive and interact with the built environment, fostering a sense of community and territorial control.

Crime Prevention Legislative Guidelines were introduced in April 2001, to Section 4.15 of the Environmental Planning and Assessment Act, 1979. These guidelines require consent authorities to ensure that development provides safety and security to users and the community. 'If a development presents a crime risk, the guidelines can be used to justify modification of the development to minimise crime risk, or refusal of the development on the grounds that crime risk cannot be appropriately minimised.' Part B of the Safer by Design Guidelines outline basic Crime Prevention Through Environmental Design (CPTED) principles and strategies to be used by consent authorities to justify the modification proposals to minimise risk.

As stated by the applicant :

- *“With regard to the repositioning of the public reserve within the development, this is a necessary requirement to ensure that the proposed public reserve can meet the four strategies of CPTED of territorial re-enforcement, surveillance, access control and space/activity management.” (SEE p13)*
- *“The positioning of the public reserve within a concealed end of a cul-de-sac, provided little opportunity for the creation of a safe public area where users could see and interaction with others with poor supervision. Natural surveillance would be limited to residents of Wells Place, leading to poorly-planned, poorly-designed and likely a poorly-used space. NSW Police Safer-by-Design guidelines state “All space, even well planned and well-designed areas need to be effectively used and maintained to maximise community safety”. The positioning of the public reserve at the end of Wells Place would likely be sparsely-used and ineffectual at maximising public safety. The relocated reserve will facilitate natural surveillance of passers-by, with Shoalhaven Heads Road a more trafficked road within the area and the repositioned public reserve being adjacent and accessible by residents or visitors of Tall Timbers Caravan Park. Further, the positioning is more suitable for the protection of natural vegetation along the Shoalhaven Heads Road frontage, while providing cleared areas for future embellishment of the park should Council desire.” (SEE p13)*

<p><b>Four key considerations of CPTED</b></p>
<p><b>1. Territorial Re-enforcement</b></p> <p><i>Community ownership of public space sends positive signals to the community. Places that feel owned and cared for are likely to be used, enjoyed and revisited. People who have guardianship or ownership of areas are more likely to provide effective supervision and to intervene in crime than passing strangers and criminals rarely commit crime in areas where the risk of detection and challenge are high. Effective guardians are often ordinary people who are spatially 'connected' to a place and feel an association with, or responsibility for it.</i></p> <p><i>Territorial Re-enforcement uses actual and symbolic boundary markers, spatial legibility and environmental cues to 'connect' people with space, to encourage communal responsibility for public areas and facilities, and to communicate to people where they should/not be and what activities are appropriate.</i></p>

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<p><b>As Approved - Wells Place</b></p> <p>The reserve is currently approved to be located in Wells Place. Residents of Wells Place have lodged submissions objecting to relocation of the Reserve – see ‘Submissions’ section of this report, below. Those submissions outline a clear expectation that the proposed reserve would be provided in Wells Place.</p> <p>Nil embellishments to the reserve are proposed/required.</p>
<p><b>As Proposed - Shoalhaven Heads Rd</b></p> <p>The proposed relocation of the reserve to Shoalhaven Heads Rd would place the reserve in a location that is more readily viewable to the wider Shoalhaven Heads community.</p> <p>As such, with more pedestrian and vehicular movement, effective supervision would also increase.</p> <p>Nil embellishments to the reserve are proposed.</p>
<p><b>2. Surveillance</b></p> <p><i>People feel safe in public areas when they can see and interact with others, particularly people connected with that space, such as shopkeepers or adjoining residents. Criminals are often deterred from committing crime in places that are well supervised.</i></p> <p><i><u>Natural surveillance</u> is achieved when normal space users can see and be seen by others. This highlights the importance of building layout, orientation and location; the strategic use of design; landscaping and lighting – it is a by-product of well-planned, well-designed and well-used space.</i></p> <p><i><u>Technical/mechanical surveillance</u> is achieved through mechanical/electronic measures such as CCTV, help points and mirrored building panels. It is commonly used as a ‘patch’ to supervise isolated, high risk locations.</i></p> <p><i><u>Formal (or Organised) surveillance</u> is achieved through the tactical positioning of guardians. An example would be the use of on-site supervisors, e.g. security guards at higher risk locations.</i></p>
<p><b>As Approved – Wells Place</b></p> <p>Only natural surveillance would be provided.</p> <p>During the assessment process, concerns have been raised with the shape, limited street frontage and likely enclosing of the reserve by fencing of rear and side boundaries.</p>
<p><b>As Proposed – Shoalhaven Heads Rd</b></p> <p>Only natural surveillance would be provided.</p> <p>The longer street frontage and location on a busier road is more in keeping with CPTED design requirements.</p>
<p><b>3. Access Control</b></p> <p><i><u>Access control</u> treatments restrict, channel and encourage people and vehicles into, out of and around the development. Way-finding, desire-lines and formal/informal routes are important crime prevention considerations. Effective access control can be achieved by using physical and symbolic barriers that channel and group pedestrians into areas, therefore increasing the time and effort required for criminals to commit crime.</i></p> <p><i><u>Natural access control</u> includes the tactical use of landforms and waterways features, design measures including building configuration; formal and informal pathways, landscaping, fencing and gardens.</i></p> <p><i><u>Technical/Mechanical access control</u> includes the employment of security hardware. Crime, Design and Urban Planning: From theory to Practice Formal (or Organised) access control includes on-site guardians such as employed security officers.</i></p> <p><i><u>Formal (or Organised) access control</u> includes on-site guardians such as employed security officers.</i></p>

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<p><b>As Approved - Wells Place</b></p> <p>Nil access control treatments proposed / required</p>
<p><b>As Proposed - Shoalhaven Heads Rd</b></p> <p>Nil access control treatments proposed / required</p>
<p><b>4. Space / Activity Management</b></p> <p><i>Space/Activity Management strategies are an important way to develop and maintain natural community control. Space management involves the formal supervision, control and care of the development. All space, even well planned and well-designed areas need to be effectively used and maintained to maximise community safety. Places that are infrequently used are commonly abused. There is a high correlation between urban decay, fear of crime and avoidance behaviour.</i></p>
<p><b>As Approved - Wells Place</b></p> <p>Future control and care of the reserve will rest with Council</p>
<p><b>As Proposed - Shoalhaven Heads Rd</b></p> <p>Future control and care of the reserve will rest with Council</p> <p>Modified location will be visible to, and therefore more likely to be used by the wider community.</p>

SDCP Chapter G11 – Subdivision Supporting Document 1: Subdivision Technical Guidelines Chapter 1: Introduction & how this plan works

Section 4 Minimum Land Requirements for Informal Active and Passive Recreation Areas/Public Reserves

The following is a brief comparative summary of Minimum Land Requirements for Informal Active and Passive Recreation Areas/Public Reserves for proposed reserves.

<b>4 Minimum Land Requirements for Informal Active and Passive Recreation Areas/Public Reserves</b>	<b>Approved Reserve</b>	<b>Proposed Reserve</b>
The following criteria is provided as a guide to land <u>that will not be accepted</u> by Council for dedication, unless it adds to an existing reserve, or will be added to from future subdivisions to create at least at the minimum area:	Approved Reserve will be in isolation, will not add to an existing reserve, and won't be added to by any other future subdivision of land	Proposed Reserve will be in isolation, will not add to an existing reserve, and won't be added to by any other future subdivision of land
Land with an area less than 0.3ha. In some circumstances, Council will consider land with an area of less than 0.3ha where the land adjoins an existing or identified future open space area.	The approved area is 788m <sup>2</sup> . The land does not adjoin an existing or identified future open space area.	The proposed area is 1300.54m <sup>2</sup> . The land does not adjoin an existing or identified future open space area.
Irregular land in which the widest section is less than 30m	The widest section is 35m – at the rear.	The widest section is approx. 30.45m
That does not provide good visibility from local area and potential for adequate passive surveillance.	The reserve is visible to residents of Wells Place. The reserve will be surrounded by residential lots. Passive	Surveillance from the broader community – via Shoalhaven Heads Road.

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	surveillance from existing and future residential development will be possible.	Able to be viewed by pedestrians and persons travelling in vehicles.
Land with a direct frontage of less than 50m to a public road.	Direct frontage to Wells Place of 12m	Direct frontage to Shoalhaven Heads Road of 33m
Land which any part has a slope greater than 20%, unless the applicant can demonstrate that the land can be: - Effectively used for its intended purpose (informal active and or passive recreation), in accordance with Council's Community Infrastructure Strategic Plan, any adopted open space plan/strategy and to the satisfaction of Council, and - Efficiently maintained.	Not a part of Council's Community Infrastructure Strategic Plan  The land falls away from Wells Place – from 5m to 3.14m.  The land is proposed to be filled, only if reserve re-location supported and proposed lot 23 to be for residential purposes.  If the reserve is maintained in current location, there are likely to be practical complications as a result of drainage/fill issues.	Not a part of Council's Community Infrastructure Strategic Plan  The land is relatively flat, with a slight fall to the north.
Land which is substantially covered with native vegetation or predominantly ecologically endangered community.	The land has been cleared in the past. There is little vegetation on site.	The land has been cleared in the past. A number of large eucalypt trees are located near the Shoalhaven Heads Road frontage.
Land which contains drainage areas and stormwater easements, which have no recreational value, but primarily exists as part of a natural watercourses, or for drainage control or stormwater management.	No proposed drainage areas or easements over existing approved location	The proposed reserve location will include inter-allotment drainage and drainage easements – serving proposed Lots 22, 23, 24, 25 & 26 and existing lot 19 & 20.
Land required to ensure the provision of appropriate riparian zones along watercourses	Nil watercourses/riparian zones – n/a	Nil watercourses/riparian zones – n/a
Land upon which utilities such as water, sewerage pumping stations, stormwater pumping stations, electricity substations, power transmission towers or other similar level infrastructure is located.	Existing sewer line only over subject land	Existing sewer line only over subject land

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Figure 13 - location of water & sewer utilities

Land that does not have adequate access for maintenance vehicles, or for visitor parking if required	Access via Wells Place	Access via Shoalhaven Heads Rd.
Land that is subject to inundation that is greater than 10% AEP.	The land at Wells Place is not subject to flood inundation	The land at Shoalhaven Heads Road is subject to flood inundation



Figure 14 - AEP1% existing

Land whose sole purpose is to form a setback to neighbouring properties for fire risk management (asset protection zones).	n/a	n/a
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Neither reserve as approved, or as proposed is fully compliant with the Minimum Land Requirements for Informal Active and Passive Recreation Areas/Public Reserves for proposed reserves. After considering all requirements, on balance, the proposed location of reserve at Shoalhaven Heads Road is considered preferable to Wells Place location, for the following reasons:

- larger street frontage
- if in Wells Place, could be surrounded with 1.8m fences – problematic for surveillance,
- wider surveillance from the broader community – via Shoalhaven Heads Road

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- either has little recreational value, potentially better outcome if trees on Shoalhaven Heads Rd frontage are retained
- practical solution for filling of land to ensure future residential development.
- The proposed reserve location will provide inter-allotment drainage and drainage easements – serving proposed Lots 22, 23, 24, 25 & 26 and existing lot 19 &
- The land at the Shoalhaven Heads Rd location is flood prone, more suited for use as a reserve.

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

There are no planning agreements applying to this application and/or land.

iv) **Environmental Planning and Assessment Regulation 2000**

The proposal ensures compliance with the applicable requirements within the Regulations subject to recommended conditions of consent.

**Other Shoalhaven Council Policies**

[Community Infrastructure Strategic Plan](#)

[Microsoft Word - FINAL Community Infrastructure Strategic Plan - Word Format.DOCX](#)

The proposed reserve (as approved or proposed to be modified) is not included in Council's Community Infrastructure Strategic Plan.

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Shoalhaven Heads

Community infrastructure

Name	Type	Future work	Recommendation
Open space			Total = 16.59ha
Caravan Park Reserve	Local recreation park	Yes	rationalise (sell land) but keep the small section of the Park that links it to Shoalhaven Heads Road to act as an access pathway for future development
Oval Drive (Pepper Reserve)	Local recreation park	Yes	upgrade to a basic level recreation park
Curtis Reserve	District recreation park	No	-
Shoalhaven Heads Foreshore	District recreation park	No	-
Jerry Bailey Oval	District sports park	No	-
Vic Zealand Oval	District sports park	Yes	irrigation (complete system) additional car parking upgrade lighting
Shoalhaven Heads Pool	Local aquatic centre	No	-
Community buildings			Total = 3 buildings
Shoalhaven Heads Community Centre	Local community centre	No	-
Shoalhaven Heads Mens Shed	Specialised buildings	No	-
Shoalhaven Heads SLSC	Specialised buildings	No	-



Community Infrastructure Strategic Plan 2017



Shoalhaven Contribution Plan 2019

The proposed modification does not alter s7.11 development contributions for the development, given there is no change to the number of lots being proposed for creation as part of this stage of the development.

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

Head of Consideration	Comment
Natural Environment	The proposed development will not have a significant adverse impact on the natural environment.  The proposed reserve location is likely to result in retention of a number of large eucalyptus trees along the Shoalhaven Heads road frontage.
Built Environment	The proposed development will not have a significant adverse impact on the built environment. The approved development was and remains 5 lots and a reserve.  The proposed development will cater for and ensure adequate stormwater infrastructure is provided.

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Head of Consideration	Comment
Social Impacts	Submissions have raised concerns that the proposed development will have a negative social impact in the locality. Relocation of the public reserve from its current location is perceived as a loss from the residents of Wells Place.  CPTED concerns have been raised, and the proposed reserve location deemed to be more in keeping with CPTED requirements.
Economic Impacts	The proposed development will not have a negative economic impact in the locality.

**(c) Suitability of the site for the development**

The site is suitable for the proposed development.

- The development as modified, is permissible with Council consent within the zone.
- The proposal as modified, supports the local zoning objectives.
- The proposal as modified, is consistent with the objectives and requirements of the *Shoalhaven Local Environmental Plan 2014*.
- The proposal as modified, is consistent with most of the objectives and requirements of the *Shoalhaven Development Control Plan 2014*.
- Overall, the intended use is compatible with surrounding/adjoining land uses

Also noting that:

- Neither reserve location is compliant with Council’s Community Infrastructure Strategic Plan.

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

This application was notified in accordance with Council’s Community Consultation Policy for Development Applications. The notification period being from 16 May to 30 May 2024. Four (4) letters of submission were received in response, objecting to the proposal. In addition to individual letters there was also a form letter that had been signed by multiple people (37 signatures). The table below provides a brief summary of the concerns raised in the submissions.

Summary of Public Submissions			
Submission	Signatories	Issues	Comment
Form letters submitted (37 signatories) • D24/219818 – Copy of <b>Form letter</b> - signed by 6 persons • D24/219820 – Copy of <b>Form letter</b> signed by 6 persons • D24/219823 – Copy of <b>Form letter</b> signed by 6 persons • D24/222313 – Copy <b>Form letter</b> signed by 7 persons • D24/222315 – Copy <b>form letter</b> signed by 6 persons • D24/222323 – Copy <b>form letter</b> signed by 4 persons		Loss of privacy/amenity	Proposed modification to approved subdivision only – no other development proposed with this application
		Property values to suffer	Proposed modification to approved subdivision only – no other development proposed with this application
		36 x 3 bed units	Proposed modification to approved subdivision only – no other development proposed with this application

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<ul style="list-style-type: none"> <li>D24/226892 – Copy of form letter signed by 1 person</li> <li>D24/226883 – Copy of form letter signed by 1 person</li> </ul>	Additional traffic	Access to residential lots now proposed to be Wells Place only. With reserve relocated, potentially less traffic.
	Increase in road noise	Proposed modification to approved subdivision only – no other development proposed with this application
	Width of road inadequate for influx of vehicles	Proposed modification to approved subdivision only – no other development proposed with this application
	Existing manoeuvring issues – road width	Proposed modification to approved subdivision only – no other development proposed with this application
	Overflow parking area for nearby sports field	Proposed modification to approved subdivision only – no other development proposed with this application
D24/219823 – comment at end of form letter	“recommend Council go back to original plan drawn by clients company. i.e. entry only off Shoalhaven Heads Rd. This would solve everything”	Council only able to assess the application before it.
D24/222109 – Submission received	Consider the DA as a “zombie’ as no works commenced within 5y of approval	This modification relates to the last stage of this subdivision. Earlier stage has commenced and been released. Legally able to proceed with final stage.
	Relocation of public reserve objected to – land used in it’s current location, with supervision by existing residents	CPTED concerns raised with Wells Place location
	Relocation of reserve to main road unsafe and has ‘no stopping’ signs in front of that land. No after hours supervision at proposed location	CPTED concerns raised with Wells Place location.
	Current location for reserve is better – safe, surveilled, access	CPTED concerns raised with Wells Place location.

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	control, parking & community oversight	
	Purchased their property with expectation of reserve location	Noted
	Now 5 lots accessed via Wells Place – if Medium Density proceeds on Lots 22-26, additional 20% of residents accessing via Wells Place – should maintain shared access via Shoalhaven Heads Rd – better for development to gain access via SH Rd.	Access only available to 1, as shown on approved plan, no shared access from approved plan.  Council only able to assess the application as currently lodged.
	Shoalhaven Heads Rd better for access to Medium Density site – less impact on surrounding residents. Existing parking issues in narrow street.	Medium density not a part of this application.
	Modification of 1983 consent should incorporate highest standards and assessment.	Can not retrospectively upgrade conditions – only those relating to the proposed modification
	Cond 12 – road widths – all lots better to have access via Shoalhaven Heads Road	Council only able to assess the application as currently lodged
	Flood prone land – Modification - purely in the developer's interest not community or Council	Proposed relocation of reserve to flood affected area.
	Document errors – criticisms of the applicant's documentation	Noted
	Call to action to question current zoning and historical approval issued over lots 22-26, being 41 years old, should be a "zombie" development	No changes yet to legislation re: 'zombie' developments. Need to work within confines of current planning system. Legally able to proceed with application.
D24/226888 – Submission received	Concern about tree removal	Proposed reserve on Shoalhaven Heads Road – better outcome in terms of tree retention
	Entryway to Units should be via	no units are a part of this proposal

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	Shoalhaven Heads Rd not Wells Place	
D24/232236 – Submission received	Narrow access to 35 units Illogical to have reserve on Shoalhaven Heads Rd – safety compromised Parts of the area are flood affected	Application is for modification of an approved subdivision only CPTED supportive of more visible location of Shoalhaven Heads Road The proposed reserve location in terms of flooding will be better located.
D24/223701 – Submission received	Position of public reserve on main road – should be at end of Wells Place & be larger. Access off main road unsafe.	Council only able to assess the application as currently lodged
	All traffic via Wells Place – unsafe & unfair	All traffic to proposed residential lots is proposed to now be via Wells Place. Access via Shoalhaven Heads is proposed to for reserve only.
	Access to any lots should be via main road – more sense	Access is proposed via Shoalhaven Heads Road for proposed reserve only. Council only able to assess the application as currently lodged
	Removal of trees will affect amenity of current and future residents	Existing approval. Less tree loss if reserve moved.
	Planned driveway next to 17 Wells Place – disagree. Access should be via main road.	Access existing under current plan adjacent to Lot 17. Modification does not change that.

Clear concern has been raised by local residents who want the reserve to be retained in the approved Wells Place location. Residents have expressed that they have a strong expectation that the reserve would be provided as currently approved. However, the planning system does allow for modifications to developments to be lodged and considered. An impartial assessment is required to be undertaken for each and every application.

**(e) The Public Interest**

For the planning reasons outlined above, the proposed location of reserve at Shoalhaven Heads Road is considered preferable to Wells Place location, because the proposed reserve will include:

- A larger street frontage
- A wider surveillance from the broader community – via Shoalhaven Heads Road

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- either has little recreational value, potentially better outcome if trees on Shoalhaven Heads Rd frontage are retained
- a practical solution for filling of land to ensure future residential development.
- inter-allotment drainage and drainage easements – serving proposed Lots 22, 23, 24, 25 & 26 and existing lot 19.

The land at the Shoalhaven Heads Rd location is flood prone, more suited for use as a reserve. Whilst there have been multiple objections to the proposed modification, on balance, and bearing in mind CPTED requirements and broader community public interest, the proposal including relocation of proposed reserve is considered overall to be in the public interest.

## 5. Delegations

### Guidelines for use of Delegated Authority

This application has been called in by Councillors for determination by elected Council.

Therefore, this application is to be reported to Council for determination.

## 6. Recommendation

This application has been assessed having regard to the Heads of Consideration for Section 4.55 under the *Environmental Planning and Assessment Act 1979*. As such, it is recommended that Modification Application No. MA2024/1134 relating to Development Consent No. SF5332 be approved subject to the recommended modifications to the development consent as detailed below:

- a) To modify the description of development, to refer to amended plans, as follows:

Your application for subdivision of the above land as indicated on your revised sketch plan dated 16.2.83 Ref No 83/9 as modified by Subdivision Plan (Dwg No. N25577-05, Sheet 1 of 1, Rev A dated 30/10/2024), showing 27 lots which was enclosed with your letter of is given consent under Section 91(1) of the Environmental Planning & Assessment Act 1979, subject to the following conditions:-

- b) to delete condition 3
- c) to delete condition 10 (replaced by new condition 23 as per Dev Engineer recommendation)
- d) to delete condition 11 (replaced by new condition 23 as per Dev Engineer recommendation)
- e) to delete condition 12 (replaced by new conditions 21 and 22 as per Dev Engineer recommendation)
- e) to modify condition 18

Following referral to, and recommendation from Councils Flood Engineer, the applicant has advised in their letter from 15/11, that they now also seek modification of this condition as follows:

Proposed lots 22 to ~~24~~ 25 are to be filled up to the 2100 scenario 1% AEP flood level in areas mapped as Low Hazard Flood Fringe, as documented on a Flood Certificate obtained from Council that is based on the latest flood information held, and graded to the satisfaction of Council's Lead – Development Engineering City Engineer. All filling to be compacted to at least 95% standard proctor. The specification shall require the supervision of the filling works by consulting engineer and the monitoring of any settlement over the subdivision during the construction and maintenance periods. On completion of the filling, the subdividor is to submit

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an Engineer's Certificate confirming the satisfactory compaction of the filling and the suitability of the lots for the construction of dwellings. The result of test bores should be shown

As per recommendations of the Development Engineer, the following conditions addressing stormwater, fill and accessways are recommended for inclusion in the determination (consolidated):

- a) new condition 21 - Before the issue of a Subdivision Works 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 handle driveway design for the full length of the access handle component of the driveway for Proposed Lot 26 must comply with the following:

- a. Council's Engineering Design Standard Drawings.
- b. Centrally placed and constructed using 20 MPa reinforced concrete, reinforced with SL72 mesh, on a 75mm compacted fine crushed rock base with minimum:
  - i. 3 metre width for access to 1-2 lots,
- c. Installation of conduits for services for the full length of the access handle component of the driveway.
- d. Ensure stormwater runoff is captured within the proposed drainage infrastructure and not concentrated on to adjoining lots.

- b) new condition 22 - Before 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 right of way design for Proposed Lots 24 and 25 full length of the access handle component of the driveway must comply with the following:

- a. Council's Engineering Design Standard Drawings.
- b. Centrally placed and constructed using 20 MPa reinforced concrete, reinforced with SL72 mesh, on a 75mm compacted fine crushed rock base with minimum:
  - i. 3 metre width for access to 1-2 lots.
- c. Installation of conduits for services for the full length of the driveway.
- d. Ensure stormwater runoff is captured within the proposed drainage infrastructure and not concentrated on to adjoining lots.
- e. Provision of a turning facility suitable for manoeuvring of the Australian Standard 99% design vehicle located at the furthest end of the driveway from the public road.

- c) new condition 23 - Before the issue of a Subdivision Works Certificate, certified engineering design plans, specifications, and DRAINS model (or approved alternative) must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The stormwater drainage design must comply with the following:

- a. Major and minor drainage systems in accordance with Council's Engineering Design Specifications - Section D5 - Stormwater Drainage Design and utilising Australian Rainfall and Runoff (ARR, 2019) Guidelines.
- b. The minor and major systems must be designed for a 18.13% AEP and 1% Annual Exceedance Probability (AEP) rainfall events, respectively.
- c. Generally, in accordance with approved concept stormwater design plan by Allen Price, Ref. No: N25577-402, Sheet 2, Rev. 0, dated 15/11/2024, except that:
  - i. Any infrastructure within public road reserves or public reserves (existing or future) meets the requirements of Council's Engineering Design Specification for public infrastructure.
  - ii. All lots which do not have fall to the street are provided with inter-allotment drainage.
  - iii. Drainage is provided for the proposed right of way driveways and battleaxe lot driveways.
- d. The existing stormwater drainage system is to be upgraded or adjusted where required to suit the new works. In this regard the following is required:

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- i. existing drainage systems draining public roads are to be upgraded where necessary to contain flows in accordance with Council's Engineering Design Specifications - Section D5.04.
  - ii. all relevant calculations are to be noted on the drainage plans to confirm the adequacy of the existing system, or the upgraded design.
- e. Design of stormwater drainage is to include piping, swales and easements to facilitate future development of the site.
  
- d) new condition 24 - Before the completion of works, all stormwater pipes within road reserves and within drainage easements intended to be dedicated to Council must be inspected by CCTV and submitted to the Certifier for approval. The CCTV must be carried out in accordance with WSA 05-2013 Conduit Inspection Reporting Code of Australia Version 3.1 after all earthworks and adjacent road pavement works have been completed. Damaged pipes must either be replaced or repaired to the satisfaction of the Certifier before the issue of a Subdivision Certificate.
  
- e) new condition 25 - Before the issue of the Subdivision 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 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.

All other conditions are to remain unchanged.



Address all correspondence to: The Chief Executive Officer,  
PO Box 42, Nowra NSW 2541 Australia  
[shoalhaven.nsw.gov.au/contact](http://shoalhaven.nsw.gov.au/contact) | 1300 293 111

[shoalhaven.nsw.gov.au](http://shoalhaven.nsw.gov.au)    

**NOTICE OF DETERMINATION OF A MODIFICATION APPLICATION BY WAY OF CONSOLIDATED CONSENT**

Application number	SF5332 (incorporating MA24/1134)
Applicant	Allen Price Pty Ltd
Description of development	<b>(modified by MA24/1134)</b> Your application for subdivision of the above land as indicated on your revised sketch plan dated 16.2.83 Ref No 83/9 as modified by Subdivision Plan (Dwg No. N25577-05, Sheet 1 of 1, Rev P0), showing 27 lots which was enclosed with your letter of is given consent under Section 91(1) of the Environmental Planning & Assessment Act 1979, subject to the following conditions:-
Property	Lot 22 DP717323 Wells Place Shoalhaven Heads
Determination	Approval
Date of determination	13 July 1983
S4.55 determination (MA24/1134)	<b>INSERT DATE</b>
Date from which the consent operates	13 July 1983
Date on which the consent lapses	13 July 1985 <i>(Note: the consent has been secured, due to commencement of earlier stages of this development)</i>

Under section 118 of the EP&A Regulations, notice is given that the above modification application has been determined by the granting of a modified development consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

**Reasons for Grant of Consent**

- a) The development proposal, subject to the recommended conditions is consistent with:
  - i) the objects of the Environmental Planning and Assessment Act, 1979.
  - ii) the aims, objectives and provisions of the applicable environmental planning instruments,
  - iii) the aims, objectives and provisions of applicable development control plans
  - iv) the aims, objectives and provisions of relevant Council policies.
- b) The likely impacts of the proposed development are considered acceptable.
- c) The site is suitable for the proposed development.
- d) Any submissions received during the public notification period have been considered and issues and concerns raised by the community in submissions have been addressed in the assessment.
- e) The proposed development does not conflict with the public interest.

**Right of appeal / review of determination**

If you are dissatisfied with this determination:

**Request a review**

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

**Rights to appeal**

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

**Dictionary**

The Dictionary at the end of this consent defines words and expressions for the purposes of this consent.

Person on behalf of the consent authority

### Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below:

1. All lots after final survey complying with Council's standard requirements as to minimum dimensions with 4m corner splays.
2. Provision of Section 94 contribution for community facilities in accordance with Schedule 1 to the Shoalhaven Local Environmental Plan No 6 for an amount of \$100 per newly created lots.
3. ~~(deleted MA2024/1134) Creation of the right of carriageway 4m wide and variable, as indicated on attached plan.~~
4. Creation of proposed lot 27 as a public reserve together with payment to Council of \$14,942 as a monetary contribution in lieu of public reserve by virtue of the creation of additional lots. (This is based on an en-globo valuation of land in the vicinity of \$31,000 per hectare which includes a valuation fee of \$12.00).
5. Provision of sewerage service to all proposed lots in the subdivision, at the subdividor's expense, all to Council's requirements together with Section 94 contribution of \$1,000 per newly created lot.
6. Provision of water supply to all proposed lots within the subdivision, at the subdividor's expense, plus creation of any necessary easements, all to Council's requirements together with Section 94 contribution of \$200 per newly created lot.
7. The provision of underground electricity reticulation throughout the subdivision, at the subdividor's expense and to the requirements of the Illawarra County Council. It will be necessary to present a copy of "Letter of Offer" received from the Illawarra County Council covering the requirement of electricity supply and copy of receipt with lodgement of the plan of survey.
8. Dedication of proposed roads within the subdivision as shown in the submitted plan all with 4m corner splays.
9. The construction of new roads in the subdivision, with kerb and gutter, full width bitumen seal and necessary drainage to Council's requirements and as follows:-
  - (a) The 16m road to have a carriageway of 7m.
  - (b) The cul-de-sac to have a 7m carriageway and 9m radius turning circle.
10. ~~(deleted by MA2024/1134) The provision of drainage easements and/or drainage reserves at the subdividor's expense including inter allotment drainage easements to serve all lots that cannot naturally drain to the roads. All drainage is to be piped to the north-south drainage easement between public reserve and Lot 22 DP 623346.~~
11. ~~(deleted by MA2024/1134) The piping of drainage easement(s) to Council's requirements, including inter allotment drainage.~~
12. ~~(modified by MA2024/1134) The construction of concrete (exposed aggregate) driveway 5m wide for proposed Lot 22; 6m wide for proposed Lots 23 and 25 and 3m wide for proposed lot 26.~~

13. Creation of restriction as to user under Section 88B of the Conveyancing Act, as follows:-
- (a) No sound healthy trees exceeding 4m in height are to be removed from any proposed lot or public reserve except where they are affected by earthworks required for road, drainage or utility service construction or filling covered by approved engineering plans, unless such trees have been inspected by a Council officer and written approval has been given for their removal.
14. Payment to Council for tree planting on the footpath in the proposed subdivision on the basis of two trees per lot at \$13 per tree.
15. All bare ungrassed areas with the proposed lots and within the road reserve are to be seeded.
16. The written consent of the downstream owner/s to accept stormwater drainage from the subdivision.
17. The submission of necessary engineering plans and specifications for the work referred to in conditions 9, 10, 11, 12 & 18 within twelve months of the date of this approval, together with payment of the corresponding fees in accordance with Council's current scale, for examination and approval by the City Engineer.
18. (modified MA24/1134)
- Proposed lots 22 to 24 25 are to be filled up to the 2100 scenario 1% AEP flood level in areas mapped as Low Hazard Flood Fringe, as documented on a Flood Certificate obtained from Council that is based on the latest flood information held, and graded to the satisfaction of Council's Lead – Development Engineering, however, must generally be a minimum of 0.5% grade. All filling to be compacted to at least 95% standard proctor. The specification shall require the supervision of the filling works by a consulting engineer and the monitoring of any settlement over the subdivision during the construction and maintenance periods. On completion of the filling, the Subdivisor is to submit an Engineer's Certificate confirming the satisfactory compaction of the filling and the suitability of the lots for the construction of dwellings. The result of test bores should be shown.
19. Council reserves the right to vary the conditions of approval or apply additional conditions where the submission of road and drainage plans and specifications makes such action appropriate.
20. Submission of a satisfactory plan of survey incorporating the above requirements together with linen plan release fee of \$455 for the creation of 27 lots.

21. (inserted MA24/1134)

Before the issue of a Subdivision Works 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 handle driveway design for the full length of the access handle component of the driveway for Proposed Lot 26 must comply with the following:

- a) Council's Engineering Design Standard Drawings.
- b) Centrally placed and constructed using 20 MPa reinforced concrete, reinforced with SL72 mesh, on a 75mm compacted fine crushed rock base with minimum:
  - i. 3 metre width for access to 1-2 lots,
- c) Installation of conduits for services for the full length of the access handle component of the driveway.

- d) Ensure stormwater runoff is captured within the proposed drainage infrastructure and not concentrated on to adjoining lots.

**22. (inserted MA24/1134)**

Before 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 right of way design for Proposed Lots 24 and 25 full length of the access handle component of the driveway must comply with the following:

- a) Council's Engineering Design Standard Drawings.
- b) Centrally placed and constructed using 20 MPa reinforced concrete, reinforced with SL72 mesh, on a 75mm compacted fine crushed rock base with minimum:
  - i. 3 metre width for access to 1-2 lots.
- c) Installation of conduits for services for the full length of the driveway.
- d) Ensure stormwater runoff is captured within the proposed drainage infrastructure and not concentrated on to adjoining lots.
- e) Provision of a turning facility suitable for manoeuvring of the Australian Standard 99% design vehicle located at the furthest end of the driveway from the public road.

**23. (inserted by MA2024/1134)**

Before the issue of a Subdivision Works Certificate, certified engineering design plans, specifications, and DRAINS model (or approved alternative) must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The stormwater drainage design must comply with the following:

- a) Major and minor drainage systems in accordance with Council's Engineering Design Specifications - Section D5 - Stormwater Drainage Design and utilising Australian Rainfall and Runoff (ARR, 2019) Guidelines.
- b) The minor and major systems must be designed for a 18.13% AEP and 1% Annual Exceedance Probability (AEP) rainfall events, respectively.
- c) Generally, in accordance with approved concept stormwater design plan by Allen Price, Ref. No: N25577-402, Sheet 2, Rev. 0, dated 15/11/2024, except that:
  - i) Any infrastructure within public road reserves or public reserves (existing or future) meets the requirements of Council's Engineering Design Specification for public infrastructure.
  - ii) All lots which do not have fall to the street are provided with interallotment drainage.
  - iii) Drainage is provided for the proposed right of way driveways and battleaxe lot driveways.
- d) The existing stormwater drainage system is to be upgraded or adjusted where required to suit the new works. In this regard the following is required:
  - i) existing drainage systems draining public roads are to be upgraded where necessary to contain flows in accordance with Council's Engineering Design Specifications - Section D5.04.
  - ii) all relevant calculations are to be noted on the drainage plans to confirm the adequacy of the existing system, or the upgraded design.
- e) Design of stormwater drainage is to include piping, swales and easements to facilitate future development of the site.

**24. (inserted MA24/1134)**

Before the completion of works, all stormwater pipes within road reserves and within drainage easements intended to be dedicated to Council must be inspected by CCTV and submitted to the Certifier for approval. The CCTV must be carried out in accordance with WSA 05-2013 Conduit Inspection Reporting Code of Australia Version 3.1 after all earthworks and adjacent road pavement works have been completed.

Damaged pipes must either be replaced or repaired to the satisfaction of the Certifier before the issue of a Subdivision Certificate

**25. (inserted MA24/1134)**

Before the issue of the Subdivision 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 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.

**General advisory notes**

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation, and other legislation. Some of these additional obligations are set out in the Conditions of development consent: advisory notes. The consent should be read together with the Conditions of development consent: advisory notes to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a Construction Certificate or Subdivision Works Certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

**Dictionary**

The following terms have the following meanings for the purpose of this consent (except where the context clearly indicates otherwise):

**Approved plans and documents** means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

**AS** means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

**Building work** means any physical activity involved in the erection of a building.

**Certifier** means a council or a person that is registered to carry out certification work under the Building and Development Certifiers Act 2018.

**Construction Certificate** means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

**Council** means Shoalhaven City Council.

**Court** means the NSW Land and Environment Court.

**EPA** means the NSW Environment Protection Authority.

**EP&A Act** means the Environmental Planning and Assessment Act 1979.

**EP&A Regulation** means the Environmental Planning and Assessment Regulation 2021.

**Independent Planning Commission** means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

**Occupation Certificate** means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

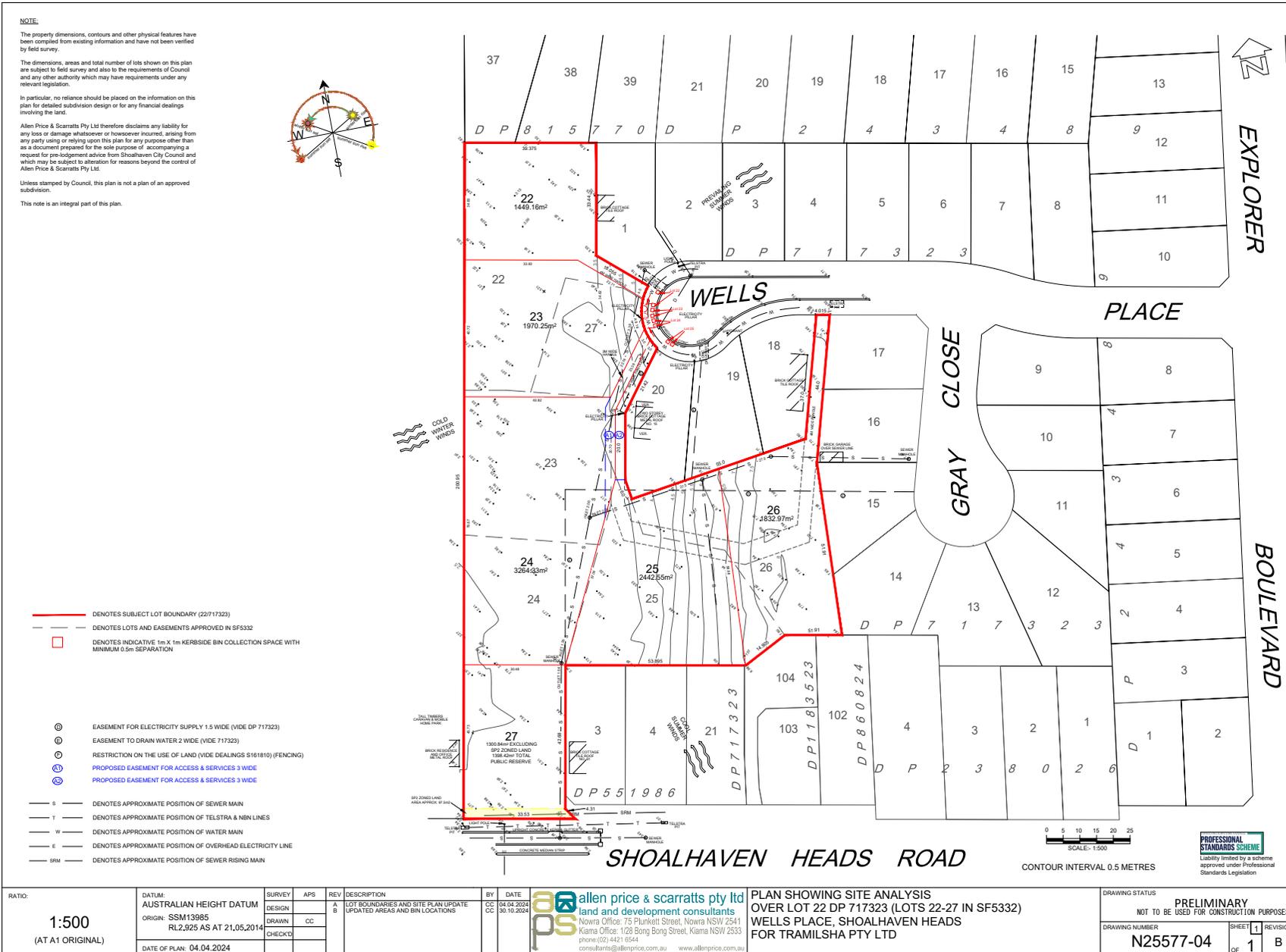
**Principal certifier** means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

**Site work** means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

**Stormwater drainage system** means all works and facilities relating to:

- the collection of stormwater
- the reuse of stormwater
- the detention of stormwater
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

**Strata Certificate** means a certificate in the approved form issued under Part 4 of the Strata Schemes Development Act 2015 that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.



CL25.185 - Attachment 3

<b>RATIO:</b> 1:500 (AT A1 ORIGINAL)		<b>DATUM:</b> AUSTRALIAN HEIGHT DATUM ORIGIN: SSM13985 RL2.925 AS AT 21.05.2014 DATE OF PLAN: 04.04.2024		<b>SURVEY:</b> DESIGN: A DRAWN: CC CHECKED:		<b>APS:</b> A B		<b>REV:</b> A B		<b>DESCRIPTION:</b> LOT BOUNDARIES AND SITE PLAN UPDATE UPDATED AREAS AND BIN LOCATIONS		<b>BY:</b> CC CC		<b>DATE:</b> 04.04.2024 30.10.2024		 allen price & scarratts pty ltd land and development consultants Noorra Office: 75 Flunkett Street, Noorra NSW 2541 Kiama Office: 128 Bong Bong Street, Kiama NSW 2533 phone: (02) 4421 6544 consultants@allenprice.com.au www.allenprice.com.au		<b>PLAN SHOWING SITE ANALYSIS</b> OVER LOT 22 DP 717323 (LOTS 22-27 IN SF5332) WELLS PLACE, SHOALHAVEN HEADS FOR TRAMILSHA PTY LTD		<b>DRAWING STATUS:</b> PRELIMINARY NOT TO BE USED FOR CONSTRUCTION PURPOSES		<b>DRAWING NUMBER:</b> N25577-04		<b>SHEET:</b> 1 OF 1		<b>REVISION:</b> B	
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**NOTE:**

The property dimensions, contours and other physical features have been compiled from existing information and have not been verified by field survey.

The dimensions, areas and total number of lots shown on this plan are subject to field survey and also to the requirements of Council and any other authority which may have requirements under any relevant legislation.

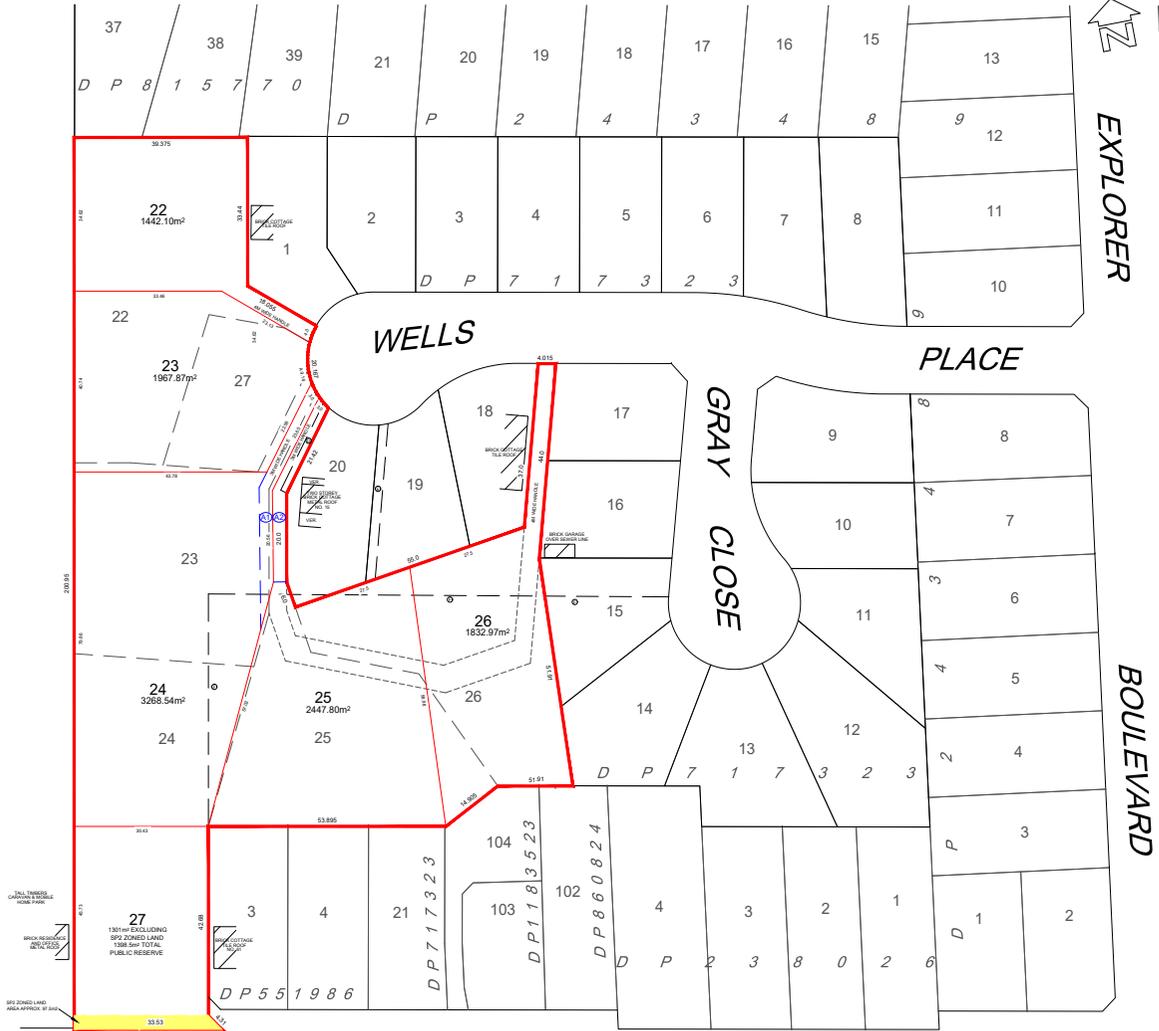
In particular, no reliance should be placed on the information on this plan for detailed subdivision design or for any financial dealings involving the land.

Allen Price & Scarratts Pty Ltd therefore disclaims any liability for any loss or damage whatsoever or howsoever incurred, arising from any party using or relying upon this plan for any purpose other than as a document prepared for the sole purpose of accompanying a request for pre-lodgement advice from Shoalhaven City Council and which may be subject to alteration for reasons beyond the control of Allen Price & Scarratts Pty Ltd.

Unless stamped by Council, this plan is not a plan of an approved subdivision.

This note is an integral part of this plan.

- DENOTES SUBJECT LOT BOUNDARY (22/17323)
- - - DENOTES LOTS AND EASEMENTS APPROVED IN SF5332
- ⊙ EASEMENT FOR ELECTRICITY SUPPLY 1.5 WIDE (VIDE DP 717323)
- ⊙ EASEMENT TO DRAIN WATER 2 WIDE (VIDE 717323)
- ⊙ RESTRICTION ON THE USE OF LAND (VIDE DEALINGS S161810) (FENCING)
- ⊙ PROPOSED EASEMENT FOR ACCESS & SERVICES 3 WIDE
- ⊙ PROPOSED EASEMENT FOR ACCESS & SERVICES 3 WIDE



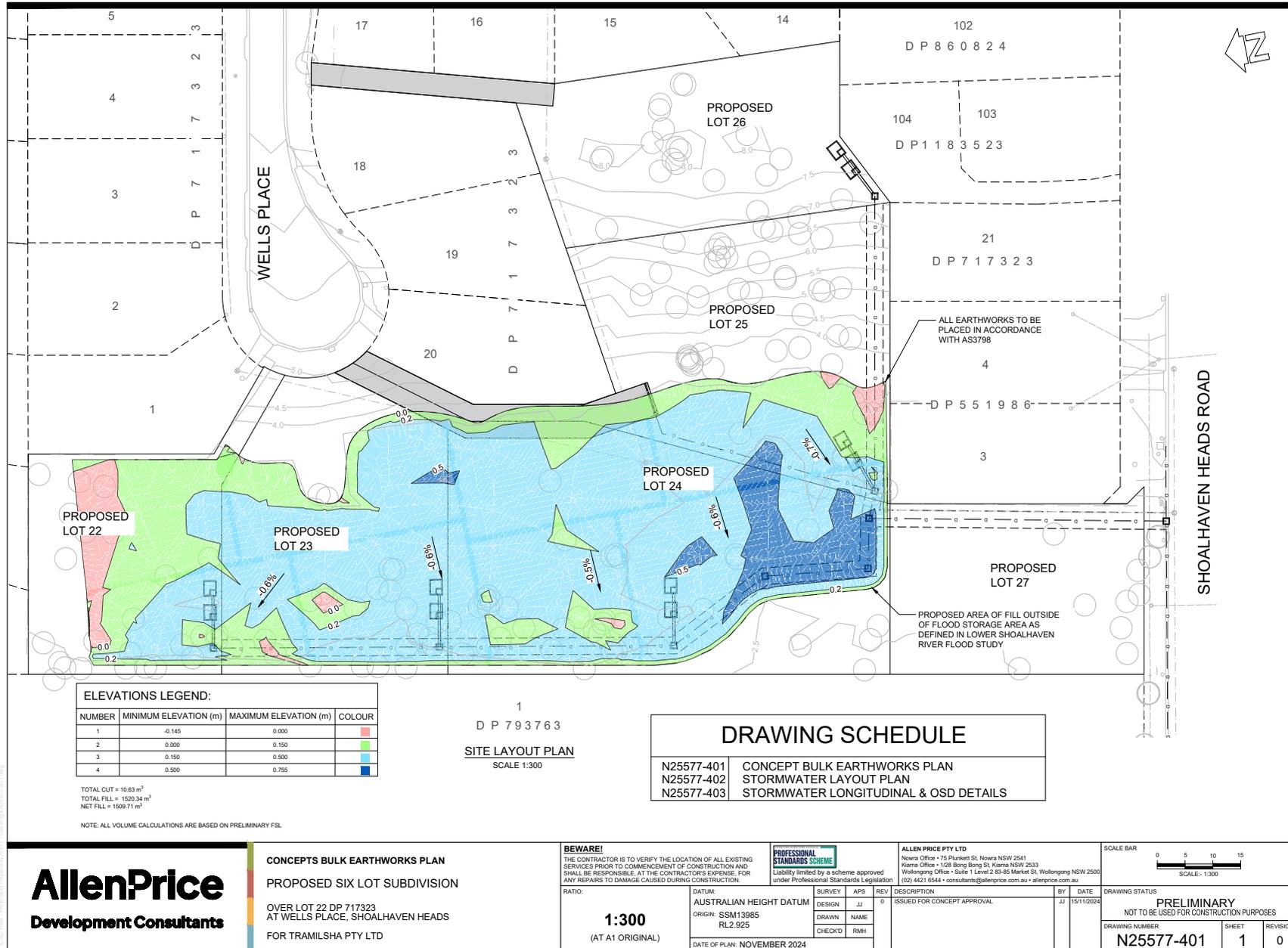
**SHOALHAVEN HEADS ROAD**

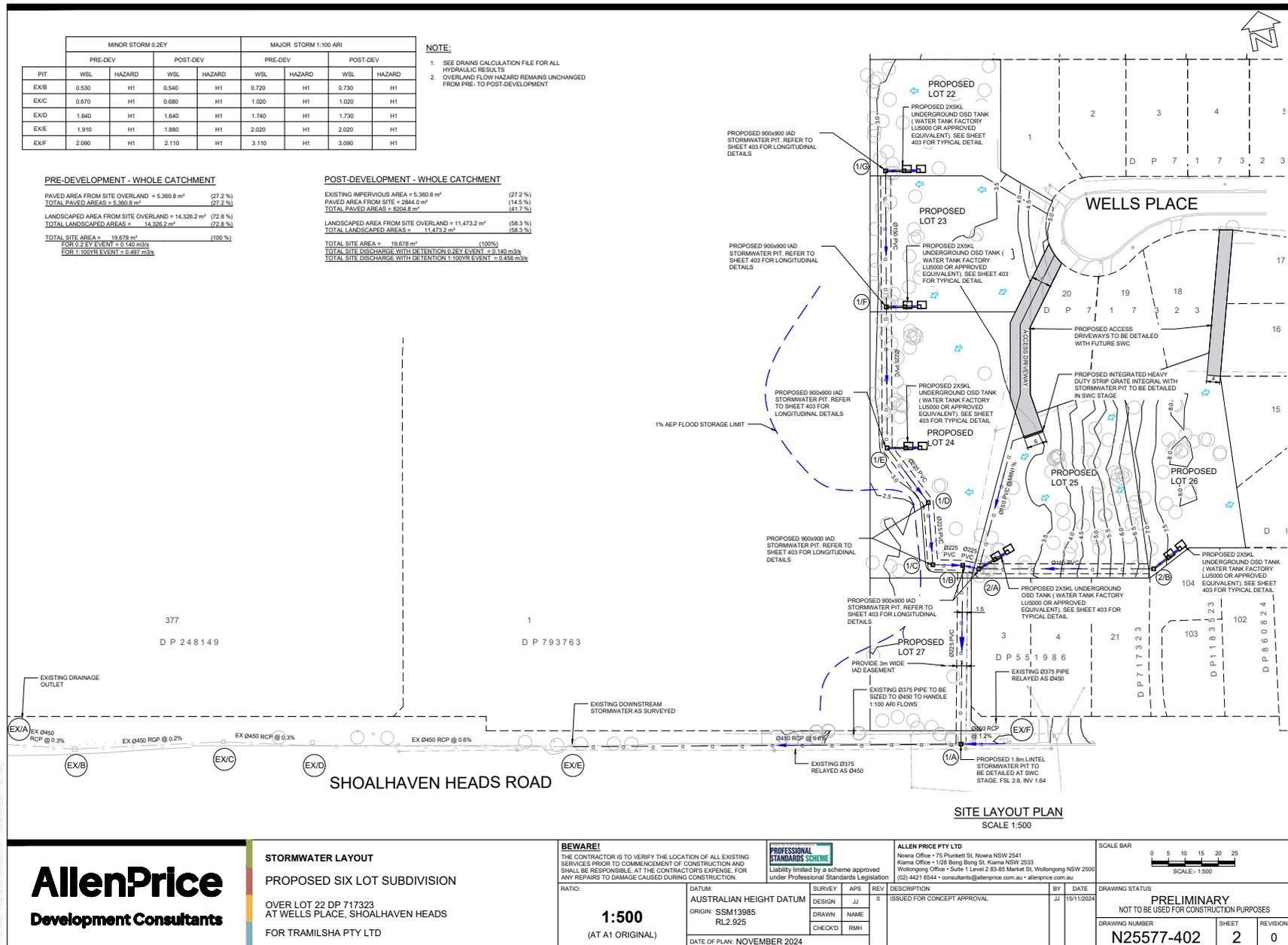


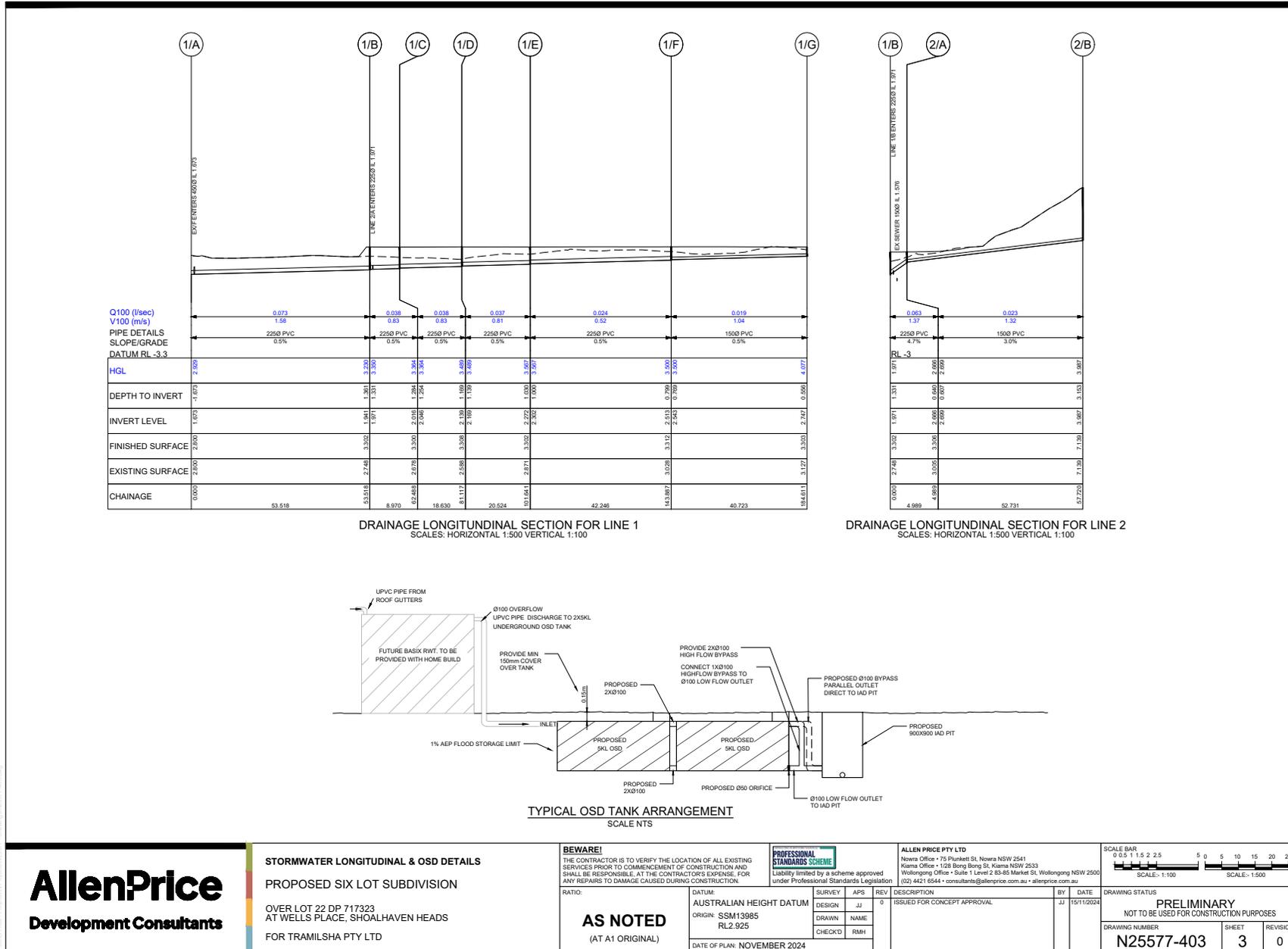
**PROFESSIONAL STANDARDS SCHEME**  
Liability limited by a scheme approved under Professional Standards Legislation

M:\CAD Files - Projects\N25577-05 - Subdivision Plan - Draft.dwg

RATIO: <b>1:500</b> (AT A1 ORIGINAL)	DATUM: AUSTRALIAN HEIGHT DATUM	SURVEY DESIGN	APS CC	REV A	DESCRIPTION UPDATED RESERVE AREA AND BIN LOCATIONS	BY CC	DATE 30.10.2024	<b>allen price &amp; scarratts pty ltd</b> land and development consultants Nowra Office: 75 Plunkett Street, Nowra NSW 2541 Kiama Office: 128 Bong Bong Street, Kiama NSW 2533 phone:(02) 4421 6544 consultants@allenprice.com.au www.allenprice.com.au	PLAN SHOWING PROPOSED SUBDIVISION OVER LOT 22 DP 717323 (LOTS 22-27 IN SF5332) WELLS PLACE, SHOALHAVEN HEADS FOR TRAMILSHA PTY LTD	DRAWING STATUS <b>PRELIMINARY</b> NOT TO BE USED FOR CONSTRUCTION PURPOSES
	DATE OF PLAN: 04.04.2024	DRAWN CHECKED	CC EG							DRAWING NUMBER <b>N25577-05</b>







**AllenPrice**  
Development Consultants

**STORMWATER LONGITUDINAL & OSD DETAILS**  
**PROPOSED SIX LOT SUBDIVISION**  
OVER LOT 22 DP 717323  
AT WELLS PLACE, SHOALHAVEN HEADS  
FOR TRAMILSHA PTY LTD

**BEWARE!**  
THE CONTRACTOR IS TO VERIFY THE LOCATION OF ALL EXISTING SERVICES PRIOR TO COMMENCEMENT OF CONSTRUCTION AND SHALL BE RESPONSIBLE, AT THE CONTRACTOR'S EXPENSE, FOR ANY REPAIRS TO DAMAGE CAUSED DURING CONSTRUCTION.

RATIO:  
**AS NOTED**  
(AT A1 ORIGINAL)

DATE OF PLAN: NOVEMBER 2024

**PROFESSIONAL STANDARDS SCHEME**  
Liability limited by a scheme approved under Professional Standards Legislation

SURVEY	APS	REV	DESCRIPTION	BY	DATE
DESIGN	JJ	0	ISSUED FOR CONCEPT APPROVAL	JJ	15/11/2024
DRAWN	NAME				
CHECK'D	RMH				

**ALLEN PRICE PTY LTD**  
Newra Office • 75 Parkes St, Newra NSW 2541  
Kiama Office • 1/28 Bong Bong St, Kiama NSW 2533  
Wollongong Office • Suite 1 Level 2 83-85 Market St, Wollongong NSW 2500  
(02) 4421 6644 • consultants@allenprice.com.au • allenprice.com.au

SCALE BAR  
0 0.5 1 1.5 2 2.5  
0 5 10 15 20 25  
SCALE: 1:100  
SCALE: 1:500

DRAWING STATUS  
**PRELIMINARY**  
NOT TO BE USED FOR CONSTRUCTION PURPOSES

DRAWING NUMBER	SHEET	REVISION
N25577-403	3	0

CL25.185 - Attachment 4

Section 4.15 Assessment Report - DA2025/1204

		<b>Section 4.15 Assessment Report</b> <i>Environmental Planning &amp; Assessment Act 1979</i>	
<p><b><u>Conflict of interest declaration</u></b></p> <p>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.</p> <p><i>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.</i></p>			
Assessing Officer		4/04/2025	
Peer Review Officer		11/04/2025	
Peer Review Officer		13/05/2025	
Peer Review Officer		13/05/2025	
Affiliations and Pecuniary Interests	Have any affiliations or pecuniary interests been identified by the Applicant in the Portal lodgement form?  <i>Note: Where a pecuniary interest is identified ensure, appropriate actions are taken (e.g. blocking access to TRIM folder for affected staff)</i>  <i>Note: For applications lodged by Council staff, Councillors and Council refer to POL22/149. A conflict of interest management statement may be required.</i>		No
Councillor Representations	<i>Councillor</i>	<i>Date</i>	<i>TRIM Reference</i>
Delegation Level Required	Full Council as 4.6 variation requested exceeds 10%		
Report Recommendation	Approval		
Development Description	Torrens title subdivision of existing dual occupancy		
Variations Proposed	<input type="checkbox"/> DCP departure  <input checked="" type="checkbox"/> Clause 4.6 exception		
	Clause number	4.1 Minimum Lot Size	
	Percentage variation	Lot 1 – 365.676m2 (26.8% variation) and Lot 2 – 368.135m2 (26.3% variation)	
	Brief justification for the variation	The consent for the underlying dual occupancy (attached) predates gazettal of Clause 4.1(A) of the SLEP (2014)  Strict compliance with the development standard is "unreasonable and unnecessary"	
	Determination date		

CL25.186 - Attachment 1

Section 4.15 Assessment Report - DA2025/1204

DA Number	DA2025/1204
PAN	PAN-512442
Property Address	1 Greenwell Point Road NOWRA NSW 2541 - Lot 23 DP 241510
Applicant(s)	Approveall Town Planning Pty Ltd
Owner(s)	Hofz EW Ali-Dib & Mahmoud Ali-Dib
Owner's consent provided?	Yes
Is the proposal a Crown development application under <a href="#">Division 4.6</a> of the EP&A Act 1979?	No <i>Note: A Crown development application means a development application made by or on behalf of the Crown and includes public authorities prescribed by the <a href="#">EP&amp;A Regulations 2021</a> e.g. NSW Land &amp; Housing Corporation, Landcom etc.</i> <i>Note: Development on Crown land does not necessarily mean it is a Crown development application. An application for an individual/private purpose and <u>not</u> made by or on behalf of the Crown is not a Crown development application.</i>
Date Lodged	5 March 2025
Date of site inspection	24/03/2025
Date clock stopped	10/03/2025
Date clock started	14/03/2025
Related Application in NSW Planning Portal?	<input type="checkbox"/> Concurrence and/or external agency referral (CNR) <input type="checkbox"/> HPC Contributions (CON) <input type="checkbox"/> Planning Panel (PPSSTH) <input type="checkbox"/> Section 68 (S68)
Number of submissions	NIL <i>Note: where submissions are received Council must give notice of the determination decision to all submitters.</i>

### 1. Detailed Proposal

The proposal includes:

- Torrens Title Subdivision of Existing Single Storey Dual Occupancy (Attached)

Section 4.15 Assessment Report - DA2025/1204

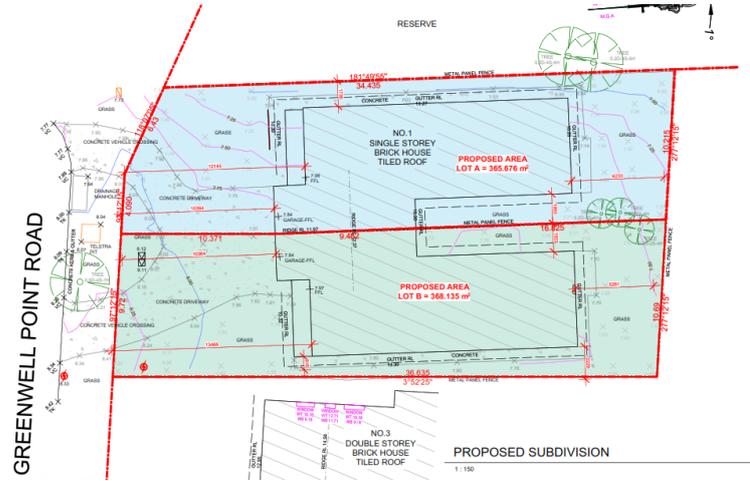


Figure 1 – Plan of proposed subdivision



Figure 2 – photos of street view of the built development site

The plans and information referred to are as follows:

Plan				
Plan Number	Revision Number	Plan Title	Drawn by	Date of Plan
AA390	Rev A	Proposed Subdivision	ApproveAll	20/02/2025

Section 4.15 Assessment Report - DA2025/1204

## 2. Subject Site and Surrounds

### Site Description



Figure 3 - Aerial imagery of subject site

The subject site has a frontage to Greenwell Point Road. The site contains an existing single storey Dual Occupancy (attached)

The surrounding area is residential in character and the site is adjoined by dwelling and Council public reserve .

### Summary of Site and Constraints

GIS Map Layer		
	Lot Area	733.49m <sup>2</sup>
	Zone	R2 Low Density Residential
	Does the land have a dwelling entitlement? <i>Note: for rural land refer to <a href="#">clause 4.2D</a> of Shoalhaven LEP 2014.</i>	Yes
	Does the property adjoin Council, Crown, National Parks or other public reserve? <i>Note: Consideration should be given to if the development requires or implies access from the adjoining land.</i>	Yes - The development does not affect the adjoining land

Section 4.15 Assessment Report - DA2025/1204

<b>Topographic Layer</b>	<p>Has appropriate survey information been provided?</p> <p>Note: For residential development identified as “?” on the <a href="#">DA Requirements for Lodgement Checklist (DA Matrix)</a>, the following criteria should be used as a guide for when additional survey detail is required:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Development Type and setbacks</th> <th style="text-align: left;">Required Survey Information</th> </tr> </thead> <tbody> <tr> <td>Rural sheds/garages with setbacks &gt;10m</td> <td>Builders’ dumpy levels</td> </tr> <tr> <td>Rural sheds/garages with setbacks &gt;5m</td> <td>Spot levels and identification survey</td> </tr> <tr> <td>Rural sheds/garages with setbacks &lt;5m</td> <td>Part survey of affected areas</td> </tr> <tr> <td>Urban sheds with setbacks &gt;1.2m</td> <td>Spot levels</td> </tr> <tr> <td>Urban sheds with setbacks &lt;1.2m</td> <td>Detailed / Part survey</td> </tr> <tr> <td>Carports with setbacks &lt;1.2m</td> <td>Identification survey</td> </tr> <tr> <td>Urban retaining walls</td> <td>Detailed survey</td> </tr> <tr> <td>Rural retaining walls</td> <td>Survey information as necessary</td> </tr> </tbody> </table>	Development Type and setbacks	Required Survey Information	Rural sheds/garages with setbacks >10m	Builders’ dumpy levels	Rural sheds/garages with setbacks >5m	Spot levels and identification survey	Rural sheds/garages with setbacks <5m	Part survey of affected areas	Urban sheds with setbacks >1.2m	Spot levels	Urban sheds with setbacks <1.2m	Detailed / Part survey	Carports with setbacks <1.2m	Identification survey	Urban retaining walls	Detailed survey	Rural retaining walls	Survey information as necessary	N/A - Survey information not required
	Development Type and setbacks	Required Survey Information																		
	Rural sheds/garages with setbacks >10m	Builders’ dumpy levels																		
	Rural sheds/garages with setbacks >5m	Spot levels and identification survey																		
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Urban sheds with setbacks >1.2m	Spot levels																			
Urban sheds with setbacks <1.2m	Detailed / Part survey																			
Carports with setbacks <1.2m	Identification survey																			
Urban retaining walls	Detailed survey																			
Rural retaining walls	Survey information as necessary																			
<p>Fall direction of land</p>	Other																			
<p>Slope of land &gt;20%?</p>	No																			
<b>Site Inspection</b>	<p>Works within proximity to electricity infrastructure?</p>	No																		
	<p>Is the development adjacent to a <a href="#">classified road</a>?</p>	No																		
	<p>Is the development <a href="#">adjacent to a rail corridor</a>?</p>	No																		
<b>Eastern Gas High Pressure Pipeline (Jemena)</b>	<p>Site within proximity to the eastern gas high pressure pipeline?</p> <ul style="list-style-type: none"> <li>within the licence area of a pipeline for gas, or for petroleum or other liquid fuels, licensed under the Pipelines Act 1967, or</li> <li>within 20m of the centreline (measured radially) of a relevant pipeline, or</li> <li>within 20m of land the subject of an easement for a relevant pipeline.</li> </ul>	No																		
<b>Utility Network</b>	<p>Access to reticulated sewer?</p>	Yes																		
	<p>Does the proposal require a new connection to a pressure sewer main (i.e. a new dwelling connection)?</p>	No																		

Section 4.15 Assessment Report - DA2025/1204

	<input checked="" type="checkbox"/> Sewer Pressure Mains > <ul style="list-style-type: none"> <li><span style="color: red;">—</span> Rising Main</li> <li><span style="color: red;">- -</span> Surcharge Main</li> <li><span style="color: orange;">- -</span> Low Pressure Sewer Main</li> <li><span style="color: green;">—</span> Under Construction</li> </ul>	
	<p><b>Building over sewer policy applicable?</b>  <i>Note: Zones of influence can differ based on soil type (e.g., sandy soils vs clay soils). If unsure discuss with Shoalhaven Water.</i></p>	No
	<p><b>Access to reticulated water?</b></p>	Yes
	<p><b>Does the proposal impact on any critical water or sewer infrastructure (e.g. REMS, water, sewer layers)?</b></p>	No
	<p><b>Does the proposal increase dwelling density and demand on water or sewer services (e.g. secondary dwelling, dual occupancy, multi dwelling housing, subdivision)?</b></p>	Yes - Referral to Shoalhaven Water required. Does not increase density - Referral required for subdivision
	<p><b>On-site sewage management (OSSM) - Is the development located suitably away from any effluent management areas (EMA) or effluent disposal areas (EDA)?</b>  <i>Note: Ensure you have adequate information about the location of existing OSSM systems</i></p>	No
<p><b>On-site sewage management (OSSM) - Do effluent management areas (EMA) or effluent disposal areas (EDA) adopt suitable buffers to water mains and other potable drinking water infrastructure.</b>  <i>Note: EMA/EDAs should be located at least 20m away from a downstream water main and at least 10m from an upstream water main.</i></p>	No	
<b>Environmental Layers</b>	<p><b>Aboriginal Cultural Heritage</b></p>	No
	<p><b>Bush Fire</b></p>	No
	<p><b>Coastal Hazard Lines (applies to location of proposed development)</b></p>	No
	<p><b>Coastal Hazard Area</b></p>	No
	<p><b>Potentially Contaminated Land</b></p>	No
	<p><b>Flood</b>  <i>Note: There are several catchments that have not have flood studies conducted. Sites outside of the flood study area may still be subject to flooding. Refer to advisory note on p.3 of <a href="#">Chapter G9</a> of Shoalhaven DCP 2014.</i></p> <p><input checked="" type="checkbox"/> Flood Data  <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> Flood Studies</p>	No

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	<p>Development on waterfront land (i.e. within 40m of a watercourse)</p> <p>Note: A Controlled Activity Approval (CAA) may be required for works within 40m of a watercourse. The <a href="#">Waterfront land e-tool</a> can be used to determine if a CAA is required.</p>	No
Planning Layers	Development Control Plan - <a href="#">Area Specific Chapters</a>	No
	Draft Exhibited Planning Proposal	No
	<a href="#">Shoalhaven LEP (Jerberra Estate) 2014</a>	No
	<a href="#">Acid Sulfate Soils</a>	Class 5
	Buffers	No
	<a href="#">Terrestrial Biodiversity</a>	No
	Local Clauses	No
	<a href="#">Coastal Risk Planning</a>	No
	<a href="#">Heritage</a>	No
	<a href="#">Scenic Protection</a>	No
	<a href="#">Riparian Land and Watercourses</a>	No
	<p>Sydney Drinking Water Catchment area (e.g. NorBE)</p> <p>Note: NorBE Assessments submitted to Council can be viewed from the "Lodged" tab in the NorBE online assessment tool shown below.</p>	No
SEPP (Resilience and Hazards) 2021 – Chapter 2 Coastal Management	No	
<a href="#">Marine Park Estate</a>	No	
<a href="#">BV Map</a>	Biodiversity Values Map	No

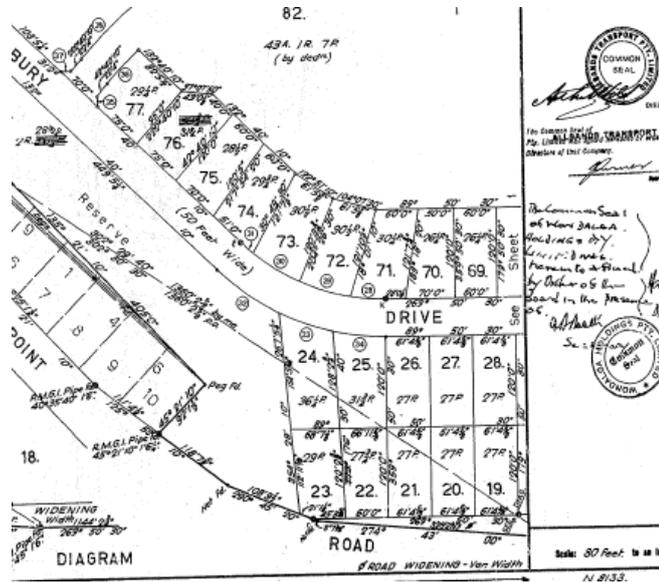
Site Inspection Observations

Refer to site inspection report. **D25/145726**

Deposited Plan and 88B Instrument

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There are no identified restrictions on the use of the land that would limit or prohibit the proposed development.



**3. Background**

Pre-Lodgement Information

N/A

Post-Lodgement Information

2	Application lodged	05/03/2025
3	Additional Information was requested	05/03/2025
4	Additional Information was provided	05/03/2025
5	Additional Information was requested	10/03/2025
6	Additional Information was provided	14/03/2025

Site History and Previous Approvals

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One Council Applications

Trim Application	Date Lodged	Portal No	Application Type	Proposal	Decision	Status
DA2025/1204	05/03/2025	PAN-512442	Subdivision	Torrens Title Subdivision of Existing	Awaiting Info	Current
DA2025/1142		PAN-508735	Subdivision	Torrens Title Subdivision of Dual	Return	Past
				Occupancy (attached)		

Plain Sailing - since 2nd September 1996

Application	Appl. Date	Proposal	Status	Status Date
DA02-2164	22/04/2003	Dual Occupancy (2 new units) - Attached	Approved (T)	22/04/2003
DA02-2164	01/04/2003	Dual Occupancy (2 new units) - Attached	Approved (T)	01/04/2003
DS02-1376	27/08/2002	Section 96 Amendment	Approved (O)	27/08/2002
DA02-2164	10/05/2002	Dual Occupancy (2 new units) - Attached	Approved (T)	11/06/2002
DR02-1649	10/05/2002	Sewer Application	Approved (P)	11/06/2002

BA data prior to the 2nd Sept 1996 (bamast)

Application	Appl. Date	Proposal	Status	Status Date
BA95/0695	31/03/1995	Approved	Approved	19/04/1995
SD950695	31/03/1995			

Is the proposed development compatible with any relevant previous approvals?	Yes
Are there any orders applying to the property? <i>Note: Orders are viewable under the Development – Orders tab in the property details.</i>	No
Does the proposal appear to include/relate to any unauthorised building work? <i>Note: A DA can only approve prospective works and uses. Any unauthorised or retrospective works must be dealt with under a separate Building Information Certificate process.</i>	No

4. Consultation and Referrals

Internal Referrals	
Referral	Comments
Shoalhaven Water	No objection subject to recommended conditions.
GIS	No objection subject to recommended conditions.

External Referrals	
Referral	Comments
NA	Nil

5. Other Approvals

Integrated Development	
Agency	Recommendation

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NA	Nil
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## 6. Statutory Considerations

### **Environmental Planning and Assessment Act 1979**

#### **Section 4.14 Consultation and development consent – certain bush fire prone land**

<i>Is the development site mapped as bush fire prone land?</i>	No
<i>Is there vegetation within 100m of the proposed development that would form a bush fire hazard as identified in Planning for Bush Fire Protection?</i>  <i>Note: The bush fire mapping cannot be relied upon solely for identifying bush fire hazards.</i>	No
<i>Is the development subject to a performance based solution or a BAL-FZ?</i>  <i>Note: As per <a href="#">Appendix 2</a> of PBP 2019, performance based solutions should be undertaken and fully justified by a qualified consultant BPAD practitioner.</i>  <i>Note: The NSW variation of <a href="#">H7D4</a> in NCC 2022 Volume 2 specifies that AS3959 and the NASH Standard can only be used as a deemed-to-satisfy provision where an appropriate condition of consent has been imposed in <a href="#">consultation with NSW RFS</a>.</i>	N/A

#### **Division 4.6 Crown Development**

<i>Is the proposal a Crown development application under <a href="#">Division 4.6</a> of the EP&amp;A Act 1979?</i>  <i>Note: A Crown development application means a development application made by or on behalf of the Crown and includes public authorities prescribed by the <a href="#">EP&amp;A Regulations 2021</a> e.g. NSW Land &amp; Housing Corporation, Landcom etc.</i>	No
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#### **Biodiversity Conservation Act 1979**

<i>Does the application include works or vegetation removal within the <a href="#">Biodiversity Values mapped area</a>?</i>	No
<i>Does the application involve clearing of native vegetation above the area clearing threshold?</i>	No

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<p><b>Area clearing threshold</b></p> <p>The area threshold varies depending on the minimum lot size (shown in the Lot Size Maps made under the relevant Local Environmental Plan (LEP)), or actual lot size (where there is no minimum lot size provided for the relevant land under the LEP).</p> <table border="1"> <thead> <tr> <th>Minimum lot size associated with the property</th> <th>Threshold for clearing, above which the BAM and offsets scheme apply</th> </tr> </thead> <tbody> <tr> <td>Less than 1 ha</td> <td>0.25 ha or more</td> </tr> <tr> <td>1 ha to less than 40 ha</td> <td>0.5 ha or more</td> </tr> <tr> <td>40 ha to less than 1000 ha</td> <td>1 ha or more</td> </tr> <tr> <td>1000 ha or more</td> <td>2 ha or more</td> </tr> </tbody> </table> <p>The area threshold applies to all proposed native vegetation clearing associated with a proposal, regardless of whether this clearing is across multiple lots. In the case of a subdivision, the proposed clearing must include all future clearing likely to be required for the intended use of the land after it is subdivided.</p> <p>If the land on which the proposed development is located has different minimum lot sizes the smaller or smallest of those minimum lot sizes is used to determine the area clearing threshold.</p>	Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply	Less than 1 ha	0.25 ha or more	1 ha to less than 40 ha	0.5 ha or more	40 ha to less than 1000 ha	1 ha or more	1000 ha or more	2 ha or more	
Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply										
Less than 1 ha	0.25 ha or more										
1 ha to less than 40 ha	0.5 ha or more										
40 ha to less than 1000 ha	1 ha or more										
1000 ha or more	2 ha or more										
<p><i>Will the proposed development have a significant impact on threatened species or ecological communities, or their habitats, according to the test in <a href="#">section 7.3</a> of the Biodiversity Conservation Act 2016 (i.e. 'test of significance')?</i></p> <p><i>Note: Consideration should be given to the site's proximity to NPWS land (see <a href="#">guidelines</a>) and other natural areas, as well as any area that may contain threatened species, vulnerable or endangered ecological communities or other vulnerable habitats.</i></p>	No										
<p><i>If the application exceeds the Biodiversity Offsets Scheme Threshold (i.e. if yes to <b>any</b> of the above), has the application been supported by a Biodiversity Development Assessment Report (BDAR)?</i></p>	N/A										

**Fisheries Management Act 1994**

The proposed development would not have a significant impact on the matters for consideration under [Part 7A of the Fisheries Management Act 1994](#).

**Local Government Act 1993**

<p>Do the proposed works require approval under <a href="#">Section 68</a> of the Local Government Act 1993?</p>	No
<p><input type="checkbox"/> Water supply, sewerage and/or stormwater works</p> <p><input type="checkbox"/> Operation of a system of sewage management (i.e. on-site sewage management system)</p> <p><input type="checkbox"/> Installation of a manufactured home</p> <p><input type="checkbox"/> Installation of a domestic oil or solid fuel heating appliance, other than a portable appliance (i.e. a fire place)?</p>	

**Marine Estate Management Act 2014**

<p>Does the application include any works within the marine park or aquatic reserve?</p>	No
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## 7. Statement of Compliance/Assessment

The following provides an assessment of the submitted application against the matters for consideration under [Section 4.15](#) of the Environmental Planning and Assessment Act 1979.

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

#### (i) Environmental planning instrument

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

Environmental Planning Instrument
<a href="#">Shoalhaven Local Environmental Plan 2014</a>
<a href="#">State Environmental Planning Policy (Transport and Infrastructure) 2021</a>

#### State Environmental Planning Policy (Primary Production) 2021

##### Chapter 2 Primary production and rural development

Part 2.5 Sustainable aquaculture	
<u>Division 4 - Consideration of effects of proposed development on oyster aquaculture</u>	
<p>Will the proposed development likely have an adverse effect on oyster aquaculture development or a priority oyster aquaculture area?</p> <p>Note: The <a href="#">Healthy Estuaries for Healthy Oysters - Guidelines for development near waterways</a> provides a guide for what types of development may impact on oyster aquaculture.</p> <p>Note: GIS mapping of aquaculture leases and priority oyster aquaculture areas is available on the <a href="#">Fisheries Spatial Data Portal</a>.</p>	N/A

#### State Environmental Planning Policy (Resilience and Hazards) 2021

##### Chapter 4 Remediation of land

Question	Yes		No	
1. Does the proposal result in a new land use being a residential, educational, recreational, hospital, childcare or other use that may result in exposure to contaminated land?	<input type="checkbox"/>	Proceed to Question 2	<input checked="" type="checkbox"/>	Assessment under SEPP and DCP not required.

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State Environmental Planning Policy (Sustainable Buildings) 2022

**Chapter 2 Standards for residential development – BASIX**

BASIX Certificate	
<p><i>Has the application been supported by an appropriate BASIX Certificate?</i></p> <p><i>Note: Residential development BASIX Certificates are required for:</i></p> <ul style="list-style-type: none"> <li>• <i>Erection (but not the relocation of) of all new residential dwellings.</i></li> <li>• <i>Development that involves the change of use by which a building becomes a dwelling.</i></li> <li>• <i>Alterations and additions to dwellings that cost \$50,000 or more.</i></li> <li>• <i>Swimming pools and spas with a combined capacity of 40,000 litres or more.</i></li> </ul>	N/A

State Environmental Planning Policy (Transport and Infrastructure) 2021

**Chapter 2 Infrastructure**

Considerations	Comments
<b><u>Division 5 - Electricity transmission or distribution networks</u></b>	
<i>Part 2.3 Division 5 Subdivision 2 – Development likely to affect an electricity transmission or distribution network</i>	
<i>Does the proposed development involve work within proximity to electricity infrastructure?</i>	N/A
<b><u>Division 12A - Pipelines and pipeline corridors</u></b>	
<i>Part 2.3 Division 12A Subdivision 2 – Development adjacent to pipeline corridors</i>	
<p><i>Is the subject site:</i></p> <p>a) <i>within the licence area of a pipeline for gas, or for petroleum or other liquid fuels, licensed under the <a href="#">Pipelines Act 1967</a>, or</i></p> <p>b) <i>within 20m of the centreline (measured radially) of a relevant pipeline, or</i></p> <p>c) <i>within 20m of land the subject of an easement for a relevant pipeline.</i></p>	N/A
<b><u>Division 15 - Railways</u></b>	
<b><u>Division 17 - Roads and traffic</u></b>	
<i>Part 2.3 Division 17 Subdivision 2 – Development in or adjacent to road corridors and road reservations</i>	

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<b>Development on proposed classified road</b>	
Is the proposed development to be located on a classified road or land reserved for the purposes of a classified road?	No

Shoalhaven Local Environmental Plan Local Environmental Plan 2014

**Land Zoning**

The land is zoned R2 Low Density Residential under the *Shoalhaven Local Environmental Plan 2014*.

**Characterisation and Permissibility**

The proposal is best characterised as Torrens Title Subdivision of approved Dual Occupancy (attached) under *Shoalhaven Local Environmental Plan 2014*. The proposal is permitted within the zone with the consent of Council.

**Zone objectives**

<b>Objective</b>	<b>Comment</b>
<ul style="list-style-type: none"> <li>To provide for the housing needs of the community within a low density residential environment.</li> <li>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> <li>To provide an environment primarily for detached housing and to ensure that other development is compatible with that environment.</li> </ul>	The proposal is consistent with the objectives of the zone.

**Applicable Clauses**

<b>Clause</b>	<b>Comments</b>	<b>Complies/Consistent</b>
<b>Part 1 Preliminary</b>		
<a href="#">1.8A</a>	Savings provision relating to development applications. 1.8A(2) requires the application to be determined as if amendment number 35 to SLEP 2014 had not commenced. This forces assessment for subdivision to be addressed under clause 4.1 of the LEP.	Complies
<b>Part 2 Permitted or prohibited development</b>		
<a href="#">2.6</a>	Subdivision is permitted but only with development consent.	Complies
<b>Part 4 Principal development standards</b>		
<a href="#">4.1A</a>	The proposal includes subdivision of land pursuant to Clause 4.1. The minimum lot size set by the Lot Size Map for the land is 500m <sup>2</sup> . The proposed subdivision will create lots with the following sizes: - Lot A 365.324m <sup>2</sup>	Variation to Clause 4.1 proposed.

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	<p>- Lot B 368.135m2</p> <p>The proposed lots have a site area less than the minimum lot size set by the Lot Size map and therefore, the proposal does not comply with the requirements of Clause 4.1.</p> <p>As the consent for the underlying dual occupancy (attached) (DA02/2164 approved 11 June 2002) predates the gazettal of Clause 4.1(A) of SLEP (2014), a CI 4.6 exception to seek approval for departure from a development standard (CI 4.1 (3) (minimum lot size) is required.</p> <p>See Appendix B for detailed consideration of Clause 4.6 variation.</p>	<p>See Appendix B for detailed consideration of CI 4.6 variation</p>
<a href="#">4.6</a>	<p>A Clause 4.6 exception is included in this development application to vary the provisions of CI 4.1 of SLEP (2014). A Clause 4.6 variation statement has been submitted by the Applicant</p> <p>See Appendix B for detailed consideration of Clause 4.6 variation .</p>	<p>Clause 4.6 request. See Appendix B for detailed consideration of Clause 4.6 Variation</p>
Part 5 Miscellaneous provisions		
Part 7 Additional local provision		
<a href="#">7.11</a>	<p>All relevant services are available to the site.</p> <p>There is suitable vehicle access to the site.</p>	<p>Complies</p>

ii) Draft Environmental Planning Instrument

The proposal is not inconsistent with any [draft environmental planning instruments](#).

iii) Any Development Control Plan

[Shoalhaven Development Control Plan 2014](#)

<b>Generic DCP Chapter</b>
<b><a href="#">G11: Subdivision of Land</a></b>
<p>The proposal includes Torrens Title subdivision of the proposed dual occupancy pursuant to clause 4.1 of <i>Shoalhaven LEP 2014</i>.</p> <p>Council is satisfied that the subdivision and proposed lot size and layout is appropriate, and that the proposal is consistent with the development controls and performance criteria set out in Chapter G11 of <i>Shoalhaven DCP 2014</i>.</p>

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The proposed Torrens Title subdivision is suitable with regard to the considerations of Chapter G11.
See Appendix A for assessment against Chapter G11
<b>G21: Car Parking and Traffic</b>
Subdivision of existing Dual Occupancy (attached) only. The proposed development does not give rise to additional parking requirements. Existing vehicle parking and manoeuvring areas are maintained on site.

<b>Area Specific DCP Chapter</b>
NA

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

There are no planning agreements applying to this application.

**iv) Environmental Planning and Assessment Regulation 2021**

<u>Clause 62</u>	Does the application result in a change of use of an existing building but does not propose any building works?	No
<u>Clause 64</u> Partial Upgrade	Does the application involve alterations or additions to an existing building?	No
<u>Clause 64</u> Total Upgrade	Does the application involve building works and result in conversion of a building or part of a building from non-habitable to a habitable use?	No

The proposal ensures compliance with the applicable requirements within the Regulations subject to recommended conditions of consent.

**State and Local Infrastructure Contributions**

<b>State Contributions</b>	
<p>Does the proposed development trigger the Housing and Productivity Contribution (HPC)?</p> <p>Note: If the development triggers an HPC, then a corresponding Contribution (CON) case is created as a related case in the Portal. The calculation needs to be reviewed and confirmed in the Portal.</p> <p>Note: HPC is implemented via Ministerial planning orders. Different Orders apply for development lodged before 1/7/2024. See the <a href="#">NSW Government webpage</a> for further information.</p> <p>Note: The <a href="#">Housing and Productivity Contributions Guide to the Ministerial Planning Order</a> provides examples and guidance for calculating HPC.</p>	<p>NO – From 1 July 2024 Torrens Subdivision of existing dual occupancy – No HPC</p>

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<p><i>Note: The Ministerial planning orders provide excluded lots and credits in some instances. When calculating HPC ensure that these are considered.</i></p>	
<p><b>Local Contributions</b></p>	
<p>Is the development site an "<a href="#">old subdivision property</a>" identified in Shoalhaven Contributions Plan 2019?</p>	No
<p>Is the proposed development considered to increase the demand for community facilities in accordance with the <a href="#">Shoalhaven Contributions Plan 2019</a>?</p>	No
<p>Where s7.11 contributions are raised for residential development, have they been capped (where required) as per the <a href="#">Ministerial Direction</a>?</p> <p><i>Note: Section 6 of the <a href="#">Environmental Planning and Assessment (Local Infrastructure) Direction 2012</a> (most recent consolidated version of Direction is available <a href="#">here</a> – noting that this does not consolidate subsequent or future amendments to the Direction) sets the capped rate for residential development.</i></p> <p><i>Note: Where s7.11s are capped, the 'Apportion Cap' rate must be updated to the correct amount and selected.</i></p>	N/A
<p>Is the proposed development considered to increase the demand for on water and sewer services (i.e. s64 Contributions)</p>	May apply - Shoalhaven Water Development Application Notice yet to be issued.

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

Head of Consideration	Comment
Natural Environment	The proposed development will not have a significant adverse impact on the natural environment.
Built Environment	The proposed development will not have a significant adverse impact on the built environment.
Social Impacts	The proposed development will not have a negative social impact in the locality.
Economic Impacts	The proposed development will not have a negative economic impact in the locality.

**(c) Suitability of the site for the development**

The site is suitable for the proposed development.

- The development is permissible with Council consent within the zone.
- The proposal supports the local zoning objectives.

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- The proposal is consistent with the objectives and requirements of the *Shoalhaven Local Environmental Plan 2014*.
- The proposal is consistent with the objectives and requirements of the *Shoalhaven Development Control Plan 2014*.
- The intended use is compatible with surrounding/adjoining land uses

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

The DA was notified in accordance with Council's Community Consultation Policy for Development Applications. No submissions were received by Council during the notification period.

**(e) The Public Interest**

The public interest has been taken into consideration, including assessment of the application with consideration of relevant policies and process. The proposal is considered to be in the public interest.

**Delegations**

Are any clause 4.6 exceptions proposed?		Yes
<i>Development Standard</i>	<i>Numerical Extent of Departure</i>	<i>Percentage (%) Extent of Departure</i>
CI 4.1 of SLEP (2014)	Lot A – 134.324m2 Lot B – 131.865m2	Lot A – 26.8% Lot B – 26.3%
Are any DCP performance-based solutions proposed?		No

**Guidelines for use of Delegated Authority**

Note: Ensure that all delegations in D21/472049 and officer's instrument of delegation are complied with.

Variations to Development Standards					
Level of Delegation	Assessing Officer	Senior Planner	Lead	Manager/Director	Elected Council
Extent of clause 4.6 exception	Nil	<2%	<5%	<10%	>10% OR non-numerical development standard
DCP Performance Based Solutions					

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Level of Delegation	Assessing Officer	Senior Planner	Lead	Manager
Extent of DCP performance-based solutions	≤25%	≤50%	≤75%	100%

**Cost Limits for use of Delegated Authority**

Level of Delegation	Assessing Officer	Lead	Manager	Director
Cost of Development / Works Proposed	≤\$1.5 million	≤\$7.5 million	≤\$10 million	≤\$30 million

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 extent of the CI 4.6 departure ( 26.8%) the application must be determined by the Elected Council - City Development.

**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 the application be approved subject to appropriate conditions of consent for the following reasons:

Reasons for Grant of Consent	
1)	The proposed development is consistent with the objects of the Environmental Planning and Assessment Act 1979.
2)	The proposed development is considered acceptable and with regard to the applied exception to the development standards set out in clause 4.1 of Shoalhaven Local Environmental Plan 2014. The proposed development complies with all other development standards and is consistent with the aims, objectives and provisions of the applicable environmental planning instruments.
3)	The proposed development complies with the performance criteria and is consistent with the aims, objectives and provisions of Shoalhaven Development Control Plan 2014.
4)	The proposed development is consistent with the aims, objectives and provisions of relevant Council policies.
5)	The likely impacts of the proposed development are considered acceptable.
6)	The site is suitable for the proposed development.

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7)	Any submissions received during the public notification period have been considered and issues and concerns raised by the community in submissions have been addressed in the assessment.
8)	The proposed development does not conflict with the public interest.



CL25.186 - Attachment 1

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Appendix A – Assessment Checklist: Chapter G11: Subdivision

<b>Objectives of Chapter G11</b>	
<p>The objectives of are to:</p> <ul style="list-style-type: none"> <li>i. Encourage high quality urban design and residential amenity.</li> <li>ii. Set appropriate environmental criteria for subdivision.</li> <li>iii. Provide a comprehensive design approach for residential, rural, industrial and commercial subdivision.</li> <li>iv. Provide for the ecologically sustainable subdivision of land.</li> </ul>	
<b>5 Controls</b>	
<b>5.1 Road, Pedestrian and Cyclist Network</b>	
No road or footpath works proposed – subdivision of existing dual occupancy attached.	
<b>5.3 Subdivision Layout and Design</b>	
<b>5.3.4 Torrens Title Subdivision of Certain Medium Density Development</b>	
Where the subdivision is of an approved dual occupancy/multi dwelling housing development, is the subdivision consistent with all related development consent conditions?	Yes
Where the subdivision is of an approved dual occupancy/multi dwelling housing development, is the subdivision consistent with the layout of the approved development?	Yes
<b>5.3.10 Access</b>	
Do all lots have coincidental legal and practical access?	Yes
<b>5.4 Utilities and Servicing</b>	
All other services are available and do not required modification.	
Requirement to apply for a Water Development Notice to be conditioned.	

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<b>5.5 Stormwater, Flooding and Water Sensitive Urban Design</b>	
<i>Does the proposed subdivision provide flood free access to all lots?</i>	Yes
<b>5.7 Public Natural Areas</b>	
<i>N/A – No substantial works proposed – subdivision of existing dual occupancy attached only.</i>	

**Appendix B – Clause 4.6 Detailed Consideration**

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The proposed development seeks a CI 4.6 exception to development standards. Consideration of the Clause 4.6 exception is provided below:

CI4.6 Exception to the Shoalhaven Local Environmental Plan 2014
Development Standard
<p><b>4.1 Minimum subdivision lot size</b></p> <p>(1) The objectives of this clause are as follows—</p> <ul style="list-style-type: none"> <li>(a) to ensure that subdivision is compatible with, and reinforces the predominant or historic subdivision pattern and character of, an area,</li> <li>(b) to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,</li> <li>(c) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.</li> </ul> <p>(2) This clause applies to a subdivision of any land shown on the <i>Lot Size Map</i> that requires development consent and that is carried out after the commencement of this Plan.</p> <p style="border: 2px solid red; padding: 2px;">(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the <i>Lot Size Map</i> in relation to that land.</p> <p>(3A) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size.</p> <p>(4) This clause does not apply in relation to the subdivision of any land—</p> <ul style="list-style-type: none"> <li>(a) by the registration of a strata plan or strata plan of subdivision under the <i>Strata Schemes Development Act 2015</i>, or</li> <li>(b) by any kind of subdivision under the <i>Community Land Development Act 2021</i>, or</li> <li>(ba) occurring as part of the closure of a public road under Part 4 of the <i>Roads Act 1993</i>.</li> </ul> <p>cl 4.1: Am 2019 (482), Sch 1 [4]; 2020 (502), Sch 1[2].</p>
Extent of proposed departure from development standard

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<b>LEP clause</b>	<b>Numerical Standard</b>	<b>Proposed Solution</b>	<b>Numerical Departure</b>	<b>% Departure</b>
4.1(3)	Min Lot size = 500m2	Lot A. – 365.676m2	Lot A. – 134.324m2	Lot A. – 26.8%
		Lot B. – 368.135m2	Lot B. – 131.865m2	Lot B. – 26.3%
<b>Applicant's clause 4.6 statement</b>				
<p>Clause 4.6 requires that Council be satisfied that the applicant's clause 4.6 statement demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. An extract from the Applicant's clause 4.6 statement is provided below:</p>				
<p><b>Extract from applicant's clause 4.6 statement prepared by ApproveAll (Ref: AA390) and dated 14/03/2025 (TRIM Ref: D25/138162).</b></p>				
<p>As previously mentioned, the parent lot of the subject land has an area of 733.5m<sup>2</sup> and the proposed subdivision would create the following lot areas:</p> <ul style="list-style-type: none"> <li>• Lot A – regular shaped allotment with an area of 365.676m<sup>2</sup> which equates to a variation of 26.8% or 134.324m<sup>2</sup></li> <li>• Lot B – regular shaped allotment with an area of 368.135m<sup>2</sup> which equates to a variation of 26.3% or 131.865m<sup>2</sup>.</li> </ul> <p>Whilst the proposed lots do not meet the minimum lot sizes of Clause 4.1, it should be noted that the current dual occupancy was designed to ensure each dwelling could function as separate dwellings on separate lots. No proposed changes to the physical layout of the development with regard to parking, vehicle manoeuvring areas, or water or power is required. This is inconsequential to the functioning and appearance of the development as originally approved under DA02/2164 approved 11 June 2002.</p> <p>Clause 4.1A of the SLEP 2014 prescribes a minimum parent lot size for Torrens Title subdivision for attached dual occupancies in the R2 zone of 500m<sup>2</sup> for developments "for which development consent has been granted in accordance with this clause". Being 733.m<sup>2</sup>, the subject site meets the 500m<sup>2</sup> minimum lot size requirement for Torrens Title Subdivision of an attached dual occupancy under current Clause 4.1A. However, as mentioned above, subdivision was not approved under the current Clause 4.1A.</p>				

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Clause 4.1A (4) was gazetted on 11 August 2020 as Amendment 35 of Shoalhaven LEP 2014 which postdates the consent for the subject dual occupancy being issued on 11 June 2002 under DA02/2164. Accordingly, it is not possible to apply Clause 4.1A to the subject site and in the absence of any other facultative provisions of the LEP, the provisions of Clause 4.1 of SLEP 2014 apply for the purpose of the subdivision of the existing approved and constructed dual occupancy. This Variation to Development Standard (Clause 4.6 Variation) is specifically seeks for development consent to Torrens Title Subdivide the attached dual occupancy under the minimum lot size requirements governed under Clause 4.1.

Accordingly, we set out below the justification for a departure to the 500m<sup>2</sup> minimum lot size below. Clause 4.6 of Shoalhaven LEP 2014 provides for a variation to a development standard under certain circumstances. The objectives of Clause 4.6 (1) are:

- (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.

Table 1 below addresses how the objectives of the Clause 4.1 development standard are achieved, notwithstanding the unique standards in which they apply to this particular development application, and despite the numerical departure from the standard.

Objective	Response
(a) to ensure that subdivision is compatible with, and reinforces the predominant or historic subdivision pattern and character of, an area	<p>Comment: The proposed subdivision into two Torrens title lots, 365.676 sqm and 368.135 sqm, is consistent with the existing subdivision pattern within the locality as seen in Figure 4 where the lot depth will remain consistent with the adjacent lots and surrounding area.</p> <p>The proposal seeks to formalise the existing dual occupancy (attached) development by creating separate titles for each dwelling, which is in line with the existing built form and surrounding subdivision pattern.</p> <p>Clause 4.1A of SLEP2014 specifically allows for the Torrens subdivision of certain medium density developments into lots of any size, provided that the dwellings were approved under that clause after 21 August 2020. While this particular development</p>

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	<p>predates that provision, the principle behind it reinforces that lot sizes smaller than the standard minimum can be appropriate where they reflect the established character of the area.</p> <p>The proposal ensures compatibility with the prevailing subdivision pattern while providing improved land tenure outcomes.</p> 
<p><b>Objective</b></p>	<p><b>Response</b></p>
<p>(b) to minimise any likely impact of subdivision and development on the amenity of neighbouring properties</p>	<p>Comment: The proposed subdivision is for an already established and functioning dual occupancy (attached) that was approved by Shoalhaven Council in 2002 (DA02/2164). The subdivision will</p>

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	not result in new built form, overshadowing, privacy impacts or visual bulk beyond what currently exists. Therefore, there is no additional traffic, noise or servicing impacts that may arise.																																
<b>Objective</b>	<b>Response</b>																																
<p>(c) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.</p>	<p>Comment: Each proposed lot is capable to accommodate the existing dwellings in accordance with the relevant controls under Shoalhaven Development Control Plan 2014 (SDCP2014) Chapter 11.</p> <p>The existing lot is over 19m wide and 35m deep, which exceed the minimum residential lot shape and dimensions for subdivision.</p> <p><small>Table 2: Minimum residential lot shape and dimensions</small></p> <table border="1" data-bbox="1144 799 1659 1094"> <thead> <tr> <th></th> <th>Width</th> <th>Depth</th> <th>Splay</th> </tr> </thead> <tbody> <tr> <td colspan="4"><b>Small Lot Subdivision (lots up to 499m<sup>2</sup>)</b></td> </tr> <tr> <td>300 - 399</td> <td>&gt;8m and &lt;12m</td> <td>n/a</td> <td>2m, if a corner lot</td> </tr> <tr> <td>400 - 499</td> <td>Equal to or &gt;12m and &lt;15m</td> <td>n/a</td> <td>2m, if a corner lot</td> </tr> <tr> <td colspan="4"><b>General Lot Subdivision (lots between 500m<sup>2</sup> – 1,999m<sup>2</sup>)</b></td> </tr> <tr> <td>Rectangular non-corner lots</td> <td>Minimum of 15m</td> <td>Minimum of 30m</td> <td>n/a</td> </tr> <tr> <td>Rectangular corner lots</td> <td>Minimum of 18m</td> <td>Minimum of 30m</td> <td>4m</td> </tr> <tr> <td>Irregular shaped lots Battle-axe lots</td> <td>Minimum width at building line of 17m Minimum mean width of 18m</td> <td>Minimum of 30m</td> <td>4m if a corner lot</td> </tr> </tbody> </table> <p><small>Figure 5: Table 2 of Chapter 11 – Shoalhaven Development Control Plan 2014</small></p>		Width	Depth	Splay	<b>Small Lot Subdivision (lots up to 499m<sup>2</sup>)</b>				300 - 399	>8m and <12m	n/a	2m, if a corner lot	400 - 499	Equal to or >12m and <15m	n/a	2m, if a corner lot	<b>General Lot Subdivision (lots between 500m<sup>2</sup> – 1,999m<sup>2</sup>)</b>				Rectangular non-corner lots	Minimum of 15m	Minimum of 30m	n/a	Rectangular corner lots	Minimum of 18m	Minimum of 30m	4m	Irregular shaped lots Battle-axe lots	Minimum width at building line of 17m Minimum mean width of 18m	Minimum of 30m	4m if a corner lot
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<p><b>CONCLUSION</b></p> <p>The assessment above demonstrates that compliance with the prescribed minimum lot size development standard for the Shoalhaven LEP 2014 is unreasonable and unnecessary in the circumstances of the case and flexibility in this instance would achieve better outcomes for and from the development.</p>																																	

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The variation to the development standards will not result in any adverse impacts to surrounding residents, is consistent with the envisaged low-density character of the local area and is consistent with residential densities planned in the R2 – Low Density Residential.

The proposal is considered to have sufficient planning grounds to justify departure to the minimum lot size development standard in this case.

There are no environmental planning grounds that warrant maintaining and/or enforcing the numerical lot size standard in this instance. Rather, there are clear and justifiable environmental planning merits that validate the flexible application of the lot size control allowed.

**Assessing Officer Commentary**

**Unreasonable or Unnecessary**

The proposed two lot Torrens Title subdivision of the existing dual occupancy (attached) at 1 Greenwell Point Road Nowra, approved on 11 June 2002 (DA02/2164), which pre-dates gazettal of SLEP CI 4.1A (4) (11 August 2020), and therefore needs to be assessed under SLEP CI 4.1 (3). Notwithstanding non-compliance with the development standard, it is considered that the proposed subdivision is consistent with the objectives of the development standard.

The underlying objective of the standard, to minimise the likely impact upon local amenity, is achieved as no additional physical alterations are required to be undertaken and the proposed subdivision does not compromise the function of the dual occupancy development. The proposed subdivision would have no impacts upon the surrounding locality beyond those considered during assessment and approval of the underlying dual occupancy (attached).

An identical subdivision application lodged today for a dual occupancy (attached), constructed after gazettal of SLEP 4.1A (4) would be compliant under that clause. Accordingly, strict compliance with the development standard (SLEP CI 4.1 (3) ) is considered to be unreasonable and unnecessary.

**Sufficient Environmental Planning Grounds**

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Council considers that there are sufficient environmental planning grounds to justify contravening the minimum subdivision lot size development standard. The proposed subdivision promotes the orderly and economic use and development of land and is consistent with development opportunities that are now available under clause 4.1A.

**Public Interest**

Clause 4.6 (4)(a)(ii) requires that Council be satisfied that the proposed development is in the public interest given it is consistent with the development standard objectives and the objectives of the zone.

The development site is zoned R2 Low Density Residential. The objectives of the R2 Low Density Residential zone are:

Objective	Comment
To provide for the housing needs of the community within a low density residential environment.	The proposed development provides additional low-density housing which will be subdivided to allow for its separate sale or purchase.
To enable other land uses that provide facilities or services to meet the day to day needs of residents.	The proposed development does not inhibit this objective.
To provide an environment primarily for detached housing and to ensure that other development is compatible with that environment.	The proposed development is compatible with surrounding detached development.

The proposed development is not contrary to the zone objectives.

The objectives of SLEP CI 4.1 are:

Objective	Comment
to ensure that subdivision is compatible with, and reinforces the predominant or historic subdivision pattern and character of an area	Given the mix of dual occupancy and detached dwellings in the locality, the proposed development is compatible with the predominant subdivision pattern and with the character of the area.
to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,	The proposed development will not create any additional impacts on the amenity of surrounding properties.
to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.	The site contains an existing dual occupancy (attached) which demonstrates that it is able to accommodate development consistent with relevant development controls.

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The proposal is consistent with the objectives of the R2 Low Density Residential zone and clause 4.1 of Shoalhaven LEP 2014.

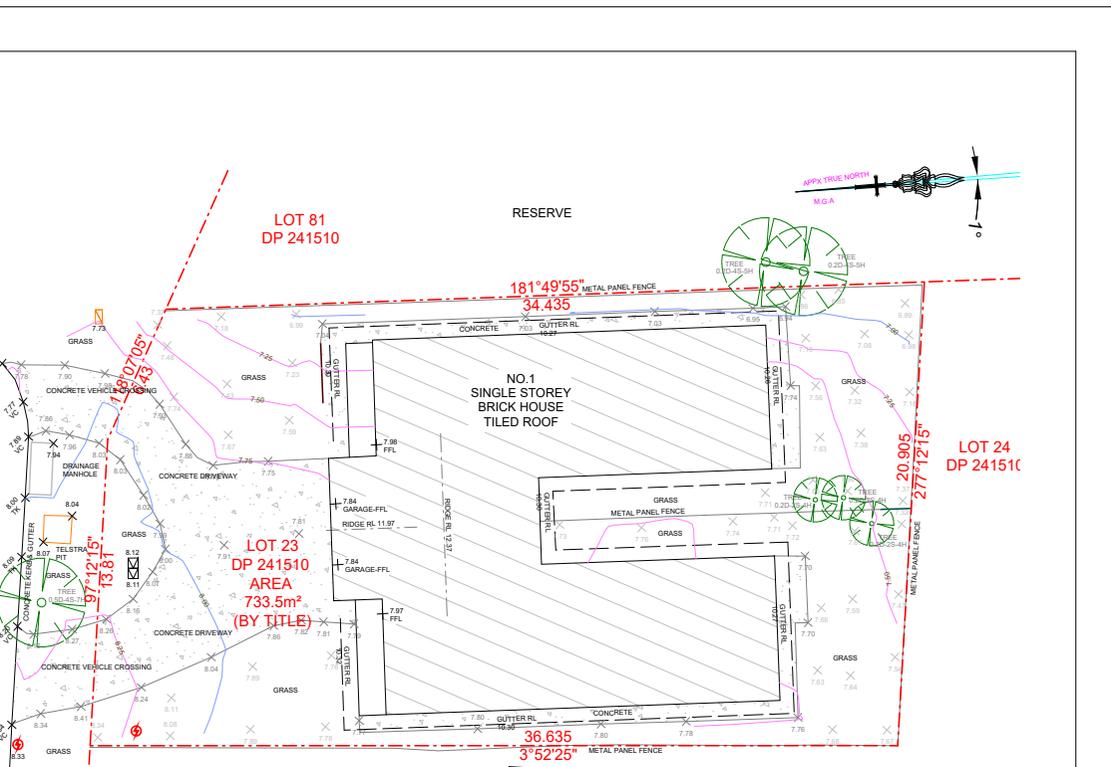
The proposed development is considered to be in the public interest.

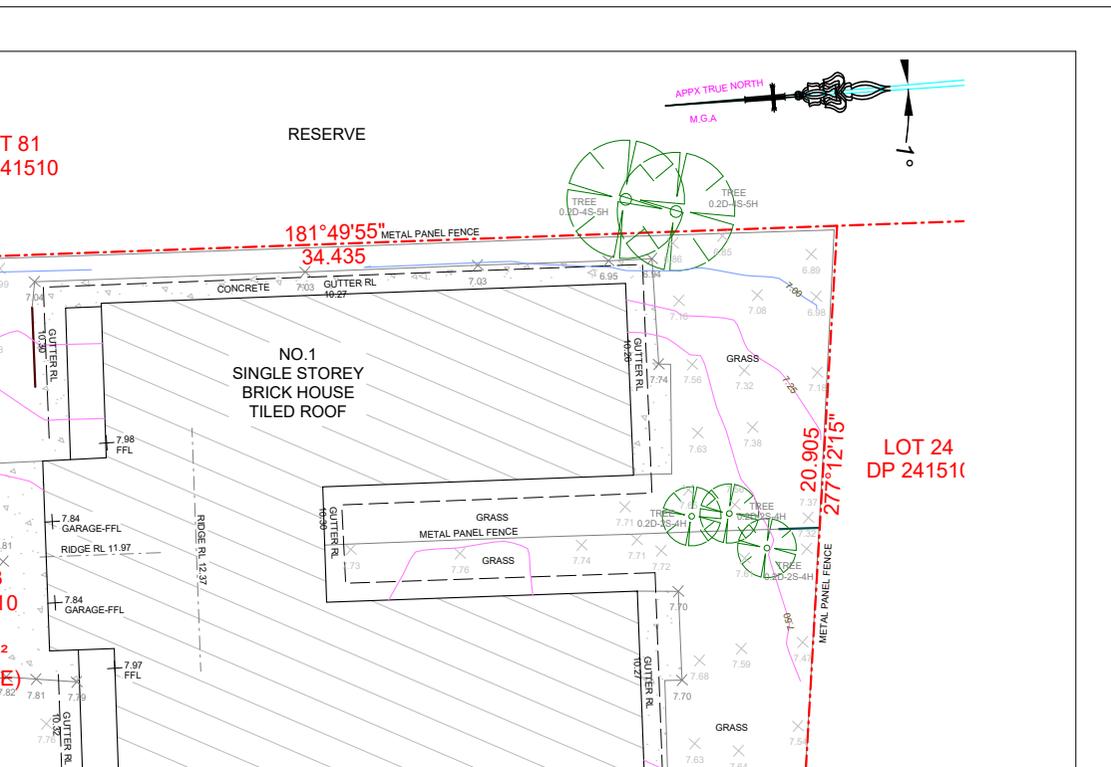
**Planning Secretary's Concurrence**

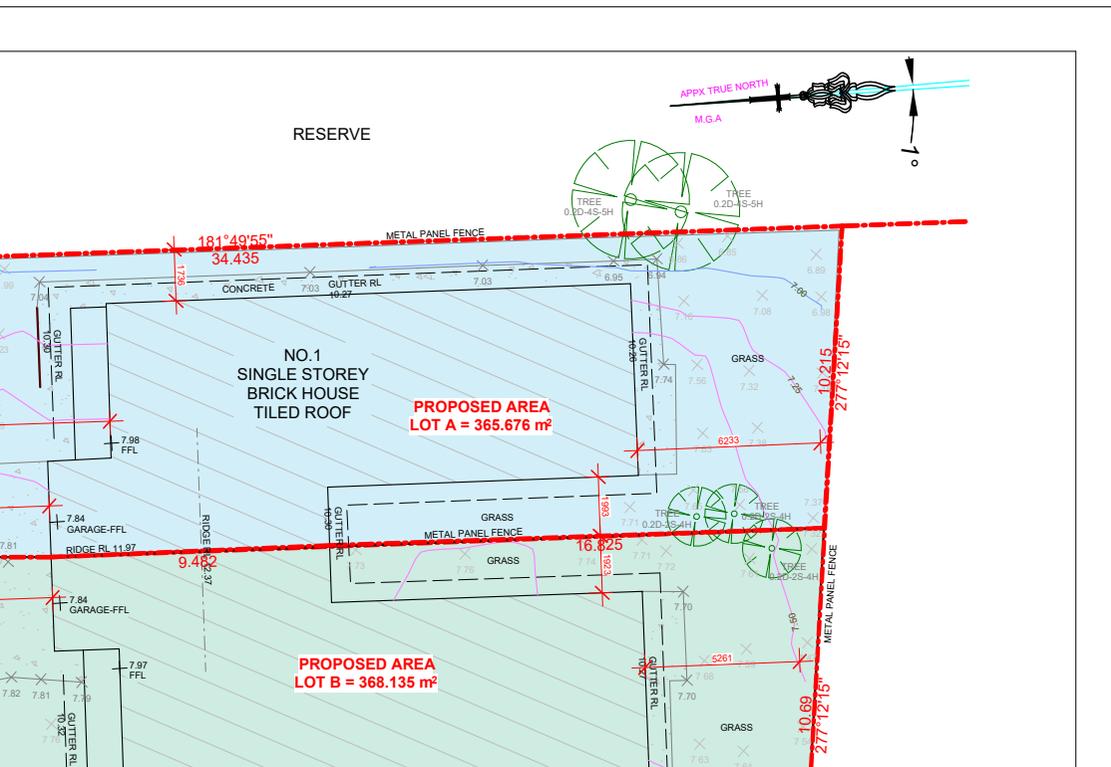
As per Planning Circular (PS20-002), the Secretary's concurrence can only be assumed by the elected Council where development contravenes a numerical standard by greater than 10%.

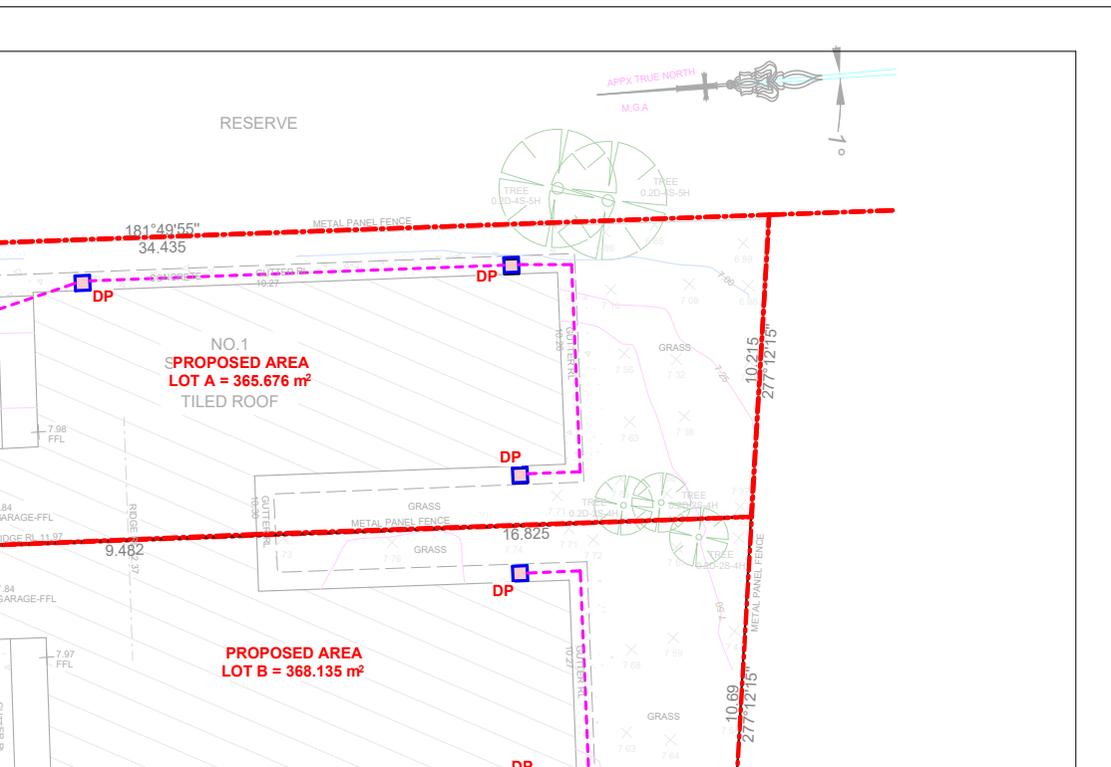
The departure from the development standard is >10%, therefore the application must be determined by the Shoalhaven City Council Elected Council.











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### **Clause 4.6 Variation to Development Standards** (Cl.4.1 – Minimum Subdivision Lot Size)

1 Greenwell Point Road, Nowra NSW 2541

Proposed Two-Lot Torrens Title Subdivision of An Existing Dual Occupancy  
(Attached)



## OVERVIEW

Clause 4.6 exists within the Shoalhaven Local Environmental Plan 2014 (SLEP2014) and the standard Instrument to allow for consideration of variations specific to development standards contained within the LEP. Given the large and varied demographic and topographic within NSW differing variations are allowed within LEP's to allow for exceptions of development standards.

The objectives of the Clause 4.6 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.

It is requested that a Clause 4.6 variation at 1 Greenwell Point Road, Nowra is considered by council when considering Clause 4.1 Minimum subdivision lot size. The variation of the minimum subdivision lot size will result in an improved planning outcome when compared to the existing requirement of 500 sqm. The variation of 26.37% and 26.86% still allow the development to achieve the underlying purpose of the standard.

PROPOSED DEVELOPMENT	
<b>PROPOSAL</b>	Proposed Two-Lot Torrens Title Subdivision of An Existing Dual Occupancy (Attached)
<b>PROPERTY</b>	1 Greenwell Point Road, Nowra NSW 2541
	Lot 23 / - / DP 241510
<b>LOCAL GOVERNMENT AREA</b>	Shoalhaven Council
<b>CLIENT</b>	
<b>DATE</b>	14/03/2025
<b>PROJECT NUMBER</b>	AA390

**CLAUSE 4.6 VARIATION TO DEVELOPMENT STANDARDS**

<b>Exceptions to development standards</b>	
<b>4.6</b>	<p>The objectives of this clause are as follows—</p> <p>(1) (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.</p>
	<p>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.</p>
	<p>Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—</p> <p>(3) (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.</p>
	<p>The consent authority must keep a record of its assessment carried out under subclause (3).</p>
	<p>(5) (Repealed)</p>
	<p>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 C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—</p> <p>(6) (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.</p>
	<p>(7) (Repealed)</p>
	<p>This clause does not allow development consent to be granted for development that would contravene any of the following—</p> <p>(8) (a) a development standard for complying development, (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> applies or for the land on which such a building is situated, (ba) clause 4.1E, to the extent that it applies to land in a rural or conservation zone,</p>

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	(bb) clause 4.2B, (c) clause 5.4, (caa) clause 5.5, (ca) clause 6.2, (cb) clause 7.25, (cc) clause 4.1H.
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This application therefore submits a written request, as detailed below, seeking to justify the contravention of Clause 4.1 of *SLEP2014*. The NSW Department of Planning and Infrastructure has provided guidance on how to prepare Clause 4.6 variations, this document has been based on these guidelines.

**1. Describe the site**

The site is at 1 Greenwell Point Road, Nowra and can be legally identified as Lot 23 in DP 241510. The site spans approximately 733.5 sqm.

The site is bounded by residential properties to the north and east, with Greenwell Point Road forming the southern boundary and the nature reserve forming the western boundary. The existing dwelling is an attached dual occupancy that was approved in 2002 (DA02/164).

Vehicle access is via the dual driveway at the end of Greenwell Point Road.



Figure 1: Aerial photograph of the subject site and immediate surrounding (Explorer)

**2. Describe the proposed development**

The proposed development is the two-lot Torrens title subdivision of an existing dual occupancy (attached).

The two (2) Torrens title subdivision lots proposed as follows:

- Proposed Lot A – 365.676 sqm
- Proposed Lot B – 368.135 sqm

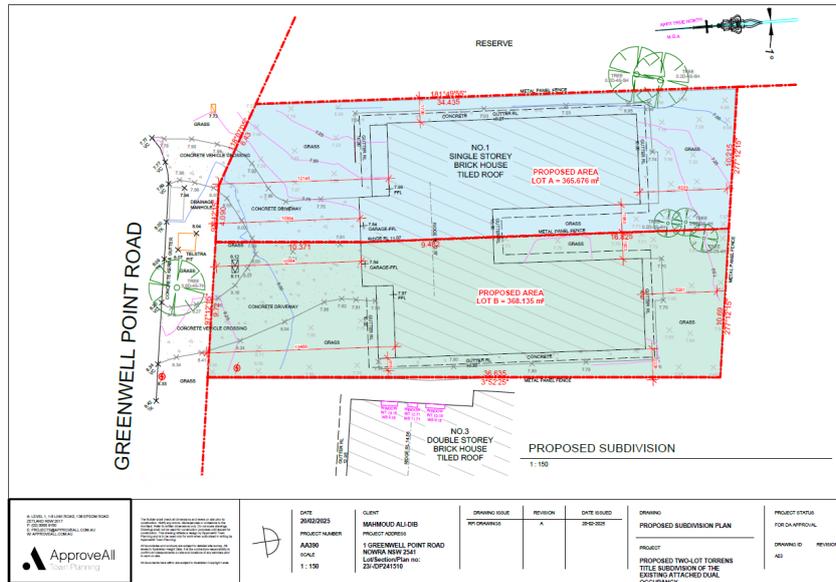


Figure 2: Proposed subdivision plan

**3. What is the environmental planning instrument/s you are seeking to vary?**

Shoalhaven Local Environmental Plan 2014

**4. What is the site's zoning**

The site is zoned R2 – Low Density Residential.

**5. Identify the development standard to be varied**

Clause 4.1 (3) of the minimum subdivision lot size.

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Minimum subdivision lot size	
4.1	<p>The objectives of this clause are as follows—</p> <p>(1) (a) to ensure that subdivision is compatible with, and reinforces the predominant or historic subdivision pattern and character of, an area,</p> <p>(b) to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,</p> <p>(c) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.</p>
	<p>(2) This clause applies to a subdivision of any land shown on the <i>Lot Size Map</i> that requires development consent and that is carried out after the commencement of this Plan.</p>
	<p>(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the <i>Lot Size Map</i> in relation to that land.</p>
	<p>(3A) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size.</p>
	<p>(4) This clause does not apply in relation to the subdivision of any land—</p> <p>(a) by the registration of a strata plan or strata plan of subdivision under the <i>Strata Schemes Development Act 2015</i>, or</p> <p>(b) by any kind of subdivision under the <i>Community Land Development Act 2021</i>, or</p> <p>(ba) occurring as part of the closure of a public road under Part 4 of the <i>Roads Act 1993</i>.</p>

**6. Identify the type of development standard**

Numerical

**7. What is the numeric value of the development standard in the environmental planning instrument?**

The minimum subdivision lot size for the subject site is **500 sqm**.

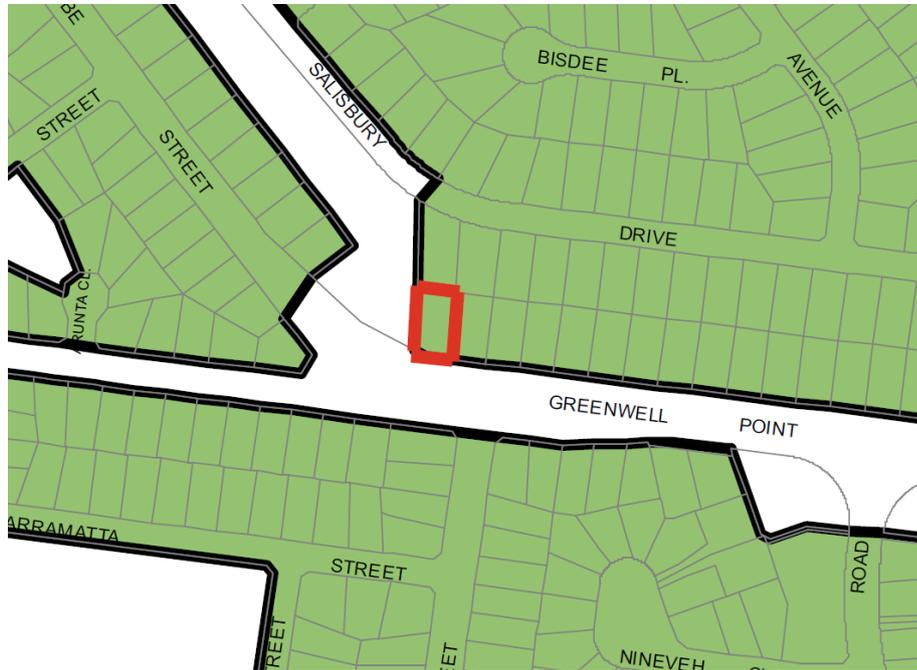


Figure 3: Shoalhaven LEP 2014 Lot Size Map (Sheet LSZ\_013E)

8. What is the difference between the existing and proposed numeric values? What is the percentage variation (between the proposal and the environmental planning instrument)?

Minimum Subdivision Lot Size			
Lot number	Minimum subdivision lot size	Proposed subdivision lot size	Percentage Variation
Lot A	500 sqm	365.676	26.86%
Lot B	500 sqm	368.135	26.37%

9. Visual representation of the proposed variation (if relevant)

Refer to Figure 2: Proposed subdivision plan

10. How is the compliance with the development unreasonable or unnecessary in the circumstances of this particular case?

- a. Are the objectives of the development standard achieved notwithstanding the non-compliance? (Give details if applicable)

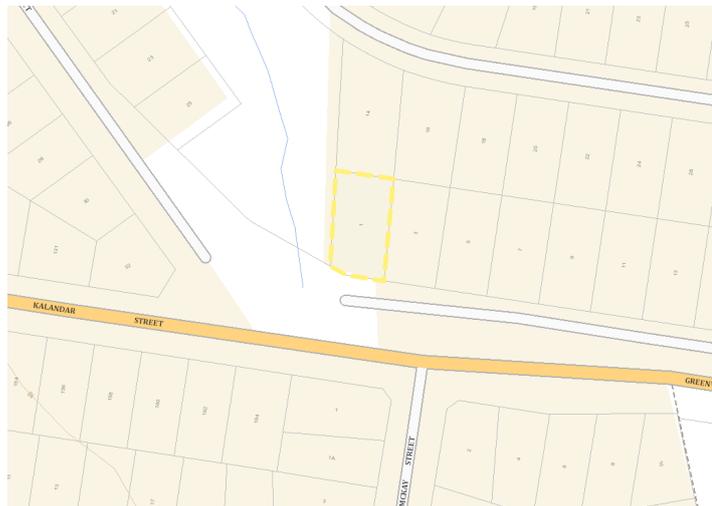
The objective of this clause is:

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(a) to ensure that subdivision is compatible with, and reinforces the predominant or historic subdivision pattern and character of, an area,

**Comment:** The proposed subdivision into two Torrens title lots, 365.676 sqm and 368.135 sqm, is consistent with the existing subdivision pattern within the locality as seen in Figure 4 where the lot depth will remain consistent with the adjacent lots and surrounding area. The proposal seeks to formalise the existing dual occupancy (attached) development by creating separate titles for each dwelling, which is in line with the existing built form and surrounding subdivision pattern.

Clause 4.1A of SLEP2014 specifically allows for the Torrens subdivision of certain medium density developments into lots of any size, provided that the dwellings were approved under that clause after 21 August 2020. While this particular development predates that provision, the principle behind it reinforces that lot sizes smaller than the standard minimum can be appropriate where they reflect the established character of the area. The proposal ensures compatibility with the prevailing subdivision pattern while providing improved land tenure outcomes.



**Figure 4: NSW Spatial Viewer image of subject site and immediate surrounding, depicting lot boundaries**

(b) to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,

**Comment:** The proposed subdivision is for an already established and functioning dual occupancy (attached) that was approved by Shoalhaven Council in 2002 (DA02/164). The subdivision will not result in new built form, overshadowing, privacy impacts or visual bulk beyond what currently exists. Therefore, there is no additional traffic, noise or servicing impacts that may arise.

(c) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.

**Comment: Each proposed lot is capable to accommodate the existing dwellings in accordance with the relevant controls under Shoalhaven Development Control Plan 2014 (SDCP2014) Chapter 11.**

**The existing lot is over 19m wide and 35m deep, which exceed the minimum residential lot shape and dimensions for subdivision.**

Table 2: Minimum residential lot shape and dimensions

	Width	Depth	Splay
<b>Small Lot Subdivision (lots up to 499m<sup>2</sup>)</b>			
300 - 399	>8m and <12m	n/a	2m, if a corner lot
400 - 499	Equal to or >12m and <15m	n/a	2m, if a corner lot
<b>General Lot Subdivision (lots between 500m<sup>2</sup> – 1,999m<sup>2</sup>)</b>			
<b>Rectangular non-corner lots</b>	Minimum of 15m	Minimum of 30m	n/a
<b>Rectangular corner lots</b>	Minimum of 18m	Minimum of 30m	4m
<b>Irregular shaped lots Battle-axe lots</b>	Minimum width at building line of 17m Minimum mean width of 18m	Minimum of 30m	4m if a corner lot

Figure 5: Table 2 of Chapter 11 – Shoalhaven Development Control Plan 2014

b. Are the underlying objectives or purpose of the development standard not relevant to the development? (Give details if applicable)

**Comment: The underlying objectives and purpose of the minimum lot size development standard are relevant to subdivision proposals that seek to create new lots for development, ensuring appropriate land use planning, subdivision pattern consistency, and adequate lot functionality. However, in this case, the strict numerical application of the minimum lot size requirement is not relevant, as the proposed subdivision:**

- 1. Does not introduce new development – The existing lawfully approved dual occupancy has been functioning as two separate dwellings for many years. The proposal only seeks to formalise this arrangement by providing individual Torrens title lots for each dwelling.**
- 2. Does not alter site density, bulk, or scale – The built form remains unchanged, meaning the original intent of the lot size control (to regulate development intensity and built form) does not apply in this instance.**

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3. **Is already consistent with the prevailing subdivision pattern – The proposed lot sizes align with other lots in the locality and are compatible with Shoalhaven DCP 2014, Chapter G11 (Subdivision) provisions.**

The relevance of each objective to this proposal has been discussed and analysed in 10.a.

- c. *Would the underlying objective or purpose be defeated or thwarted if compliance was required? (Give details if applicable)*

**Comment: Not applicable.**

- d. *Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard? (Give details if applicable)*

**Comment: Yes, there is evidence to suggest that the minimum lot size development standard has been effectively abandoned or significantly varied by Shoalhaven City Council in certain circumstances, particularly for dual occupancy subdivisions.**

### 1. Council's Approval of Similar Subdivisions

- Shoalhaven City Council has previously granted development consent for similar subdivisions where existing dual occupancy dwellings were permitted to be Torrens titled despite not meeting the minimum lot size standard.
- Clause 4.1A of Shoalhaven LEP 2014 explicitly allows for the Torrens title subdivision of dual occupancies, multi-dwelling housing, and terraces into lots of any size where development consent has been granted under that clause after 21 August 2020.
- While the subject development predates this clause, the principle behind it demonstrates that Council acknowledges that rigid adherence to minimum lot size is not always necessary for subdivisions involving dual occupancies.

### 2. Precedents and Departures from the Standard

- Shoalhaven DCP 2014 (Chapter G11, Section 5.3.3) provides performance-based criteria for subdivision, focusing on site functionality rather than strict numerical lot sizes.
- Council has previously approved variations to the minimum lot size where existing development complies with broader planning controls (such as setbacks, private open space, and parking).
- The approval of multiple Clause 4.6 variations in similar cases indicates that the standard is not applied as an absolute rule but rather assessed on a case-by-case basis.

### 3. Recognition of Existing Urban Patterns

CL25.186 - Attachment 3

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- **Council’s past planning decisions support subdivision outcomes that align with the existing built environment, rather than rigid enforcement of outdated controls.**
  - **The existing dual occupancy has been functioning as two separate dwellings, meaning the proposed subdivision does not introduce a new planning conflict but instead reflects the actual use of the site.**
  - **By granting similar consents, Council has effectively relaxed or abandoned the strict application of the minimum lot size requirement in cases where the subdivision aligns with broader planning objectives.**
- e. *Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary? (Give details if applicable)*

**Comment: Not applicable.**

It is to note that not all 5 conditions listed above a) – e) must be satisfied for a Clause 4.6 written request. Satisfaction of one condition is sufficient. The purpose of this written request is focusing on the objectives of the development standard and how they are achieved notwithstanding the non-compliance of this proposal, as well as the many precedences of similar development approved for an ‘under-sized’ lot.

### **11. Are there sufficient environmental planning grounds to justify contravening the development standard?**

Yes, there are sufficient environmental planning grounds to justify the proposed contravention of the minimum lot size development standard. The justification is based on site-specific circumstances, alignment with the objectives of the Environmental Planning and Assessment Act 1979 (EP&A Act), and the absence of adverse planning outcomes.

#### **1. The Unique Circumstances of the Site**

The subject site contains an existing, lawfully approved dual occupancy, which has functioned as two separate dwellings for many years. The proposed subdivision does not introduce additional density or physical changes but simply seeks to formalise the existing arrangement by creating two Torrens title lots.

- The site has already been developed and occupied in a manner consistent with the intended subdivision, demonstrating that it can adequately support two independent lots.
- The proposed lot sizes of approximately 365 sqm each remain compatible with the surrounding subdivision pattern and do not create an undesirable precedent for future development.

## ApproveAll Town Planning

### 2. Consistency with the Streetscape and Prevailing Subdivision Pattern

The subdivision aligns with the established lot sizes in the locality and maintains the existing built form. The proposal does not introduce new or inappropriate land use patterns but rather reflects the long-standing function of the site.

- The subdivision will retain adequate street frontage, setbacks, and site coverage, ensuring that the established character of the neighbourhood is preserved.
- The proposed lots will maintain sufficient open space, private amenity, and separation, consistent with surrounding residential lots.

### 3. No Adverse Environmental or Amenity Impacts

The proposed variation does not result in unsatisfactory planning outcomes and will not adversely impact the amenity of adjoining properties.

- The subdivision does not involve additional construction or intensification of use, meaning there is no increase in overshadowing, privacy concerns, or loss of visual amenity.
- Services and infrastructure (e.g., sewer, water, and stormwater drainage) are already established, ensuring that the proposed lot configuration is adequately serviced.
- The development maintains sufficient space for vehicle access and on-site parking, in accordance with Shoalhaven DCP 2014.

### 4. Achieving Equal or Better Planning Outcomes

The proposal achieves an equal or better planning outcome by facilitating:

- Improved housing diversity and affordability, allowing each dwelling to be separately titled and more accessible for home ownership.
- Orderly and economic land use planning, as the proposed lot configuration efficiently utilises existing infrastructure and land resources.
- Consistency with contemporary planning principles, which generally support the subdivision of dual occupancy developments where appropriate.

### 5. Alignment with the Objectives of the EP&A Act

The proposed variation is consistent with the objects of the EP&A Act 1979, particularly:

- Section 1.3(c) – Promoting the orderly and economic use of land.
- Section 1.3(g) – Ensuring good design and amenity of the built environment.
- Section 1.3(h) – Facilitating the delivery of housing to meet the needs of the community.

By supporting a modest infill subdivision that reflects the site's long-standing use and established infrastructure, the proposal upholds good planning principles without undermining the intent of the minimum lot size control.



Address all correspondence to: The Chief Executive Officer,  
PO Box 42, Nowra NSW 2541 Australia

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[shoalhaven.nsw.gov.au](http://shoalhaven.nsw.gov.au)    

## NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	DA2025/1204
Applicant	ApproveAll Town Planning
Description of development	Torrens Title Subdivision of Existing Dual Occupancy (Attached)
Property	1 Greenwell Point Rd NOWRA – Lot 23 DP 241510
Determination	Approval
Date of determination	[#Consent Start Date#]
Date from which the consent operates	[#Consent Start Date#]
Date on which the consent lapses	[#Consent End Date#]

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

### Reasons for Grant of Consent

- a) The development proposal, subject to the recommended conditions is consistent with:
  - i) the objects of the Environmental Planning and Assessment Act, 1979.
  - ii) the aims, objectives and provisions of the applicable environmental planning instruments,
  - iii) the aims, objectives and provisions of applicable development control plans
  - iv) the aims, objectives and provisions of relevant Council policies.
- b) The likely impacts of the proposed development are considered acceptable.
- c) The site is suitable for the proposed development.
- d) Any submissions received during the public notification period have been considered and issues and concerns raised by the community in submissions have been addressed in the assessment.
- e) The proposed development does not conflict with the public interest.

### Right of appeal / review of determination

If you are dissatisfied with this determination:

#### Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the

date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

**Rights to appeal**

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

**Dictionary**

The Dictionary at the end of this consent defines words and expressions for the purposes of this consent.

Person on behalf of the consent authority

**Terms and Reasons for Conditions**

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS																				
CONDITIONS					REASON															
1.	<p><b>Approved plans and supporting documentation</b></p> <p>Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="5">Approved Plans</th> </tr> <tr> <th style="text-align: center;">Plan Number</th> <th style="text-align: center;">Revision Number</th> <th style="text-align: center;">Plan Title</th> <th style="text-align: center;">Drawn by</th> <th style="text-align: center;">Date of Plan</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">AA390</td> <td style="text-align: center;">Rev A</td> <td style="text-align: center;">Proposed Subdivision</td> <td style="text-align: center;">ApproveAll</td> <td style="text-align: center;">20/02/2025</td> </tr> </tbody> </table> <p>In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.</p>				Approved Plans					Plan Number	Revision Number	Plan Title	Drawn by	Date of Plan	AA390	Rev A	Proposed Subdivision	ApproveAll	20/02/2025	<p>To ensure compliance with the approved plans and documents.</p>
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3.	<p><b>Prescribed Conditions</b></p> <p>The development must comply with Part 4, Division 2, Subdivision 1, of the <i>Environmental Planning and Assessment Regulation 2021</i>, as applicable.</p>				<p>To ensure compliance with prescribed conditions.</p>															
4.	<p><b>Shoalhaven Water – Compliance with Conditions</b></p> <p>All conditions listed on the Shoalhaven Water Development Notice at each stage of work must be complied with as relevant to that stage. Written notification must be issued by</p>				<p>To ensure compliance with Shoalhaven Water requirements.</p>															

	Shoalhaven Water and evidence provided to the Certifier for each applicable stage.	
<b>5.</b>	<p><b>Street Numbering</b></p> <p>Street numbering must comply with the State Governments Comprehensive Property Addressing System (CPAS), and Council's Property Address Numbering Policy.</p> <p>Street numbering for the development must be as follows: Proposed Lot A – 1A Greenwell Point Road Nowra Proposed Lot B – 1B Greenwell Point Road Nowra</p> <p>The allocated numbers must be shown on the engineering/construction plans with the Construction Certificate / Subdivision Works Certificate. Where plans and details are provided to service suppliers, numbers must be in accordance with the above.</p>	To ensure consistent and appropriate street numbering.
<p><b>SUBDIVISION WORK</b> <b>Before the Issue of a Subdivision Certificate</b></p>		
<b>CONDITIONS</b>		<b>REASON</b>
<b>6.</b>	<p><b>Compliance with Conditions of Consent – Approved Development</b></p> <p>Before the issue of any Subdivision / Strata Certificate, all required conditions of consent for <b>DA02/2164</b> must be satisfied and an Occupation Certificate issued for the development. Evidence of the Occupation Certificate must be provided to Council.</p>	To ensure compliance with relevant development consent.
<b>7.</b>	<p><b>Completion of Public Utility Services</b></p> <p>Before the issue of the relevant Subdivision / Strata Certificate, confirmation must be obtained from the relevant authority that any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, have been completed and this confirmation must be provided to the principal certifier.</p>	To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation.

<p><b>8.</b></p>	<p><b>Shoalhaven Water – Certificate of Compliance</b></p> <p>Before the issue of any Subdivision / Strata Certificate, a Certificate of Compliance under section 307 of the <i>Water Management Act 2000</i> must be obtained from Shoalhaven Water to verify satisfactory compliance with all conditions for the supply of water and sewerage, as listed on the Water Development Notice.</p> <p>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.</p>	<p>To ensure compliance with Shoalhaven Water requirements.</p>
<p><b>9.</b></p>	<p><b>Subdivision / Strata Certificate</b></p> <p>A Subdivision / Strata Certificate must be obtained from Council or an accredited certifier prior to lodgement of the Final Plan of Survey with NSW Land Registry Services.</p>	<p>To ensure appropriate building and Subdivision Certificates are obtained.</p>
<p><b>10.</b></p>	<p><b>Subdivision - Schedule of Compliance</b></p> <p>The Subdivision / Strata 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). A schedule of compliance in table format must be submitted with the application for a Subdivision / Strata Certificate. The schedule must provide evidence of how all relevant conditions of development consent have been fulfilled.</p>	<p>To ensure conditions of consent have been satisfied or other satisfactory arrangements made.</p>
<p><b>11.</b></p>	<p><b>Subdivision – Provision of Utility Services</b></p> <p>Before the issue of a Subdivision / Strata Certificate, utility services must be provided in accordance with the following:</p> <ul style="list-style-type: none"> <li>a) The provision of electricity to service allotments and street lighting in the subdivision must be in accordance with the requirements of Endeavour Energy who are to confirm in writing that conditions of supply have been met.</li> <li>b) The submission of a Telecommunications Infrastructure Provisioning Confirmation from an approved telecommunications carrier to the Certifier or Council (as applicable) confirming that satisfactory arrangements have been made for the provision of telecommunication services to all individual lots.</li> <li>c) A Certificate of Compliance under Section 307 of Division 5 of Part 2 of Chapter 6 of the <i>Water Management Act 2000</i> must be obtained to verify that all necessary</li> </ul>	<p>To ensure utilities and services are appropriately provided.</p>

	<p>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 Water Development Notice and before the issue of a Subdivision Certificate, as the case may be.</p> <p>d) If 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.</p> <p><i>Note: Relevant details, including monetary contributions (where applicable) under the Water Management Act 2000, are given on the attached Notice issued by Shoalhaven Water. For further information and clarification regarding the above please contact Shoalhaven Water's Development Unit on (02) 4429 3547.</i></p>	
<p><b>12.</b></p>	<p><b>Subdivision - Works as Executed</b></p> <p>Before the issue of the Subdivision / Strata 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.</p> <p>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:</p> <ol style="list-style-type: none"> <li>Council's Development Engineering Construction Specification.</li> <li>Show compliance with the approved design plans of all road and drainage works.</li> <li>Certify that all storm water pipes, and other services are wholly within an appropriate easement.</li> <li>Show the extent, depth and final levels of filling.</li> <li>Show any retaining walls including footings and agricultural drainage lines.</li> <li>Show the location of all underground service conduits.</li> <li>Include all deviations from the approved Civil Engineering Plans.</li> </ol>	<p>To ensure works as executed plans are prepared and provided.</p>

<p><b>13.</b></p>	<p><b>Restrictions - Existing Easements and Restrictions on Use of Land</b></p> <p>Before the issue of the Subdivision / Strata Certificate</p> <p>a) all existing easements must be acknowledged on the final subdivision plan.</p> <p>b) all existing restriction on the use of land must be acknowledged on the final subdivision plan.</p>	<p>To ensure easements and restrictions are noted on subdivision plans.</p>
<p><b>14.</b></p>	<p><b>Restrictions – Easements and Restrictions on Use of Land</b></p> <p>An Instrument must be prepared under section 88B of the Conveyancing Act 1919 which will provide for the following Restrictions on the land when the subdivision is registered:</p> <p>a) Easements must be provided where and as required for inter-allotment services, drainage and sewerage.</p> <p style="padding-left: 20px;">i) a minimum 1m wide easement to drain water must be created over any encroaching drainage pipes.</p> <p style="padding-left: 20px;">ii) A minimum 1m wide easement for services must be created over any encroaching utility service.</p> <p>b) where there is shared infrastructure, landscaping, structures, and the like, arrangements must be made for access and maintenance.</p> <p>c) Alterations to any stormwater treatment measures/ water sensitive urban design (WSUD) elements, including raingardens are not permitted except without the prior consent in writing of Shoalhaven City Council.</p> <p>The Instrument must contain a provision that it cannot be varied, modified or released without the consent of the relevant parties as appropriate and without the consent of the Shoalhaven City Council.</p> <p>The Instrument must not contain any restriction that prohibits development on the site allowed under the relevant environmental planning instruments.</p> <p>A draft 88B Instrument must be submitted to the Certifier for approval before a Subdivision / Strata Certificate is issued.</p>	<p>To ensure restrictions and easements are registered on the title of the land where required.</p>

### General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation, and other legislation. Some of these additional obligations are set out in the Conditions of development consent: advisory notes. The consent should be read together with the Conditions of development consent: advisory notes to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a Construction Certificate or Subdivision Works Certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

### Dictionary

The following terms have the following meanings for the purpose of this consent (except where the context clearly indicates otherwise):

**Approved plans and documents** means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

**AS** means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

**Building work** means any physical activity involved in the erection of a building.

**Certifier** means a council or a person that is registered to carry out certification work under the Building and Development Certifiers Act 2018.

**Construction Certificate** means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

**Council** means Shoalhaven City Council.

**Court** means the NSW Land and Environment Court.

**EPA** means the NSW Environment Protection Authority.

**EP&A Act** means the Environmental Planning and Assessment Act 1979.

**EP&A Regulation** means the Environmental Planning and Assessment Regulation 2021.

**Independent Planning Commission** means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

**Occupation Certificate** means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

**Principal certifier** means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

**Site work** means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

**Stormwater drainage system** means all works and facilities relating to:

- the collection of stormwater
- the reuse of stormwater
- the detention of stormwater
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

**Strata Certificate** means a certificate in the approved form issued under Part 4 of the Strata Schemes Development Act 2015 that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.



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PO Box 42, Nowra NSW 2541 Australia  
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## NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	DA23/1474
Applicant	Duplex Building Design
Description of development	Demolition of Existing Structures, Tree Removal, Construction of Multi-Dwelling Housing Development (4 Units) and Internal Driveway, and associated civil, site, and landscaping works
Property	5 Burr Ave, NOWRA – Lot 5 DP 32228
Determination	Approval
Date of determination	To Be Confirmed
Date from which the consent operates	To Be Confirmed
Date on which the consent lapses	To Be Confirmed

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

### Reasons for Grant of Consent

- a) The development proposal, subject to the recommended conditions is consistent with:
  - i) the objects of the Environmental Planning and Assessment Act, 1979.
  - ii) the aims, objectives and provisions of the applicable environmental planning instruments,
  - iii) the aims, objectives and provisions of applicable development control plans
  - iv) the aims, objectives and provisions of relevant Council policies.
- b) The likely impacts of the proposed development are considered acceptable.
- c) The site is suitable for the proposed development.
- d) Any submissions received during the public notification period have been considered and issues and concerns raised by the community in submissions have been addressed in the assessment.
- e) The proposed development does not conflict with the public interest.

### Right of appeal / review of determination

If you are dissatisfied with this determination:

**Request a review**

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

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**Dictionary**

The Dictionary at the end of this consent defines words and expressions for the purposes of this consent.

**Terms and Reasons for Conditions**

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

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22194 Sh. A701	A	Colours & Materials Schedule	Duplex Building Design	31.01.2025
22194 Sh. A801	A	Window & Door Schedule	Duplex Building Design	31.01.2025
SW10	C	Stormwater Drainage Plan Ground Floor Level	AE Consulting Engineers	19.03.2025
SW20	C	Erosion & Sediment Control Details	AE Consulting Engineers	19.03.2025
SW30	C	Stormwater Sections & Details Sheet 1	AE Consulting Engineers	19.03.2025
SW40	C	Stormwater Sections & Details Sheet 1	AE Consulting Engineers	19.03.2025
Approved Documents				
Document title	Version number	Prepared by	Date of document	
BASIX Certificate	-	Paul & David Consulting Pty Ltd	31.01.2025	
In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.				
<b>2.</b>	<b>Existing Infrastructure</b>			
	Any required alterations or damage to infrastructure will be at the developer's expense.			
	<i>Note: It is recommended prior to the issue of a Construction Certificate, all infrastructure, existing and proposed, is to be shown accurately on construction plans with clearances clearly labelled confirming that the proposed works do not affect any existing infrastructure. This will reduce the potential for unexpected costs and expenses.</i>			
	To ensure existing infrastructure is accounted for and any damage to infrastructure is suitably repaired.			
<b>3.</b>	<b>Prescribed Conditions</b>			
	The development must comply with Part 4, Division 2, Subdivision 1, of the <i>Environmental Planning and Assessment Regulation 2021</i> , as applicable.			
	To ensure compliance with prescribed conditions.			

<b>4.</b>	<p><b>Sequencing of Development</b></p> <p>The development is to be undertaken in the following order;</p> <ol style="list-style-type: none"> <li>1. Demolition,</li> <li>2. Multi-Dwelling Housing Development, then</li> <li>3. Strata Subdivision</li> </ol>	To ensure the development is sequenced appropriately
<b>5.</b>	<p><b>Scope of Consent</b></p> <p>The scope of this consent is limited to only the works proposed in this application, and it does not approve or imply approval of any existing unlawful works that may be present on the site.</p>	To establish the scope of the development consent.
<b>6.</b>	<p><b>Shoalhaven Water – Compliance with Conditions</b></p> <p>All conditions listed on the Shoalhaven Water Development Notice at each stage of work must be complied with as relevant to that stage. Written notification must be issued by Shoalhaven Water and evidence provided to the Certifier for each applicable stage.</p>	To ensure compliance with Shoalhaven Water requirements.
<b>7.</b>	<p><b>Concurrence and Referral – Endeavour Energy</b></p> <p>The advice/General Terms of Approval issued by the Endeavour Energy, Reference No: CNR-58281, dated 2 August 2023 are included as conditions of this consent and must be complied with.</p>	To ensure compliance with external concurrence and referral advice.
<p><b>DEMOLITION WORK</b></p> <p><b>Before Demolition Work Commences</b></p>		
CONDITIONS		REASON
<b>8.</b>	<p><b>Demolition - Asbestos Removal</b></p> <p>Asbestos removal must be carried out in accordance with AS2601-2 <u>SafeWork NSW – Code of Practice, Demolition Work [ISBN 978-0-642-78415-5]</u> and as applicable, by a person holding the relevant licence issued by SafeWork NSW.</p> <p>A licence is not required to remove less than 10m<sup>2</sup> of non-friable asbestos, provided that the total amount of non-friable asbestos removed from the lot does not exceed 10m<sup>2</sup>.</p> <p>Asbestos must be taken for disposal to the licensed Waste Management Facility identified in the approved Waste Management Plan.</p>	To ensure demolition works are carried out appropriately.

<p>9.</p>	<p>Post asbestos removal and before further work on the site, the following must be submitted to the Certifier:</p> <ul style="list-style-type: none"> <li>a) A clearance certificate issued by a licensed asbestos assessor or competent person as required by the <i>Work, Health and Safety Regulation 2017</i> for the specific type of asbestos removal work confirming that the area has been cleaned satisfactorily and is safe to be re-occupied for normal use.</li> <li>b) A clearance certificate is required if the removal work involved any quantity of friable asbestos, or if it involved removal of more than a total of 10 square metres of non-friable asbestos from the lot.</li> <li>c) Documentary evidence of the legitimate disposal of all asbestos in the form of tip receipts from an approved waste management facility.</li> </ul> <p>Seven (7) days before the commencement of any demolition works involving asbestos, all immediate neighbours must be notified in writing of the intention to carry out asbestos demolition works. Copies of these written notifications should be retained and submitted to Council</p> <p><b>Demolition – Standards</b></p> <p>Demolition work must be carried out in accordance with all applicable Australian Standards and SafeWork Code of Practice.</p>	<p>To ensure demolition works are carried out appropriately.</p>
<p>10.</p>	<p><b>Demolition - Decommissioning of Services</b></p> <p>Before demolition work commences:</p> <ul style="list-style-type: none"> <li>a) All existing internal sewer drainage pipework must be flushed, disconnected from the existing sewer junction and the sewer junction must be temporarily capped off.</li> <li>b) Internal water lines must be disconnected from the existing water meter currently servicing the property.</li> <li>c) The capped off sewer junction and disconnected water lines must be inspected by Shoalhaven Water. For all inspections contact Shoalhaven Water on 4429 3569.</li> </ul> <p>The developer must provide the Certifier with evidence of compliance with the above requirements on completion of works.</p>	<p>To ensure services are appropriately decommissioned and capped off where required.</p>
<p><b>DEMOLITION WORK</b></p>		

<b>During Demolition Work</b>	
CONDITIONS	REASON
<p><b>11. Demolition - Completion of Works</b></p> <p>Demolition work, once commenced, must be completed within three (3) months.</p>	<p>To ensure demolition works are completed within an acceptable timeframe.</p>
<b>BUILDING WORK</b>	
<b>Before Issue of a Construction Certificate</b>	
CONDITIONS	REASON
<p><b>12. Council Approvals - Evidence</b></p> <p>A Construction Certificate must not be issued until the Certifier has received notification from, or evidence of, any Council approval that is required before the commencement of building works.</p>	<p>To ensure all required approvals are obtained.</p>
<p><b>13. Erosion and Sediment Controls – Erosion and Sediment Control Plan</b></p> <p>Before issue of a Construction Certificate, an Erosion and Sediment Control Plan (ESCP) and specifications must be prepared in accordance with Landcom’s publication Managing Urban Stormwater - Soils and Construction (2004) by a suitably qualified person, (as defined in the National Construction Code) to the satisfaction of the Certifier.</p> <p>All plans must include:</p> <ul style="list-style-type: none"> <li>a) Site access location and stabilisation details and restrictions;</li> <li>b) Erosion control locations and types;</li> <li>c) Sediment control locations and types;</li> <li>d) Soil, water and drainage management plans;</li> <li>e) Site rehabilitation details;</li> <li>f) Inspection and maintenance details;</li> </ul>	<p>To ensure ongoing compliance.</p>

- g) Identification of existing vegetation and site revegetation to have 70% cover established before plan is decommissioned;
- h) Existing and final contours (clearly distinguished and adequately annotated);
- i) Standard construction drawings for proposed soil, water and drainage management measures.
- j) All implemented measures must ensure that a pollution incident must not occur as defined by the Protection of the Environment Operations Act (POEO).

All implemented measures must:

- a) not cause water pollution as defined by the Protection of the Environment Operations Act (POEO).
- b) be maintained at all times.
- c) not be decommissioned until at least 70% revegetation cover has been established.

**14. Local Infrastructure Contribution**

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(s):

Project	Description	Rate	Qty	Total	GST	GST Incl
01ARE C5006	Northern Shoalhaven Sports Stadium	\$821.55	3.00	\$2,464.65	\$0.00	<b>\$2,464.65</b>
01ARE C5007	Nowra Swimming Pool Expansion (Scenic Drive)	\$637.12	3.00	\$1,911.36	\$0.00	<b>\$1,911.36</b>
01ARE C5009	Planning Area 1 recreational facilities upgrades (various locations)	\$860.00	3.00	\$2,580.00	\$0.00	<b>\$2,580.00</b>
01CFA C5012	Nowra Integrated Youth Services Centre (Cnr Kinghome & Plunkett Streets)	\$35.18	3.00	\$105.54	\$0.00	<b>\$105.54</b>
CWAR EC500 5	Shoalhaven Community and Recreational Precinct SCaRP Cambewarra Road Bomaderry	\$2,266.62	3.00	\$6,799.86	\$0.00	<b>\$6,799.86</b>
CWCF AC500 2	Shoalhaven Entertainment Centre (Bridge Road Nowra)	\$1,713.07	3.00	\$5,139.21	\$0.00	<b>\$5,139.21</b>
CWCF AC500 6	Shoalhaven City Library Extensions (Berry Street, Nowra)	\$1,502.37	3.00	\$4,507.11	\$0.00	<b>\$4,507.11</b>
CWCF AC500 7	Shoalhaven Regional Gallery	\$82.48	3.00	\$247.44	\$0.00	<b>\$247.44</b>

To ensure applicable local infrastructure contributions are collected.

	<table border="1"> <tbody> <tr> <td>CWFIR E2001</td> <td>Citywide Fire &amp; Emergency services</td> <td>\$162.05</td> <td>3.00</td> <td>\$486.15</td> <td>\$0.00</td> <td><b>\$486.15</b></td> </tr> <tr> <td>CWFIR E2002</td> <td>Shoalhaven Fire Control Centre</td> <td>\$237.08</td> <td>3.00</td> <td>\$711.24</td> <td>\$0.00</td> <td><b>\$711.24</b></td> </tr> <tr> <td>CWMMG MT300 1</td> <td>Contributions Management &amp; Administration</td> <td>\$673.90</td> <td>3.00</td> <td>\$2,021.70</td> <td>\$0.00</td> <td><b>\$2,021.70</b></td> </tr> <tr> <td colspan="6" style="text-align: right;"><b>Sub Total:</b></td> <td><b>\$26,974.26</b></td> </tr> <tr> <td colspan="6" style="text-align: right;"><b>GST Total:</b></td> <td><b>\$0.00</b></td> </tr> <tr> <td colspan="6" style="text-align: right;"><b>Estimate Total:</b></td> <td><b>\$26,974.26</b></td> </tr> </tbody> </table> <p>The total contribution, identified in the above table(s) 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.</p> <p>The Contributions Plan 2019 can be accessed on Councils website <a href="http://www.shoalhaven.nsw.gov.au">www.shoalhaven.nsw.gov.au</a> or may be inspected on the public access computers at the libraries and the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.</p> <p><i>Note: There are also provisions that may apply with respect to the timing of payments. See: Environmental Planning and Assessment (Local Infrastructure Contributions - Timing of Payments) Direction 2020 (nsw.gov.au)</i></p>	CWFIR E2001	Citywide Fire & Emergency services	\$162.05	3.00	\$486.15	\$0.00	<b>\$486.15</b>	CWFIR E2002	Shoalhaven Fire Control Centre	\$237.08	3.00	\$711.24	\$0.00	<b>\$711.24</b>	CWMMG MT300 1	Contributions Management & Administration	\$673.90	3.00	\$2,021.70	\$0.00	<b>\$2,021.70</b>	<b>Sub Total:</b>						<b>\$26,974.26</b>	<b>GST Total:</b>						<b>\$0.00</b>	<b>Estimate Total:</b>						<b>\$26,974.26</b>	
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<b>15.</b>	<p><b>Long Service Levy</b></p> <p>Before the issue of the relevant Construction Certificate / Subdivision Works Certificate, the long service levy must be paid to the Long Service Corporation of Council under the Building and Construction industry <i>Long Service Payments Act 1986</i>, section 34, and evidence of the payment is to be provided to the Certifier.</p>	To ensure compliance with long service levy requirements.																																										
<b>16.</b>	<p><b>Landscape Plan</b></p> <p>Prior to the issue of a Construction Certificate, a landscape plan, prepared by a suitably qualified landscape architect, designer or equivalent, must be submitted to Council or an accredited certifier for approval. The landscape plan must:</p> <ol style="list-style-type: none"> <li>Be consistent with the stamped approved architectural plans.</li> <li>Be consistent with the Shoalhaven Development Control Plan 2014, Chapters G3 and G13, where applicable.</li> <li>Be selected from the Shoalhaven Species List for South Nowra.</li> </ol>	To ensure a Landscape Plan consistent with the approved architectural plans is submitted																																										
<b>17.</b>	<p><b>Retaining Walls – Design Standards</b></p>	To ensure retaining walls are																																										

	<p>Before the issue of a Construction Certificate for approved retaining walls exceeding 600mm 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.</p> <p>The retaining walls must satisfy the following:</p> <ul style="list-style-type: none"> <li>a) For retaining walls exceeding 600mm 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</li> <li>b) For retaining walls less than 600mm 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.</li> <li>c) Retaining walls, footings and drainage must be contained wholly within the development site.</li> <li>d) Construction within a registered easement is prohibited.</li> </ul> <p>Retaining walls not shown on the approved plan must meet the criteria for Exempt retaining walls and comply with the relevant criteria listed in <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> or be approved by way of Complying Development before construction and comply with the relevant criteria listed in <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>.</p>	<p>appropriately designed.</p>
<p><b>18.</b></p>	<p><b>Car Parking Design Standards</b></p> <p>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.</p> <p>The car parking and access design must comply with the following:</p> <ul style="list-style-type: none"> <li>a) AS2890.1 and AS2890.6 where relevant.</li> <li>b) Generally, in accordance with the approved concept plans</li> <li>c) Constructed in accordance with the following: <ul style="list-style-type: none"> <li>i) for light vehicular loading</li> <li>ii) with a concrete pavement designed and constructed for a minimum traffic loading of 1 x 106 ESA.</li> </ul> </li> </ul>	<p>To ensure carparking has been appropriately designed.</p>

	<p>d) Bordered in accordance with Council's Standard Drawings by:</p> <ul style="list-style-type: none"> <li>i) concrete kerbing, except where surface runoff is concentrated, in which case concrete integral kerb and gutter must be constructed.</li> <li>ii) a concrete edge strip (min 150mm wide and 300mm deep).</li> </ul>	
19.	<p><b>Driveway – Design Standards (Urban)</b></p> <p>Before the issue of a Construction Certificate, engineering design plans must be prepared by a suitably qualified person and approved by Council. The layback/footpath crossing design must comply with the following:</p> <ul style="list-style-type: none"> <li>a) Council's Engineering Design Standard Drawings.</li> <li>b) Constructed using 20 MPa reinforced concrete, reinforced with SL72 mesh, on a 75mm compacted fine crushed rock base with centrally placed slab of minimum 3 metres width and minimum 100mm depth.</li> <li>c) Removal of sufficient width of existing road seal and pavement to allow placing of formwork and laying/compaction of suitable pavement material for the driveway layback with a minimum 300mm offset to the kerb lip line.</li> </ul>	<p>To ensure road and pavement infrastructure is appropriately designed.</p>
20.	<p><b>Stormwater - New Buildings and Carpark Drainage Design Standards</b></p> <p>Before the issue of a Construction Certificate, stormwater plans must be prepared by a Licensed Plumber or professional engineer (as defined in the National Construction Code) and submitted to the Certifier.</p> <p>Drainage must be designed and constructed in accordance with:</p> <ul style="list-style-type: none"> <li>a) The approved stormwater concept plans prepared by AE Consulting Engineers (Project No: D23068, Rev C) on 19<sup>th</sup> April 2024</li> <li>b) the National Construction Code</li> <li>c) Council's <u>Engineering Design Specifications</u></li> <li>d) <u>Development Control Plan G2</u>.</li> <li>e) The minor and major systems must be designed for a 18.13% AEP and 1% AEP rainfall events, respectively.</li> </ul>	<p>To ensure stormwater infrastructure is designed appropriately.</p>

	<p>f) Discharged by pipework or overland flow to Council's stormwater system in accordance with the following:</p> <ul style="list-style-type: none"> <li>i) Where calculated runoff can be carried by one (1) or two (2) x 100mm diameter pipes, kerb adaptors must be installed to manufacturer's specification and may be obtained from any manufacturer on the condition that the product is equal to SDP, SDP-W, SDP-A or SDP-R "Stormwater Drainage Products" supplied by Tecpro Pty Ltd.</li> <li>ii) Where the calculated runoff exceeds the capacity of two 100mm pipes, but is less than 55 ltrs/second, then discharge into the kerb and gutter may be provided by means of a kerb converter in accordance with Council's Standard Drawings.</li> <li>iii) Where runoff from the site is greater than 55 ltrs/second, all surface discharge from roof and paved surfaces must be directly connected by underground pipe(s) to Council's stormwater system. Where there is no existing pit for this connection, a new pit must be constructed.</li> </ul> <p>g) Design plans must demonstrate that:</p> <ul style="list-style-type: none"> <li>i) any existing component of the stormwater system to be relied upon has been checked and certified to be in good condition and operating satisfactorily.</li> <li>ii) any component of the existing system not in good condition and /or not operating satisfactorily, will be upgraded and discharged by gravity to the kerb and gutter of a public road or registered drainage easement, as appropriate for the site conditions.</li> </ul> <p>Stormwater from proposed new or altered roof areas may be discharged to the existing site drainage system. Disposal of stormwater from minor roof or paved areas that cannot reasonably be drained by gravity to a public road or registered drainage easement may occur on on-site, subject to ensuring no concentration of flows or nuisance to other properties.</p>	
<p><b>21.</b></p>	<p><b>Stormwater – On-Site Detention Design Standards</b></p> <p>Before the issue of a Construction Certificate, details of on-site detention must be provided on the Construction Certificate plans and approved by the Certifier.</p> <p>On-site detention must be provided as per certified engineering design plans and specifications prepared by a professional engineer, (as defined in the National Construction</p>	<p>To ensure stormwater infrastructure is designed appropriately.</p>

	Code) or surveyor. The on-site stormwater detention (OSD) design must be designed such that stormwater runoff from the site for design storm events up to and including the 1% AEP does not exceed the pre-developed conditions.	
22.	<p><b>Street Numbering</b></p> <p>Street numbering must comply with the State Governments Comprehensive Property Addressing System (CPAS), and Council’s Property Address Numbering Policy.</p> <p>Street numbering for the development must be as follows:</p> <ul style="list-style-type: none"> <li>a) COMMON PROPERTY – 5 Burr Avenue, Nowra</li> <li>b) LOT 1 – 1/5 Burr Avenue, Nowra</li> <li>c) LOT 2 – 2/5 Burr Avenue, Nowra</li> <li>d) LOT 3 – 3/5 Burr Avenue, Nowra</li> <li>e) LOT 4 – 4/5 Burr Avenue, Nowra</li> </ul> <p>The allocated numbers must be shown on the engineering/construction plans with the Construction Certificate. Where plans and details are provided to service suppliers, numbers must be in accordance with the above.</p>	To ensure consistent and appropriate street numbering.
23.	<p><b>Section 68 Application – Water Supply, Sewerage and Stormwater Drainage</b></p> <p>Before the issue of a Construction Certificate, an application for water supply, sewerage and stormwater drainage and/or sewage management facility must be approved under section 68 of the <i>Local Government Act 1993</i>.</p>	To ensure relevant approvals are obtained.
<p><b>BUILDING WORK</b></p> <p><b>Before Building Work Commences</b></p>		
CONDITIONS		REASON
24.	<p><b>Appointment of Principal Certifier</b></p> <p>Before building/subdivision work commences a Principal Certifier must be appointed.</p>	To ensure a Principal Certifier is appointed where required.

<p><b>25.</b></p>	<p><b>Construction Certificate</b> A Construction Certificate must be obtained from either Council or a certifier before any building work can commence.</p>	<p>To ensure a appropriate building and Subdivision Certificates are obtained.</p>
<p><b>26.</b></p>	<p><b>Dilapidation Report (Minor)</b> Before the commencement of work, the developer must engage a competent person to prepare a dilapidation report in respect of the neighbouring premises and adjacent public infrastructure, including adjacent kerbs, gutters, footpaths (formed or unformed), driveways (formed or unformed), carriageway, reserves and the like to document evidence of any existing damage.  The dilapidation report must consider the impact of any excavation work that extends below the level of the base of the footings of any structure within 900mm of the shared boundary.  Before works commence, a copy of the dilapidation report must be provided to the Certifier and Council. The dilapidation report will be the benchmark for necessary repairs to damage caused during the development works. All repairs must be completed by the developer at the developer's cost.  Not less than seven (7) days before works commence, the developer must notify the owner of any affected property of the intention to carry out approved works. The developer must also furnish the owner with details of the approved work.  However, if the occupier or owner of any neighbouring dwelling does not permit reasonable access for the purposes for the preparation of the dilapidation report, written evidence of the efforts taken to secure access may be submitted to the Principal Certifier and the Principal Certifier may waive the requirement in relation to the relevant property.  <i>Note: A dilapidation report can comprise of video footage and photos of adjacent public infrastructure and relevant structures on adjoining properties.</i></p>	<p>To ensure a suitable dilapidation report is prepared and the status of existing infrastructure and adjoining structures is recorded prior to the commencement of work.</p>
<p><b>27.</b></p>	<p><b>Erosion and Sediment Controls – Implementation</b> Before any site work commences, the Certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any disturbed areas have been restabilised in accordance with Landcom's publication</p>	<p>To ensure appropriate erosion and sediment control measures are in place.</p>

<p>28.</p>	<p>Managing Urban Stormwater - Soils and Construction (2004) and approved plans (as amended from time to time).</p> <p><b>Notice of Commencement</b></p> <p>Notice must be given to Council at least two (2) days before the commencement of building or subdivision work by completing and returning the form '<a href="#">Commencement Notice for Building or Subdivision Work and Appointment of Principal Certifying Authority</a>'.</p>	<p>To ensure appropriate notice is given to Council.</p>
<p>29.</p>	<p><b>Shoalhaven Water – Application for Certificate of Compliance</b></p> <p>Before commencement of works, an application for a Certificate of Compliance must be made with Shoalhaven Water and where required a Water Development Notice is to be obtained.</p> <p>Shoalhaven Water will determine if sewerage and/or water infrastructure and/or easements will be affected by any part of your development including what charges/fees apply. Please visit <a href="https://shoalwater.nsw.gov.au/planning-building/developers-consultants/water-development-notice">https://shoalwater.nsw.gov.au/planning-building/developers-consultants/water-development-notice</a> to make application for a Certificate of Compliance or call (02) 4429 3214 to learn more about applying.</p> <p>Upon the receipt of the application, Shoalhaven Water will assess the development and if required will issue a "Water Development Notice" document detailing all requirements which must be met.</p> <p><i>Note: As water and/or sewerage infrastructure may impact on part/s or all of the development such as building, provision of services, protection of water and/or sewer assets, etc., it is recommended that this application is made as early as possible during the development process.</i></p>	<p>To ensure a Water Development Notice and Certificate of Compliance are obtained.</p>
<p>30.</p>	<p><b>Toilet Facilities – Temporary</b></p> <p>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:</p> <ol style="list-style-type: none"> <li>be a standard flushing toilet connected to a public sewer, or</li> <li>have an on-site effluent disposal system approved under the <i>Local Government Act 1993</i>, or</li> <li>be a temporary chemical closet approved under the <i>Local Government Act 1993</i>.</li> </ol>	<p>To ensure suitable toilet facilities are provided.</p>

<p><b>31.</b></p>	<p><b>Waste Management Plan – an approved document of this consent</b></p> <p>Before the commencement of site works a waste management plan for the development must be provided to the Certifier for review and approval.</p>	<p>To ensure an appropriate waste management plan is provided.</p>
<p><b>32.</b></p>	<p><b>Works within the Road Reserve – Submissions to Council</b></p> <p>Before undertaking any works within an existing road reserve, the developer must obtain the consent of Council under section 138 of the <i>Roads Act 1993</i>.</p> <p>The following details must be submitted to Council as part of the application:</p> <ul style="list-style-type: none"> <li>a) Any civil works design required by this consent.</li> <li>b) Evidence of the contractor’s Public Liability Insurance to an amount of \$20 million.</li> <li>c) Name and contact information of the person responsible for all relevant works.</li> <li>d) A Traffic Control Plan prepared, signed, and certified by a person holding the appropriate Transport for NSW (TfNSW) accreditation.</li> <li>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.</li> </ul>	<p>To ensure relevant approvals are obtained.</p>
<p><b>33.</b></p>	<p><b>Construction Traffic Management Plan</b></p> <p>Before the commencement of works, a Construction Traffic Management Plan detailing the proposed method of dealing with construction traffic and parking must be approved by Council.</p> <p>Details must include, but are not limited to:</p> <ul style="list-style-type: none"> <li>a) Stabilised site construction access location</li> <li>b) Proposed haulage routes for delivery of materials to the site</li> <li>c) Proposed haulage routes for spoil disposal from the site</li> <li>d) Traffic control planning for each of the various phases of construction and/or vehicle movements associated with construction</li> <li>e) Parking arrangements for construction employees and contractors</li> </ul>	<p>To ensure ongoing compliance.</p>

	<ul style="list-style-type: none"> <li>f) Proposed maintenance of the haulage routes and access locations</li> <li>g) Name of the person responsible for such maintenance</li> <li>h) Loading / unloading areas</li> <li>i) Requirements for construction or work zones</li> <li>j) Pedestrian and cyclist safety</li> <li>k) Speed zone restrictions.</li> </ul>	
<p><b>BUILDING WORK</b> <b>During Building Work</b></p>		
CONDITIONS		REASON
<b>34.</b>	<p><b>Acid Sulfate Soils - Unexpected Finds</b></p> <p>If acid sulfate soils are encountered during excavation and/or construction works, all work must cease, and Shoalhaven City Council notified immediately. The extent of acid sulfate soil must be evaluated by a qualified environmental consultant with experience in the assessment of acid sulfate soils and a preliminary assessment provided to Council. Council will determine an appropriate response, including if an Acid Sulfate Soils Management Plan is required to be prepared and implemented, before works can recommence.</p>	<p>To ensure acid sulfate soils are appropriately managed.</p>
<b>35.</b>	<p><b>Biodiversity – Habitat Modification and Vegetation Removal</b></p> <p>The removal and/or disturbance of native vegetation and habitat on the property, including canopy trees, understorey, and groundcover vegetation must be undertaken strictly in accordance with the approved plans. Vegetation removal must be undertaken in accordance with the following:</p> <ul style="list-style-type: none"> <li>a) Trees approved for removal must be felled into the development area carefully so as not to damage trees to be retained in or beyond the development footprint.</li> <li>b) Any hollow-bearing trees approved for removal 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.</li> </ul>	<p>To protect biodiversity values.</p>

	<p>c) Pruning or trimming of any trees to be retained must be undertaken in accordance with <i>AS 4373 Pruning of amenity trees</i>.</p> <p>d) If any wildlife is discovered during site works and is disoriented or injured, works must stop immediately. A suitably qualified wildlife handler is to be contacted to responsibly rescue and relocate the animal(s).</p>	
<p><b>36.</b></p>	<p><b>Discovery of relics and Aboriginal objects</b></p> <p>While site work is being carried out, if a person reasonably suspects a relic or Aboriginal object is discovered:</p> <p>a) the work in the area of the discovery must cease immediately.</p> <p>b) the following must be notified for a relic – the Heritage Council; or</p> <p>c) for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85.</p> <p>Site work may recommence at a time confirmed in writing by:</p> <p>a) for a relic – the Heritage Council; or for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85.</p>	<p>To ensure the protection of objects of potential significance during works.</p>
<p><b>37.</b></p>	<p><b>Potentially Contaminated Land - Unexpected Finds</b></p> <p>If unexpected, contaminated soil and/or groundwater is encountered during any works:</p> <p>a) all work must cease, and the situation must be promptly evaluated by an appropriately qualified environmental consultant.</p> <p>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.</p> <p>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 before recommencement of works. The verification documentation must be provided to the satisfaction of the</p>	<p>To ensure any detected contaminants are appropriately managed.</p>

	<p>Certifier and Shoalhaven City Council before the recommencement of any works.</p> <p>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).</p> <p><i>Note: 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).</i></p>	
38.	<p><b>Stormwater - Overland Flow, Redirecting and/or Concentrating Stormwater</b></p> <p>All excavation, backfilling and landscaping works must not result in:</p> <p>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 must be collected and directed to a legal point of discharge.</p> <p>b) the redirection and/or concentration of stormwater flows onto neighbouring properties.</p>	To ensure ongoing compliance.
39.	<p><b>Stormwater - Connections in Road Reserve</b></p> <p>Before the completion of works, the site supervisor must ensure that stormwater connections between the property boundary and the new kerb and gutter are inspected and approved by Council and backfilled as soon as possible. Kerb connections are only to be made using adaptors/convertors approved by Council.</p> <p><i>Note: A section 138 approval under the Roads Act 1993 will be required for any works within the road reserve.</i></p>	To ensure stormwater connections are appropriately installed.
40.	<p><b>Earthworks -Cut, Fill and Grading</b></p> <p>The maximum grading of cut or fill must be 2H:1V where there is no retaining wall or no other method of stabilising cut or fill during construction. Earthworks and retaining walls must be constructed as per the approved plans.</p>	To ensure earthworks are appropriately retained.
41.	<p><b>Site Management - Hours for Construction</b></p> <p>Construction may only be carried out between 7.00am and 5.00pm on Monday to Saturday and no construction is to be</p>	To ensure site work occurs within

	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.	appropriate construction hours.
<b>42.</b>	<p><b>Site Management - Maintenance of Site and Surrounds</b></p> <p>During works, the following maintenance requirements must be complied with:</p> <p>a) All materials and equipment must be stored and delivered wholly within the work site unless an approval to store them elsewhere is held.</p> <p>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.</p> <p>c) Where tree or vegetation protection measures are in place, the protected area must be kept clear of materials and / or machinery.</p> <p>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.</p> <p>e) During construction:</p> <p style="padding-left: 20px;">i) all vehicles entering or leaving the site must have their loads covered, and</p> <p style="padding-left: 20px;">ii) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.</p> <p>f) At the completion of the works, the work site must be left clear of waste and debris.</p>	To ensure the site is maintained in a safe and secure manner.
<b>43.</b>	<p><b>Site Management - Noise</b></p> <p>The noise from all site work, demolition and construction activities associated with the approved development must comply with the work practices as outlined in the NSW Department of Environment &amp; Climate Change Interim Construction Noise Guideline. The LAeq noise 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.</p>	To protect the amenity of neighbouring properties.
<p><b>BUILDING WORK</b> <b>Before Issue of an Occupation Certificate</b></p>		

CONDITIONS		REASON
<b>44.</b>	<p><b>Noise - Air-Conditioning Units</b></p> <p>Any air-conditioning unit must be installed in accordance with manufacturer's instructions and operated at all times so as not to cause "Offensive Noise" as defined by the <i>Protection of the Environment Operations Act (POEO Act)</i>.</p> <p>Air-conditioning units not shown on the approved plan must comply with the relevant criteria listed in <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>.</p>	To protect the amenity of neighbouring properties.
<b>45.</b>	<p><b>Letter Boxes</b></p> <p>A letterbox structure(s) must be provided and be designed to comply with the requirements of Australia Post, located close to the major pedestrian entry to the site, and built from materials that are non-reflective and blend in with the approved development.</p> <p><i>Note: Where no roadside delivery service is provided by Australia Post these requirements may be varied subject to the approval of Council.</i></p>	To ensure compliance with the requirements of Australia Post.
<b>46.</b>	<p><b>BASIX Certificate</b></p> <p>Before the issue of an Occupation Certificate, documentary evidence prepared by a suitably qualified person must be submitted to the Certifier confirming that all commitments listed in the BASIX Certificate(s) are fulfilled in accordance with Clause 97A of the <i>Environmental Planning and Assessment Regulation 2021</i>.</p>	To ensure compliance with the approved BASIX Certificate.
<b>47.</b>	<p><b>Colours and Materials</b></p> <p>The development must be constructed in accordance with the approved schedule of colours and building materials and finishes.</p>	To ensure colours and materials are appropriate.
<b>48.</b>	<p><b>Completion of Landscape and Tree Works</b></p> <p>Before the issue of an Occupation Certificate, the principal certifier must be satisfied all landscape and tree-works have been completed in accordance with approved plans and documents and any relevant conditions of this consent.</p>	To ensure the approved landscaping works have been completed.
<b>49.</b>	<p><b>Completion of Public Utility Services</b></p>	To ensure required

	<p>Before the issue of the relevant Occupation Certificate, confirmation must be obtained from the relevant authority that any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, have been completed and this confirmation must be provided to the principal certifier.</p>	<p>changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation.</p>
50.	<p><b>Dilapidation Report (Minor) – Evidence of Completion</b></p> <p>Before the issue of an Occupation Certificate, the developer must provide the Certifier and Council with evidence that any damage to neighbouring premises or adjacent public infrastructure, not previously identified as existing damage in the Dilapidation Report, has been repaired by the developer to the satisfaction of Council.</p>	<p>To ensure any damage not previously identified in the Dilapidation Report is suitably repaired.</p>
51.	<p>Before the issue of a full Occupation Certificate, the developer must provide the Certifier with a Completion of Works in Road Reserve Letter provided by Council, confirming compliance with the requirements of section 138 of the <i>Roads Act 1993</i>.</p>	<p><b>To ensure ongoing compliance</b></p>
52.	<p><b>Works in the Road Reserve - Works as Executed</b></p> <p>Before the issue of an Occupation Certificate, Works as Executed Plans for works within the road reserve must be prepared by a registered surveyor / professional engineer, (as defined in the National Construction Code) and approved by Council demonstrating compliance with the approved design plans.</p> <p>The Works as Executed dimensions and levels must be shown in red on a copy of the approved plans and comply with the following requirements:</p> <ol style="list-style-type: none"> <li>Council's Development Engineering Construction Specification.</li> <li>Show compliance with the approved design plans of all road and drainage works.</li> <li>Show any retaining walls including footings and agricultural drainage lines.</li> <li>Show the location of all underground service conduits.</li> </ol>	<p>To ensure ongoing compliance</p>

<p>53.</p>	<p>e) Include all deviations from the approved Civil Engineering Plans.</p> <p><b>Stormwater - Works as Executed</b></p> <p>Before the issue of an Occupation Certificate, a Works as Executed Plans and certification must be submitted to the Council by a professional engineer (as defined in the National Construction Code) certifying compliance of all drainage works with the approved design plans and the National Construction Code.</p> <p>The Works as Executed be shown in red on a copy of the approved plans. This plan must verify locations &amp; sizes of all pipelines.</p> <p>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).</p>	<p>To ensure ongoing compliance</p>
<p>54.</p>	<p><b>Driveway - Evidence of Completion</b></p> <p>Before the issue of an Occupation Certificate, all driveway and carpark works internal to the site as shown on the approved plans must be completed.</p>	<p>To ensure the completion of the driveway in a timely manner</p>
<p>55.</p>	<p><b>Retaining Walls – Certification</b></p> <p>Before the issue of an Occupation Certificate, certification must be provided to the Certifier prepared by a professional engineer, (as defined in the National Construction Code), certifying that retaining walls within 1m of the property boundary or exceeding 1m in height above ground level (existing) are constructed in accordance with the approved engineering design plans.</p> <p>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.</p> <p><i>Note: This condition does not prevent a partial Occupation Certificate to be issued for the parts of the development that have been completed.</i></p>	<p>To ensure retaining walls have been constructed appropriately.</p>
<p>56.</p>	<p><b>Section 68 Approvals – Evidence of Completion</b></p> <p>All the conditions under the approval of section 68 of the <i>Local Government Act 1993</i> are to be complied with before the issue of an Occupation Certificate.</p>	<p>To ensure compliance with section 68 approval.</p>

<b>57.</b>	<p><b>Shoalhaven Water – Certificate of Compliance</b></p> <p>Before the issue of any Occupation Certificate, a Certificate of Compliance under section 307 of the <i>Water Management Act 2000</i> must be obtained from Shoalhaven Water to verify satisfactory compliance with all conditions for the supply of water and sewerage, as listed on the Water Development Notice.</p> <p>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.</p>	To ensure compliance with Shoalhaven Water requirements.
<p><b>BUILDING WORK</b></p> <p><b>Occupation and Ongoing use</b></p>		
CONDITIONS		REASON
<b>58.</b>	<p><b>Occupation – Satisfaction of Conditions of Consent</b></p> <p>The development must not be occupied or used before an Occupation Certificate has been issued by the Principal Certifier.</p> <p>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).</p>	To ensure conditions of consent are complied with or other satisfactory arrangement made.
<b>59.</b>	<p><b>Landscaping – Priority and Environmental Weeds</b></p> <p>The planting of plant species listed in the South East Regional Strategic Weed Management Plan 2017 – 2022 is prohibited for the life of the development. No exotic perennial grasses listed on the 'Final Determination of the NSW Scientific Committee for the key threatening process Invasion of native plant communities by exotic perennial grasses' must be sown within the outer protection area or the asset protection zone for the life of the development. Native grasses must be sown in these areas, as this is the interface between disturbed areas and the remaining native vegetation for the life of the development.</p>	To protect biodiversity values.
<b>60.</b>	<p><b>Stormwater – Maintenance of Stormwater Infrastructure</b></p> <p>The approved stormwater design and any associated on-site detention must be maintained for the life of the development</p>	To ensure ongoing compliance

	in accordance with the approved documents and maintenance programs.	
<b>SUBDIVISION WORK</b> <b>Before the Issue of a Strata Certificate</b>		
CONDITIONS		REASON
<b>61.</b>	<b>Compliance with Conditions of Consent – Approved Development</b> Before the issue of any Strata Certificate, all required conditions of consent must be satisfied and an Occupation Certificate issued for the development. Evidence of the Occupation Certificate must be provided to Council.	To ensure compliance with relevant development consent.
<b>62.</b>	<b>Completion of Public Utility Services</b> Before the issue of the relevant Strata Certificate, confirmation must be obtained from the relevant authority that any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, have been completed and this confirmation must be provided to the principal certifier.	To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation.
<b>63.</b>	<b>Strata Certificate</b> A Strata Certificate must be obtained from Council or an accredited certifier prior to lodgement of the Final Plan of Survey with NSW Land Registry Services.	To ensure appropriate building and Subdivision Certificates are obtained.
<b>64.</b>	<b>Subdivision - Schedule of Compliance</b> The Strata 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). A schedule of compliance in table format must be submitted with the application for a Strata Certificate. The schedule must provide evidence of how all relevant conditions of development consent have been fulfilled.	To ensure conditions of consent have been satisfied or other satisfactory arrangements made.

<p><b>65.</b></p>	<p><b>Subdivision – Provision of Utility Services</b></p> <p>Before the issue of a Strata Certificate, utility services must be provided in accordance with the following:</p> <ul style="list-style-type: none"> <li>a) The provision of electricity to service allotments and street lighting in the subdivision must be in accordance with the requirements of Endeavour Energy who are to confirm in writing that conditions of supply have been met.</li> <li>b) The submission of a Telecommunications Infrastructure Provisioning Confirmation from an approved telecommunications carrier to the Certifier or Council (as applicable) confirming that satisfactory arrangements have been made for the provision of telecommunication services to all individual lots.</li> <li>c) A Certificate of Compliance under Section 307 of Division 5 of Part 2 of Chapter 6 of the <i>Water Management Act 2000</i> 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 Water Development Notice and before the issue of a Subdivision Certificate, as the case may be.</li> <li>d) If 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.</li> </ul> <p><i>Note: Relevant details, including monetary contributions (where applicable) under the Water Management Act 2000, are given on the attached Notice issued by Shoalhaven Water. For further information and clarification regarding the above please contact Shoalhaven Water's Development Unit on (02) 4429 3547.</i></p>	<p>To ensure utilities and services are appropriately provided.</p>
<p><b>66.</b></p>	<p><b>Restrictions - Existing Easements and Restrictions on Use of Land</b></p> <p>Before the issue of the Strata Certificate</p> <ul style="list-style-type: none"> <li>a) all existing easements must be acknowledged on the final subdivision plan.</li> <li>b) all existing restriction on the use of land must be acknowledged on the final subdivision plan.</li> </ul>	<p>To ensure easements and restrictions are noted on subdivision plans.</p>

<p><b>67. Restrictions – Easements and Restrictions on Use of Land</b></p> <p>An Instrument must be prepared under section 88B of the Conveyancing Act 1919 which will provide for the following Restrictions on the land when the subdivision is registered:</p> <ul style="list-style-type: none"> <li>c) Easements must be provided where and as required for inter-allotment services, drainage and sewerage. <ul style="list-style-type: none"> <li>i) a minimum 1m wide easement to drain water must be created over any encroaching drainage pipes.</li> <li>ii) A minimum 1m wide easement for services must be created over any encroaching utility service.</li> </ul> </li> <li>d) where there is a shared access or common driveway, reciprocal rights of carriageway must be provided inclusive of any maintenance responsibilities and financial apportionments, where necessary.</li> <li>e) where there is shared infrastructure, landscaping, structures, and the like, arrangements must be made for access and maintenance.</li> </ul> <p>The Instrument must contain a provision that it cannot be varied, modified or released without the consent of the relevant parties as appropriate and without the consent of the Shoalhaven City Council.</p> <p>The Instrument must not contain any restriction that prohibits development on the site allowed under the relevant environmental planning instruments.</p> <p>A draft 88B Instrument must be submitted to the Certifier for approval before a Strata Certificate is issued.</p>	<p>To ensure restrictions and easements are registered on the title of the land where required.</p>
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**General advisory notes**

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation, and other legislation. Some of these additional obligations are set out in the Conditions of development consent: advisory notes. The consent should be read together with the Conditions of development consent: advisory notes to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a Construction Certificate or Subdivision Works Certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

#### **Dictionary**

The following terms have the following meanings for the purpose of this consent (except where the context clearly indicates otherwise):

**Approved plans and documents** means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

**AS** means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

**Building work** means any physical activity involved in the erection of a building.

**Certifier** means a council or a person that is registered to carry out certification work under the Building and Development Certifiers Act 2018.

**Construction Certificate** means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

**Council** means Shoalhaven City Council.

**Court** means the NSW Land and Environment Court.

**EPA** means the NSW Environment Protection Authority.

**EP&A Act** means the Environmental Planning and Assessment Act 1979.

**EP&A Regulation** means the Environmental Planning and Assessment Regulation 2021.

**Independent Planning Commission** means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

**Occupation Certificate** means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

**Principal certifier** means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

**Site work** means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

**Stormwater drainage system** means all works and facilities relating to:

- the collection of stormwater
- the reuse of stormwater
- the detention of stormwater
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

**Strata Certificate** means a certificate in the approved form issued under Part 4 of the Strata Schemes Development Act 2015 that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Section 4.15 Assessment Report - DA23/1474

	<b>Section 4.15 Assessment Report</b> <i>Environmental Planning &amp; Assessment Act 1979</i>
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<p><b>Conflict of interest declaration</b></p> <p>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.</p> <p><i>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.</i></p>			
Delegation Level	Ordinary Council Meeting (Clause 4.6 Variation greater than 10% and therefore staff do not have delegation to determine)		
Variations Proposed	<input checked="" type="checkbox"/> Clause 4.6 exception <input checked="" type="checkbox"/> DCP departure		
Councillor Representations	Councillor	Date	TRIM Reference
	Nil		
Report Recommendation	Approval		

DA Number	DA23/1474
PAN	PAN-338865
Property Address	5 Burr Av, NOWRA - Lot 5 DP 32228
Proposal	Demolition of Existing Structures, Tree Removal, Construction of Multi-Dwelling Housing Development (4 Units) and Internal Driveway, and associated civil, site, and landscaping works
Applicant(s)	Duplex Building Design
Owner(s)	[REDACTED]
Owner's consent?	Yes
Date Lodged	29-Jun-2023
Date of site inspection	16/10/2024 (refer TRIM Ref No.s D24/445854 and D24/445882)
Date clock stopped	11/07/2023
Date clock started	20/10/2023

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Related Application in NSW Planning Portal?	<input checked="" type="checkbox"/> Concurrence and/or external agency referral <input type="checkbox"/> Section 68
No. of submissions	Nil

### 1. Detailed Proposal

The proposal includes:

- Demolition of the existing single storey detached dwelling and associated outbuildings.
- Site preparation works including vegetation removal (one tree) and carrying out of cut and fill earthworks of up to 900mm cut and 900mm fill.
- Construction of a single storey multi dwelling housing development, resulting in 4 single bedroom units
- Four lot strata subdivision of the multi-dwelling housing development.
- Associated site works including construction of driveway and stormwater infrastructure construction and installation of landscaping.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn by	Date of Plan
22194 Sh. A003	A	Site Plan & Driveway Layout	Duplex Building Design	31.01.2025
22194 Sh. A004	A	Stormwater Layout	Duplex Building Design	31.01.2025
22194 Sh. A005	A	Demolition Plan	Duplex Building Design	31.01.2025
22194 Sh. A006	A	Site & Construction Management Plan	Duplex Building Design	31.01.2025
22194 Sh. A007	A	Area Calculation Plan	Duplex Building Design	31.01.2025
22194 Sh. A008	A	Gross Building Area	Duplex Building Design	31.01.2025
22194 Sh. A201	A	Proposed Ground Floor Plan	Duplex Building Design	31.01.2025
22194 Sh. A202	A	Proposed First Floor Plan	Duplex Building Design	31.01.2025
22194 Sh. A301	A	Proposed Roof Plan	Duplex Building Design	31.01.2025
22194 Sh. A401	A	Elevations	Duplex Building Design	31.01.2025
22194 Sh. A502	A	Sections	Duplex Building Design	31.01.2025
22194 Sh. A601	A	BASIX	Duplex Building Design	31.01.2025
22194 Sh. A701	A	Colours & Materials Schedule	Duplex Building Design	31.01.2025

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22194 Sh. A801	A	Window & Door Schedule	Duplex Building Design	31.01.2025
SW10	C	Stormwater Drainage Plan Ground Floor Level	AE Consulting Engineers	19.03.2025
SW20	C	Erosion & Sediment Control Details	AE Consulting Engineers	19.03.2025
SW30	C	Stormwater Sections & Details Sheet 1	AE Consulting Engineers	19.03.2025
SW40	C	Stormwater Sections & Details Sheet 1	AE Consulting Engineers	19.03.2025

Approved Documents			
Document title	Version number	Prepared by	Date of document
BASIX Certificate	-	Paul & David Consulting Pty Ltd	31.01.2025

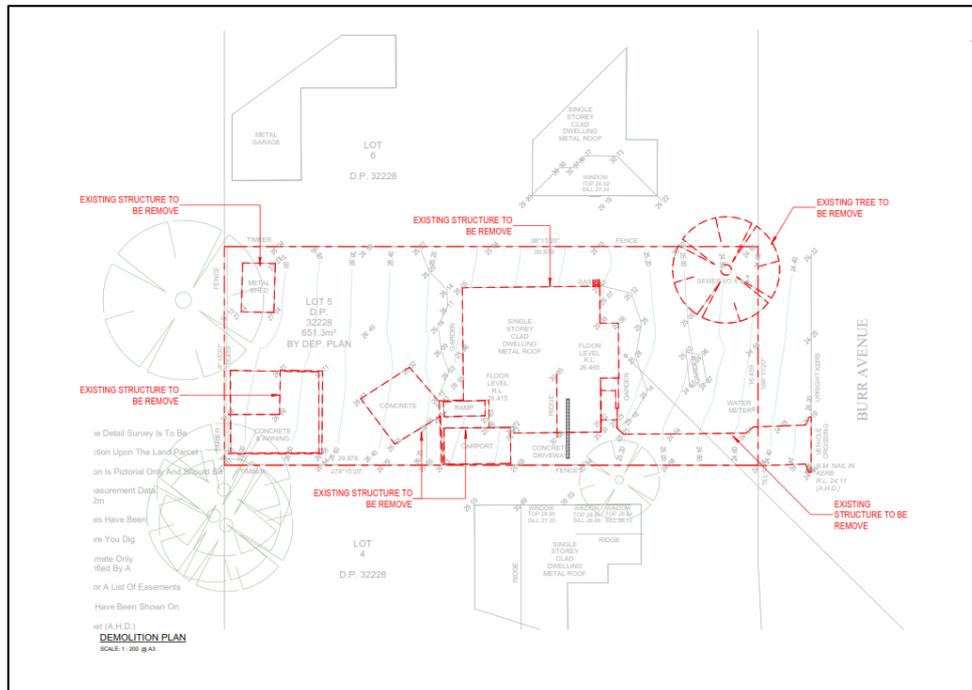


Figure 1 – Proposed Demolition – Tree Clearing

CL25.187 - Attachment 2

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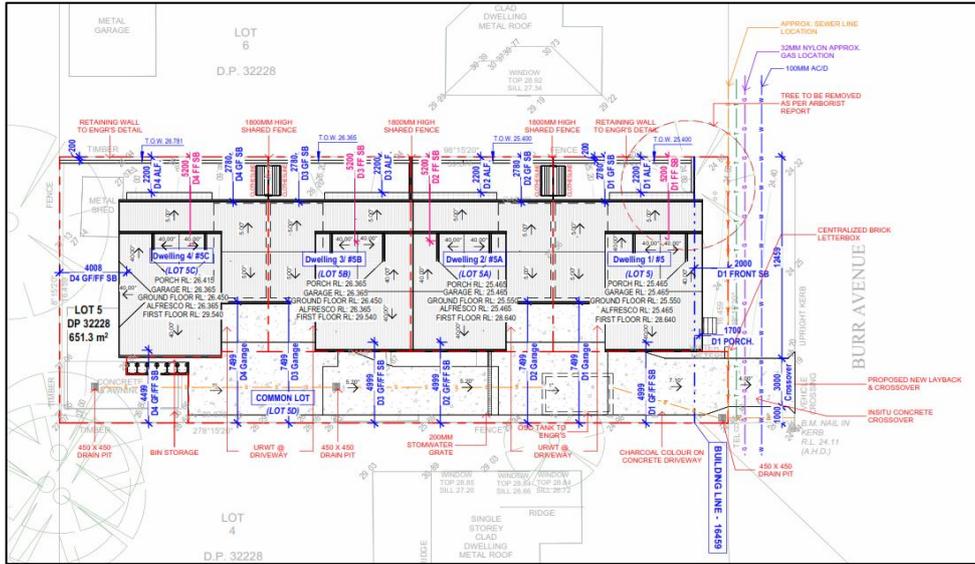


Figure 2 – Proposed Site Plan



Figure 3 – Proposed Elevations

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## 2. Subject Site and Surrounds

### Site Description

The site:

- Is described as Lot 5 DP 32228 at No. 5 Burr Avenue Nowra.
- Has a total area of 651.29m<sup>2</sup>.
- Is located within Zone MU1 – Mixed Use pursuant to the Shoalhaven Local Environmental Plan (SLEP) 2014.
- Achieves legal and practical access to Burr Avenue to the east.
- Is constructed with an existing detached dwelling within the central part of the site and a detached shed in the western rear part.
- Is serviced by reticulated sewer and water, accessed by mains within the Burr Avenue road reserve.
- Has a topography which slopes from the western rear part from a high point to a low point in the eastern front part adjacent to Burr Avenue.
- Is located within an area constructed with:
  - Predominantly residential development on the western side of Burr Avenue, which includes a mix of detached residential and medium density residential development (including multi-dwelling housing developments located at No.s 1 and 13 Burr Avenue).
  - A mix of commercial and residential development on the eastern side of Burr Avenue (including a large residential apartment block diagonally across from the site at 6 Burr Avenue).



Figure 4: Aerial imagery of subject site

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**Deposited Plan and 88B Instrument**

There are no identified restrictions on the use of the land that would limit or prohibit the proposed development.

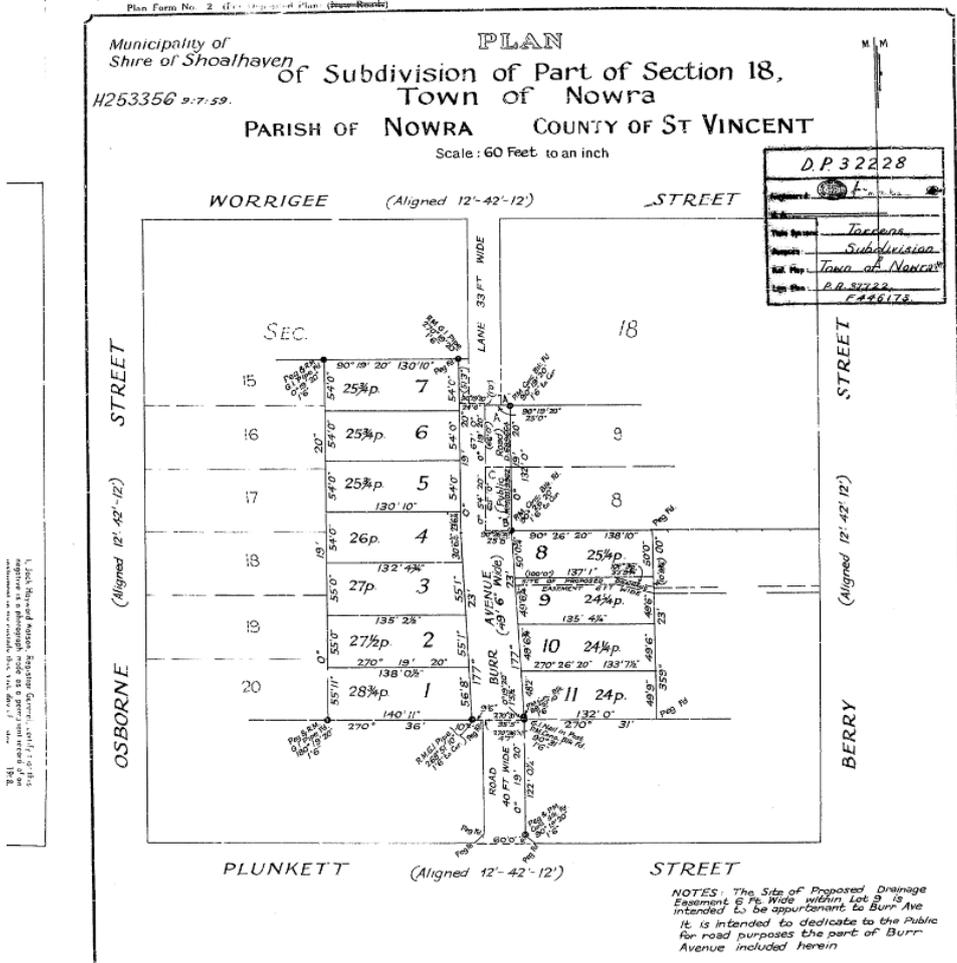


Figure 5: Deposited Plan

CL25.187 - Attachment 2

Section 4.15 Assessment Report - DA23/1474

### 3. Background

#### Pre-Lodgement Information

N/A – No pre-lodgement information provided to applicant.

#### Post-Lodgement Information

Reference number	Milestone	Date
1	Application submitted	05/06/2023
2	Additional Information was requested	19/06/2023
3	Additional Information was provided	20/06/2023
4	Additional Information was requested	27/06/2023
5	Additional Information was provided	28/06/2023
6	Application lodged	29/06/2023
7	Additional Information was requested	11/07/2023
8	Additional Information was provided	20/07/2023
9	Concurrence and Referral requested	31/07/2023
10	Additional Information was requested	20/10/2023
11	Additional Information was provided	31/10/2023
12	Additional Information was requested	06/12/2023
13	Additional Information was requested	06/12/2023
14	Additional Information was requested	21/03/2024
15	Additional Information was provided	26/03/2024
16	Additional Information was provided	03/02/2025
17	Additional Information was requested	03/03/2025
18	Additional Information was provided	19/03/2025

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**Site History and Previous Approvals**

One Council Applications

TrimApplication	Date Lodged	Portal No	Application Type	Proposal	Decision	Status	Determined
 DA23/1474	29/06/2023	PAN-338865	Residential - New multi unit	Multi Dwelling Housing - Four x (4) Dwellings & Strata Subdivision	UnderAss	Current	

Darts - since 1st July 2005

Application	Appl. Date	Application Type	Proposal	Status	Completed
 DA23/1474	29/06/2023	Development Application	Multi Dwelling Housing - Four x (4) Dwellings & Strata Subdivision	Incomplete	

**This Application has been migrated to OneCouncil for further processing**

Old Applications prior to 2nd Sept 1996

Application	Proposal	Decision	Owner
BA73/2000	Fibro Shed	Approved	Shields LC&CF
BA74/1710	Dwelling Additions	Approved	Shields LC&CF
 SD5616		Approved	Shields LC&CF

BA data prior to the 2nd Sept 1996 (bamast)

Application	Appl. Date	Proposal	Status	Status Date
BA83/0736	26/04/1983	Approved	Approved	17/05/1983

**4. Consultation and Referrals**

Internal Referrals	
Referral	Comments
Building Surveyor	Referral response provided by the Building Surveyor on 15 <sup>th</sup> August 2023.  Recommended conditions of consent provided in relation to demolition, construction certificate and certification requirements.  Conditions to be imposed as recommended in any consent.
Development Engineer	Referral response provided by the Development Engineer on 28 <sup>th</sup> March 2025.  Recommended conditions of consent provided in relation to driveway and carpark construction standards, stormwater disposal, earthworks, and certification requirements.  Conditions to be imposed as recommended in any consent.
Shoalhaven Water Group	Referral response provided by the Shoalhaven Water Group on 10 <sup>th</sup> August 2023.  Advice provided that a Water Development Notice is able to be issued.  Suitable conditions to be imposed in any consent.
GIS Unit House Numbering	Referral response provided by the GIS Unit on 4 <sup>th</sup> August 2023.  The following numbering was recommended: <ul style="list-style-type: none"> <li>• COMMON PROPERTY – 5 Burr Avenue, Nowra</li> </ul>

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	<ul style="list-style-type: none"> <li>• LOT 1 – 1/5 Burr Avenue, Nowra</li> <li>• LOT 2 – 2/5 Burr Avenue, Nowra</li> <li>• LOT 3 – 3/5 Burr Avenue, Nowra</li> <li>• LOT 4 – 4/5 Burr Avenue, Nowra</li> </ul> <p>Condition to be imposed in any consent.</p>
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External Referrals	
Referral	Comments
Endeavour Energy	<p>Referral response provided by Endeavour Energy on 2<sup>nd</sup> August 2023.</p> <p>Response provided issuing an approval, subject to conditions of consent.</p> <p>Condition to be imposed in any consent, requiring that compliance with the conditions of Endeavour Energy to be met as part of consent.</p>

## 5. Other Approvals

Integrated Development – N/A
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## 6. Statutory Considerations

### Environmental Planning and Assessment Act 1979

#### Section 4.14 Consultation and development consent – certain bush fire prone land

<i>Is the development site mapped as bush fire prone land?</i>	No
<i>Is there vegetation within 140m of the proposed development that would form a bush fire hazard as identified in Planning for Bush Fire Protection?</i>	No
<i>Note: The bush fire mapping cannot be relied upon solely for identifying bush fire hazards.</i>	

### Biodiversity Conservation Act 1979

<i>Does the application include works or vegetation removal within the <a href="#">Biodiversity Values mapped area</a>?</i>	No
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<p><i>Does the application involve clearing of native vegetation above the area clearing threshold?</i></p> <p><b>Area clearing threshold</b></p> <p>The area threshold varies depending on the minimum lot size (shown in the Lot Size Maps made under the relevant Local Environmental Plan (LEP)), or actual lot size (where there is no minimum lot size provided for the relevant land under the LEP).</p> <table border="1" data-bbox="323 479 906 651"> <thead> <tr> <th>Minimum lot size associated with the property</th> <th>Threshold for clearing, above which the BAM and offsets scheme apply</th> </tr> </thead> <tbody> <tr> <td>Less than 1 ha</td> <td>0.25 ha or more</td> </tr> <tr> <td>1 ha to less than 40 ha</td> <td>0.5 ha or more</td> </tr> <tr> <td>40 ha to less than 1000 ha</td> <td>1 ha or more</td> </tr> <tr> <td>1000 ha or more</td> <td>2 ha or more</td> </tr> </tbody> </table> <p>The area threshold applies to all proposed native vegetation clearing associated with a proposal, regardless of whether this clearing is across multiple lots. In the case of a subdivision, the proposed clearing must include all future clearing likely to be required for the intended use of the land after it is subdivided.</p> <p>If the land on which the proposed development is located has different minimum lot sizes the smaller or smallest of those minimum lot sizes is used to determine the area clearing threshold.</p>	Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply	Less than 1 ha	0.25 ha or more	1 ha to less than 40 ha	0.5 ha or more	40 ha to less than 1000 ha	1 ha or more	1000 ha or more	2 ha or more	<p>No</p>
Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply										
Less than 1 ha	0.25 ha or more										
1 ha to less than 40 ha	0.5 ha or more										
40 ha to less than 1000 ha	1 ha or more										
1000 ha or more	2 ha or more										
<p><i>Will the proposed development have a significant impact on threatened species or ecological communities, or their habitats, according to the test in <a href="#">section 7.3</a> of the Biodiversity Conservation Act 2016 (i.e. 'test of significance')?</i></p> <p><i>Note: Consideration should be given to the site's proximity to NPWS land (see <a href="#">guidelines</a>) and other natural areas, as well as any area that may contain threatened species, vulnerable or endangered ecological communities or other vulnerable habitats.</i></p>	<p>No</p>										
<p><i>If the application exceeds the Biodiversity Offsets Scheme Threshold (i.e. if yes to <b>any</b> of the above), has the application been supported by a Biodiversity Development Assessment Report (BDAR)?</i></p>	<p>N/A</p>										

**Fisheries Management Act 1994**

The proposed development would not have a significant impact on the matters for consideration under Part 7A of the *Fisheries Management Act 1994*.

**Local Government Act 1993**

<p><i>Do the proposed works require approval under Section 68 of the Local Government Act 1993?</i></p>	<p>Yes</p>
<p><i>Does the application include an application under <a href="#">Section 68</a> of the Local Government Act 1993 for water supply, sewerage and stormwater drainage work?</i></p> <p><i>Note: Section 68 applications are shown as a related case to the PAN in the NSW Planning Portal.</i></p>	<p>No</p>
<p><i>Does the application include an application under <a href="#">Section 68</a> of the Local Government Act 1993 to operate a system of sewage management (i.e. on-site sewage management system)?</i></p>	<p>No</p>

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Does the application include an application under <a href="#">Section 68</a> of the Local Government Act 1993 to install a domestic oil or solid fuel heating appliance, other than a portable appliance (i.e. a fire place)?	No
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## 7. Statement of Compliance/Assessment

The following provides an assessment of the submitted application against the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

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

#### i) Environmental Planning Instrument

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

Environmental Planning Instrument
State Environmental Planning Policy (Biodiversity and Conservation) 2021
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
State Environmental Planning Policy (Transport and Infrastructure) 2021
State Environmental Planning Policy (Resilience & Hazards) 2021
Shoalhaven Local Environmental Plan 2014

State Environmental Planning Policy (Biodiversity and Conservation) 2021

#### Chapter 4 Koala habitat protection 2021

Question	Yes	No
1. Is there an approved koala plan of management for the subject land?	<input type="checkbox"/>	Proceed to Question 2
2. Is the proposed development consistent with the approved koala plan of management that applies to the land?	<input type="checkbox"/>	Proposal satisfactory under SEPP.
3. Has information been provided to Council by a suitably qualified consultant that demonstrates that the land the subject of the development application: a) Does not include any trees belonging to the koala use tree species listed in Schedule 2 of the SEPP for the relevant koala management area, or b) Is not core koala habitat, or	<input type="checkbox"/>	Proposal satisfactory under SEPP as (a), (b), (c) or (d) is satisfied.
		Proceed to Question 3
		Application cannot be supported.
		Proceed to Question 4

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Question	Yes		No	
c) There are no trees with a diameter at breast height over bark of more than 10cm, or d) The land only includes horticultural or agricultural plantations				
4. Is the proposed development likely to have an impact on koalas or koala habitat?	<input type="checkbox"/>	Proceed to Question 5	<input checked="" type="checkbox"/>	Proposal satisfactory under SEPP.

**State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

A valid BASIX certificate has been submitted as part of the application. The certificate demonstrates compliance with the provisions of the SEPP and is consistent with commitments identified in the application documentation.

**State Environmental Planning Policy (Transport and Infrastructure) 2021**

**Chapter 2 Infrastructure**

Considerations	Comments
<b>Electricity Transmission or Distribution network</b>	
<i>Part 2.3 Division 5 Subdivision 2 – Development likely to affect an electricity transmission or distribution network</i>	The proposal involves work within proximity to an overhead electricity power line. The application was referred to Endeavour Energy for comment with no objection being raised subject to advice. Referral comments have been taken into consideration.

**State Environmental Planning Policy (Resilience and Hazards) 2021**

**Chapter 4 Remediation of Land**

Question	Yes		No	
1. Does the proposal result in a new land use being a residential, educational, recreational, hospital, childcare or other use that may result in exposure to contaminated land?	<input checked="" type="checkbox"/>	Proceed to Question 2	<input type="checkbox"/>	Assessment under SEPP 55 and DCP not required.
2. Are there any previous investigations about contamination on the land?	<input type="checkbox"/>	Detailed investigation required.	<input checked="" type="checkbox"/>	Proceed to Question 3
3. Was the site previously used or is the site currently used for an activity listed in Table 1 of the Managing Land Contamination Planning Guidelines?	<input type="checkbox"/>	Detailed investigation required.	<input checked="" type="checkbox"/>	Proceed to Question 4

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Question	Yes		No	
4. Are there any land use restrictions on the land relating to possible contamination (e.g. notices issued by EPA or other regulatory authority)?	<input type="checkbox"/>	Detailed investigation required.	<input checked="" type="checkbox"/>	Proceed to Question 5
5. Did the site inspection suggest that the site may have been associated with any activities listed in Table 1 of the Managing Land Contamination Planning Guidelines or were any potential sources of contamination observed on site?	<input type="checkbox"/>	Detailed investigation required.	<input checked="" type="checkbox"/>	Proceed to Question 6
6. Are there any identified sources of contamination on land immediately adjoining the subject site which could affect the subject land?	<input type="checkbox"/>	Detailed investigation required.	<input checked="" type="checkbox"/>	Proceed to Question 7
7. Does Council have sufficient information to be satisfied that the proposed land use will not expose contaminants that might be present in soil or groundwater?	<input checked="" type="checkbox"/>	Proposal satisfactory with regard to SEPP55 and DCP requirements	<input type="checkbox"/>	Detailed investigation required.

**Shoalhaven Local Environmental Plan Local Environmental Plan 2014**

**Land Zoning**

The land is zoned MU1 Mixed Use under the *Shoalhaven Local Environmental Plan 2014*.

**Characterisation and Permissibility**

The proposal is best characterised as 'multi-dwelling housing' and 'strata subdivision' under *Shoalhaven Local Environmental Plan 2014*. The proposal is permitted within the zone with the consent of Council.

**Zone Objectives**

Objective	Comment
To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.	The proposed development has been assessed to comply with the objectives for the MU1 zone. The proposed development provides medium density residential living within close vicinity to the CBD, with convenient access to services.  The proposed development is consistent with the emerging built form on the western side of Burr Avenue which contains a number of new multi-dwelling housing developments.
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.	

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To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.	
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**Applicable Clauses**

Clause	Comments	Complies/ Consistent
<b>Part 2 Permitted or prohibited development</b>		
<b>2.7</b> Demolition requires development consent	This application seeks approval for the demolition of the existing dwelling house and associated building.	Complies
<b>Part 4 Principal development standards</b>		
<b>4.1</b> Minimum subdivision lot size	The site is not mapped as being subject to any specific minimum lot size, given its MU1 zoning. Notwithstanding, in accordance with Clause 4.1(4), the provisions of this clause do not apply to the subdivision of land carried out under the Strata Schemes Development Act 2015.	Not Applicable
<b>4.1A</b> Exceptions to minimum lot sizes for dual occupancies and multi dwelling housing	The minimum lot size for multi-dwelling housing within the MU1 zone is 900m <sup>2</sup> . This application proposes multi dwelling housing on a lot measuring 651.29m <sup>2</sup> . Due to the variation of this clause, a 4.6 variation statement was prepared and submitted alongside this application. Assessment against C4.6 was completed below.	Does not comply. Refer assessment against Clause 4.6 below.
<b>4.1F</b> Minimum subdivision lot size for community scheme and strata plan lots	This clause applies to a subdivision of land being carried out under the Strata Schemes Development Act 2015, and within Zone MU1 – Mixed Use. The size of any lot resulting from a subdivision of land to which this clause applies (other than any lot comprising association property or common property) is not to be less than the minimum size shown on the <a href="#">Lot Size Map</a> in relation to that land unless the consent authority is satisfied that each lot to be created will be used for a purpose permitted as an existing use or under an existing development consent for the land. This would be achieved, noting that the overarching proposed multi-dwelling housing development would be the approved use.	Complies
<b>4.3</b> Height of buildings	The site is mapped as being subject to a maximum building height of 12m. As per the submitted plans, the proposed development would have a maximum height of 7.469m on the eastern side and 7.069m on the western side.	Complies

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<p><b>4.4</b> Floor space ratio</p>	<p>N/A – no FSR applies to the subject site under the SLEP 2014</p>	<p>N/A</p>
<p><b>4.6</b> Exceptions development standards</p>	<p>to</p> <p>Reference is made to the abovementioned variation proposed to Clause 4.1A of the SLEP 2014.</p> <p>In this regard, the applicant has submitted a written request seeking to justify compliance the applicable criteria listed under Clause 4.6 of the SLEP 2014.</p> <p>A detailed assessment of the applicant’s variation request and Council’s assessment as to how it complies with the applicable criteria is contained at Appendix A of the Report below.</p>	<p>Complies</p>
<p><b>Part 7 Additional local provisions</b></p>		
<p><b>7.1</b> Acid sulfate soils</p>	<p>The site is mapped within a Class 5 Acid Sulfate Soils area.</p> <p>However, as the subject site is not located within a distance of 500m to any Class 1 to 4 mapped areas and no works are proposed below 5m AHD, a preliminary acid sulfate soils assessment is not considered necessary in this instance.</p>	<p>Complies</p>
<p><b>7.2</b> Earthworks</p>	<p>Cut and fill earthworks are proposed to be carried out on the site, with the purpose of creating a flat building pad for the future development on the site.</p> <p>As depicted on the submitted Elevations Plans, the earthworks would result in the following cut and fill:</p> <ul style="list-style-type: none"> <li>• Cut – 900mm</li> <li>• Fill – 900mm.</li> </ul> <p>Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:</p> <p><i>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</i></p> <p><i>(b) the effect of the development on the likely future use or redevelopment of the land,</i></p> <p><i>(c) the quality of the fill or the soil to be excavated, or both,</i></p> <p><i>(d) the effect of the development on the existing and likely amenity of adjoining properties,</i></p> <p><i>(e) the source of any fill material and the destination of any excavated material,</i></p> <p><i>(f) the likelihood of disturbing relics,</i></p> <p><i>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</i></p> <p><i>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</i></p> <p>The proposal is considered to be compliant with the above objectives.</p>	<p>Complies</p>

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<p><b>7.9</b> HMAS Albatross airspace operations</p>	<p>The subject site is located within the HMAS Albatross Airfield Circuit Area. The proposed multi-dwelling housing will not be an obstruction to the HMAS airspace operations.</p>	<p>Complies</p>
<p><b>7.11</b> Essential services</p>	<p>Essential services would be available to the proposed development including an appropriate supply of water, sewage management, electricity, and vehicle access, as follows:</p> <ul style="list-style-type: none"> <li>• Water – Reticulated water available along Burr Avenue external to the site.</li> <li>• Sewage Management – reticulated sewage available along Burr Avenue external to the site.</li> <li>• Electricity – Overhead power lines located along Burr Avenue external to the site. Individual connection requirements would be subject to the referral response comments provided by Endeavour Energy.</li> <li>• Vehicle Access – Legal and practical access available to Burr Avenue via the driveway access.</li> </ul>	<p>Complies</p>

**ii) Draft Environmental Planning Instrument**

The proposal is not inconsistent with any [Draft Environmental Planning Instruments](#).

**iii) Any Development Control Plan**

**Shoalhaven Development Control Plan 2014**

<p><b>Chapter 2 General and Environmental Considerations</b></p>	
<p><b>Potentially Contaminated Land</b></p>	<p>The subject site is not identified as potentially contaminated land</p>
<p><b>European Heritage</b></p>	<p>The subject site is not identified as containing any items of historical significance and is not located within a Conservation Area.</p>
<p><b>Aboriginal Cultural Heritage</b></p>	<p>The subject site is not identified as containing any items of Aboriginal heritage and is not identified as Cultural Lands.</p>
<p><b>Crime Prevention Through Environmental Design</b></p>	<p>The proposed development is not considered to create a risk or increase risk of crime within the locale. The proposed development does not trigger a formal crime risk assessment or referral to NSW Police Local Area Command.</p>

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Generic DCP Chapter			
G1: Site Analysis, Sustainable Design and Building Materials			
A suitable site analysis plan and schedule of proposed materials has been submitted as part of the application and is deemed acceptable.			
G2: Sustainable Stormwater Management and Erosion/Sediment Control			
Has the application been supported by appropriate erosion and sediment control details?		Yes	
Has the application been supported appropriate stormwater drainage details?		Yes - Complete table below	
Question	Yes		No
1. Is the application for alterations and additions attached to an existing building?	<input type="checkbox"/>	Complies - Recommended conditions will require stormwater be directed into the existing stormwater system.	<input checked="" type="checkbox"/> Proceed to Question 2
2. Can stormwater be drained to the street via gravity?	<input checked="" type="checkbox"/>	Complies - Recommended conditions will require stormwater be directed to street.	<input type="checkbox"/> Proceed to Question 3
Compliance with Chapter G2 considered to be achieved, subject to imposition of the recommended conditions of consent imposed by the Development Engineers in their referral response.			
G3: Landscaping Design Guidelines			
A Landscaping Plan has been submitted by a designer in support of the proposal. An amended Landscaping Plan will be required to be submitted as a condition of any consent, to ensure it is consistent with the Architectural Plan Set, Chapter G3 and G13 of the SDCP 2014, and includes species from the Shoalhaven Species List for Nowra.			
G4: Tree and Vegetation Management			
Have any trees proposed to be removed been clearly shown on the site plan (where required)?		Yes	
G5: Biodiversity Impact Assessment			
Is the proposal biodiversity compliant development?		Yes	

CL25.187 - Attachment 2

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<b>G7: Waste Minimisation and Management Controls</b>	
Has the application been supported by an appropriate waste minimisation and management plan?	Yes
<b>G11: Subdivision of Land</b>	
This application is proposing four lot strata subdivision. – compliance is achieved with the applicable development controls relating to strata subdivision. Refer detailed assessment at Appendix B.	
<b>G13: Medium Density and Other Residential Development</b>	
Refer detailed assessment at Appendix C.	
<b>G21: Car Parking and Traffic</b>	
<i>NOTE: Council resolved on 30/10/18 to waive additional carparking requirements for a change of use in a shopping centre area. Assess the parking that would otherwise be required and enter the data into the spreadsheet (D18/394992) for later reporting to Council.</i>	
<p>The car parking requirement for the proposed development is listed as follows:</p> <ul style="list-style-type: none"> <li>Multi-Dwelling Housing (1 Bedroom Unit) – 1 Space required.</li> </ul> <p>It is noted that all four of the proposed units would have one bedroom each, and therefore triggering one parking space to be provided per unit.</p> <p>A review of the submitted architectural plans, finds that a single car garage has been provided with each proposed unit. As such, compliance with the required parking provision has been achieved.</p> <p>Compliance with the remainder of controls under SDCP 2014, Chapter G21 is considered to be achieved, subject to the imposition of the recommended conditions provided by the Development Engineer in their referral response in any consent.</p>	

<b>Area Specific DCP Chapter</b>
<b>N8: Nowra CBD Urban Design Development Controls</b>
<b>Commentary</b>
<p>Compliance considered to be achieved with the requirements of this Chapter, noting the minimal public domain works required to be carried out.</p> <p>Chapter N8 incorporates a requirement permitting minimum 2m setbacks to the road frontages and this standard applies to the extent of the inconsistency with the front setback standard in Chapter G13 as detailed further in the Report.</p> <p>Public domain works which would be carried out include the proposed construction of a standard driveway and stormwater connection to Burr Avenue. These would be conditioned to comply with the relevant legislative requirements.</p> <p>No shared path is required as the site is not mapped on the Pedestrian Access and Mobility Plan.</p>

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

There are no planning agreements applying to this application.

**iv) Environmental Planning and Assessment Regulation 2021**

Clause	Comment
75. Fulfilment of BASIX commitments	A condition can be placed on the consent ensuring BASIX commitments are fulfilled.

**Illawarra Shoalhaven Regional Plan 2041**

The proposed development is consistent with the Illawarra Shoalhaven Regional Plan 2041.

**Nowra Bomaderry Structure Plan 2008**

The proposed development is located within the Nowra CBD and Living Area identified area of the plan.

The proposed development is considered to meet the goals and principles of the NBSP.

**Coastal Zone Management Plans**

The proposed development is consistent with applicable coastal zone management plan(s).

**Other Management Plans**

N/A

**Other Shoalhaven Council Policies**

N/A

**Shoalhaven Contribution Plan 2019 & Section 64 Contributions**

Is the development site an " <a href="#">old subdivision property</a> " identified in Shoalhaven Contributions Plan 2019?	No
Is the proposed development considered to increase the demand for community facilities in accordance with the <a href="#">Shoalhaven Contributions Plan 2019</a> ?	Yes - s7.11 contributions are applicable.
Is the proposed development considered to increase the demand for on water and sewer services (i.e. s64 Contributions)	May apply - Shoalhaven Water Development Application Notice yet to be issued.

The development is most aptly characterised as a 'Dwelling' development for the purpose of calculating contributions under the Plan.

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Contributions would be calculated as follows:

- Four (4) dwellings proposed for construction = 4 ETs given none of the proposed dwellings are proposed to be used for affordable housing
- Credits available = 1 ET credit for the existing lot.
- Total ETs generated by the development = 3 ETs.
- The above summary is reflected in the below Tables and a suitable condition would be imposed required contribution payment prior to the issue of any Construction Certificate for the multi-dwelling housing development.

No contributions would be payable as part of the strata subdivision component of the development, noting contributions would be captured at the earlier multi-dwelling housing stage of the development.

Section 7.11 ET Calculations -

Close
Reset
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Return Calc

Residential
  Non-Residential

**Calculation Type:**  
 Medium Density/Dual Occupancy ▼

**Medium Density/Dual Occupancy** Button

	Existing	Proposed
1 Bedroom Dwelling (Affordable Rental Housing SEPP)	0	0
2 Bedroom Dwelling (Affordable Rental Housing SEPP)	0	0
3 Bedroom Dwelling (Affordable Rental Housing SEPP)	0	0
4 Bedroom Dwelling (Affordable Rental Housing SEPP)	0	0
Lots/Dwellings (not via Affordable Rental Housing SEPP)	1	4
Boarding House Bedrooms	0	0
<b>Total ET</b>		<b>3</b>
		<b>0</b>

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**Application No:** DA23/1474 **Total:** \$26,974.26  
**App Description:** Multi Dwelling Housing - Four x (4) Dwellings & Strata Subdivision  
**Address:** 5 Burr Av, NOWRA  
**Location:** Lot 5 DP 32228  
**Primary UTE:** 40049

**Recipient:** [Redacted]  
 19A Antrim Street KIAMA DOWNS NSW 2533



+ [Calculation Details](#) (click to show)

Calculate ET

Calculation Financial Year: 2024 Rates

Stage: 1

20000

Apportion Cap

Project	Description	Benefit Area	Contribution Amt	Cap Adjustment	Qty	Contribution Total	ADD
01AREC5006	Northern Shoalhaven Sports Stadium	01 - ET	821.55	0.00	3.00	2464.65	X
01AREC5007	Nowra Swimming Pool Expansion (Scenic Drive)	01 - ET	637.12	0.00	3.00	1911.36	X
01AREC5009	Planning Area 1 recreational facilities upgrades (various locations)	01 - ET	860.00	0.00	3.00	2580.00	X
01CARP3001	Car parking provision at Egans Lane, 8 Lawrence Ave, Collins Way, Bridge Road, Lamonds Lane, 9 Haigh Avenue & 67 Kinghorne Street	01 - SP	32525.25	0.00	0.00	0.00	X
01CFAC5012	Nowra Integrated Youth Services Centre (Cnr Kinghorne & Plunkett Streets)	01 - ET	35.18	0.00	3.00	105.54	X
CWAREC5005	Shoalhaven Community and Recreational Precinct SCaRP Cambewarra Road Bomaderry	01 - ET	2266.62	0.00	3.00	6799.86	X
CWCFAC5002	Shoalhaven Entertainment Centre (Bridge Road Nowra)	01 - ET	1713.07	0.00	3.00	5139.21	X
CWCFAC5006	Shoalhaven City Library Extensions (Berry Street, Nowra)	01 - ET	1502.37	0.00	3.00	4507.11	X
CWCFAC5007	Shoalhaven Regional Gallery	01 - ET	82.48	0.00	3.00	247.44	X
CWFIRE2001	Citywide Fire & Emergency services	01 - ET	162.05	0.00	3.00	486.15	X
CWFIRE2002	Shoalhaven Fire Control Centre	01 - ET	237.08	0.00	3.00	711.24	X
CWFMGMT3001	Contributions Management & Administration	01 - ET	673.90	0.00	3.00	2021.70	X
<b>Label</b>			<b>\$41,516.67</b>	<b>\$0.00</b>		<b>\$26,974.26</b>	

Project	Description	Rate	Qty	Total	GST	GST Incl
01AREC5006	Northern Shoalhaven Sports Stadium	\$821.55	3.00	\$2,464.65	\$0.00	\$2,464.65
01AREC5007	Nowra Swimming Pool Expansion (Scenic Drive)	\$637.12	3.00	\$1,911.36	\$0.00	\$1,911.36
01AREC5009	Planning Area 1 recreational facilities upgrades (various locations)	\$860.00	3.00	\$2,580.00	\$0.00	\$2,580.00
01CFAC5012	Nowra Integrated Youth Services Centre (Cnr Kinghorne & Plunkett Streets)	\$35.18	3.00	\$105.54	\$0.00	\$105.54
CWAREC5005	Shoalhaven Community and Recreational Precinct SCaRP Cambewarra Road Bomaderry	\$2,266.62	3.00	\$6,799.86	\$0.00	\$6,799.86
CWCFAC5002	Shoalhaven Entertainment Centre (Bridge Road Nowra)	\$1,713.07	3.00	\$5,139.21	\$0.00	\$5,139.21
CWCFAC5006	Shoalhaven City Library Extensions (Berry Street, Nowra)	\$1,502.37	3.00	\$4,507.11	\$0.00	\$4,507.11
CWCFAC5007	Shoalhaven Regional Gallery	\$82.48	3.00	\$247.44	\$0.00	\$247.44
CWFIRE2001	Citywide Fire & Emergency services	\$162.05	3.00	\$486.15	\$0.00	\$486.15
CWFIRE2002	Shoalhaven Fire Control Centre	\$237.08	3.00	\$711.24	\$0.00	\$711.24
CWFMGMT3001	Contributions Management & Administration	\$673.90	3.00	\$2,021.70	\$0.00	\$2,021.70

Sub Total: \$26,974.26

GST Total: \$0.00

Estimate Total: \$26,974.26

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

Head of Consideration	Comment
Natural Environment	The proposed development will not have a significant adverse impact on the natural environment.

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Head of Consideration	Comment
Built Environment	The proposed development will not have a significant adverse impact on the built environment.
Social Impacts	The proposed development will not have a negative social impact in the locality.
Economic Impacts	The proposed development will not have a negative economic impact in the locality.

**(c) Suitability of the site for the development**

The site is considered to be suitable for the proposed development for the following reasons:

- The proposal is consistent with the local zoning objectives.
- Following a detailed review of the Clause 4.6 variation request, the proposal was found to be consistent with the *Shoalhaven Local Environmental Plan 2014*.
- The Clause 4.6 variation statement was found to sufficiently justify the legislative provisions by demonstrating that
  - compliance with the development standard is unreasonable or unnecessary in the circumstances, and
  - there are sufficient environmental planning grounds to justify the contravention of the development standard.
- The proposal is consistent with either the acceptable solution or performance criteria of the *Shoalhaven Development Control Plan 2014*.
- The development is therefore found to be within the public interest.

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

The DA was notified in accordance with Council's Community Consultation Policy for Development Applications. No submissions were received by Council during the notification period.

**(e) The Public Interest**

The public interest has been taken into consideration, including assessment of the application with consideration of relevant policies and process. The proposal is considered to be within the public interest.

**Delegations**

Are any clause 4.6 exceptions proposed?		Yes
Development Standard	Numerical Extent of Departure	Percentage (%) Extent of Departure
4.1A – Minimum lot sizes for dual occupancies, manor houses, multi-dwelling housing, multi dwelling housing (terraces) and residential flat buildings.	248.7m2	27.63%

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Are any DCP performance-based solutions proposed?		Yes
Acceptable Solution	Numerical Extent of Departure	Percentage (%) Extent of Departure

**Guidelines for use of Delegated Authority**

Ordinary Council Meeting (Clause 4.6 Variation greater than 10% and therefore staff do not have delegation to determine).

**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 DA23/1474 be approved subject to appropriate conditions of consent.

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### Appendix A – Clause 4.6 Variation to SLEP 2014 Assessment

This applicant (Duplex Building Design) has lodged a variation request in accordance with Clause 4.6 – Exceptions to Development Standards of the Shoalhaven Local Environmental Plan (SLEP) 2014.

The variation sought is to Clause 4.1A – Minimum lot sizes for dual occupancies, manor houses, multi dwelling housing, multi dwelling housing (terraces) and residential flat buildings of the SLEP 2014, and the following provides a description of the nature of the variation sought:

Clause 4.1A(2) states the following:

*(2) Development consent must not be granted to development on a lot in a zone shown in Column 2 of the Table to this subclause for a purpose shown in Column 1 of the Table opposite that zone, unless the area of the lot is equal to or greater than the area specified for that purpose and shown in Column 3 of the Table.*

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<i>Multi dwelling housing</i>	<i>RU5 Village, R1 General Residential, R3 Medium Density Residential and MU1 Mixed Use</i>	<i>900 square metres</i>

The subject site measured by survey is 651.29m<sup>2</sup>. Given 900m<sup>2</sup> is required for a multi-dwelling housing development, the site is 248.71m<sup>2</sup> short of the listed standard and therefore represents a **27.63% variation** to Clause 4.1A of the SLEP 2014.

The following provides a detailed assessment of the proposed variation against the provisions of Clause 4.6 of the SLEP 2014, to assess whether the variation to Clause 4.1A is considered supportable on merit:

**(1) The objectives of this clause are as follows—**

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,**
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.**

**(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.**

Noted – the applicant has applied for a clause 4.6 variation under this provision. The variation does not relate to a clause which is expressly prohibited.

**(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—**

- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and**
- (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.**

**Note—**

The **Environmental Planning and Assessment Regulation 2021** requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

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The applicant has provided the below justification for compliance with subclause 3(a), being that compliance with the development standard is unreasonable or unnecessary in the circumstances:

The NSW Land and Environment Court in *Four2Five Pty LTD v Ashfield Council* [2015] NSWLEC 90, considered how this question may be answered and referred to the earlier Court decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827.

Preston CJ identified five (5) ways in which an applicant might establish that compliance with a development standard is unreasonable or unnecessary. planning grounds to justify contravening the development standard ..." [15]

The court provided the following five tests to be used as prompts to answer.

1. *The objectives of the standard are achieved notwithstanding noncompliance with the standard (First Way)*
2. *The underlying objective of purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Way)*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Third Way)*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Fourth Way)*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (Fifth Way).*

In this regard, this written request establishes and adequately addresses the matters in clause 4.6(3)(a) that compliance with each development standard is unreasonable

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or unnecessary because the objectives of the standard are achieved irrespective of the non-compliance and accordingly justifies the variation pursuant to the **First Way** outlined in Wehbe, as follows.

***Test 1: The objectives of the standard are achieved notwithstanding non-compliance with the standard:***

Under SLEP 2014, Clause 4.1(A) has the following objectives in relation to the Minimum Lot Size development standard:

- a) *to achieve planned residential density in certain zones,*
- b) *to ensure that the area and dimensions of a lot are able to accommodate development that is consistent with the objectives and development controls for dual occupancies, manor houses, multi dwelling housing, multi dwelling housing (terraces) and residential flat buildings,*
- c) *to minimise any likely adverse impact of development on the amenity of neighbouring properties.*

#### **Achieving Planned Residential Density**

The proposed development aligns with the planned residential density for the Nowra CBD South (C3) precinct, which encourages mixed-use development and increased density in Nowra CBD. The site's location on the fringe of the Nowra CBD, adjacent to another MU1 Mixed Use zone, minimises potential impacts on residential areas. The purpose of the MU1 zone is to provide a variety of land use types across the zoned area resulting in a mix of land residential densities, commercial and retail buildings that support the core commercial centre of Nowra CBD.

The subject site adjoins another site zoned MU1 to the rear, which is used for commercial purposes. This minimises any impacts the sites density would have on an adjoining residential zone such as overshadowing or privacy impacts.

The additional dwellings contribute to the efficient redevelopment of the site, supporting the objective of achieving planned residential density in the MU1 zone which aim to create a more vibrant city centre with active street frontages.

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**Consistency with Zone Objectives**

The development's design and layout are consistent with the objectives of the MUI zone, which promotes mixed-use development, increased density, and a vibrant, active streetscape. The proposal provides much-needed housing in the area, with an additional four dwellings, and contributes to the revitalisation of the precinct. Similar developments on the same street, with reduced lot sizes, demonstrate that this proposal is consistent with the established character of the area.

Despite the site having an area of 651.3m<sup>2</sup>, which falls below the 900m<sup>2</sup> minimum, the proposed development meets key development controls and demonstrates a well-considered layout consistent with other multi dwelling housing developments in the street. The design ensures compliance with essential elements such as:

- **Setbacks and Building Separation:** Adequate setbacks and building separation are maintained to respect surrounding properties.
- **Open Space:** The development provides functional and accessible open spaces that enhance the living environment for residents.
- **Efficient Site Layout:** The design integrates essential amenities and circulation pathways, optimising the available land to accommodate high-quality residential dwellings.

The proposal demonstrates that the site can comfortably accommodate multi-dwelling housing while adhering to key planning and design principles, thereby meeting the intent of the development control.

The proposed development incorporates design strategies to mitigate potential adverse impacts on neighbouring properties, ensuring compatibility with the surrounding urban environment:

- **Privacy:** The deliberate absence of windows on the rear (western) elevation above the ground floor prevents overlooking impacts, preserving the privacy of adjacent properties.
- **Built Form and Visual Impact:** The building massing has been carefully articulated to reduce visual dominance, with thoughtful design choices enhancing the streetscape and minimising bulk.

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- **Landscaping:** High-quality landscaping integrates the development into its surroundings and provides visual buffers to adjacent properties, enhancing overall amenity.
- **Contextual Compatibility:** The street, block and broader MU1 zoned area provide an eclectic mix of land uses that support the commercial core of Nowra CBD. Similar multi-dwelling housing developments have been constructed at 1 Burr Avenue and 13 Burr Avenue. Existing dwellings in the street may be developed in the future for different forms of development such as professional consulting rooms, and offices or for increased density residential development such as multi-dwelling housing and residential flat buildings. Dwellings and dual occupancies are not permitted in the MU1 zone so the redevelopment of these dwellings is limited to existing use rights or permitted uses in the MU1 zone. This proposal ensures long-term compatibility between the proposed development and the existing neighbourhood context.

Through these design responses, the development achieves the objectives of Clause 4.1(A) despite the reduced lot size. It provides much-needed housing within the Nowra CBD, aligns with Council's urban renewal targets, and maintains the amenity and character of the locality.

In our view, it is difficult for residential development in the MU1 zone to comply with the minimum lot size requirement of 900m<sup>2</sup> for multi-dwelling housing. The pattern of development, objectives of the zone and permissible land uses, in an MU1 zone mean that it is difficult to provide consolidated sites suitable for larger scale medium-high density housing. The proposed development is an efficient use of land providing additional housing required near the Nowra CBD to provide suitable housing that is in high demand, conveniently located and close to other services such as Nowra Public School, Shoalhaven Memorial Hospital and the offerings of the large regional centre in Nowra. A reduced minimum site area of multi-dwelling housing in the MU1 zone should be considered for inclusion in Shoalhaven LEP 2014 or a site assessment be undertaken.

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Council Response regarding whether there is sufficient justification for compliance with subclause 3(a), being that compliance with the development standard is unreasonable or unnecessary in the circumstances:

Development Services, in its assessment of the applicant's justification as to whether compliance with the development standard is unreasonable or unnecessary in the circumstances, concurs with the applicant's reference to the Land and Environment Court case of Four2Five Pty Ltd v Ashfield Council [2015] and Wehbe v Pittwater Council [2007] NSWLEC827.

The five ways provided by Judge Preston CJ to establish that compliance with a development standard is unreasonable or unnecessary has established a baseline in development assessment to determine whether compliance with Clause 4.6(3a) has been met.

It is noted that the applicant has identified that the first of Preston CJ's five ways has been achieved – being that the objective of the standard are achieved, irrespective of the non-compliance with the standard.

Council agrees that the objectives of the standard are achieved, irrespective of the non-compliance and wishes to note the following:

*(1) The objectives of this clause are as follows—*

*(a) to achieve planned residential density in certain zones,*

*(b) to ensure that the area and dimensions of a lot are able to accommodate development that is consistent with the objectives and development controls for dual occupancies, manor houses, multi dwelling housing, multi dwelling housing (terraces) and residential flat buildings,*

*(c) to minimise any likely adverse impact of development on the amenity of neighbouring properties.*

Council finds that the proposed development assists in achieving planned residential density, given:

- The proposed development assists in meeting the housing targets set for the Shoalhaven Region by the NSW State Government (4,900 new homes required to be constructed by 2029).
- The mixed use zoning and location within close proximity to the CBD implies that properties within the zone are intended to provide a higher level of density, given its close proximity to commercial services, medical, and public transport opportunities.
- A planned residential density featuring medium density developments have already been achieved within the immediate locality – suggesting that the density proposed within the application represents the accepted standard for planned density.
- Constructed developments of a similar nature to that on the site include similar 4 unit multi-dwelling housing developments located at No.s 1 and 13 Burr Avenue Nowra and a residential flat building located diagonally across the road at No. 6 Burr Avenue. The proposed development would foster this density which has already been established within the locality.
- The NSW Department of Planning have set new parameters (i.e. Low and Medium Rise Housing provisions within the Housing SEPP) with regard to planned density within close proximity (800m walking distance) to the E2 Commercial Core Zone for Nowra. This includes:
  - Permitting larger scale developments include multi-dwelling housing and residential flat buildings on properties within this distance to the CBD in Zones R1, R2, and R3.
  - The new standards include a non-discretionary development standard requiring a minimum lot size of 600m<sup>2</sup> for all multi-dwelling housing developments located within 800m of the CBD.
  - Whilst the site is not located within Zones R1, R2, and R3, it is located within 800m of the CBD and the development would be wholly consistent with the planned residential density imposed by the NSW Department of Planning for similar properties.

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Council finds that the area and dimensions of the lot are able to accommodate development that is consistent with the objectives and development controls for multi dwelling housing given:

- An assessment of the development proposed has been carried out against the applicable controls within DCP Chapter G13 – Medium Density and Other Residential Development (see Appendix C below).
- It has been found that the development complies with all applicable built form controls including floor space ration, setbacks, landscaping, private open space, and solar access.
- The development is considered to satisfy the objectives for the zone as it provides a development which is consistent with the emerging built form on the western side of Burr Avenue within a mixed use context, noting that there are commercial developments located on the eastern side of Burr Avenue.

Council finds that the proposed development minimise any likely adverse impact of development on the amenity of neighbouring properties.

- Sufficient setbacks are provided between buildings and that of side and rear boundaries.
- The development is considered to appropriately address privacy concerns by minimising the number if windows overlooking neighbouring properties on the first floor level of the development.
- The development proposes only a part second storey to reduce the visual impact of the proposal on surrounding properties.
- Dwellings are located on the northern side of the allotment rather than the southern side. This eliminates potential for overshadowing and solar access impacts for the property to the south.

#### Council Response regarding whether there is sufficient justification that there are sufficient environmental planning grounds to justify the contravention of the development standard

The NSW Department of Planning, Industry, and Environment released a ‘Guide to Varying Development Standards’ document in November 2023. Section 2.6 of the document provides a description for ‘environmental planning grounds’, being as follows:

*The term ‘environmental planning grounds’, while not defined in the EP&A Act or the Standard Instrument – Principal Local Environmental Plan, refer to grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects in section 1.3 of the EP&A Act.*

*The scope of environmental planning grounds is wide as exemplified by the court decisions in this area. Sufficient environmental planning grounds need to be established by the facts of the request. The request must justify the contravention of the development standard, not simply promote the benefits of the development.*

*The grounds must:*

- *be sufficient to justify the contravention*
- *focus on the aspect of the development that contravenes the development standard, not the development as a whole*

*Environmental planning grounds may not be sufficient to justify the contravention of a development standard if the variation results in unsatisfactory planning outcomes*

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The aspect of the proposal that contravenes the development standard is the minimum lot size of the development, with respect to the construction of multi-dwelling housing (i.e. requirement for 900m<sup>2</sup> for a multi-dwelling housing development). It is clear that the standard is concerned with managing the overall density of a development of this type.

When considering the nature of the standard, Council finds that there are sufficient environmental planning grounds to justify the contravention of the specific standard as:

- The development complies with applicable built form controls and standards relating specifically to density, irrespective of the non-compliance with Clause 4.1A.
- The development has been considered, as demonstrated above, to reflect the 'planned residential density' for the locality, given:
  - There are other developments with a similar planned density which have been approved in the surrounding locality including at No.s 1, 6, and 13 Burr Avenue.
  - The NSW Department of Planning have set specific development standards which are non-discretionary and which permit 600m<sup>2</sup> minimum lot size for lots within Zones R1, R2, and R3 which are further removed from the CBD area than the subject site.
  - Given the location of the site within a closer proximity to the CBD than properties zoned R1, R2, and R3, it is reasonable to expect that a similar density should apply to properties zoned MU1 – given the site is closer to public transport, medical facilities, and commercial opportunities than properties in such zonings.
- Development density on the site is the same as that which will be established on properties in Zones R21, R2, and R3 in the future and is reflective of the NSW Government's need for housing, as reflected in their housing targets.

**(4) The consent authority must keep a record of its assessment carried out under subclause (3).**

Noted – a record of Clause 4.6 variations issued is kept and maintained on the NSW Planning Portal.

**(5) (Repealed)**

Noted

**(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 C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—**

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or**
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.**

**Note.**

**When this Plan was made it did not include all of these zones.**

Noted – the applicant is not seeking to utilise clause 4.6 for the purpose to justify a contravention with any subdivision provisions.

(7) (Repealed)

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**(8) This clause does not allow development consent to be granted for development that would contravene any of the following—**

- (a) a development standard for complying development,**
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,**
- (ba) clause 4.1E, to the extent that it applies to land in a rural or conservation zone,**
- (bb) clause 4.2B,**
- (c) clause 5.4,**
- (caa) clause 5.5,**
- (ca) clause 6.2,**
- (cb) clause 7.25,**
- (cc) clause 4.1H.**

Noted, the use of clause 4.7 to justify the contravention of Clause 4.1A is not expressly prohibited by subsection (8).

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**Appendix B – Assessment Checklist: G11 – Subdivision of Land**

<b>4 Objectives</b>			
<p>The objectives are to:</p> <ul style="list-style-type: none"> <li>i. Encourage high quality urban design and residential amenity.</li> <li>ii. Set appropriate environmental criteria for subdivision.</li> <li>iii. Provide a comprehensive design approach for residential, rural, industrial and commercial subdivision.</li> <li>iv. Provide for the ecologically sustainable subdivision of land.</li> </ul>			
<b>5 Controls</b>			
<p><b>Note:</b> A development on bushfire prone land must consider the following provisions:</p> <ul style="list-style-type: none"> <li>• NSW Rural Fire Service’s Planning for Bushfire Protection.</li> <li>• NSW Government’s Fire Safety Guideline – Access for Emergency Vehicles and Emergency Service Personnel.</li> </ul> <p>Where there is an inconsistency between provisions in this Development Control Plan and these documents, early consultation with Council is recommended.</p>			
<b>5.1 Road Pedestrian and Cyclist Network – N/A (no road proposed)</b>			
<b>5.2 Design and Construction: Roads and Driveways/Access</b>			
<b>5.2.1 Roads</b>			
<b>5.2.2 Residential Streetscape Design</b>			
<b>5.2.3 Common Driveways and Accessways</b>			
Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
<p><b>P33.1</b></p> <p>Pavement surfaces are well designed and durable enough to:</p> <ul style="list-style-type: none"> <li>• Carry wheel loads of travelling and parked vehicles</li> <li>• Ensure safe passage of users.</li> <li>• Manage runoff and preserve all-weather access.</li> </ul>	<p><b>A33.1</b></p> <p>Flexible pavement is constructed in accordance with Council’s Engineering Design Specifications</p>	Dev Engineer has recommended consent conditions – would be imposed in any consent.	<b>Complies</b>
	<p><b>A33.2</b></p> <p>Driveways to battle-axe lots are constructed:</p>	Not a battle axe development.	<b>N/A</b>

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<ul style="list-style-type: none"> <li>Allow for reasonable travel comfort.</li> </ul> <p><b>P33.2</b> Driveways and access handles accommodate services, as required.</p>	<ul style="list-style-type: none"> <li>In accordance with Section 3.4 of Supporting Document 1.</li> <li>From the roadway to the extent of the access handle/s.</li> <li>With sufficient width to permit the provision of services beside the constructed access at a sufficient depth to avoid risk of damage.</li> </ul>		
<b>5.2.4 Rural Roads, Driveways and Accessways</b>			
<b>5.3 Subdivision Layout and Design</b>			
<b>5.3.1 Layout and Design – Topography, Natural Landform/Environment and Vegetation</b>			
<p>The specific objectives are to:</p> <ol style="list-style-type: none"> <li>i. Minimise the impact of subdivision on the natural environment and landscape setting.</li> <li>ii. Retain existing mature trees where practicable to provide shade and reduce the heat island effect.</li> <li>iii. Enhance development by screening and providing colour, texture and spatial definition.</li> <li>iv. Provide linkages between natural and developed areas.</li> </ol>			
<b>Performance Criteria</b>	<b>Acceptable Solutions</b>	<b>Proposed Development</b>	<b>Compliance</b>
<p><b>P38.1</b> The subdivision and lot design takes into consideration the site's natural opportunities and constraints.</p> <p><b>P38.2</b> The subdivision and lot design considers water sensitive urban design principles associated with infrastructure, riparian areas and watercourses relating to the drainage and open space network.</p>	<p><b>A38.1</b> The subdivision lot design positively responds to:</p> <ul style="list-style-type: none"> <li>Slope and desirability of minimising earthworks/retaining walls associated with dwelling construction.</li> <li>Natural or cultural features.</li> <li>Soil erosion and bushfire risk.</li> <li>Special features such as trees, including identification of mature stands of trees to be retained and</li> </ul>	<p>This application proposes strata subdivision with common property consisting of dividing walls and driveway.</p> <p>The subdivision plan considers the physical constraints of the site (including site dimensions).</p> <p>As this application is seeking strata subdivision, there is not minimum lot size required.</p>	<p><b>Complies</b></p>

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<p><b>P38.3</b> Subdivisions located in flood prone land are designed to enable flood evacuation.</p> <p><b>P38.4</b> The lot layout retains significant vegetation and natural areas and minimises soil erosion.</p> <p><b>P38.5</b> The subdivision layout responds to site characteristics, setting, landmarks and views through street and open space areas.</p> <p><b>P38.6</b> The subdivision design provides safe building conditions for development.</p>	<p>supplementary planting and shade trees.</p> <ul style="list-style-type: none"> <li>• Views and visual impact.</li> <li>• Prevailing winds, including the retention of natural features that assist in providing wind protection.</li> </ul> <p><i>Note: Council may condition the use of Section 88B restrictions to define (not exclusively) appropriate building envelopes, landscaping, building materials, colours and regulate the number of storeys of buildings in sensitive locations.</i></p> <p><i>Subdivision design should avoid locating lots in areas with slope stability problems unless suitable advice from a practicing certified geotechnical engineer is provided.</i></p>		
<p><b>P38.7</b> The subdivision design has minimal geotechnical impact on adjoining properties</p> <p><b>P38.8</b> The subdivision avoids high risk slip areas.</p> <p><b>P38.9</b> Asset protection zones are:</p>	<p><b>A38.2</b> The subdivision layout should be designed to facilitate flood evacuation in accordance with the Designing Safer Subdivisions – Guidance on Subdivision Design in Flood Prone Areas (Hawkesbury-Nepean Floodplain Management Steering Committee, 2006) guidelines or similar. All lots shall have a frontage onto a local road network with rising road linkages to flood free land above the Probable Maximum Flood (PMF) level or local evacuation routes.</p>	<p><b>The property is not marked as being flood prone</b></p>	<p><b>N/A</b></p>

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<ul style="list-style-type: none"> <li>• Contained within the boundaries of the site of the development that they are designed to protect.</li> <li>• Designed in a way that ensures efficient and cost-effective maintenance in perpetuity.</li> </ul>	<p><b>A38.3</b></p> <p>Any required asset protection zone must be:</p> <ul style="list-style-type: none"> <li>• Located wholly within the development site, and where necessary, extend into the road reserve to the outer edge of the formed road.</li> <li>• Low maintenance and non-vegetated at the outer extent (i.e., road, footpath).</li> </ul> <p><i>Note: The verge closest to the new allotments may need to be widened to facilitate the asset protection zone.</i></p>	<p><b>The property is not marked as being bushfire prone.</b></p>	<p><b>N/A</b></p>
<p><b>P39.1</b></p> <p>The subdivision is geotechnically sound and suitable for the proposed development.</p> <p><b>P39.2</b></p> <p>The subdivision provides for controlled filling and free flow of surface water.</p>	<p><b>A39.1</b></p> <p>A geotechnical report supported by NATA approved laboratory testing shall be submitted demonstrating the suitability of the site for the proposed development. The geotechnical report must include identification of any geotechnical site constraints including but not limited to slope stability issues, presence of weak stratum, excessive groundwater or spring activity, and identification of remediation work required to facilitate the type of future development on the site.</p> <p><i>Note: Residential subdivisions will be required to provide a Lot Classification Report prior to issue of a Subdivision</i></p>	<p>N/A</p>	<p><b>N/A</b></p>

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	<p><i>Certificate. Where a lot classification of 'E' or 'P' is obtained, remedial work will be required to reclassify the site to a reactivity level of H2 or less.</i></p>		
	<p><b>A39.2</b> The subdivision must ensure that:</p> <ul style="list-style-type: none"> <li>• All lots are above the projected 2100 1% AEP event flood level, but ideally above the projected 2100 flood planning level.</li> <li>• A minimum surface grade of 0.5% falling to the road or drainage system.</li> <li>• All approved fill material is placed, compacted and inspected in accordance with AS3798 – Earthworks for Residential and Commercial Development.</li> <li>• Where fill is greater than 300mm depth: <ul style="list-style-type: none"> <li>- A lot classification report in accordance with AS2870 must be submitted.</li> <li>- An 88B restriction will be imposed on the affected lots requiring foundation design in accordance with the lot classification report.</li> </ul> </li> </ul>	<p>The property is not marked as being flood prone</p>	<p><b>N/A</b></p>

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<p><b>P40.1</b> The significance of headlands and other prominent coastal features is not compromised.</p>	<p><b>A40.1</b> Subdivisions will not be permitted on headlands or other prominent coastal features, other than those zoned for urban purposes.</p>	<p>Not within the vicinity of a headland or other prominent coastal feature.</p>	<p><b>N/A</b></p>
<p><b>P40.2</b> The subdivision considers active dune systems and other unstable areas.</p>	<p><b>A40.2</b> No further subdivision on active dune systems or other unstable areas will be permitted.</p>	<p>No subdivision of active sand dunes proposed.</p>	<p><b>N/A</b></p>

**5.3.2 Residential Layout and Design – Aspect and Orientation**

It is crucial that the subdivision design considers solar access, aspect and orientation to ensure that each lot and the overall development is as energy efficient as possible with reasonable solar access. Factors such as lot size, shape, orientation and building envelope will determine the ideal locations of future northern walls and the solar access time of future north facing windows.

*Note: Solar access refers to solar access to windows, private open space and rooftop solar systems.*

Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
<p><b>P41</b> The overall development is as energy efficient as possible with each lot:</p> <ul style="list-style-type: none"> <li>• Enjoying reasonable solar access.</li> <li>• Responding to the topography of the land. Note: The subdivision design should consider the variation in the sun path throughout the entire year.</li> </ul>	<p><b>A41.1</b> To enable suitable solar access and private open space opportunities for future dwellings in greenfield subdivision, lots shall be of:</p> <ul style="list-style-type: none"> <li>• An orientation that promotes efficient solar access for future dwellings.</li> </ul> <p><i>Note: The orientation of the street network in either an east-west or north-south direction promotes efficient solar access for dwellings. Lots with a main north-south axis (20°W to 30°E) is preferable.</i></p> <ul style="list-style-type: none"> <li>• A suitable size and shape to allow the building envelope to</li> </ul>	<p>Each dwelling will have sufficient solar access.</p> <p>Each dwelling is orientated north facing as per G13 to assist in increased solar amenity for the lots/dwellings.</p>	<p><b>Consistent</b></p>

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	<p>enjoy suitable solar access, including efficient use of future rooftop solar systems. <i>Note: Building envelopes are identified in Section 5.3.3 of this Chapter.</i></p>		
	<p><b>A41.2</b> Lots with an area of between 350m<sup>2</sup>–450m<sup>2</sup> shall have a slope of less than 15% (1:9) across the frontage. <i>Note: North-facing slopes improve opportunities for solar access where south-facing slopes impose a penalty on solar access. Large lots with the lowest densities are best suited in sloping locations, especially on south facing slopes.</i> <i>Variable setbacks and zero building lines are a means of maximising solar opportunity, especially with small or narrow lots. Setbacks should be responsive to maximise solar access for all lots.</i></p>	N/A	N/A
<b>5.3.3 Residential Lot Size, Density and Design – N/A</b>			
<p>This Section generally applies to lots with one dwelling house or vacant land. The section applies to dual occupancy development where the minimum lot size at Clause 4.1 of SLEP 2014 is met. The specific objectives are to:</p> <ul style="list-style-type: none"> <li>• Provide a range and mix of lot sizes to suit a variety of dwellings, household types and housing opportunities, with areas and dimensions to meet user requirements and the diverse and changing needs of the community.</li> <li>• Provide lots that are oriented to enable the application of energy conservation principles.</li> <li>• Provide lots of sufficient size to protect environmental features and consider site constraints.</li> <li>• Design lot density to minimise fuel consumption, reduce travel distances, maximise public transport effectiveness and encourage walking and cycling.</li> </ul>		<p><b>Note:</b> Refer to Section 5.4.4 of this Chapter for provisions relating to the Torrens title subdivision of certain medium density development, as well as Chapter G13: Medium Density and Other Residential Development of this</p>	

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<ul style="list-style-type: none"> <li>• Provide smaller lots in locations adjacent to neighbourhood centres, public transport stops and adjacent to higher amenity areas.</li> <li>• Ensure integration of lot layout with the surrounding urban environment to promote shared use of public facilities by adjoining communities.</li> <li>• Enable and protect rooftop solar systems.</li> </ul>	<p><i>Development Control Plan.</i></p>		
<p><b>5.3.4 Torrens Title Subdivision of Certain Medium Density Development– N/A</b></p>			
<p><b>5.3.5 Rural Subdivision– N/A</b></p>			
<p><b>5.3.6 Commercial Subdivision – N/A</b></p>			
<p><b>5.3.7 Industrial Subdivision – N/A</b></p>			
<p><b>5.3.8 Subdivision of Tourist and Visitor Accommodation – N/A</b></p>			
<p><b>5.3.9 Strata and Community Title Subdivision</b></p>			
<p>This Section provides guidance for strata and community title subdivision in relation to residential, commercial and industrial development.</p> <p>The specific objectives are to:</p> <ol style="list-style-type: none"> <li>Provide for the effective and efficient management of common or shared facilities.</li> <li>Allow separate titles to be created for parts of a development.</li> </ol>			
<p><b>Performance Criteria</b></p>	<p><b>Acceptable Solutions</b></p>	<p><b>Proposed Development</b></p>	<p><b>Compliance</b></p>
<p><b>P52</b> Limit the range and extent of owner corporation activities as far as practical.</p>	<p><b>A52.1</b> The proposal shall meet all requirements of any development approval which may apply to the building proposed to be subdivided.</p> <p><b>A52.2</b> The internal street and lot layout must clearly define the public, communal and private areas of the development, including the function, ownership and management of open spaces and communal areas.</p>	<p>This application seeks both construction of multi-dwelling housing and strata subdivision in the one application.</p> <p>The subdivision plan clearly identifies private and communal areas throughout the site</p>	<p><b>Consistent</b></p> <p><b>Complies</b></p>

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	<b>A52.3</b> Separate lots shall be created for each dwelling that has a public street frontage.	N/A – one dwelling has a public street frontage	<b>N/A</b>
	<b>A52.4</b> Communal land shall be limited to driveways and communal open space only.	The driveway is the only land which will serve as common property.	<b>Complies</b>
	<b>A52.5</b> All private open space areas are to be attached to a dwelling.	Each dwelling will have POS which will be screened from the public and adjoining dwellings.	<b>Complies</b>
	<b>A52.6</b> The development shall be designed to: <ul style="list-style-type: none"> <li>Minimise the need for corporate building management.</li> <li>Ensure cost-effective management of communal open space or shared facilities.</li> </ul>	It is expected that the proposed subdivision will minimise the need for corporate building management and ensure cost-effective management of the shared facilities.	<b>Complies</b>
<b>5.3.10 Access</b>			
<b>Performance Criteria</b>	<b>Acceptable Solutions</b>	<b>Proposed Development</b>	<b>Compliance</b>
<b>P53</b> Coincidental legal and practical access is provided for each lot.	<b>A53.1</b> Each lot shall have coincidental legal and practical access.	Each lot will have coincidental legal and practical access via the common property (driveway)	<b>Complies</b>
<b>P54</b> Lot design makes adequate provision for access to the property.	<b>A54.1</b> Single use access corridors for residential battle-axe lots shall be a minimum of 4m in width with a 3m pavement width.	Not a battle axe property.	<b>N/A</b>
	<b>A54.2</b>	Not a battle axe property.	<b>N/A</b>

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	<p>Multiple use access corridors for residential battle-axe lots shall comply with the following:</p> <table border="1" data-bbox="775 416 1193 703"> <thead> <tr> <th data-bbox="775 416 920 600">Number of Lots or Potential Future Dwellings (1)</th> <th data-bbox="920 416 1066 600">Access Minimum</th> <th data-bbox="1066 416 1193 600">Pavement Width</th> </tr> </thead> <tbody> <tr> <td data-bbox="775 600 920 651">1 to 2</td> <td data-bbox="920 600 1066 651">4m</td> <td data-bbox="1066 600 1193 651">3m</td> </tr> <tr> <td data-bbox="775 651 920 703">3 to 4</td> <td data-bbox="920 651 1066 703">6m</td> <td data-bbox="1066 651 1193 703">5m</td> </tr> </tbody> </table> <p data-bbox="775 703 1193 863"><b>Note (1):</b> Where lots are of a minimum lot size capable of supporting dual occupancy development (500m<sup>2</sup>), each lot will be assumed to support two dwellings.</p>	Number of Lots or Potential Future Dwellings (1)	Access Minimum	Pavement Width	1 to 2	4m	3m	3 to 4	6m	5m		
Number of Lots or Potential Future Dwellings (1)	Access Minimum	Pavement Width										
1 to 2	4m	3m										
3 to 4	6m	5m										
	<p><b>A54.3</b> All residential/urban right of way pavement is to be designed to comply with Supporting Document 1.</p>	Not a battle axe property.	N/A									
<p><b>5.4 Utilities and Servicing</b></p>												
<p>The specific objectives are to:</p> <ol style="list-style-type: none"> <li>i. Ensure that each lot in a subdivision is adequately serviced (where available and required) with sewerage/effluent management, water, gas, firefighting, electricity, street lighting and telecommunications (including broadband).</li> <li>ii. Deliver services in a timely, cost effective, coordinated and efficient manner.</li> <li>iii. Deliver services using sustainable development practices.</li> </ol>		<p><b>Note:</b> Depending on the nature of the subdivision, Council may require the following to be provided at no cost to Council:</p> <ul style="list-style-type: none"> <li>• Suitable easements for water and sewer.</li> <li>• An agreed area of land for a pumping station/s and</li> </ul>										

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		<i>suitable easements or land for access and power.</i>	
Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
<b>P55.1</b> The street network provides for the cost-effective provision of utilities that are designed and provided to: <ul style="list-style-type: none"> <li>• Be cost effective over the life cycle.</li> <li>• Minimise short and long term adverse environmental, amenity and visual impacts.</li> <li>• Available and accessible.</li> </ul>	<b>A55.1</b> Water, sewer, electricity, telecommunications and gas must be accommodated within the street network, with appropriate offsets to support Safety in Design principles.	The site has sufficient access to services. See assessment against Clause 7.11 of the SLEP 2014 above.	<b>Complies</b>
	<b>A55.2</b> Each stage of a subdivision must be fully serviced before a new area is released.	N/A – application for strata subdivision only	<b>N/A</b>
<b>P55.2</b> Each lot in a subdivision is adequately serviced.	<b>A55.3</b> The design and provision of utility services must conform to the requirements of the relevant service authorities.	This application has been referred to Shoalhaven Water and Endeavour Energy for review. No objections raised by these authorities.	<b>Complies</b>
	<b>A55.4</b> Water supply systems and sewerage networks/effluent management systems are accessible, easy to maintain and cost effective based on whole of life cycle costs.	Water and sewer will be connected to shoal water assets. It is expected that ongoing maintenance is accessible and cost effective	<b>Complies</b>
	<b>A55.5</b> Underground electricity supply is provided to residential areas. Note: Aboveground servicing will only be considered where major technical difficulties are encountered (e.g., the	This application was referred to endeavour energy for comment. Endeavour energy has raised no objection, and have issued conditions of consent	<b>Complies</b>

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	presence of significant rock), where also supported by the relevant service authority.		
A55.6	Adequate water for domestic and fire-fighting purposes is available.	Water assets are managed by Shoalwater and is expected to be made available for firefighting purposes	<b>Complies</b>
A55.7	Services (except for water and sewer) shall be located in common trenching, where compatible and approved by the service provider.	Able to be achieved.	<b>Complies</b>
A55.8	Adequate buffers between utility services and dwellings must be provided.	Able to be achieved.	<b>Complies</b>

**5.5 Stormwater, Flooding and Water Sensitive Urban Design**

The objectives are to:

- i. Ensure stormwater management limits stormwater damage to property and adequately protects the natural and built environment at an acceptable level of risk.
- ii. Provide stormwater management/systems that take into account the whole of life-cycle costs.
- iii. Manage and control flooding to protect the community, minimise nuisance flooding, minimise potential for traffic accidents and maintain road access with accepted levels of service.
- iv. Have regard to the principals of water sensitive urban design by:
  - Ensuring that existing downstream systems are not adversely affected.
  - Ensuring there is no increase in pollution levels discharging from the development.
  - Intercepting and treating pollutants through the use of appropriate water quality control measures prior to discharge into receiving waters, including wetlands, lakes and ponds.
  - Optimising drainage system control of silt accumulation and minimise debris blockages of inlet structures and pipes.
- v. Water sensitive urban design measures are incorporated into the subdivision layout design in an attractive, efficient manner that also considers whole of life costs.

**Note:** Refer to the *Engineering Design Specifications and the following chapters of this Development Control Plan as appropriate to the development:*

- Chapter G2: *Sustainable Stormwater Management & Erosion Sediment Control.*
- Chapter G9: *Development on Flood Prone Land.*

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			<ul style="list-style-type: none"> <li>• Chapter G10: Caravan Parks in Flood Prone Areas.</li> </ul>
<b>5.5.1 Major Drainage Systems</b>			
<b>5.5.2 Minor Drainage Systems</b>			
<b>Performance Criteria</b>	<b>Acceptable Solutions</b>	<b>Proposed Development</b>	<b>Compliance</b>
<p><b>P61</b></p> <p>Local road networks located on flood prone land are designed to enable flood evacuation.</p>	<p><b>A61.1</b></p> <p>Local road networks shall be designed to ensure all lots have frontage to rising road linkages to flood free land above the Probable Maximum Flood (PMF) level or local evacuation routes.</p>	N/A	N/A
<p><b>P62</b></p> <p>Systems are designed:</p> <ul style="list-style-type: none"> <li>• With the capacity to control stormwater flows under normal operating conditions for the relevant design storm.</li> <li>• To be accessible and easily maintained.</li> </ul>	<p><b>A62.1</b></p> <p>Design and construction of minor drainage systems is in accordance with the requirements of:</p> <ul style="list-style-type: none"> <li>• This Section.</li> <li>• The Engineering Design Specifications.</li> <li>• The requirements in Chapter G2: Sustainable Stormwater Management and Erosion / Sediment Control of this Development Control Plan.</li> <li>• The latest version of Australian Rainfall and Runoff – A Guide to Flood Estimation.</li> </ul>	<p>This application demonstrates sufficient stormwater drainage. A referral was sent to the Development Engineer with no further comments raised re stormwater drainage and recommended consent conditions provided.</p>	<b>Complies</b>
	<p><b>A62.2</b></p> <p>Drainage networks must be well defined to ensure there are no hidden flow</p>	<p>The site has been designed to assist water drain toward the street. There is no hidden flow paths that could reduce the capacity of the design</p>	<b>Complies</b>

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	paths that could reduce their capacity to convey design flows.		
	<b>A62.3</b> Design of minor systems must take full account of existing downstream systems.	The land falls to the street. The proposal takes advantage of this and drains to the street.	<b>Complies</b>
	<b>A62.4</b> Access for maintenance must be available where a portion of the minor system lies within a site.	Access for maintenance is apparent in the plans	<b>Complies</b>
	<b>A62.5</b> Selection of materials shall be based on suitability, durability, maintainability and cost effectiveness.	Recommended as conditions by the Development Engineer.	<b>Complies</b>
<b>5.5.3 Water Sensitive Urban Design</b>			
<b>5.5.4 Miscellaneous</b>			
<b>5.6 Community Infrastructure – Public Open Space, Recreation and Community Buildings – N/A</b>			
<b>5.7 Public Natural Areas – N/A</b>			

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**Appendix C – Assessment Checklist: G13 – Medium Density and Other Residential Development**

5. Medium Density Development			
Principle Controls			
5.1.1 Minimum Lot Size			
Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
<p><b>P1.1</b> To promote good built form outcomes and the efficient utilisation of land, lot consolidation/ amalgamation avoids the isolation of smaller lots that would prevent future medium density development on those lots.</p> <p><b>P1.2</b> To create lots of an appropriate size for the purpose including:</p> <ul style="list-style-type: none"> <li>• Provision for building footprint, landscaping, car parking, driveway, private recreation areas, manoeuvring on sites, setbacks, services and the like.</li> <li>• Preservation of the integrity of existing or desired future streetscape and neighbourhood character to enable consistent and visually harmonious development within the locality.</li> </ul>	<p><i>Additional Provisions – Multi Dwelling Housing, Multi Dwelling Housing (Terraces) and Manor Houses</i></p>		
	<p><b>A1.4</b> The development site for multi dwelling housing, multi dwelling housing (terraces) or a manor house must be:</p> <ul style="list-style-type: none"> <li>• Of an appropriate size and dimension; or</li> <li>• Accompanied by supporting written evidence to Council's satisfaction, showing that lot consolidation/ amalgamation is not feasible as a result of negotiations and reasonable financial offers. Written evidence should include (not exclusively) current market valuations, letters of offer and written refusals.</li> </ul>	<p>As demonstrated in the assessment above, the proposed development t is considered to be of an appropriate size and dimension.</p>	<p>Complies</p>

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<ul style="list-style-type: none"> <li>Provision of high quality amenity for residents and neighbours.</li> </ul> <p>Accommodating on-site sewage storage and disposal where a reticulated sewerage scheme is not available.</p>			
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**5.1.2 Density**

Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
<p><b>P2</b></p> <p>The bulk and scale of new development, particularly on the perimeter of the development site, or where that locality or development site has heritage significance and/or distinctive character, is:</p> <ul style="list-style-type: none"> <li>Compatible, consistent and sympathetic to the bulk and scale of existing development in the locality.</li> <li>Sympathetic with the streetscape and complements the existing and desired future character of the area.</li> </ul>	<p><b>A2.1</b></p> <p>The maximum floor space ratio or gross floor area complies with Table 1 below.</p> <p><i>Note:</i></p> <ul style="list-style-type: none"> <li>Where an area is mapped on the floor space ratio map in Shoalhaven LEP 2014, the Shoalhaven LEP 2014 provisions for these sites prevail.</li> <li>For guidance when calculating floor space ratio (including exclusions), refer to: <ul style="list-style-type: none"> <li><b>Figure 1.</b></li> <li>Gross floor area definition.</li> <li>Clause 4.5 of Shoalhaven LEP 2014 and Shoalhaven LEP (Jerberra Estate) 2014.</li> </ul> </li> </ul>	<p>The total permissible gross floor for the development is 0.7:1. This equates to the following:</p> <ul style="list-style-type: none"> <li>651.29m<sup>2</sup> x 0.70% = 455.90m<sup>2</sup>.</li> <li>Total development area = 210.57m<sup>2</sup>.</li> <li>Gross floor area proposed = 0.32:1.</li> </ul>	<p>Complies</p>

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	<ul style="list-style-type: none"> <li>A maximum of 50m<sup>2</sup> for the combined total garage floor area in a dual occupancy development may be excluded from the gross floor area calculation where the garages are located within the dwellings.</li> </ul>	
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Table 1: Floor space ratio and gross floor area provisions

	Lot Size or Zone	Floor Space Ratio or Gross Floor Area
Dual occupancy	<1,000m <sup>2</sup>	0.5:1
Semi-detached dwellings	>1,000m <sup>2</sup> – <20,000m <sup>2</sup> (2ha)	500m <sup>2</sup>
Integrated housing development	>20,000m <sup>2</sup> (2ha) in rural and environmental zones	600m <sup>2</sup>
Multi dwelling housing	RU5 Village	0.5:1
Multi dwelling housing (terraces)	R1 General Residential	0.5:1
Manor house	R3 Medium Density Residential	0.7:1
Attached dwellings	B4 Mixed Use	0.7:1

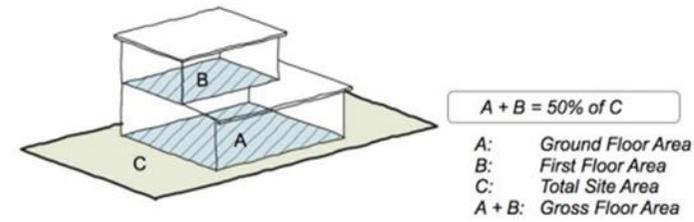
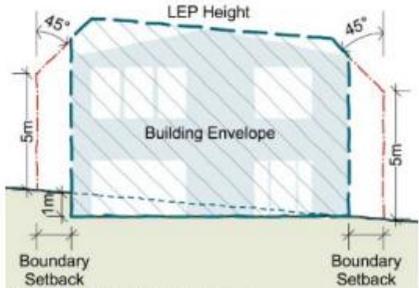


Figure 1: How to calculate floor space ratio (example FSR of 0.5:1)

5.1.3 Building Envelope, Heights and Setbacks

Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
<p><b>P3.1</b></p> <p>The bulk and scale of development is compatible with the existing or desired future character of the area and minimises adverse amenity impacts on neighbours, the streetscape and public domain.</p> <p><b>P3.2</b></p>	<p><b>A3.1</b></p> <p>Buildings are sited within a building envelope determined by the following method: planes are projected at 45 degrees from a height of 5m above ground level (existing) at the front, side and rear boundary. See <b>Figure 2</b>.</p>	<p>The proposed development will be wholly contained under the maximum height of buildings. The building will remain within the building envelope.</p>	<p>Complies with building envelope requirements.</p>

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<p>Development enables view sharing with neighbours and the public domain.</p>	 <p><b>Figure 2: Building envelope</b></p> <p><b>Note:</b></p> <ol style="list-style-type: none"> <li>Exemptions to building envelope encroachments include gutter, fascias, downpipes, eaves up to 0.6m, aerials and masonry chimneys.</li> <li>For site slopes greater than 10%, or involving cut, fill or site excavations, the ground level (existing) and proposed building levels must be clearly identified on the plans and verified by a registered surveyor.</li> </ol>		
<p><b>P4</b></p> <p>The height of development:</p> <ul style="list-style-type: none"> <li>Is compatible with the existing or desired future character of the area.</li> <li>Minimises adverse amenity impacts associated with overlooking and overshadowing of adjoining properties.</li> </ul>	<p><b>A4.4</b></p> <p>The difference in building height between existing buildings and new development is compatible when viewed from the public domain.</p>	<p>The frontage height of this building will measure approximately 7.469m which is consistent with development in the surrounding locality, including the Residential Flat Building at No. 6 Burr Avenue.</p>	<p>Complies</p>

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<ul style="list-style-type: none"> <li>Relates to the land form, with minimal cut and fill.</li> </ul>			
<p><b>P5.1</b> The front setback is generally consistent with adjoining development and does not undermine the integrity of the prevailing building lines.</p> <p><b>P5.2</b> The location and siting of the building complements the existing setbacks in proximity to the site, foreshore (if applicable) and the streetscape.</p> <p><b>P5.3</b> The proposed development is setback and of a scale that is relative to the street reserve width, in such a way to ensure pedestrians do not feel buildings are overbearing.</p> <p><b>P5.4</b> Setbacks avoid loss of view, undue overshadowing and provide/maintain privacy (visual and acoustic) and traffic safety.</p> <p><b>P5.5</b></p>	<p><i>Additional Provisions - Multi Dwelling Housing, Multi Dwelling Housing (Terraces), Attached Dwellings, Semi-Detached Dwellings, Manor Houses and Integrated Housing Development</i></p>		
	<p><b>A5.4</b> Setbacks shall comply with the provisions in Table 4 below. Refer also to Figure 4.</p>	<p>Proposed setbacks are as follows: Front: 2.0m from primary road frontage Side: 2.2m (North) and 4.49m (south) Rear: 4m</p> <p>This application complies with the front setback permitted by Chapter N8 of the DCP which states that a 2m street setback is required. The provisions of the Area Specific DCP Chapter take precedence.</p> <p>The proposed side setbacks are compliant with G13 of the SDCP 2014.</p> <p>The rear setback is compliant with Chapter G13 of the SDCP which requires a 900mm setback.</p>	<p><b>Complies</b></p>
	<p><i>Additional Provisions - Integrated Housing Development – N/A</i></p>		

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<p>Setbacks are progressively increased to reduce bulk and overshadowing while maintaining adequate daylight and sunlight.</p> <p><b>P5.6</b></p> <p>Adequate levels of light and ventilation to adjoining buildings, landscaping, services and infrastructure are protected.</p> <p><b>P5.7</b></p> <p>The proposal maintains adequate provision for on-site car parking.</p>			
<b>5.1.4 Landscaping</b>			
Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
<p><b>P6.1</b></p> <p>Sufficiently dimensioned landscaping provides amenity to residents, effective screening and enables tree and large shrub planting.</p> <p><b>P6.2</b></p> <p>A suitably sized deep soil planting area encourages:</p> <ul style="list-style-type: none"> <li>• Mature tree and shrub growth.</li> <li>• Opportunity for surface water to infiltrate naturally to groundwater.</li> </ul> <p><b>P6.3</b></p>	<p><b>A6.1</b></p> <p>At least 10% of the site area is to include high quality formal landscaping, which:</p> <ul style="list-style-type: none"> <li>• Has a minimum dimension of 1.5m in any direction.</li> <li>• Consists of 100% deep soil planting.</li> <li>• Is provided with an automated watering system.</li> </ul>	<p>10% formal landscaping equates to a requirement for 65.63m<sup>2</sup> of landscaping. The proposal provides a total of 65.97m<sup>2</sup> of formal landscaping – as nominated on the Site Plan.</p>	<p>Complies</p>
	<p><b>A6.2</b></p> <p>In addition to the formal landscaping area required at A6.1, a further area of at least 20% of the site is to be provided, which:</p> <ul style="list-style-type: none"> <li>• Has a minimum dimension of 1m in any direction.</li> <li>• Is inclusive of 40% deep soil planting.</li> </ul>	<p>20% further landscaping required equates to 131.27m<sup>2</sup> of site area.</p> <p>A total of 196.42m<sup>2</sup> of secondary landscaping has been provided, as nominated on the Site Plan.</p>	<p>Complies</p>

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<p>Unpaved or unsealed areas are maximised and are designed to facilitate on-site infiltration of stormwater run-off subject to soil/drainage conditions.</p> <p><b>P6.4</b></p> <p>Major existing trees are retained wherever practicable through appropriate siting of dwellings, structures and driveways.</p> <p><b>P6.5</b></p> <p>Provision is made for appropriate street tree planting having regard to the appearance and role of the street, solar access requirements and utility services.</p> <p><b>P6.6</b></p> <p>The visual impact of ancillary landscaping or retaining structures is considered.</p>	<ul style="list-style-type: none"> <li>Can include landscaped areas, decks, terraces, alfresco areas, swimming pools or other recreation areas / structures.</li> </ul>		
	<p><b>A6.3</b></p> <p>At least 35% of the front setback is to be landscaped.</p>	35% of the total front setback area equates to 11.52m <sup>2</sup> . A total of 22.52m <sup>2</sup> of the front setback area is landscaping – as nominated on the Site Plan.	Complies
	<p><b>A6.4</b></p> <p>The landscaping provided at A6.1, A6.2 and A6.3 excludes any areas used for storage, clothes drying, and water tanks</p>	These calculations exclude the areas listed in A6.4	Complies
	<p><b>A6.5</b></p> <p>Retaining walls greater than 0.6m within the front setback are to be softened by planting for a minimum depth of 600mm on the low side of the retaining wall, for the entire length of the retaining wall.</p>	There is sufficient planting to soften the proposed retaining walls.	Complies
	<p><b>Sitting the Development</b></p> <p><b>5.2.1 Local Character and Context</b></p>		
<b>Performance Criteria</b>	<b>Acceptable Solutions</b>	<b>Proposed Development</b>	<b>Compliance</b>
<p><b>P7</b></p> <p>The scale and appearance of new development is compatible with, and sympathetic to, existing and future desired:</p> <ul style="list-style-type: none"> <li>Development in the locality; and</li> </ul>	<p><b>A7.1</b></p> <p>The development must consider/ address the following:</p> <ul style="list-style-type: none"> <li>The local character/context of the area and streetscape.</li> <li>How the proposal is sympathetic and compatible with the existing or future desired</li> </ul>	The detailed assessment carried out as part of this application has revealed that the proposal is consistent with the existing and emerging surrounding character of development in the locality.	Complies

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<ul style="list-style-type: none"> <li>Amenity and character of the locality;</li> </ul> <p>Particularly where the development site or its surrounds has some heritage significance or distinctive character.</p>	<p>character, development, and amenity of the locality.</p> <ul style="list-style-type: none"> <li>How the visual appearance and articulation of the development contributes to the existing streetscape and character of the local area.</li> </ul>		
	<p><b>A7.2</b></p> <p>The development must demonstrate that items of heritage or conservation significance are retained and sympathetically treated.</p>	<p>N/A – no items of heritage or conservation significance located on or immediately adjacent to the subject site.</p>	<p>N/A</p>
<p><b>P8</b></p> <p>Existing views from the private or public domain (including heritage or familiar dominant landmarks that are recognised and valued by the community) are not substantially or unreasonably affected where it is possible to design for the sharing of views.</p>	<p><b>A8.1</b></p> <p>Any reduction in views from existing dwellings or the public domain is not to be severe or devastating based on the following NSW Land &amp; Environment Court Planning Principles:</p> <ul style="list-style-type: none"> <li>Views – General principles.</li> <li>Views - Impact on public domain views.</li> </ul>	<p>There is not expected to be significant view loss from neighbouring properties.</p> <p>There is sufficient opportunity for views to be maintained within the streetscape.</p>	<p>Consistent</p>
<p><b>P9</b></p> <p>The number, location and distribution of existing and proposed developments do not significantly alter the amenity and character of the area through concentrated localised areas of higher density development.</p>	<p><i>Additional Provisions - Dual Occupancy, Multi Dwelling Housing, Multi Dwelling Housing (Terraces) and Manor Houses</i></p> <p><b>A9.1</b></p> <p>With the exception of land in the R3 Medium Density Residential zone, the cumulative impact of the development must be considered where:</p> <ul style="list-style-type: none"> <li>More than three (3) consecutive dual occupancy, multi dwelling housing, multi dwelling housing (terraces) or manor house developments (total, not per development type) are proposed within a street, including in a cul-desac; and/or</li> </ul>	<p>Three consecutive multi-dwelling housing developments not proposed or would result from the development.</p>	<p>Complies</p>

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	<ul style="list-style-type: none"> <li>Neighbouring dual occupancies or multi dwelling housing is proposed in the head of a cul-de-sac.</li> </ul>		
	<p><b>A9.2</b></p> <p>A development application that proposes clustering of development must satisfy Council that waste servicing, parking and amenity considerations can be achieved.</p>	<p>The proposed development will have a frontage of 12.46m (minus length of the proposed driveway).</p> <p>This meets the minimum requirement for waste services, which requires 1 linear metre per bin for dwelling for waste collection.</p> <p>The proposed layout can accommodate for the required car parking spaces (1 space required per dwelling).</p>	Complies.
	<p><b>A9.3</b></p> <p>Building design shall attempt to reduce the impact of clustering by providing individual dwelling architecture that is sympathetic with the existing or desired future streetscape.</p>	<p>The design proposed within this application promotes the clustering of dwellings within a single lot.</p> <p>The architecture and design of the street frontage is sympathetic to the existing street character.</p>	Complies
<b>5.2.2 Orientation and Siting</b>			
<b>Performance Criteria</b>	<b>Acceptable Solutions</b>	<b>Proposed Development</b>	<b>Compliance</b>
<p><b>P10.1</b></p> <p>The site analysis informs the site design and layout.</p> <p><b>P10.2</b></p> <p>The site layout integrates with the surrounding environment through:</p>	<p><b>A10.1</b></p> <p>A site analysis plan is submitted with the development application which:</p> <ul style="list-style-type: none"> <li>Meets the requirements of Chapter G1: Site Analysis, Sustainable Design and Building Materials Rural, Coastal and Environmental Areas of this Development Control Plan.</li> </ul>	<p>A sufficient site plan has been provide in accordance with Chapter G1 of the SDCP.</p>	Complies

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<ul style="list-style-type: none"> <li>• Adequate pedestrian, cycle and vehicle links to street and open space networks.</li> <li>• Buildings that face and address streets and the public domain.</li> <li>• Buildings, streetscape and landscape design that relates to the site topography and to the surrounding neighbourhood character.</li> </ul> <p><b>P10.3</b> The site layout enhances personal safety and minimises potential for crime and vandalism.</p>	<ul style="list-style-type: none"> <li>• Clearly provides the following detail for the site and adjoining/adjacent development: <ul style="list-style-type: none"> <li>- Height and use of buildings.</li> <li>- Front setbacks.</li> <li>- Driveways. - Boundary treatments (including retaining walls).</li> <li>- Easements.</li> <li>- Stormwater management.</li> </ul> </li> </ul>		
	<p><b>A10.2</b> The proposed site layout responds to and implements the findings of the site analysis prepared in accordance with A10.1.</p>	The site layout responds to the site's constraints.	Consistent
<p><b>P11.1</b> The frontage, entries and habitable room windows of dwellings address the street.</p> <p><b>P11.2</b> The design and orientation of the dwellings:</p> <ul style="list-style-type: none"> <li>• Enhance the streetscape.</li> <li>• Complement existing development in the vicinity.</li> <li>• Provide visual interest.</li> </ul> <p>Allow casual surveillance of public or communal streets or public domain.</p>	<p><b>A11.1</b> Each dwelling adjacent to the street frontage must:</p> <ul style="list-style-type: none"> <li>• Address the street by having a front door facing the street at the ground level where dwellings are adjacent to the primary frontage.</li> <li>• Ensure that any walls facing a street frontage (including secondary frontages) include a window to a habitable room on each level.</li> <li>• Ensure upper level windows, balconies or terraces overlook the public domain.</li> <li>• Provide surveillance of the street and entrance to the development.</li> </ul>	There is one dwelling which will be adjacent to the street frontage. This dwelling will have a front door which faces the street, will include a window from a habitable room to the street frontage and will provide surveillance opportunities from the street and entrance to the development.	Complies
	<p><b>A11.2</b> In addition to A11.1 and where practical, the front door of all other dwellings are to be visible from the street.</p>	N/A – given the constraints of the site it is not practical to have all front doors visible from the street	N/A

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5.2.3 Vehicle and Pedestrian Access			
Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
<p><b>P12.1</b> Access arrangements are suitable for the development.</p> <p><b>P12.2</b> The design of the site and driveways, including manoeuvring areas, has regard to the safety of pedestrians, cyclists and vehicles.</p> <p><b>P12.3</b> Multiple driveways are avoided.</p>	<p><b>A12.1</b> The site is designed to encourage pedestrian access by providing a continuous path of travel from the street to each dwelling.</p> <p><i>Additional Provisions - Dual Occupancy</i> N/A</p>	<p>There is a continuous path from the street to all dwellings via the driveway which is identified as being common property.</p>	<p>Complies</p>
<p><b>P13.1</b> The visual dominance of driveways is minimised by:</p> <ul style="list-style-type: none"> <li>The selection of paving materials e.g. decorative paving and brick banding.</li> <li>Breaking up the appearance of driveways with landscaping and screen planting.</li> </ul> <p><b>P13.2</b> Driveways are designed to:</p> <ul style="list-style-type: none"> <li>Minimise the volume of stormwater runoff.</li> <li>Increase the area available for landscaping.</li> <li>Retain established trees and vegetation.</li> </ul>	<p><b>A13.1</b> Driveways must be designed to:</p> <ul style="list-style-type: none"> <li>Be all-weather and service every dwelling.</li> <li>Minimise the hardstand/paved footprint.</li> <li>Be setback a minimum of 0.5m from the side and/or rear boundary to accommodate appropriate landscape elements.</li> <li>Accommodate all public services and infrastructure (e.g. street gully pits).</li> <li>Avoid a gun-barrel effect down the side boundary. Where a gun-barrel driveway cannot be avoided, the driveway must be curved and landscaped to Council's satisfaction to break up the appearance of the gun-barrel design.</li> <li>A grade no greater than 20%.</li> <li>Maximise the availability of on-street parking.</li> </ul>	<p>Complies – the proposed driveway would be conditioned to comply with all engineering standards and requirements.</p>	<p>Complies</p>

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<ul style="list-style-type: none"> <li>Accommodate public services and infrastructure.</li> </ul>	<ul style="list-style-type: none"> <li>Achieve minimum sight lines for pedestrian safety in accordance with AS2890.1 (Figure 3.3).</li> </ul>		
<b>Amenity</b>			
<b>5.3.1 Building Separation and Visual/Acoustic Privacy</b>			
<b>Performance Criteria</b>	<b>Acceptable Solutions</b>	<b>Proposed Development</b>	<b>Compliance</b>
<p><b>P14.1</b> Adequate separation between buildings is provided in proportion to the height and scale of the building.</p>	<p><b>A14.1</b> All dwellings shall be designed and orientated to minimise overlooking of adjoining/ surrounding dwellings and private open space.</p>	<p>No dwelling will overlook any adjoining or surrounding private open space.</p>	<p>Complies</p>
<p><b>P14.2</b> Direct overlooking of main internal living areas and private open space of other dwellings and adjoining properties is minimised by building layout, location and design of windows, balconies, screening devices, landscaping or other effective means.</p>	<p><b>A14.2</b> Habitable windows shall not be located adjacent to a shared driveway at the ground level.</p>	<p>Windows adjacent to the driveway have been minimised to minimise privacy impacts.</p>	<p>Complies</p>
	<p><b>A14.3</b> Direct views between living area windows of adjacent dwellings shall be screened or obscured where:</p> <ul style="list-style-type: none"> <li>Ground and first floor windows are located within the privacy sensitive zone area, being a 9m radius from any part of the window of the adjacent dwelling (Figure 6).</li> <li>In the case of a dwelling with three or more storeys, windows are within the privacy sensitive zone described by a 12m radius (Figure 6).</li> </ul>	<p>Sufficient privacy is observed between units within the complex.</p>	<p>Complies</p>
	<p><b>A14.4</b> Direct views from living areas of dwellings into the principal area of private open space of adjacent</p>	<p>N/A – no proposed living areas and adjacent POS of adjacent dwellings proposed.</p>	<p>N/A</p>

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	<p>dwellings shall be screened or obscured where located within a privacy sensitive zone within a 12m radius from the living area windows (Figure 7).</p>		
	<p><b>A14.5</b> Separation distances for dwellings with three or more storeys shall meet the following minimum standards:</p> <ul style="list-style-type: none"> <li>• 9m between walls with windows to habitable rooms, where adequate privacy and solar access is demonstrated.</li> <li>• 12m between walls with windows to habitable rooms.</li> </ul>	N/A	N/A
<p><b>P15</b> Site layout and building design protects the amenity of residents and/or adjoining properties by minimising noise transfer and nuisance.</p>	<p><b>A15.1</b> Dwellings adjacent to high levels of external noise shall be designed to minimise the entry of that noise.</p>	N/A	N/A
	<p><b>A15.2</b> The following shall be located away from the habitable rooms and private open space of dwellings:</p> <ul style="list-style-type: none"> <li>• Communal swimming pools and ancillary facilities.</li> <li>• Communal open space areas.</li> <li>• Parking areas and vehicle access.</li> </ul>	As Above – habitable room windows have been minimised where the communal driveway is located to maximise privacies for future occupants.	Complies
	<p><b>A15.3</b> Shared walls and floors between dwellings shall be constructed to limit noise transmission and, where possible, bedrooms of one dwelling are not to adjoin living area or garages of adjacent dwellings.</p>	Fire walls / brick walls would be proposed between adjoining dwellings for NCC compliance. The proposed design is considered appropriate from an acoustic perspective.	Complies.

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	<p><b>A15.4</b></p> <p>All noise generating (mechanical) plant and equipment must:</p> <ul style="list-style-type: none"> <li>• Not exceed an LAeq (15min) of 5dB(A) above background noise at the property boundary.</li> <li>• Be acoustically screened (where appropriate).</li> <li>• Be sited to minimise noise impacts.</li> <li>• Be located at least 3m away from bedroom windows.</li> </ul>	N/A	N/A
<i>Additional Provisions - Multi Dwelling Housing and Manor Houses</i>			
	<p><b>A15.5</b></p> <p>Where visitor parking areas are required, they are to be located at least 3m away from bedroom windows or the affected windows are to be provided with double glazing or other suitable acoustic treatments.</p>	N/A	N/A
<b>5.3.2 Solar and Daylight Access</b>			
<b>Performance Criteria</b>	<b>Acceptable Solutions</b>	<b>Proposed Development</b>	<b>Compliance</b>
<p><b>P16</b></p> <p>Dwellings are sited and designed to maximise solar access to living areas and private open space of the development and surrounding development.</p>	<p><b>A16.1</b></p> <p>Dwellings are to be:</p> <ul style="list-style-type: none"> <li>• Oriented to make appropriate use of solar energy by maximising solar access to north-facing windows.</li> <li>• Sited and designed to ensure that the energy efficiency of existing dwellings on adjoining lots is not unreasonably reduced.</li> <li>• Designed to locate living areas and private open space on the northern side of the development</li> </ul>	<p>All private open space and living area windows will be north facing. The communal driveway has been located on the southern side which has the effect of maximising solar access and minimising overshadowing.</p>	<p>Complies</p>

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	and non-habitable areas to the south and west of dwellings		
	<b>A16.2</b> The number of single aspect south facing dwellings shall be limited.	N/A – no south facing dwelling proposed.	N/A
	<b>A16.3</b> Direct solar access to the following must be maintained for at least 3 hours between 9am and 3pm on 21 June: <ul style="list-style-type: none"><li>Existing rooftop solar systems;</li><li>10m<sup>2</sup> of north facing roofs where a rooftop solar system is not yet in place.</li></ul>	Existing rooftop solar systems and north facing roofs are not expected to be impacted by the proposed development.	Complies
	<b>A16.4</b> Certain medium density development may require shadow diagrams to show the impact of shadows resulting from existing and proposed building works.	Shadow diagrams were not provided alongside this application as the proposal is located in the northern part of the site to minimise overshadowing of properties to the south.	Complies
<b>5.3.3 Private Open Space</b>			
<b>Performance Criteria</b>	<b>Acceptable Solutions</b>	<b>Proposed Development</b>	<b>Compliance</b>
<b>P17</b> Private open space is: <ul style="list-style-type: none"><li>Functional and useable for residents all year round.</li><li>Dimensioned to suit the projected requirements of the residents, and to</li></ul>	<b>A17.1</b> A minimum area of private open space shall be provided for each dwelling in accordance with Table 5.	As stated on the submitted plans, POS would be provided which meets the requirement for 35m <sup>2</sup> for each dwelling.	Complies
	<b>A17.2</b> Private open space shall have direct access from a living area.	All private open spaces for all dwellings will be accessible from a living area.	Complies

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<p>accommodate outdoor recreational needs and service functions.</p> <ul style="list-style-type: none"> <li>• Capable of serving as an extension of the function of the dwelling for relaxation, dining, entertainment, active recreation and children’s play.</li> <li>• Located to take advantage of outlook and natural features of the site.</li> <li>• Located to mitigate against external noise.</li> <li>• Designed to take account of the impact of adjoining dwellings on privacy and overshadowing.</li> </ul>	<p><b>A17.3</b></p> <p>Where the private open space of a dwelling is provided at the ground level, it shall:</p> <ul style="list-style-type: none"> <li>• Include a defined hardstand area (e.g. concrete, paving, decking) of usable space which: <ul style="list-style-type: none"> <li>- Is setback at least 1.2m from an external boundary.</li> <li>- Has a minimum dimension of 5m x 4m, of which 50% shall be covered to provide protection from the elements.</li> </ul> </li> <li>• Have a minimum dimension of 2m for all other areas.</li> <li>• Have a gradient no steeper than 1:20.</li> <li>• Be adequately screened to provide privacy to residents.</li> </ul>	<p>Each dwelling contains a hardstand area which is setback at least 1.2m from the boundary, has an appropriate gradient and compliant minimum dimension requirement of 2m.</p> <p>POS areas are adequately screened by internal fences as demonstrated on the submitted plans.</p> <p>POS areas are recommended to have a defined hardstand area with minimum dimension of 5m long x 4m wide. The PPOS hardstand areas for the development are 4m long x 3m wide.</p> <p>Whilst the PPOS hardstand width is 1m less than the requirement, this area has been encapsulated through a greater setback to the rear boundary of 2.2m which is greater than the minimum setback distance by 1m.</p> <p>As such, the proposal effectively provides an extra 1m of space as garden area as opposed to PPOS. This is considered to be compliant as it is consistent with the overall POS area and maintains the usability of the space for the future residents.</p>	<p>Considered to comply</p>
	<p><b>A17.4</b></p> <p>Where the private open space of a dwelling is provided at an upper level, it shall have a minimum dimension of 2m x 3m which is covered to provide protection from the elements.</p>	<p>N/A</p>	<p>N/A</p>

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5.3.4 Storage and Laundry Facilities			
Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
<p><b>P18.1</b></p> <p>External clothes drying facilities are provided for each dwelling that are:</p> <ul style="list-style-type: none"> <li>• Adequate and easily accessible.</li> <li>• Well located.</li> <li>• Visually screened from the public domain.</li> </ul> <p><b>P18.2</b></p> <p>A laundry is provided within each dwelling.</p>	<p><b>A18.1</b></p> <p>Separate laundry and external clothes drying facilities shall be provided for each dwelling.</p>	<p>Each dwelling has an outdoors clothing line as indicated by the plans.</p> <p>Dwellings 2 &amp; 3 do not contain</p>	Complies
	<p><b>A18.2</b></p> <p>External clothes drying facilities are to be:</p> <ul style="list-style-type: none"> <li>• Provided at a rate of 16m of line per dwelling.</li> <li>• Located behind the front building line.</li> <li>• Screened from view from the public domain</li> </ul>	<p>All clothes line will be located behind the front building line and will be screened from the public domain.</p>	Complies
<p><b>P19</b></p> <p>Adequate space is provided to accommodate the laundry facilities, vehicle/s and associated circulation space in a garage.</p>	<p><b>A19.1</b></p> <p>Where laundry facilities are provided in a garage, a clear space of at least 1.2m must be provided between any fixed laundry benches/appliances and the car space (minimum of 5.5m long) as shown in Figure 8.</p>	N/A	N/A
<p><b>P20.1</b></p> <p>Adequate, well-designed storage areas are provided for each dwelling.</p> <p><b>P20.2</b></p> <p>Storage areas are sympathetically integrated into the building design.</p>	<p><b>A20.1</b></p> <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is encouraged per dwelling:</p> <ul style="list-style-type: none"> <li>• 1 bed: 6m<sup>3</sup></li> <li>• 2 bed: 8m<sup>3</sup></li> <li>• 3+ bed: 10m<sup>3</sup></li> </ul>	<p>Each dwelling will have sufficient storage opportunities for residents (minimum 7.51m<sup>3</sup> proposed for 1 bed units).</p>	Complies
	<p><b>A20.2</b></p>	N/A	N/A

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	Storage areas not located in a dwelling are to be secure and clearly allocated to specific dwellings if in a common area.		
	<b>A20.3</b> Where located in a garage or basement car park, storage areas must not encroach upon allocated car parking spaces.	N/A	N/A
<b>5.3.5 Car and Bicycle Parking</b>			
<b>Performance Criteria</b>	<b>Acceptable Solutions</b>	<b>Proposed Development</b>	<b>Compliance</b>
<b>P21</b> Parking is suitable for the development.	<b>A21.1</b> Car parking is: <ul style="list-style-type: none"> <li>• Provided in accordance with Chapter G21: Car Parking and Traffic of this Development Control Plan.</li> <li>• Wholly accommodated within the site.</li> </ul>	Each dwelling has 1 space provided which is in accordance with Chapter G21 of the SDCP	Complies
	<b>A21.2</b> For open car spaces, the maximum allowable grades are: <ul style="list-style-type: none"> <li>• Longitudinal - 5%.</li> <li>• Cross fall - 6.25%.</li> </ul>	N/A	N/A
	<i>Additional Provisions - Multi Dwelling Housing, Multi Dwelling Housing (Terraces) and Manor Houses</i>		
	<b>A21.3</b> Secure undercover bicycle parking/ storage shall be provided at a rate of 1 bicycle per dwelling.	No bicycle parking has been identified within the plans. However space is found to be available within garages for such parking.	Can comply.

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<p><b>P22</b> Car parking arrangements are suitable for, and consider, the surrounding road network.</p>	<p><i>Additional Provisions - Dual Occupancy – Not applicable</i></p>		
<p><b>Configuration and Design</b></p>			
<p><b>5.4.1 Building Form, Design and Materials</b></p>			
<p><b>Performance Criteria</b></p>	<p><b>Acceptable Solutions</b></p>	<p><b>Proposed Development</b></p>	<p><b>Compliance</b></p>
<p><b>P23.1</b> A dual occupancy (attached) appears as a single dwelling.</p> <p><b>P23.2</b> Within rural and environmental protection zones, buildings are of a size and bulk that is compatible with the surrounding rural or environmental context in which they are located.</p>	<p><i>Additional Provisions - Dual Occupancy (Attached) – Not applicable</i></p>		
<p><b>P24.1</b> The selection of building materials and design complements existing development, and is sympathetic to the streetscape and existing landscape.</p> <p><b>P24.2</b> Roof treatments are integrated into the building design and make a positive contribution to the streetscape.</p>	<p><b>A24.1</b> New development, including alterations and additions, shall complement existing built form and be sympathetic to the streetscape.</p>	<p>N/A</p>	<p>N/A</p>
	<p><b>A24.2</b> Roof design is to be integrated harmoniously with the overall building form through the incorporation of:</p> <ul style="list-style-type: none"> <li>• Complimentary building materials.</li> <li>• Design proportionate to overall building size, scale and form.</li> </ul>	<p>Roof design and materials are consistent with the streetscape</p>	<p>Complies</p>

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<p><b>P24.3</b> Building walls use modulation and articulation, and are limited in length to minimise massing and bulk issues as well as impact on neighbours and the public domain/streetscape.</p> <p><b>P24.4</b> The building design, detailing and finish provide an appropriate scale to the street, add visual interest and enable differentiation between dwellings when viewed from the public domain.</p> <p><b>P24.5</b> External metallic wall and roof materials are suitable and minimise reflectivity.</p> <p><b>P24.6</b> The development incorporates passive environmental design.</p>	<ul style="list-style-type: none"> <li>Balanced composition of solid and void elements.</li> <li>Integration of service elements</li> </ul>		
	<p><b>A24.3</b> Building design shall use detail, modulation and articulation of building elements to:</p> <ul style="list-style-type: none"> <li>Enable each dwelling to be identified from a public road.</li> <li>Articulate facades and to minimise the length of unbroken walls and glazed areas.</li> </ul>	<p>Due to the proposed 'gun-barrel' driveway, it is not expected that every dwelling would be viewable or identifiable from the public road.</p> <p>The façade from the street frontage will ensure that there is minimal length of unbroken walls and glazed areas.</p>	Complies.
	<p><b>A24.4</b> Buildings shall have a maximum unarticulated length of 15m to a public street frontage.</p>	Dwelling one will have a built form which is well articulated to the street frontage.	Complies
	<p><b>A24.5</b> In rural/environmental areas or areas of scenic value, the external building materials and colours are to blend with the surrounding landscape.</p>	N/A	N/A
	<p><b>A24.6</b> External metallic walls and roof surfaces shall consist of colours and finishes that will minimise the reflectivity of the surface when viewed from the public domain or another dwelling.</p>	Appropriate colours and materials have been used as shown on the submitted Colours and Materials Schedule.	Complies
	<p><i>Additional Provisions - Dual Occupancy – N/A</i></p>		
	<p><b>P25</b></p>	<p><b>A25.1</b> Garages are compatible with design of the building.</p>	Garages are considered compatible with the building design

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<p>Garages and parking structures are sited and designed to:</p> <ul style="list-style-type: none"> <li>• Add visual interest.</li> <li>• Provide opportunity for passive surveillance.</li> <li>• Not dominate the street frontage.</li> </ul>	<p><i>Additional Provisions - Dual Occupancy – Not applicable</i></p>		
<p><b>P26</b> Mailboxes, numbering and external storage facilities, as well as associated signage, are sited and designed for attractive visual appearance and efficient and convenient use.</p>	<p><b>A26.1</b> Individual mailboxes shall be located close to each dwelling entry, or a mailbox structure located close to the major pedestrian entry to the site, that complies with the requirements of Australia Post.</p>	<p>Mailboxes are located close to the street frontage alongside the shared driveway.</p>	<p>Complies</p>
	<p><b>A26.2</b> Adequate numbering system and signage is to be provided.</p>	<p>GIS to determine adequate numbering of units.</p>	<p>Complies.</p>
<p><b>5.4.2 Fences and Walls</b></p>			
<p><b>Performance Criteria</b></p>	<p><b>Acceptable Solutions</b></p>	<p><b>Proposed Development</b></p>	<p><b>Compliance</b></p>
<p><b>P27.1</b> Front fences and walls:</p> <ul style="list-style-type: none"> <li>• Enable some outlook from buildings to the street for safety and surveillance.</li> <li>• Do not impede the safety of pedestrians and cyclists with the movement of vehicles between the property and the roadway</li> </ul>	<p><b>A27.1</b> Front fences and walls along the primary frontage (see Figure 9), shall be no higher than 1.2m (averaged for sloping sites).</p>	<p>There will be one fence which will be front facing. This fence will adequately screen the POS of dwelling 1 and will be screened further with landscaping such as a frangipani and cheese tree.</p> <p>Based on the site requirements, it is considered that the front facing fence will not have a significant impact on the dwellings, nor will it have a significant negative impact on the streetscape.</p>	<p>Consistent.</p>
	<p><b>A27.2</b></p>	<p>N/A</p>	<p>N/A</p>

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<ul style="list-style-type: none"> <li>• Avoid negatively impacting on the aesthetic and spatial quality of the street.</li> <li>• Assist in highlighting entrances and in creating a sense of communal identity within the streetscape.</li> <li>• Are designed and detailed to provide visual interest to the streetscape.</li> <li>• Are constructed of materials compatible with the proposed development and with examples of fences and walls in the streetscape to offer a sense of continuity.</li> <li>• Are compatible with facilities in the street frontage area, such as mailboxes and waste collection areas.</li> <li>• Do not impede safe sight distances for road users and pedestrians along the adjoining roadway.</li> </ul> <p><b>P27.2</b> The use and/or design of fences and walls in streetscapes of significance are appropriate to the heritage or environmental context.</p>	<p>On a corner lot, the fence or wall along the secondary frontage, behind the front building line (see Figure 9), shall be no higher than 1.8m.</p>		
	<p><b>A27.3</b> Despite A27.2, the front fence or wall for a rear dual occupancy dwelling on a corner lot shall be no higher than 1.2m (see Figure 10).</p>	N/A	N/A
	<p><b>A27.4</b> A fence or wall along a primary or secondary frontage must contain:</p> <ul style="list-style-type: none"> <li>• Open elements that make it at least 50% transparent; or</li> <li>• Where there are solid panels, articulated elements such as landscape screening, setbacks and varied materials.</li> </ul>	N/A	N/A
	<p><b>A27.5</b> Despite A27.1 and A27.3, front fences and walls higher than 1.2m will only be supported where all the following is satisfied:</p> <ul style="list-style-type: none"> <li>• The site is located on a classified road with high traffic volumes.</li> <li>• The site is not located in an area with an established heritage character.</li> <li>• The fence and/or wall does not exceed 10m in length without some articulation or detailing to provide visual interest.</li> <li>• Landscape planting is included within a 1.5m setback between the fence/wall and the boundary to achieve mature heights of at least 1.5m.</li> </ul>	The proposed fence is 1.8m in height. The screening of the fence is sufficient to assist in hiding the height of the fence.	Complies

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	<p><b>A27.6</b> Fences and walls along a primary or secondary frontage shall maintain appropriate sight distances for road users and pedestrians in accordance with the relevant Australian Standards.</p>	The building and landscaping that is proposed appears to maintain sufficient sight distances	Complies
	<p><b>A27.7</b> The design and materials of front fences or walls is to be compatible with the surrounding streetscape.</p>	The design and proposed materials is compatible with the surrounding streetscape	Complies
	<p><b>A27.8</b> Solid metal fencing shall not be erected along a primary or secondary frontage.</p>	This application proposes a 1.8m tall colourbond fence which will screen Dwelling 1 POS from the street. This is located on the primary frontage. As previously mentioned, there will be sufficient landscaping to screen the fence.	Consistent
<b>5.4.3 Universal Design</b>			
<b>Performance Criteria</b>	<b>Acceptable Solutions</b>	<b>Proposed Development</b>	<b>Compliance</b>
<p><b>P28.1</b> The required proportion of new Class 1a or 2 dwellings achieve appropriate levels of accessibility or are designed to be 'easily and affordably adaptable'</p> <p><b>P28.2</b> Access is provided from the car parking space located on the premises to the principal entrance of the dwelling and access to and within the following areas:</p> <ul style="list-style-type: none"> <li>• A bedroom.</li> <li>• Laundry.</li> </ul>	<p><b>A28.1</b> All Class 1a and 2 developments, as defined in the Building Code of Australia, should provide accessible or adaptable housing at the following rate:</p> <ul style="list-style-type: none"> <li>• Developments containing 3-10 dwelling – 1 dwelling.</li> <li>• Developments containing 11 – 40 dwellings – 2 dwellings.</li> <li>• Development containing 41 – 60 dwellings – 3 dwellings.</li> <li>• Development containing 61 – 80 dwellings – 4 dwellings.</li> <li>• Developments containing 81 – 100 dwellings – 5 dwellings.</li> </ul>	1 dwelling is designed to achieve the silver standard as per the LHD as nominated in the applicant's SEE.	Complies

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<ul style="list-style-type: none"> <li>• A bathroom that includes a shower, WC and vanity.</li> <li>• Kitchen.</li> <li>• A living area.</li> <li>• An external private open space.</li> </ul>	<p><b>A28.2</b></p> <p>The required proportion of new Class 1a or 2 dwellings, should be designed so the dwelling can be easily and affordably adaptable at a later date. In this regard the Silver Standard for accessibility as outlined in the Livable Housing Design Guidelines.</p>	<p>Dwelling 2 is designed to satisfy the Silver Standard for accessibility as outlined in the Livable housing design guidelines.</p>	<p>Consistent</p>
<p><b>5.5 Environment</b></p>			
<p><b>5.5.1 Water Management and Conservation</b></p>			
Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
<p><b>P29</b></p> <p>Stormwater is appropriately accommodated in the design including:</p> <ul style="list-style-type: none"> <li>• Stormwater from roofed areas is collected, stored and/ or conveyed to appropriate discharge points or disposal areas.</li> <li>• Paved areas associated with buildings and driveways are graded and drained to minimise the discharge of surface water onto adjoining land.</li> <li>• Permeable areas are utilised to reduce stormwater runoff.</li> </ul>	<p><b>A29.1</b></p> <p>Roof water is to be collected by gutter and downpipe systems, or other equivalent means, and conveyed to an approved discharge point in accordance with the requirements of Part 3.1.2 of the Building Code of Australia. This could be:</p> <ol style="list-style-type: none"> <li>a) A gutter or table drain in a road reserve, or</li> <li>b) A stormwater easement or easement to drain water, or</li> <li>c) A disposal/absorption trench, where (a) and (b) above are not available, and soil conditions are suitable, or</li> <li>d) A water tank / on-site detention system with an overflow connected to a disposal method in (a), (b) or (c) above.</li> </ol>	<p>This application proposes below-ground rainwater tanks (1500L capacity per dwelling) which will be located within the common driveway.</p> <p>This application was referred to Council’s development engineers for review and comment. No concerns were raised regarding the proposed stormwater drainage system</p>	<p>Complies</p>
	<p><b>A29.2</b></p> <p>Surface water from paved areas including driveways is to be directed to an approved discharge point (see A29.1) that minimises impact on adjoining land.</p>	<p>There will be multiple discharged point across the land to dispose of stormwater.</p>	<p>Complies</p>

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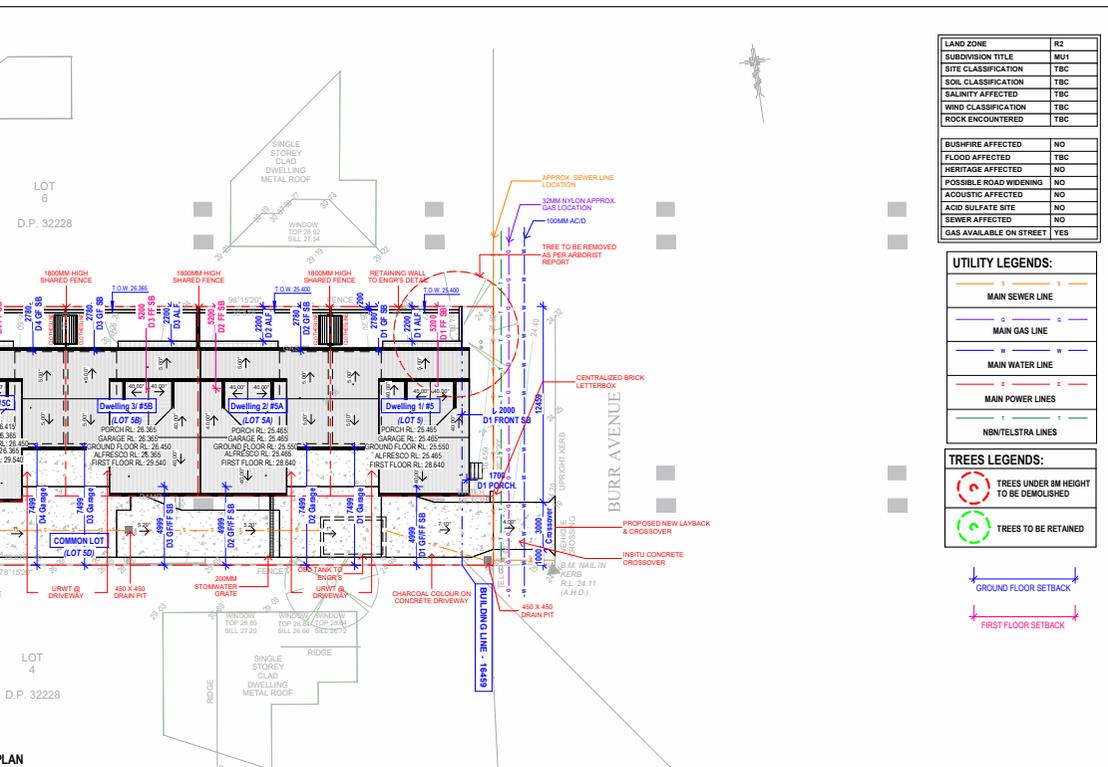
	<p><b>A29.3</b></p> <p>Where the area of buildings, pavement and other impervious areas exceeds 65% of the site area, the proposal is to include details of the methods to be used to harvest rainwater and minimise increased runoff to surrounding land and public stormwater infrastructure. The details are to include assessment of predevelopment and post development stormwater flows.</p>	<p>A stormwater plan was submitted alongside this application for review. RWT will be placed underground (1500L capacity) with all runoff proposed to be discharged to the street.</p>	<p>Consistent</p>
<b>5.5.2 Servicing</b>			
Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
<p><b>P30.1</b></p> <p>Development is adequately and safely serviced.</p> <p><b>P30.2</b></p> <p>The design and provision of public utilities, including sewerage, water, electricity, street lighting, telecommunication/ internet and gas services conform to the cost-effective performance measures of the relevant servicing authority.</p> <p><b>P30.3</b></p> <p>Compatible public utility services are co-ordinated in common trenching in order to minimise construction costs for underground services.</p> <p><b>P30.4</b></p>	<p><b>A30.1</b></p> <p>Services and utilities including electricity, gas, water, sewer, roads and drainage must be available for the initial development and ongoing development needs.</p>	<p>These services are available to the site currently</p>	<p>Complies</p>
	<p><b>A30.2</b></p> <p>Where connection to the services outlined in A30.1 is not available, the development application must provide alternatives to Council's satisfaction.</p>	<p>N/A</p>	<p>N/A</p>
	<p><b>A30.3</b></p> <p>Individual water meters will be required to assist the individual billing of each dwelling.</p>	<p>Subject to the Shoalhaven Water WDN.</p>	<p>Complies</p>

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<p>Water supply for domestic and firefighting purposes is appropriate for the location and development type.</p>			
<p><b>5.5.3 Waste Management</b></p>			
Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
<p><b>P31.1</b> Bin storage, presentation and collection arrangements:</p> <ul style="list-style-type: none"> <li>• Are appropriate for the nature of the development.</li> <li>• Consider site configuration and adequate street frontage, especially lots at the head of cul-de-sacs and battle-axe lots.</li> </ul> <p><b>P31.2</b> Bin storage is sited and designed for attractive visual appearance and for efficient and convenient use.</p>	<p><b>A31.1</b> For each dwelling in a development, the kerbside frontage required for waste collection is at least 1m per bin, 0.5m separation between bins and 1m behind each bin.</p>	<p>This application has a total frontage of 12m (minus driveway width). This is sufficient to service the 8 bins which will require a total of 12m across the frontage.</p>	<p>Complies</p>
	<p><b>A31.2</b> Bin storage area/s are required and must be identified on the site plan for all developments, regardless of whether waste is collected from the kerbside or via alternative waste servicing options.</p>	<p>Bin storage areas are sufficiently shown on plans</p>	<p>Complies</p>
	<p><b>A31.3</b> Bin storage areas must be located behind the front building line and where visible from the street, must be appropriately screened to conceal the contents from the public domain and adjacent properties.</p>	<p>Bin storage area is located behind the front building line and directly adjacent to the common driveway. The bin storage area will be screened by a 1m brick wall.</p>	<p>Complies</p>
	<p><b>A31.4</b> Where a bin storage area is also the waste collection area or where a communal waste storage and recycling area is provided, it shall be:</p> <ul style="list-style-type: none"> <li>• Provided with a water tap for wash down purposes and drained to connect to the main sewer.</li> <li>• Roofed to comply with Council’s requirements.</li> </ul>	<p>N/A</p>	<p>N/A</p>

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	<ul style="list-style-type: none"> <li>Readily accessible from within the site and serviceable from the adjoining roadway.</li> </ul>		
	<p><b>A31.5</b> Bins must be able to be easily manoeuvred from the bin storage area for presentation at the kerbside.</p>	Bin storage is located adjacent to the common driveway, which provides sufficient access to and from the bin storage areas.	Complies
<b>6. Residential Flat Buildings and Shop Top Housing – N/A</b>			
<b>7. Housing for Seniors or People with a Disability – N/A</b>			
<b>8. Boarding Houses, Group homes and Hostels – N/A</b>			



LAND ZONE	R2
SUBDIVISION TITLE	MU1
SITE CLASSIFICATION	TBC
SOIL CLASSIFICATION	TBC
SALINITY AFFECTED	TBC
WIND CLASSIFICATION	TBC
ROCK ENCOUNTERED	TBC
BUSHIERE AFFECTED	NO
FLOOD AFFECTED	TBC
HERITAGE AFFECTED	NO
POSSIBLE ROAD WIDENING	NO
ACOUSTIC AFFECTED	NO
ACID SULFATE SITE	NO
SEWER AFFECTED	NO
GAS AVAILABLE ON STREET	YES

UTILITY LEGENDS:	
	MAIN SEWER LINE
	MAIN GAS LINE
	MAIN WATER LINE
	MAIN POWER LINES
	NBN/TELSTRA LINES

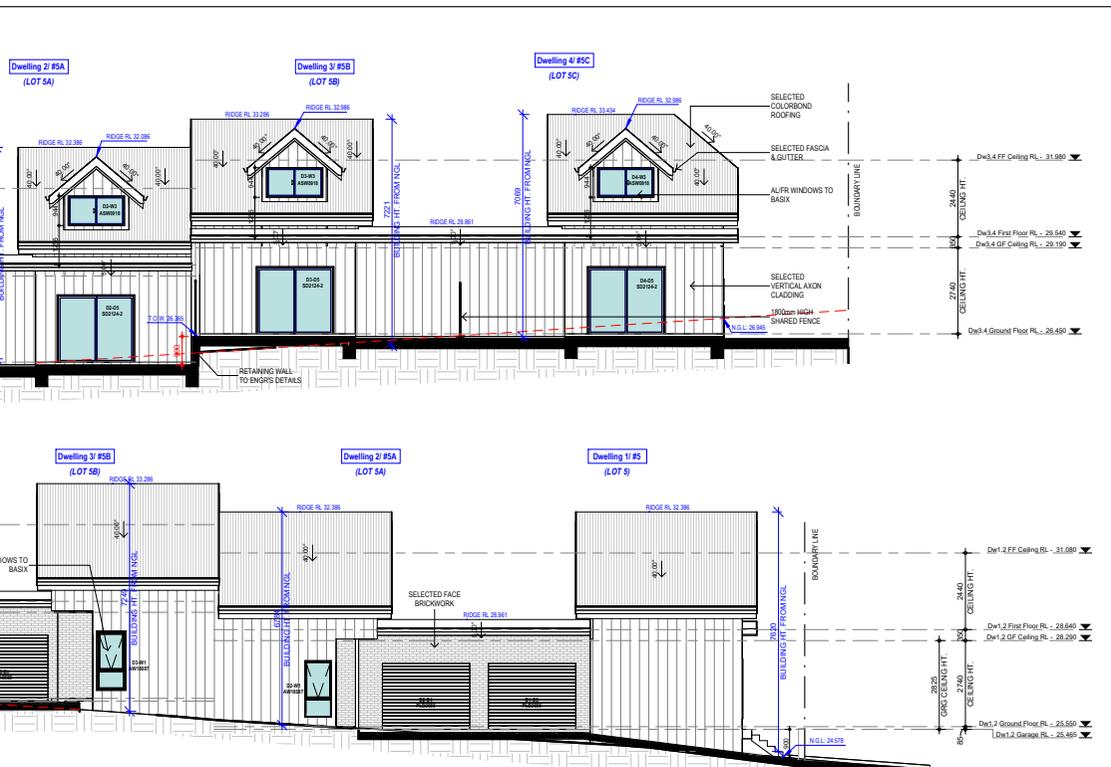
TREES LEGENDS:	
	TREES UNDER 8M HEIGHT TO BE DEMOLISHED
	TREES TO BE RETAINED











Common area facilities	
Common area parking	0.00
Common area garden	0.00
Roof structure of the common area	0.00
Common area lighting	0.00
Common area furniture	0.00
Common area signage	0.00
Common area landscaping	0.00
Common area maintenance	0.00
Common area security	0.00
Common area storage	0.00
Common area waste management	0.00
Common area water supply	0.00
Common area sewerage	0.00
Common area stormwater	0.00
Common area telecommunications	0.00
Common area other	0.00
<b>Total</b>	<b>0.00</b>

**Description of project**

The table below describes the buildings and common areas within the project

**Multi dwelling houses**

Building No.	Building Name	Building Type	Building Area (sqm)	Building Height (m)	Building Status	Building Completion Date	Building Occupancy	Building Use	Building Access	Building Security	Building Maintenance	Building Signage	Building Landscaping	Building Furniture	Building Signage	Building Landscaping	Building Furniture
1	1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.9	2.0	2.1	2.2	2.3	2.4	2.5	2.6	2.7

**Schedule of BASIX commitments**

- Commitments for single dwelling houses
- Commitments for multi dwelling houses
  - (i) Water
  - (ii) Energy
  - (iii) Thermal Comfort
- Commitments for common areas and central infrastructure for the development (non-building specific)
  - (i) Water
  - (ii) Energy

Individual pool		Individual spa	
Pool No.	Pool Name	Pool No.	Pool Name
1	1.1	2	2.1
3	3.1	4	4.1
5	5.1	6	6.1
7	7.1	8	8.1
9	9.1	10	10.1
11	11.1	12	12.1
13	13.1	14	14.1
15	15.1	16	16.1
17	17.1	18	18.1
19	19.1	20	20.1
21	21.1	22	22.1
23	23.1	24	24.1
25	25.1	26	26.1
27	27.1	28	28.1
29	29.1	30	30.1
31	31.1	32	32.1
33	33.1	34	34.1
35	35.1	36	36.1
37	37.1	38	38.1
39	39.1	40	40.1
41	41.1	42	42.1
43	43.1	44	44.1
45	45.1	46	46.1
47	47.1	48	48.1
49	49.1	50	50.1
51	51.1	52	52.1
53	53.1	54	54.1
55	55.1	56	56.1
57	57.1	58	58.1
59	59.1	60	60.1
61	61.1	62	62.1
63	63.1	64	64.1
65	65.1	66	66.1
67	67.1	68	68.1
69	69.1	70	70.1
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73	73.1	74	74.1
75	75.1	76	76.1
77	77.1	78	78.1
79	79.1	80	80.1
81	81.1	82	82.1
83	83.1	84	84.1
85	85.1	86	86.1
87	87.1	88	88.1
89	89.1	90	90.1
91	91.1	92	92.1
93	93.1	94	94.1
95	95.1	96	96.1
97	97.1	98	98.1
99	99.1	100	100.1

**Water**

Water supply to each room or area of the dwelling which is referred to as a 'watering' in the 'Water supply' column of the table below may only be by means specified for that room or area. The applicant must show that each watering is able to be supplied by means specified for that room or area.

**Other water**

Room or area	Water supply								
1	1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.9

**Cooking**

Dwelling	Living space																	
1	1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.9	2.0	2.1	2.2	2.3	2.4	2.5	2.6	2.7	2.8



FINISHES SCHEDULE				
ITEM	PRODUCT NAME	MANUFACTURER	SAMPLE	NOTES
External Wall Finishes	Front Ground / Beam Bricks wall or Equivalent	PGH Bricks		
	Ground Floor: Vertical Avon Cladding	James Hardie		
Garage Door	Monument or equivalent	TBC		Powder coated aluminium
Window Frame	Monument or equivalent	ALUTECH or similar		Powder coated aluminium
Downpipes		COLORBOND® Steel		

DWELLING 1 DOOR SCHEDULE					
Item	Type	Description	Height	Width	Quantity
1	MD02180		2100	820	
2	F01 x 2040		2040	720	
3	PL02025	PANEL LIFT DOOR	2115	2860	
4	R01 x 2040		2040	820	
5	R02124.2		2100	2410	
6	R01 x 2040		2040	820	
7	F01 x 2040		2040	720	

DWELLING 3 DOOR SCHEDULE					
Mark	Type	Description	Height	Width	Quantity
D3-D1	R20 x 2040	PMAD 101 (CLEAR)	2040	920	
D3-D2	F20 x 2040		2040	720	
D3-D3	R20 x 2040		2040	820	
D3-D4	PL02025	PANEL LIFT DOOR	2115	2960	
D3-D5	R02124.2		2100	2410	
D3-D6	R20 x 2040		2040	820	
D3-D7	F20 x 2040		2040	720	

DWELLING 1 JOINERY DOOR SCHEDULE					
Item	Type	Description	Height	Width	Quantity
1	02040X520	Flush panel	2040	520	
2	02040X1820		2000	1800	
3	02040X1820		2000	1800	

DWELLING 3 JOINERY DOOR SCHEDULE					
Mark	Type	Description	Height	Width	Quantity
D3-J1	02040X520	Flush panel	2040	520	
D3-J2	02040X1820		2000	1800	

DWELLING 2 DOOR SCHEDULE					
Item	Type	Description	Height	Width	Quantity
1	R00 x 2040	PMAD 101 (CLEAR)	2040	920	
2	F01 x 2040		2040	720	
3	R01 x 2040		2040	820	
4	PL02025	PANEL LIFT DOOR	2115	2860	
5	R02124.2		2100	2410	
6	R01 x 2040		2040	820	
7	F01 x 2040		2040	720	

DWELLING 4 DOOR SCHEDULE					
Mark	Type	Description	Height	Width	Quantity
D4-D1	R20 x 2040	PMAD 101 (CLEAR)	2040	920	
D4-D2	F20 x 2040		2040	870	
D4-D3	R20 x 2040		2040	820	
D4-D4	PL02025	PANEL LIFT DOOR	2115	2960	
D4-D5	R02124.2		2100	2410	
D4-D6	R20 x 2040		2040	820	
D4-D7	F20 x 2040		2040	720	

DWELLING 2 JOINERY DOOR SCHEDULE					
Item	Type	Description	Height	Width	Quantity
1	02040X520	Flush panel	2040	520	

DWELLING 4 JOINERY DOOR SCHEDULE					
Mark	Type	Description	Height	Width	Quantity
D4-J1	02040X520	Flush panel	2040	520	

## BUSHFIRE ASSESSMENT REPORT CERTIFICATE

THIS CERTIFICATE HAS BEEN COMPLETED BY A RECOGNISED CONSULTANT IN BUSHFIRE RISK ASSESSMENT IN ACCORDANCE WITH SECTION 4.14 1(b) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 NO 203

<b>PROPERTY ADDRESS:</b>	Proposed Lot 105 Created Under Development Consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP1096630) Norfolk Avenue, South Nowra
<b>DESCRIPTION OF PROPOSAL:</b>	PROPOSED INDUSTRIAL DEVELOPMENT
<b>PLAN REFERENCE: (relied upon in report preparation)</b>	SITE PLAN PREPARED BY BN ARCHITECTURE
<b>BAL RATING:</b>	<b>NO REQUIREMENTS</b>
<b>DOES THE PROPOSAL RELY ON ALTERNATE SOLUTIONS:</b>	<b>YES- NO</b>

I [REDACTED] of SET Consultants Pty Ltd have carried out a bushfire risk assessment on the above mentioned proposal and property. A detailed Bushfire Assessment Report is attached which includes the submission requirements set out in *Appendix 2 of Planning for Bushfire Protection 2019* together with recommendations as to how the relevant specifications and requirements are to be achieved.

<b>REPORT REFERENCE:</b>	BRA – S022243
<b>REPORT DATE:</b>	18 March 2022
<b>CERTIFICATION NO/ACCREDITED SCHEME:</b>	BPAD 238297 (LEVEL 3)

I [REDACTED] hereby certify, in accordance with *Section 4.14 of the Environmental Planning and Assessment Act 1979 No 203*:

1. That I am a person recognised by the *NSW Rural Fire Service* as a qualified consultant in bushfire risk assessment; and
2. That subject to the recommendations contained in the attached Bushfire Risk Assessment Report the proposed development conforms to the relevant specifications and requirements.

I am aware that the Bushfire Assessment Report, prepared for the abovementioned site is to be submitted in support of a development application for this site and will be relied upon by Shoalhaven City Council as the basis for ensuring that the bushfire risk management aspects of the proposed development have been addressed in accordance with *Planning for Bushfire Protection 2019*.

SIGNATURE: [REDACTED]

DATE: 18 March 2022





## BUSHFIRE ASSESSMENT REPORT

### Proposed Industrial Development

Proposed Lot 105 Created Under  
Development Consent SF9294 (Parent  
Lot 137 DP1124258 & Lot 100  
DP1096630)  
Norfolk Avenue  
South Nowra, NSW 2541

18 March 2022  
Reference: S022243



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CL25.188 - Attachment 1

## SET Consultants Pty Ltd

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Kiama 2533  
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The assessment has been prepared in accordance with Planning for Bushfire Protection - A Guide for Councils, Planners, Fire Authorities and Developers, 2019, NSW Rural Fire Service (RFS) and Planning NSW.

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**Attachments**

Attachment 1      Site Plans

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**Bushfire Assessment Report – Proposed Industrial Development**

Site – Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue, South Nowra

## 1 INTRODUCTION

This Bushfire Assessment Report has been prepared for *Real Aussie Sheds*, on behalf of their client, to accompany a development application for the proposed industrial development over proposed Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue, South Nowra. Shoalhaven City Council's Bushfire Prone Land Map indicates the subject site as bushfire prone (Figure 1). For the purposes of this assessment, the subject development is considered "Industrial/Commercial" in accordance with Shoalhaven City Council's LEP. Under the building classification system within the NCC, the buildings associated with the development would be classified as a Class 5 - office and Class 8 warehouse. The NCC does not provide for any bush fire specific performance requirements for these particular classes of buildings. As such AS3959 and the NASH Standard are not considered as a set of Deemed to Satisfy provisions, however compliance with AS3959 and the NASH Standard must be considered when meeting the aims and objectives of PBP. A development application for commercial development in a bushfire prone area is required to be assessed by the relevant consent authority under Section 4.14 of the Environmental Planning and Assessment Act 1979.



Figure 1: Shoalhaven City Council's Bushfire Prone Land Map. The approximate site boundary is outlined in blue.

The assessment of the site is based on the results of a field survey conducted by Mr. David Cannon on 24 February 2022. The following pieces of current legislation and guidelines were referred to when preparing this report:

- Planning for Bushfire Protection, A Guide for Council, Planner, Fire Authorities and Developers' (NSW Rural Fire Service (RFS) in cooperation with the Department of Planning (2019);
- Rural Fires Act 1997;
- Australian Standard 3959-2018 Construction of Buildings in Bushfire Prone Areas; and
- Rural Fires Regulation 2013.

**NOTE:** that the 'Planning for Bushfire Protection, A Guide for Council, Planners, Fire Authorities, and Developers (NSW Rural Fire Service (RFS) in cooperation with the Department of Planning (NSW) (2019) mentioned above, will herein be referred to as the 'PBP 2019'.

**Bushfire Assessment Report – Proposed Industrial Development**

Site – Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue, South Nowra

### **1.1 OBJECTIVES**

All development on Bushfire Prone Land must satisfy the aim and objectives of PBP 2019. PBP 2019 states:

*"The aim of PBP is to provide for the protection of human life and minimise impacts on property from the threat of bush fire, while having due regard to development potential, site characteristics and protection of the environment.*

More specifically, the objectives are to:

- a) *afford buildings and their occupants protection from exposure to a bush fire;*
- b) *provide for a defensible space to be located around buildings;*
- c) *provide appropriate separation between a hazard and buildings which, in combination with other measures, prevent the likely fire spread to buildings;*
- d) *ensure that appropriate operational access and egress for emergency service personnel and occupants is available;*
- e) *provide for ongoing management and maintenance of BPMs; and*
- f) *ensure that utility services are adequate to meet the needs of firefighters.*

Whilst bush fire is not captured in the NCC for Class 5-8 buildings, the following objectives will be applied in relation to access, water supply and services, and emergency and evacuation planning:

- to provide safe access to/from the public road system for firefighters providing property protection during a bush fire and for occupant egress for evacuation;
- to provide suitable emergency and evacuation (and relocation) arrangements for occupants of the development;
- to provide adequate services of water for the protection of buildings during and after the passage of bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building; and
- provide for the storage of hazardous materials away from the hazard wherever possible.

The general fire safety construction provisions of the NCC are taken as acceptable solutions however construction requirements for bush fire protection will need to be considered on a case-by-case basis.

This assessment includes an analysis of the potential hazard persisting and affecting the subject site and the standards and bushfire mitigation measures that should be introduced to address the objectives of the PBP 2019 and AS3959-2018. The mitigation measures have been derived from the provisions (performance criteria and acceptable solutions) as outlined within the PBP 2019 and AS3959-2018.

**Bushfire Assessment Report – Proposed Industrial Development**

Site – Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue, South Nowra

**1.2 PROPOSAL**

This proposal is for the construction of an industrial (warehouse) building on proposed Lot 105 on Norfolk Avenue which is currently pending approval of a Section 4.55 modification application and registration of this lot created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), South Nowra.

Figure 2 shows an extract of the Site Plan prepared by *BN Architecture Urban Design Masterplanning Graphics Interior* which has been submitted as part of this application. Figure 3 shows a 3D Visualisation of the proposal prepared by *BN Architecture Urban Design Masterplanning Graphics Interior*. Figure 4 shows the eastern and western elevations and Figure 5 shows the northern and southern elevations. A full set of plans have been submitted with this application.

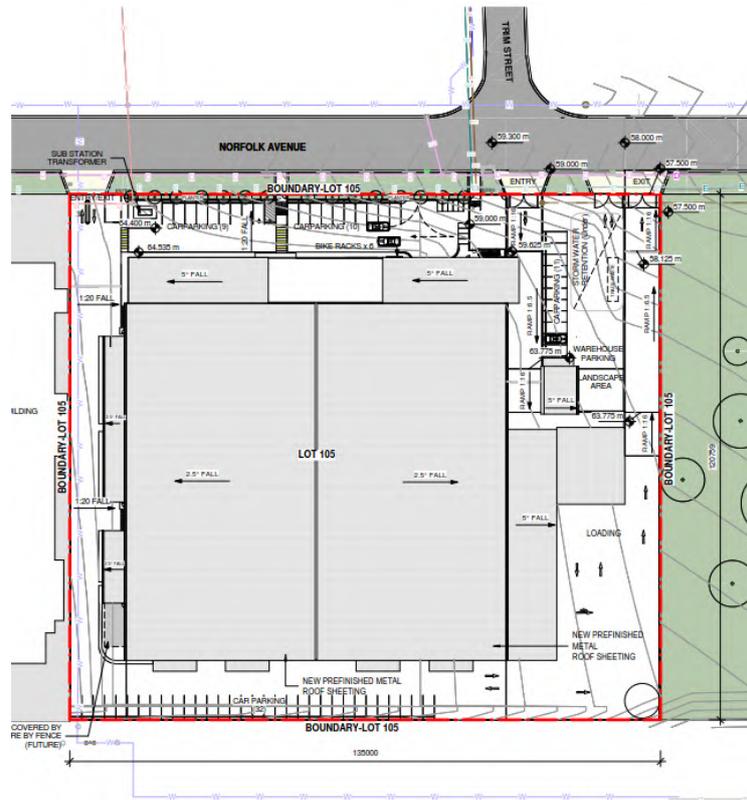


Figure 2: Extract of the Site Plan prepared by *BN Architecture Urban Design Masterplanning Graphics Interior*.

CL25.188 - Attachment 1

**Bushfire Assessment Report – Proposed Industrial Development**

Site – Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue, South Nowra

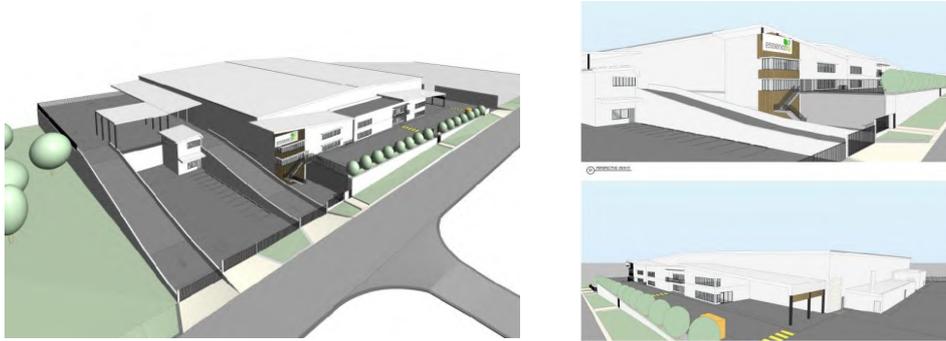


Figure 3: 3D Visualisation of the proposal prepared by BN Architecture Urban Design Masterplanning Graphics Interior.

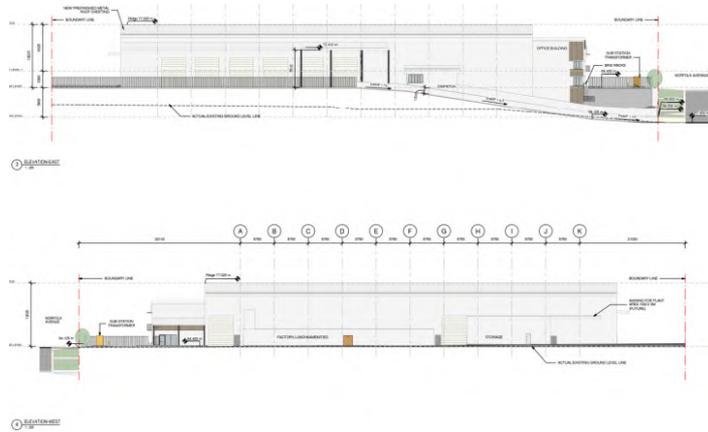


Figure 4: Eastern and Western Elevation Plan prepared by BN Architecture Urban Design Masterplanning Graphics Interior.

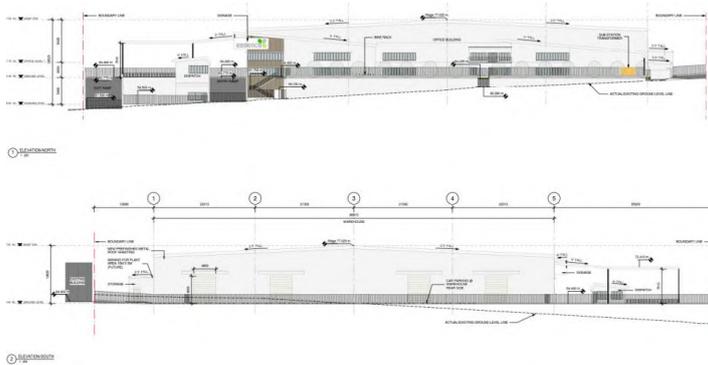


Figure 5: Northern and Southern Elevation Plan prepared by BN Architecture Urban Design Masterplanning Graphics Interior.

**Bushfire Assessment Report – Proposed Industrial Development**

Site – Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue, South Nowra

## 2 PROPERTY DETAILS

### 2.1 DESCRIPTION OF PROPERTY

The subject site is legally described as proposed Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue, South Nowra. The site has an area of 16,320m<sup>2</sup>, and currently vacant from development. The site is a rectangular shaped lot, with a frontage of approximately 135m to Norfolk Ave to the north, and has a lot depth of approximately 120.76m. Figure 6 shows location map of the subject site and immediate surroundings. Topographically the site has a gentle downslope to the northeast. Figure 7 shows an aerial image of the site.

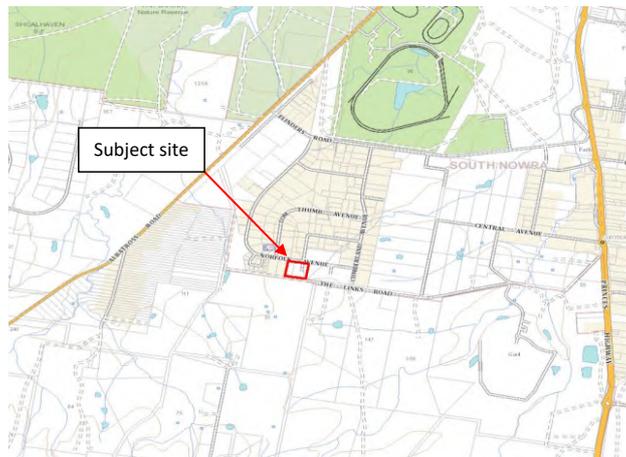


Figure 6: Location of subject site, outlined in red.



Figure 7: Aerial photo showing the approximate site boundaries outlined in blue.

**Bushfire Assessment Report – Proposed Industrial Development**

Site – Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue, South Nowra

Figure 8 shows a photo of the subject site as viewed from Norfolk Avenue.



Figure 8: Photo of the subject site taken from Norfolk Ave looking south

## 2.2 CLASS OF VEGETATION

The vegetation types have been classified using the formations and sub-formations provided in Figure A1.2 of the bushfire guideline. Vegetation descriptions are as per Keith D, 2004 in Keith (2004) "Ocean Shores to Desert Dunes" published by DECC (except heathlands which is provided two sub-formations rather than one based largely on vegetation height) the main categories are as follows:

- Forests (wet sclerophyll forests and dry sclerophyll forests);
- Woodlands;
- Forested wetlands;
- Tall heaths;
- Freshwater wetlands;
- Short heaths;
- Alpine complex;
- Semi-arid woodlands;
- Arid shrublands;
- Rainforests; and
- Grasslands.

Fuel loads are based on recent information provided by:

- The University of Wollongong's (UoW) Fuels Modelling Project;
- The University of Melbourne (UoM) which reference the fuel classifications found in Keith (2004); and
- CSIRO Ecosystems Sciences and Bushfire Dynamics and Applications.

**Bushfire Assessment Report – Proposed Industrial Development**

Site – Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue, South Nowra

Where a mix of vegetation types exist, the type providing the greatest bushfire hazard has been used. Vegetation that is to be cleared as part of the development has not been included in this assessment. It should also be noted that remnant vegetation (a parcel of vegetation < 1 ha or fire run of < 50m) and Riparian vegetation are considered a low hazard and APZ setbacks and building construction standards for these will be the same as required for rainforest vegetation.

The following are not required to be considered a bushfire threat for the purposes of PBP, as detailed below:

- Single areas of vegetation less than 1 hectare in area and greater than 100 metres separation from other areas of Category 1 or 2 vegetation.
- Multiple areas of vegetation less than 0.25 hectares in area and not within 20m of the site, or each other or of other areas of vegetation being classified vegetation.
- Strips of vegetation less than 20 metres in width (measured perpendicular to the elevation exposed to the strip of vegetation) regardless of length and not within 20m of the site or 2 each other, or other areas of vegetation being Category 1, 2 or 3 vegetation.
- Vegetation regarded as low threat due to factors such as flammability, moisture content or fuel load, including grassland managed in a minimal fuel condition, mangroves and other saline wetlands, maintained lawns, golf courses such as playing areas and fairways, maintained public reserves and parklands, sporting fields, vineyards, orchards, banana plantations, market gardens and other non-curing crops, cultivated gardens, arboretums, commercial nurseries, nature strips and windbreaks.

*Note: 1. Minimal fuel condition means there is insufficient fuel available to significantly increase the severity of the bush fire attack (recognizable as short cropped grass for example, to a nominal height of 100 mm). 2. A windbreak is considered a single row of planted trees located on a boundary and used as a screen or to reduce the effect of wind on the leeward side of the trees.*

- Existing areas of managed gardens and lawns within curtilage of buildings. Non-vegetated areas, including waterways, roads, footpaths, buildings, and rocky outcrops.

Vegetation proposing the dominant threat to the development has been classified as Grassland and is located to the south of the site. It is noted the prevailing grassland threat is proposed to be removed as part of an approved industrial subdivision located over Lot 5 DP 1259527, Council Ref SF 10765. The subdivision will form the road reserve running along the rear boundary of the site (The Links Road).

**Bushfire Assessment Report – Proposed Industrial Development**

Site – Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue, South Nowra

**2.3 ASSESSMENT OF SLOPE**

The slope in all directions over a distance of 100m from the existing property boundary or building footprint has been assessed in terms of the following classes:

- (i) all upslope vegetation (considered 0°)
- (ii) >0 to 5° downslope vegetation
- (iii) >5 to 10° downslope vegetation
- (iv) >10 to 15° downslope vegetation
- (v) >15 to 18° downslope vegetation.

During the assessment of the slope, if it was found that there were a number of different slope classes present over the 100m in any one direction, the slope of the area, which will most significantly influence the fire behavior, has been adopted.

The effective bushfire slopes most influencing bushfire behaviour to the south is Upslope.

**2.4 SIGNIFICANT ENVIRONMENTAL FEATURES**

The proposed development site contains no known significant environmental features.

**2.5 THREATENED SPECIES**

There are no known threatened species on the subject land at the time of writing this report.

**2.6 ABORIGINAL RELICS**

There are no known aboriginal relics located on the subject land at the time of writing this report.

**2.7 ZONING**

The site is subject to the provisions of Shoalhaven City Council LEP 2014, under which it is zoned **IN1 General Industrial**. Figure 9 shows the zoning map of the subject site and surrounding lands.

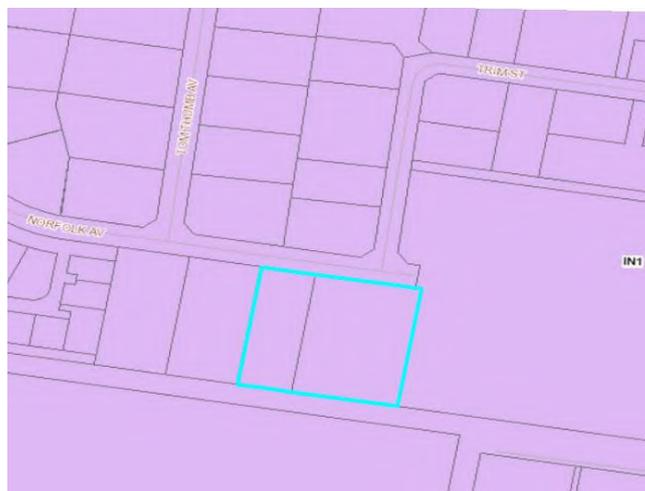


Figure 9: Zoning map of approximate site boundaries outlined in blue.

**Bushfire Assessment Report – Proposed Industrial Development**

Site – Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue, South Nowra

**The objectives of the IN1 zone are:**

- *To provide a wide range of industrial and warehouse land uses.*
- *To encourage employment opportunities.*
- *To minimise any adverse effect of industry on other land uses.*
- *To support and protect industrial land for industrial uses.*
- *To allow a diversity of activities that do not significantly conflict with the operation of existing or proposed development.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*

**Response**

The proposed complies with zone.

**3 PROPERTIES ADEQUACY FOR BUSHFIRE PROTECTION**

**3.1 ASSESSMENT METHODOLOGY**

A site inspection was conducted to determine the direction and scale of any potential bush fire event based on an analysis of slope, aspect, vegetation type and density, current fuel loading and evidence of past fire history.

The proposal is for an industrial building within an established industrial estate. Development of Class 5 to 8 buildings are required to comply with Section 8.3.1 of Planning for Bushfire Protection 2019.

The information contained in the appendices of the PBP 2019 has been used to categorise vegetation type and slope class in the locality, as discussed in Sections 2.2 and 2.3 of this report. Section A1.6 of the PBP 2019 was used to determine the appropriate fire area and corresponding FDI rating. Following on from this, Table A1.12.5 of PBP 2019 was used to determine APZs for each respective vegetation class and the bushfire exposure level (construction requirements) for the proposed development.

**3.2 SPECIFICATIONS FOR ASSET PROTECTION ZONE**

The aim of APZs is to ensure that there is a progressive reduction in flammable material towards any building. In relation to APZs for infill development the performance criteria are to provide a defensible space onsite and to provide and maintain asset protection zones for the life of the development as to prevent the spread of a fire towards the building. The intent of the measures is to provide sufficient space and maintain reduced fuel loads, so as to ensure radiant heat levels at buildings are below critical limits and to prevent direct flame contact with the building. The performance criteria and acceptable solutions for asset protection zones for infill development in accordance with PBP 2019 are provided in Table 1.

**Bushfire Assessment Report – Proposed Industrial Development**

Site – Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue, South Nowra

**Table 1:** Provides the performance criteria and acceptable solutions for APZ for residential development in accordance with PBP 2019.

Performance Criteria	Acceptable Solutions	Compliance
The intent may be achieved where:		
APZs are provided commensurate with the construction of the building.  A defensible space is provided.	<ul style="list-style-type: none"> <li>An APZ is provided in accordance with Table A1.12.5 of Appendix 1 of PBP 2019.</li> </ul>	APZ's are contained within the subject site and managed land.
APZs are managed and maintained to prevent the spread of a fire towards the building.	APZs are managed in accordance with the requirements of Appendix 4 of PBP.	The APZs on the subject site should have no problem being maintained in accordance with the requirements of Standards for Asset Protection Zones (RFS, 2005).
The APZ is provided in perpetuity.  APZ maintenance is practical, soil stability is not compromised and the potential for crown fires is minimized.	<p>The APZ is located on lands with a slope less than 18 degrees.</p> <p>The APZ is located on lands with a slope less than 18 degrees.</p>	The subject site does not contain slopes greater than 18 degrees.

Table 2 provides a breakdown of the vegetation type, slope class and the required APZ for the proposed development. The APZs have been calculated for the Illawarra/Shoalhaven region using a FFDI of 100. The distance for the asset protection zone/separation distance has been measured in accordance with Table A1.12.5 PBP 2019 (Determination of BAL, FFDI 100 – Residential Development) which is between each of the vegetation stands identified (from the edge of the foliage cover) and the building. The separation distances have been measured onsite using a Nikon Forestry Pro Range Finder and Clinometer.

**Table 2:** Breakdown of the vegetation type, slope class and the required APZ in accordance with Appendix 1 with Table A1.12.5.

Direction	Dominant Vegetation Type	Effective Bushfire Slope	APZ Provided (m)	BAL	Comments
<b>Proposed Industrial Development</b>					
<b>South</b>	Grassland	Upslope	>10m	-	APZs already established.
<b>All Other Directions</b>	Managed Land	-	>100m	<b>BAL Low</b>	Managed land at various stages of development.

**Bushfire Assessment Report – Proposed Industrial Development**  
Site – Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue,  
South Nowra

### 3.3 ASSESSING THE BUSHFIRE RISK

The main factors directly affecting the behavior of fire are:

- Wind (strength and direction);
- Fuel Moisture and content (how dry it is, relative humidity);
- Type quantity and arrangement of fuel (vegetation density); and
- Slope (fire spreads quicker upslope due to preheating).

The prevailing weather conditions associated with the bushfire season in the Shoalhaven (South Nowra) region are strong north-westerly winds, low relative humidity, and high temperatures. With the combination of the current vegetation (after the land is developed) and slope, the overall bushfire risk associated with the proposed development is **High**, with the foremost bushfire risk coming from grassland vegetation south of the subject site.

The following combination of mitigation measures are recommended to provide an appropriate level of safety for occupants of the development and a level consistent with that required by PBP 2019:

- The subject site shall be maintained, as an Inner Protection Area – IPA (Figure 10) for the life of the development and comply with section 3.2 and Appendix 5 of Planning for Bush Fire Protection 2019 and the NSW Rural Fire Service's document 'Standards for asset protection zones', as outlined below:

#### Trees

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;
- tree canopies should be separated by 2 to 5m; and
- preference should be given to smooth barked and evergreen trees.

#### Shrubs

- create large discontinuities or gaps in the vegetation to slow down or break the progress of fire towards buildings should be provided;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover; and
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.

#### Grass

- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

**Bushfire Assessment Report – Proposed Industrial Development**  
Site – Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue, South Nowra

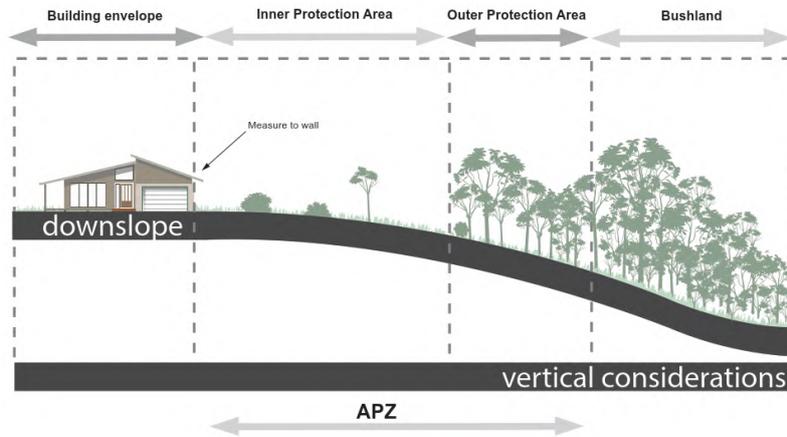


Figure 10: Diagrammatic representation of an Asset Protection Zone.

### 3.4 CONSTRUCTION STANDARDS

The construction standards and associated performance criteria for infill development require that the proposed building can withstand bushfire attack in the form of wind, smoke, embers, radiant heat and flame contact. Section 3.3 of PBP 2019 requires that the construction standards be determined in accordance with AS3959 or NASH Standards.

AS3959-2018 states that the construction requirements for the next lower BAL than that determined for the site may be applied to an elevation of the building where the elevation is not exposed to the source of bushfire attack. An elevation is deemed to be not exposed to the source of bushfire attack if all of the straight lines between that elevation and the source of bushfire attack are obstructed by another part of the building. The construction requirements for a shielded elevation shall be not less than that required for BAL—12.5, except where the exposed elevations have been determined as BAL—LOW.

#### Recommendations

A3959-2018 – *Construction of Buildings in Bushfire Prone Areas* does not apply to this class of building (Class 10a) and thus **the building has no specific bushfire construction requirements**. The subject site shall continue to be maintained, as an IPA for the life of the development.

### 3.5 SITING AND ADEQUACY OF WATER ELECTRICITY AND GAS SUPPLIES

The performance criteria and acceptable solutions for water, electricity, and gas for residential infill development are provided in PBP 2019. The intent of the measures are to provide adequate water services for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

**Bushfire Assessment Report – Proposed Industrial Development**

Site – Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue, South Nowra

**Table 3:** Provides the performance criteria and acceptable solutions for water, electricity, and gas for residential infill development in accordance with PBP 2019.

Performance Criteria	Acceptable Solutions	Compliance
<p><u>Reticulated water supply areas</u></p> <ul style="list-style-type: none"> <li>An adequate water supply is provided for firefighting purposes.</li> <li>Water supplies are located at regular intervals.</li> <li>The water supply is accessible and reliable for firefighting operations.</li> <li>Flows and pressure are appropriate.</li> </ul> <p>The integrity of the water supply is maintained.</p>	<ul style="list-style-type: none"> <li>Reticulated water is to be provided to the development where available.</li> <li>A static water supply is provided where no reticulated water is available.</li> <li>Fire hydrant spacing, design and sizing comply with the relevant clauses of AS 2419.1:2005.</li> <li>Hydrants are not located within any road carriageway.</li> <li>Reticulated water supply to urban subdivisions uses a ring main system for areas with perimeter roads.</li> <li>Fire hydrant flows and pressures comply with the relevant clauses of AS 2419.1:2005.</li> </ul> <p>All above ground water service pipes external to the building are metal, including and up to any taps.</p>	<p>The subject development site is connected to the local reticulated town water supply. The size and pressure of the town water supply main servicing the subject development site has not been determined as part of this report.</p> <p>Regular hydrants are located within the road reserve of Norfolk Avenue. Hydrants satisfy the requirements set out in AS 2419.1 – 2005.</p> <p>The subject site has a maximum depth of over 120m and therefore will require the installation of internal hydrants that satisfy the requirements set out in AS 2419.1 – 2005.</p>
<p><u>Electricity Services</u></p> <ul style="list-style-type: none"> <li>Location of electricity services limits the possibility of ignition of surrounding bushland or the fabric of buildings.</li> </ul>	<ul style="list-style-type: none"> <li>where practicable, electrical transmission lines are underground.</li> <li>where overhead electrical transmission lines are proposed: <ul style="list-style-type: none"> <li>lines are installed with short pole spacing (30 metres), unless crossing gullies, gorges or riparian areas; and</li> <li>no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.</li> </ul> </li> </ul>	<p>The area is serviced by existing electrical transmission lines. The augmentation of that service should have no problem satisfying the acceptable solution for electricity.</p>
<p><u>Gas services</u></p> <p>Location of gas services will not lead to ignition of surrounding bushland or the fabric of buildings</p>	<ul style="list-style-type: none"> <li>reticulated or bottled gas is installed and maintained in accordance with AS 1596:2014 and the requirements of relevant authorities. Metal piping is to be used.</li> <li>all fixed gas cylinders are kept clear of all flammable materials to a distance of 10 metres and shielded on the hazard side.</li> <li>Connections to and from gas cylinders are metal.</li> <li>polymer-sheathed flexible gas supply lines are not used.</li> <li>above-ground gas service pipes are metal, including and up to any outlets.</li> </ul>	<p>Any future gas bottles shall be installed and maintained in accordance with AS 1596. Gas cylinders are to be positioned in accordance with the acceptable solution outlined in this table.</p> <p>From the site inspection there is no reason why the installation of gas cylinders for future buildings associated with the proposal cannot comply with the acceptable solutions outlined in this table.</p>

**Bushfire Assessment Report – Proposed Industrial Development**  
Site – Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue, South Nowra

### 3.6 ADEQUACY OF ACCESS AND EGRESS FROM SITE FOR EMERGENCY REPONSES

In relation to access requirements for infill development the performance criteria are for safe, operational access to be provided (and maintained) for emergency services personnel in suppressing a bushfire while residents are seeking to relocate, in advance of a bushfire. The acceptable solution for access is to satisfy the intent and performance criteria for access roads in section 7.4 of PBP 2019.

In relation to this development the performance criteria and acceptable solutions for Property Access Roads in section 7.4 of PBP 2019 are the relevant requirements. An assessment of the proposed development against these requirements is provided in Table 4.

**Table 4:** Provides the performance criteria and acceptable solutions for Property Access Roads for Infill Development in accordance with section 7.4 of PBP 2019.

Performance Criteria	Acceptable Solutions	Compliance
Firefighting vehicles are provided with safe, all-weather access to structures	<ul style="list-style-type: none"> <li>Property access roads are two-wheel drive, all weather roads;</li> </ul>	Property access road is a two-wheel drive all weather road.
<ul style="list-style-type: none"> <li>The capacity of access roads is adequate for firefighting vehicles</li> </ul>	The capacity of perimeter and non-perimeter road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes); bridges/causeways are to clearly indicate load rating.	The proposed property access does not transverse any areas subject to periodic inundation.
There is appropriate access to water supply	<ul style="list-style-type: none"> <li>Hydrants are provided in accordance with the relevant clauses of AS 2419.1:2005 - Fire hydrant installations System design, installation and commissioning; and</li> <li>There is suitable access for a Category 1 fire appliance to within 4m of the static water supply where no reticulated supply is available.</li> </ul>	Hydrants shall be provided in accordance with the relevant clauses of AS 2419.1:2005 - Fire hydrant installations System design, installation and commissioning.
Firefighting vehicles can access the development and exit the property safely.	<ul style="list-style-type: none"> <li>At least one alternative property access road is provided for individual buildings or groups of buildings that are located more than 200 metres from a public through road;</li> <li>There are no specific access requirements in an urban area where an unobstructed path (no greater than 70m) is provided between the most distant external part of the proposed building and the nearest part of the public access road (where the road speed limit is not greater than 70kph) that supports the operational use of emergency firefighting vehicles.</li> <li>In circumstances where this cannot occur, the following requirements apply:</li> </ul>	Access shall be upgraded where required to comply with the following: <ul style="list-style-type: none"> <li>- Minimum 4m carriageway width;</li> <li>- In forest, woodland and heath situations, rural property roads have passing bays every 200m that are 20m long by 2m wide, making a minimum trafficable width of 6m, at the passing bay;</li> <li>- A minimum vertical clearance of 4m to any overhanging obstructions, including tree branches;</li> <li>- Property access must provide a suitable turning area in accordance with Appendix 3;</li> <li>- Curves have a minimum inner</li> </ul>

CL25.188 - Attachment 1

**Bushfire Assessment Report – Proposed Industrial Development**

Site – Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue, South Nowra

Performance Criteria	Acceptable Solutions	Compliance
	<ul style="list-style-type: none"> <li>- Minimum 4m carriageway width;</li> <li>- In forest, woodland and heath situations, rural property roads have passing bays every 200m that are 20m long by 2m wide, making a minimum trafficable width of 6m, at the passing bay;</li> <li>- A minimum vertical clearance of 4m to any overhanging obstructions, including tree branches;</li> <li>- Property access must provide a suitable turning area in accordance with Appendix 3;</li> <li>- Curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress;</li> <li>- The minimum distance between inner and outer curves is 6m;</li> <li>- The crossfall is not more than 10 degrees;</li> <li>- Maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads; and a development comprising more than three dwellings has formalised access by dedication of a road and not by right of way.</li> <li>• <i>Note: Some short constrictions in the access may be accepted where they are not less than 3.5m wide, extend for no more than 30m and where the obstruction cannot be reasonably avoided or removed. The gradients applicable to public roads also apply to community style development property access roads in addition to the above.</i></li> </ul>	<ul style="list-style-type: none"> <li>radius of 6m and are minimal in number to allow for rapid access and egress;</li> <li>- The minimum distance between inner and outer curves is 6m;</li> <li>- The crossfall is not more than 10 degrees;</li> <li>- Maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.</li> </ul> <p>Given the nature of the proposed development, access roads have been design to a greater standard than that required by Planning for Bushfire Protection 2019.</p>

**3.7 ADEQUACY OF BUSHFIRE MAINTENANCE PLANS FOR EMERGENCY**

Shoalhaven Rural Fire District (92 Albatross Rd, PO Box 372 Nowra) currently administers bushfire maintenance plans and fire emergency procedures in this particular area.

Legislation requires occupants of land to immediately extinguish fires or notify fire-fighting authorities, on becoming aware of fire during a fire danger period. The most appropriate course of action is to telephone “000” and report the fire.

**Bushfire Assessment Report – Proposed Industrial Development**  
Site – Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue,  
South Nowra

### 3.8 LANDSCAPING

The performance criteria is for landscaping to be designed and managed to minimise flame contact and radiant heat to buildings, and the potential for wind driven embers to cause ignitions. The general principles of landscaping for bushfire protection aim to:

- Prevent flame impingement on the building;
- Provide a defendable space for property protection;
- Reduce fire spread;
- Deflect and filter embers;
- Provide shelter from radiant heat; and
- Reduce wind speed".

It is recommended that any future landscaping be designed and maintained in accordance with the following practices:

- maintaining a clear area of low cut lawn or pavement adjacent to the house;
- keeping areas under fences, fence posts and gates and trees raked and cleared of fuel;
- utilising non-combustible fencing and retaining walls;
- breaking up the canopy of trees and shrubs with defined garden beds;
- organic mulch should not be used in bushfire prone areas and non-flammable material should be used as ground cover, e.g. Scoria, pebbles, recycled crushed bricks.
- planting trees and shrubs such that:
  - the branches will not overhang the roof; and
  - the tree canopy is not continuous.

## 4. CONCLUSION AND RECOMMENDATIONS

This Bushfire Assessment Report has been prepared for *Real Aussie Sheds*, on behalf of their client, to accompany a development application for the proposed industrial development over proposed Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue, South Nowra.

The site has an area of 16,320m<sup>2</sup>, and currently vacant from development. The site is rectangular shaped lot, with a frontage of approximately 135m to Norfolk Ave to the north, and a lot depth of approximately 120.76m. Topographically the site has a gentle downslope to the northeast.

With the combination of the current vegetation (after the land is developed) and slope, the overall bushfire risk associated with the proposed development based on radiant heat exposure is High, with the foremost bushfire risk coming from grassland vegetation south of the subject site.

**Bushfire Assessment Report – Proposed Industrial Development**

Site – Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue,  
South Nowra

The following combination of mitigation measures are recommended to provide an appropriate level of safety for occupants of the building and a level consistent with that required by PBP 2019:

**Asset Protection Zones**

1. At the start of construction, and in perpetuity, the entire site shall be maintained, as an IPA for the life of the development and comply with section 3.2 and Appendix 4 of Planning for Bush Fire Protection 2019 and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

**Landscaping**

2. Any future landscaping shall be designed and maintained in accordance with the following practices:
  - i. maintaining a clear area of low cut lawn or pavement adjacent to the house;
  - ii. keeping areas under fences, fence posts and gates and trees raked and cleared of fuel;
  - iii. utilising non-combustible fencing and retaining walls;
  - iv. breaking up the canopy of trees and shrubs with defined garden beds;
  - v. organic mulch should not be used in bushfire prone areas and non-flammable material should be used as ground cover, e.g. Scoria, pebbles, recycled crushed bricks.
  - vi. planting trees and shrubs such that:
    - vii. the branches will not overhang the roof;
    - viii. the tree canopy is not continuous.

**Construction Standards**

**NOTE:** A3959-2018 – Construction of Buildings in Bushfire Prone Areas does not apply to this class of building (Class 10a) and thus **the building has no specific bushfire construction requirements**. The subject site shall continue to be maintained, as an IPA for the life of the development.

**Services**

3. Water, electricity and gas are to comply with section 7.4 (Table 7.4a) of 'Planning for Bush Fire Protection 2019'.

**Access**

4. The property access road shall comply with section 7.4 of *Planning for Bush Fire Protection 2019*.

If the proposed development is constructed and maintained in accordance with the recommendations outlined in this report it will comply with performance requirements provided in *Planning for Bushfire Protection (2019)* and AS3959-2018 and will provided adequate provision for firefighting strategies. Compliance with the overall performance provided in *Planning for Bushfire Protection (2019)* and the deem to satisfy provisions provided in AS3959-2018 is provided Table 5.

**Bushfire Assessment Report – Proposed Industrial Development**

Site – Lot 105 created under development consent SF9294 (Parent Lot 137 DP1124258 & Lot 100 DP 1096630), Norfolk Avenue, South Nowra

**Table 5:** Compliance with the performance requirements of provided in Planning for Bushfire Protection (2019) and the deem to satisfy provisions provided in AS3959-2018.

Bushfire Protection Measure	Compliance
Asset Protection Zone	Refer to Sections 3.2, and 3.3
The siting and adequacy of water supplies for fire fighting	YES - Refer to Sections 3.5.
Capacity of public roads to handle increased volumes of traffic in the event of a bushfire emergency	Not applicable
Whether or not public roads in the vicinity that link with the fire trail network have two-way access	Not applicable.
Adequacy of emergency response access and egress	YES - Refer to Section 3.6.
Adequacy of bushfire maintenance plans and fire emergency procedures	YES - Refer to Sections 3.7.
Building construction standards	<b>Not applicable.</b>
Adequacy of sprinkler systems and other fire protection measures to be incorporated into the development	No sprinkler systems proposed.

This Bushfire Assessment Report should remain current for a period of five years (2027), at which time it should be subject to review to take into account changing land use and vegetation patterns. Any major bushfire event that affects the subject site should also trigger a review in order to determine the effectiveness of protection measures and annual hazard reduction activities.

The findings contained within this report are the result of discrete/specific methodologies used in accordance with recognised practices. To the best of our knowledge they represent a reasonable interpretation of the general conditions of the site. Having stated this, it is important to note that although designing a building to have an improved level of fire resistance will increase the likelihood of survival in a bushfire, their survival and that of the occupants cannot be guaranteed and therefore the decision whether to *stay* or *go* should be based on an understanding that the adoption of solutions outlined in this report will not guarantee safety.



**consultants**

ATTACHMENT 1

SITE PLANS

CL25.188 - Attachment 1

**DEVELOPMENT APPLICATION**

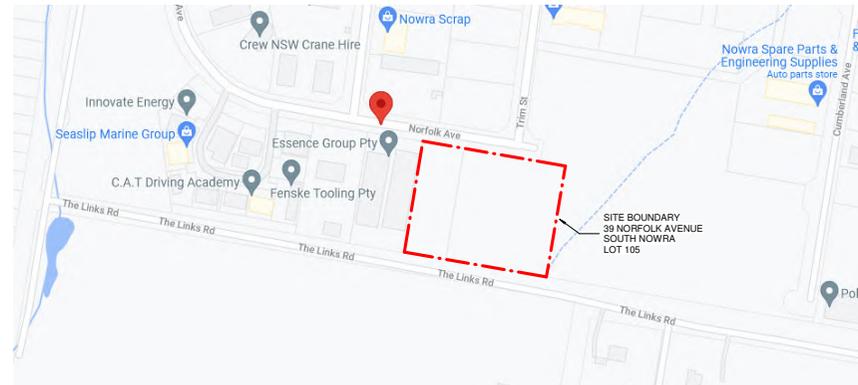
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**SHEET NUMBER SHEET NAME**

A00.01	TITLE SHEET, LOCATION PLAN & DRAWING LIST
A00.05	SITE ANALYSIS
A00.20	GLAR & CAR PARKING ANALYSIS
A00.21	GLAR & CAR PARKING ANALYSIS
A02.01	PROPOSED SITE PLAN
A02.02	PROPOSED GF PLAN
A02.03	PROPOSED OFFICE BUILDING PLAN
A02.04	PROPOSED OFFICE, AMENITIES & STORAGE PLANS
A02.05	PROPOSED ROOF PLAN
A02.30	PROPOSED EXTERNAL ELEVATIONS
A02.31	PROPOSED EXTERNAL ELEVATIONS
A02.40	3D VISUALISATIONS
A02.50	3D PERSPECTIVES
A11.01	PROPOSED BUILDING SECTIONS
A100.50	SOLAR STUDY

LOCATION PLAN



SITE AERIAL



**SOUTH NOWRA INDUSTRIAL FACILITY**  
39 NORFOLK AVENUE  
SOUTH NOWRA

ISSUE DATE DESCRIPTION

**TITLE SHEET, LOCATION PLAN & DRAWING LIST**

A00.01

DA   
N.T.S. @ A1  
N.T.S. @ A3



82 Alexander Street  
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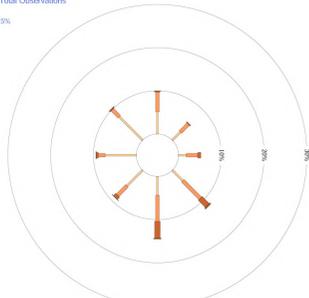
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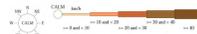
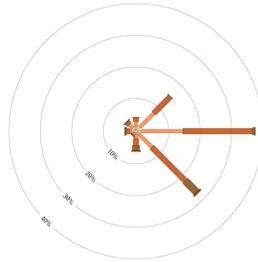
STREET VIEW B



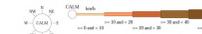
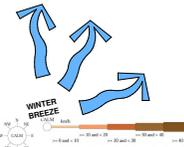
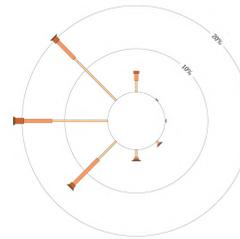
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Calm 25%



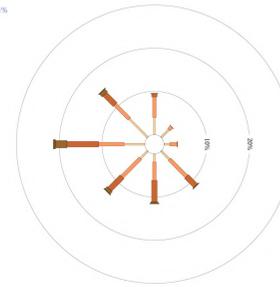
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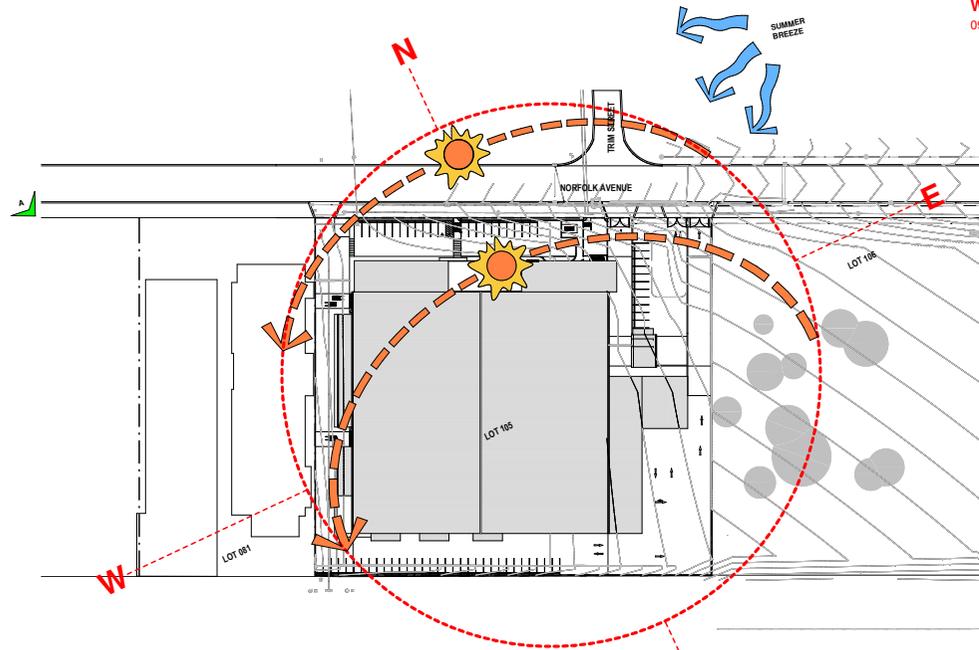
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3 pm Jul  
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Calm 11%



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**SOUTH NOWRA INDUSTRIAL FACILITY**  
39 NORFOLK AVENUE  
SOUTH NOWRA

ISSUE DATE DESCRIPTION

SITE ANALYSIS

A00.05

DA  
N.T.S. @ A1  
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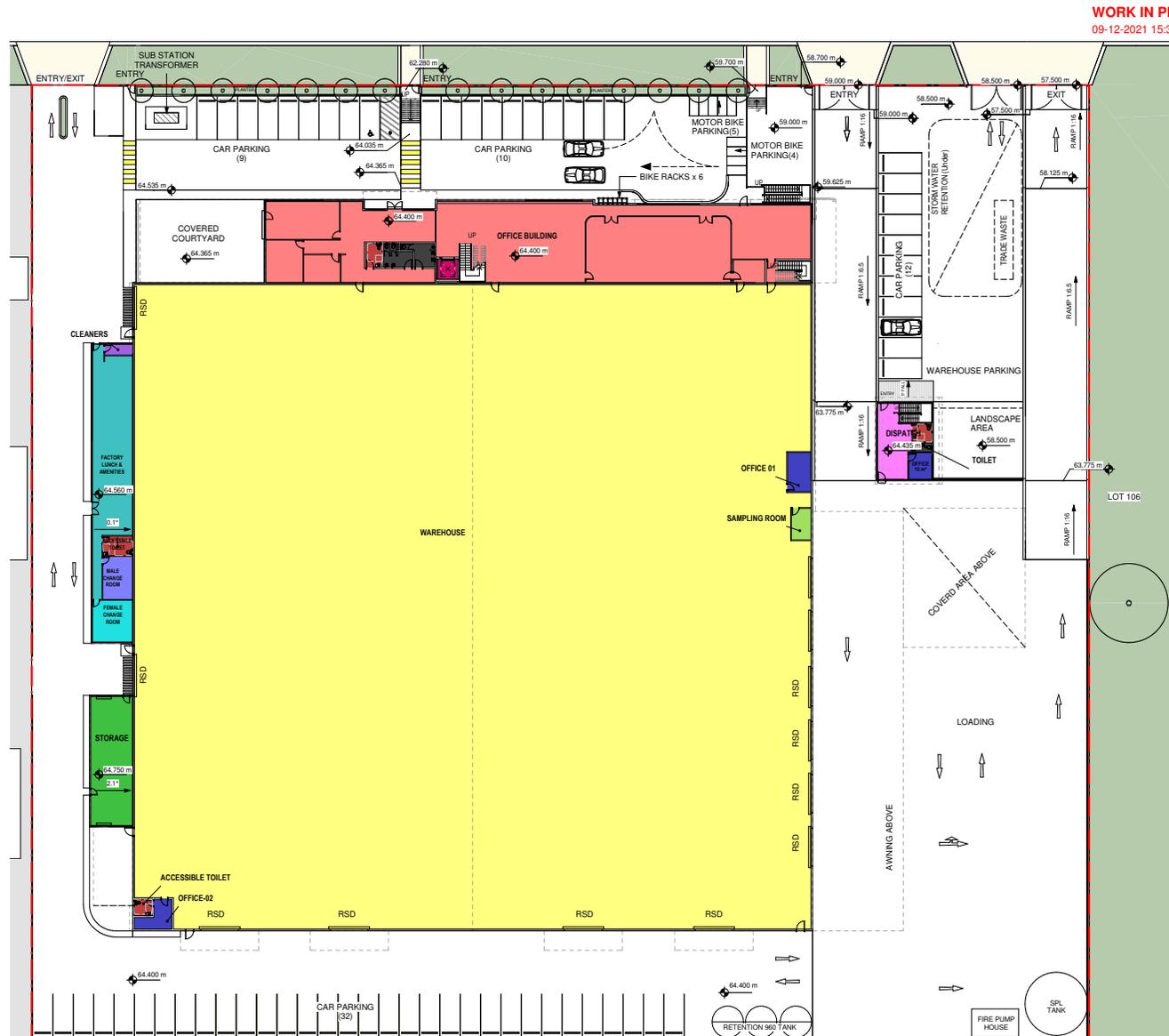
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**LEGEND**

Warehouse
Office Building
Lift
Toilet
Dispatch
Office, Office 01 & Office 02
Factory Lunch & Amenities
Accessible Toilet
Mens Change Room
Female Change Room
Storage
Cleaner

**CAR PARKING SCHEDULE**

LEVEL	TYPE
PARKING LEVEL	5500 x 2600
T1	
GROUND LEVEL	1200 X 2500 Bike Parking
GROUND LEVEL	5500 x 2600
GROUND LEVEL	SHARED 5500 x 2600
61	
GRAND TOTAL:	72



**WORK IN PROGRESS**  
09-12-2021 15:35:53

1 GROUND FLOOR PLAN  
1:250



**SOUTH NOWRA INDUSTRIAL FACILITY**  
39 NORFOLK AVENUE  
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GLAR & CAR PARKING ANALYSIS

A00.20 DA

1:500 @ A1  
1:1000 @ A3



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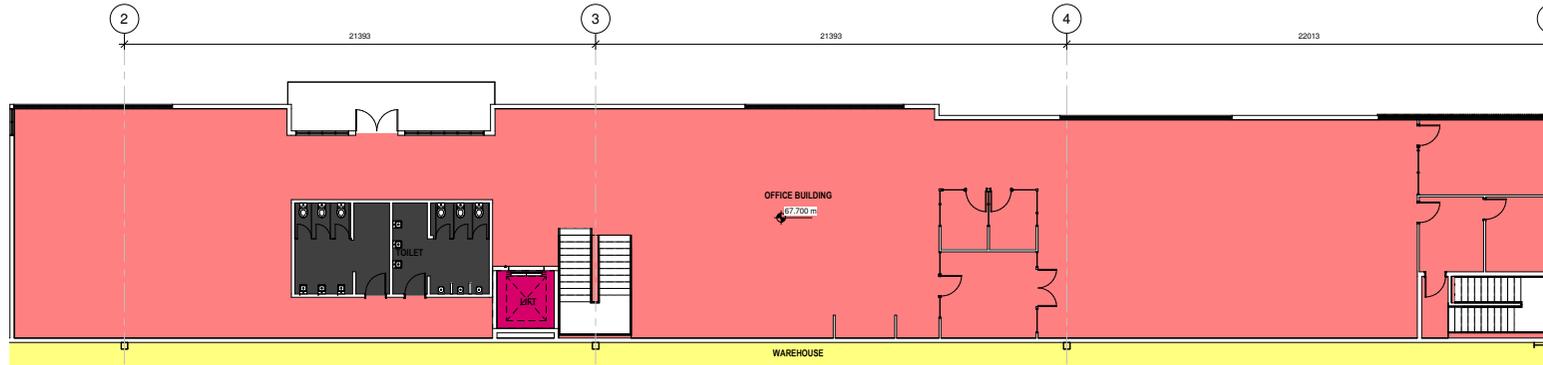
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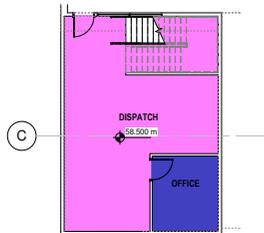
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1 OFFICE BUILDING 1ST FLOOR  
1:100



2 DISPATCH-LOWER LEVEL  
1:100



3 DISPATCH-1ST FLOOR  
1:100



**SOUTH NOWRA INDUSTRIAL FACILITY**  
39 NORFOLK AVENUE  
SOUTH NOWRA

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**GLAR & CAR PARKING ANALYSIS**

A00.21

DA  
@ A1  
@ A3



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LEGEND	
	WAREHOUSE
	OFFICE BUILDING
	LIFT
	TOILET
	ACCESSIBLE TOILET
	DISPATCH
	OFFICE

**AREA & PARKING ANALYSIS (m<sup>2</sup>)**

**SITE AREA CALCULATIONS**

SITE AREA :	16,303
ALLOWABLE BUILDING AREA: (60% MAX. COVERAGE ALLOWABLE BUILDING AREA)	9,782
PROPOSED BUILDING AREA:	8,955

**FLOOR AREAS (GFA)**

WAREHOUSE	7,089
FACTORY, AMENITIES & LUNCH STORAGE	202
DISPATCH	92
GROUND FLOOR	73
1ST FLOOR	73
OFFICE BUILDING	713
GROUND FLOOR	713
1ST FLOOR	713
<b>TOTAL GFA</b>	<b>8955</b>

**PARKING PROVISION**

<b>PARKING PROVISION</b>	43	24 SPACES (7089 TOTAL WAREHOUSE)
@ 1 SPACE PER 300SQM		
<b>PARKING PROVISION</b>	19 SPACES (1866 OTHER)	
@ 1 SPACE PER 100SQM		
FOR STORAGE, DISPATCH & FACTORY, LUNCH & AMENITIES		

**PARKING PROVIDED**

72	(32 ON WAREHOUSE+ 19 ON OFFICE BUILDING + 12 ON DISPATCH+9 MOTOR BIKE PARKING)
----	--

**METHOD OF MEASUREMENT**

**GROSS FLOOR AREA (GFA)**  
gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—  
(a) the area of a mezzanine, and  
(b) habitable rooms in a basement or an attic, and  
(c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes—  
(d) any area for common vertical circulation, such as lifts and stairs, and  
(e) any basement—  
(i) storage, and  
(ii) vehicular access, loading areas, garbage and services, and  
(f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and  
(g) car parking to meet any requirements of the consent authority (including access to that car parking), and  
(h) any space used for the loading or unloading of goods (including access to it), and  
(i) terraces and balconies with outer walls less than 1.4 metres high, and  
(j) voids above a floor at the level of a storey or storey above.

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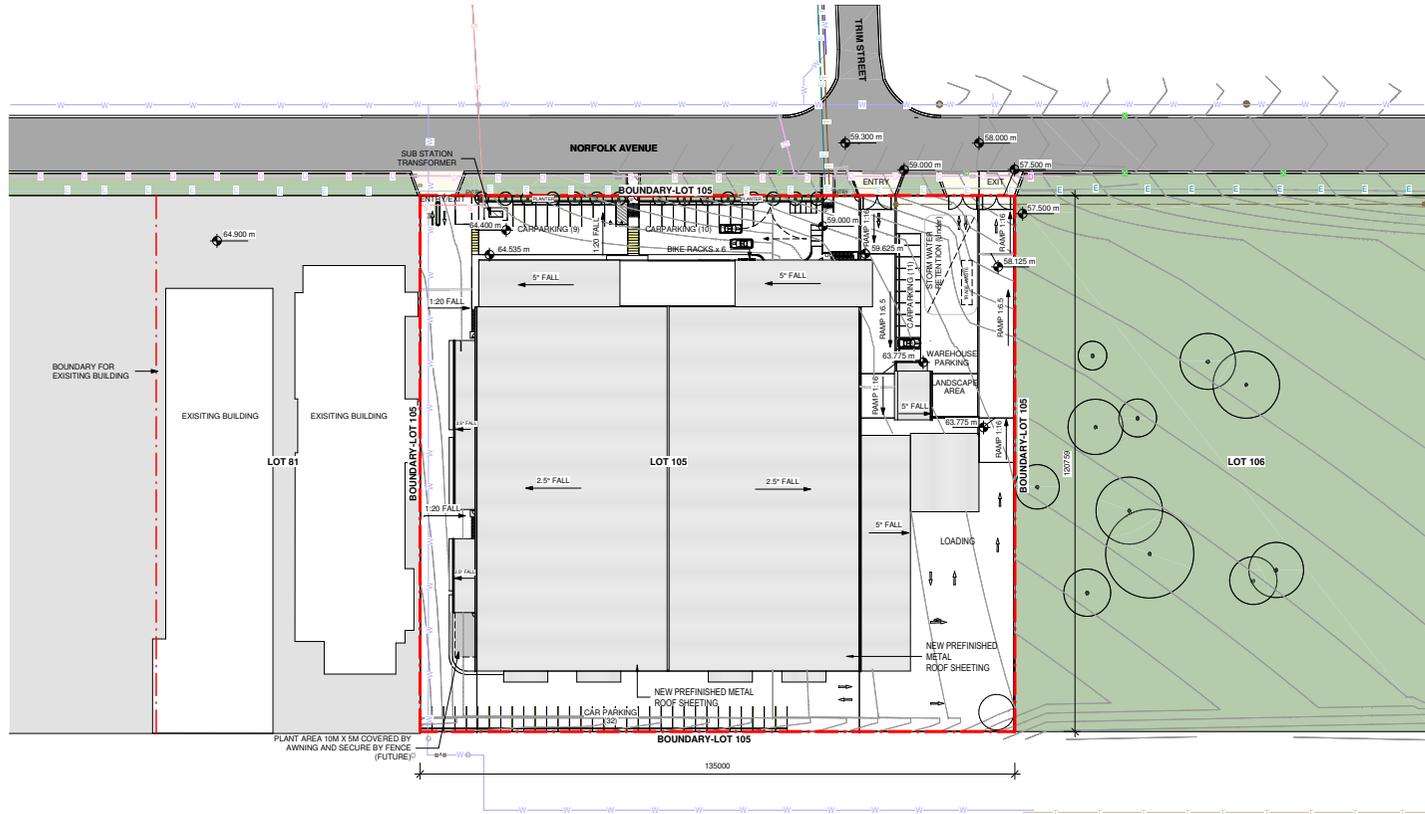
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**UTILITY LINE - LEGEND**

- S — STORM WATER LINES
- S — SEWER LINES
- W — WATER LINES
- E — ELECTRICITY LINES (OVERHEAD)
- T — TELESTRAL LINES

**LEGEND**

- SITE BOUNDARY
- PEDESTRIAN PAVEMENT
- LANDSCAPING
- TREES TO BE REMOVED



1 PROPOSED SITE PLAN  
1:500



**SOUTH NOWRA INDUSTRIAL FACILITY**  
39 NORFOLK AVENUE  
SOUTH NOWRA

ISSUE DATE DESCRIPTION

PROPOSED SITE PLAN

A02.01

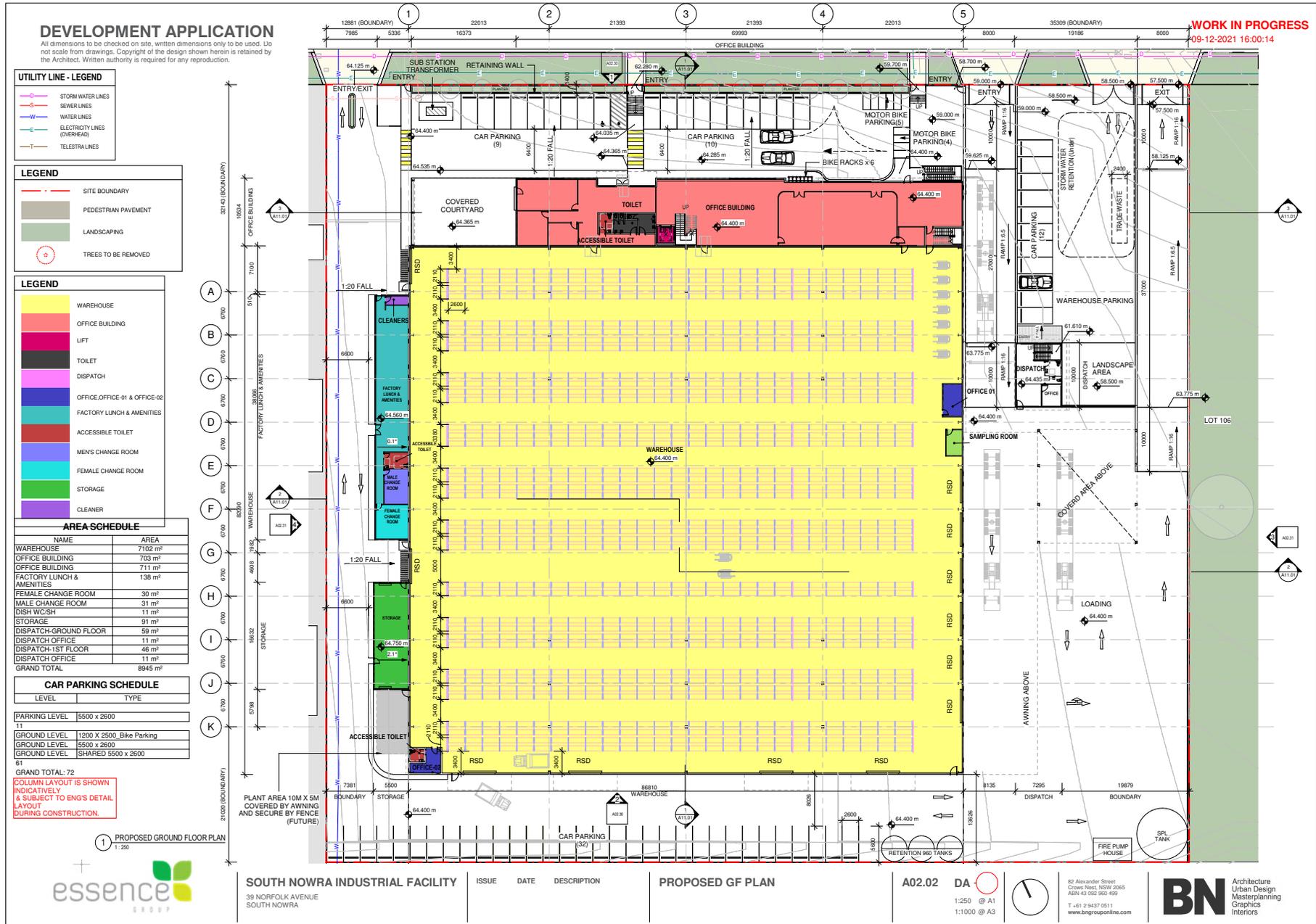
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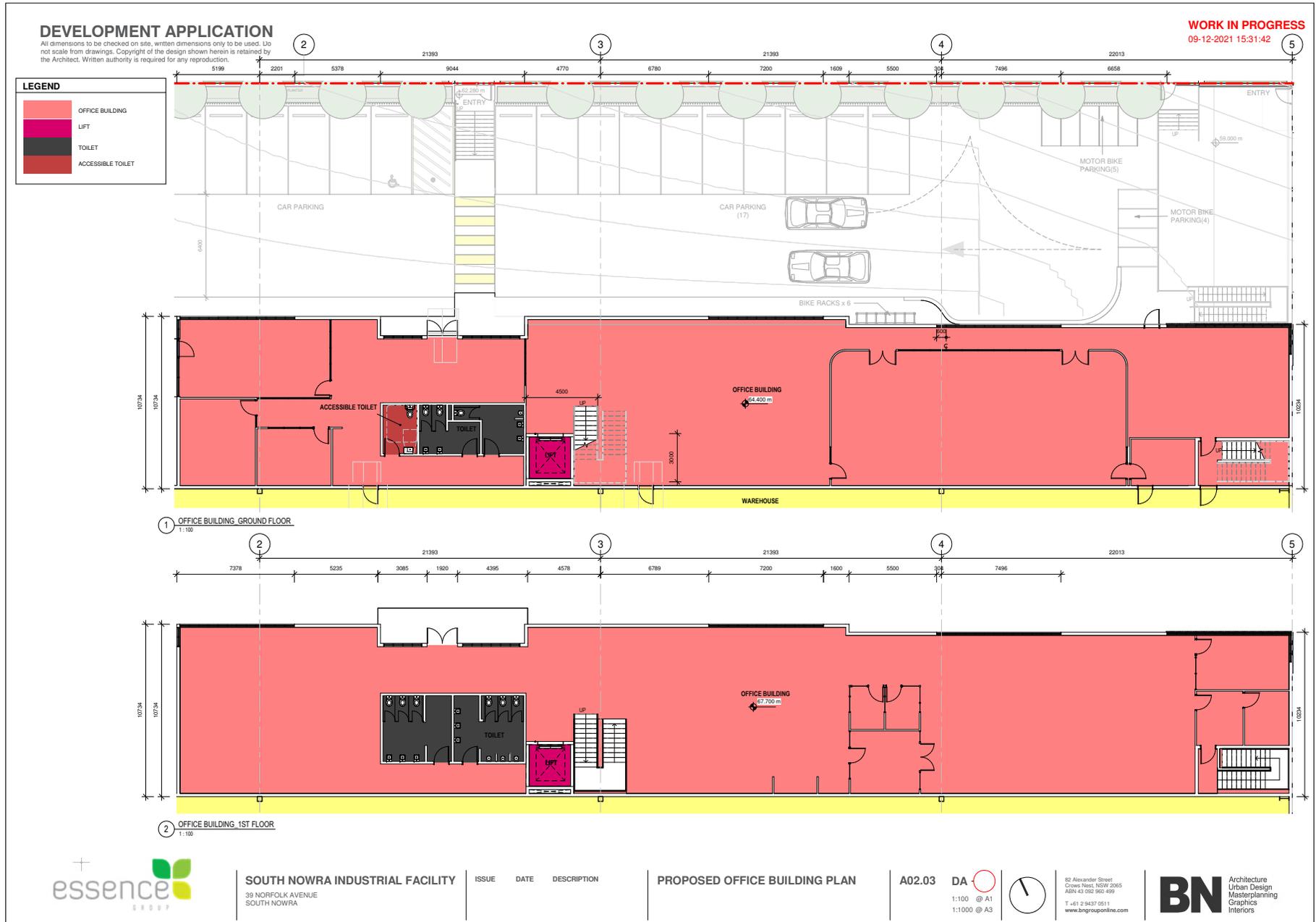


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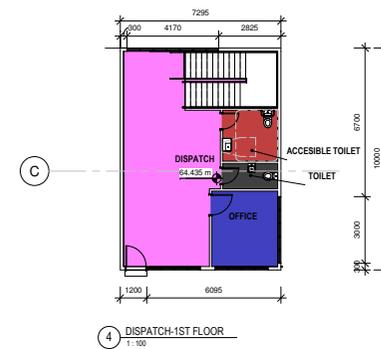
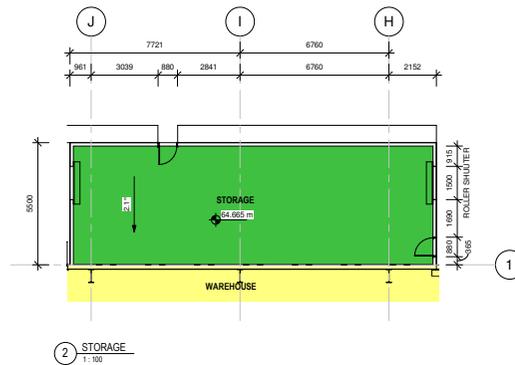
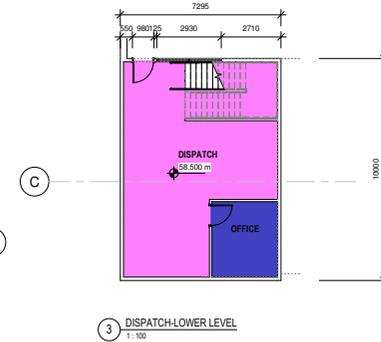
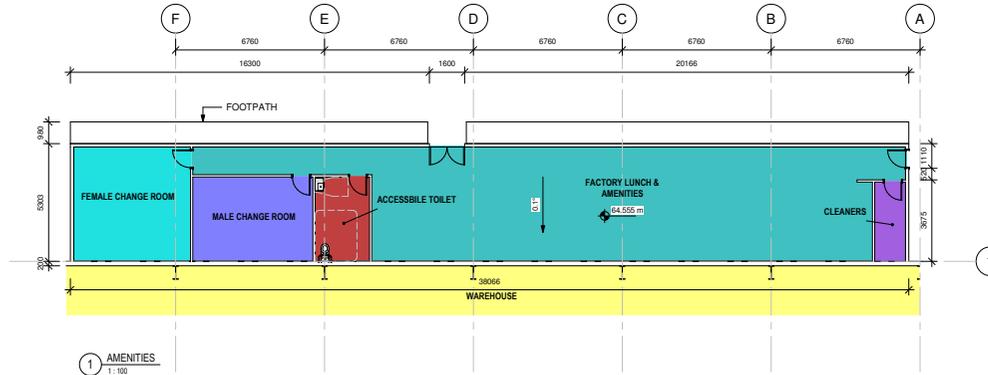


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LEGEND	
	WAREHOUSE
	DISPATCH
	OFFICE
	TOILET
	FACTORY LUNCH & AMENITIES
	ACCESSIBLE TOILET
	MENS CHANGE ROOM
	FEMALE CHANGE ROOM
	STORAGE
	CLEANER



**SOUTH NOWRA INDUSTRIAL FACILITY**  
39 NORFOLK AVENUE  
SOUTH NOWRA

ISSUE DATE DESCRIPTION

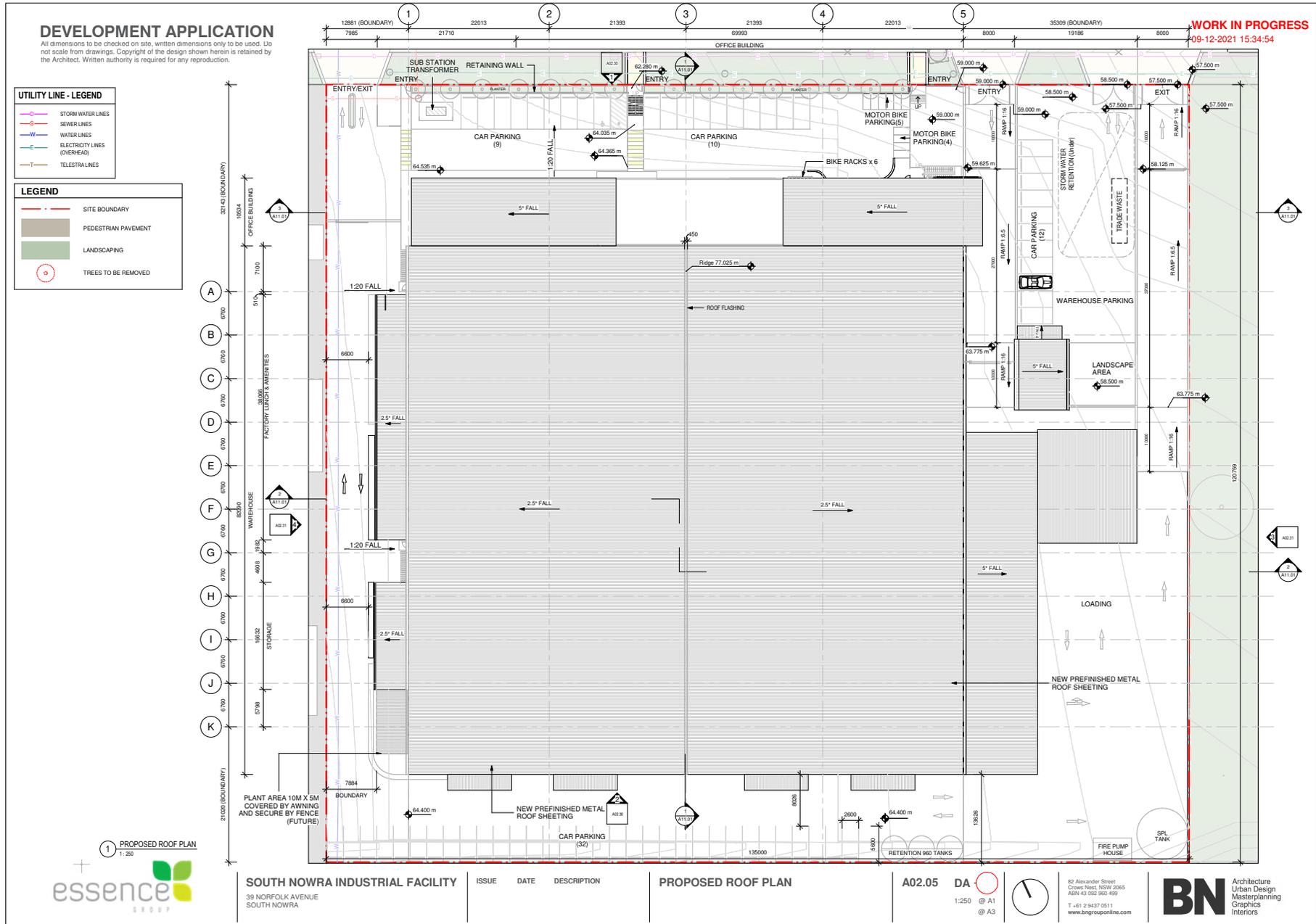
**PROPOSED OFFICE, AMENITIES & STORAGE PLANS**

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1:1000 @ A3

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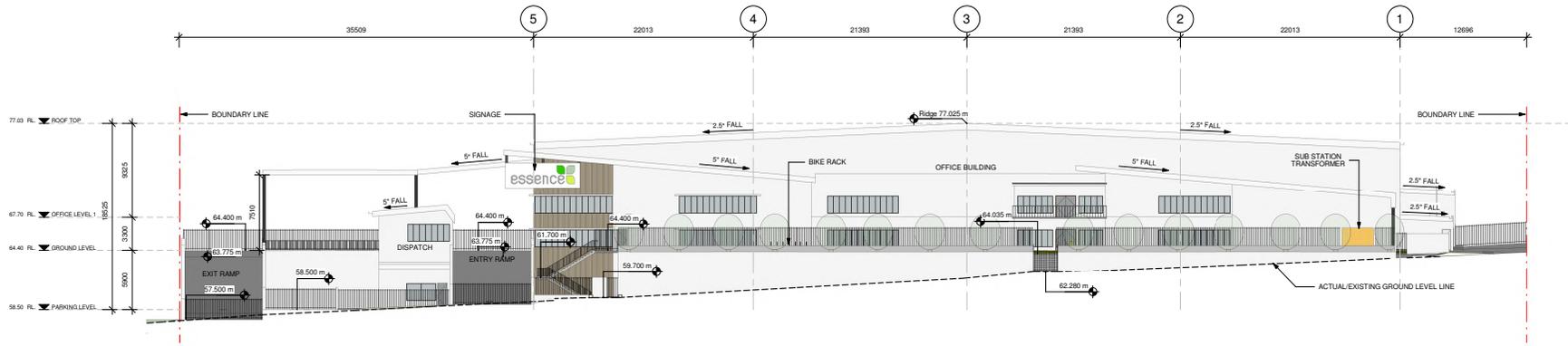


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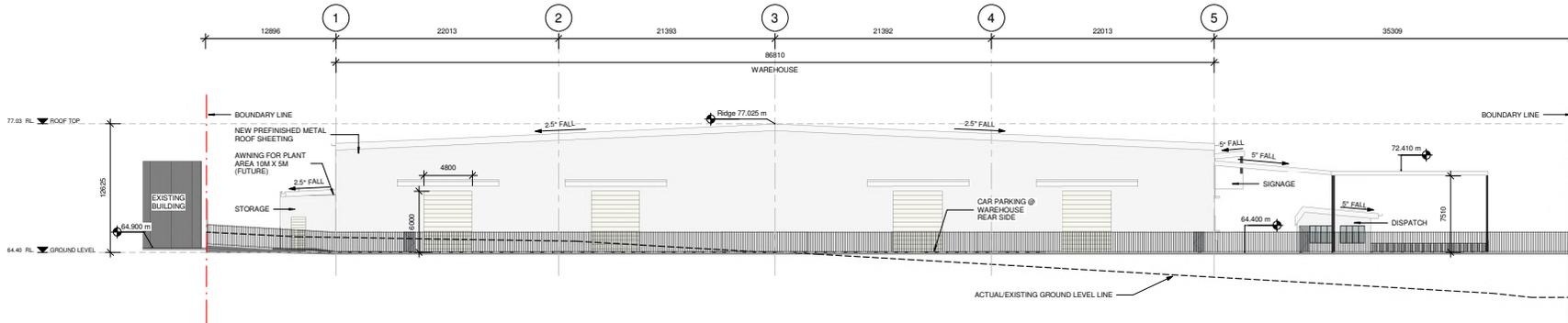
**DEVELOPMENT APPLICATION**

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1 ELEVATION-NORTH  
1:200



2 ELEVATION-SOUTH  
1:200



**SOUTH NOWRA INDUSTRIAL FACILITY**  
39 NORFOLK AVENUE  
SOUTH NOWRA

ISSUE DATE DESCRIPTION

PROPOSED EXTERNAL ELEVATIONS

A02.30 DA  
1:250 @ A1  
1:500 @ A3

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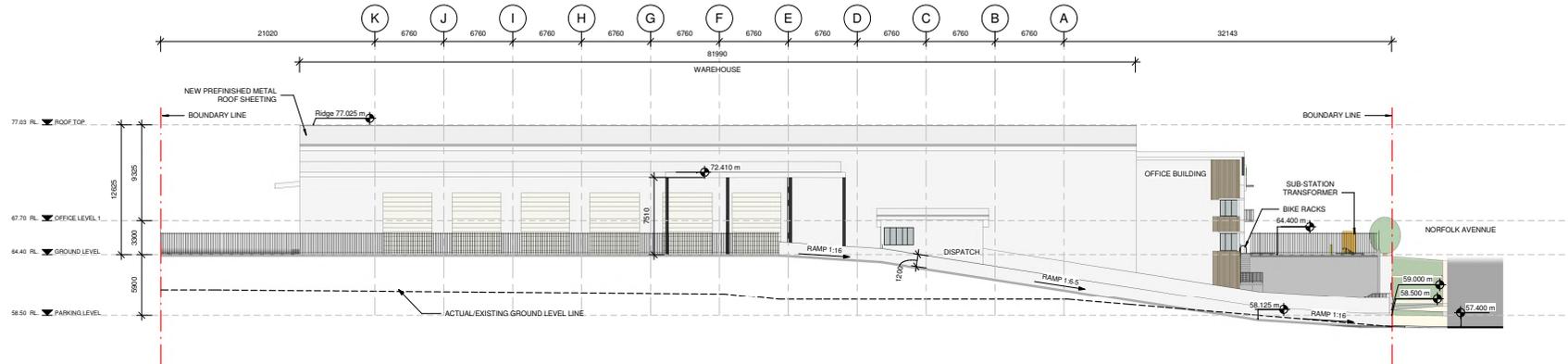


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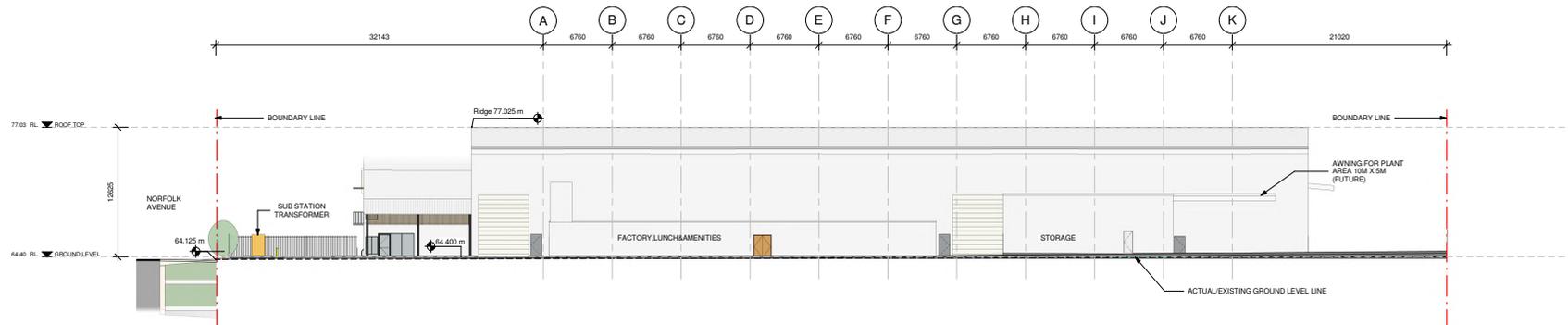
**DEVELOPMENT APPLICATION**

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**WORK IN PROGRESS**  
09-12-2021 15:43:54



3 ELEVATION-EAST  
1:200



4 ELEVATION-WEST  
1:200



**SOUTH NOWRA INDUSTRIAL FACILITY**  
39 NORFOLK AVENUE  
SOUTH NOWRA

ISSUE DATE DESCRIPTION

PROPOSED EXTERNAL ELEVATIONS

A02.31

DA  
@ A1  
@ A3

62 Alexander Street  
Crows Nest, NSW 2065  
ABN 43 092 360 499  
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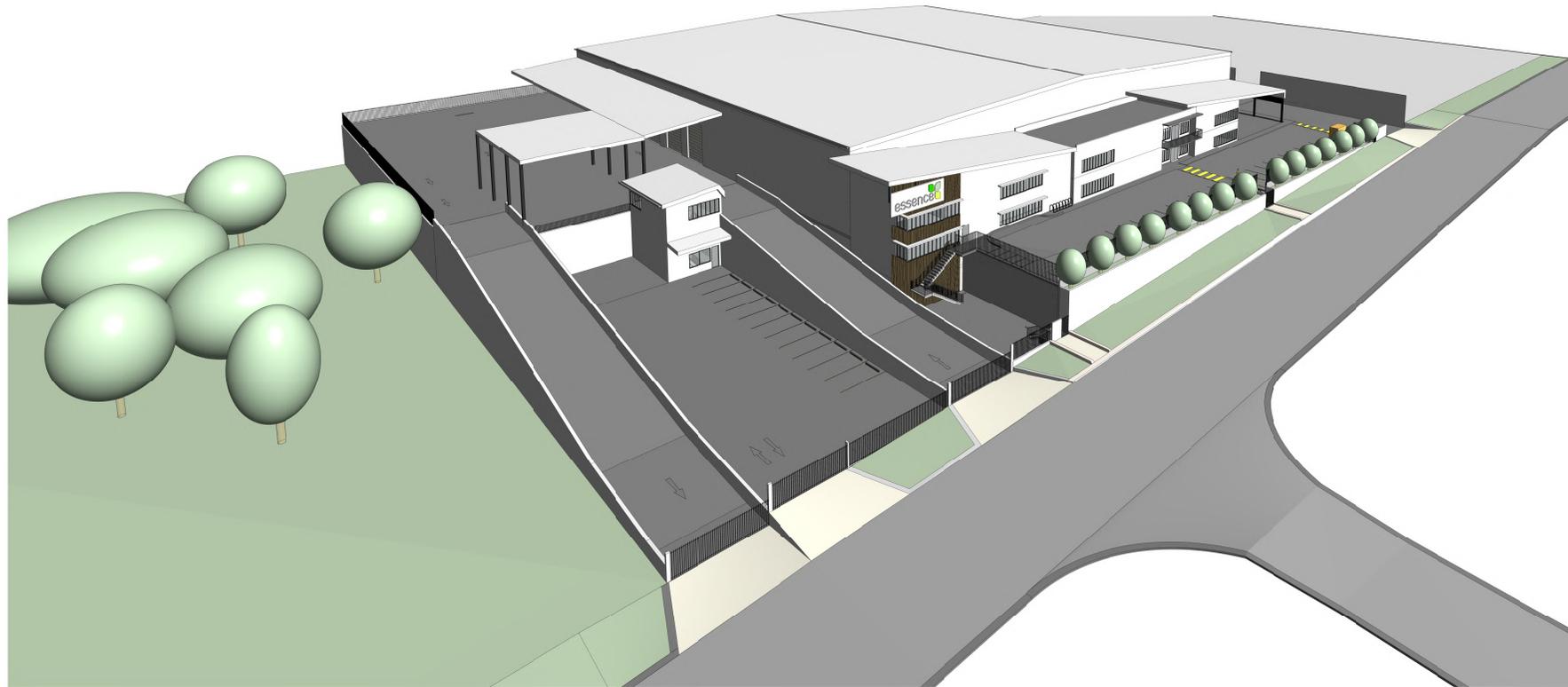
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CL25.188 - Attachment 1

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09-12-2021 15:48:50



BNU 360/365/366/367/368/369/370/371/372/373/374/375/376/377/378/379/380/381/382/383/384/385/386/387/388/389/390/391/392/393/394/395/396/397/398/399/400/401/402/403/404/405/406/407/408/409/410/411/412/413/414/415/416/417/418/419/420/421/422/423/424/425/426/427/428/429/430/431/432/433/434/435/436/437/438/439/440/441/442/443/444/445/446/447/448/449/450/451/452/453/454/455/456/457/458/459/460/461/462/463/464/465/466/467/468/469/470/471/472/473/474/475/476/477/478/479/480/481/482/483/484/485/486/487/488/489/490/491/492/493/494/495/496/497/498/499/500/501/502/503/504/505/506/507/508/509/510/511/512/513/514/515/516/517/518/519/520/521/522/523/524/525/526/527/528/529/530/531/532/533/534/535/536/537/538/539/540/541/542/543/544/545/546/547/548/549/550/551/552/553/554/555/556/557/558/559/560/561/562/563/564/565/566/567/568/569/570/571/572/573/574/575/576/577/578/579/580/581/582/583/584/585/586/587/588/589/590/591/592/593/594/595/596/597/598/599/600/601/602/603/604/605/606/607/608/609/610/611/612/613/614/615/616/617/618/619/620/621/622/623/624/625/626/627/628/629/630/631/632/633/634/635/636/637/638/639/640/641/642/643/644/645/646/647/648/649/650/651/652/653/654/655/656/657/658/659/660/661/662/663/664/665/666/667/668/669/670/671/672/673/674/675/676/677/678/679/680/681/682/683/684/685/686/687/688/689/690/691/692/693/694/695/696/697/698/699/700/701/702/703/704/705/706/707/708/709/710/711/712/713/714/715/716/717/718/719/720/721/722/723/724/725/726/727/728/729/730/731/732/733/734/735/736/737/738/739/740/741/742/743/744/745/746/747/748/749/750/751/752/753/754/755/756/757/758/759/760/761/762/763/764/765/766/767/768/769/770/771/772/773/774/775/776/777/778/779/780/781/782/783/784/785/786/787/788/789/790/791/792/793/794/795/796/797/798/799/800/801/802/803/804/805/806/807/808/809/810/811/812/813/814/815/816/817/818/819/820/821/822/823/824/825/826/827/828/829/830/831/832/833/834/835/836/837/838/839/840/841/842/843/844/845/846/847/848/849/850/851/852/853/854/855/856/857/858/859/860/861/862/863/864/865/866/867/868/869/870/871/872/873/874/875/876/877/878/879/880/881/882/883/884/885/886/887/888/889/890/891/892/893/894/895/896/897/898/899/900/901/902/903/904/905/906/907/908/909/910/911/912/913/914/915/916/917/918/919/920/921/922/923/924/925/926/927/928/929/930/931/932/933/934/935/936/937/938/939/940/941/942/943/944/945/946/947/948/949/950/951/952/953/954/955/956/957/958/959/960/961/962/963/964/965/966/967/968/969/970/971/972/973/974/975/976/977/978/979/980/981/982/983/984/985/986/987/988/989/990/991/992/993/994/995/996/997/998/999/1000



**SOUTH NOWRA INDUSTRIAL FACILITY**  
39 NORFOLK AVENUE  
SOUTH NOWRA

ISSUE	DATE	DESCRIPTION

3D VISUALISATIONS

A02.40 DA   
1:500 @ A1  
1:1000 @ A3

82 Alexander Street  
Crows Nest, NSW 2065  
ABN 43 092 360 499  
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**WORK IN PROGRESS**  
09-12-2021 15:51:47



01 PERSPECTIVE VIEW 01



02 PERSPECTIVE VIEW 02



**SOUTH NOWRA INDUSTRIAL FACILITY**  
39 NORFOLK AVENUE  
SOUTH NOWRA

ISSUE	DATE	DESCRIPTION

3D PERSPECTIVES

A02.50

DA   
N.T.S. @ A1  
N.T.S. @ A3

82 Alexander Street  
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ABN 43 092 360 499  
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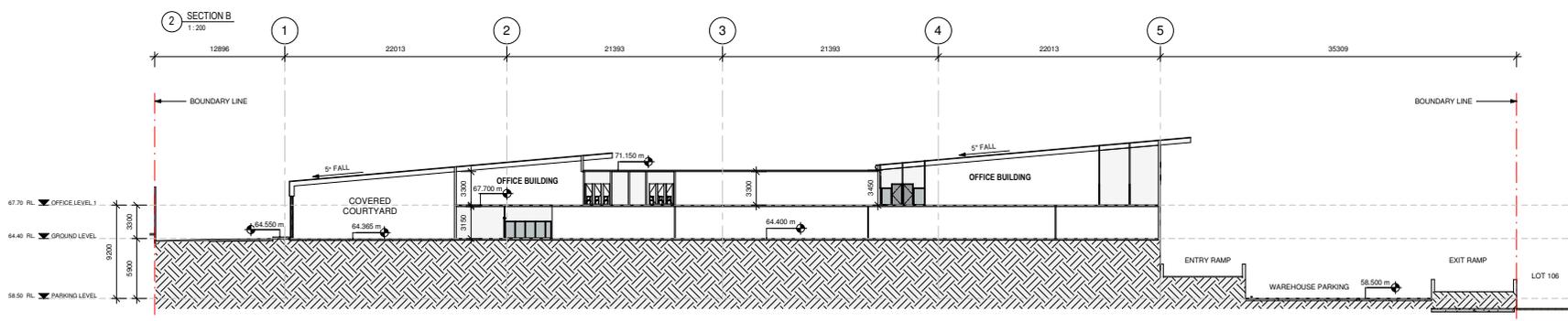
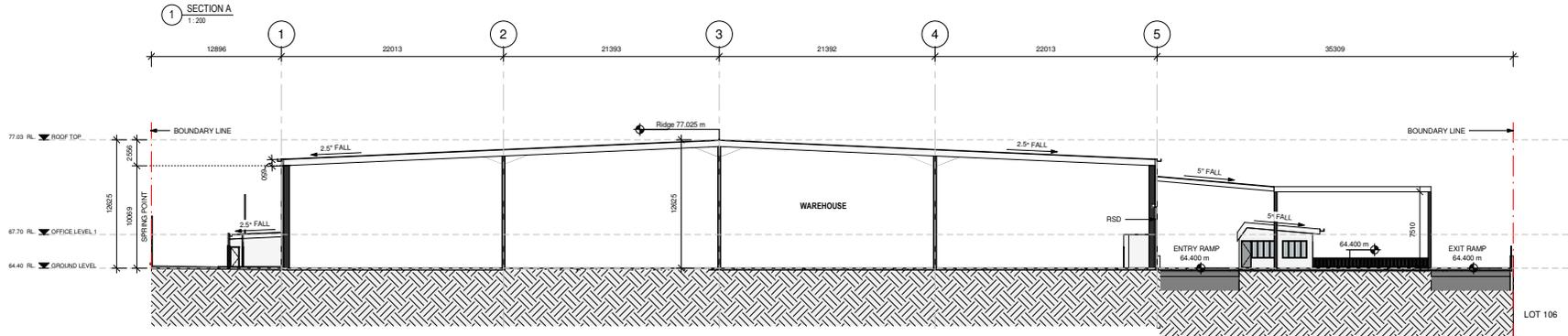
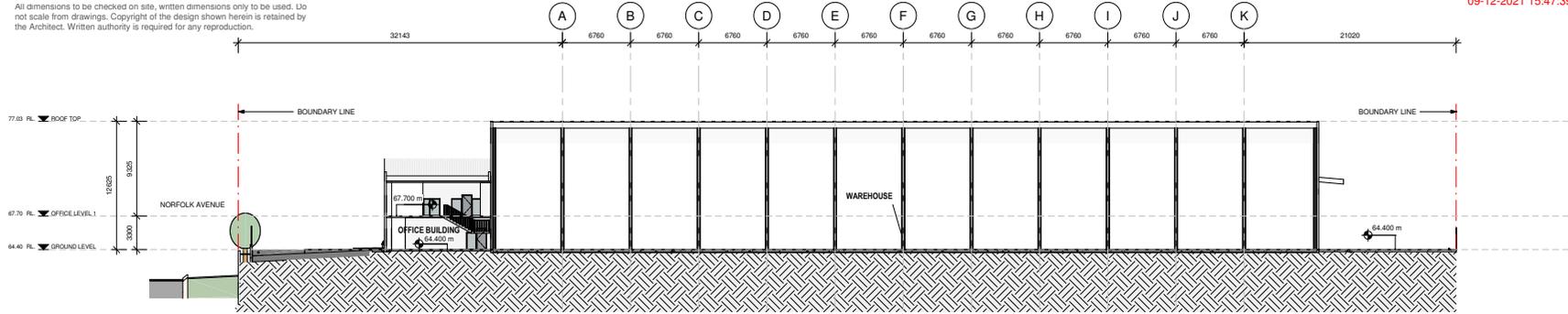


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**WORK IN PROGRESS**  
09-12-2021 15:47:39



**SOUTH NOWRA INDUSTRIAL FACILITY**  
39 NORFOLK AVENUE  
SOUTH NOWRA

ISSUE DATE DESCRIPTION

PROPOSED BUILDING SECTIONS

A11.01 DA  
1:400 @ A1  
1:800 @ A3

62 Alexander Street  
Cronulla NSW 2505  
ABN 43 092 360 499  
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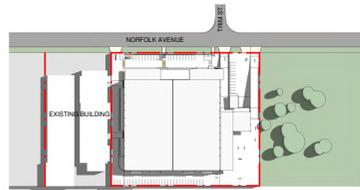
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CL25.188 - Attachment 1

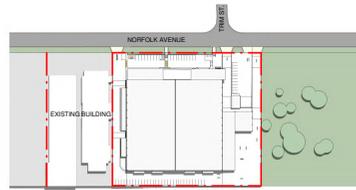
**DEVELOPMENT APPLICATION**

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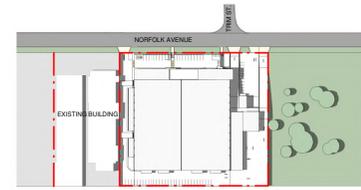
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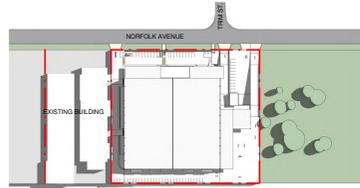
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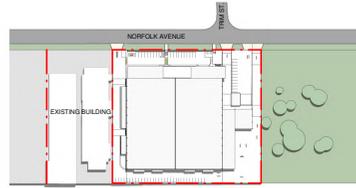
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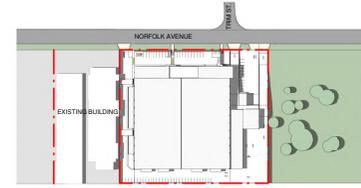
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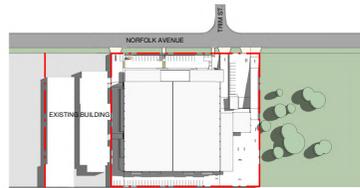
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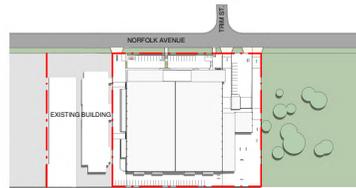
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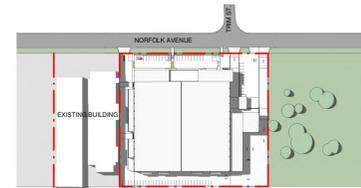
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1:2000



7 SUMMER SOLSTICE-9AM  
1:2000



8 SUMMER SOLSTICE-12PM  
1:2000



9 SUMMER SOLSTICE-3PM  
1:2000



**SOUTH NOWRA INDUSTRIAL FACILITY**  
39 NORFOLK AVENUE  
SOUTH NOWRA

ISSUE DATE DESCRIPTION

SOLAR STUDY

A100.50 DA  
1:1450 @ A1  
1:2900 @ A3



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PRINTED: 08/12/2021 20:03:55 BML360/BMG-NOWRA/BMG-Estimate Nowra.rvt

**DEVELOPMENT APPLICATION**

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**UTILITY LINE - LEGEND**

- S — STORM WATER LINES
- S — SEWER LINES
- W — WATER LINES
- E — ELECTRICITY LINES (OVERHEAD)
- T — TELESTRAL LINES

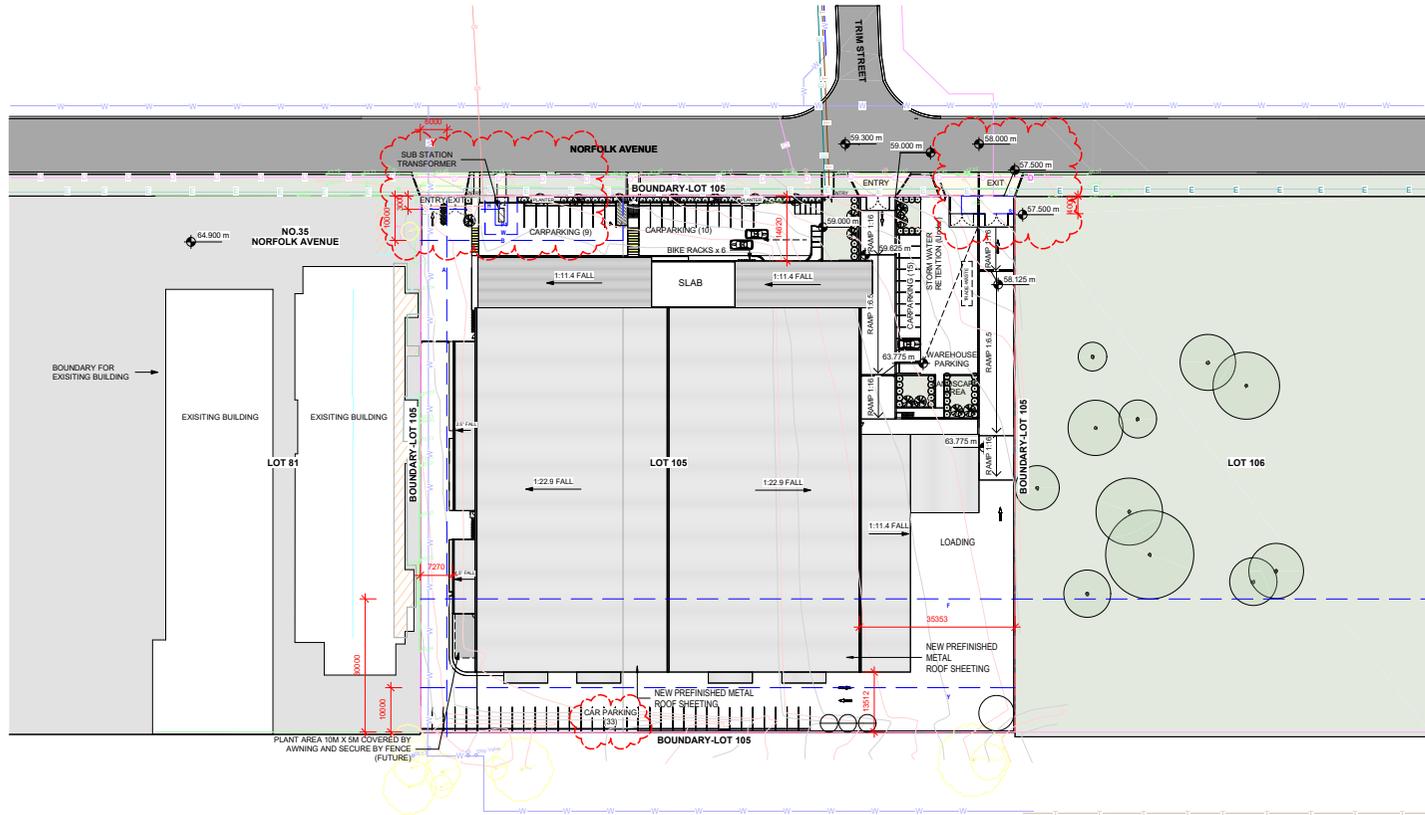
**LEGEND**

- SITE BOUNDARY
- PEDESTRIAN PAVEMENT
- EASEMENT
- TREES TO BE REMOVED

**NEW WORKS LEGEND**

NEW WORKS TO BE CO-ORDINATED WITH STRUCTURAL AND SERVICES ENGINEERS PRIOR TO COMMENCEMENT.

- PROPERTY BOUNDARY
- NEW WORKS
- LANDSCAPE
- STORAGE AREA
- RETAIL OFFICE AREA
- ELEC / COMS / MSB
- VERTICAL CIRCULATION
- AMENITIES / CLEANERS / TEA ROOM / WASTE ROOM
- STORAGE



1 PROPOSED SITE PLAN  
1:500



**SOUTH NOWRA INDUSTRIAL FACILITY**  
37 NORFOLK AVENUE  
SOUTH NOWRA

ISSUE	DATE	DESCRIPTION
7	24.03.22	TRAFFIC REPORT ISSUE
14	13.12.24	DA UPDATED
15	17.12.24	DA UPDATED

**PROPOSED SITE PLAN**

A02.01 DA - 15  
1:500 @ A1  
1:1000 @ A3

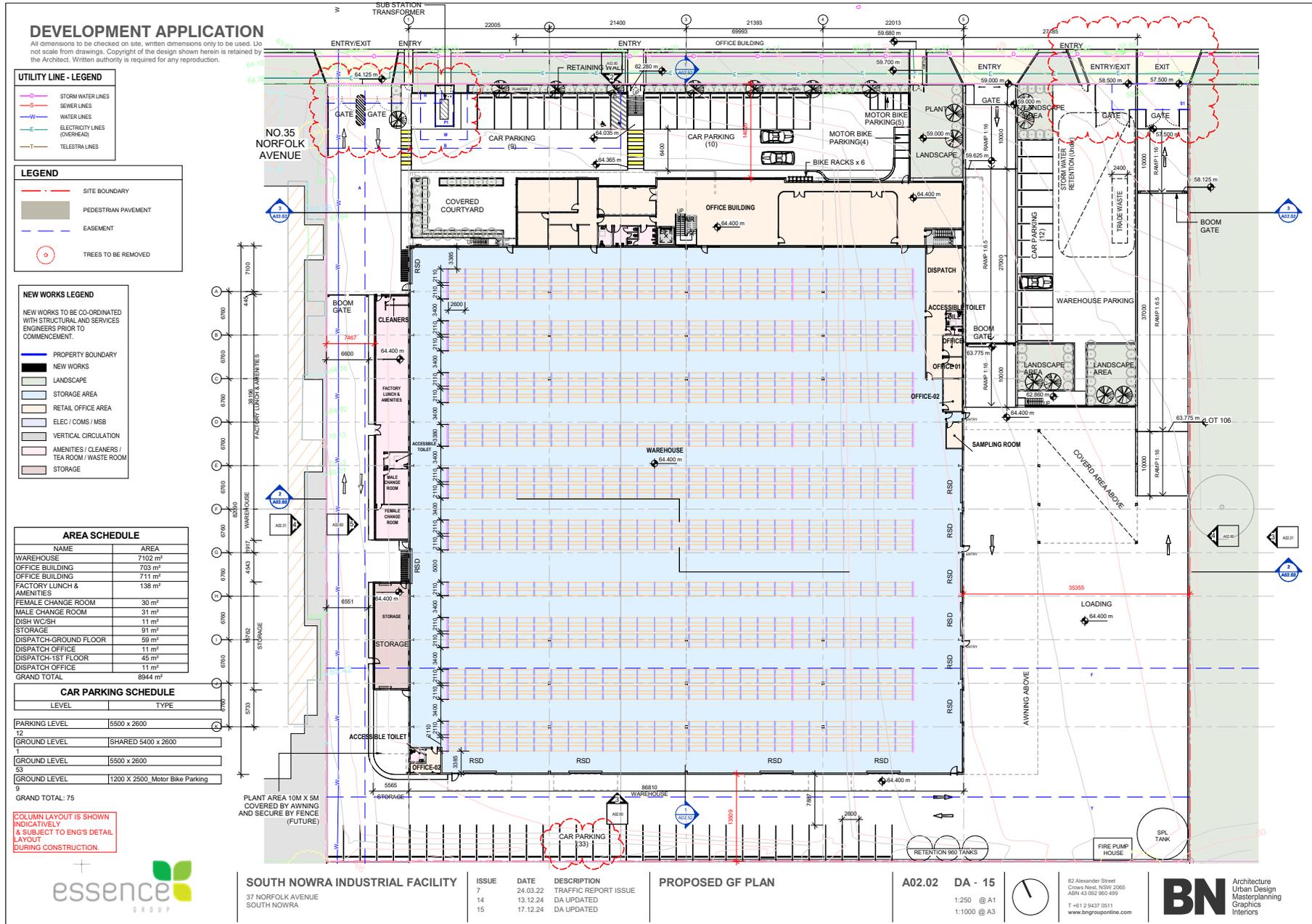


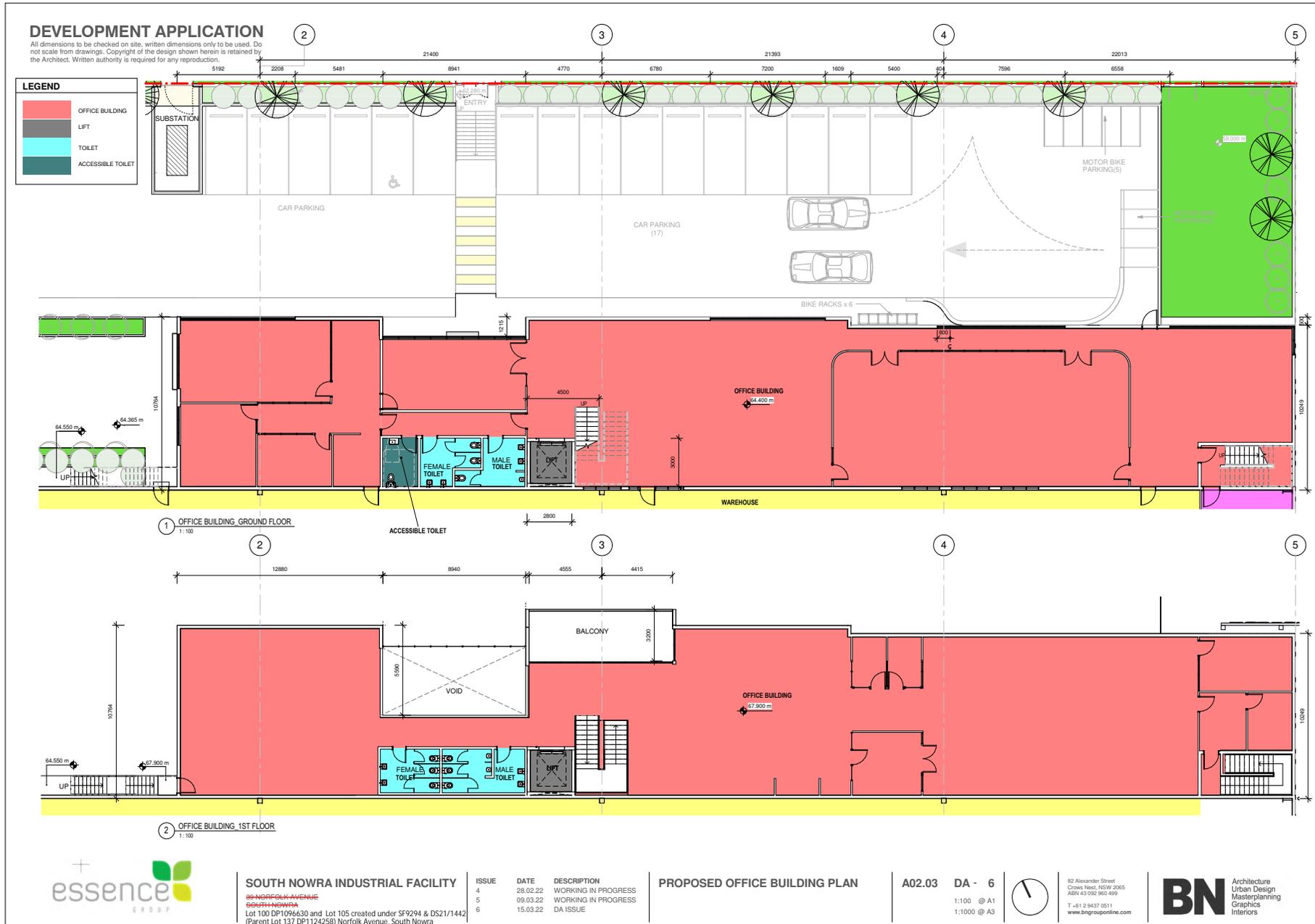
62 Alexander Street  
Crows Nest, NSW 2065  
ABN 43 092 360 499  
T +61 2 9437 0511  
www.bngrp.onlinem.com



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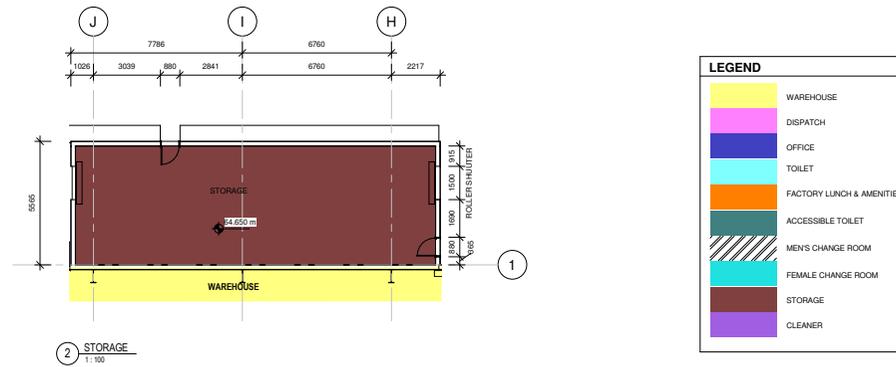
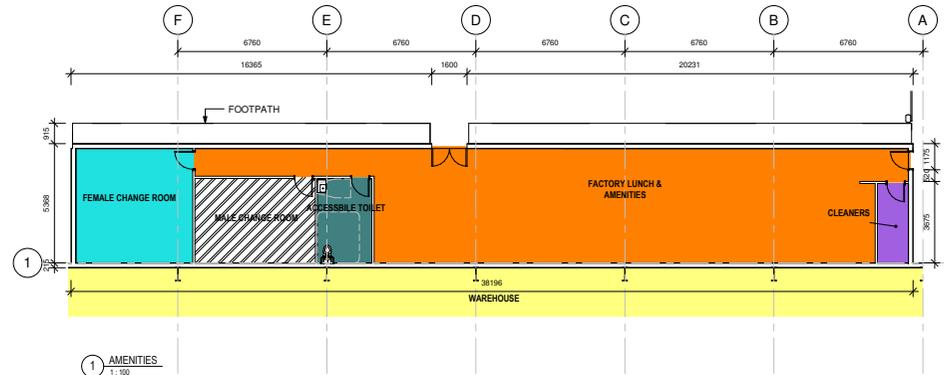
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**DEVELOPMENT APPLICATION**

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LEGEND	
	WAREHOUSE
	DISPATCH
	OFFICE
	TOILET
	FACTORY LUNCH & AMENITIES
	ACCESSIBLE TOILET
	MEN'S CHANGE ROOM
	FEMALE CHANGE ROOM
	STORAGE
	CLEANER



**SOUTH NOWRA INDUSTRIAL FACILITY**  
 89 NORFOLK AVENUE  
 SOUTH NOWRA  
 Lot 100 DP1094630 and Lot 105 created under SF9294 & DS21/1442  
 (Parent Lot 137 DP1124258) Norfolk Avenue, South Nowra

ISSUE	DATE	DESCRIPTION
4	28.02.22	WORKING IN PROGRESS
5	09.03.22	WORKING IN PROGRESS
6	15.03.22	DA ISSUE

**PROPOSED OFFICE, AMENITIES & STORAGE PLANS**

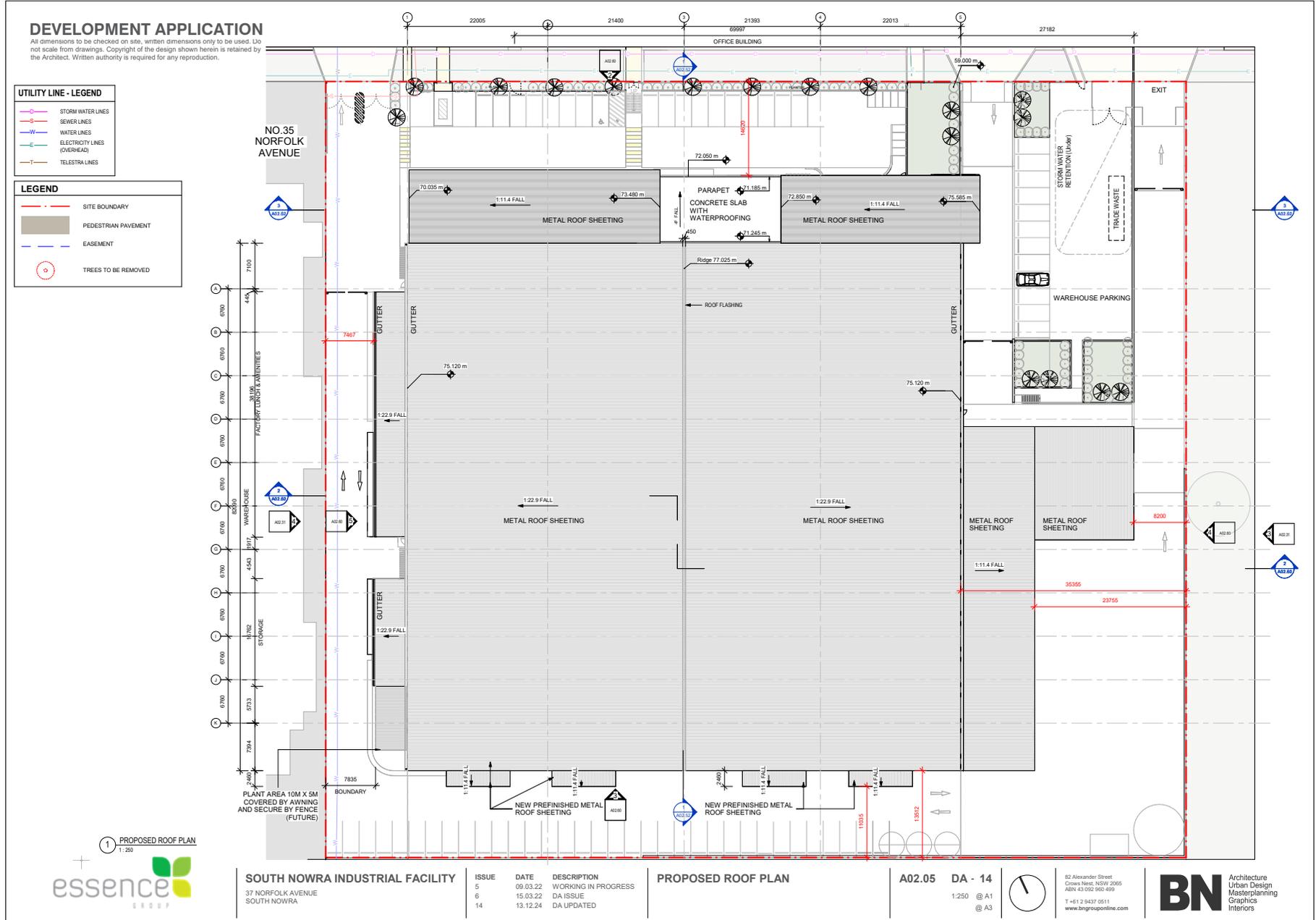
A02.04 DA - 6  
 1:100 @ A1  
 1:1000 @ A3



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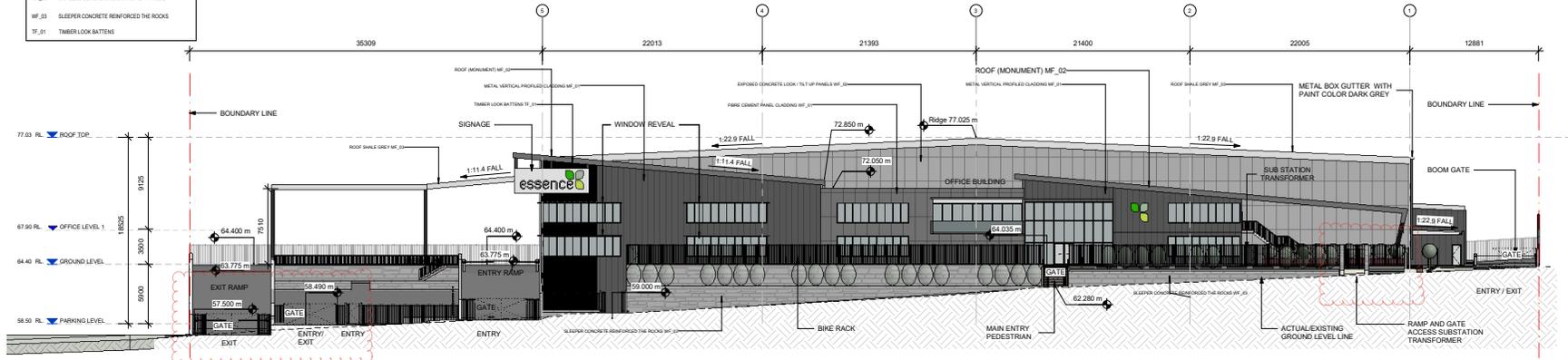
CL25.188 - Attachment 2

**DEVELOPMENT APPLICATION**

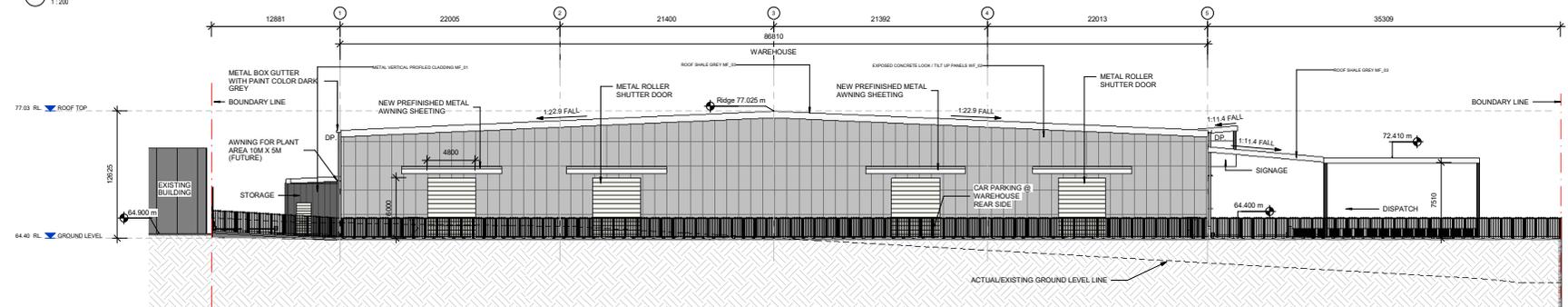
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**FINISHES LEGEND:**

- MF\_01 METAL VERTICAL PROFILED CLADDING
- MF\_02 ROOF (MONUMENT)
- MF\_03 ROOF SHALE GREY
- WF\_01 FIBRE CEMENT PANEL CLADDING
- WF\_02 EXPOSED CONCRETE LOOK / TILT UP PANELS
- WF\_03 SLEEPER CONCRETE REINFORCED THE BOARDS
- TR\_01 TIMBER LOOK BATTENS



1 ELEVATION-NORTH  
1:200



2 ELEVATION-SOUTH  
1:200



**SOUTH NOWRA INDUSTRIAL FACILITY**  
37 NORFOLK AVENUE  
SOUTH NOWRA

ISSUE	DATE	DESCRIPTION
6	15.03.22	DA ISSUE
8	24.03.22	WORK IN PROGRESS
14	13.12.24	DA UPDATED

PROPOSED EXTERNAL ELEVATIONS

A02.30 DA - 14

1:250 @ A1  
1:500 @ A3

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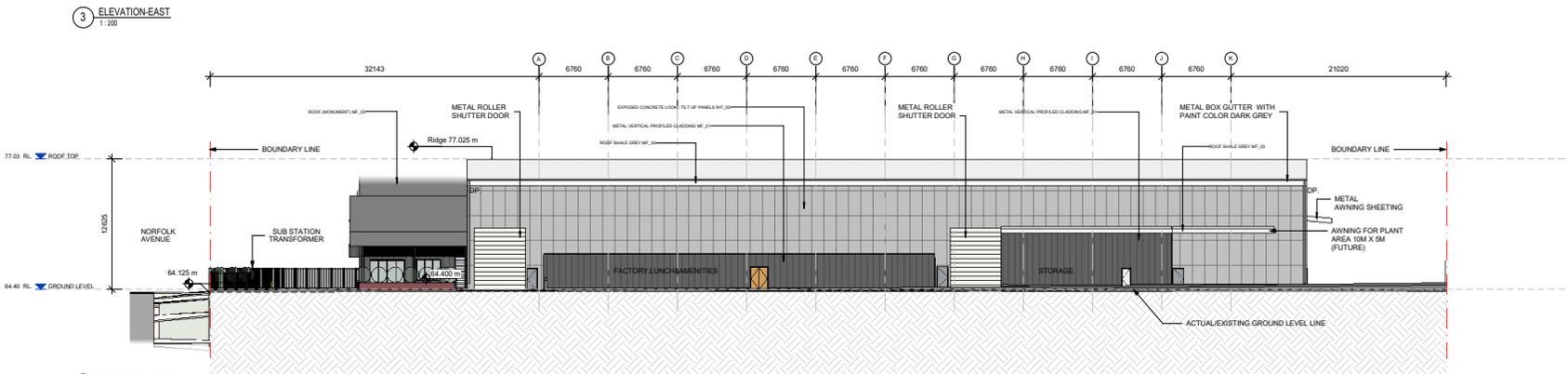
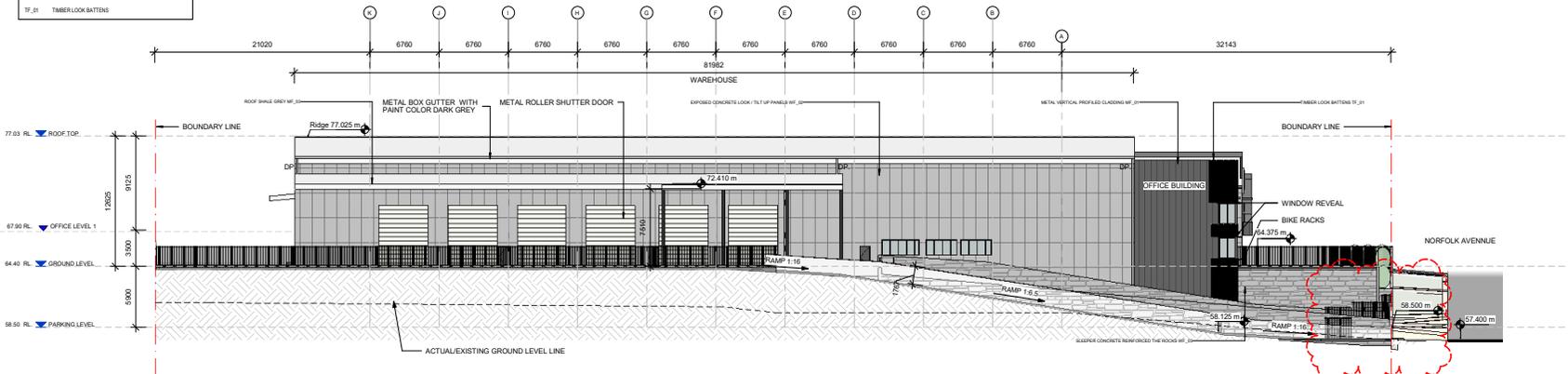
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**FINISHES LEGEND:**

- MF\_01 METAL VERTICAL PROFILED CLADDING
- MF\_02 ROOF (MONUMENT)
- MF\_03 ROOF SHALE GREY
- MF\_04 FIBRE CEMENT PANEL CLADDING
- MF\_05 EXPOSED CONCRETE LOOK / TILT UP PANELS
- MF\_06 SLEEPER CONCRETE REINFORCED THE ROOFS
- TF\_01 TIMBER LOOK BATTENS



**SOUTH NOWRA INDUSTRIAL FACILITY**  
37 NORFOLK AVENUE  
SOUTH NOWRA

ISSUE	DATE	DESCRIPTION
6	15.03.22	DA ISSUE
8	24.03.22	WORK IN PROGRESS
14	13.12.24	DA UPDATED

PROPOSED EXTERNAL ELEVATIONS

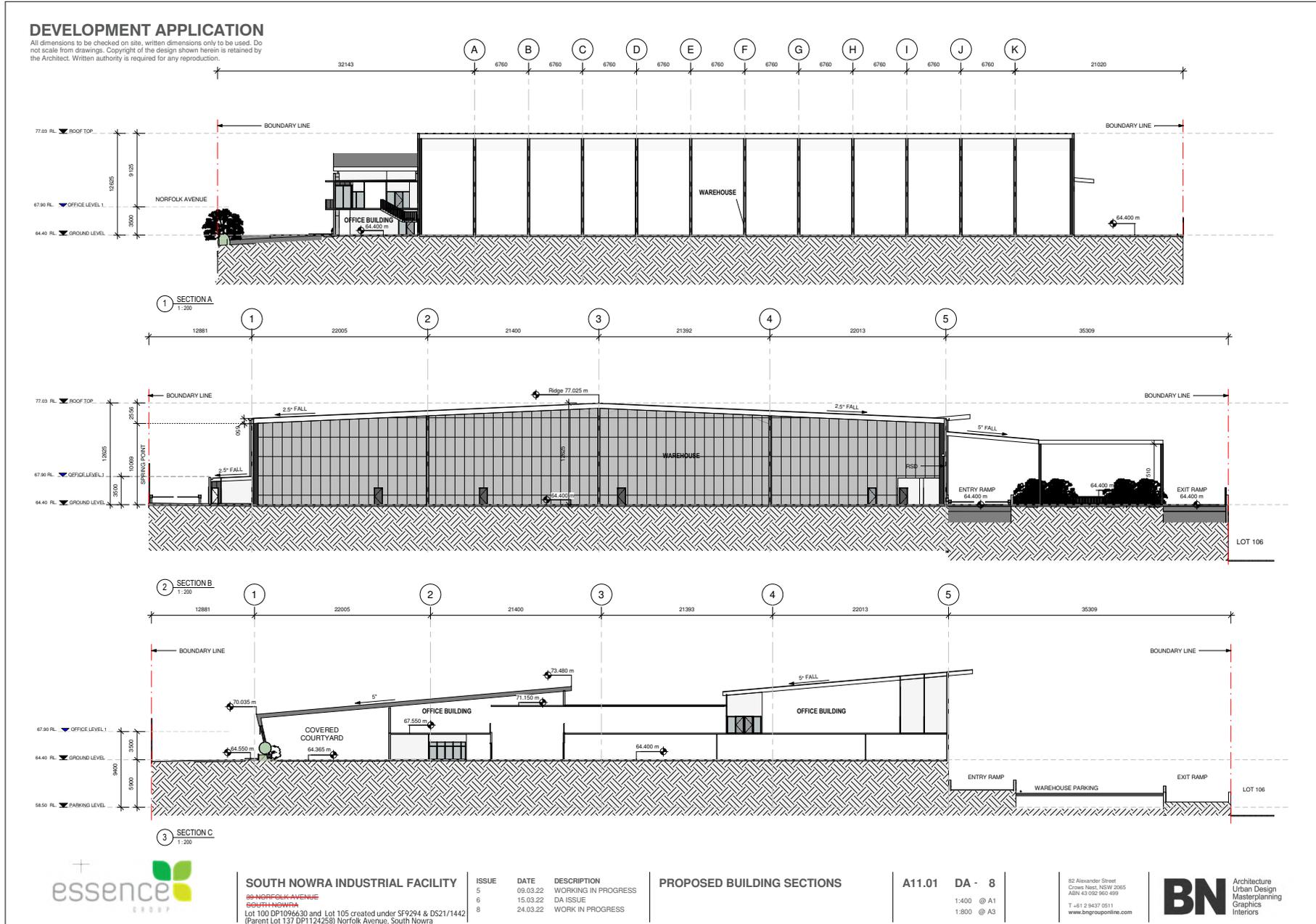
A02.31 DA - 14

@ A1  
@ A3

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CROSSHIRE NSW 2505  
ABN 43 092 360 459  
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**DEVELOPMENT APPLICATION**

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WF\_02 EXPOSED CONCRETE LOOK / TILT UP PANELS



MF\_01 METAL VERTICAL PROFILED CLADDING



WF\_03 SLEEPER CONCRETE REINFORCED THE ROCKS

TF\_01 TIMBER LOOK BATTENS

WINDOW REVEALS

WF\_01 FIBRE CEMENT PANEL CLADDING

TF\_01 TIMBER LOOK BATTENS



**SOUTH NOWRA INDUSTRIAL FACILITY**  
 88 NORFOLK AVENUE  
 SOUTH NOWRA  
 Lot 100 DP1096630 and Lot 105 created under SF9294 & DS21/1442  
 (Parent Lot 137 DP1124238) Norfolk Avenue, South Nowra

ISSUE	DATE	DESCRIPTION
5	09.03.22	WORKING IN PROGRESS
6	15.03.22	DA ISSUE
8	24.03.22	WORK IN PROGRESS

**FINISHES MATERIAL SCHEDULE**

A100.70 DA - 8

- @ A1
- @ A3



**NOTE:**  
 MATERIALS TO BE CONFIRMED DURING  
 CONSTRUCTION CERTIFICATE PHASE.

82 Alexander Street  
 Cross Street, NSW 2265  
 ABN 43 092 980 499  
 T +61 2 9437 0511  
 www.bngrouponline.com





Address all correspondence to: The Chief Executive Officer,  
PO Box 42, Nowra NSW 2541 Australia  
[shoalhaven.nsw.gov.au/contact](http://shoalhaven.nsw.gov.au/contact) | 1300 293 111

[shoalhaven.nsw.gov.au](http://shoalhaven.nsw.gov.au)    

- i) the objects of the Environmental Planning and Assessment Act, 1979.
- ii) the aims, objectives and provisions of the applicable environmental planning instruments,
- iii) the aims, objectives and provisions of applicable development control plans
- iv) the aims, objectives and provisions of relevant Council policies.

**NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION**

Application number	DA2024/1145
Applicant	Allen Price Pty Ltd
Description of development	Construction of a new industrial building for use as General Industry and associated site works and services
Property	39 Norfolk Avenue, SOUTH NOWRA – Lot 105 DP 1305372 <i>(formerly 37 Norfolk Ave, SOUTH NOWRA – Lot 100 DP 1096630 and Norfolk Ave, SOUTH NOWRA – Lot 137 DP 1124258)</i>
Determination	Approval
Date of determination	To Be Confirmed
Date from which the consent operates	To Be Confirmed
Date on which the consent lapses	To Be Confirmed

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

**Reasons for Grant of Consent**

- a) The development proposal, subject to the recommended conditions is consistent with:
- b) The likely impacts of the proposed development are considered acceptable.
- c) The site is suitable for the proposed development.
- d) Any submissions received during the public notification period have been considered and issues and concerns raised by the community in submissions have been addressed in the assessment.
- e) The proposed development does not conflict with the public interest.

**Right of appeal / review of determination**

If you are dissatisfied with this determination:

**Request a review**

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

**Rights to appeal**

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

**Dictionary**

The Dictionary at the end of this consent defines words and expressions for the purposes of this consent.

Person on behalf of the consent authority

**Terms and Reasons for Conditions**

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS					
CONDITIONS				REASON	
1.	<b>Approved plans and supporting documentation</b>				To ensure compliance with the approved plans and documents.
	Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.				
	Plan Number	Plan Title	Drawn by	Date of Plan	
	A02.01 DA-15	Proposed Site Plan	BN	17.12.24	
	A02.02 DA-15	Proposed GF Plan	BN	17.12.24	
	A02.03 DA-6	Proposed Office Building Plan	BN	15.03.22	
	A02.04 DA-6	Proposed Office, Amenities & Storage Plans	BN	15.03.22	
	A02.05 DA-14	Proposed Roof Plan	BN	13.12.24	
	A02.30 DA-14	Proposed External Elevations	BN	13.12.24	
	A02.31 DA-14	Proposed External Elevations	BN	13.12.24	
	A11.01 DA-8	Proposed Buildings Sections	BN	24.03.24	
	A100.70 DA-8	Finishes Material Schedule	BN	24.03.22	
	LPDA22-225	Landscape Site Plan	BN	30.03.22	

	<table border="1"> <tr> <td>LPDA22-225</td> <td>Landscape Plan 1</td> <td>BN</td> <td>30.03.22</td> </tr> <tr> <td>LPDA22-225</td> <td>Landscape Plan 2 &amp; 3</td> <td>BN</td> <td>30.03.22</td> </tr> <tr> <td>LPDA22-225</td> <td>Landscape Details &amp; Specifications</td> <td>BN</td> <td>30.03.22</td> </tr> </table> <table border="1"> <tr> <th colspan="4">Approved Documents</th> </tr> <tr> <th>Document title</th> <th>Version number</th> <th>Prepared by</th> <th>Date of document</th> </tr> <tr> <td>Bushfire Assessment Report</td> <td>S022243</td> <td>SET Consultants</td> <td>18.03.22</td> </tr> </table> <p>In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.</p>	LPDA22-225	Landscape Plan 1	BN	30.03.22	LPDA22-225	Landscape Plan 2 & 3	BN	30.03.22	LPDA22-225	Landscape Details & Specifications	BN	30.03.22	Approved Documents				Document title	Version number	Prepared by	Date of document	Bushfire Assessment Report	S022243	SET Consultants	18.03.22	
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2.	<p><b>Existing Infrastructure</b></p> <p>Any required alterations or damage to infrastructure will be at the developer's expense.</p> <p><i>Note: It is recommended prior to the issue of a Construction Certificate, all infrastructure, existing and proposed, is to be shown accurately on construction plans with clearances clearly labelled confirming that the proposed works do not affect any existing infrastructure. This will reduce the potential for unexpected costs and expenses.</i></p>	To ensure existing infrastructure is accounted for and any damage to infrastructure is suitably repaired.																								
3.	<p><b>Prescribed Conditions</b></p> <p>The development must comply with Part 4, Division 2, Subdivision 1, of the <i>Environmental Planning and Assessment Regulation 2021</i>, as applicable.</p>	To ensure compliance with prescribed conditions.																								
4.	<p><b>Signage - Design and Maintenance</b></p> <p>The location and dimensions of the signage must be in accordance with the approved plans. Additional signage must not be erected or displayed without first gaining development consent from Council, unless carried out under <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>.</p> <p>The approved sign must:</p> <p>a) not impede access to any other property or premises nor obscure or impede access to any public infrastructure such</p>	To ensure ongoing compliance																								

	<p>as electricity or telecommunications facilities, garbage receptacles, street furniture, manholes, inspection openings and the like.</p> <p>b) professionally constructed in accordance with the approved plan and painted by a competent sign-writer.</p> <p>c) not detract from or resemble road traffic regulatory or advisory signs.</p> <p>d) not be altered or modified without the written consent of Council.</p> <p>e) be maintained in good repair and in a structurally sound condition.</p> <p>f) Have any graffiti removed within a maximum of 14 days of being notified by Council.</p>	
5.	<p><b>Shoalhaven Water – Compliance with Conditions</b></p> <p>All conditions listed on the Shoalhaven Water Development Notice at each stage of work must be complied with as relevant to that stage. Written notification must be issued by Shoalhaven Water and evidence provided to the Certifier for each applicable stage.</p>	To ensure compliance with Shoalhaven Water requirements.
6.	<p><b>Concurrence and Referral – Endeavour Energy</b></p> <p>The advice/General Terms of Approval issued by the Endeavour Energy, Reference No: CNR-38703, dated 11/05/2024 are included as conditions of this consent and must be complied with.</p>	To ensure compliance with external concurrence and referral advice.
7.	<p><b>Bushfire Protection</b></p> <p>The development is to comply with the recommendations of the endorsed Bushfire Assessment Report prepared by SET Consultants, Reference: S022243, dated: 18 March 2022.</p>	To ensure compliance with applicable bushfire controls.
<p><b>BUILDING WORK</b></p> <p><b>Before Issue of a Construction Certificate</b></p>		
CONDITIONS		REASON
8.	<p><b>Council Approvals - Evidence</b></p> <p>A Construction Certificate must not be issued until the Certifier has received notification from, or evidence of, any Council</p>	To ensure all required approvals are obtained.

	<p>approval that is required before the commencement of building works.</p> <p><b>9. Erosion and Sediment Controls - Erosion and Sediment Control Plan</b></p> <p>Before issue of a Construction Certificate, an Erosion and Sediment Control Plan (ESCP) and specifications must be prepared in accordance with Landcom’s publication Managing Urban Stormwater - Soils and Construction (2004) by a suitably qualified person, (as defined in the National Construction Code) to the satisfaction of the Certifier.</p> <p>All plans must include:</p> <ul style="list-style-type: none"> <li>g) Site access location and stabilisation details and restrictions;</li> <li>h) Erosion control locations and types;</li> <li>i) Sediment control locations and types;</li> <li>j) Soil, water and drainage management plans;</li> <li>k) Site rehabilitation details;</li> <li>l) Inspection and maintenance details;</li> <li>m) Identification of existing vegetation and site revegetation to have 70% cover established before plan is decommissioned;</li> <li>n) Existing and final contours (clearly distinguished and adequately annotated);</li> <li>o) Standard construction drawings for proposed soil, water and drainage management measures.</li> <li>p) All implemented measures must ensure that a pollution incident must not occur as defined by the Protection of the Environment Operations Act (POEO).</li> </ul> <p>All implemented measures must:</p> <ul style="list-style-type: none"> <li>a) not cause water pollution as defined by the Protection of the Environment Operations Act (POEO).</li> <li>b) be maintained at all times.</li> <li>c) not be decommissioned until at least 70% revegetation cover has been established.</li> </ul>	<p>To ensure an appropriate Erosion and Sediment Control Plan has been prepared.</p>
	<p><b>10. Housing and Productivity Contribution</b></p> <p>Before the issue of a Construction Certificate, the housing and productivity contribution (HPC) set out in the table below is required to be made.</p>	<p>To require contributions towards the provision of</p>

<p><b>Housing and productivity contribution</b></p> <p>Housing and productivity contribution (base component)</p> <p>Transport project component</p> <p><b>Total housing and productivity contribution</b></p>	<b>Amount</b>																																				
	\$159,538.57																																				
	NIL																																				
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<p>The HPC must be paid using the NSW planning portal.</p> <p>At the time of payment, the amount of the HPC is to be adjusted in accordance with the Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024 (HPC Order).</p> <p>The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the Environmental Planning and Assessment Act 1979 agrees.</p> <p>The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the HPC Order exempts the development from the contribution.</p> <p><b>The amount of the contribution may be reduced under the HPC Order, including if payment is made before 1 July 2025.</b></p>																																					
<p><b>11. Local Infrastructure Contribution</b></p> <p>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(s):</p>	<p>regional infrastructure</p>																																				
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Project	Description	Rate	Qty	GST Incl																																	
CWFIRE 2001	Citywide Fire & Emergency services	\$162.05	49.76	<b>\$8,063.61</b>																																	
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<p>The total contribution, identified in the above table(s) 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.</p>																																					

	<p>The Contributions Plan 2019 can be accessed on Councils website <a href="http://www.shoalhaven.nsw.gov.au">www.shoalhaven.nsw.gov.au</a> or may be inspected on the public access computers at the libraries and the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.</p> <p><i>Note: There are also provisions that may apply with respect to the timing of payments. See: Environmental Planning and Assessment (Local Infrastructure Contributions - Timing of Payments) Direction 2020 (nsw.gov.au)</i></p>	
12.	<p><b>Long Service Levy</b></p> <p>Before the issue of the relevant Construction Certificate / Subdivision Works Certificate, the long service levy must be paid to the Long Service Corporation of Council under the Building and Construction industry <i>Long Service Payments Act 1986</i>, section 34, and evidence of the payment is to be provided to the Certifier.</p>	To ensure compliance with long service levy requirements.
13.	<p><b>Retaining Walls – Design Standards</b></p> <p>Before the issue of a Construction Certificate for approved retaining walls exceeding 600mm 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.</p> <p>The retaining walls must satisfy the following:</p> <ol style="list-style-type: none"> <li>For retaining walls exceeding 600mm 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</li> <li>For retaining walls less than 600mm 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.</li> <li>Retaining walls, footings and drainage must be contained wholly within the development site.</li> <li>Construction within a registered easement is prohibited.</li> </ol> <p>Retaining walls not shown on the approved plan must meet the criteria for Exempt retaining walls and comply with the relevant criteria listed in <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> or be approved by way of Complying Development before construction and comply with the relevant criteria listed in</p>	To ensure retaining walls are appropriately designed.

<p>14.</p>	<p><i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.</i></p> <p><b>Waste Management Plan</b></p> <p>Prior to the issue of a Construction Certificate, a revised Waste Management Plan (WMP) must be prepared in accordance with Chapter G7 of Shoalhaven Development Control Plan 2014 to account for changes of waste volumes as a result of changes since the creation of the original WMP. The WMP must be approved by the Certifier prior to demolition works commencing</p>	<p>To ensure an appropriate waste management plan is provided.</p>
<p>15.</p>	<p><b>Design Standards – Works Within the Road Reserve</b></p> <p>Prior to the issue of a Construction Certificate, all works proposed within road reserves must be approved by Council.</p>	<p>To ensure road and pavement infrastructure is appropriately designed.</p>
<p>16.</p>	<p><b>Driveway Design Standards – Urban</b></p> <p>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:</p> <ul style="list-style-type: none"> <li>a) Council's Engineering Design Standard Drawings.</li> <li>b) Constructed using 20 MPa reinforced concrete, reinforced with SL72 mesh, on a 75mm compacted fine crushed rock base with centrally placed slab of minimum 3 metres width and minimum 100mm depth.</li> <li>c) Removal of sufficient width of existing road seal and pavement to allow placing of formwork and laying/compaction of suitable pavement material for the driveway layback with a minimum 300mm offset to the kerb lip line.</li> </ul>	<p>To ensure road and pavement infrastructure is appropriately designed.</p>
<p>17.</p>	<p><b>Car Parking Design Standards</b></p> <p>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:</p>	

<p><b>18.</b></p>	<p>a) AS2890.1 and AS2890.6 where relevant.</p> <p>b) Generally in accordance with the layout on the approved plans.</p> <p>c) Constructed in accordance with the following:</p> <ul style="list-style-type: none"> <li>i) with an asphaltic concrete (AC) flexible pavement designed and constructed for a minimum traffic loading of 1 x 10<sup>6</sup> 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.</li> </ul> <p>d) Bordered in accordance with Council's Standard Drawings by:</p> <ul style="list-style-type: none"> <li>i) concrete kerbing, except where surface runoff is concentrated, in which case concrete integral kerb and gutter must be constructed.</li> </ul> <p><b>Lighting Design – Internal Driveway and Carparking</b></p> <p>Before the issue of a Construction Certificate, lighting design plans are to be submitted to Council for approval. Lighting is to be provided to the internal driveway and car parking area in accordance with <i>AS/NZS 1158.3.1 Lighting for roads and public spaces - Pedestrian area (Category P) lighting - Performance and design requirements</i>.</p>	<p>To ensure public road lighting will be appropriate.</p>
<p><b>19.</b></p>	<p><b>Design Standards – Traffic Committee Referral</b></p> <p>Prior to the issue of a Construction Certificate details of proposed traffic management and traffic control devices must be submitted to the satisfaction of Council for referral and endorsement of the Shoalhaven Traffic Committee.</p> <p><i>Note: This process can take six to eight weeks.</i></p>	<p>To ensure proposed traffic management and traffic control devices are endorsed by the Shoalhaven Traffic Committee.</p>
<p><b>20.</b></p>	<p><b>Structural Design – Major Structures</b></p> <p>Prior to the issue of a Construction Certificate, a detailed structural design for the following works must be certified</p>	<p>To ensure the development is accompanied</p>

	<p>professional engineer, (as defined in the National Construction Code) and approved by the Certifier.</p> <p>a) Bridges and other major drainage structures, including pre-cast concrete culverts, headwalls, wing walls and stormwater tanks / pits / structures that require steel reinforcement.</p> <p>The structural design must comply with the Council's Engineering Design Specification – Chapter 3 – Structures/Bridge Design and relevant Australian Standards.</p>	<p>by an appropriate engineered structural design.</p>
21.	<p><b>Soil and Water Management Plans (SWMP)</b></p> <p>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.</p> <p>All implemented measures must:</p> <p>a) prevent water pollution as defined by the <i>Protection of the Environment Operations Act 1997</i> (POEO).</p> <p>b) be maintained at all times.</p> <p>c) not be decommissioned until at least 70% revegetation cover has been established.</p> <p>It is expected that a sediment basin will be required based on the site disturbance and expected average annual soil loss in accordance with the Blue Book. Calculations are to be provided addressing this matter.</p>	<p>To ensure an appropriate Soil and Water Management Plan has been prepared.</p>
22.	<p><b>Amended Stormwater Plans</b></p> <p>Before the issue of a Construction Certificate, the following matters are to be addressed and approved by Council:</p> <p>a) The modification of pit 5/EX to a layback grate will only be accepted where a replacement standard kerb inlet pit is provided immediately adjacent to the driveway to Council's standard details. This pit shall be shown on updated Concept Stormwater Plans.</p> <p>b) On-Site Detention pre/post results are to be provided for to 5yr ARI event in accordance with DCP Chapter G2 A5.1</p> <p>c) The Run drains model including results shall be provided for all design storm events</p> <p>d) The Integrated Water Cycle Management Study confirms that 40% of the site is untreated, however the reductions indicated in Section 3.2 exceed 40%. Additional explanation is requested.</p>	<p>To ensure stormwater infrastructure is designed appropriately.</p>

	<p>e) Music model is requested for additional clarity.</p>	
<p><b>23.</b></p>	<p><b>Stormwater – Major Development Design Standards (Urban)</b></p> <p>Before the issue of a Construction Certificate, certified engineering design plans, specifications, and DRAINS model (or approved alternative) must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.</p> <p>The stormwater drainage design must comply with the following:</p> <p>a) Major and minor drainage systems in accordance with Council’s Engineering Design Specifications - Section D5 - Stormwater Drainage Design and utilising Australian Rainfall and Runoff (ARR, 2019) Guidelines.</p> <p>b) The minor and major systems must be designed for a 18.13% AEP and 1% Annual Exceedance Probability (AEP) rainfall events, respectively.</p> <p>c) Where a pipe drains a public road through land adjoining the road, the pipe is to be designed to cater for the 1% AEP event with an overland flow path to provide for bypass/surcharge in the event of the pipe or pit inlet being 50% blocked.</p> <p>d) The existing stormwater drainage system is to be adjusted to suit the new works. In this regard the following is required:</p> <p>i) existing drainage systems through lots draining public roads are to be upgraded where necessary to contain flows in accordance with Council’s Engineering Design Specifications - Section D5.04.</p> <p>ii) all relevant calculations are to be noted on the drainage plans to confirm the adequacy of the existing system, or the upgraded design.</p> <p>e) Design of stormwater drainage is to include piping, swales and easements to facilitate future development of the site.</p>	<p>To ensure stormwater infrastructure is designed appropriately.</p>
<p><b>24.</b></p>	<p><b>Stormwater – New Buildings Design Standards</b></p> <p>Before the issue of a Construction Certificate stormwater plans must be prepared by a Licensed Plumber or professional</p>	<p>To ensure stormwater infrastructure is designed appropriately.</p>

	<p>engineer (as defined in the National Construction Code) and submitted to the Certifier.</p> <p>a) Drainage must be designed and constructed in accordance with:</p> <ul style="list-style-type: none"> <li>i) Generally, in accordance with the approved plans</li> <li>ii) the National Construction Code</li> <li>iii) Council's <a href="#">Engineering Design Specifications</a></li> <li>iv) <a href="#">Development Control Plan G2</a></li> </ul>	
25.	<p><b>On-Site Detention – Infill Subdivision and Development</b></p> <p>Prior to the issue of a Construction Certificate, certified engineering design plans and specifications must be prepared by professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.</p> <p>The on-site stormwater detention (OSD) design must comply with the following:</p> <p>a) Designed such that stormwater runoff from the site for design storm events up to and including the 1% AEP does not exceed the pre-developed conditions.</p>	To ensure stormwater infrastructure is designed appropriately.
26.	<p><b>Water Sensitive Urban Design (WSUD) Devices – Private Devices</b></p> <p>Before the issue of a Construction Certificate, detailed design of permanent stormwater quality improvement devices must be certified by a professional engineer, (as defined in the National Construction Code) demonstrating the appropriateness of the proposed design for the site in accordance with Council's Engineering Design and Construction Specifications and approved by the Certifier. Specifications can be found on Council's web site.</p> <p>The drainage design must also not include any uncoated metal (i.e. Copper etc.) surfaces such as roofs, facades and/or downpipes.</p>	To ensure stormwater infrastructure is designed appropriately.
27.	<p><b>Amendments to Site Layout</b></p> <p>All plans prepared for any Construction Certificate (including all site, floor and engineering plans) are to be amended to show the landscaped areas and dimensions shown within the approved landscape plans, in order to remove site layout inconsistencies between landscape and site layout plans.</p>	To ensure consistent plans.

<b>28.</b>	<p><b>Electricity Demand Application</b></p> <p>The applicant is to submit an appropriate application to Endeavour Energy based on the maximum demand for electricity for connection of load. An extension and / or augmentation of the existing local network will be required. The extent of any works required will not be determined until the final load assessment is completed.</p>	To ensure compliance with Endeavour Energy requirements.
<b>29.</b>	<p><b>Electricity Authority Requirements for Electricity Connection and Substation Design</b></p> <p>Documentary evidence from Endeavour Energy is to be submitted to Council prior to the issue of a Construction Certificate, which confirms that satisfactory arrangements have been made for the connection of electricity and the design requirements for the substation.</p>	To ensure compliance with Endeavour Energy requirements.
<b>30.</b>	<p><b>Section 68 Application – Water Supply, Sewerage and Stormwater Drainage</b></p> <p>Before the issue of a Construction Certificate, an application for water supply, sewerage and stormwater drainage must be approved under section 68 of the <i>Local Government Act 1993</i>.</p>	To ensure relevant approvals are obtained.
<p><b>BUILDING WORK</b> <b>Before Building Work Commences</b></p>		
CONDITIONS		REASON
<b>31.</b>	<p><b>Appointment of Principal Certifier</b></p> <p>Before building/subdivision work commences a Principal Certifier must be appointed.</p>	To ensure a Principal Certifier is appointed where required.
<b>32.</b>	<p><b>Construction Certificate</b></p> <p>A Construction Certificate must be obtained from either Council or a certifier before any building work can commence.</p>	To ensure a appropriate building and Subdivision Certificates are obtained.
<b>33.</b>	<p><b>Dilapidation Report</b></p> <p>Before the commencement of work, the developer must engage a competent person to prepare a dilapidation report in</p>	To ensure a suitable dilapidation

	<p>respect of the neighbouring premises and adjacent public infrastructure, including adjacent kerbs, gutters, footpaths (formed or unformed), driveways (formed or unformed), carriageway, reserves and the like to document evidence of any existing damage.</p> <p>The dilapidation report must consider the impact of any excavation work that extends below the level of the base of the footings of any structure within 900mm of the shared boundary.</p> <p>Before works commence, a copy of the dilapidation report must be provided to the Certifier and Council. The dilapidation report will be the benchmark for necessary repairs to damage caused during the development works. All repairs must be completed by the developer at the developer's cost.</p> <p>Not less than seven (7) days before works commence, the developer must notify the owner of any affected property of the intention to carry out approved works. The developer must also furnish the owner with details of the approved work.</p> <p>However, if the occupier or owner of any neighbouring dwelling does not permit reasonable access for the purposes for the preparation of the dilapidation report, written evidence of the efforts taken to secure access may be submitted to the Principal Certifier and the Principal Certifier may waive the requirement in relation to the relevant property.</p> <p><i>Note: A dilapidation report can comprise of video footage and photos of adjacent public infrastructure and relevant structures on adjoining properties.</i></p>	<p>report is prepared and the status of existing infrastructure and adjoining structures is recorded prior to the commencement of work.</p>
<p><b>34.</b></p>	<p><b>Erosion and Sediment Controls – Implementation</b></p> <p>Before any site work commences, the Certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any disturbed areas have been stabilised in accordance with Landcom's publication Managing Urban Stormwater - Soils and Construction (2004) and approved plans (as amended from time to time).</p>	<p>To ensure appropriate erosion and sediment control measures are in place.</p>
<p><b>35.</b></p>	<p><b>Notice of Commencement</b></p> <p>Notice must be given to Council at least two (2) days before the commencement of building or subdivision work by completing and returning the form '<a href="#">Commencement Notice for Building or Subdivision Work and Appointment of Principal Certifying Authority</a>'.</p>	<p>To ensure appropriate notice is given to Council.</p>

<p>36.</p>	<p><b>Shoalhaven Water – Application for Certificate of Compliance</b></p> <p>Before commencement of works, an application for a Certificate of Compliance must be made with Shoalhaven Water and where required a Water Development Notice is to be obtained.</p> <p>Shoalhaven Water will determine if sewerage and/or water infrastructure and/or easements will be affected by any part of your development including what charges/fees apply. Please visit <a href="https://shoalwater.nsw.gov.au/planning-building/developers-consultants/water-development-notice">https://shoalwater.nsw.gov.au/planning-building/developers-consultants/water-development-notice</a> to make application for a Certificate of Compliance or call (02) 4429 3214 to learn more about applying.</p> <p>Upon the receipt of the application, Shoalhaven Water will assess the development and if required will issue a “Water Development Notice” document detailing all requirements which must be met.</p> <p><i>Note: As water and/or sewerage infrastructure may impact on part/s or all of the development such as building, provision of services, protection of water and/or sewer assets, etc., it is recommended that this application is made as early as possible during the development process.</i></p>	<p>To ensure a Water Development Notice and Certificate of Compliance are obtained.</p>
<p>37.</p>	<p><b>Toilet Facilities – Temporary</b></p> <p>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:</p> <ul style="list-style-type: none"> <li>a) be a standard flushing toilet connected to a public sewer, or</li> <li>b) have an on-site effluent disposal system approved under the <i>Local Government Act 1993</i>, or</li> <li>c) be a temporary chemical closet approved under the <i>Local Government Act 1993</i>.</li> </ul>	<p>To ensure suitable toilet facilities are provided.</p>
<p>38.</p>	<p><b>Construction Traffic Management Plan</b></p> <p>Prior to the commencement of works, a Construction Traffic Management Plan detailing the proposed method of dealing with construction traffic and parking must be approved by Council. Details must include, but are not limited to:</p> <ul style="list-style-type: none"> <li>a) Stabilised site construction access location</li> <li>b) Proposed haulage routes for delivery of materials to the site</li> </ul>	<p>To ensure construction traffic is managed in a safe and appropriate manner.</p>

	<ul style="list-style-type: none"> <li>c) Proposed haulage routes for spoil disposal from the site</li> <li>d) Traffic control planning for each of the various phases of construction and/or vehicle movements associated with construction</li> <li>e) Parking arrangements for construction employees and contractors</li> <li>f) Proposed maintenance of the haulage routes and the name of the person responsible for such maintenance</li> <li>g) Loading / unloading areas</li> <li>h) Requirements for construction or work zones</li> <li>i) Pedestrian and cyclist safety</li> <li>j) Speed zone restrictions.</li> </ul> <p><b>39. Works within the Road Reserve – Submissions to Council</b></p> <p>Before undertaking any works within an existing road reserve, the developer must obtain the consent of Council under section 138 of the <i>Roads Act 1993</i>.</p> <p>The following details must be submitted to Council as part of the application:</p> <ul style="list-style-type: none"> <li>a) Any civil works design required by this consent.</li> <li>b) Evidence of the contractor's Public Liability Insurance to an amount of \$20 million.</li> <li>c) Name and contact information of the person responsible for all relevant works.</li> <li>d) A Traffic Control Plan prepared, signed, and certified by a person holding the appropriate Transport for NSW (TfNSW) accreditation.</li> <li>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.</li> </ul> <p><b>BUILDING WORK</b> <b>During Building Work</b></p>	<p>To ensure relevant approvals are obtained.</p>
	<p>CONDITIONS</p>	<p>REASON</p>
<p>40.</p>	<p><b>Acid Sulfate Soils - Unexpected Finds</b></p>	<p>To ensure acid sulfate soils are</p>

	<p>If acid sulfate soils are encountered during excavation and/or construction works, all work must cease, and Shoalhaven City Council notified immediately. The extent of acid sulfate soil must be evaluated by a qualified environmental consultant with experience in the assessment of acid sulfate soils and a preliminary assessment provided to Council. Council will determine an appropriate response, including if an Acid Sulfate Soils Management Plan is required to be prepared and implemented, before works can recommence.</p>	<p>appropriately managed.</p>
<p><b>41. Discovery of relics and Aboriginal objects</b></p>	<p>While site work is being carried out, if a person reasonably suspects a relic or Aboriginal object is discovered:</p> <ul style="list-style-type: none"> <li>a) the work in the area of the discovery must cease immediately.</li> <li>b) the following must be notified for a relic – the Heritage Council; or</li> <li>c) for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85.</li> </ul> <p>Site work may recommence at a time confirmed in writing by:</p> <ul style="list-style-type: none"> <li>a) for a relic – the Heritage Council; or for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85.</li> </ul>	<p>To ensure the protection of objects of potential significance during works.</p>
<p><b>42. Potentially Contaminated Land - Unexpected Finds</b></p>	<p>If unexpected, contaminated soil and/or groundwater is encountered during any works:</p> <ul style="list-style-type: none"> <li>a) all work must cease, and the situation must be promptly evaluated by an appropriately qualified environmental consultant.</li> <li>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.</li> </ul> <p>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 before recommencement of works. The verification</p>	<p>To ensure any detected contaminants are appropriately managed.</p>

<p>43.</p>	<p>documentation must be provided to the satisfaction of the Certifier and Shoalhaven City Council before the recommencement of any works.</p> <p>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).</p> <p><i>Note: 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).</i></p> <p><b>Site Management - Hours for Construction</b></p> <p>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.</p>	<p>To ensure site work occurs within appropriate construction hours.</p>
<p>44.</p>	<p><b>Waste Management Plan</b></p> <p>Before the commencement of site works a waste management plan for the development must be provided to the Certifier for review and approval.</p>	<p>To ensure an appropriate waste management plan is provided.</p>
<p>45.</p>	<p><b>Earthworks and Excavation</b></p> <p>a) Approved earthworks (including any structural support or other related structures for the purpose of the development):</p> <p>i) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot.</p> <p>ii) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property.</p> <p>iii) that is fill brought to the site, must contain only virgin excavated natural material (VENM) or excavated natural material (ENM) as defined in Part 3 of schedule 1 to the <i>Protection of the Environment Operations Act 1997 (POEO Act)</i>.</p> <p>Documentation must be provided to the Certifier</p>	<p>To ensure earthworks are carried out appropriately.</p>

	<p>certifying that imported fill material is not contaminated and does not contain contaminants such as asbestos, chemicals or building waste.</p> <p>iv) that is excavated soil to be removed from the site, must be disposed of in accordance with any requirements under the <i>Protection of the Environment Operations (Waste) Regulation 2005</i>.</p> <p>b) Any excavation must be carried out in accordance with <i>Excavation Work: Code of Practice (ISBN 978-0-642-78544-2)</i> published by Safe Work Australia in October 2018.</p>	
<b>46.</b>	<p><b>Overland Stormwater Flow, Redirecting and/or Concentrating Stormwater</b></p> <p>All excavation, backfilling and landscaping works must not result in:</p> <p>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.</p> <p>b) the redirection and/or concentration of stormwater flows onto neighbouring properties.</p>	To ensure stormwater is appropriately managed.
<b>47.</b>	<p><b>Survey Certification</b></p> <p>All excavation, backfilling and landscaping works must not result in:</p> <p>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.</p> <p>b) the redirection and/or concentration of stormwater flows onto neighbouring properties.</p>	To ensure adherence to the approved plans.
<b>48.</b>	<p><b>Building Construction Standards</b></p> <p>The proposed buildings, precast concrete external walls, metal wall cladding, roof and roller doors must be constructed entirely of non-combustible materials.</p>	To ensure ongoing compliance.
<b>49.</b>	<p><b>Site Management - Maintenance of Site and Surrounds</b></p>	To ensure the site is

	<p>During works, the following maintenance requirements must be complied with:</p> <p>a) All materials and equipment must be stored and delivered wholly within the work site unless an approval to store them elsewhere is held.</p> <p>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.</p> <p>c) Where tree or vegetation protection measures are in place, the protected area must be kept clear of materials and / or machinery.</p> <p>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.</p> <p>e) During construction:</p> <p style="padding-left: 40px;">i) all vehicles entering or leaving the site must have their loads covered, and</p> <p style="padding-left: 40px;">ii) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.</p> <p>f) At the completion of the works, the work site must be left clear of waste and debris.</p>	<p>maintained in a safe and secure manner.</p>
<b>50.</b>	<p><b>Site Management - Noise</b></p> <p>The noise from all site work, demolition and construction activities associated with the approved development must comply with the work practices as outlined in the NSW Department of Environment &amp; Climate Change Interim Construction Noise Guideline. The LAeq noise 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.</p>	<p>To protect the amenity of neighbouring properties.</p>
<p><b>BUILDING WORK</b> <b>Before Issue of an Occupation Certificate</b></p>		
CONDITIONS		REASON
<b>51.</b>	<p><b>Damage to Public Assets</b></p>	<p>To ensure public assets are maintained</p>

	<p>Prior to the issue of an Occupation Certificate, any infrastructure within the road reserve, along the frontage of the subject site, or in proximity, which has been damaged as a result of construction works, must be repaired by the developer to the satisfaction of Council.</p>	<p>in working condition.</p>
<p><b>52.</b></p>	<p><b>Works as Executed – Stormwater Drainage</b></p> <p>Works as Executed Plans and certification must be submitted to the Council by a licenced plumber, registered surveyor &amp; professional engineer (as defined in the National Construction Code) certifying compliance of all drainage works with the approved design plans and the National Construction Code.</p> <p>The Works as Executed be shown in red on a copy of the approved plans. This plan must verify locations and sizes of all pipelines.</p> <p>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).</p>	<p>To ensure works as executed plans are prepared and provided.</p>
<p><b>53.</b></p>	<p><b>On-site Detention and WSUD System</b></p> <p>Prior to the issue of the Occupation Certificate, the developer must:</p> <ol style="list-style-type: none"> <li>a) create a restriction on use under the <i>Conveyancing Act 1919</i> over the on-site detention system and water quality treatment devices and provide it to the Certifier as follows: <ol style="list-style-type: none"> <li>i) The registered proprietor of the lot burdened must not make or permit or suffer the making of any alterations to any on-site stormwater detention system on the lot(s) burdened without the prior consent in writing of the authority benefited. The expression 'on-site stormwater detention system' must include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater as well as all surfaces graded to direct stormwater to those structures. Name of the authority having the power to release, vary or modify the restriction referred to is Shoalhaven City Council.</li> <li>ii) The registered proprietor must not make or permit or suffer the making of any alterations to any stormwater treatment measures/ water sensitive urban design (WSUD) elements which is, or must be, constructed on the lot(s) burdened without the</li> </ol> </li> </ol>	<p>To ensure stormwater infrastructure is designed appropriately.</p>

	<p>prior consent in writing of Shoalhaven City Council.</p> <p>iii) 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.</p> <p>iv) create a positive covenant under the <i>Conveyancing Act 1919</i>, requiring the property owner(s) to undertake maintenance in accordance with the approved WSUD System Operation and Maintenance Manual.</p> <p>v) provide a certificate from a professional engineer, (as defined in the National Construction Code) to verify the structural and hydraulic adequacy of the on-site detention facility and water quality improvement devices and that the facility / devices have been constructed in accordance with the approved Construction Certificate plans.</p>	
<p><b>54.</b></p>	<p><b>Colours and Materials</b></p> <p>The development must be constructed in accordance with the approved schedule of colours and building materials and finishes.</p>	<p>To ensure colours and materials are appropriate.</p>
<p><b>55.</b></p>	<p><b>Completion of Public Utility Services</b></p> <p>Before the issue of the relevant Occupation Certificate / Subdivision Certificate, confirmation must be obtained from the relevant authority that any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, have been completed and this confirmation must be provided to the principal certifier.</p>	<p>To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements,</p>

<p><b>56.</b></p>	<p><b>Completion of landscape and tree works</b> Before the issue of an Occupation Certificate, the principal certifier must be satisfied all landscape and tree-works have been completed in accordance with approved plans and documents and any relevant conditions of this consent.</p>	<p>before occupation.  To ensure the approved landscaping works have been completed.</p>
<p><b>57.</b></p>	<p><b>Dilapidation Report – Evidence of Completion</b> Before the issue of an Occupation Certificate, the developer must provide the Certifier and Council with evidence that any damage to neighbouring premises or adjacent public infrastructure, not previously identified as existing damage in the Dilapidation Report, has been repaired by the developer to the satisfaction of Council.</p>	<p>To ensure any damage not previously identified in the Dilapidation Report is suitably repaired.</p>
<p><b>58.</b></p>	<p><b>Driveway – Evidence of Completion</b> Before the issue of a full Occupation Certificate, all driveway works internal to the site as shown on the approved plans must be completed.</p>	<p>To ensure the completion of the driveway in a timely manner</p>
<p><b>59.</b></p>	<p><b>Fire Safety – Evidence of Compliance</b> Prior to the issue of a partial or whole Occupation Certificate, a final fire safety certificate is to be issued to Council and Fire &amp; 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.</p>	<p>To ensure compliance with the Fire Safety Schedule.</p>
<p><b>60.</b></p>	<p><b>Retaining Walls – Certification</b> Before the issue of an Occupation Certificate, certification must be provided to the Certifier prepared by a professional engineer, (as defined in the National Construction Code), certifying that retaining walls within 1m of the property boundary or exceeding 1m in height above ground level</p>	<p>To ensure retaining walls have been constructed appropriately.</p>

	<p>(existing) are constructed in accordance with the approved engineering design plans.</p> <p>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.</p> <p><i>Note: This condition does not prevent a partial Occupation Certificate to be issued for the parts of the development that have been completed.</i></p>	
61.	<p><b>Structural Elements – Certification</b></p> <p>Prior to the issue of an Occupation Certificate, certification must be provided to the Certifier prepared by a professional engineer, (as defined in the National Construction Code), certifying that all structural elements (e.g. underground stormwater tanks) have been constructed in accordance with the approved engineering design plans.</p>	To ensure that required works have been appropriately carried out.
62.	<p><b>Section 68 Approvals – Evidence of Completion</b></p> <p>All the conditions under the approval of section 68 of the <i>Local Government Act 1993</i> are to be complied with before the issue of an Occupation Certificate.</p>	To ensure compliance with section 68 approval.
63.	<p><b>Shoalhaven Water – Certificate of Compliance</b></p> <p>Before the issue of any Occupation Certificate, a Certificate of Compliance under section 307 of the <i>Water Management Act 2000</i> must be obtained from Shoalhaven Water to verify satisfactory compliance with all conditions for the supply of water and sewerage, as listed on the Water Development Notice.</p> <p>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.</p>	To ensure compliance with Shoalhaven Water requirements.
64.	<p><b>Waste - Private Collection Service</b></p> <p>Before the issue of an Occupation Certificate, the developer/owner must provide evidence to the Certifier of a formal agreement with a licenced private waste contractor to service the development. A copy of the contract must be forwarded to Council.</p> <p>The agreement must ensure:</p> <p>a) the removal of all waste from the developed property.</p>	To ensure an appropriate waste management agreement is entered into.

	<p>b) the service is functional and meets the operational requirements for the developed property.</p> <p>c) the service minimises environmental nuisances including noise and other adverse impacts on the safety and amenity of residents and the public.</p> <p>d) the developer/owner indemnifies Council against claims for loss or damages, should Council take over provision of the service at some point in the future.</p> <p><b>65. Works in the Road Reserve - Evidence of Completion</b></p> <p>Before the issue of a full 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 <i>Roads Act 1993</i>.</p>	<p>To ensure works in the road reserve are completed appropriately.</p>
<p><b>BUILDING WORK</b></p> <p><b>Occupation and Ongoing use</b></p>		
<p>CONDITIONS</p>		<p>REASON</p>
<p><b>66.</b></p>	<p><b>Occupation – Satisfaction of Conditions of Consent</b></p> <p>The development must not be occupied or used before an Occupation Certificate has been issued by the Principal Certifier.</p> <p>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).</p>	<p>To ensure conditions of consent are complied with or other satisfactory arrangement made.</p>
<p><b>67.</b></p>	<p><b>Hours of Operation</b></p> <p>The use of the approved development is restricted to operating during the following hours:</p> <p><u>Monday to Saturday</u></p> <ul style="list-style-type: none"> <li>• Warehouse 7am to 5pm</li> <li>• Office 8am – 6pm</li> </ul> <p><u>Sunday</u></p> <p>Closed</p>	<p>To limit the hours of operation for the development.</p>

<p><b>68.</b></p>	<p><b>Waste Collection Hours</b></p> <p>Hours of waste collection from the site are limited to the following times:</p> <ul style="list-style-type: none"> <li>• Monday to Friday: 7:00am to 7:00pm</li> <li>• Saturday and Sunday: 8:00am to 7:00pm</li> </ul>	<p>To ensure waste is collected at appropriate times.</p>
<p><b>69.</b></p>	<p><b>Site Management - Commercial/Industrial Development</b></p> <p>The owner or operator must at all times be responsible for on-going site management and maintenance in accordance with the following:</p> <ol style="list-style-type: none"> <li>a) loading and unloading in relation to the use of the premises must occur in the designated loading areas or within the road reserve under an approved traffic control plan.</li> <li>b) goods or machinery must be stored, and all activities must occur, inside the building(s) and not in the carpark or driveway areas.</li> <li>c) maintenance and replacement (if necessary) of all landscaping in accordance with the approved landscape plan.</li> <li>d) maintenance of vehicular movement areas including driveways, carparking, manoeuvring areas, line marking, pedestrian facilities, lighting, to the standard specified by this consent.</li> <li>e) ongoing waste and recycling must be managed in accordance with the approved Waste Management Plan. Waste bins are not to be stored within the loading area/space that is visible from a public place.</li> <li>f) maintenance of stormwater drainage pipes and systems to ensure efficient discharge of stormwater in accordance with the approved stormwater drainage plan.</li> <li>g) maintenance of buildings, fencing, signage/markings to the standards specified in this consent.</li> <li>h) the removal of all graffiti within a maximum of 14 days of being notified by Council.</li> </ol>	<p>To ensure the site is maintained and operated in a safe and appropriate manner.</p>
<p><b>70.</b></p>	<p><b>Noise – Commercial/Industrial Development</b></p> <p>The use of the approved development must not give rise to transmission of unacceptable vibration or an offensive noise to any place of different occupancy or the public in accordance</p>	<p>To protect the amenity of neighbouring properties</p>

	with the NSW Environment Protection Authority's <i>Noise Policy for Industry</i> and <i>Noise Guide for Local Government</i> (guideline) and the <i>Protection of the Environment Operations Act (POEO Act)</i> .	
<b>71.</b>	<b>Provision of Parking</b> At least 63 onsite car parking spaces (including 1 accessible space) are to be provided at all times.	To ensure ongoing compliance
<b>72.</b>	<b>Fire Safety – Annual Statement</b> 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 <a href="#">application form</a> is available on Council's website.  <i>Note: An annual fire safety statement is a declaration by, or on behalf of a building owner that a competent fire safety practitioner (CFSP) has:</i>  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 Environmental Planning and Assessment Regulation 2021  <i>Failure to give Council an annual fire safety statement by the due date constitutes a separate offence for each week beyond that date for which the failure continues. Substantial penalties for non-compliance apply under the Environmental Planning and Assessment Act 1979.</i>	To ensure an annual fire safety statement is prepared.
<b>73.</b>	<b>Stormwater Quality Improvement Devices – Ongoing Maintenance</b> The revisited proprietor must ensure the stormwater drainage system, inclusive of OSD tanks and stormwater quality improvement devices, is maintained in a functional condition for the life of the development. Routine maintenance must be undertaken in accordance with the approved WSUD System Operation and Maintenance Manual. Records of maintenance undertaken must be kept and furnished to Council upon request.	To ensure stormwater infrastructure is appropriately maintained.
<b>74.</b>	<b>Bushfire Protection</b>	To ensure compliance

	The development is to comply with the recommendations of the endorsed Bushfire Assessment Report prepared by SET Consultants, Reference: S022243, dated: 18 March 2022.	with applicable bushfire controls.
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**General advisory notes**

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation, and other legislation. Some of these additional obligations are set out in the Conditions of development consent: advisory notes. The consent should be read together with the Conditions of development consent: advisory notes to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a Construction Certificate or Subdivision Works Certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

**Dictionary**

The following terms have the following meanings for the purpose of this consent (except where the context clearly indicates otherwise):

**Approved plans and documents** means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

**AS** means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

**Building work** means any physical activity involved in the erection of a building.

**Certifier** means a council or a person that is registered to carry out certification work under the Building and Development Certifiers Act 2018.

**Construction Certificate** means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

**Council** means Shoalhaven City Council.

**Court** means the NSW Land and Environment Court.

**EPA** means the NSW Environment Protection Authority.

**EP&A Act** means the Environmental Planning and Assessment Act 1979.

**EP&A Regulation** means the Environmental Planning and Assessment Regulation 2021.

**Independent Planning Commission** means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

**Occupation Certificate** means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

**Principal certifier** means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

**Site work** means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

**Stormwater drainage system** means all works and facilities relating to:

- the collection of stormwater
- the reuse of stormwater
- the detention of stormwater
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

**Strata Certificate** means a certificate in the approved form issued under Part 4 of the Strata Schemes Development Act 2015 that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

DA Number DA2024/1145

**COUNCIL ASSESSMENT REPORT**

<b>DA Number</b>	DA2024/1145
<b>LGA</b>	Shoalhaven City Council
<b>Proposed Development</b>	Construction of a new industrial building for use as General Industry and associated site works and services
<b>Street Address</b>	39 Norfolk Avenue, South Nowra
<b>Lot &amp; DP</b>	Lot 105 DP 1305372
<b>Applicant</b>	Allen Price Pty Ltd
<b>Date of Lodgement</b>	12 April 2024
<b>Owner</b>	Shoalhaven City Council
<b>Number of Submissions</b>	The application was publicly exhibited in accordance with the requirements of the Environmental Planning and Assessment Regulations 2021 from the 9 May 2024 to 7 June 2024. No submissions were received.
<b>Recommendations</b>	Approval in accordance with the recommended conditions of consent at <b>Attachment 1</b>
<b>Estimated Development Cost (EDC)</b>	\$18,012,371.37
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979</li> <li>• Environmental Planning and Assessment Regulation 2021</li> <li>• State Environmental Planning Policy (Planning Systems) 2021</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• State Environmental Planning (Transport and Infrastructure) 2021</li> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>• Shoalhaven Local Environmental Plan 2014</li> <li>• Shoalhaven Development Control Plan 2014</li> </ul>
<b>List all documents submitted with this report</b>	<p>Attachment 1 – Recommended Conditions of Consent</p> <p>Attachment 2 - Architectural Plans</p> <p>Attachment 3 – Landscape Plans</p> <p>Attachment 4 – Statement of Environmental Effects</p> <p>Attachment 5 – Clause 4.6 Variation Request</p>
<b>Report prepared by</b>	The Planning Hub (independent assessment) and reviewed by Development Services
<b>Report date</b>	4 May 2025

CL25.188 - Attachment 4

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DA Number DA2024/1145

## EXECUTIVE SUMMARY

The subject site comprises Lot 105 in DP 1305372 and is known as 39 Norfolk Avenue, South Nowra.

The subject DA was lodged on 12 April 2024. The application is described as the construction of a new industrial building at 39 Norfolk Avenue, South Nowra.

The subject site is zoned E4 General Industrial under the Shoalhaven Local Environmental Plan 2014 (SLEP 2014).

As the development comprises a capital investment value (CIV) of more than \$5 million and, at the time of DA lodgement, Council was the owner of the land on which the development is proposed; the application was identified as regionally significant development, with the Southern Regional Planning Panel as the determining authority in accordance with Section 2.19 and Schedule 6(3) of the State Environmental Planning Policy (Planning Systems) 2021.

The Southern Regional Planning Panel have since issued delegation to Council to determine the DA. As the development involves a variation to a development standard in excess of 10%, the DA is referred to a Council Meeting for determination.

The application was publicly exhibited in accordance with the requirements of the Environmental Planning and Assessment Regulations 2021 from 9 May 2024 to 7 June 2024. No submissions were received.

A review of the documentation submitted with the application was undertaken and a request for additional information was issued on 18 November 2024. The issues raised were in relation to permissibility, extent of earthworks, signage, contamination, civil engineering and BCA matters. In response, the applicant submitted additional information on 18 December 2024 which comprised the following:

- Covering Letter;
- Amended Architectural Plans;
- Amended Statement of Environmental Effects;
- Amended Survey Plan;
- Fire Engineering Brief Questionnaire.

These documents have been reviewed and satisfactorily address the matters raised in Council's request for additional information letter, as discussed throughout this report.

An assessment of the development has been undertaken against the following Acts and environmental planning instruments:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- State Environmental Planning Policy (Planning Systems) 2021;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;

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- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- Shoalhaven Local Environmental Plan 2014; and
- Shoalhaven Development Control Plan 2014.

The proposed development has been assessed against the relevant matters for consideration pursuant to Section 4.15 of the *Environmental Planning and Assessment Act, 1979*, including likely impacts, the suitability of the site for the development and the public interest.

The proposed application includes a non-compliance with the 11 metre height of building development standard at Clause 4.3 of Shoalhaven Local Environmental Plan (SLEP) 2014. Specifically, the proposed building represents a maximum variation of 3.418m or 31%.

The written request submitted, pursuant to Clause 4.6 in SLEP 2014, for a departure from the maximum building height development standard, is considered to be well founded as it adequately demonstrates that compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the variation.

The proposed development is considered to be acceptable and suitable for the site and is therefore in the public interest.

The proposal is therefore supported. This report recommends that the application be approved in accordance with the recommended conditions of consent at **Attachment 1** of this report.

## 1. Detailed Application

DA2024/1145 was lodged on 12 April 2024 seeking consent for the construction of a new industrial building at 39 Norfolk Avenue, South Nowra.

The land the subject of this DA formed part of a staged industrial subdivision development, which was approved by Council on 14 August 2003 (SF9294). There have been multiple modifications approved since the original granting of consent. The most recent and most relevant to this DA was DS21/1442 which was approved by Council on 11 March 2022.

DS21/1442 amended the approved subdivision layout to create 56 industrial lots, including the lot the subject of this DA; Lot 105 as part of Stage 10. The subdivision has now been registered and the works the subject of this DA are proposed on Lot 105 in DP 1305372.

Consent is sought for the construction of an industrial warehouse building with an ancillary office component. The works specifically comprise:

### Ground Floor

- Warehouse (7,102m<sup>2</sup>)
- Warehouse lunch and amenities area (138m<sup>2</sup>)
- Storage (91m<sup>2</sup>)
- Office (703m<sup>2</sup>)
- Dispatch (59m<sup>2</sup>)

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- Covered courtyard area

First Floor

- Office (711m<sup>2</sup>)
- Dispatch (45m<sup>2</sup>)

The development proposes a total of 63 car parking spaces, nine (9) motorcycle parking spaces and six (6) bicycle parking spaces. Vehicular access is proposed to be gained via the site's Norfolk Road frontage. Landscaping is also proposed along the site's Norfolk Avenue frontage and within the carparking area and courtyard.

The proposed hours of operation are six (6) days a week (Monday to Saturday):

Warehouse 7am to 5pm

Office 8am – 6pm

The development would accommodate up to 8 warehouse staff and 40 staff within the office.

As is acknowledged in the accompanying Statement of Environmental Effects (SEE), this development will expand the operations of the same company that occupies the site immediately to the west; being Lot 81 DP1067883. The relationship between these separate sites is that this site (Lot 105) will provide storage for products manufactured on the adjacent Lot 81 DP1067883.

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## 2. Subject Site and Surrounds

### Site Description



Figure 1 – Aerial site photo outlined in Red (Source: NearMap)

<b>Street address:</b>	39 Norfolk Avenue, South Nowra, NSW, 2541
<b>Title details:</b>	Lot 105 DP 1305372
<b>Zoning:</b>	The land is zoned E4 General Industrial.
<b>Topography</b>	The subject site has been levelled with earthworks approved in SF9294 and the subsequent DS21/1442 and generally falls to the east.
<b>Vegetation:</b>	There is no existing vegetation on site.
<b>Existing Building</b>	There are no existing structures on site.

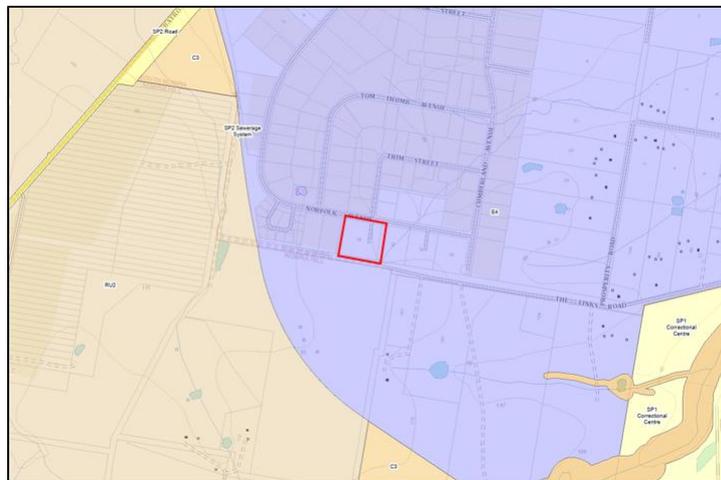
**Surrounding Area**



**Figure 2 – Surrounding Context outlined in red (Source: Six Maps)**

The site is zoned E4 General Industrial. Surrounding land use/development consists of the following:

- **North** – JLH Plumbing and Gas – Contractors for civil works, road construction, marine and sporting infrastructure, Drainage, Plumbing, Environment
- **East** – Undeveloped land levelled for future E4 Industrial development
- **South** – Large amounts of vegetation and unoccupied land zoned E4
- **West** – Essence Group – manufacturer of infant nutrition products, listed medicines and dietary supplements.



**Figure 3 – SLEP 2014 Land Use Zoning Map. Site outlined in red. (Source: Shoalhaven City Council)**

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### 3. Background

Date(s)	Action(s)
12/04/24	<p>The Development application was formally lodged with Shoalhaven City Council.</p> <p>The DA was referred to the following internal and external departments:</p> <ul style="list-style-type: none"> <li>• Building Surveyor</li> <li>• Development Engineer</li> <li>• Shoalhaven Water: Development Unit;</li> <li>• GIS Unit House Numbering</li> <li>• Endeavour Energy</li> <li>• Transport for NSW</li> </ul>
09/05/24	<p>The Development Application was notified and publicly exhibited between 9 May 2024 and 7 June 2024. No Submissions were received.</p>
18/11/24	<p>Council requested additional information from the applicant, seeking clarification on:</p> <ul style="list-style-type: none"> <li>• The applicable land use definition; the Statement of Environmental Effects identified the development as being both a 'general industry' and 'warehouse.'</li> <li>• The nature of the office component.</li> <li>• Signage.</li> <li>• Restrictions and easements.</li> <li>• BCA.</li> </ul>
18/12/2024	<p>The applicant submitted additional information in response to Council's letter dated 18 November 2024.</p>

### 4. Consultation and Referrals

Internal Referral	
<b>Development Engineer</b>	<p>Council's Engineer has considered subdivision, drainage, civil and traffic matters.</p> <p>Conditions of consent have been prepared in the notice of determination to reflect the post-consent engineering requirements.</p>
<b>Building Surveyor</b>	<p>Council's Building Surveyor has considered the development and conditions of consent have been recommended.</p>
<b>Shoalhaven Water</b>	<p>A condition of consent requiring a Water Development Notice to be obtained has been recommended.</p>

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External Referral	
<b>Endeavour Energy</b>	The DA was referred to Endeavour Energy and conditions of consent have been recommended.
<b>Transport for NSW</b>	No objections were raised.

## 5. Statutory Considerations

An assessment against 4.15 of the *Environmental Planning and Assessment Act 1979* is provided below.

### ***Environmental Planning and Assessment Act 1979 – Section 4.15***

In determining a DA, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the DA on the subject property.

#### ***(a)(i) The Provisions of any Environmental Planning Instrument***

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- State Environmental Planning Policy (Resilience and Hazard) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- State Environmental Planning Policy (Industry and Employment) 2021;
- Shoalhaven Local Environmental Plan 2014; and
- Shoalhaven Development Control Plan 2014.

An assessment of the proposed DA against the above instruments is detailed below.

#### ***Environmental Planning and Assessment Act 1979 (EP&A Act)***

For reasons set out in this report, the proposal is considered to be inconsistent with Section 4.15(1)(a)(i) and (iii), (b),(c),(d) and (e) of the *Environmental Planning and Assessment Act 1979*.

#### ***Environmental Planning and Assessment (EP&A) Regulation 2021***

The proposal does not contravene the Environmental Planning and Assessment Regulation.

#### ***State Environmental Planning Policy (Resilience and Hazard) 2021***

### **Chapter 4 Remediation of Land**

The SEPP requires Council to be satisfied that the site is suitable for its intended use (in terms of contamination) prior to granting consent.

In particular, *Chapter 4 Remediation of Land* contains a number of objectives that aim to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health and the environment:

- a) *By specifying when consent is required, and when it is not required, for a remediation work; and*

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- b) *By specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular; and*
- c) *By requiring that a remediation work meet certain standards and notification requirements*

Subject to Section 4.6 of the SEPP, a consent authority must not consent to the carrying out of development on land unless it has considered whether the land is contaminated.

Contamination was considered as part of the original subdivision approval granted for SF9294. The subdivision works have been completed and a Subdivision Certificate issued, following which Lot 105 was registered – indicating that the matter had been satisfactorily addressed.

No further uses of a potentially contaminative nature are known to have been carried out on the land since the registration of the lots as part of SF9294. The site is suitable for the intended industrial use.

State Environmental Planning Policy (Transport and Infrastructure) 2021

*Chapter 2 – Infrastructure*

An assessment of the development against the relevant provisions of Chapter 2 of the Transport and Infrastructure SEPP is provided in the table below.

State Environmental Planning Policy (Transport and Infrastructure) 2021		
Provision	Control	Discussion
<b>2.122 Traffic Generating Development</b>	<p>This section applies to development specified in Column 1 of the Table to Schedule 3 that involves—</p> <ul style="list-style-type: none"> <li>(a) new premises of the relevant size or capacity, or</li> <li>(b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.</li> </ul> <p>Before determining a development application for development to which this section applies, the consent authority must—</p> <ul style="list-style-type: none"> <li>(a) give written notice of the application to TfNSW within 7 days after the application is made, and</li> <li>(b) take into consideration—</li> </ul>	<p>The proposed development involves the construction of a warehouse building and the site area exceeds 8,000m<sup>2</sup>.</p> <p>The application was referred to Transport for NSW and a response was provided raising no objection to the proposed development.</p>

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	<ul style="list-style-type: none"> <li>(i) any submission that TFNSW provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TFNSW advises that it will not be making a submission), and</li> <li>(ii) the accessibility of the site concerned, including— <ul style="list-style-type: none"> <li>A. the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and</li> <li>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</li> </ul> </li> <li>(iii) any potential traffic safety, road congestion or parking implications of the development.</li> </ul>	
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State Environmental Planning Policy (Industry and Employment) 2021

Consent is sought for a business identification sign along the northern building elevation, fronting Norfolk Avenue and the provisions of Chapter 3 (Advertising and signage) of the Industry & Employment SEPP are applicable to the development.

In accordance with Section 3.6 (Granting of consent to signage), a consent authority must not grant development consent to an application to display signage unless it is satisfied that the signage is consistent with the objectives at Section 3.1(1)(a) and that the signage satisfies the assessment criteria in Schedule 5.

The proposed signage comprises colours and graphics that are compatible with the industrial setting of the site and the amenity and visual character of the area. The signage relates directly to the business that will occupy the premises and is proposed to be constructed of high-quality finishes. The sign is therefore consistent with the aims at Section 3.1(1)(a) of the Industry and Employment SEPP.

An assessment of the proposed signage against the assessment criteria at Schedule 5 is provided in the following table, the proposed signage is consistent with the assessment criteria and is considered suitable.

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<b>Industry and Employment SEPP</b>		
<b>Schedule 5 Assessment Criteria</b>		
<b>1. Character of the Area</b>	<p>Is the proposal compatible with the existing or desired future character or the area or locality in which it is proposed to be located?</p> <p>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</p>	<p>The proposed signage is compatible with the industrial setting of the site.</p> <p>The signage is consistent in scale and design with the existing signage on the adjoining building to the west.</p>
<b>2. Special Areas</b>	<p>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?</p>	<p>The site is not located in proximity to any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space or waterways, rural landscapes or residential areas.</p>
<b>3. Views and vistas</b>	<p>Does the proposal obscure or compromise important views?</p> <p>Does the proposal dominate the skyline and reduce the quality of vistas?</p> <p>Does the proposal respect the viewing rights of other advertisers?</p>	<p>The proposed signage would not obscure or compromise any important views. The sign is proposed to be fixed to the building and does not have the potential to dominate the skyline.</p> <p>The proposed signage does not detract from the viewing rights of other advertisers.</p>
<b>4. Streetscape setting on landscape</b>	<p>Is the scale proportion and form of the proposal appropriate for the streetscape or landscape?</p> <p>Does the proposal contribute to the visual interest of the streetscape?</p> <p>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</p>	<p>The proposed sign is of an appropriate scale and form for the building and the site and would positively contribute to the industrial streetscape.</p> <p>The proposed sign would contribute to the visual interest of the streetscape.</p> <p>The sign does not reduce clutter or rationalise existing advertising.</p>

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<b>Industry and Employment SEPP</b>		
<b>Schedule 5 Assessment Criteria</b>		
	<p>Does the proposal screen unsightliness?</p> <p>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</p> <p>Does the proposal require ongoing vegetation management?</p>	<p>The sign is not proposed to screen unsightliness.</p> <p>The sign is proposed to be fixed to the building elevation and would not protrude above the building.</p> <p>The proposed sign would not require any ongoing vegetation management.</p>
<b>5. Site and Building</b>	<p>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?</p> <p>Does the proposal respect important features of the site or building, or both?</p> <p>Does the proposal show innovation and imagination in its relationship to the site building or both?</p>	<p>The proposed sign is compatible with the scale of the building and the site.</p> <p>The sign design and location are compatible with the signage on the existing building to the west.</p> <p>The sign is sited and scaled so as not to dominate the northern building elevation, but rather to integrate with the overall façade.</p> <p>The proposal is consistent with the industrial setting of the site.</p>
<b>6. Associated devices and logos with advertisements and advertising structures</b>	<p>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?</p>	<p>The business identification signage is proposed to display the business name and logo. The signage does not incorporate any safety devices, platforms or lighting devices.</p>
<b>7. Illumination</b>	<p>Would illumination result in unsightly glare?</p> <p>Would illumination affect safety for pedestrians, vehicles, or aircraft?</p> <p>Would illumination detract from the amenity of any</p>	<p>The sign is not proposed to be illuminated.</p>

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Industry and Employment SEPP		
Schedule 5 Assessment Criteria		
	<p>residence or other form of accommodation?</p> <p>Can the intensity of the illumination be adjusted, if necessary?</p>	
<b>8. Safety</b>	<p>Would the proposal reduce the safety on any public road?</p> <p>Would the proposal reduce the safety for pedestrians or bicyclists?</p> <p>Would the proposal reduce the safety for pedestrians, particularly children by obscuring sightlines from public areas?</p>	<p>The sign is proposed to be fixed to the northern building elevation, which is setback from the street. The location of the sign does not have the potential to reduce the safety of Norfolk Avenue for vehicles, pedestrians or cyclists.</p> <p>The proposed sign would not reduce the safety of pedestrians as it is fixed to the building and would not obscure sightlines from public areas.</p>

Shoalhaven Local Environmental Plan 2014

**Land Zoning & Permissibility**

The subject site is zoned E4 General Industrial under the Shoalhaven Local Environmental Plan 2014 (SLEP 2014) and development for the purpose of a 'warehouse and distribution centre' is permissible with consent in the zone. Whilst 'office premises' are prohibited in the zone, it is acknowledged that the office component of the development is ancillary to the dominant warehouse use, and therefore does not represent a separate dominant land use in its own right.

**Zone objectives**

The objectives of the E4 General Industrial zone are as follows:

Objective	Comment
<ul style="list-style-type: none"> <li>To provide a range of industrial, warehouse, logistics and related land uses.</li> </ul>	<p><b>Consistent.</b> The proposed development comprises a warehouse to support the existing industrial use occurring on the adjoining site.</p>
<ul style="list-style-type: none"> <li>To ensure the efficient and viable use of land for industrial uses.</li> </ul>	<p><b>Consistent.</b> The proposal is providing for the efficient and viable use of the land for an industrial purpose.</p>

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Objective	Comment
<ul style="list-style-type: none"> <li>To minimise any adverse effect of industry on other land uses.</li> </ul>	<b>Consistent.</b> The proposal has been designed to mitigate any impacts on adjoining land.
<ul style="list-style-type: none"> <li>To encourage employment opportunities.</li> </ul>	<b>Consistent.</b> The proposal would provide an employment generating land use within the LGA.
<ul style="list-style-type: none"> <li>To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.</li> </ul>	<b>N/A.</b> The development proposes an industrial land use.
<ul style="list-style-type: none"> <li>To allow a diversity of activities that do not significantly conflict with the operation of existing or proposed development.</li> </ul>	<b>Consistent.</b> The proposal would provide a land use that is compatible with and that would support the existing industrial development on the adjoining land to the west.

SLEP 2014 Clauses

Section	Requirement	Provided
<b>4.3 Height of Building</b>	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. 11m	No. The proposed application includes a non-compliance with the 11 metre height of buildings development standard at Clause 4.3 of the SLEP 2014. Specifically, the proposed building represents a maximum variation of 3.418m or 31%.  Refer to Clause 4.6 below.
<b>4.6 Exceptions to development standard</b>	To provide an appropriate degree of flexibility in applying certain development standards to particular development,	The written request submitted pursuant to Clause 4.6 in SLEP 2014 is considered to be well founded and to adequately demonstrate that compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the variation.
<b>7.1 Acid Sulfate Soils</b>	To ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	The site is mapped as containing Class 5 Acid Sulfate Soils. The site is not within 500 metres of adjacent Class 1, 2, 3 or 4 land. An Acid Sulfate Soil assessment is therefore not required.
<b>7.2 Earthworks</b>	To ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring	The proposed earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

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Section	Requirement	Provided
	uses, cultural or heritage items or features of the surrounding land.	
<b>7.11 Essential services</b>	Development consent must not be granted for development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required— (a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage, (d) suitable vehicular access.	The site is capable of being serviced by adequate arrangements of essential services.

Clause 4.6 – Exceptions to Development Standards

**Detailed assessment of variation to Clause 4.3 Height of Building**

The applicant proposes a contravention to the Maximum Height of Building (HOB) development standard that applies to the site, pursuant to clause 4.3 of the SLEP 2014. Specifically, clause 4.3(2) states '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'.

This clause restricts developments to a maximum HOB of 11m. The subject proposal has a building height of 14.418m, contravening the development standard by 3.418m or 31%.

In accordance with Clause 4.6(3), the applicant requests that the HOB development standard be contravened in this instance. The applicant's written request (**Attachment 5**) submits that compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the departure from the control. Specifically, the applicant submits that:

*The height non-compliance with the 11-metre height control is suitable given the industrial location of the proposed development and it has occurred due to the sloping varied topography of the site. The proposed warehouse will maintain rather limited visibility from surrounding development and public domain spaces. The elements exceed the height control by 1.876m – 3.418m variation to the related Development Standard) and are positioned in an inconspicuous location which is generally not in the foreground of the public domain.*

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*Notwithstanding the non-compliance with the maximum height of building development standard, this Clause 4.6 variation statement demonstrates that the justification for varying the development standard is well founded because:*

- *The proposed variation of the development standard will not limit the potential for adjoining sites to be developed to their permitted capabilities in the future;*
- *The proposed variation will have no effect on heritage matters;*
- *The proposed building height variation will not generate any unacceptable adverse environmental impacts in respect of overshadowing, view loss or privacy impacts;*
- *The proposal continues to satisfy the objectives of the relevant objectives of the building height control applying to the site;*
- *The proposal serves the needs of Shoalhaven by providing employment opportunities.*

*The variation sought represents an appropriate degree of flexibility within the scope of Clause 4.6. The non-compliance achieves better outcomes for and from development. Therefore, this exemption to the development standard will not result in any adverse impacts to surrounding residents or workers.*

*The proposal is considered to have sufficient planning grounds to justify the contravening maximum height of building development standard in this case.*

Officers comments:

It is considered that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the SLEP 2014. Additionally, the development is considered to be in the public interest as it meets the relevant objectives of the E4 General Industrial zone and the objectives of Clause 4.3 of the SLEP 2014.

Pursuant to Clause 4.6(4) of the Shoalhaven LEP, the consent authority can be satisfied that:

- The applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the LEP; and
- The development will be in the public interest because it is not 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.

It is noted that Council may assume the concurrence of the Secretary pursuant to Planning Circular PS 20-002.

***(a)(ii) The Provision of any Draft Environmental Planning Instrument (that is or has been the subject of public consultation under this Act and that has been notified to the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).***

Nil

***(a)(iii) The Provisions of any Development Control Plan***

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Shoalhaven Development Control Plan 2014 (SDCP 2014)

**Chapter 2: General and Environmental Considerations**

<b>Chapter 2: General and Environmental Considerations</b>		<b>Achieved</b>
<b>Potentially Contaminated Land</b>	Contamination was considered as part of the original subdivision approval granted for SF9294. The subdivision works have been completed Lot 105 has been registered. The site is considered to be suitable for the intended industrial use.	Yes
<b>Crime Prevention Through Environmental Design</b>	The proposal incorporates basic design principles which contribute to forms of safety and security, including the placement of windows and doors, to encourage passive surveillance opportunities and the minimisation of areas for concealment. There is a clear delineation of the private domain from the public domain through the use of perimeter planting along the site's Norfolk Avenue frontage and boom gates are proposed, where necessary, to limit unrestricted access.	Yes

**Generic Chapters**

**Chapter 2: General and Environmental Considerations**

<b>Generic Chapters</b>		<b>Achieved</b>
<b>G1: Site Analysis, Sustainable Design and Building Materials</b>		
A plan labelled 'Site Analysis' was lodged with the architectural plans. The plan informs the site design and layout.		Yes
<b>G2: Sustainable Stormwater Management and Erosion/Sediment Control</b>		
<u>5.1 Stormwater</u>		Yes.
<u>5.1.2 Disposal of Stormwater from Development Sites</u>	Conditions of consent would be imposed to ensure that the stormwater system is appropriately designed to service the development.	
<u>5.1.4 Onsite Stormwater Detention</u>	Conditions of consent would be imposed to ensure that appropriate onsite stormwater detention is provided to service the development.	
<u>5.2 Stormwater Quality and Waterway Protection</u>		Yes
<u>5.2.1 Erosion and Sediment Control</u>	The DA is accompanied by a Sediment Control Plan and standard conditions would be imposed to manage erosion and sediment during the construction phase of the development.	

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<p><u>5.2.5 Design and Maintenance of Stormwater Treatment Measures</u> Conditions of consent would be imposed to ensure that the stormwater system is appropriately designed to service the development.</p>	
<b>G3 Landscaping Design Guidelines</b>	
<p><u>5 Controls</u> The landscaping design for the proposed development is considered to be satisfactory, subject to installation in accordance with the approved plan.</p>	Yes.
<b>G7 Waste Minimisation and Management Controls</b>	
<p><u>5 Controls</u> A Waste Management Plan has been submitted in support of the application.</p>	Yes
<b>G20 Industrial Development</b>	
<p><u>5.1 Site Suitability</u> In satisfaction of Section 5.1, the applicant submitted a Site Plan and Site Analysis Plan with the DA which addressed the requirements of Chapter G1 of the SDCP 2014. In this regard, the Site Plan was considered to satisfactorily demonstrate the location and dimensions of buildings, parking area, service vehicle areas, storage and landscaping.</p> <p>Further, the assessment found that adequate drainage was provided subject to implementation of conditions within any consent to ensure that stormwater is charged to an approved discharge point.</p> <p>It is noted that acceptable solution A1.1 states 'cut and fill on the site does not exceed 1.0m'. In this regard, a review of the submitted architectural plans found that cut and fill of up to 5.9m is proposed (fill in order to create a flat building pad for development on the north-eastern edge of the property).</p> <p>Whilst the extent of cut and fill proposed exceeds the acceptable solution, it is considered to be a satisfactory performance based solution given retaining walls fronting the public domain are offset and softened through the use of landscaping and concrete sleepers.</p> <p>Given the sloping nature of the site and immediate surrounding locality, adjoining properties also employ use of cut and fill to create flat building pads and the layout is not considered to be inconsistent with the existing and likely future built form of the locality.</p> <p>Further the site is situated within the Flinders Industrial Estate and is not located within the vicinity of sensitive uses such as residential development.</p> <p>Given the use of design to soften the retaining wall facade, the employment of cut and fill within the locality to ensure the site can be utilised for its zoned purpose, and given the lack of sensitive uses within the locality, it is considered the impact of the cut and fill has been appropriately assessed and is supported on merit.</p> <p><u>5.2 Building Setbacks</u> The building proposes a minimum front setback of 14.62m, with the front setback occupied by car parking and landscaping. The proposed setback presents a shortfall</p>	Yes
	Yes
	Yes

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<p>of 380mm from the required 15m setback, which equates to a minor numerical variation of 2.6%.</p> <p>It is acknowledged that <i>Council may consider a reduced minimum front setback of 12.5m if it can be demonstrated that the mass and bulk of the main structure will be reduced through the addition of a lightweight structure (eg, showroom or office).</i></p> <p>The building has been designed to have the office component of the development interface with Norfolk Avenue. The northern building elevation incorporates a range of materials, including the use of light-weight vertical profiled cladding and provides articulation through steps in the building elevation. The design and siting of the office component of the development presents a varied mass and bulk to the streetscape. The reduced setback is considered acceptable on merit.</p> <p>The side and rear setbacks are capable of achieving compliance with the fire safety construction requirements of the BCA and facilitate the provision of drainage, landscaping and vehicle access and manoeuvring for the development.</p> <p><u>5.3 Building and Site Design</u> The building exceeds 11m in height, however, this has been considered having regard to the provisions of Clause 4.6 of the SLEP 2014 and the height exceedance is considered acceptable on merit.</p> <p>The building has been designed for the office component to present to Norfolk Avenue, with a range of materials and colours used to provide articulation and visual relief, whilst minimising glare. The placement of windows along the front northern elevation promotes opportunities for passive surveillance of the street.</p> <p>The DA is accompanied by a Section J Energy Efficiency report which demonstrates that the building is compliant with the Section J energy efficiency requirements of the NCC 2019.</p> <p>The DA is accompanied by shadow diagrams which demonstrate that the development will not adversely impact the adjoining development to the west, acknowledging the industrial setting of the site.</p> <p><u>5.4 Provisions for Fences and Screen Walls</u> The Landscape Plan submitted with the application identifies 1.8m high open metal palisade security fencing for the development.</p> <p><u>5.5 Landscaping</u> Landscaping is provided within the front building setback, which has been sited and designed so as not to interfere with sight lines for drivers or pedestrians, both within and external to the site.</p>	<p>Yes</p> <p>Yes</p>
<b>G21 Car Parking and Traffic</b>	
<p><u>5 Controls</u> <u>5.1 Car Parking Schedule</u> The following car parking rates are applicable to the development:</p>	

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<p><i>Warehouse or distribution centre – 1 space per 300m<sup>2</sup> gross floor area.</i></p>	
<p><i>Office premises - 1 space per 24m<sup>2</sup> gross floor area at ground level and 1 space per 40m<sup>2</sup> gross floor area at first level.</i></p>	Yes
<p>Council's Development Engineer has reviewed the proposal and advised that the development provides compliant car parking, as follows:</p>	
<p>Parking spaces required per G21; Warehouse - 1/300m<sup>2</sup> of GFA, 7529m<sup>2</sup> = 25 = 25 Office - 1/40m<sup>2</sup> of GFA, 1414m<sup>2</sup> = 35.35 = 36 61 spaces required. 63 provided (+9 motor bike) inclusive of 1 disabled space (1 per 100 spaces).</p>	
<p><u>5.3 Parking, Layout and Dimensions</u></p>	
<p>Council's Development Engineer has reviewed the proposal and advised that:</p>	
<ul style="list-style-type: none"> <li>• Car parking aisles comply with AS2890.1</li> <li>• Parking spaces scale at 2.6m wide, exceed 2.4m required for employee parking per AS2890.1 (Class 1A).</li> </ul>	Yes
<p><u>5.4 Car Park Landscape Design</u></p>	
<p>A landscape strip is incorporated forward of the car parking fronting Norfolk Avenue, to assist with screening the carparking.</p>	
<p><u>6 Traffic, Access, Maneuvering and Construction</u></p>	Yes
<p><u>6.1 Traffic</u></p>	
<p>A Traffic Impact Statement has been prepared in support of the application and has been reviewed by Council's Development Engineer.</p>	
<p><u>6.2 Vehicle and Pedestrian Access</u></p>	Yes
<p>Adequate vehicular and pedestrian access is provided; pedestrian crossings have been incorporated within the car parking area, where required, to provide safe access to the building.</p>	Yes
<p><u>6.3 Maneuverability</u></p>	
<p>The proposal has been reviewed by Council's Development Engineer who has confirmed that swept paths are provided for a 25m articulated vehicle and a HRV, which demonstrate that they are able to enter and exit the site in a forward direction.</p>	Yes
<p><u>6.4 Service Areas</u></p>	
<p>Loading areas are identified on the plans and have been reviewed by Council's Development Engineer who raises no issues.</p>	Yes
<b>G22 Advertising Signs and Structures</b>	

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Consent is sought for a business identification sign along the northern building elevation, fronting Norfolk Avenue, the proposed signage comprises colours and graphics that are compatible with the industrial setting of the site and the amenity and visual character of the area. The signage relates directly to the business that will occupy the premises and are proposed to be constructed of high-quality finishes.	Yes
--	-----

**(a)(iii) Any planning agreement that has been entered into under Section 7.4, or any draft planning agreement that a developer has offered to enter into under Section 7.4.**

Not Applicable

**(a)(iv) The Regulations**

<a href="#">Clause 62</a>	Does the application result in a change of use of an existing building but does not propose any building works?	No
<a href="#">Clause 64 Partial Upgrade</a>	Does the application involve alterations or additions to an existing building?	No
<a href="#">Clause 64 Total Upgrade</a>	Does the application involve building works and result in conversion of a building or part of a building from non-habitable to a habitable use?	No

**Any coastal zone management plan**

<https://www.shoalhaven.nsw.gov.au/For-Residents/Our-Environment/Coast-Waterways>

The proposed development is consistent with applicable coastal zone management plan(s).

**Other Management Plans**

<https://www.shoalhaven.nsw.gov.au/Projects-Engagement/Major-Projects-Works>

No other managements relevant to the assessment of the Application

**Other Shoalhaven Council Policies**

<https://www.shoalhaven.nsw.gov.au/Council/Access-to-Information/Policies>

*Policy No. 22/149 – Dealing with Development Applications lodged by Council Staff, Councillors, and Council*

Upon lodgement of the development application, the site was owned by Shoalhaven City Council (however lodged separately by Allen Price Pty Ltd), and was therefore defined as 'Council-related development' as defined by the Policy.

As Council-related development, the provisions of the policy applied at the time of lodgement. It is noted that part way through the assessment process, the land was then amalgamated and Council no longer had an interest in the land – upon which time the application was no longer known as 'Council-related development'.

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Notwithstanding, in accordance with the provisions of the policy – the following was employed as management strategies:

- The assessment was carried out by an independent assessment officer not employed by Council (The Planning Hub) and reviewed by Council staff with no commercial or private interest in the land.
- The determination is recommended to the Ordinary Council meeting for determination (also required given the Clause 4.6 variation).

**State and Local Infrastructure Contributions**

State Contributions																				
<p>Does the proposed development trigger the <a href="#">Housing and Productivity Contribution (HPC)</a>?</p> <p><i>Note: if the development triggers an HPC, then a corresponding Contribution (CON) case is created as a related case in the Portal. The calculation needs to be reviewed and confirmed in the Portal.</i></p> <table border="1"> <thead> <tr> <th>Class of Development</th> <th>Trigger for demand</th> <th>Units of demand</th> </tr> </thead> <tbody> <tr> <td rowspan="4">Residential development</td> <td>Subdivision of land for dwellings</td> <td>New dwelling lot</td> </tr> <tr> <td>Strata subdivision of land or building for dwellings</td> <td>New strata dwelling lot</td> </tr> <tr> <td>Build to Rent or Seniors Independent Living Units</td> <td>New non strata dwelling</td> </tr> <tr> <td>Manufactured Home Estate</td> <td>New dwelling site</td> </tr> <tr> <td>Commercial development</td> <td>Development for business, office or retail premises or specified commercial purposes</td> <td>Square metre of new GFA</td> </tr> <tr> <td>Industrial development</td> <td>Development for industry or specified industrial purposes</td> <td>Square metre of new GFA</td> </tr> </tbody> </table> <p><b>5 Development for which a contribution is required</b></p> <p>(1) A housing and productivity contribution is required for development for which development consent is granted if it involves development of any of the following classes—</p> <p>(a) residential development,</p> <p>(b) commercial development,</p> <p>(c) industrial development.</p> <p>(2) In this Order, <b>residential development</b> means any of the following—</p> <p>(a) subdivision of land (other than strata subdivision) on which development for the purposes of residential accommodation is permitted with development consent by an environmental planning instrument applying to the land (<b>residential subdivision</b>),</p> <p>(b) strata subdivision of residential accommodation (other than strata subdivision of high-density dwellings) (<b>residential strata subdivision</b>),</p> <p>(c) high-density residential development,</p> <p>(d) development for the purposes of a manufactured home estate.</p> <p>(3) For the purposes of subclause (2)(a), development for the purposes of residential accommodation is not permitted with development consent by an environmental planning instrument if the only kinds of residential accommodation permitted with development consent are any of the following—</p> <p>(a) build-to-rent housing,</p> <p>(b) a manufactured home estate,</p> <p>(c) seniors living.</p> <p>(4) Schedule 2 sets out exemptions from the housing and productivity contribution. Development identified in Schedule 2 is not to be included in the determination of a housing and productivity contribution.</p> <p>(5) For the purposes of this Order, each class of development referred to in subclauses (1) and (2) is a <b>HPC class of development</b> and any development involving development within a HPC class of development is <b>HPC development</b>.</p>		Class of Development	Trigger for demand	Units of demand	Residential development	Subdivision of land for dwellings	New dwelling lot	Strata subdivision of land or building for dwellings	New strata dwelling lot	Build to Rent or Seniors Independent Living Units	New non strata dwelling	Manufactured Home Estate	New dwelling site	Commercial development	Development for business, office or retail premises or specified commercial purposes	Square metre of new GFA	Industrial development	Development for industry or specified industrial purposes	Square metre of new GFA	<p>Yes - Industrial Development</p>
Class of Development	Trigger for demand	Units of demand																		
Residential development	Subdivision of land for dwellings	New dwelling lot																		
	Strata subdivision of land or building for dwellings	New strata dwelling lot																		
	Build to Rent or Seniors Independent Living Units	New non strata dwelling																		
	Manufactured Home Estate	New dwelling site																		
Commercial development	Development for business, office or retail premises or specified commercial purposes	Square metre of new GFA																		
Industrial development	Development for industry or specified industrial purposes	Square metre of new GFA																		
Local Contributions																				

CL25.188 - Attachment 4

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Is the development site an “ <a href="#">old subdivision property</a> ” identified in Shoalhaven Contributions Plan 2019?	No
Is the proposed development considered to increase the demand for community facilities in accordance with the <a href="#">Shoalhaven Contributions Plan 2019</a> ?	Yes - s7.11 contributions are applicable.
Is the proposed development considered to increase the demand for on water and sewer services (i.e. s64 Contributions)	Yes - See Shoalhaven Water Development Application Notice.

The development is most aptly characterised as ‘Commercial Office’ and ‘Industrial’ development for the purpose of calculating contributions under the Plan, based upon the separate components of the overall development.

Contributions were calculated based on the following area calculations input into the contributions table in DARTS:

DevTypeID:	2
Development Type:	Non-Residential
Development Sub Type:	
Total ET:	56.83
Management ET:	49.76

Item Description	Existing	Proposed
Commercial Office (Gross Floor Area m2)	0	1414
Industrial (Gross m2, include parking/landscape)	0	8537.1

Project	Description	Rate	Qty	Total	GST	GST Incl
CWFIRE2001	Citywide Fire & Emergency services	\$162.05	49.76	\$8,063.61	\$0.00	<b>\$8,063.61</b>
CWFIRE2002	Shoalhaven Fire Control Centre	\$237.08	49.76	\$11,797.10	\$0.00	<b>\$11,797.10</b>
CWMGMT3001	Contributions Management & Administration	\$1,986.07	1.00	\$1,986.07	\$0.00	<b>\$1,986.07</b>
<b>Sub Total:</b>						<b>\$21,846.78</b>
<b>GST Total:</b>						<b>\$0.00</b>
<b>Estimate Total:</b>						<b>\$21,846.78</b>

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

Head of Consideration	Comment
Natural Environment	The proposed development would not generate any adverse impacts on the natural environment.

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<b>Built Environment</b>	The proposed scale and design of the development is consistent with the industrial setting of the site. The building comprises a contemporary design and utilises a range of materials and colours that add articulation and variation to the building facades.
<b>Social Impacts</b>	The development would generate positive social impacts, through the provision of an employment generating land use within the LGA, providing jobs for the local community.
<b>Economic Impacts</b>	The proposed development would generate a positive economic impact through short-term economic benefits generated by construction expenditure. The operation of the development will have positive on-going economic impacts by providing an employment generating land use in the LGA.

**(c) Suitability of the site for the development**

The site is considered to be suitable for the proposed development in its current form for the following reasons:

- The proposed development will result in a built form that is consistent and compatible with the existing and desired future character of the area.
- The proposed development is consistent with the objective of the E4 Local Centre Zone.
- The proposed development will not generate any adverse amenity impacts on adjoining properties in terms of visual bulk and scale, acoustic, privacy, safety, traffic and parking.
- The proposed development provides a bulk, scale, height and streetscape presentation that is compatible with the surrounding environment.

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

The DA was notified in accordance with the Environmental Planning and Assessment Regulation 2021 (EP&A Regs) and Council's Community Consultation Policy from 9 May 2024 to 7 June 2024 and no submissions were received.

**(e) The Public Interest**

The public interest is served through the detailed assessment of this DA under *the Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2021*, Environmental Planning Instruments, Development Control Plan and policies.

That assessment has demonstrated that the proposed development is in the public interest.

**8. RECOMMENDATION**

This application has been assessed having regard for Section 4.15 (Matters for consideration) under the EPA Act. As such, it is recommended that Development Application No. DA2024/1145 be approved for the following reasons:

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DA Number DA2024/1145

1. The proposed development contravenes clause 4.3 Height of buildings of the SLEP 2014, and the applicant's Clause 4.6 written request provides sufficient environmental planning grounds to justify the contravention having regard to the objectives of the standard and adequately demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
2. The development is generally compliant with the relevant provisions of the applicable SEPPs, SLEP 2014 and the SDCP 2014.
3. The information submitted with the development application satisfactorily demonstrates that the site is suitable for the proposed use.
4. Having regard to the above matters, the granting of development consent is considered to be in the public interest.

The application is satisfactory with regard to the heads of consideration of s4.15 of *Environmental Planning and Assessment Act 1979* and as such the application is recommended for approval.

Section 4.15 Assessment Report - DA2024/1044

	<b>Section 4.15 Assessment Report</b> <i>Environmental Planning &amp; Assessment Act 1979</i>
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<b><u>Conflict of interest declaration</u></b>			
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.			
<i>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.</i>			
Assessing Officer	[Redacted]		[Redacted]
Peer Review Officer	[Redacted]		[Redacted]
Peer Review Officer	[Redacted]		[Redacted]
Affiliations and Pecuniary Interests	Have any affiliations or pecuniary interests been identified by the Applicant in the Portal lodgement form?  <i>Note: Where a pecuniary interest is identified ensure appropriate actions are taken (e.g. blocking access to TRIM folder for affected staff)</i>  <i>Note: For applications lodged by Council staff, Councillors and Council refer to POL22/149. A conflict of interest management statement may be required.</i>		<b>No</b>
Councillor Representations	<i>Councillor</i>	<i>Date</i>	<i>TRIM Reference</i>
Delegation Level Required	Full Council as 4.6 variation requested exceeds 10%		

Report Recommendation	Approval	
Development Description	Two Lot Torrens Title Subdivision	
Variations Proposed	<input type="checkbox"/> DCP departure	
	<input checked="" type="checkbox"/> Clause 4.6 exception	
	<b>Clause number</b>	Clause 4.1
	<b>Percentage variation</b>	Lot 2 – 371.9m <sup>2</sup> (25.62% variation)

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	<b>Brief justification for the variation</b>	The owner of the dwelling does not wish to demolish and relocate part of their existing dwelling house due to cost.  Strict compliance with the development standard is “unreasonable and unnecessary”
	<b>Concurring authority for the approved variation</b>	NA
	<b>Determination date</b>	NA
<i>Note: Where a clause 4.6 exception has been approved the assessing officer must ensure this is recorded in the quarterly variation report (see quarterly variation reports in TRIM Reference 41544E)</i>		
DA Number	DA2024/1044	
PAN	PAN-406437	
Property Address	43 Princes Highway ULLADULLA NSW 2539 - Lot 13 Sec 12 DP 759018	
Applicant(s)	B Azzopardi	
Owner(s)	Brian J Azzopardi	
Owner's consent provided?	Yes	
Date Lodged	6 February 2024	
Date of site inspection	15/11/2024	
Date clock stopped	Not Stopped	
Date clock started	Not Stopped	
Related Application in NSW Planning Portal?	<input checked="" type="checkbox"/> Concurrence and/or external agency referral <input type="checkbox"/> Section 68 <input checked="" type="checkbox"/> Section 138 <input checked="" type="checkbox"/> Construction Certificate <i>Note: s138 and CC applications will not be incorporated into the Development Consent and will be determined separately.</i>	
Number of submissions	NIL <i>Note: where submissions are received Council must give notice of the determination decision to all submitters.</i>	

**1. Detailed Proposal**

The proposal includes:

Section 4.15 Assessment Report - DA2024/1044

- Two lot Torrens Title Subdivision.
- Proposed Lot 1 (765.9m<sup>2</sup> total with 641.7m<sup>2</sup> excluding the SP2 zoned portion) contains existing dwelling and attached commercial premises operated as a workshop and office for upholstery business
- Proposed lot 2 (428.4m<sup>2</sup> total with 371.9m<sup>2</sup> excluding SP2 zoned portion) is generally undeveloped land with some landscaping in the form of retaining walls and driveway access to the Princes Highway

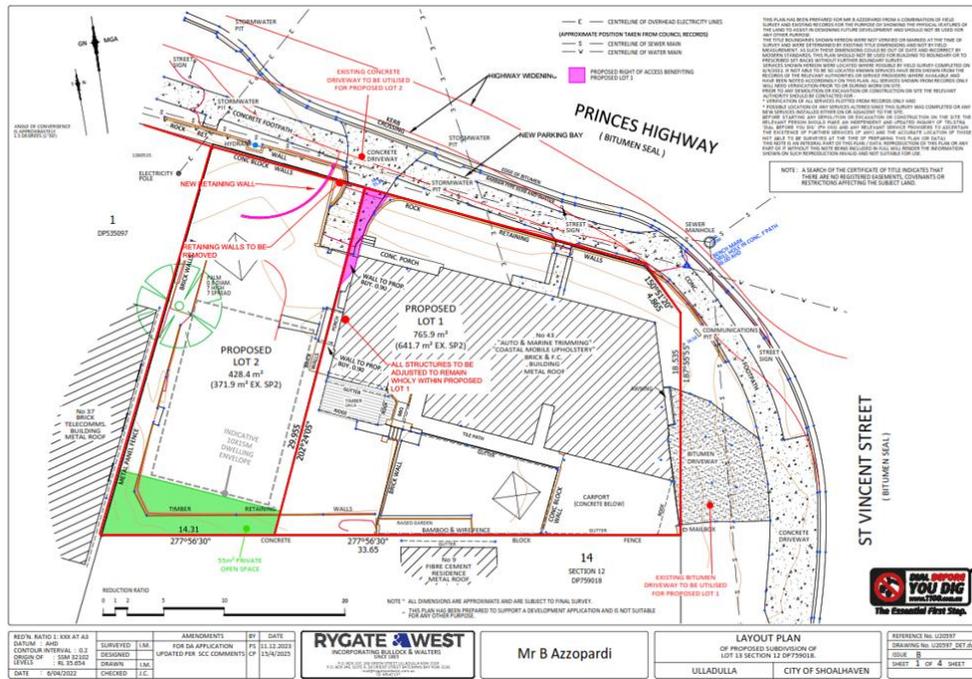


Figure 1 - Plan of Proposed Subdivision

Section 4.15 Assessment Report - DA2024/1044

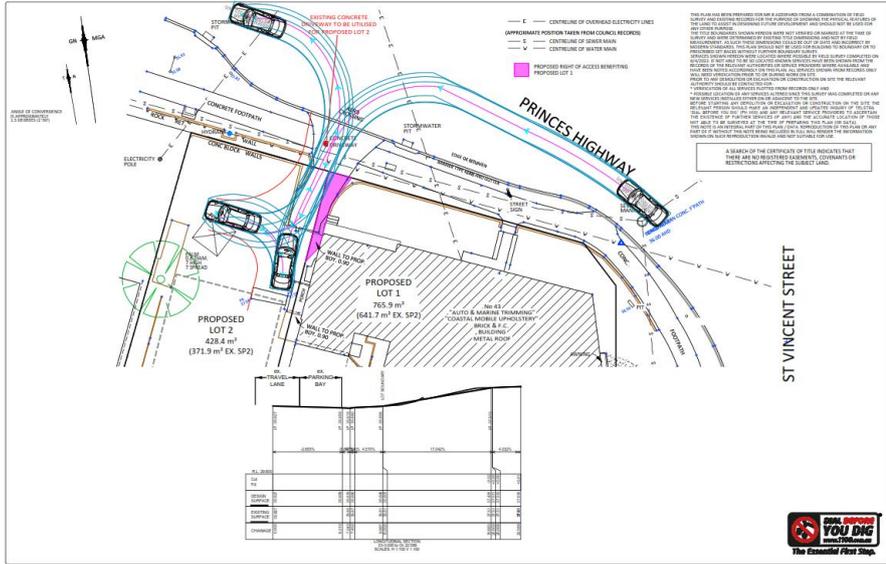


Figure 2 - Turning template from Princes Highway serving proposed Lot 2

The plans and information referred to are as follows:

Submitted Plans				
Plan Number	Revision Number	Plan Title	Drawn by	Date of Plan
Sheet 1 of 4	Issue B	Layout Plan of proposed subdivision	Rygate & West	15/04/2025
Sheet 1	Issue A	Preliminary servicing plan – water, sewer and stormwater	Rygate & West	06/04/2022
Sheet 4 of 4	Issue B	Existing Highway Layout Plan of Proposed Subdivision – Driveway long sections and Swept Vehicle Path	Rygate & West	15/04/2025

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## 2. Subject Site and Surrounds

### Site Description

The subject site has a north frontage to Princes Hwy and East frontage to St Vincent Street Ulladulla. The site contains an existing dwelling and upholstery business with an office space.

The surrounding area is residential in character and the site is surrounded by a mix of business and residential uses including Telstra Ulladulla Exchange adjacent to the west boundary of the subject site.



Figure 3 - Aerial imagery of locality

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Figure 4: Aerial imagery of subject site

**Summary of Site and Constraints**

GIS Map Layer		
	Lot Area	1188.76m <sup>2</sup>
	Zone	R2 Low Density Residential
	Does the land have a dwelling entitlement? Note: for rural land refer to <a href="#">clause 4.2D</a> of Shoalhaven LEP 2014.	Yes
	Does the property adjoin Council, Crown, National Parks or other public reserve? Note: Consideration should be given to if the development requires or implies access from the adjoining land.	No
T O P O G R A P H Y	Fall direction of land	Fall of land toward street

Section 4.15 Assessment Report - DA2024/1044

	Slope of land >20%?	No
Site Inspection	Works within proximity to electricity infrastructure?	No
	Is the development adjacent to a <a href="#">classified road</a> ?	Yes - Referral to TfNSW required.
	Is the development <a href="#">adjacent to a rail corridor</a> ?	No
Utility Network	Access to reticulated sewer?	Yes
	On-site sewage management (OSSM) - Is the development located suitably away from any effluent management areas (EMA) or effluent disposal areas (EDA)?  <i>Note: Ensure you have adequate information about the location of existing OSSM systems</i>	N/A
	Does the proposal require a new connection to a pressure sewer main (i.e. a new dwelling connection)?  <input checked="" type="checkbox"/> Sewer Pressure Mains > <ul style="list-style-type: none"> <li><span style="color: red;">—</span> Rising Main</li> <li><span style="color: red;">- -</span> Surcharge Main</li> <li><span style="color: red;">- - -</span> Low Pressure Sewer Main</li> <li><span style="color: green;">—</span> Under Construction</li> </ul>	No
	Building over sewer policy applicable?  <i>Note: Zones of influence can differ based on soil type (e.g., sandy soils vs clay soils). If unsure discuss with Shoalhaven Water.</i>	No
	Access to reticulated water?	Yes
	Does the proposal impact on any critical water or sewer infrastructure (e.g. REMS, water, sewer layers)?	No
	Does the proposal increase dwelling density and demand on water or sewer services (e.g. secondary dwelling, dual occupancy, multi dwelling housing, subdivision)?	Yes - Referral to Shoalhaven Water required.
Environment	Aboriginal Cultural Heritage	No

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	Bush Fire	No
	Coastal Hazard Lines (applies to location of proposed development)	No
	Coastal Hazard Area	No
	Potentially Contaminated Land	No
	Flood <i>Note: There are several catchments that have not have flood studies conducted. Sites outside of the flood study area may still be subject to flooding. Refer to advisory note on p.3 of <a href="#">Chapter G9</a> of Shoalhaven DCP 2014.</i> <input checked="" type="checkbox"/> Flood Data <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> Flood Studies	No
	Development within 40m of a watercourse	No
Planning Layers	Development Control Plan - <a href="#">Area Specific Chapters</a>	No
	Draft Exhibited Planning Proposal	No
	<a href="#">Shoalhaven LEP (Jerberra Estate) 2014</a>	No
	<a href="#">Acid Sulfate Soils</a>	Class 5
	Buffers	Yes
	<a href="#">Terrestrial Biodiversity</a>	No
	Local Clauses	No
	<a href="#">Coastal Risk Planning</a>	No
	<a href="#">Heritage</a>	No
	<a href="#">Scenic Protection</a>	No
	Sydney Drinking Water Catchment area (e.g. NorBE) <i>Note: NorBE Assessments submitted to Council can be viewed from the "Lodged" tab in the NorBE online assessment tool shown below.</i>	No

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BV Map	NorBE Assessment	
		
	SEPP (Resilience and Hazards) 2021 – Chapter 2 Coastal Management	Yes <ul style="list-style-type: none"> <li>Coastal use area</li> </ul>
	<a href="#">Marine Park Estate</a>	No
	Biodiversity Values Map	No

**Site Inspection Observations**

Refer to site inspection report D25/70908 for safety checks.



Image 1 – East Frontage and Access to St Vincent Street Ulladulla looking North.

Section 4.15 Assessment Report - DA2024/1044



Image 2 – North Frontage and Access to Princes Hwy Ulladulla looking West.

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Image 3 – Existing Access from Princes Highway to site that will form access to proposed Lot 2.



Image 4 – Existing awning at western end of dwelling to be cut back to meet the requirements of the National Construction Code (NCC).



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**3. Background**

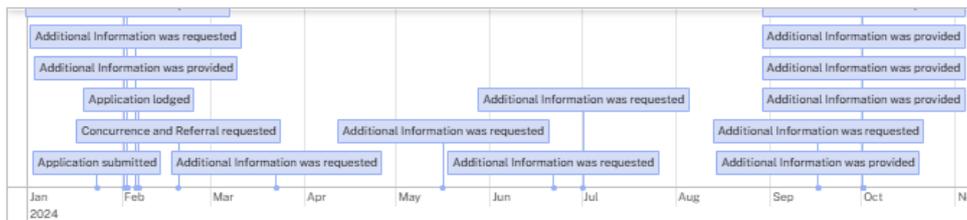
Pre-Lodgement Information

N/A

Post-Lodgement Information

Reference number	Milestone	Date
1	Application submitted	23/01/2024
2	Additional Information was requested	01/02/2024
3	Additional Information was provided	02/02/2024
4	Additional Information was requested	02/02/2024
5	Additional Information was provided	02/02/2024
6	Additional Information was requested	05/02/2024
7	Additional Information was provided	05/02/2024
8	Application lodged	06/02/2024
9	Concurrence and Referral requested	19/02/2024
10	Additional Information was requested	22/03/2024
11	Additional Information was requested	16/05/2024
12	Additional Information was requested	21/06/2024
13	Additional Information was requested	01/07/2024
14	Additional Information was provided	16/09/2024
15	Additional Information was requested	16/09/2024
16	Additional Information was provided	01/10/2024
17	Additional Information was provided	01/10/2024
18	Additional Information was provided	01/10/2024
19	Additional Information was provided	01/10/2024

**Timeline**



CL25.189 - Attachment 1

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**Site History and Previous Approvals**

One Council Applications

Trim Application	Date Lodged	Portal No	Application Type	Proposal	Decision	Status	Determined
DA2024/1044	23/01/2024	PAN-406437	Other (Not specifically categorised)	Proposed two lot subdivision with a variation to the Shoalhaven LEP	UnderAss	Current	

Darts - since 1st July 2005

Application	Appl. Date	Application Type	Proposal	Status	Completed	
DA18/2072	24/09/2018	Development Application	Part use of existing dwelling for office	Approved	29/10/2018	Show Properties
DA13/1226	14/03/2013	Development Application	Change of Use from Washing Machine Repairs to Upholsterer	Approved	28/03/2013	Show Properties

Old Applications prior to 2nd Sept 1996

Application	Proposal	Decision	Owner	
BA68/1044	Dwelling Additions	Approved	Cook WFR	Show Properties
BA73/2201	Radio Antenna	Approved	Cook WFR	Show Properties
BA76/0197	Dwelling Additions	Approved	Cook WFR	Show Properties
BA78/1435	Brick Veneering Dwelling	Approved	Cook WFR	Show Properties
SD7051		Approved	Cook WFR	Show Properties

BA data prior to the 2nd Sept 1996 (bamast)

Application	Appl. Date	Proposal	Status	Status Date
BA89/1854	09/06/1989	Lapsed	Lapsed	21/06/1989
BA88/1282	16/05/1988	Approved	Approved	26/05/1988

**4. Consultation and Referrals**

Internal Referrals	
Referral	Comments
Development Engineer	No objection subject to recommended conditions
GIS	Proposed Lot 1 – 43 Princes Hwy Ulladulla with an alternate address of 7 St Vincent Street (these addresses represent both pedestrian and vehicular access) Proposed Lot 2 – 41 Princes Hwy Ulladulla
Shoalhaven Water	Water development notice required.

External Referrals	
Referral	Comments
Transport for NSW	First Referral – Refused due to insufficient plans. Second referral – Supported and provided conditions of consent.

**5. Other Approvals**

N/A

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## 6. Statutory Considerations

### Environmental Planning and Assessment Act 1979

#### Section 4.14 Consultation and development consent – certain bush fire prone land

Is the development site mapped as bush fire prone land?	No
Is there vegetation within 100m of the proposed development that would form a bush fire hazard as identified in Planning for Bush Fire Protection?  <i>Note: The bush fire mapping cannot be relied upon solely for identifying bush fire hazards.</i>	No
Is the development subject to a performance based solution or a BAL-FZ?  <i>Note: As per <a href="#">Appendix 2</a> of PBP 2019, performance based solutions should be undertaken and fully justified by a qualified consultant BPAD practitioner.</i>  <i>Note: The NSW variation of <a href="#">H7D4</a> in NCC 2022 Volume 2 specifies that AS3959 and the NASH Standard can only be used as a deemed-to-satisfy provision where an appropriate condition of consent has been imposed <u>in consultation with NSW RFS</u>.</i>	N/A

### Biodiversity Conservation Act 1979

Does the application include works or vegetation removal within the <a href="#">Biodiversity Values mapped area</a> ?	No										
Does the application involve clearing of native vegetation above the area clearing threshold?  <b>Area clearing threshold</b> The area threshold varies depending on the minimum lot size (shown in the Lot Size Maps made under the relevant Local Environmental Plan (LEP)), or actual lot size (where there is no minimum lot size provided for the relevant land under the LEP). <table border="1"><thead><tr><th>Minimum lot size associated with the property</th><th>Threshold for clearing, above which the BAM and offsets scheme apply</th></tr></thead><tbody><tr><td>Less than 1 ha</td><td>0.25 ha or more</td></tr><tr><td>1 ha to less than 40 ha</td><td>0.5 ha or more</td></tr><tr><td>40 ha to less than 1000 ha</td><td>1 ha or more</td></tr><tr><td>1000 ha or more</td><td>2 ha or more</td></tr></tbody></table> The area threshold applies to all proposed native vegetation clearing associated with a proposal, regardless of whether this clearing is across multiple lots. In the case of a subdivision, the proposed clearing must include all future clearing likely to be required for the intended use of the land after it is subdivided.  If the land on which the proposed development is located has different minimum lot sizes the smaller or smallest of those minimum lot sizes is used to determine the area clearing threshold.	Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply	Less than 1 ha	0.25 ha or more	1 ha to less than 40 ha	0.5 ha or more	40 ha to less than 1000 ha	1 ha or more	1000 ha or more	2 ha or more	No
Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply										
Less than 1 ha	0.25 ha or more										
1 ha to less than 40 ha	0.5 ha or more										
40 ha to less than 1000 ha	1 ha or more										
1000 ha or more	2 ha or more										
Will the proposed development have a significant impact on threatened species or ecological communities, or their habitats, according to the	No										

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<p>test in <a href="#">section 7.3</a> of the Biodiversity Conservation Act 2016 (i.e. 'test of significance)?</p> <p><i>Note: Consideration should be given to the site's proximity to NPWS land (see <a href="#">guidelines</a>) and other natural areas, as well as any area that may contain threatened species, vulnerable or endangered ecological communities or other vulnerable habitats.</i></p>	
<p>If the application exceeds the Biodiversity Offsets Scheme Threshold (i.e. if yes to <b>any</b> of the above), has the application been supported by a Biodiversity Development Assessment Report (BDAR)?</p>	N/A

**Local Government Act 1993**

<p>Do the proposed works require approval under <a href="#">Section 68</a> of the Local Government Act 1993?</p>	No
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**Marine Estate Management Act 2014**

<p>Does the application include any works within the marine park or aquatic reserve?</p>	No
<p>Is the development site within the locality (100m buffer) of a marine park or aquatic reserve?</p>	No

**7. Statement of Compliance/Assessment**

The following provides an assessment of the submitted application against the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

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

**i) Environmental Planning Instrument**

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

<b>Environmental Planning Instrument</b>
<a href="#">Shoalhaven Local Environmental Plan 2014</a>
<a href="#">State Environmental Planning Policy (Resilience and Hazards) 2021</a>

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State Environmental Planning Policy (Resilience and Hazards) 2021

**Chapter 2 Coastal Management**

The subject land is mapped as coastal use area under the SEPP.

It is considered that the proposed development does not unduly impact upon the coastal environment. The proposed development is acceptable with regard to SEPP.

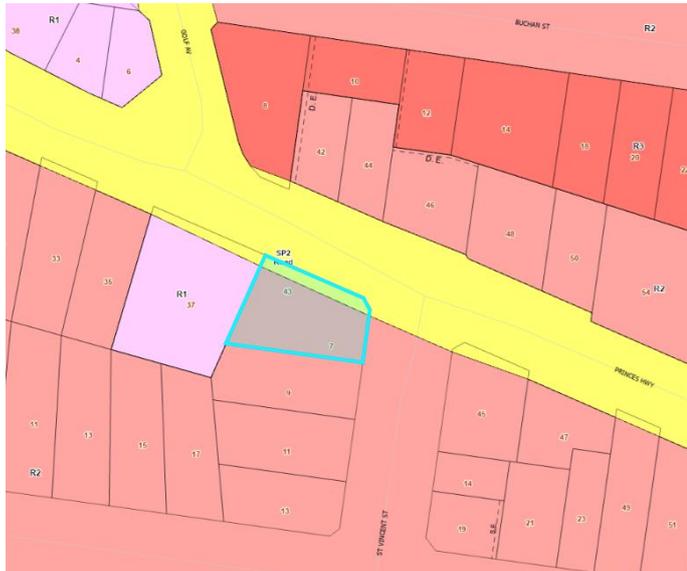
**Chapter 4 Remediation of Land**

Question	Yes	No
1. Does the proposal result in a new land use being a residential, educational, recreational, hospital, childcare or other use that may result in exposure to contaminated land?	<input type="checkbox"/> Proceed to Question 2	<input checked="" type="checkbox"/> Assessment under SEPP (R&H) and DCP not required.

Shoalhaven Local Environmental Plan Local Environmental Plan 2014

**Land Zoning**

The land is predominantly zoned R2 Low Density Residential with SP2 Zoned Road portion adjacent the Princes Highway under the *Shoalhaven Local Environmental Plan 2014*. The SP2 Zoned portion is reserved by Transport for NSW for future potential acquisition for road widening of the highway.



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**Characterisation and Permissibility**

The proposal is best characterised as Torrens Title Subdivision under *Shoalhaven Local Environmental Plan 2014*. The proposal is permitted within the zone with the consent of Council.

**Zone Objectives**

Objective	Comment
<ul style="list-style-type: none"> <li>To provide for the housing needs of the community within a low density residential environment.</li> </ul>	The proposal is consistent with the objectives of the zone.
<ul style="list-style-type: none"> <li>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> </ul>	
<ul style="list-style-type: none"> <li>To provide an environment primarily for detached housing and to ensure that other development is compatible with that environment.</li> </ul>	

**Applicable Clauses**

Clause	Comments	Complies/ Consistent
<b>Part 2 Permitted or prohibited development</b>		
<b>2.6</b> Subdivision – Consent requirements	The application is for consent to subdivide the subject lot. The subdivision would not result in a secondary dwelling on a separate lot to the main dwelling house.	Consistent
<b>Part 4 Principal development standards</b>		
<b>4.1</b> Minimum subdivision lot size	The proposed subdivision does not meet the minimum lot size requirements of 500m <sup>2</sup> and requests a 4.6 variation. The proposed lot sizes are (total 1194.3 m <sup>2</sup> ): Lot 1 - 765.9 m <sup>2</sup> (Existing dwelling and upholstery business with an office space) Lot 2 – 428.4 m <sup>2</sup> (proposed new lot)  Excluding SP2 Zoned portions for road widening. Lot 1 – 641.7 m <sup>2</sup> (Existing dwelling and upholstery business with an office space) Lot 2 – 371.9 m <sup>2</sup> (proposed new lot)	Complies subject to clause 4.6 variation.
<b>4.3</b> Height of buildings	The subject lot is mapped as I2 and has a 8.5m height limit according to the minimum lot size map. The application does not propose the erection of a building.	Compliant

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<p><b>4.6</b> Exceptions to development standards</p>	<p>The applicant has proposed a clause 4.6 variation to cause 4.1 Minimum Subdivision lot size below the 500m<sup>2</sup> requirement set by the minimum lot size map. See <b>Appendix B</b> for detailed consideration of Clause 4.6 variation .</p>	<p>See Appendix B for detailed consideration of Clause 4.6 variation .</p>
<p><b>Part 5 Miscellaneous provisions</b></p>		
<p><b>5.1</b> Relevant acquisition authority</p>	<p>A portion of the subject site along the northern boundary is zoned SP2 Roads (yellow overlay) and marked as Arterial Road Widening on the Land Reservation Acquisition layer in GIS.</p> 	<p>Consistent</p>
<p><b>Part 7 Additional local provisions</b></p>		
<p><b>7.1</b> Acid sulfate soils</p>	<p>Acid Sulfate Soils are mapped as Class 5.</p> 	<p>Complies</p>
<p><b>7.11</b> Essential services</p>	<p><u>Water</u> Reticulated water supply is available to subject site and any future development on lot 2 will have the opportunity to connect to water.</p>	<p>Complies</p>

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	<p><u>Sewer</u> Sewer mains are available to the subject site and a new sewer connection is required for proposed lot 2.</p> <p><u>Electricity</u> Electricity is available to the subject site and is capable of being utilized by future development.</p> <p><u>Suitable Vehicular Access</u> Site access to proposed lot 2, to and from the highway demonstrated on swept path diagrams as capable of complying with revision to front retaining wall/fence. Conditions are provided for a driveway upgrade and removal of the affected portion of the front walls within swept path safety zone in order to achieve practical access.</p>	
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**ii) Draft Environmental Planning Instrument**

The proposal is not inconsistent with any [Draft Environmental Planning Instruments](#).

**iii) Any Development Control Plan**

*Shoalhaven Development Control Plan 2014*

Chapter 2 General and Environmental Considerations	
<b>Potentially Contaminated Land</b>	The subject site is not identified as potentially contaminated land
<b>European Heritage</b>	The subject site is not identified as containing any items of historical significance and is not located within a Conservation Area.
<b>Aboriginal Cultural Heritage</b>	The subject site is not identified as containing any items of Aboriginal heritage and is not identified as Cultural Lands.
<b>Crime Prevention Through Environmental Design</b>	The proposed development is not considered to create a risk or increase risk of crime within the locale. The proposed development does not trigger a formal crime risk assessment or referral to NSW Police Local Area Command.

Generic DCP Chapter
<b><u>G1:</u> Site Analysis, Sustainable Design and Building Materials</b>
A suitable site analysis plan and schedule of proposed materials has been submitted as part of the application and is deemed acceptable.
<b><u>G2:</u> Sustainable Stormwater Management and Erosion/Sediment Control</b>

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Has the application been supported by appropriate erosion and sediment control details?	N/A
Does the development require on site detention (OSD) to be provided? <i>Note: OSD may not be suitable in instances where a development appropriately relies on a charged drainage line to the street as it may compromise the effectiveness of the drainage system.</i>	N/A
Has the application been supported appropriate stormwater drainage details?	N/A
<b>G3: Landscaping Design Guidelines</b>	
Existing/proposed landscaping is appropriate.	
<b>G5: Biodiversity Impact Assessment</b>	
Is the proposal biodiversity compliant development?	Yes
<b>G7: Waste Minimisation and Management Controls</b>	
Has the application been supported by an appropriate waste minimisation and management plan?	Yes
<b>G11: Subdivision of Land</b>	
<p><b>Two Lot Subdivision</b></p> <p>The proposed development is for a one (1) into two (2) lot Torrens Title subdivision.</p> <p>The proposed subdivision will result in two (2) lots with the following dimensions:</p> <ul style="list-style-type: none"> <li>Lot 1 – 641.7 m<sup>2</sup></li> </ul> <p>Lot depth 22.396m and width 27.917m (at shortest dimensions)</p> <ul style="list-style-type: none"> <li>Lot 2 – 371.9m<sup>2</sup></li> </ul> <p>Lot depth 29.955m and width 13.045m (at shortest dimensions)</p> <p>The proposed lots do not comply with the Acceptable Solution requirements of Table 2 in DCP Chapter G11 and are addressed under performance assessment - See Appendix A.</p>	
<b>G21: Car Parking and Traffic</b>	
<p><i>NOTE: Council resolved on 30/10/18 to waive additional carparking requirements for a change of use in a shopping centre area. Assess the parking that would otherwise be required and enter the data into the spreadsheet (D18/394992) for later reporting to Council.</i></p>	
The proposed development does not give rise to additional parking requirements for the subdivision. Existing vehicle parking and vehicle manoeuvring areas are maintained on site and will be upgraded to better accommodate the access to Lot 2.	

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

There are no planning agreements applying to this application.

**iv) Environmental Planning and Assessment Regulation 2021**

<a href="#">Clause 62</a>	<i>Does the application result in a change of use of an existing building but does not propose any building works?</i>	No
<a href="#">Clause 64</a> Partial Upgrade	<i>Does the application involve alterations or additions to an existing building?  The applicant is required to remove a portion of the existing awning on the Western façade in order to comply with the NCC – to be Conditioned.</i>	Yes - The proposed works do not warrant a partial upgrade to the existing building.
<a href="#">Clause 64</a> Total Upgrade	<i>Does the application involve building works and result in conversion of a building or part of a building from non-habitable to a habitable use?</i>	No

The proposal ensures compliance with the applicable requirements within the Regulations subject to recommended conditions of consent.

**State and Local Infrastructure Contributions**

<b>State Contributions</b>	
<p><i>Does the proposed development trigger the Housing and Productivity Contribution (HPC)?</i></p> <p><i>Note: If the development triggers an HPC, then a corresponding Contribution (CON) case is created as a related case in the Portal. The calculation needs to be reviewed and confirmed in the Portal.</i></p> <p><i>Note: HPC is implemented via Ministerial planning orders. Different Orders apply for development lodged before 1/7/2024. See the <a href="#">NSW Government webpage</a> for further information.</i></p> <p><i>Note: The <a href="#">Housing and Productivity Contributions Guide to the Ministerial Planning Order</a> provides examples and guidance for calculating HPC.</i></p>	Yes - Residential Development

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Central Coast, Illawarra Shoalhaven and Lower Hunter		
Development class	Amount	Unit
Residential subdivision	\$8,000	new dwelling lot
Medium or high-density residential development	\$6,000	new dwelling
Manufactured home estate	\$6,000	new dwelling site
Commercial development	\$30	square metre of new GFA
Industrial development	\$15	square metre of new GFA

*Note: The Ministerial planning orders provide excluded lots and credits in some instances. When calculating HPC ensure that these are considered.*

Is the development site an “ <a href="#">old subdivision property</a> ” identified in Shoalhaven Contributions Plan 2019?	No								
Is the proposed development considered to increase the demand for community facilities in accordance with the <a href="#">Shoalhaven Contributions Plan 2019</a> ?	Yes - s7.11 contributions are applicable.								
Where s7.11 contributions are raised for residential development, have they been capped (where required) as per the <a href="#">Ministerial Direction</a> ?	Yes - \$20,000.00 - s7.11 cap under Section 6 of Direction								
	<table border="1"> <thead> <tr> <th></th> <th><b>Capped Rate (per dwelling/lot)</b></th> </tr> </thead> <tbody> <tr> <td><b>Infill residential development (Section 6 of Direction)</b></td> <td>\$20,000.00</td> </tr> <tr> <td><b>Greenfield residential development (Schedule 2 of Direction)</b> <i>Note: The <a href="#">Direction Amendment dated 7/12/2021</a> incorporates the Moss Vale Road North and South Urban Release Areas (i.e. Badagarang) into Schedule 2. A \$30,000.00 cap is applicable to these URAs..</i></td> <td>\$30,000.00</td> </tr> <tr> <td><b>Land where there is no cap (Schedule 1 of Direction)</b></td> <td>No Cap</td> </tr> </tbody> </table>		<b>Capped Rate (per dwelling/lot)</b>	<b>Infill residential development (Section 6 of Direction)</b>	\$20,000.00	<b>Greenfield residential development (Schedule 2 of Direction)</b> <i>Note: The <a href="#">Direction Amendment dated 7/12/2021</a> incorporates the Moss Vale Road North and South Urban Release Areas (i.e. Badagarang) into Schedule 2. A \$30,000.00 cap is applicable to these URAs..</i>	\$30,000.00	<b>Land where there is no cap (Schedule 1 of Direction)</b>	No Cap
	<b>Capped Rate (per dwelling/lot)</b>								
<b>Infill residential development (Section 6 of Direction)</b>	\$20,000.00								
<b>Greenfield residential development (Schedule 2 of Direction)</b> <i>Note: The <a href="#">Direction Amendment dated 7/12/2021</a> incorporates the Moss Vale Road North and South Urban Release Areas (i.e. Badagarang) into Schedule 2. A \$30,000.00 cap is applicable to these URAs..</i>	\$30,000.00								
<b>Land where there is no cap (Schedule 1 of Direction)</b>	No Cap								
<p><i>Note: Section 6 of the <a href="#">Environmental Planning and Assessment (Local Infrastructure) Direction 2012</a> (most recent consolidated version of Direction is available <a href="#">here</a> – noting that this does not consolidate subsequent or future amendments to the Direction) sets the capped rate for residential development.</i></p>									

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*Note: Where s7.11s are capped, the 'Apportion Cap' rate must be updated to the correct amount and selected.*

Developer Contributions - Calculation: 6340

Application No: [redacted] Total: \$30,000.01  
 App Description: [redacted]  
 Address: [redacted]  
 Location: [redacted]  
 Planning UTE: [redacted]

Recipient: [redacted]

Save Calculation  
 Delete Calculations  
 Create Payment Advice

Calculation Details (click to show) Calculate ET

Project	Description	Benefit Area	Contribution Rate	Rate	City	Contribution Total
01-ET-1	Water Treatment Plant Upgrade	01-ET-1	12.50	25.00	1.00	312.50
01-ET-2	Water Treatment Plant Upgrade (Storm Drain)	01-ET-2	437.12	38.99	1.00	831.54
01-ET-3	Pumping and Treatment Facilities Upgrade (Storm Drainage)	01-ET-3	566.62	49.71	1.00	917.20
01-ET-4	Community and North Water	01-ET-4	168.19	9.58	1.00	159.41
01-ET-5	North Water South Water (City of Kingsford & Mulwala Streets)	01-ET-5	36.16	2.50	1.00	78.92
01-ET-6	North Water South Water Upgrade	01-ET-6	862.26	274.85	1.00	2088.41
01-ET-7	North Water South Water (Residential)	01-ET-7	1247.16	47.50	1.00	1919.80
01-ET-8	North Water South Water (City of Kingsford & Mulwala Streets)	01-ET-8	4488.58	388.83	1.00	4138.88
01-ET-9	Shoalhaven Community and Residential Precinct (CRMP) Carrievale Road Stormwater	01-ET-9	2284.82	228.47	1.00	2128.88
01-ET-10	Shoalhaven Entertainment Centre (Bridge Road North)	01-ET-10	1714.07	47.82	1.00	1414.45
01-ET-11	Shoalhaven City Office Extension (Jenny Street, Nowra)	01-ET-11	1562.87	41.99	1.00	1477.58
01-ET-12	Shoalhaven Regional Library	01-ET-12	82.44	4.87	1.00	77.49
01-ET-13	Shoalhaven Fire & Emergency Services	01-ET-13	160.96	9.16	1.00	182.47
01-ET-14	Shoalhaven Fire Control Centre	01-ET-14	227.89	13.43	1.00	224.46
01-ET-15	Shoalhaven Fire Control Centre	01-ET-15	573.16	26.11	1.00	605.72
01-ET-16	Shoalhaven Fire Control Centre	01-ET-16	573.16	26.11	1.00	605.72
01-ET-17	Shoalhaven Fire Control Centre	01-ET-17	573.16	26.11	1.00	605.72
01-ET-18	Shoalhaven Fire Control Centre	01-ET-18	573.16	26.11	1.00	605.72
01-ET-19	Shoalhaven Fire Control Centre	01-ET-19	573.16	26.11	1.00	605.72
01-ET-20	Shoalhaven Fire Control Centre	01-ET-20	573.16	26.11	1.00	605.72
01-ET-21	Shoalhaven Fire Control Centre	01-ET-21	573.16	26.11	1.00	605.72
01-ET-22	Shoalhaven Fire Control Centre	01-ET-22	573.16	26.11	1.00	605.72
01-ET-23	Shoalhaven Fire Control Centre	01-ET-23	573.16	26.11	1.00	605.72
01-ET-24	Shoalhaven Fire Control Centre	01-ET-24	573.16	26.11	1.00	605.72
01-ET-25	Shoalhaven Fire Control Centre	01-ET-25	573.16	26.11	1.00	605.72
01-ET-26	Shoalhaven Fire Control Centre	01-ET-26	573.16	26.11	1.00	605.72
01-ET-27	Shoalhaven Fire Control Centre	01-ET-27	573.16	26.11	1.00	605.72
01-ET-28	Shoalhaven Fire Control Centre	01-ET-28	573.16	26.11	1.00	605.72
01-ET-29	Shoalhaven Fire Control Centre	01-ET-29	573.16	26.11	1.00	605.72
01-ET-30	Shoalhaven Fire Control Centre	01-ET-30	573.16	26.11	1.00	605.72
01-ET-31	Shoalhaven Fire Control Centre	01-ET-31	573.16	26.11	1.00	605.72
01-ET-32	Shoalhaven Fire Control Centre	01-ET-32	573.16	26.11	1.00	605.72
01-ET-33	Shoalhaven Fire Control Centre	01-ET-33	573.16	26.11	1.00	605.72
01-ET-34	Shoalhaven Fire Control Centre	01-ET-34	573.16	26.11	1.00	605.72
01-ET-35	Shoalhaven Fire Control Centre	01-ET-35	573.16	26.11	1.00	605.72
01-ET-36	Shoalhaven Fire Control Centre	01-ET-36	573.16	26.11	1.00	605.72
01-ET-37	Shoalhaven Fire Control Centre	01-ET-37	573.16	26.11	1.00	605.72
01-ET-38	Shoalhaven Fire Control Centre	01-ET-38	573.16	26.11	1.00	605.72
01-ET-39	Shoalhaven Fire Control Centre	01-ET-39	573.16	26.11	1.00	605.72
01-ET-40	Shoalhaven Fire Control Centre	01-ET-40	573.16	26.11	1.00	605.72
01-ET-41	Shoalhaven Fire Control Centre	01-ET-41	573.16	26.11	1.00	605.72
01-ET-42	Shoalhaven Fire Control Centre	01-ET-42	573.16	26.11	1.00	605.72
01-ET-43	Shoalhaven Fire Control Centre	01-ET-43	573.16	26.11	1.00	605.72
01-ET-44	Shoalhaven Fire Control Centre	01-ET-44	573.16	26.11	1.00	605.72
01-ET-45	Shoalhaven Fire Control Centre	01-ET-45	573.16	26.11	1.00	605.72
01-ET-46	Shoalhaven Fire Control Centre	01-ET-46	573.16	26.11	1.00	605.72
01-ET-47	Shoalhaven Fire Control Centre	01-ET-47	573.16	26.11	1.00	605.72
01-ET-48	Shoalhaven Fire Control Centre	01-ET-48	573.16	26.11	1.00	605.72
01-ET-49	Shoalhaven Fire Control Centre	01-ET-49	573.16	26.11	1.00	605.72
01-ET-50	Shoalhaven Fire Control Centre	01-ET-50	573.16	26.11	1.00	605.72
01-ET-51	Shoalhaven Fire Control Centre	01-ET-51	573.16	26.11	1.00	605.72
01-ET-52	Shoalhaven Fire Control Centre	01-ET-52	573.16	26.11	1.00	605.72
01-ET-53	Shoalhaven Fire Control Centre	01-ET-53	573.16	26.11	1.00	605.72
01-ET-54	Shoalhaven Fire Control Centre	01-ET-54	573.16	26.11	1.00	605.72
01-ET-55	Shoalhaven Fire Control Centre	01-ET-55	573.16	26.11	1.00	605.72
01-ET-56	Shoalhaven Fire Control Centre	01-ET-56	573.16	26.11	1.00	605.72
01-ET-57	Shoalhaven Fire Control Centre	01-ET-57	573.16	26.11	1.00	605.72
01-ET-58	Shoalhaven Fire Control Centre	01-ET-58	573.16	26.11	1.00	605.72
01-ET-59	Shoalhaven Fire Control Centre	01-ET-59	573.16	26.11	1.00	605.72
01-ET-60	Shoalhaven Fire Control Centre	01-ET-60	573.16	26.11	1.00	605.72
01-ET-61	Shoalhaven Fire Control Centre	01-ET-61	573.16	26.11	1.00	605.72
01-ET-62	Shoalhaven Fire Control Centre	01-ET-62	573.16	26.11	1.00	605.72
01-ET-63	Shoalhaven Fire Control Centre	01-ET-63	573.16	26.11	1.00	605.72
01-ET-64	Shoalhaven Fire Control Centre	01-ET-64	573.16	26.11	1.00	605.72
01-ET-65	Shoalhaven Fire Control Centre	01-ET-65	573.16	26.11	1.00	605.72
01-ET-66	Shoalhaven Fire Control Centre	01-ET-66	573.16	26.11	1.00	605.72
01-ET-67	Shoalhaven Fire Control Centre	01-ET-67	573.16	26.11	1.00	605.72
01-ET-68	Shoalhaven Fire Control Centre	01-ET-68	573.16	26.11	1.00	605.72
01-ET-69	Shoalhaven Fire Control Centre	01-ET-69	573.16	26.11	1.00	605.72
01-ET-70	Shoalhaven Fire Control Centre	01-ET-70	573.16	26.11	1.00	605.72
01-ET-71	Shoalhaven Fire Control Centre	01-ET-71	573.16	26.11	1.00	605.72
01-ET-72	Shoalhaven Fire Control Centre	01-ET-72	573.16	26.11	1.00	605.72
01-ET-73	Shoalhaven Fire Control Centre	01-ET-73	573.16	26.11	1.00	605.72
01-ET-74	Shoalhaven Fire Control Centre	01-ET-74	573.16	26.11	1.00	605.72
01-ET-75	Shoalhaven Fire Control Centre	01-ET-75	573.16	26.11	1.00	605.72
01-ET-76	Shoalhaven Fire Control Centre	01-ET-76	573.16	26.11	1.00	605.72
01-ET-77	Shoalhaven Fire Control Centre	01-ET-77	573.16	26.11	1.00	605.72
01-ET-78	Shoalhaven Fire Control Centre	01-ET-78	573.16	26.11	1.00	605.72
01-ET-79	Shoalhaven Fire Control Centre	01-ET-79	573.16	26.11	1.00	605.72
01-ET-80	Shoalhaven Fire Control Centre	01-ET-80	573.16	26.11	1.00	605.72
01-ET-81	Shoalhaven Fire Control Centre	01-ET-81	573.16	26.11	1.00	605.72
01-ET-82	Shoalhaven Fire Control Centre	01-ET-82	573.16	26.11	1.00	605.72
01-ET-83	Shoalhaven Fire Control Centre	01-ET-83	573.16	26.11	1.00	605.72
01-ET-84	Shoalhaven Fire Control Centre	01-ET-84	573.16	26.11	1.00	605.72
01-ET-85	Shoalhaven Fire Control Centre	01-ET-85	573.16	26.11	1.00	605.72
01-ET-86	Shoalhaven Fire Control Centre	01-ET-86	573.16	26.11	1.00	605.72
01-ET-87	Shoalhaven Fire Control Centre	01-ET-87	573.16	26.11	1.00	605.72
01-ET-88	Shoalhaven Fire Control Centre	01-ET-88	573.16	26.11	1.00	605.72
01-ET-89	Shoalhaven Fire Control Centre	01-ET-89	573.16	26.11	1.00	605.72
01-ET-90	Shoalhaven Fire Control Centre	01-ET-90	573.16	26.11	1.00	605.72
01-ET-91	Shoalhaven Fire Control Centre	01-ET-91	573.16	26.11	1.00	605.72
01-ET-92	Shoalhaven Fire Control Centre	01-ET-92	573.16	26.11	1.00	605.72
01-ET-93	Shoalhaven Fire Control Centre	01-ET-93	573.16	26.11	1.00	605.72
01-ET-94	Shoalhaven Fire Control Centre	01-ET-94	573.16	26.11	1.00	605.72
01-ET-95	Shoalhaven Fire Control Centre	01-ET-95	573.16	26.11	1.00	605.72
01-ET-96	Shoalhaven Fire Control Centre	01-ET-96	573.16	26.11	1.00	605.72
01-ET-97	Shoalhaven Fire Control Centre	01-ET-97	573.16	26.11	1.00	605.72
01-ET-98	Shoalhaven Fire Control Centre	01-ET-98	573.16	26.11	1.00	605.72
01-ET-99	Shoalhaven Fire Control Centre	01-ET-99	573.16	26.11	1.00	605.72
01-ET-100	Shoalhaven Fire Control Centre	01-ET-100	573.16	26.11	1.00	605.72

Is the proposed development considered to increase the demand for on water and sewer services (i.e. s64 Contributions)

Yes - See Shoalhaven Water Development Application Notice.

The development is most aptly characterised as a 'Subdivision' development for the purpose of calculating contributions under the Plan.

Section 7.11 ET Calculations -

Close Reset Print Return Calc

Residential  Non-Residential

Calculation Type:  
Subdivision

Subdivision Button

	Existing	Proposed
Lots	1	2
<b>Total ET</b>		<b>1</b>
		<b>0</b>

**NOTE:**  
Prior to the issue of development consent which requires contributions in accordance with this Plan, credit of the respective ETs or m2 is given to recognise the original approved land use of the development site (i.e. dwelling / building / subdivision).

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Calculation Financial Year: 2024 Rates

Stage: 1

20000

Apportion Cap

Project	Description	Benefit Area	Contribution Amt	Cap Adjustment	Qty	Contribution Total	ADD
05AREC0005	Planning Area 5 - Active recreation facility upgrades various locations	01 - ET	1226.19	0.00	1.00	1226.19	X
05CFAC2010	Southern Shoalhaven Branch Library	01 - ET	617.01	0.00	1.00	617.01	X
CWAREC5005	Shoalhaven Community and Recreational Precinct SCaRP Cambewarra Road Bomaderry	05 - ET	1284.19	0.00	1.00	1284.19	X
CWCFAC5002	Shoalhaven Entertainment Centre (Bridge Road Nowra)	05 - ET	970.59	0.00	1.00	970.59	X
CWCFAC5006	Shoalhaven City Library Extensions (Berry Street, Nowra)	01 - ET	1502.37	0.00	1.00	1502.37	X
CWCFAC5007	Shoalhaven Regional Gallery	01 - ET	82.48	0.00	1.00	82.48	X
CWFIRE2001	Citywide Fire & Emergency services	01 - ET	162.05	0.00	1.00	162.05	X
CWFIRE2002	Shoalhaven Fire Control Centre	01 - ET	237.08	0.00	1.00	237.08	X
CWMGMT3001	Contributions Management & Administration	01 - ET	673.90	-65.70	1.00	608.20	X
<b>Label</b>			<b>\$6,755.86</b>	<b>-\$65.70</b>		<b>\$6,690.16</b>	

A 10% cap on the total of all non management fees has been applied.

Project	Description	Rate	Qty	Total	GST	GST Incl
05AREC0005	Planning Area 5 - Active recreation facility upgrades various locations	\$1,226.19	1.00	\$1,226.19	\$0.00	<b>\$1,226.19</b>
05CFAC2010	Southern Shoalhaven Branch Library	\$617.01	1.00	\$617.01	\$0.00	<b>\$617.01</b>
CWAREC5005	Shoalhaven Community and Recreational Precinct SCaRP Cambewarra Road Bomaderry	\$1,284.19	1.00	\$1,284.19	\$0.00	<b>\$1,284.19</b>
CWCFAC5002	Shoalhaven Entertainment Centre (Bridge Road Nowra)	\$970.59	1.00	\$970.59	\$0.00	<b>\$970.59</b>
CWCFAC5006	Shoalhaven City Library Extensions (Berry Street, Nowra)	\$1,502.37	1.00	\$1,502.37	\$0.00	<b>\$1,502.37</b>
CWCFAC5007	Shoalhaven Regional Gallery	\$82.48	1.00	\$82.48	\$0.00	<b>\$82.48</b>
CWFIRE2001	Citywide Fire & Emergency services	\$162.05	1.00	\$162.05	\$0.00	<b>\$162.05</b>
CWFIRE2002	Shoalhaven Fire Control Centre	\$237.08	1.00	\$237.08	\$0.00	<b>\$237.08</b>
CWMGMT3001	Contributions Management & Administration	\$608.20	1.00	\$608.20	\$0.00	<b>\$608.20</b>

**Sub Total: \$6,690.16**

**GST Total: \$0.00**

**Estimate Total: \$6,690.16**

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

Head of Consideration	Comment
Natural Environment	The proposed development will not have a significant adverse impact on the natural environment.
Built Environment	The proposed development will not have a significant adverse impact on the built environment.
Social Impacts	The proposed development will not have a negative social impact in the locality.
Economic Impacts	The proposed development will not have a negative economic impact in the locality.

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**(c) Suitability of the site for the development**

The site is suitable for the proposed development.

- The development is permissible with Council consent within the zone.
- The proposal supports the local zoning objectives.
- The proposal is consistent with the objectives and requirements of the *Shoalhaven Local Environmental Plan 2014*.
- The proposal is consistent with the objectives and requirements of the *Shoalhaven Development Control Plan 2014*.
- The intended use is compatible with surrounding/adjoining land uses

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

The DA was notified in accordance with Council’s Community Consultation Policy for Development Applications. No submissions were received by Council during the notification period.

**(e) The Public Interest**

The public interest has been taken into consideration, including assessment of the application with consideration of relevant policies and process. The proposal is considered to be in the public interest.

**Delegations**

<b>Are any clause 4.6 exceptions proposed?</b>		<b>Yes</b>
<b>Development Standard</b>	<b>Numerical Extent of Departure</b>	<b>Percentage (%) Extent of Departure</b>
500sqm min lot size	128.1 m <sup>2</sup> excluding the SP2 zoning	25.62%
<b>Are any DCP performance-based solutions proposed?</b>		<b>No</b>

**Guidelines for use of Delegated Authority**

<b>Variations to Development Standards</b>					
<b>Level of Delegation</b>	<b>Assessing Officer</b>	<b>Team Supervisor/ Senior Planner</b>	<b>Lead</b>	<b>Manager/ Director</b>	<b>Elected Council</b>
<b>Extent of clause 4.6 exception</b>	<i>Nil</i>	<2%	<5%	<10%	>10% OR non-

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					numerical development standard
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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 cl 4.6 variation exceeds 10% the application must be determined by the full 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 the application be approved subject to appropriate conditions of consent for the following reasons:

Reasons for Grant of Consent	
1)	The proposed development is consistent with the objects of the Environmental Planning and Assessment Act 1979.
2)	The proposed development complies with the development standards and is consistent with the aims, objectives and provisions of the applicable environmental planning instruments.
3)	The proposed development complies with the performance criteria and is consistent with the aims, objectives and provisions of Shoalhaven Development Control Plan 2014.
4)	The proposed development is consistent with the aims, objectives and provisions of relevant Council policies.
5)	The likely impacts of the proposed development are considered acceptable.
6)	The site is suitable for the proposed development.
7)	Any submissions received during the public notification period have been considered and issues and concerns raised by the community in submissions have been addressed in the assessment.
8)	The proposed development does not conflict with the public interest.

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**Appendix A – Assessment Checklist: G11 – Subdivision of Land**

**4 Objectives**

The objectives are to:

- i. Encourage high quality urban design and residential amenity.
- ii. Set appropriate environmental criteria for subdivision.
- iii. Provide a comprehensive design approach for residential, rural, industrial and commercial subdivision.
- iv. Provide for the ecologically sustainable subdivision of land.

**5 Controls**

**Note:** A development on bushfire prone land must consider the following provisions:

- NSW Rural Fire Service’s Planning for Bushfire Protection.
- NSW Government’s Fire Safety Guideline – Access for Emergency Vehicles and Emergency Service Personnel.

Where there is an inconsistency between provisions in this Development Control Plan and these documents, early consultation with Council is recommended.

**5.3 Subdivision Layout and Design**

**5.3.1 Layout and Design – Topography, Natural Landform/Environment and Vegetation**

The specific objectives are to:

- i. Minimise the impact of subdivision on the natural environment and landscape setting.
- ii. Retain existing mature trees where practicable to provide shade and reduce the heat island effect.
- iii. Enhance development by screening and providing colour, texture and spatial definition.
- iv. Provide linkages between natural and developed areas.

Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
<p><b>P38.1</b> The subdivision and lot design takes into consideration the site’s natural opportunities and constraints.</p> <p><b>P38.2</b> The subdivision and lot design considers water sensitive urban</p>	<p><b>A38.1</b> The subdivision lot design positively responds to:</p> <ul style="list-style-type: none"> <li>• Slope and desirability of minimising earthworks/retaining walls associated with dwelling construction.</li> </ul>	<p>The site is not impacted/burdened by the requirements listed in A38.1. The applicant has demonstrated the possibility of vehicle access and manoeuvrability with a swept vehicle path, however some minor work is required in order to achieve practical access and manoeuvring as there is a retaining wall and front boundary wall that</p>	<p><b>Complies</b></p>

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<p>design principles associated with infrastructure, riparian areas and watercourses relating to the drainage and open space network.</p> <p><b>P38.3</b> Subdivisions located in flood prone land are designed to enable flood evacuation.</p> <p><b>P38.4</b> The lot layout retains significant vegetation and natural areas and minimises soil erosion.</p> <p><b>P38.5</b> The subdivision layout responds to site characteristics, setting, landmarks and views through street and open space areas.</p> <p>P38.6 The subdivision design provides safe building conditions for development.</p> <p>P38.7 The subdivision design has minimal geotechnical impact on adjoining properties</p> <p>P38.8 The subdivision avoids high risk slip areas.</p> <p>P38.9 Asset protection zones are:</p>	<ul style="list-style-type: none"> <li>• Natural or cultural features.</li> <li>• Soil erosion and bushfire risk.</li> <li>• Special features such as trees, including identification of mature stands of trees to be retained and supplementary planting and shade trees.</li> <li>• Views and visual impact.</li> <li>• Prevailing winds, including the retention of natural features that assist in providing wind protection.</li> </ul> <p><i>Note: Council may condition the use of Section 88B restrictions to define (not exclusively) appropriate building envelopes, landscaping, building materials, colours and regulate the number of storeys of buildings in sensitive locations.</i></p> <p><i>Subdivision design should avoid locating lots in areas with slope stability problems unless suitable advice from a practicing certified geotechnical engineer is provided.</i></p>	<p>impede on the swept vehicle path. To be Conditioned.</p>	
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<ul style="list-style-type: none"> <li>• Contained within the boundaries of the site of the development that they are designed to protect.</li> <li>• Designed in a way that ensures efficient and cost-effective maintenance in perpetuity.</li> </ul>			
<p><b>P39.1</b> The subdivision is geotechnically sound and suitable for the proposed development.</p> <p><b>P39.2</b> The subdivision provides for controlled filling and free flow of surface water.</p>	<p><b>A39.1</b> A geotechnical report supported by NATA approved laboratory testing shall be submitted demonstrating the suitability of the site for the proposed development. The geotechnical report must include identification of any geotechnical site constraints including but not limited to slope stability issues, presence of weak stratum, excessive groundwater or spring activity, and identification of remediation work required to facilitate the type of future development on the site.</p> <p><i>Note: Residential subdivisions will be required to provide a Lot Classification Report prior to issue of a Subdivision Certificate. Where a lot classification of 'E' or 'P' is obtained, remedial work will be required to reclassify the site to a reactivity level of H2 or less.</i></p>	<p>The site is relatively flat with a gentle fall towards the street adjacent to the Princes Hwy (with no aggressive slopes) and is not likely to have geotechnical stability issues.</p>	<p><b>Complies</b></p>

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	<p><b>A39.2</b> The subdivision must ensure that:</p> <ul style="list-style-type: none"> <li>• All lots are above the projected 2100 1% AEP event flood level, but ideally above the projected 2100 flood planning level.</li> <li>• A minimum surface grade of 0.5% falling to the road or drainage system.</li> <li>• All approved fill material is placed, compacted and inspected in accordance with AS3798 – Earthworks for Residential and Commercial Development.</li> <li>• Where fill is greater than 300mm depth:             <ul style="list-style-type: none"> <li>- A lot classification report in accordance with AS2870 must be submitted.</li> <li>- An 88B restriction will be imposed on the affected lots requiring foundation design in accordance with the lot classification report.</li> </ul> </li> </ul>	<p>The subject site is not mapped for flood prone land.</p> 	<p><b>Complies</b></p>
<p><b>P40.1</b> The significance of headlands and other prominent coastal features is not compromised.</p>	<p><b>A40.1</b> Subdivisions will not be permitted on headlands or other prominent coastal</p>	<p>Subdivision is not proposed on a headland or coastal feature.</p>	<p><b>Complies.</b></p>

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<p><b>P40.2</b> The subdivision considers active dune systems and other unstable areas.</p>	<p>features, other than those zoned for urban purposes.</p>		
	<p><b>A40.2</b> No further subdivision on active dune systems or other unstable areas will be permitted.</p>	<p>The site is not an active dune system.</p>	<p><b>Complies.</b></p>
<p><b>5.3.2 Residential Layout and Design – Aspect and Orientation</b></p>			
<p>It is crucial that the subdivision design considers solar access, aspect and orientation to ensure that each lot and the overall development is as energy efficient as possible with reasonable solar access. Factors such as lot size, shape, orientation and building envelope will determine the ideal locations of future northern walls and the solar access time of future north facing windows.</p> <p><i>Note: Solar access refers to solar access to windows, private open space and rooftop solar systems.</i></p>			
Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
<p><b>P41</b> The overall development is as energy efficient as possible with each lot:</p> <ul style="list-style-type: none"> <li>• Enjoying reasonable solar access.</li> <li>• Responding to the topography of the land. Note: The subdivision design should consider the variation in the sun path throughout the entire year.</li> </ul>	<p><b>A41.1</b> To enable suitable solar access and private open space opportunities for future dwellings in greenfield subdivision, lots shall be of:</p> <ul style="list-style-type: none"> <li>• An orientation that promotes efficient solar access for future dwellings.</li> </ul> <p><i>Note: The orientation of the street network in either an east-west or north-south direction promotes efficient solar access for dwellings. Lots with a main northsouth axis (20°W to 30°E) is preferable.</i></p>	<p>The proposed subdivision allows for both lots to have suitable access to solar (North facing lot), private open space and provides a suitable building envelope.</p>	<p><b>Complies</b></p>

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	<ul style="list-style-type: none"> <li>A suitable size and shape to allow the building envelope to enjoy suitable solar access, including efficient use of future rooftop solar systems.</li> </ul> <p><i>Note: Building envelopes are identified in Section 5.3.3 of this Chapter.</i></p>		
	<p><b>A41.2</b> Lots with an area of between 350m<sup>2</sup>–450m<sup>2</sup> shall have a slope of less than 15% (1:9) across the frontage.</p> <p><i>Note: North-facing slopes improve opportunities for solar access where south-facing slopes impose a penalty on solar access. Large lots with the lowest densities are best suited in sloping locations, especially on south facing slopes.</i></p> <p><i>Variable setbacks and zero building lines are a means of maximising solar opportunity, especially with small or narrow lots. Setbacks should be responsive to maximise solar access for all lots.</i></p>	<p>The proposed lots are north facing with a slope across the frontage of &lt;15%.</p> <p>The proposed lot is North facing and provides ample opportunities for solar access.</p>	<p><b>Complies.</b></p>
<p><b>5.3.3 Residential Lot Size, Density and Design</b></p>			
<p>This Section generally applies to lots with one dwelling house or vacant land. The section applies to dual occupancy development where the minimum lot size at Clause 4.1 of SLEP 2014 is met.</p> <p>The specific objectives are to:</p> <ul style="list-style-type: none"> <li>Provide a range and mix of lot sizes to suit a variety of dwellings, household types and housing opportunities, with areas and dimensions to meet user requirements and the diverse and changing needs of the community.</li> <li>Provide lots that are oriented to enable the application of energy conservation principles.</li> </ul>		<p><b>Note:</b> Refer to Section 5.4.4 of this Chapter for provisions relating to the Torrens title subdivision of certain medium density development, as well as Chapter G13: Medium Density and</p>	

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<ul style="list-style-type: none"> <li>• Provide lots of sufficient size to protect environmental features and consider site constraints.</li> <li>• Design lot density to minimise fuel consumption, reduce travel distances, maximise public transport effectiveness and encourage walking and cycling.</li> <li>• Provide smaller lots in locations adjacent to neighbourhood centres, public transport stops and adjacent to higher amenity areas.</li> <li>• Ensure integration of lot layout with the surrounding urban environment to promote shared use of public facilities by adjoining communities.</li> <li>• Enable and protect rooftop solar systems.</li> </ul>		<p><i>Other Residential Development of this Development Control Plan.</i></p>	
Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
<p><b>P42</b></p> <p>Higher densities are provided in areas that are consistent with the zone objectives and are close to the CBD, services, public transport and open space.</p>	<p><b>A42.1</b></p> <p>Development density is in accordance with Council's Growth Management Strategy, other relevant Structure Plans and Strategies and any relevant site-specific chapters of this Development Control Plan.</p>	<p>The subject lot is zoned R2 and SP2 (with 2 proposed lots under Torrens title subdivision) with a density consists with Dual Occupancy development.</p> <p>One of the resulting lots will be a size of 371.9m<sup>2</sup> and will only accommodate one dwelling in the future and not be able to subdivide under cl 4.1A.</p> <p>The subject site is also located approx. 327.45m from the Ulladulla CBD and has access to services, public transport and open spaces.</p>	<p><b>Complies</b></p>
<p><b>P43</b></p> <p>A range of lot sizes are provided that have the appropriate area and dimensions for:</p> <ul style="list-style-type: none"> <li>• The siting of a dwelling/s and ancillary structures.</li> <li>• The provision of outdoor space.</li> <li>• Vehicle access and manoeuvring.</li> <li>• On-site parking.</li> <li>• The provision of solar access.</li> </ul>	<p><b>A43.1</b></p> <p>Minimum lot shape, dimensions and splays shall comply with <b>Table 2</b> below.</p>	<p>The proposed lots do not comply with Table 2 of Chapter G11.</p> <p>Lot 1</p> <p>Depth 22.396m and width 27.917m (at shortest dimensions)</p> <p>Lot 2</p> <p>Lot depth 29.955m and width 13.045m (at shortest dimensions)</p>	<p><b>Complies</b></p>

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<ul style="list-style-type: none"> <li>The provision of appropriate site lines and visibility.</li> <li>The minimisation of amenity or privacy impacts.</li> </ul>		<p>Due to the Cl. 4.6 variation the proposed lots comply with the necessary requirements.</p>	
<p><b>P44</b></p> <p>The lot design:</p> <ul style="list-style-type: none"> <li>Ensures the availability of a relatively flat and suitable building area with limited cut and fill.</li> <li>Ensures the site and frontage can accommodate the future dwelling, ancillary structures, parking, access, services, landscaping, and the like.</li> <li>Minimises overshadowing and privacy/amenity impacts on the future residents and adjoining residents.</li> <li>Promotes provision and protection of rooftop solar systems.</li> <li>Takes into account relevant constraints including topography, significant trees and vegetation, easements or other restrictions/affectations relating to the land.</li> </ul>	<p><b>A44.1</b></p> <p>The subdivision design demonstrates that following building envelopes are available for each relevant lot, behind the required front building line:</p> <ul style="list-style-type: none"> <li>Lots up to 499m<sup>2</sup> : A rectangular building envelope of a size able to accommodate a suitably sized dwelling house.</li> <li>Lots greater than 500m<sup>2</sup> : 10m x 15m.</li> <li>Battle-axe lots: 15m x 15m.</li> <li>Small infill subdivisions on flood prone land: approximately 15m wide x 21m deep, sited in accordance with the requirements of Chapter G9: Development on Flood Prone Land of this Development Control Plan.</li> </ul> <p><i>Note: Building envelopes are to be exclusive of the required setback requirements for a dwelling house as per Chapter G12: Dwelling Houses and Other Low Density Residential Development, or other relevant chapter of this Development Control Plan.</i></p> <p><i>Council may condition the use of Section 88B restrictions to define (not exclusively) appropriate building envelopes, forward ingress and egress</i></p>	<p>Lot 1 is to remain undisturbed with the remaining dwelling on the site.</p> <p>Lot 2 provides a 10m by 15m building envelope with appropriate setbacks to all boundaries.</p> <p>As discussed in the Cl. 4.6 variation above the lots meet the requirements of the objectives for providing a reasonable building space for a dwelling with a 10m x 15m building envelope, suitable setbacks to all boundaries, private open space etc.</p>	<p><b>Complies</b></p>

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	<i>and adequate waste servicing, including grades.</i>		
	<p><b>A44.2</b></p> <p>The building envelope shall comply with the relevant setbacks in Chapter G12: Dwelling Houses and Other Low Density Residential Development of this Development Control Plan.</p>	The building envelope is compliant with the relevant setback requirements of G12.	<b>Complies</b>
	<p><b>A44.3</b></p> <p>For lots up to 499m2 in area, a detailed area plan is to be provided that shows the:</p> <ul style="list-style-type: none"> <li>• Minimum setbacks and maximum building height.</li> <li>• Building to boundary locations and wall heights.</li> <li>• Indicative parking and access arrangements, including vehicle access points. Parking must be accessed from a laneway where available.</li> <li>• Critical window locations and treatment (e.g. for solar access, shading, frontage outlook or to limit overlooking or noise intrusions).</li> <li>• Indicative private open space and landscaping areas.</li> </ul>	The proposed Lot 2 (less than 499m <sup>2</sup> ) has suitable setbacks, building height, indicates access and parking to the site, has suitable access to solar and indicates a sufficient amount of private open space.	<b>Complies</b>
	<p><b>A44.4</b></p> <p>Adequate space for bins on the road frontage (kerbside) shall be provided, especially in a standard battle-axe lot or dual occupancy battle-axe lot arrangement. The kerbside frontage</p>	Suitable space for kerb side collection is available.	<b>Complies.</b>

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	required per bin is 1m, with 0.5m separation between bins and 1m behind each bin.		
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**Table 2: Minimum residential lot shape and dimensions**

	Width	Depth	Splay
<b>Small Lot Subdivision (lots up to 499m<sup>2</sup>)</b>			
<b>300 - 399</b>	>8m and <12m	n/a	2m, if a corner lot
<b>400 - 499</b>	Equal to or >12m and <15m	n/a	2m, if a corner lot
<b>General Lot Subdivision (lots between 500m<sup>2</sup> – 1,999m<sup>2</sup>)</b>			
<b>Rectangular non-corner lots</b>	Minimum of 15m	Minimum of 30m	n/a
<b>Rectangular corner lots</b>	Minimum of 18m	Minimum of 30m	4m
<b>Irregular shaped lots Battle-axe lots</b>	Minimum width at building line of 17m Minimum mean width of 18m	Minimum of 30m	4m if a corner lot
<b>Large Lot Subdivision (lots between 2,000m<sup>2</sup> – 3,999m<sup>2</sup>)</b>			
<b>Rectangular non-corner lots</b>	Minimum of 30m	Minimum of 55m	n/a
<b>Rectangular corner lots</b>	Minimum of 35m	Minimum of 55m	4m
<b>Irregular shaped lots Battle-axe lots</b>	Minimum mean width of 30m	Minimum mean depth of 55m	4m if a corner lot
<b>Large Lot Subdivision (lots between 4,000m<sup>2</sup> – 10,000m<sup>2</sup>)</b>			
<b>Rectangular non-corner lots</b>	Minimum of 35m	Minimum of 65m	n/a
<b>Rectangular corner lots</b>	Minimum of 40m	Minimum of 65m	4m
<b>Irregular shaped lots Battle-axe lots</b>	Minimum mean width of 40m	Minimum mean depth of 65m	4m if a corner lot

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5.3.10 Access			
Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
<p><b>P53</b></p> <p>Coincidental legal and practical access is provided for each lot.</p>	<p><b>A53.1</b></p> <p>Each lot shall have coincidental legal and practical access.</p>	<p>Each lot has separate legal access.</p>	<p><b>Complies</b></p>
5.4 Utilities and Servicing			
<p>The specific objectives are to:</p> <ul style="list-style-type: none"> <li>i. Ensure that each lot in a subdivision is adequately serviced (where available and required) with sewerage/effluent management, water, gas, firefighting, electricity, street lighting and telecommunications (including broadband).</li> <li>ii. Deliver services in a timely, cost effective, coordinated and efficient manner.</li> <li>iii. Deliver services using sustainable development practices.</li> </ul>		<p><b>Note:</b> Depending on the nature of the subdivision, Council may require the following to be provided at no cost to Council:</p> <ul style="list-style-type: none"> <li>• Suitable easements for water and sewer.</li> <li>• An agreed area of land for a pumping station/s and suitable easements or land for access and power.</li> </ul>	
Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
<p><b>P55.1</b></p> <p>The street network provides for the cost-effective provision of utilities that are designed and provided to:</p> <ul style="list-style-type: none"> <li>• Be cost effective over the life cycle.</li> <li>• Minimise short and long term adverse environmental, amenity and visual impacts.</li> <li>• Available and accessible.</li> </ul>	<p><b>A55.1</b></p> <p>Water, sewer, electricity, telecommunications and gas must be accommodated within the street network, with appropriate offsets to support Safety in Design principles.</p>	<p>The site has existing access to all services, sewer, water and electricity.</p>	<p><b>Complies</b></p>
<p><b>P55.2</b></p>			

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Each lot in a subdivision is adequately serviced.			
<b>5.5 Stormwater, Flooding and Water Sensitive Urban Design</b>			
<p>The objectives are to:</p> <ul style="list-style-type: none"> <li>i. Ensure stormwater management limits stormwater damage to property and adequately protects the natural and built environment at an acceptable level of risk.</li> <li>ii. Provide stormwater management/systems that take into account the whole of life-cycle costs.</li> <li>iii. Manage and control flooding to protect the community, minimise nuisance flooding, minimise potential for traffic accidents and maintain road access with accepted levels of service.</li> <li>iv. Have regard to the principals of water sensitive urban design by: <ul style="list-style-type: none"> <li>• Ensuring that existing downstream systems are not adversely affected.</li> <li>• Ensuring there is no increase in pollution levels discharging from the development.</li> <li>• Intercepting and treating pollutants through the use of appropriate water quality control measures prior to discharge into receiving waters, including wetlands, lakes and ponds.</li> <li>• Optimising drainage system control of silt accumulation and minimise debris blockages of inlet structures and pipes.</li> </ul> </li> <li>v. Water sensitive urban design measures are incorporated into the subdivision layout design in an attractive, efficient manner that also considers whole of life costs.</li> </ul>		<p><b>Note:</b> Refer to the <i>Engineering Design Specifications and the following chapters of this Development Control Plan as appropriate to the development:</i></p> <ul style="list-style-type: none"> <li>• Chapter G2: <i>Sustainable Stormwater Management &amp; Erosion Sediment Control.</i></li> <li>• Chapter G9: <i>Development on Flood Prone Land.</i></li> <li>• Chapter G10: <i>Caravan Parks in Flood Prone Areas.</i></li> </ul>	
<b>5.5.2 Minor Drainage Systems</b>			
<b>Performance Criteria</b>	<b>Acceptable Solutions</b>	<b>Proposed Development</b>	<b>Compliance</b>
<p><b>P61</b> Local road networks located on flood prone land are designed to enable flood evacuation.</p>	<p><b>A61.1</b> Local road networks shall be designed to ensure all lots have frontage to rising road linkages to flood free land above</p>	<p>Site not flood affected.</p>	<p><b>Complies</b></p>

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	the Probable Maximum Flood (PMF) level or local evacuation routes.		
<p><b>P62</b></p> <p>Systems are designed:</p> <ul style="list-style-type: none"> <li>• With the capacity to control stormwater flows under normal operating conditions for the relevant design storm.</li> <li>• To be accessible and easily maintained.</li> </ul>	<p><b>A62.1</b></p> <p>Design and construction of minor drainage systems is in accordance with the requirements of:</p> <ul style="list-style-type: none"> <li>• This Section.</li> <li>• The Engineering Design Specifications.</li> <li>• The requirements in Chapter G2: Sustainable Stormwater Management and Erosion / Sediment Control of this Development Control Plan.</li> <li>• The latest version of Australian Rainfall and Runoff – A Guide to Flood Estimation.</li> </ul>	<p>Site slope is suitable to achieve stormwater drainage to the street and for future development to generally comply with Chapter G2.</p>	<p><b>Complies.</b></p>

**Appendix B – Cl4.6 Exception to the Shoalhaven Local Environmental Plan 2014**

**Development Standard to be varied**

Clause 4.1 of the Shoalhaven LEP 2014 states:

(1) *The objectives of this clause are as follows—*

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

(2) *This clause applies to a subdivision of any land shown on the [Lot Size Map](#) that requires development consent and that is carried out after the commencement of this Plan.*

**(3) *The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.***

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<b>Extent of proposed departure from development standard</b>				
<b>LEP clause</b>	<b>Numerical Standard</b>	<b>Proposed Solution</b>	<b>Numerical Departure</b>	<b>% Departure</b>
4.1(3)	Min Lot size = 500m <sup>2</sup>	Lot 2 - 371.9m <sup>2</sup>	128.1m <sup>2</sup>	25.62%

<b>Applicant's clause 4.6 statement</b>
Clause 4.6 requires that Council be satisfied that the applicant's clause 4.6 statement demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. An extract from the Applicant's clause 4.6 statement is provided below:
Extract from applicant's clause 4.6 statement prepared by Rygate & West (D24/47952) below:

How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?

a) Are the objectives of the development standard achieved notwithstanding the non-compliance?

We submit that the objectives of the development standard are achieved despite the non-compliance with the Minimum Subdivision Lot Size of 500 square metres.

The objectives of Clause 4.1 Minimum Subdivision Lot Size are:

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

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**Objective (a) – Subdivision pattern and character**

The pattern of subdivision in this part of Ulladulla is clearly shown in Figure 5 below.



Figure 5: Extract from Cadastral Records Enquiry Report showing subdivision pattern (Source: NSW LRS 2022)

The characteristics of the subdivision pattern are influenced by a later rectilinear subdivision pattern being imposed over the historical curvilinear route of the Princes Highway. This has led to a great diversity in lot sizes and orientations in the locality. Lot sizes range from 1935 square metres (39 Princes Highway, consolidated from smaller lots to accommodate the large Telstra exchange building) to about 350 square metres (14 St Vincent Street).

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Most existing lots in the locality conform to a more or less rectangular shape and with an absence of battle axe allotments.

The effect of the proposed subdivision is to excise an area of vacant land from that part of the subject land containing the existing dwelling and its curtilage. The proposed vacant lot has a fully fenced and distinctly separate frontage to the proposed lot containing the existing dwelling, and an existing separate driveway access. The proposed subdivision incorporating a variation to the minimum subdivision lot size will not result in any physical changes as observed from the public domain.

The proposed variation is consistent with the diverse nature of the subdivision pattern and character existing in the area.

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**Objective (b) – Amenity of neighbouring properties**

With two road frontages, the subject land has only two neighbouring properties:

- 39 Princes Highway, a site of 1935 square metres that contains a large building used as Telstra's Ulladulla Exchange, together with ancillary parking and service area on the western side of that land;
- 9 St Vincent Street, a site of about 1000 square metres containing a single dwelling house.

Compared with a complying development, the proposed variation will not have any impact on the amenity of the neighbouring properties.

We would also point out that a complying lot (500 square metres minimum) would encroach by a number of metres onto the footprint of the existing dwelling located on the land. To achieve such a complying lot would result in the need to demolish a wing of the existing dwelling that currently contains part of the lounge room, a bedroom, walk in robe and ensuite. Compared with a complying proposal, the proposed variation will minimise loss of amenity to the existing dwelling.

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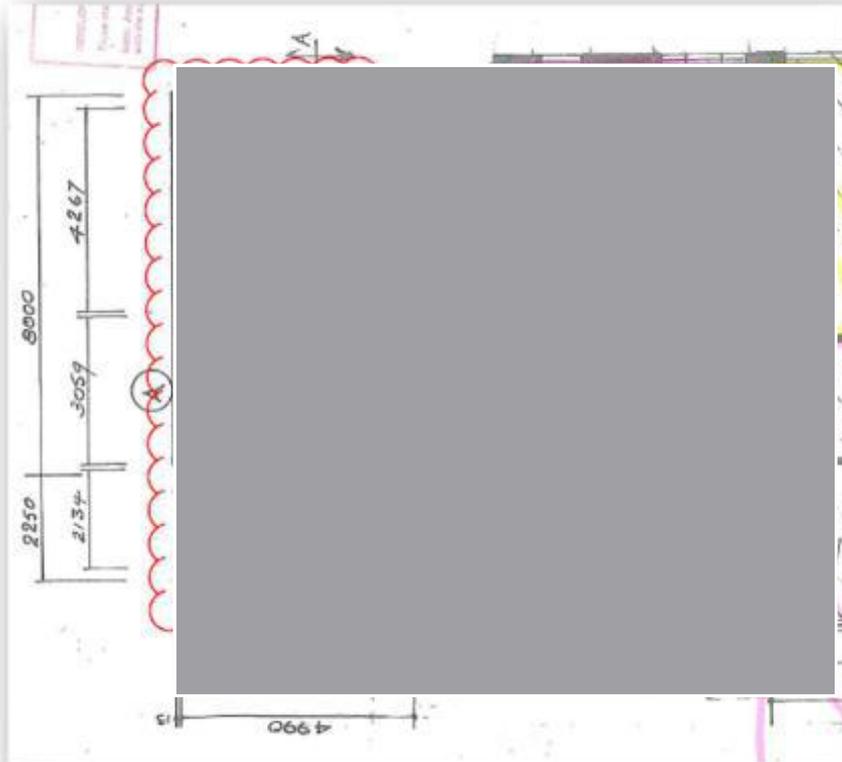


Figure 6: Extract from approved site plan for DA13/226 showing part of dwelling that would need to be demolished to provide a complying 500 sq m lot (Source: SCC DA Tracking)

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**Objective (c) – Accommodation of development consistent with relevant development controls**

The land is predominantly zoned R2 Low Density Residential, which is intended primarily to cater for low density residential development such as dwelling houses.

The relevant development controls for this form of development in the Shoalhaven LEP 2014 are:

*Clause 4.1A – Minimum lot sizes for dual occupancies etc*

**Comment:** The proposed variation provides for a vacant lot of less than the minimum lot size of 500 square metres. This would mean that residential development on the proposed vacant lot would be limited to a single dwelling only.

*Clause 4.3 – Height of buildings*

**Comment:** A maximum building height limit of 8.5 metres applies to this site. The proposed vacant lot has dimensions and an area that will accommodate a future dwelling complying with the maximum building height.

The relevant development controls for this form of development in Shoalhaven DCP 2014 are contained in Chapter 12 (Dwelling Houses etc) and are:

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- Building envelope
- Maximum floor space ratio (0.5:1)
- Maximum building height (as per LEP – 8.5 metres)
- Minimum setbacks (Primary road frontage – 5 metres; rear setback – 3 metre average)
- Minimum landscaped area (15% of lot area for lots 300 – 450 square metres)
- Private open space (minimum 50 square metres)
- Car parking (two spaces per dwelling)

The site plan for the proposal is shown at Figure 7 below and shows the following:

- Indicative building envelope of 10 metres x 15 metres
  - Front, rear and side setbacks satisfying the DCP minimums
  - Private open space and landscaped areas satisfying the DCP minimums
  - Ability for the design B99 vehicle to enter and leave the site in a forward direction
-

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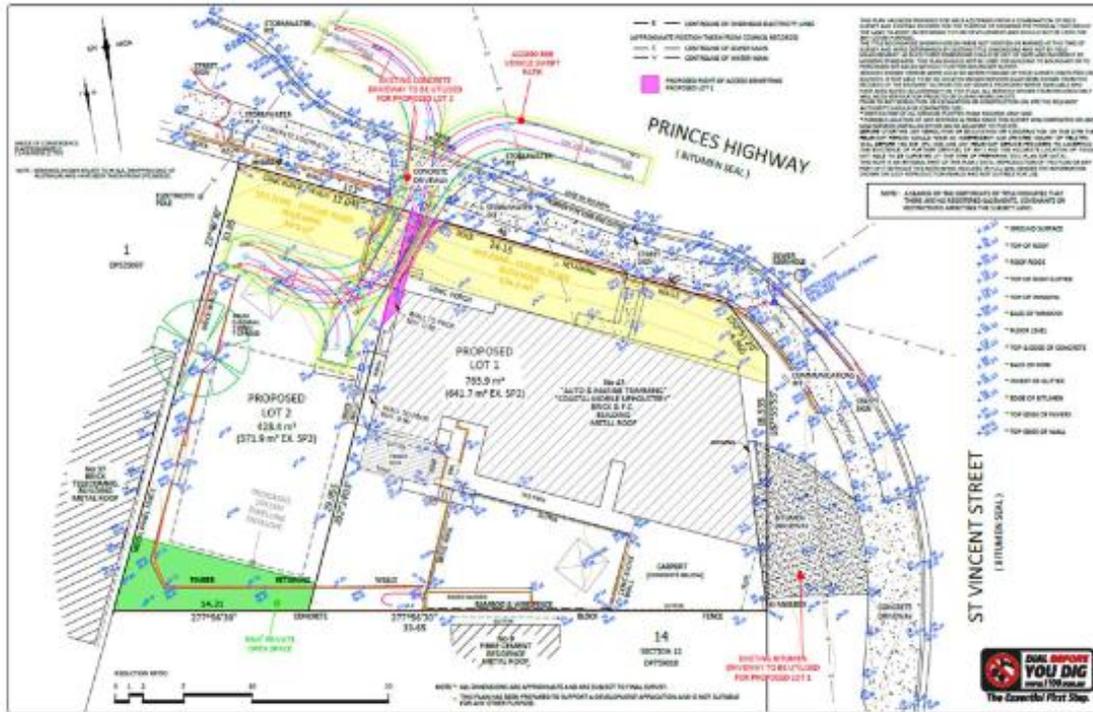


Figure 7: Site plan showing ability to meet development controls

This demonstrates that the proposed lot size and dimensions are capable of accommodating a single dwelling as would be permitted under Clause 4.1A of Shoalhaven LEP 2014.

**Clause 4.6 Detailed Consideration**

Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. Council may grant the exception as the Director-General's concurrence can be assumed where clause 4.6 is adopted as per Department of Planning Guide to Varying Development standards Nov 2023.

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The applicant seeks a variation to the minimum subdivision lot size of 500m<sup>2</sup> applicable under clause 4.1 of the Shoalhaven LEP 2014 for proposed Lot 2.

The applicant provided a written request seeking variation of the minimum lot size development standard on the basis:

- (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.*

#### Council's Consideration of the written request for variation

Council is required to consider a request for variation in accordance with Clause 4.6 (an extract of the relevant parts of the clause is provided below).

(1) *The objectives of this clause are as follows—*

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

(3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*

- (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
- (b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

#### **Note—**

The [Environmental Planning and Assessment Regulation 2021](#) requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

#### **Clause 4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case**

To determine whether the application of a development standard to a certain development is unreasonable or unnecessary, the Land and Environment Court (LEC) has provided guidance (notably through *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Winten Developments Pty Ltd v North Sydney Council* [2001] NSWLEC 46, and *Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118).

Accordingly, the applicant's request for variation is assessed against the 5 generally accepted principles regarding whether the minimum subdivision size standard is unreasonable or unnecessary in this case as follows:

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**1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard.**

Applicant's response

*We submit that the objectives of the development standard are achieved despite the noncompliance with the Minimum Subdivision Lot Size of 500 Square metres.*

*The Objectives of Clause 4.1 Minimum Subdivision Lot Size are:*

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

Council staff response

The following Council assessment, building on the applicant's response, demonstrates the objectives of the minimum lot size development standard are achieved despite the minor non-compliance.

***Clause 4.1(1)(a) to ensure that subdivision is compatible with, and reinforces, the predominant or historic subdivision pattern and character of, an area.***

A distinctive subdivision pattern has been created within the vicinity primarily on North to South running street that intersect the Princes Highway. The surrounds make up smaller patterns of lot sizes with clusters of smaller lots and occasional large lot throughout with subdivision occurring off original lots through different LEP clauses throughout the years. Using primarily Torrens title subdivision and Dual Occupancy subdivision the variety in lot size has occurred as some sites have subdivided in direct accordance with the minimum lot size map and others have subdivided Dual Occupancy development into smaller lots than that permissible under the minimum lot size map. This has given the area its unique subdivision pattern with clusters of smaller lots adjoining larger sized lots being the main contributing factor for its character.

The proposed Torrens title subdivision will result in one corner lot (Lot 1) with a frontage to St Vincent Street and a roundabout to its Northeast façade. The lot will have vehicle access off of St Vincent Street, maintain the existing dwelling on the site and allow the continued operation of the automobile upholstery business as existing.

The second lot (Lot 2) will have a frontage to the Princes Highway it will be smaller than proposed Lot 1 and requires upgrade works to the existing access to the Princes Highway in order to achieve practical legal access to the new lot. The proposed lot 2 will be of a similar shape to numbers 42, 44, 4 and 6 located across the Princes Highway to the North and Northeast and 14 St Vincent Street to the Southeast.

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The proposal aims to maintain the existing development and achieve Torrens subdivision compliant with the objectives of clause 4.1 in the interest of preserving existing development and reducing the cost involved in demolishing and reconstructing a portion of the dwelling in a different location. Considering the above the proposal is able to maintain the subdivision pattern of the locality and provide lots that are consistent with the relevant objectives and the character of the area.

**Clause 4.1(1)(b) to minimise any likely impact of subdivision and development on the amenity of neighbouring properties.**

Adjoining and nearby residents were notified of the proposal. No submissions were received and no concerns regarding neighbourhood amenity resulting from the proposed subdivision have been raised. The *Shoalhaven DCP 2014* contains amenity provisions that would be applied to applications for future dwellings on the proposed lot and provide protection for neighbourhood amenity. The proposed lot is 128.1m<sup>2</sup> smaller than required by the minimum lot size development standard and the difference would not result in any greater impact on neighbourhood amenity than would arise from 500m<sup>2</sup> lots (that is, lots complying with the development standard for setbacks, private open space, solar access etc.).

**Clause 4.1(1)(c) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.**

Despite proposed lot (2) at 128.1m<sup>2</sup> is smaller than the development standard it will have sufficient area to accommodate development consistent with the R2 Dominant Zone. The lot will be rectangular in shape and have sufficient dimensions to accommodate a future dwelling. See extract of lot dimensions and relevant development controls from Chapter G11 of Council's DCP below:

**Chapter 11: Subdivision**

Table 2: Minimum residential lot shape and dimensions

	Width	Depth	Splay
<b>Small Lot Subdivision (lots up to 499m<sup>2</sup>)</b>			
<b>300 - 399</b>	>8m and <12m	n/a	2m, if a corner lot
<b>400 - 499</b>	Equal to or >12m and <15m	n/a	2m, if a corner lot
<b>General Lot Subdivision (lots between 500m<sup>2</sup> – 1,999m<sup>2</sup>)</b>			
<b>Rectangular non-corner lots</b>	Minimum of 15m	Minimum of 30m	n/a
<b>Rectangular corner lots</b>	Minimum of 18m	Minimum of 30m	4m

Extract Chapter G11 – Table 2

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Lot 1 has a width greater than 18m and a depth of 29.955m which tapers down to 22.396m toward the East of the site. The lot complies with the minimum lot size and has an established dwelling with appropriate setbacks (which will be maintained).

Lot 2 has a width of 13.045m at the front boundary setback adjoining the Princes Highway and increase to a width of 14.31m at the rear of the lot. Depth of the lot is 29.955m along the East boundary and increases to a depth of 33.85m to the West boundary (average 31.90m deep).

While proposed lot 2 has a smaller lot size and narrower lot than what is required the proposal provides a 10m x 15m building envelope with setback to the sides greater than 900mm, a rear setback with an average of 3m and a front setback greater than 5m to dwellings and 4m to verandas (as per the requirements of Chapter G12). Even with the narrow lot and lesser size the lot can comfortably accommodate a dwelling on the site and provide some flexibility as to the design of future development.

DCP Chapter G12 Objectives for Dwelling houses and low-density residential development.

#### 4 Objectives

The objectives are to:

- i. Ensure a comprehensive design-oriented approach to housing resulting in high quality urban design, development and residential amenity.
- ii. Maintain and enhance the amenity of existing and future residential areas.
- iii. Ensure development is compatible with the bulk, scale and character of the area, including scenic, landscape, pastoral or environmental qualities.
- iv. Set appropriate environmental criteria for energy efficiency, solar access, privacy, noise, vehicular access, parking, landscaping and open space.
- v. Ensure that development has due regard and is sympathetic to the physical constraints of the site.
- vi. Allow for efficient use of existing services and facilities, including utility services, transport systems and community facilities.
- vii. Promote wider and more affordable housing choice in Shoalhaven.  
Implement agreed strategic directions and respond to demographic needs.

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Additionally, proposed Lot 2 is consistent with the planning principles of *CSA Architects v Randwick City Council [2004] NSWLEC 179* with regards to meeting the requirements of density, landscaping opportunity, providing suitable setbacks, maintaining reasonable levels of solar access, minimising overshadowing, privacy impacts and remaining consistent to the streetscape amenity.

**2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.**

The underlying objective or purpose *is relevant* to the development. However, as described above the objectives of the development standard can be achieved despite the minor non-compliance, and the outcome against this principle is not relevant.

**3. Would the underlying objective or purpose be defeated or thwarted if compliance was required**

No. As described above, the underlying objective or purpose of the development standard can be achieved despite the minor non-compliance and could equally be achieved if compliance was required.

**4. Has Council virtually abandoned or destroyed the development standard by its own actions in granting consents departing from the standard.**

No. Council has not abandoned the minimum lot size development standard. The proposal presents a minor departure in this instance and would not represent abandonment of the development standard in this instance either.

**5. Was the zoning of the land unreasonable or inappropriate so that the development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that subject site**

No. The land has the same zoning (R2 with SP2 road widening) as adjoining land, that has a similar low scale residential character, and the zoning is appropriate.

**Clause 4.6(3)(b) that there are sufficient environmental planning grounds to justify contravening the development standard.**

Applicant's Justification for Variation

Set out below are the applicants environmental planning grounds to justify the variation to the minimum lot size development standard:

1. Compliance with the 500 square metre minimum lot size would substantially reduce the amenity and value of the existing dwelling and substantially increase the cost of undertaking the subdivision due to the costs of demolishing and making good the structure of the existing dwelling;

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2. The proposed vacant lot has been demonstrated to be capable of accommodating a dwelling and all of its ancillary functions despite its non-conformance with the minimum subdivision lot size development standard;
3. Demolition of part of the existing dwelling would negate the embodied energy contained in the structure for no amenity, efficiency or environmental gains. Subdivision as proposed with a smaller lot size for the proposed vacant lot will provide an opportunity for an additional dwelling without significant loss of building fabric, embodied energy or amenity involved with the existing dwelling. In this way the proposal promotes the achievement of ecologically sustainable development outcomes.
4. The proposed vacant lot has the benefit of an existing vehicle access driveway to the Princes Highway and takes in a level area that is ideal for construction of a new dwelling. The proposal therefore responds to the unique circumstances of the site in a way that a complying proposal could not.

#### Council's response

The proposal would create an additional smaller lot that could add diversity to the local housing stock and meet a growing need for smaller housing in an area with high amenity (close to shops, schools, and natural environment). These are fundamental aims of Council's planning policies and, as discussed above, the proposal can achieve the objectives of the minimum lot size development standard despite the minor non-compliance.

#### Summary and conclusion regarding the requested clause 4.6 variation

Given the objectives of the development standard can be met despite the minor departure, there are sufficient environmental planning grounds for the departure, and the proposal is generally in the public interest. The request for variation is considered justified in this instance and approval is recommended, subject to conditions of consent.

## Request to vary a development standard

Clause 4.6 of Shoalhaven Local Environmental Plan 2014

Proposed two lot subdivision at 43 Princes Highway,  
Ulladulla (Lot 13 Sec 12 DP 759018)

Prepared by Rygate and West for [REDACTED]

January 2024



## Introduction

This Variation Request is made under Clause 4.6 of Shoalhaven Local Environmental Plan 2014 in support of a development application for a two lot subdivision at 43 Princes Highway, Ulladulla.

The variation is in respect of the minimum subdivision lot size as specified in Clause 4.1 of Shoalhaven Local Environmental Plan 2014.

The Variation Request is based on the guidance and standard template provided in the NSW Department of Planning's document *Guide to Varying Development Standards* (November 2023)

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## Request to vary Clause 4.1 in Shoalhaven LEP 2014.

Address: 43 Princes Highway, ULLADULLA NSW 2539 (Lot 13 Section 12 DP 759018)

Date: 8 January 2024

## Site and proposed development

### 1. Describe the site.

The subject land is 43 Princes Highway, Ulladulla. It is legally described as Lot 13 Section 12 DP759018 and has an area of 1,194.3m<sup>2</sup>. It is a corner lot with a frontage to the Princes Highway of 37.195 metres and a frontage to St Vincent Street of 18.535 metres.

The land is located as shown in Figure 1 below.



Figure 1 Site Locality (Source: NSW Spatial Services Portal 2021)

The land is located on the northern entry to Ulladulla and is a corner lot situated at the intersection of the Princes Highway and St Vincent Street. This intersection is served by a roundabout. There is another roundabout at the intersection of Princes Highway and Golf Avenue, approximately 40 metres west of the north-western corner of the land.

The site is adjoined primarily by existing low density residential development. There are a number of smaller business premises in the vicinity, including a chiropractic clinic, a beauty salon and hairdresser. Adjoining the site on its western boundary is a two storey building containing Telstra's Ulladulla Exchange.

The Princes Highway is a divided carriageway at this location with a single travelling lane in both directions and a large turnout area beyond the travelling lane, as shown at Figure 2 below.



Figure 2: Street view showing the large turnout area on the property's Princes Highway frontage (Source: Google Maps 2022)

## 2. Describe the proposed development.

The application seeks consent to subdivide the subject lot into 2 lots. Proposed Lot 1 will be a corner lot with frontages to both the Princes Highway and St Vincent Street and will contain the existing dwelling and business premises. Proposed Lot 2 is vacant and will have frontage to the Princes Highway.

Proposed Lot 1 will have an area of 765.9m<sup>2</sup> and proposed Lot 2 an area of 428.4m<sup>2</sup>. Allowing for the land identified as SP2 Infrastructure and using the dimensions provided by Transport for New South Wales (TfNSW), the proposed lot areas are 641.7 square metres for Proposed Lot 1 and 371.9 square metres for Proposed Lot 2.

The land has two existing vehicular access points. The existing access to St Vincent Street will be retained to give access to the existing dwelling and business on Proposed Lot 1, while the existing access to the Princes Highway will provide access to Proposed Lot 2.

All urban services are available in the immediate vicinity.

There are no physical changes required to the site to enable the proposed subdivision.

An aspect of the subdivision is the desire to retain the existing dwelling in its entirety. This will require a variation to the development standard for minimum subdivision lot size of 500m<sup>2</sup>. The land is large enough to achieve the 500m<sup>2</sup> minimum lot size, however to achieve a vacant lot of this size would require the demolition of a substantial part of the existing dwelling.

A plan of the proposal is shown in Figure 3 below.



## Planning instrument, development standard and proposed variation

### 3. What is the environmental planning instrument/s you are seeking to vary?

Shoalhaven Local Environmental Plan 2014

### 4. What is the site's zoning?

The subject land is predominantly zoned **R2 Low Density Residential**, with a narrow strip along the Princes Highway frontage zoned **SP2 – Infrastructure**. The extent of these zones can be seen on the zoning plan shown in Figure 4 below. A minimum lot size for subdivision of 500 square metres applies to the whole of the land.



Figure 4: Zoning Map (Source: SCC Website 2023)

### 5. Identify the development standard to be varied.

The development standard being varied is the **Minimum subdivision lot size** under Clause 4.1 of Shoalhaven LEP 2014.

The objectives of Clause 4.1 are:

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

**6. Identify the type of development standard.**

The Minimum Subdivision Lot Size development standard is a **numeric** development standard.

**7. What is the numeric value of the development standard in the environmental planning instrument?**

The numeric value of the Minimum Subdivision Lot Size is 500 square metres.

**8. What is the difference between the existing and proposed numeric values? What is the percentage variation (between the proposal and the environmental planning instrument)?**

The extent of the proposed variation is shown in the table below.

Area of Proposed Lot 2 (vacant lot)		
	Without road widening deducted	With road widening deducted
Minimum subdivision lot size (m <sup>2</sup> )	500	500
Proposed lot size (m <sup>2</sup> )	428.4	371.9
Proposed variation (m <sup>2</sup> )	71.6	128.1
Percentage variation	14%	26%

**9. Visual representation of the proposed variation (if relevant)**

Not relevant.

## Justification for the proposed variation

### 10. How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?

a) Are the objectives of the development standard achieved notwithstanding the non-compliance?

We submit that the objectives of the development standard are achieved despite the non-compliance with the Minimum Subdivision Lot Size of 500 square metres.

The objectives of Clause 4.1 Minimum Subdivision Lot Size are:

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

#### Objective (a) – Subdivision pattern and character

The pattern of subdivision in this part of Ulladulla is clearly shown in Figure 5 below.



Figure 5: Extract from Cadastral Records Enquiry Report showing subdivision pattern (Source: NSW LRS 2022)

The characteristics of the subdivision pattern are influenced by a later rectilinear subdivision pattern being imposed over the historical curvilinear route of the Princes Highway. This has led to a great diversity in lot sizes and orientations in the locality. Lot sizes range from 1935 square metres (39 Princes Highway, consolidated from smaller lots to accommodate the large Telstra exchange building) to about 350 square metres (14 St Vincents Street).

Most existing lots in the locality conform to a more or less rectangular shape and with an absence of battle axe allotments.

The effect of the proposed subdivision is to excise an area of vacant land from that part of the subject land containing the existing dwelling and its curtilage. The proposed vacant lot has a fully fenced and distinctly separate frontage to the proposed lot containing the existing dwelling, and an existing separate driveway access. The proposed subdivision incorporating a variation to the minimum subdivision lot size will not result in any physical changes as observed from the public domain.

The proposed variation is consistent with the diverse nature of the subdivision pattern and character existing in the area.

**Objective (b) – Amenity of neighbouring properties**

With two road frontages, the subject land has only two neighbouring properties:

- 39 Princes Highway, a site of 1935 square metres that contains a large building used as Telstra's Ulladulla Exchange, together with ancillary parking and service area on the western side of that land;
- 9 St Vincent Street, a site of about 1000 square metres containing a single dwelling house.

Compared with a complying development, the proposed variation will not have any impact on the amenity of the neighbouring properties.

We would also point out that a complying lot (500 square metres minimum) would encroach by a number of metres onto the footprint of the existing dwelling located on the land. To achieve such a complying lot would result in the need to demolish a wing of the existing dwelling that currently contains part of the lounge room, a bedroom, walk in robe and ensuite. Compared with a complying proposal, the proposed variation will minimise loss of amenity to the existing dwelling.

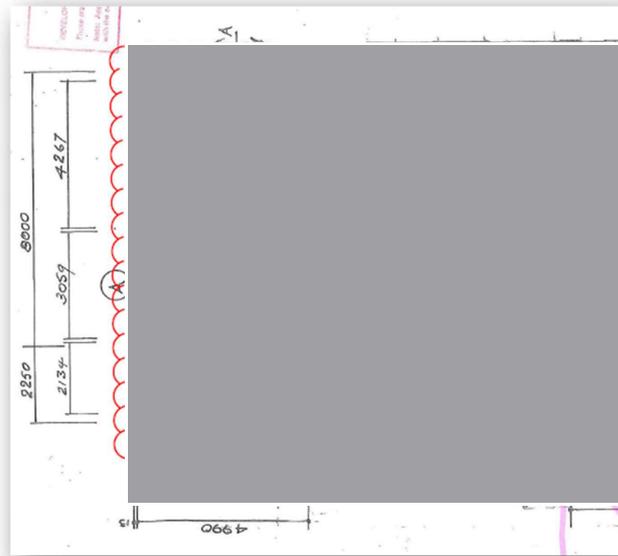


Figure 6: Extract from approved site plan for DA13/226 showing part of dwelling that would need to be demolished to provide a complying 500 sq m lot (Source: SCC DA Tracking)

**Objective (c) – Accommodation of development consistent with relevant development controls**

The land is predominantly zoned R2 Low Density Residential, which is intended primarily to cater for low density residential development such as dwelling houses.

The relevant development controls for this form of development in the Shoalhaven LEP 2014 are:

*Clause 4.1A – Minimum lot sizes for dual occupancies etc*

**Comment:** The proposed variation provides for a vacant lot of less than the minimum lot size of 500 square metres. This would mean that residential development on the proposed vacant lot would be limited to a single dwelling only.

*Clause 4.3 – Height of buildings*

**Comment:** A maximum building height limit of 8.5 metres applies to this site. The proposed vacant lot has dimensions and an area that will accommodate a future dwelling complying with the maximum building height.

The relevant development controls for this form of development in Shoalhaven DCP 2014 are contained in Chapter 12 (Dwelling Houses etc) and are:

- Building envelope
- Maximum floor space ratio (0.5:1)
- Maximum building height (as per LEP – 8.5 metres)
- Minimum setbacks (Primary road frontage – 5 metres; rear setback – 3 metre average)
- Minimum landscaped area (15% of lot area for lots 300 – 450 square metres)
- Private open space (minimum 50 square metres)
- Car parking (two spaces per dwelling)

The site plan for the proposal is shown at Figure 7 below and shows the following:

- Indicative building envelope of 10 metres x 15 metres
- Front, rear and side setbacks satisfying the DCP minimums
- Private open space and landscaped areas satisfying the DCP minimums
- Ability for the design B99 vehicle to enter and leave the site in a forward direction

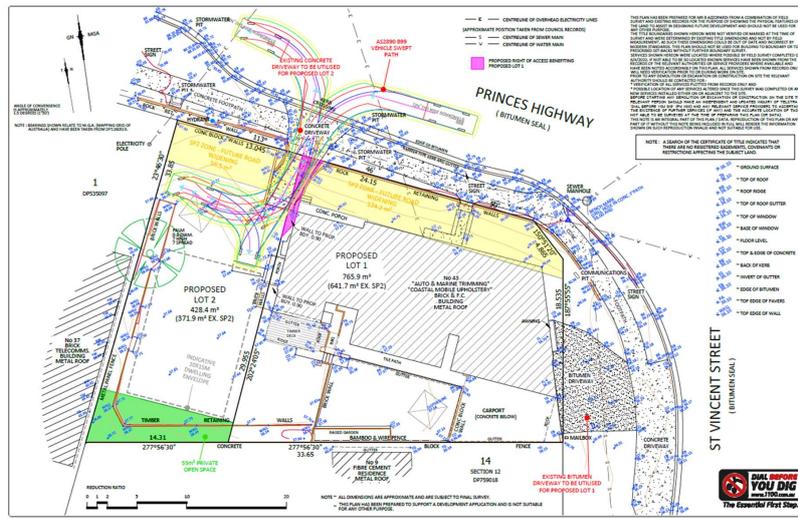


Figure 7: Site plan showing ability to meet development controls

This demonstrates that the proposed lot size and dimensions are capable of accommodating a single dwelling as would be permitted under Clause 4.1A of Shoalhaven LEP 2014.

**Summary regarding the objectives of Shoalhaven LEP 2014 Clause 4.1:**

The above discussion has demonstrated that the objectives of the minimum subdivision lot size clause are achieved notwithstanding the non-compliance with the development standard. Compliance with the development standard is therefore unnecessary in the circumstances.

b) Are the underlying objectives or purpose of the development standard not relevant to the development?

This aspect is not relevant.

c) Would the underlying objective or purpose be defeated or thwarted if compliance was required?

This aspect is not relevant.

Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard?

This aspect is not relevant.

e) Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary?

This aspect is not relevant.

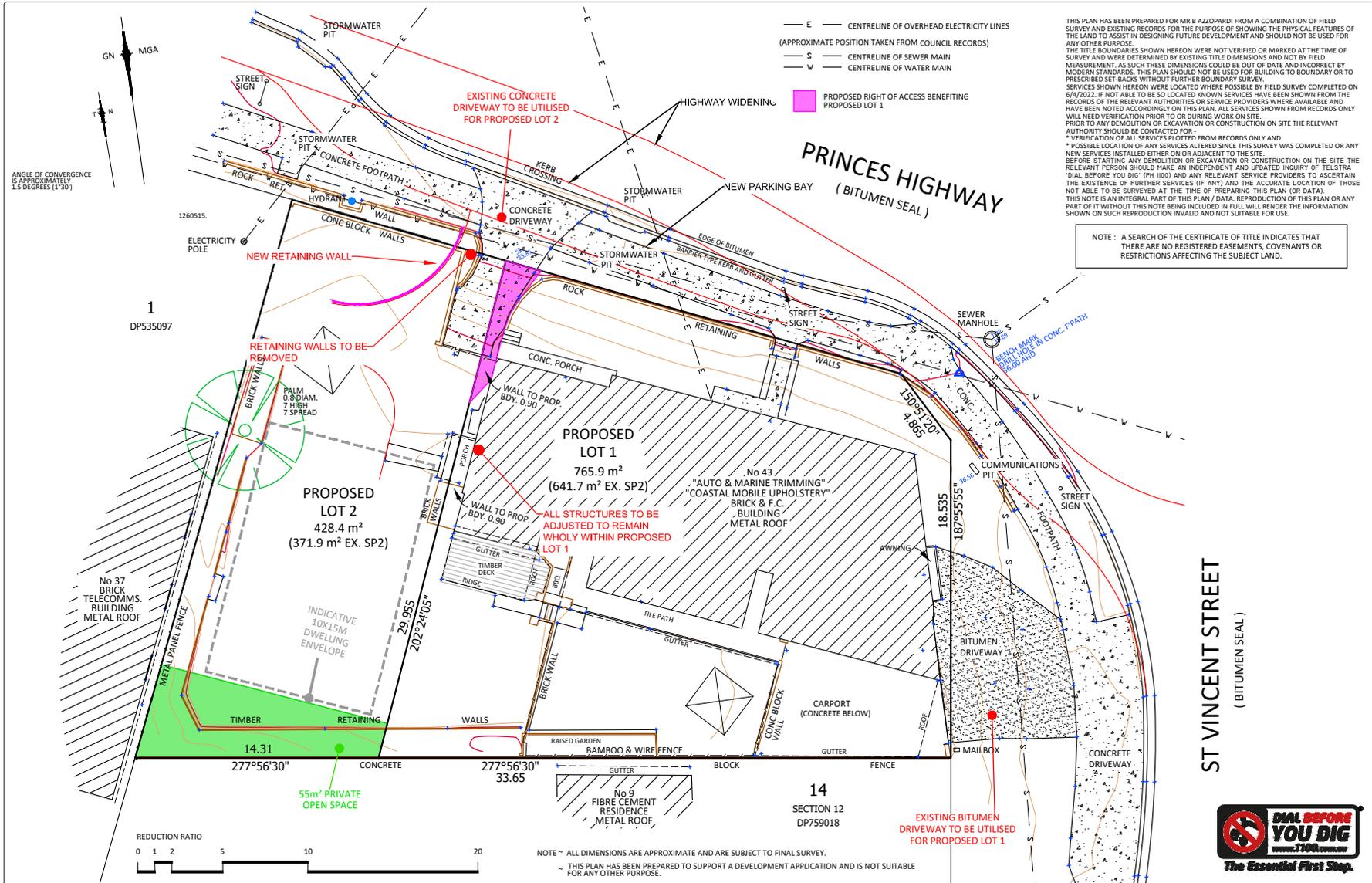
**11. Are there sufficient environmental planning grounds to justify contravening the development standard?**

Set out below are the environmental planning grounds that justify the variation to the minimum lot size development standard:

1. Compliance with the 500 square metre minimum lot size would substantially reduce the amenity and value of the existing dwelling and substantially increase the cost of undertaking the subdivision due to the costs of demolishing and making good the structure of the existing dwelling;
2. The proposed vacant lot has been demonstrated to be capable of accommodating a dwelling and all of its ancillary functions despite its non-conformance with the minimum subdivision lot size development standard;
3. Demolition of part of the existing dwelling would negate the embodied energy contained in the structure for no amenity, efficiency or environmental gains. Subdivision as proposed with a smaller lot size for the proposed vacant lot will provide an opportunity for an additional dwelling without significant loss of building fabric, embodied energy or amenity involved with the existing dwelling. In this way the proposal promotes the achievement of ecologically sustainable development outcomes.
4. The proposed vacant lot has the benefit of an existing vehicle access driveway to the Princes Highway and takes in a level area that is ideal for construction of a new dwelling. The proposal therefore responds to the unique circumstances of the site in a way that a complying proposal could not.

**12. Is there any other relevant information relating to justifying a variation of the development standard?**

Not applicable.



RED'N. RATIO 1: XXX AT A3	AMENDMENTS			BY	DATE
DATUM : AHD	SURVEYED	I.M.	FOR DA APPLICATION	PS	11.12.2023
CONTOUR INTERVAL : 0.2	DESIGNED	I.M.	UPDATED PER SCC COMMENTS	CP	15/4/2025
ORIGIN OF : SSM 32102	DRAWN	I.M.			
LEVELS : RL 35.654	CHECKED	I.C.			
DATE : 6/04/2022					

**RYGATE & WEST**  
INCORPORATING BULLOCK & WALTERS

P.O. BOX 107, 246 GREEN STREET ULLADULLA NSW 2539  
P.O. BOX 340, SUITE 16, 30 GREAT STREET BATHURST NSW 2536  
null@rygateandwest.com.au  
02 46503127

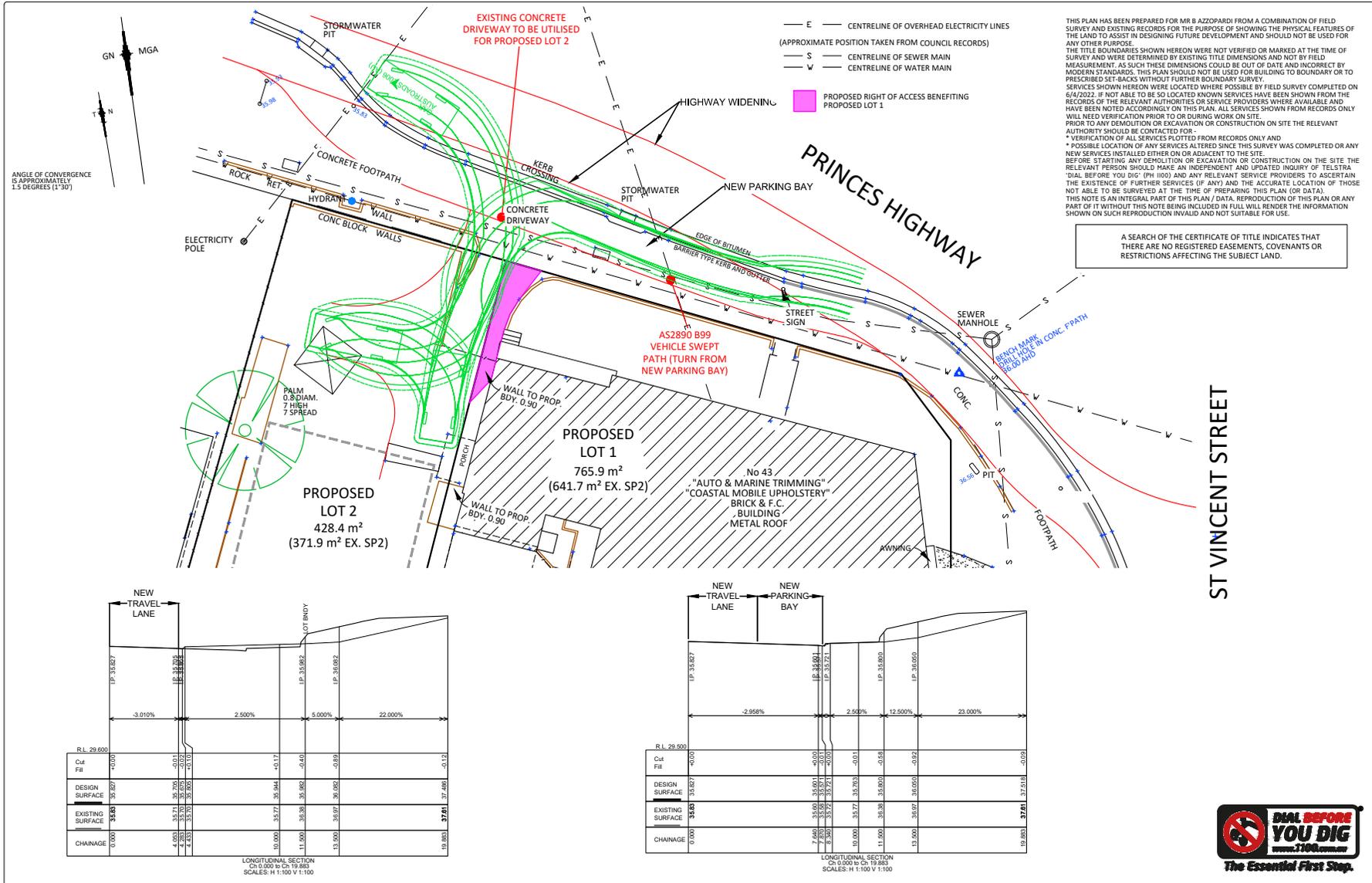


LAYOUT PLAN  
OF PROPOSED SUBDIVISION OF  
LOT 13 SECTION 12 DP759018.

ULLADULLA CITY OF SHOALHAVEN

REFERENCE No. U20597
DRAWING No. U20597_DET.dwg
ISSUE B
SHEET 1 of 4 SHEET





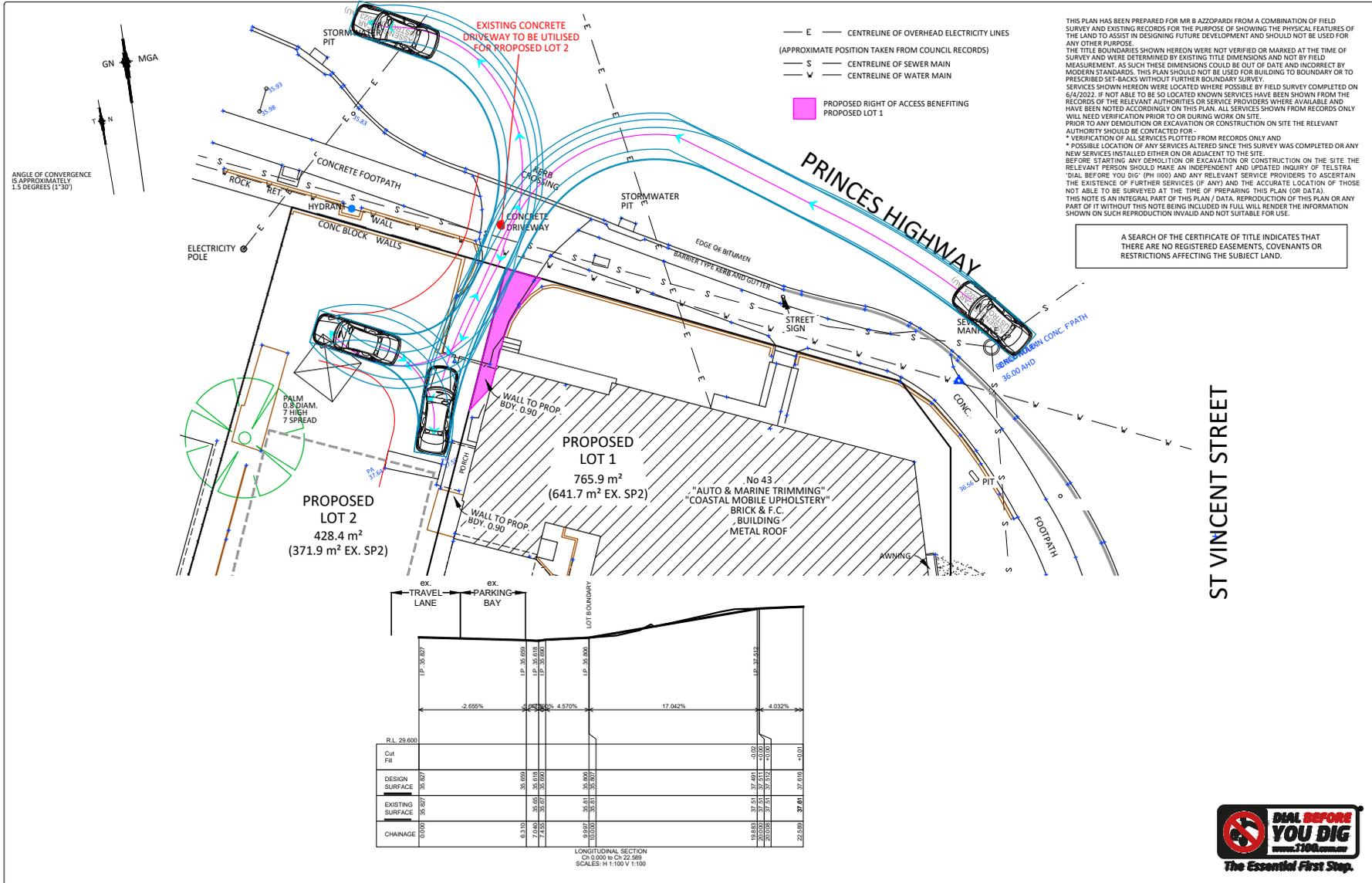
RED'N. RATIO 1: XXX AT A3	AMENDMENTS		BY	DATE
DATUM : AHD	SURVEYED I.M.	FOR DA APPLICATION	PS	11.12.2023
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**RYGATE & WEST**  
 INCORPORATING BULLOCK & WALTERS  
 SINCE 1993  
 P.O. BOX 107, 246 GREEN STREET, ULLADULLA NSW 2539  
 P.O. BOX 346, SUITE 6, 30 CRENSHAW STREET, BATEMANS BAY NSW 2536  
 null@rygateandwest.com.au  
 02 44503327



TWO LANE HWY with PARKING BAY  
 OF PROPOSED SUBDIVISION OF  
 LOT 13 SECTION 12 DP759018.  
 ULLADULLA CITY OF SHOALHAVEN

REFERENCE No. U20597
DRAWING No. U20597_DET.dwg
ISSUE B
SHEET 3 OF 4 SHEET



THIS PLAN HAS BEEN PREPARED FOR MR B AZZOPARDI FROM A COMBINATION OF FIELD SURVEY AND EXISTING RECORDS FOR THE PURPOSE OF SHOWING THE PHYSICAL FEATURES OF THE LAND TO ASSIST IN DESIGNING FUTURE DEVELOPMENT AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE.

THE TITLE BOUNDARIES SHOWN HEREIN WERE NOT VERIFIED OR MARKED AT THE TIME OF SURVEY AND WERE DETERMINED BY EXISTING TITLE DIMENSIONS AND NOT BY FIELD MEASUREMENT. AS SUCH THESE DIMENSIONS COULD BE OUT OF DATE AND INCORRECT BY MODERN STANDARDS. THIS PLAN SHOULD NOT BE USED FOR BUILDING TO BOUNDARY OR TO PRESCRIBED SET-BACKS WITHOUT FURTHER BOUNDARY SURVEY.

SERVICES SHOWN HEREIN WERE LOCATED WHERE POSSIBLE BY FIELD SURVEY COMPLETED ON 6/4/2022. IF NOT ABLE TO BE SO LOCATED KNOWN SERVICES HAVE BEEN SHOWN FROM THE RECORDS OF THE RELEVANT AUTHORITIES OR SERVICE PROVIDERS WHERE AVAILABLE AND HAVE BEEN NOTED ACCORDINGLY ON THIS PLAN. ALL SERVICES SHOWN FROM RECORDS ONLY WILL NEED VERIFICATION PRIOR TO OR DURING WORK ON SITE.

PRIOR TO ANY DEMOLITION OR EXCAVATION OR CONSTRUCTION ON SITE THE RELEVANT AUTHORITY SHOULD BE CONTACTED FOR:

- \* VERIFICATION OF ALL SERVICES PLOTTED FROM RECORDS ONLY AND
- \* POSSIBLE LOCATION OF ANY SERVICES ALTERED SINCE THIS SURVEY WAS COMPLETED OR ANY NEW SERVICES INSTALLED EITHER ON OR ADJACENT TO THE SITE.

BEFORE STARTING ANY DEMOLITION OR EXCAVATION OR CONSTRUCTION ON THE SITE THE RELEVANT PERSON SHOULD MAKE AN INDEPENDENT AND UPDATED INQUIRY OF TELSTRA "DIAL BEFORE YOU DIG" (PH 100) AND ANY RELEVANT SERVICE PROVIDERS TO ASCERTAIN THE EXISTENCE OF FURTHER SERVICES (IF ANY) AND THE ACCURATE LOCATION OF THOSE NOT ABLE TO BE SURVEYED AT THE TIME OF PREPARING THIS PLAN (OR DATA).

THIS NOTE IS AN INTEGRAL PART OF THIS PLAN / DATA. REPRODUCTION OF THIS PLAN OR ANY PART OF IT WITHOUT THIS NOTE BEING INCLUDED IN FULL WILL RENDER THE INFORMATION SHOWN ON SUCH REPRODUCTION INVALID AND NOT SUITABLE FOR USE.

A SEARCH OF THE CERTIFICATE OF TITLE INDICATES THAT THERE ARE NO REGISTERED EASEMENTS, COVENANTS OR RESTRICTIONS AFFECTING THE SUBJECT LAND.



RED'N. RATIO 1: XXX AT A3	AMENDMENTS		BY	DATE
DATUM : AHD	SURVEYED	I.M.	PS	11.12.2023
CONTOUR INTERVAL : 0.2	DESIGNED		CP	15/4/2025
ORIGIN OF : SSM 32102	DRAWN	I.M.		
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**RYGATE & WEST**  
INCORPORATING BULLOCK & WALTERS

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P.O. BOX 346, SUITE 6, 55 CRESWELL STREET, BATHURST NSW 2536  
null@rygateandwest.com.au  
02 44503122

**EXISTING HIGHWAY LAYOUT PLAN**  
OF PROPOSED SUBDIVISION OF  
LOT 13 SECTION 12 DP759018.

ULLADULLA      CITY OF SHOALHAVEN

REFERENCE No. U20597
DRAWING No. U20597_DET.dwg
ISSUE B
SHEET 4 OF 4 SHEET



Address all correspondence to: The Chief Executive Officer,  
PO Box 42, Nowra NSW 2541 Australia  
[shoalhaven.nsw.gov.au/contact](http://shoalhaven.nsw.gov.au/contact) | 1300 293 111

[shoalhaven.nsw.gov.au](http://shoalhaven.nsw.gov.au)    

## NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	DA2024/1044
Applicant	[REDACTED]
Description of development	Two lot Torrens Title subdivision
Property	43 Princes Highway ULLADULLA - Lot 13 Sec 12 DP 759018
Determination	Approval
Date of determination	TBD
Date from which the consent operates	TBD
Date on which the consent lapses	TBD

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

### Reasons for Grant of Consent

The development proposal, subject to the recommended conditions is consistent with:

- i) the objects of the Environmental Planning and Assessment Act, 1979.
- ii) the aims, objectives and provisions of the applicable environmental planning instruments,
- iii) the aims, objectives and provisions of applicable development control plans
- iv) the aims, objectives and provisions of relevant Council policies.

The likely impacts of the proposed development are considered acceptable.

The site is suitable for the proposed development.

Any submissions received during the public notification period have been considered and issues and concerns raised by the community in submissions have been addressed in the assessment.

The proposed development does not conflict with the public interest.

### Right of appeal / review of determination

If you are dissatisfied with this determination:

#### Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the

date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

**Rights to appeal**

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

**Dictionary**

The Dictionary at the end of this consent defines words and expressions for the purposes of this consent.

Person on behalf of the consent authority

**Terms and Reasons for Conditions**

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS						
CONDITIONS					REASON	
1.	<b>Approved plans and supporting documentation</b>					To ensure compliance with the approved plans and documents.
	Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.					
	<b>Approved Plans</b>					
	<b>Plan Number</b>	<b>Revision Number</b>	<b>Plan Title</b>	<b>Drawn by</b>	<b>Date of Plan</b>	
	Sheet 1 of 4	Issue B	Layout Plan of proposed subdivision	Rygate & West	15/04/2025	
Sheet 1	Issue A	Preliminary servicing plan – water, sewer and stormwater	Rygate & West	06/04/2022		
Sheet 4 of 4	Issue B	Existing Highway Layout Plan of Proposed Subdivision – Driveway long sections and Swept Vehicle Path	Rygate & West	15/04/2025		
In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.						

<p><b>2.</b></p>	<p><b>Concurrence and Referral – Transport for NSW</b> The advice/General Terms of Approval issued by the Transport for NSW, Reference No: CNR-65838 (STH24/00133/03), dated 22 October 2024 are included as conditions of this consent and must be complied with.</p>	<p>To ensure compliance with external concurrence and referral advice.</p>
<p><b>3.</b></p>	<p><b>Concurrence and Referral – Endeavour Energy</b> The advice/General Terms of Approval issued by Endeavour Energy, Reference No: CNR-65838, dated 20 February 2024 are included as conditions of this consent and must be complied with.</p>	<p>To ensure compliance with external concurrence and referral advice.</p>
<p><b>4.</b></p>	<p><b>Existing Infrastructure</b> Any required alterations or damage to infrastructure will be at the developer's expense.  <i>Note: It is recommended prior to the issue of a Construction Certificate, all infrastructure, existing and proposed, is to be shown accurately on construction plans with clearances clearly labelled confirming that the proposed works do not affect any existing infrastructure. This will reduce the potential for unexpected costs and expenses.</i></p>	<p>To ensure existing infrastructure is accounted for and any damage to infrastructure is suitably repaired.</p>
<p><b>5.</b></p>	<p><b>Prescribed Conditions</b> The development must comply with Part 4, Division 2, Subdivision 1, of the <i>Environmental Planning and Assessment Regulation 2021</i>, as applicable.</p>	<p>To ensure compliance with prescribed conditions.</p>
<p><b>6.</b></p>	<p><b>Shoalhaven Water – Compliance with Conditions</b> All conditions listed on the Shoalhaven Water Development Notice at each stage of work must be complied with as relevant to that stage. Written notification must be issued by Shoalhaven Water and evidence provided to the Certifier for each applicable stage.</p>	<p>To ensure compliance with Shoalhaven Water requirements.</p>

<b>SUBDIVISION WORK</b>		
<b>Before Issue of a Subdivision Works Certificate</b>		
CONDITIONS		REASON
<p><b>7. Council Approvals - Evidence</b></p> <p>A Construction Certificate / Subdivision Works Certificate must not be issued until the Certifier has received notification from, or evidence of, any Council approval that is required before the commencement of building works.</p>		To ensure all required approvals are obtained.
<p><b>8. Restrictions – Easements and Restrictions on Use of Land</b></p> <p>An Instrument must be prepared under section 88B of the <i>Conveyancing Act 1919</i> which will provide for the following Restrictions on the land when the subdivision is registered:</p> <p>a) Formally execute the proposed right of carriage to legally benefit Lot 2 and burden that part of lot 1 required for vehicle turning path into the driveway access to and from the Princes Highway.</p> <p>The Instrument must contain a provision that it cannot be varied, modified or released without the consent of the relevant parties as appropriate and without the consent of the Shoalhaven City Council.</p> <p>The Instrument must not contain any restriction that prohibits development on the site allowed under the relevant environmental planning instruments.</p> <p>A draft 88B Instrument must be submitted to the Certifier for approval before a Subdivision Certificate is issued.</p>		To ensure TfNSW requirements are appropriately
<p><b>9. Erosion and Sediment Controls - Erosion and Sediment Control Plan</b></p> <p>Before issue of a Construction Certificate / Subdivision Works Certificate, an Erosion and Sediment Control Plan (ESCP) and specifications must be prepared in accordance with Landcom’s publication <i>Managing Urban Stormwater - Soils and Construction (2004)</i> by a suitably qualified person, (as defined in the National Construction Code) to the satisfaction of the Certifier.</p> <p>All plans must include:</p> <p>a) Site access location and stabilisation details and restrictions;</p>		To ensure an appropriate Erosion and Sediment Control Plan has been prepared.

	<ul style="list-style-type: none"> <li>b) Erosion control locations and types;</li> <li>c) Sediment control locations and types;</li> <li>d) Soil, water and drainage management plans;</li> <li>e) Site rehabilitation details;</li> <li>f) Inspection and maintenance details;</li> <li>g) Identification of existing vegetation and site revegetation to have 70% cover established before plan is decommissioned;</li> <li>h) Existing and final contours (clearly distinguished and adequately annotated);</li> <li>i) Standard construction drawings for proposed soil, water and drainage management measures.</li> <li>j) All implemented measures must ensure that a pollution incident must not occur as defined by the Protection of the Environment Operations Act (POEO).</li> </ul> <p>All implemented measures must:</p> <ul style="list-style-type: none"> <li>a) not cause water pollution as defined by the Protection of the Environment Operations Act (POEO).</li> <li>b) be maintained at all times.</li> <li>c) not be decommissioned until at least 70% revegetation cover has been established.</li> </ul>	
<b>10.</b>	<p><b>Subdivision Works – Design Standards</b></p> <p>Before issue of a Subdivision Works Certificate, certified engineering design plans and specifications must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor in accordance with Council's Engineering Design and Construction Specifications and approved by the Certifier. Specifications can be found on Council's website.</p>	To ensure retaining walls are appropriately designed.
<b>11.</b>	<p><b>Existing Structures</b></p> <p>Before the issue of a Subdivision Works Certificate all structures attached/associated with the dwelling house on lot 1 must be within located within lot 1 and comply with the National Construction Code, to the satisfaction of the Certifier.</p>	To ensure all of the existing dwelling on lot 1 remains entirely within the property boundary.
<b>12.</b>	<p><b>Access Design</b></p>	To ensure practical legal

	Before issue of a Subdivision Works Certificate retaining wall relocation works must be completed as per the proposed Layout Plan, Sheet 1 of 4, dated 15/04/2025, in order for access to the site to be practically achievable in accordance with the proposed swept vehicle path.	access to the site.
<b>13.</b>	<p><b>Retaining Walls – Design Standards</b></p> <p>Before the issue of a Construction Certificate for approved retaining walls exceeding 600mm 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.</p> <p>The retaining walls must satisfy the following:</p> <ul style="list-style-type: none"> <li>a) For retaining walls exceeding 600mm 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</li> <li>b) For retaining walls less than 600mm 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.</li> <li>c) Retaining walls, footings and drainage must be contained wholly within the development site.</li> <li>d) Construction within a registered easement is prohibited.</li> </ul> <p>Retaining walls not shown on the approved plan must meet the criteria for Exempt retaining walls and comply with the relevant criteria listed in <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> or be approved by way of Complying Development before construction and comply with the relevant criteria listed in <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>.</p>	To ensure retaining walls are appropriately designed.
<p><b>SUBDIVISION WORK</b></p> <p><b>Before Subdivision Work Commences</b></p>		
<b>CONDITIONS</b>		<b>REASON</b>
<b>14.</b>	<b>Appointment of Principal Certifier</b>	To ensure a Principal Certifier

<p>15.</p>	<p>Before building/subdivision work commences a Principal Certifier must be appointed.</p> <p><b>Dilapidation Report (Minor)</b></p> <p>Before the commencement of work, the developer must engage a competent person to prepare a dilapidation report in respect of the neighbouring premises and adjacent public infrastructure, including adjacent kerbs, gutters, footpaths (formed or unformed), driveways (formed or unformed), carriageway, reserves and the like to document evidence of any existing damage.</p> <p>The dilapidation report must consider the impact of any excavation work that extends below the level of the base of the footings of any structure within 900mm of the shared boundary.</p> <p>Before works commence, a copy of the dilapidation report must be provided to the Certifier and Council. The dilapidation report will be the benchmark for necessary repairs to damage caused during the development works. All repairs must be completed by the developer at the developer's cost.</p> <p>Not less than seven (7) days before works commence, the developer must notify the owner of any affected property of the intention to carry out approved works. The developer must also furnish the owner with details of the approved work.</p> <p>However, if the occupier or owner of any neighbouring dwelling does not permit reasonable access for the purposes for the preparation of the dilapidation report, written evidence of the efforts taken to secure access may be submitted to the Principal Certifier and the Principal Certifier may waive the requirement in relation to the relevant property.</p> <p><i>Note: A dilapidation report can comprise of video footage and photos of adjacent public infrastructure and relevant structures on adjoining properties.</i></p>	<p>is appointed where required.</p> <p>To ensure a suitable dilapidation report is prepared and the status of existing infrastructure and adjoining structures is recorded prior to the commencement of work.</p>
<p>16.</p>	<p><b>Erosion and Sediment Controls – Implementation</b></p> <p>Before any site work commences, the Certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any disturbed areas have been restabilised in accordance with Landcom's publication Managing Urban Stormwater - Soils and Construction (2004) and approved plans (as amended from time to time).</p>	<p>To ensure appropriate erosion and sediment control measures are in place.</p>
<p>17.</p>	<p><b>Notice of Commencement</b></p>	<p>To ensure appropriate</p>

	<p>Notice must be given to Council at least two (2) days before the commencement of building or subdivision work by completing and returning the form '<a href="#">Commencement Notice for Building or Subdivision Work and Appointment of Principal Certifying Authority</a>'.</p>	<p>notice is given to Council.</p>
<p><b>18.</b></p>	<p><b>Shoalhaven Water – Application for Certificate of Compliance</b></p> <p>Before commencement of works, an application for a Certificate of Compliance must be made with Shoalhaven Water and where required a Water Development Notice is to be obtained.</p> <p>Shoalhaven Water will determine if sewerage and/or water infrastructure and/or easements will be affected by any part of your development including what charges/fees apply. Please visit <a href="https://shoalwater.nsw.gov.au/planning-building/developers-consultants/water-development-notice">https://shoalwater.nsw.gov.au/planning-building/developers-consultants/water-development-notice</a> to make application for a Certificate of Compliance or call (02) 4429 3214 to learn more about applying.</p> <p>Upon the receipt of the application, Shoalhaven Water will assess the development and if required will issue a “Water Development Notice” document detailing all requirements which must be met.</p> <p><i>Note: As water and/or sewerage infrastructure may impact on part/s or all of the development such as building, provision of services, protection of water and/or sewer assets, etc., it is recommended that this application is made as early as possible during the development process.</i></p>	<p>To ensure a Water Development Notice and Certificate of Compliance are obtained.</p>
<p><b>19.</b></p>	<p><b>Street Numbering</b></p> <p>Street numbering must comply with the State Governments Comprehensive Property Addressing System (CPAS), and Council’s Property Address Numbering Policy.</p> <p>Street numbering for the development must be as follows:</p> <ul style="list-style-type: none"> <li>• Proposed Lot 1 – 43 Princes Hwy Ulladulla with an alternate address of <b>7 St Vincent Street Ulladulla</b></li> <li>• Proposed Lot 2 – <b>41 Princes Hwy Ulladulla</b></li> </ul> <p>(these addresses represent both pedestrian and vehicular access)</p> <p>The allocated numbers must be shown on the engineering/construction plans with the Construction Certificate / Subdivision Works Certificate. Where plans and details are provided to service suppliers, numbers must be in accordance with the above.</p>	<p>To ensure consistent and appropriate street numbering.</p>

<p><b>20.</b></p>	<p><b>Subdivision Works Certificate</b> A Subdivision Works Certificate must be obtained from either Council or a certifier before any subdivision work can commence.</p>	<p>To ensure appropriate building and subdivision certificates are obtained.</p>
<p><b>21.</b></p>	<p><b>Toilet Facilities – Temporary</b> 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:</p> <ul style="list-style-type: none"> <li>a) be a standard flushing toilet connected to a public sewer, or</li> <li>b) have an on-site effluent disposal system approved under the <i>Local Government Act 1993</i>, or</li> <li>c) be a temporary chemical closet approved under the <i>Local Government Act 1993</i>.</li> </ul>	<p>To ensure suitable toilet facilities are provided.</p>
<p><b>22.</b></p>	<p><b>Waste Management Plan</b> Before the commencement of site works a waste management plan for the development must be provided to the Certifier for review and approval.</p>	<p>To ensure an appropriate waste management plan is provided.</p>
<p><b>23.</b></p>	<p><b>Works within the Road Reserve – Submissions to Council</b> Before undertaking any works within an existing road reserve, the developer must obtain the consent of Council or Transport for NSW (where relevant) under <i>section 138 of the Roads Act, 1993</i>.  The following details must be submitted to Council as part of the application: a) Any civil works design required by this consent.</p>	<p>To ensure relevant approvals are obtained.</p>

	<p>b) Evidence of the contractor's Public Liability Insurance to an amount of \$20 million.</p> <p>c) Name and contact information of the person responsible for all relevant works.</p> <p>d) A Traffic Control Plan prepared, signed, and certified by a person holding the appropriate Transport for NSW (TfNSW) accreditation.</p> <p>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.</p>	
<p><b>24. Driveway – Design Standards (Urban)</b></p>	<p>Prior to the commencement of works in the road reserve, engineering design plans must be prepared by a suitably qualified person and approved by Council. The layback/footpath crossing design must comply with the following:</p> <p>a) Council's Engineering Design Standard Drawings.</p> <p>b) Constructed using 20 MPa reinforced concrete, reinforced with SL72 mesh, on a 75mm compacted fine crushed rock base with centrally placed slab of minimum 3 metres width and minimum 100mm depth.</p> <p>c) Removal of sufficient width of existing road seal and pavement to allow placing of formwork and laying/compaction of suitable pavement material for the driveway layback with a minimum 300mm offset to the kerb lip line.</p>	<p>To ensure road and pavement infrastructure is appropriately designed.</p>
<p><b>25. Car Parking Design Standards</b></p>	<p>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.</p> <p>The plans must comply with the following:</p> <p>a) A turning facility located within the property boundary, designed for a B99 vehicle to enter and exit the site in a forward direction</p> <p>b) AS2890 where relevant.</p> <p>c) Constructed in accordance with the following:</p> <p>d) for light vehicular loading</p>	<p>To ensure carpark lighting is appropriately designed.</p>

	<ul style="list-style-type: none"> <li>i) to a coloured, patterned or stamped concrete standard.</li> <li>e) Bordered in accordance with Council's Standard Drawings by: <ul style="list-style-type: none"> <li>i) concrete kerbing, except where surface runoff is concentrated, in which case concrete integral kerb and gutter must be constructed.</li> <li>ii) a concrete edge strip (min 150mm wide and 300mm deep).</li> </ul> </li> </ul>	
<p><b>SUBDIVISION WORK</b> <b>During Subdivision Work</b></p>		
<p>CONDITIONS</p> <p><b>26. Acid Sulfate Soils - Unexpected Finds</b> If acid sulfate soils are encountered during excavation and/or construction works, all work must cease, and Shoalhaven City Council notified immediately. The extent of acid sulfate soil must be evaluated by a qualified environmental consultant with experience in the assessment of acid sulfate soils and a preliminary assessment provided to Council. Council will determine an appropriate response, including if an Acid Sulfate Soils Management Plan is required to be prepared and implemented, before works can recommence.</p> <p><b>27. Discovery of relics and Aboriginal objects</b> While site work is being carried out, if a person reasonably suspects a relic or Aboriginal object is discovered:</p> <ul style="list-style-type: none"> <li>a) the work in the area of the discovery must cease immediately.</li> <li>b) the following must be notified for a relic – the Heritage Council; or</li> <li>c) for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal</li> </ul>	<p>REASON</p> <p>To ensure acid sulfate soils are appropriately managed.</p> <p>To ensure the protection of objects of potential significance during works.</p>	

	<p>places in New South Wales under the National Parks and Wildlife Act 1974, section 85.</p> <p>Site work may recommence at a time confirmed in writing by:</p> <p>a) for a relic – the Heritage Council; or for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85.</p>	
<p><b>28.</b></p>	<p><b>Potentially Contaminated Land - Unexpected Finds</b></p> <p>If unexpected, contaminated soil and/or groundwater is encountered during any works:</p> <p>a) all work must cease, and the situation must be promptly evaluated by an appropriately qualified environmental consultant.</p> <p>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.</p> <p>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 before recommencement of works. The verification documentation must be provided to the satisfaction of the Certifier and Shoalhaven City Council before the recommencement of any works.</p> <p>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).</p> <p><i>Note: 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).</i></p>	<p>To ensure any detected contaminants are appropriately managed.</p>

<p><b>29.</b></p>	<p><b>Site Management - Hours for Construction</b></p> <p>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.</p>	<p>To ensure site work occurs within appropriate construction hours.</p>
<p><b>30.</b></p>	<p><b>Site Management - Maintenance of Site and Surrounds</b></p> <p>During works, the following maintenance requirements must be complied with:</p> <ul style="list-style-type: none"> <li>a) All materials and equipment must be stored and delivered wholly within the work site unless an approval to store them elsewhere is held.</li> <li>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.</li> <li>c) Where tree or vegetation protection measures are in place, the protected area must be kept clear of materials and / or machinery.</li> <li>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.</li> <li>e) During construction: <ul style="list-style-type: none"> <li>i) all vehicles entering or leaving the site must have their loads covered, and</li> <li>ii) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.</li> </ul> </li> </ul> <p>At the completion of the works, the work site must be left clear of waste and debris.</p>	<p>To ensure the site is maintained in a safe and secure manner.</p>
<p><b>31.</b></p>	<p><b>Site Management - Noise</b></p>	<p>To protect the amenity of</p>

	<p>The noise from all site work, demolition and construction activities associated with the approved development must comply with the work practices as outlined in the NSW Department of Environment &amp; 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.</p>	neighbouring properties.
<p><b>32. Stormwater - Overland Flow, Redirecting and/or Concentrating Stormwater</b></p> <p>All excavation, backfilling and landscaping works must not result in:</p> <p>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 must be collected and directed to a legal point of discharge.</p> <p>b) the redirection and/or concentration of stormwater flows onto neighbouring properties.</p>		To ensure stormwater is appropriately managed.
<p><b>33. Stormwater - Connections in Road Reserve</b></p> <p>Before the completion of works, the site supervisor must ensure that stormwater connections between the property boundary and the new kerb and gutter are inspected and approved by Council and backfilled as soon as possible. Kerb connections are only to be made using adaptors/convertors approved by Council.</p> <p><i>Note: A section 138 approval under the Roads Act 1993 will be required for any works within the road reserve.</i></p>		To ensure stormwater connections are appropriately installed.
<p><b>34. Soil Management</b></p> <p>While site work is being carried out, the Certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:</p> <p>a) All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification</p>		To ensure excavated material is appropriately disposed of and all fill material is appropriate for usage on site.

	<p>and the volume of material removed must be reported to the Certifier</p> <p>b) All fill material imported to the site must be:</p> <ul style="list-style-type: none"> <li>i) Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997, or</li> <li>ii) a material identified as being subject to a resource recovery exemption by the NSW EPA, or</li> <li>iii) a combination of Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 and a material identified as being subject to</li> </ul>	
<b>35.</b>	<p><b>Earthworks - Cut, Fill and Grading</b></p> <p>The maximum grading of cut or fill must be 2H:1V where there is no retaining wall or no other method of stabilising cut or fill during construction. Earthworks and retaining walls must be constructed as per the approved plans.</p>	To ensure earthworks are appropriately retained.
<p><b>SUBDIVISION WORK</b></p> <p><b>Before the Issue of a Subdivision Certificate</b></p>		
CONDITIONS		REASON
<b>36.</b>	<p><b>Compliance with Conditions of Consent – Approved Development</b></p> <p>Before the issue of any Subdivision Certificate, all required conditions of consent for DA2024/1044 must be satisfied and an Occupation Certificate issued for the development. Evidence of the Occupation Certificate must be provided to Council.</p>	To ensure compliance with relevant development consent.
<b>37.</b>	<p><b>Completion of Public Utility Services</b></p> <p>Before the issue of the relevant Subdivision / Strata Certificate, confirmation must be obtained from the relevant authority that any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, have been completed and this confirmation must be provided to the principal certifier.</p>	To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements,

	<p><b>38. Dilapidation Report (Minor) – Evidence of Completion</b></p> <p>Before the issue of a Subdivision / Strata Certificate, the developer must provide the Certifier and Council with evidence that any damage to neighbouring premises or adjacent public infrastructure, not previously identified as existing damage in the Dilapidation Report, has been repaired by the developer to the satisfaction of Council.</p>	<p>before occupation.</p> <p>To ensure any damage not previously identified in the Dilapidation Report is suitably repaired.</p>						
	<p><b>39. Retaining Walls – Certification</b></p> <p>Before the issue of a full Occupation Certificate, certification must be provided to the Certifier prepared by a professional engineer, (as defined in the National Construction Code), certifying that retaining walls within 1m of the property boundary or exceeding 600mm in height above ground level (existing) are constructed in accordance with the approved plans.</p> <p>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.</p> <p><i>Note: This condition does not prevent a partial Occupation Certificate to be issued for the parts of the development that have been completed.</i></p>	<p>To ensure retaining walls have been constructed appropriately.</p>						
	<p><b>40. Housing and Productivity Contribution</b></p> <p>Before the issue of a Subdivision Certificate, the housing and productivity contribution (HPC) set out in the table below is required to be made.</p> <table border="1" data-bbox="411 1406 1066 1648"> <thead> <tr> <th>Housing and productivity contribution</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Housing and productivity contribution (base component)</td> <td>\$8,429.30</td> </tr> <tr> <td><b>Total housing and productivity contribution</b></td> <td><b>\$8,429.30</b></td> </tr> </tbody> </table> <p>The HPC must be paid using the NSW planning portal.</p>	Housing and productivity contribution	Amount	Housing and productivity contribution (base component)	\$8,429.30	<b>Total housing and productivity contribution</b>	<b>\$8,429.30</b>	<p>To require contributions towards the provision of regional infrastructure</p>
Housing and productivity contribution	Amount							
Housing and productivity contribution (base component)	\$8,429.30							
<b>Total housing and productivity contribution</b>	<b>\$8,429.30</b>							

	<p>At the time of payment, the amount of the HPC is to be adjusted in accordance with the Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024 (HPC Order).</p> <p>The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the Environmental Planning and Assessment Act 1979 agrees.</p> <p>The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the HPC Order exempts the development from the contribution.</p> <p>The amount of the contribution may be reduced under the HPC Order, including if payment is made before 1 July 2025.</p>																																																																
<p><b>41.</b></p>	<p><b>Local Infrastructure Contribution</b></p> <p>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(s):</p> <table border="1" data-bbox="411 952 1070 1704"> <thead> <tr> <th>Project</th> <th>Description</th> <th>Rate</th> <th>Qty</th> <th>Total</th> <th>GST</th> <th>GST Incl</th> </tr> </thead> <tbody> <tr> <td>05AREC0005</td> <td>Planning Area 5 - Active recreation facility upgrades various locations</td> <td>\$1,226.19</td> <td>1.00</td> <td>\$1,226.19</td> <td>\$0.00</td> <td><b>\$1,226.19</b></td> </tr> <tr> <td>05CFAC2010</td> <td>Southern Shoalhaven Branch Library</td> <td>\$617.01</td> <td>1.00</td> <td>\$617.01</td> <td>\$0.00</td> <td><b>\$617.01</b></td> </tr> <tr> <td>CWAREC5005</td> <td>Shoalhaven Community and Recreational Precinct SCaRP Cambewarra Road Bomaderry</td> <td>\$1,284.19</td> <td>1.00</td> <td>\$1,284.19</td> <td>\$0.00</td> <td><b>\$1,284.19</b></td> </tr> <tr> <td>CWCFAC5002</td> <td>Shoalhaven Entertainment Centre (Bridge Road Nowra)</td> <td>\$970.59</td> <td>1.00</td> <td>\$970.59</td> <td>\$0.00</td> <td><b>\$970.59</b></td> </tr> <tr> <td>CWCFAC5006</td> <td>Shoalhaven City Library Extensions (Berry Street, Nowra)</td> <td>\$1,502.37</td> <td>1.00</td> <td>\$1,502.37</td> <td>\$0.00</td> <td><b>\$1,502.37</b></td> </tr> <tr> <td>CWCFAC5007</td> <td>Shoalhaven Regional Gallery</td> <td>\$82.48</td> <td>1.00</td> <td>\$82.48</td> <td>\$0.00</td> <td><b>\$82.48</b></td> </tr> <tr> <td>CWFIRE2001</td> <td>Citywide Fire &amp; Emergency services</td> <td>\$162.05</td> <td>1.00</td> <td>\$162.05</td> <td>\$0.00</td> <td><b>\$162.05</b></td> </tr> <tr> <td>CWFIRE2002</td> <td>Shoalhaven Fire Control Centre</td> <td>\$237.08</td> <td>1.00</td> <td>\$237.08</td> <td>\$0.00</td> <td><b>\$237.08</b></td> </tr> </tbody> </table>	Project	Description	Rate	Qty	Total	GST	GST Incl	05AREC0005	Planning Area 5 - Active recreation facility upgrades various locations	\$1,226.19	1.00	\$1,226.19	\$0.00	<b>\$1,226.19</b>	05CFAC2010	Southern Shoalhaven Branch Library	\$617.01	1.00	\$617.01	\$0.00	<b>\$617.01</b>	CWAREC5005	Shoalhaven Community and Recreational Precinct SCaRP Cambewarra Road Bomaderry	\$1,284.19	1.00	\$1,284.19	\$0.00	<b>\$1,284.19</b>	CWCFAC5002	Shoalhaven Entertainment Centre (Bridge Road Nowra)	\$970.59	1.00	\$970.59	\$0.00	<b>\$970.59</b>	CWCFAC5006	Shoalhaven City Library Extensions (Berry Street, Nowra)	\$1,502.37	1.00	\$1,502.37	\$0.00	<b>\$1,502.37</b>	CWCFAC5007	Shoalhaven Regional Gallery	\$82.48	1.00	\$82.48	\$0.00	<b>\$82.48</b>	CWFIRE2001	Citywide Fire & Emergency services	\$162.05	1.00	\$162.05	\$0.00	<b>\$162.05</b>	CWFIRE2002	Shoalhaven Fire Control Centre	\$237.08	1.00	\$237.08	\$0.00	<b>\$237.08</b>	<p>To ensure applicable local infrastructure contributions are collected.</p>
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CWMGMT3001	Contributions Management & Administration	\$608.20	1.00	\$608.20	\$0.00	<b>\$608.20</b>
Sub Total:						<b>\$6,690.16</b>
GST Total:						<b>\$0.00</b>
Estimate Total:						<b>\$6,690.16</b>
<p>The total contribution, identified in the above table(s) or as indexed in future years, must be paid to Council prior to the issue of a Subdivision / Strata Certificate. Evidence of payment must be provided to the Certifying Authority.</p> <p>The Contributions Plan 2019 can be accessed on Councils website <a href="http://www.shoalhaven.nsw.gov.au">www.shoalhaven.nsw.gov.au</a> or may be inspected on the public access computers at the libraries and the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.</p> <p><i>Note: There are also provisions that may apply with respect to the timing of payments. See: Environmental Planning and Assessment (Local Infrastructure Contributions - Timing of Payments) Direction 2020 (nsw.gov.au)</i></p>						
42.	<p><b>Shoalhaven Water – Certificate of Compliance</b></p> <p>Before the issue of any Subdivision / Strata Certificate, a Certificate of Compliance under section 307 of the <i>Water Management Act 2000</i> must be obtained from Shoalhaven Water to verify satisfactory compliance with all conditions for the supply of water and sewerage, as listed on the Water Development Notice.</p> <p>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.</p>					
To ensure compliance with Shoalhaven Water requirements.						
43.	<p><b>Stormwater - Works as Executed</b></p> <p>Before the issue of a Subdivision / Strata Certificate, a Works as Executed Plans and certification must be submitted to the Council by a licenced plumber/ registered surveyor / professional engineer (as defined in the National Construction Code) certifying compliance of all drainage works with the approved design plans and the National Construction Code.</p> <p>The Works as Executed be shown in red on a copy of the approved plans. This plan must verify fulfillment of relevant construction notes, as well as the construction locations, invert levels and sizes of all pipelines.</p> <p>Where the system includes an underground tank, a certificate of structural adequacy must be prepared and provided by a</p>					
To ensure works as executed plans are prepared and provided.						

	professional engineer (as defined in the National Construction Code).	
<b>44.</b>	<p><b>Subdivision Certificate</b></p> <p>A Subdivision Certificate must be obtained from Council or an accredited certifier prior to lodgement of the Final Plan of Survey with NSW Land Registry Services.</p>	To ensure appropriate building and Subdivision Certificates are obtained.
<b>45.</b>	<p><b>Subdivision - Schedule of Compliance</b></p> <p>The Subdivision 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). A schedule of compliance in table format must be submitted with the application for a Subdivision / Strata Certificate. The schedule must provide evidence of how all relevant conditions of development consent have been fulfilled.</p>	To ensure conditions of consent have been satisfied or other satisfactory arrangements made.
<b>46.</b>	<p><b>Subdivision – Provision of Utility Services</b></p> <p>Before the issue of a Subdivision / Strata Certificate, utility services must be provided in accordance with the following:</p> <ul style="list-style-type: none"> <li>a) The provision of electricity to service allotments and street lighting in the subdivision must be in accordance with the requirements of Endeavour Energy who are to confirm in writing that conditions of supply have been met.</li> <li>b) The submission of a Telecommunications Infrastructure Provisioning Confirmation from an approved telecommunications carrier to the Certifier or Council (as applicable) confirming that satisfactory arrangements have been made for the provision of telecommunication services to all individual lots.</li> <li>c) A Certificate of Compliance under Section 307 of Division 5 of Part 2 of Chapter 6 of the <i>Water Management Act 2000</i> 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 Water Development Notice and before the issue of a Subdivision Certificate, as the case may be.</li> </ul>	To ensure utilities and services are appropriately provided.

	<p>d) If 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.</p> <p><i>Note: Relevant details, including monetary contributions (where applicable) under the Water Management Act 2000, are given on the attached Notice issued by Shoalhaven Water. For further information and clarification regarding the above please contact Shoalhaven Water's Development Unit on (02) 4429 3547.</i></p>	
<b>47.</b>	<p><b>Subdivision - Works as Executed</b></p> <p>Before the issue of the Subdivision / Strata 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.</p> <p>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:</p> <ol style="list-style-type: none"> <li>Council's Development Engineering Construction Specification.</li> <li>Show compliance with the approved design plans of all road and drainage works.</li> <li>Certify that all storm water pipes, and other services are wholly within an appropriate easement.</li> <li>Show the extent, depth and final levels of filling.</li> <li>Show any retaining walls including footings and agricultural drainage lines.</li> <li>Show the location of all underground service conduits.</li> <li>Include all deviations from the approved Civil Engineering Plans.</li> </ol>	<p>To ensure works as executed plans are prepared and provided.</p>
<b>48.</b>	<p><b>Works in the Road Reserve - Evidence of Completion</b></p> <p>Before the issue of a full Subdivision 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 <i>Roads Act 1993</i>.</p>	<p>To ensure works in the road reserve are completed appropriately.</p>
<b>49.</b>	<p><b>Works in the Road Reserve – Works as Executed</b></p>	<p>To ensure works as executed</p>

	<p>Before the issue of a Subdivision Certificate, Works as Executed Plans for works within the road reserve must be prepared by a registered surveyor / professional engineer, (as defined in the National Construction Code) and approved by Council demonstrating compliance with the approved design plans.</p> <p>The Works as Executed dimensions and levels must be shown in red on a copy of the approved plans and comply with the following requirements:</p> <ul style="list-style-type: none"> <li>a) Council's Development Engineering Construction Specification.</li> <li>b) Show compliance with the approved design plans of all road and drainage works.</li> <li>c) Show any retaining walls including footings and agricultural drainage lines.</li> <li>d) Show the location of all underground service conduits.</li> <li>e) Include all deviations from the approved Civil Engineering Plans.</li> </ul>	<p>plans are prepared and provided.</p>
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### General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation, and other legislation. Some of these additional obligations are set out in the Conditions of development consent: advisory notes. The consent should be read together with the Conditions of development consent: advisory notes to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a Construction Certificate or Subdivision Works Certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

### Dictionary

The following terms have the following meanings for the purpose of this consent (except where the context clearly indicates otherwise):

**Approved plans and documents** means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

**AS** means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

**Building work** means any physical activity involved in the erection of a building.

**Certifier** means a council or a person that is registered to carry out certification work under the Building and Development Certifiers Act 2018.

**Construction Certificate** means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

**Council** means Shoalhaven City Council.

**Court** means the NSW Land and Environment Court.

**EPA** means the NSW Environment Protection Authority.

**EP&A Act** means the Environmental Planning and Assessment Act 1979.

**EP&A Regulation** means the Environmental Planning and Assessment Regulation 2021.

**Independent Planning Commission** means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

**Occupation Certificate** means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

**Principal certifier** means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

**Site work** means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

**Stormwater drainage system** means all works and facilities relating to:

- the collection of stormwater
- the reuse of stormwater
- the detention of stormwater
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

**Strata Certificate** means a certificate in the approved form issued under Part 4 of the Strata Schemes Development Act 2015 that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

## **CL24.212 Notice of Motion - Proposed rezoning of Callala Bay Residential Expansion Zone**

**HPERM Ref:** D24/291433

**Submitted by:** Cllr Evan Christen

### **Purpose / Summary**

The following Notice of Motion, of which due notice has been given, is submitted for Council's consideration.

### **Recommendation**

That Council formally request the NSW Government to take the necessary steps, in regard to the Callala Bay Residential Expansion Zone (40ha of land to the west of the Callala Bay township) to rezone it from its current zones of R1 General Residential / C3 Environmental Management / RE1 Public Recreation to C2 Environmental Conservation under Shoalhaven LEP2014 in recognition of the following concerns:

1. 97 per cent opposition by the community, including First Nations representatives to the rezoning
2. The high conservation value coastal lowland forest that survived the 2019-20 fires and where old hollow-bearing trees are home to endangered and threatened species
3. Endangered species currently living there: Greater gliders, Gang Gang cockatoos, and Bauer's Midge Orchids. Threatened species: Yellow-bellied gliders, Eastern Pygmy-possums, Glossy-black cockatoos and Grey-headed flying-foxes
4. Impacts of climate change, deforestation and bush fires, on endangered species, cultural heritage, and tourism values
5. Adding housing to a high bushfire risk isolated community.

### **Background**

Of the 1029 submissions regarding the rezoning for residential subdivision, 97% were opposed. They believed that Callala's native forest should be protected for the benefit of the animal and plant communities who live there. In doing so preserving the human benefits from intact ecosystems and maintaining cultural and tourism values. In October 2022, the NSW DPE rezoned 40ha of coastal forest near Callala Bay for a residential subdivision without first establishing biodiversity certification.

The site has a highly diverse species mix, including several endangered and threatened species dependent on old hollow-bearing trees, and it has strong potential to support more flora and fauna if left intact and connected to neighbouring forest. The surrounding forest is among the meagre 15% of bushland in the Shoalhaven region to survive the devastating 2019-2020 fires. The high conservation value site is bordered by National Park and drains into the Jervis Bay Marine Park. The Illawarra Shoalhaven Regional Plan 2021 specifies that new urban development is to be prohibited on land assessed as being of high conservation value.

The draft Strategic Growth Principles that have recently been exhibited for proposed addition to Council's *Shoalhaven 2040 – Local Strategic Planning Statement* says it most clearly: "Additional greenfield development will be focussed on cleared, unvegetated land, strategically located to make efficient and cost-effective use of existing and planned

infrastructure.” The Jervis Bay Settlement Strategy 2003, cited by the developer to justify land clearing and subdivision, nominated 35ha for “potential urban expansion contingent on detailed investigation into site constraints and design issues including: threatened species; localised habitat corridors; significance of vegetation within the subject land; buffers to wetland area and local watercourses; water quality/stormwater controls.” The site is home to Gang-gang Cockatoos and Greater Gliders, which were Federally listed as endangered in July 2022, before the site was rezoned to R1.

The endangered Bauer’s Midge Orchid and four species vulnerable to extinction – Yellow-bellied glider, Eastern Pygmy-possum, Glossy-black cockatoo, and Grey-headed Flying-fox – also live there. Last year Council voted to withdraw support for the application. The 2022 rezoning of the site was approved prior to a biodiversity certification, leading to the current situation. Now with the increased knowledge about the extent and diversity of endangered species on the site the whole development needs to be reconsidered. Shoalhaven City Council does not want land in its area to be part of the process that sends species such as the Greater Glider and Gang-Gang Cockatoo to extinction.

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**RESOLVED** (Clr Christen / Clr Findley)

MIN24.377

That Council formally request the NSW Government to take the necessary steps, in regard to the Callala Bay Residential Expansion Zone (40ha of land to the west of the Callala Bay township) to rezone if from its current zones of R1 General Residential / C3 Environmental Management / RE1 Public Recreation to C2 Environmental Conservation under Shoalhaven LEP2014 in recognition of the following concerns:

1. 97 per cent opposition by the community, including First Nations representatives to the rezoning
2. The high conservation value coastal lowland forest that survived the 2019-20 fires and where old hollow-bearing trees are home to endangered and threatened species
3. Endangered species currently living there: Greater gliders, Gang Gang cockatoos, and Bauer's Midge Orchids. Threatened species: Yellow-bellied gliders, Eastern Pygmy-possums, Glossy-black cockatoos and Grey-headed flying-foxes
4. Impacts of climate change, deforestation and bush fires, on endangered species, cultural heritage, and tourism values
5. Adding housing to a high bushfire risk isolated community.

FOR: Clr Findley, Clr D'Ath, Clr Boyd, Clr Norris, Clr Kottash, Clr Christen and Clr Gray

AGAINST: Clr Copley, Clr Ell, Clr White, Clr Watson and Clr Kitchener

CARRIED

CL25.190 - Attachment 1

**The Hon Paul Scully MP**  
Minister for Planning and Public Spaces



Ref: MDPE24/2543  
Your Ref: 56566E (D24/324468)

**Ms Robyn Stevens**  
Chief Executive Officer  
Shoalhaven City Council  
PO Box 42  
Nowra NSW 2541  
[rachel.marshall@shoalhaven.nsw.gov.au](mailto:rachel.marshall@shoalhaven.nsw.gov.au)

Dear Ms Stevens

Thank you for your correspondence on behalf of Shoalhaven City Council about the Callala Bay Residential Expansion Area. I note you have also written to Ms Kiersten Fishburn, Secretary, Department of Planning, Housing and Infrastructure, about this matter. Please accept this as a response to both enquiries.

I acknowledge Council's resolution seeking the NSW Government's support to rezone the land to C2 Environmental Conservation under the *Shoalhaven Local Environmental Plan 2014*.

As you are aware, the land was rezoned in October 2022 following an extended two-month public consultation period. While there was community opposition to the rezoning, I am advised the Minister's delegate at the time determined the benefits of the rezoning outweighed any negative impacts. These benefits included the provision of 380 homes as well as the protection of 517 hectares of privately owned bushland directly adjoining the development site and at Kinghorne. This bushland will eventually be transferred to the National Parks and Wildlife Service for inclusion in the Jervis Bay National Park.

Should Council submit a planning proposal to the Department for the rezoning, the proposal will need to include sufficient evidence to demonstrate strategic and site-specific merit. This includes the potential impact on Council's ability to meet the Government's housing targets and measures proposed to replace the loss of housing resulting from the proposal.

Should Council have any questions, Chantelle Chow, Acting Director, Local Planning (Southern, Western and Macarthur Region), at the Department can be contacted on 02 9860 1548 or at [chantelle.chow@planning.nsw.gov.au](mailto:chantelle.chow@planning.nsw.gov.au).

Thank you for bringing this to my attention.

Yours sincerely

A handwritten signature in blue ink that reads "Paul Scully".

**Paul Scully MP**  
Minister for Planning and Public Spaces

52 Martin Place Sydney NSW 2000  
GPO Box 5341 Sydney NSW 2001

4/9/24

02 7225 6080  
[nsw.gov.au/ministerscully](http://nsw.gov.au/ministerscully)

CL25.190 - Attachment 2



Address all correspondence to: The Chief Executive Officer,  
PO Box 42, Nowra NSW 2541 Australia

[shoalhaven.nsw.gov.au/contact](http://shoalhaven.nsw.gov.au/contact) | 1300 293 111

[shoalhaven.nsw.gov.au](http://shoalhaven.nsw.gov.au) 

Council Reference: 72542E/1 (D23/302054)

28/07/2023

NSW Department of Planning & Environment - Southern Region  
PO Box 5475  
WOLLONGONG NSW 2520

By email only: [stephanie.wood@planning.nsw.gov.au](mailto:stephanie.wood@planning.nsw.gov.au)

Attention: Stephanie Wood, Planning Officer

Dear Stephanie

**Submission on Rezoning Review RR-2023-10  
Lot 5 DP 1225356, Sealark Road, Callala Bay, PP-2022-4162**

I refer to the Department's letter to Council dated 7 July 2023, regarding a rezoning review underway for Lot 5 DP 1225356, Sealark Road, Callala Bay.

The Department's letter invites Council to comment on the proposal and/or provide a response detailing why the request to Council was not supported. The Department's letter also asks Council to confirm that the proposal which has been submitted for a rezoning review is the same proposal that was considered by Council. These matters are addressed later in this response submission.

**Background**

The land is currently zoned *C3 Environmental Management* under the Shoalhaven Local Environmental Plan (LEP) 2014 and is the residual land from a residential subdivision to the south which resulted in the creation of Monarch Place.

It is noted that prior to its current zoning under LEP 2014, the subject land was zoned Environment Protection 7(f3)(foreshores protection) under the earlier Shoalhaven LEP 1985

In 2019, a proponent Planning Proposal (PP) request from PRM Architects for Lot 5 DP 1225356, Sealark Road, Callala Bay, was reported to Council for consideration. The Council staff report recommended that the PP not be supported because it was inconsistent with strategy. The proponent's PP also had significant information flaws/deficiencies, including a lack of any information on flooding. A copy of the 5 March 2019 staff report is attached.

Notwithstanding this, on 5 March 2019, the Council resolved to support the PP request "*on the basis that it is considered to be 'minor' in nature*"... (MIN19.111). A PP was progressed in accordance with the 2019 Council resolution, and upon completion of the required technical studies, was reported to Council in June 2022. The staff report included an updated version of the proponent's 2019 PP.

The PP had been updated by Council staff in accordance with the 2019 Council resolution and the Gateway determination (which had been terminated by DPE in December 2021). On 27 June 2022, the Council resolved not to progress the PP (MIN22.412) effectively overturning the previous 2019 resolution of the then Council. A copy of the 27 June 2022 staff report is attached.

The proponent submitted a new PP request to Council for consideration in November 2022, which was based on the updated PP that had been considered by Council in June 2022.

The proponent's PP request was considered at Council's Ordinary Meeting on 13 March 2023. Council's assessment of the proponent's PP request is contained within the staff report which concluded the PP request lacks the required strategic merit and should therefore not be supported. A copy of the 13 March 2023 staff report is attached.

In response, Council resolved on 13 March 2023 to "**Not support the proponents' Planning Proposal request for Lot 5 DP 1225356, Sealark Road, Callala Bay because it lacks the required strategic justification.**" (MIN23.106)

The proponent was advised of Council's decision on 21 March 2023.

### Rezoning review process

The rezoning review process is described in pages 31-36 of DPE's [Local Environmental Plan Making Guideline](#). A rezoning review can only occur after a PP has been lodged with Council and Council has either:

1. Notified the proponent in writing that it does not support the proposal, OR
2. Failed to make a decision within 90 days for a basic and standard PPs, or 115 days for complex PPs, OR
3. Failed to submit the planning proposal for Gateway determination within 28 calendar days after it has indicated support

It is noted that paragraph 3a of the rezoning review cover letter prepared by Maddison Marcus requests that the Southern Regional Planning Panel appoint itself as the Planning Proposal Authority (PPA). The diagram on page 32 of the DPE Guideline states that a council cannot be the PPA if the proposal was not initially supported by the council, as was the case in this instance.

The proponent's cover letter contains several claims which are not directly relevant to the rezoning review process and are refuted/rejected by Council. Detailed comments on the proponent's cover letter are provided in **Annexure A**.

### Is the rezoning review proposal the same proposal that was considered by Council?

The PP request that was assessed by Council was prepared by PRM Architects and dated 16 November 2022. This appears to be the same document included in the proponent's rezoning review request.

The cover letter prepared by Maddison Marcus on instruction of the proponent for the PP (PRM Architects) states that: "*A previous but identical version of the PP was lodged with the Council in January 2019.*" This is incorrect. For example:

- The 2019 PP proposed a substantially larger footprint (2.4 ha vs 1.7 ha) and included proposed recreation zones.
- The 2019 PP lacked the required technical information including, but not limited to:
  - An adequate Biodiversity Assessment
  - Any information on flooding
  - A water cycle / stormwater management assessment
  - An Aboriginal Cultural Heritage Assessment
  - An adequate Bushfire Assessment, etc

### Why did Council not support the PP request?

As noted earlier, Council's resolution on 27 June 2022, effectively overturned the 2019 resolution to support progressing a PP. Hence, the staff report prepared for consideration by

Council on 13 March 2023, provided fresh assessment of the proposal's strategic and site merit.

#### Strategic Merit

The conclusion reached in the March 2023 staff report was that the proposal lacked the required strategic merit, consistent with the conclusion reached in the 2019 staff report. This conclusion was reached primarily because the land is not specifically identified for investigation for future residential rezoning/use in the Shoalhaven Growth Management Strategy (GMS) or the earlier Jervis Bay Settlement Strategy (JBSS).

Supporting the proponent's PP request would potentially weaken Council's ability to reject other similar requests that seek to rezone land that is not specifically identified for investigation (e.g. on the edge of other urban areas). As noted in the March 2022 report, Council staff had responded to requests from at least two other separate landowners in the Callala Bay / Callala Beach area in preceding months who were seeking to have land not identified for investigation in the GMS/JBSS rezoned for residential purposes. Essentially the concern is that in any strategy, land that is 'uncoloured' or not identified for a specific purpose (e.g. residential, conservation etc) could be 'open' to be considered for rezoning to enable development through the PP process. It is argued that this would undermine existing strategies and was never the intention when they were originally prepared.

The Council resolution of 5 March 2019 is central to the proponent's argument that the PP has strategic merit. As noted above, however, the 2019 resolution was effectively overturned by the Council's resolution on 27 June 2022 (MIN22.412) and is by itself irrelevant to the strategic planning framework.

#### Site Merit

Site merit issues are summarised below:

- The proposed residential area has relatively low biodiversity value: it does not support any hollow-bearing trees, raptor nests, permanent water or rock habitats, nor any other habitat resources that are not widely available in surrounding areas.
- The environmentally significant land is proposed to be rezoned from *C3 Environmental Management* to *C2 Environmental Conservation*. This land is proposed to be added to the NSW National Parks system via a Voluntary Planning Agreement (VPA). It is Council's understanding that a draft VPA has not been prepared at this stage.
- The subject land is relatively flat and low lying, and subject to flooding. The proposal relies on a substantial amount of cut and fill to provide the fall required for the stormwater treatment system.

The proponent's proposed post development scenario involves excavating 860 m<sup>3</sup> of material from the drainage channels that dissect the proposed residential area, and applying a total fill volume of 10,540 m<sup>3</sup> over the proposed residential area to an average depth of 700-800 mm.

- The potential impacts of earthworks involving cut and fill would include:
  - Construction impacts including noise and dust, and erosion risk / water quality impacts.
  - Longer term changes to stormwater and flooding behaviour (positive and negative).
  - Visual impacts on the immediate area, including the natural landscape and views.

The proponent's PP contends that the potential environmental impacts can be managed/mitigated. The conclusion reached by Council staff was that site merit is marginal noting caveats referred to above.

There is also concern that a precedent would potentially be set where substantial filling might be proposed to make flood prone land flood free. Council receives enquiries each year about pursuing ad hoc PPs on flood prone land. The s.9.1 Ministerial Direction on flooding allows minor inconsistencies to be supported. This proposal would potentially set the bar for what is regarded as a minor inconsistency.

**Community views**

The 27 June 2023 staff report included the following summary of community submissions that had been received in response to the PP request.

Submitter	Issue
Adjoining landowner (Sealark Road)	<ul style="list-style-type: none"> <li>• Unable to compile a detailed objection due to time constraints</li> <li>• Lacks strategic and site merit</li> <li>• Is inconsistent with the JBSS because the land is not identified as a potential residential area</li> <li>• Is inconsistent with the ISRP</li> <li>• Subject land is residual from land that has already been developed (Monarch Place) – owners having a ‘second bite of the cherry’</li> <li>• Potential impacts on Wowly Creek and associated state-protected wetland</li> <li>• Flora present is not commonly seen and may be significant (attached photos)</li> <li>• PP would set an undesirable precedent</li> </ul>
Callala Bay Community Association (CBCA)	<ul style="list-style-type: none"> <li>• Proposed further removal of environmental zoning protections would degrade the land and Wowly Creek</li> <li>• Landowners previously accepted the current environmental zoning which the proposal now seeks to undermine</li> <li>• Claims the PP has been timed to coincide with holidays</li> <li>• Would welcome the lands being gifted to NSW NPWS</li> </ul>

If you need further information about this matter, please contact Eric Hollinger, City Futures on (02) 4429 3320. Please quote Council’s reference 72542E/1 (D23/302054).

Yours faithfully

*Gordon Clark*

**Gordon Clark**  
**Section Manager - Strategic Planning**

Enclosed:

- Staff report dated 5 March 2019
- Staff report dated 27 June 2022
- Staff report dated 13 March 2023
- Timeline

## Annexure A: Comments on Proponents cover letter

**Points 6 and 7** the proponent's cover letter claim that Council "... has been dealing with substantially the same version of the current PP since 2019" and that "A previous but identical version of the PP was lodged with the Council in January 2019."

### Comments:

- The 2019 PP proposed a substantially larger footprint (2.4 ha vs 1.7 ha) and included proposed recreation zones.
- The 2019 PP lacked the required technical information including, but not limited to:
  - An adequate Biodiversity Assessment
  - Any information on flooding
  - A water cycle / stormwater management assessment
  - An Aboriginal Cultural Heritage Assessment
  - An adequate Bushfire Assessment, etc
- The 2019 Gateway determination required several technical studies to be completed and information deficiencies in the PP to be addressed.

**Point 11** of the proponent's cover letter queries why Council played an oversight role in the preparation of the technical studies that were required by the 2019 gateway determination and claims that "*the assessment and resubmission of various studies and reports to the Council for assessment imposed a considerable constraint on the proponent's ability to meet the timeframe for finalisation of the LEP by 2 May 2021 as specified in the determination.*"

As the Planning Proposal Authority (PPA) Council was legally responsible for managing the PP process from gateway determination to finalisation. The role of Council and proponents in respect of proponent-initiated PPs was abundantly clear in Section 1.5 of Council's Planning Proposal (Rezoning) Guidelines, e.g.:

- "Council owns all PPs, including those initiated and funded by proponents."
- "Should Council decide to progress the PP, the process and proposed outcomes will be managed and controlled by Council."

Section 4 of the Guidelines made the roles and responsibilities for preparing technical studies very clear:

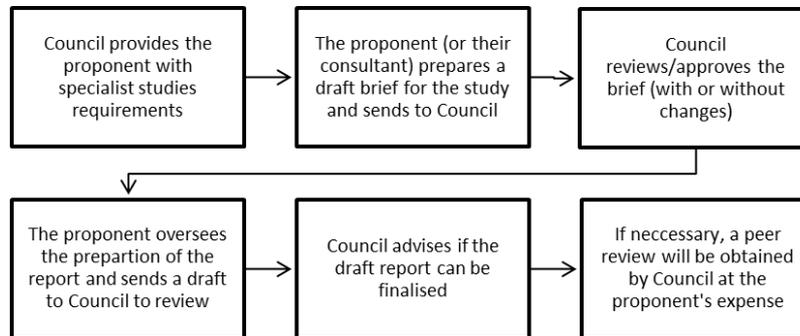
Council will review each PP to determine what specialist studies are needed. If the PP is submitted to the Department of Planning and Environment (DP&E) for Gateway determination, DP&E may identify additional specialist studies.

The proponent will generally be required to obtain the studies that are needed for a proponent initiated PP. The exceptions to this are:

- a) Heritage studies (including Aboriginal Cultural Heritage Assessments)
- b) Studies where there is a significant community interest
- c) Studies that have a particular significance for Council (including Shoalhaven Water) or have a potential probity issue

d) Studies that are otherwise significant from a public interest perspective.

The process for a proponent managed study is outlined below:-



Consistent with the above, the proponent managed the majority of the supporting studies with the exception of the Aboriginal Cultural Heritage Assessment, which was managed by Council given the need for it to be sensitively managed. Due to complications associated with the land's low elevation and gentle slope, the flood study and water cycle assessment (stormwater management) were significantly delayed – final copies of these reports were not received from the proponents until November 2021. As noted earlier, the original proponent's PP did not identify any flooding constraints on the land as no information was available. The proponent commissioned a Flood Study, which was conducted in conjunction with an Integrated Water Cycle Assessment by Footprint (NSW). Each report is dated 22 November 2021. This is some 6 months after the gateway lapsed on 2 May 2021.

**Point 12** of the proponent's cover letter queries why Council prepared its own PP in late 2021, claiming that "...Council's decision to prepare its own planning proposal is unusual given that the Council's strategic planning officers had early expressed the view that the proposal lacked strategic merit (see report to the Council meeting on 5 March 2019) and also given that condition 2 of the gateway determination required a revised (proponent led) planning proposal not a new (Council initiated) planning proposal. The consequence of the Council's decision to prepare the planning proposal was that the planning proposal changed from a proponent led planning proposal to a Council led planning proposal and the proponent had no control over the timing of preparation of the revised planning proposal.

Comments:

- Council's **Code of Conduct** requires staff to *give effect to the lawful decisions, policies and procedures of the Council, whether or not the staff member agrees with or approves of them*. The elected Council resolved to support the PP and staff implemented this resolution in accordance with Council's Code of Conduct and consistent with Council's PP Guidelines.
- Because Council staff did not recommend support of the PP when it was first reported to Council in 2019, to remove any potential for misrepresentation at this key early decision point, the proponent's PP was submitted to Department of Planning, Industry & Environment (DPIE) for gateway determination.

- The gateway determination issued on 2 May 2019 required a suite of technical studies to be prepared and significant changes to the PP prior to public exhibition. The required technical studies included:
  - Biodiversity Assessment.
  - Flood Study.
  - Integrated Water Quality Management Study – to demonstrate Neutral or Beneficial Impact on water quality.
  - Aboriginal Cultural Heritage Assessment.
  - Traffic Study.
  - Geotechnical Study (including Acid Sulfate Soils).
  - Stage 1 Preliminary Contaminated Site Assessment.
  - Bushfire Hazard Risk Assessment.
- The gateway determination that was issued by DPIE on 2 May 2019 lapsed on 2 May 2021. Council did not receive the proponent's flood study and water cycle management study until November 2021.
- Given the Council support for the matter previously, a Gateway extension was requested in late 2021 and this was accompanied by a Council prepared PP document that reflected the resolved position. It is argued that in a procedural sense this is not unusual and the view presented in Point 12 is not accurate.

**Point 13** of the proponent's cover letter states that "... *the revised planning proposal was not finalised by the Council until April 2022.*"

Comments:

- As noted above, the PP was effectively terminated by DPE in December 2021, and the PP was never finalised by Council.
- Notwithstanding the termination, staff were still required to implement Council's 2019 resolution. Hence, upon receiving the required technical studies, staff gave the proponent a commitment to update the PP in accordance with the previous gateway and report it to Council to determine if a new gateway would be sought.

**Point 19** of the proponent's cover letter states that no reasons were recorded in the meeting minutes of the Council meeting on 27 June 2022 explaining Council's decision not to seek a new gateway determination. The proponent also refers to a *written objection by the Community Association dated 14 April 2022 addressed to the SCC Mayor and General Manager. Community consultation had not commenced on the planning proposal at that stage.*

Comments:

- Specific reasons are not necessarily recorded in the minutes of Council meetings but can be drawn from the content of the related Council report.
- It is not unusual for Council to receive written deputations and submissions regarding matters being considered at Council meetings.

**Point 22** of the proponent's cover letter states that since lodgement of their PP in December 2022, "... *there has been little response from the Council*" and "*The proponent has not received any requests for additional information or comments on the PP*".

Comments:

- Following lodgement of the PP request in December, progress of the PP was managed on the NSW Planning Portal, in accordance with current required practice.
- Additional information was requested on 16 December 2022 to clarify proponent details and to provide an updated timeline for preparation of the voluntary planning agreement (VPA). The proponent responded on 16 December and Council's PP lodgement invoice was subsequently issued to the proponent.
- Council notified the proponent on 20 February 2023 that the PP request would be considered at the Council meeting on 13 March 2023.
- It is noted that the proponent did not make a deputation to the Council meeting on 13 March 2023.
- Council notified the proponent of Council's decision on 21 March 2023.

**Point 25 c** of the proponent's cover letter argues that the proposal has strategic and site specific merit because it is *consistent with Council's resolution on 5 March 2019 (MIN19.111)*.

Comments:

- As previously mentioned, the March 2019 Council resolution of 'support' was effectively overturned when Council resolved not to seek a gateway determination on 27 June 2022 (MIN22.412).
- The March 2019 Council resolution of 'support' was made in the absence of critical information including any information on flooding.

**Failure to Follow Proper Process**

The proponent's cover letter claims that Council did not follow proper process.

**Point 26** claims that that *"...the Council's decision on 13 March 2023 to not support the planning proposal was not based on sound strategic planning opinion, does not reflect the proposed strategic planning process and has been prematurely and inordinately influenced by objectors to the proposal at an early stage in the process."*

Comments:

- The staff report considered by Council on 13 March 2023 provided an objective assessment of the proposal's strategic and site merit.
- The conclusion that the proposal lacks strategic merit is consistent with the conclusion reached in the March 2019 staff report.
- Both reports consistently concluded that the proposal lacks strategic justification because the land is not identified for investigation in Council's adopted strategic planning framework, i.e. neither the Jervis Bay Settlement Strategy or the Shoalhaven Growth Management Strategy specifically identify the subject land for investigation.
- The claim that Council was inordinately influenced by objectors to the proposal at an early stage in the process is subjective, particularly given that the elected Council adopted the recommendations of the staff report on 13 March 2023.

**Point 27** of the proponent's cover letter claims that "*Council officers have expressed conflicting and changing opinions about the merits of the proposal since 2019*" and that "*The elected body of the Council has also changed its mind on the merits of the proposal.*" And that on two occasions, decisions of the elected body were contrary to the recommendations in the staff report.

Comments:

- Council officers recommended the proposal should not be supported due to a lack of strategic and site merit, as outlined in the attached report dated 5 March 2019.
- The elected Council considers staff reports and makes decisions democratically. It is not uncommon for Council to adopt an alternative option to the recommendation in the staff report.
- Staff are required to implement resolutions of Council under the Code of Conduct. The report that was prepared for Council's consideration on 27 June 2022 was prepared in accordance with Council's 2019 resolution.
- While on two occasions the elected Council did not adopt the recommendations of the staff report, this was in favour of the proponent on one of these (5 March 2019).

**Point 29** of the proponent's cover letter suggests that "the Council has given undue weight to the views of the local Callala Bay community in its decision to not support the PP." **Points 30, 31 and 32** are critical of Council considering community views prior to gateway determination and argue that the process has become 'too politicised'.

Comments:

- The staff report dated 13 March 2023 provided an objective assessment of the proposal and concluded that it lacked the required strategic merit, consistent with the conclusion reached in the report dated 5 March 2019.
- The elected Council adopted the recommendations of the staff report on 13 March 2023.
- The PP process requires the elected Council to decide if a proposal should proceed to gateway. Proponents and objectors can both make deputations/submissions to the elected Council should they wish. It is noted that the proponent chose not to make a deputation to the Council meeting on 13 March 2023.

**Point 33** requests that the Southern Regional Panel appoint itself as the PPA "*to restore integrity in the process*".

Comments:

- Council rejects any suggestion that it has acted without integrity or has not followed proper process.
- However, as noted earlier, DPE's Local Environmental Plan Making Guideline states that a council cannot be the PPA if the council has decided to not support a proposal within the required timeframe.



Address all correspondence to: The Chief Executive Officer,  
PO Box 42, Nowra NSW 2541 Australia  
[shoalhaven.nsw.gov.au/contact](http://shoalhaven.nsw.gov.au/contact) | 1300 293 111

[shoalhaven.nsw.gov.au](http://shoalhaven.nsw.gov.au)     

Council Reference: 72542E/1 (D24/106963)

18/03/2024

Strategic Planning Panel,  
Southern Region Planning Panel  
C/- Planning Panels Team  
NSW Department of Planning, Housing and Infrastructure  
PO Box 5475  
WOLLONGONG NSW 2500

By email only: [lisa.kennedy@planning.nsw.gov.au](mailto:lisa.kennedy@planning.nsw.gov.au)

Attention: Chris Wilson, Panel Chair,  
Strategic Planning Panel - Southern Regional Planning Panel

Dear Chris

**Submission on Rezoning Review RR-2023-10  
Lot 5 DP 1225356, Sealark Road, Callala Bay, PP-2022-4162**

I refer to the Department's email to Council dated 13 March 2024, regarding a rezoning review underway for Lot 5 DP 1225356, Sealark Road, Callala Bay.

The Department's letter invites Council to attend a planning proposal briefing for the rezoning review (RR-2023-10) on Tuesday 19 March 2024. The email contains attachments that outline the extent of amendments made to the planning proposal by the proponent, PRM Architects, in response to the Rezoning Review Record of Decision dated 5 October 2023. These matters are addressed later in this response submission.

**Background**

The land is currently zoned *C3 Environmental Management* under the Shoalhaven Local Environmental Plan (LEP) 2014 and is the residual land from a residential subdivision to the south which resulted in the creation of Monarch Place.

The proponent's PP request was considered at Council's Ordinary Meeting on 13 March 2023. Council's assessment of the proponent's PP request is contained within the staff report which concluded the PP request lacks the required strategic merit and should therefore not be supported. A copy of the 13 March 2023 staff report is attached.

In response, Council resolved on 13 March 2023 to "**Not support the proponents' Planning Proposal request for Lot 5 DP 1225356, Sealark Road, Callala Bay because it lacks the required strategic justification.**" (MIN23.106)  
The proponent was advised of Council's decision on 21 March 2023.

A rezoning review was subsequently lodged by the proponent on 24 April 2023. Council made a submission during the process on 28 July 2023 which outlined the reasons for the PP being unsupported, including a lack of required strategic merit and a range site merit concerns including flooding risk, extent of proposed earthworks and stormwater issues.

#### **Revised Planning Proposal**

The amended Planning Proposal by PRM Architects dated December 2023 appears to address the conditions set out in the Rezoning Review Record of Decision in part. The inconsistencies identified with Conditions 1, 2 and 6 remain dismissive of Council's resolved position. As referenced in the DPHI's Assessment Against Panel's Condition document, Council reaffirms that there is no commitment from Council to support the location and/or maintenance of the road or APZ on Council owned land. Through the *Creation of an Asset Protection Zone (APZ) over Council Owned or Managed Land Policy (POL22/103)*, Council maintains an established position that the establishment of an APZ over Council owned or managed lands is not supported.

#### **Rezoning Review Process**

It is noted that a comprehensive review of the submitted material was unable to be undertaken due to the delays associated with receiving the amended documentation. Despite earlier advice that the amended suite of documentations would be provided one week prior to the panel meeting, documents were not provided until after business hours on 13 March 2024. This leaves only 3 business days for staff to review and consult with the relevant specialist staff to provide a written response by close of business on Monday 18 March. This follows previously iterated concerns associated with the inconsistent application of timeframe adherence throughout the planning proposal and rezoning process, whereby strict compliance is enforced for Council related tasks but is otherwise disregarded for agency and proponent tasks.

Per the LEP Making Guidelines, rezoning review applications have a target of 100 days to achieve an outcome. It is noted that the rezoning review was formally commenced on 24 April 2023. It would be appreciated if the panel could advise if the proponents will be provided with a further opportunity to address the outstanding conditions and, if they are, confirm if Council will be consulted on any further amendment(s) to the proposal which attempt to meet the conditions.

If you need further information about this matter, please contact Kaitlin Aldous, City Futures on (02) 4429 3570. Please quote Council's reference 72542E/1 (D24/106963).

Yours faithfully



**Kaitlin Aldous**  
**Strategic Planner**



Department of Planning, Housing and Infrastructure

## Gateway Determination

**Planning proposal (Department Ref: PP-2022-4162):** To rezone and amend the existing height and lot size requirements on land at Sealark Road, CALLALA BAY.

I, the Acting Director, Southern, Western and Macarthur Region, Local Planning and Council Support, at the Department of Planning, Housing and Infrastructure, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Shoalhaven Local Environmental Plan 2014 to rezone, and amend the existing height and lot size requirements on land at Sealark Road, CALLALA BAY, should proceed subject to the following

The LEP should be completed on or before Friday 27 February 2026.

### Gateway Conditions

1. Prior to public exhibition, the Rural Fire Service is to be consulted on the planning proposal in relation to Direction 4.3 Planning for Bushfire Protection and the planning proposal is to be updated if needed to take into account any comments made.
2. Prior to public exhibition, a Flood Impact Risk Assessment is to be prepared and the planning proposal is to be updated if needed to take into account the assessment.

The FIRA needs to demonstrate consistency with the *Section 9.1 Ministerial Direction 4.1 – Flooding* as well as Attachment C of the *LEP Making Guideline* (August 2023), the *Flood Risk Management Manual* (2023), and the *Flood Risk Management Guideline LU01* (June 2023). In this regard, the FIRA should include:

- flood modelling;
  - descriptions of various flood events up to and including the probable maximum flood (PMF);
  - analysis of flood mitigation/management strategies for both pre- and post-development conditions; and
  - consideration climate change and the development's impact on flood behaviour as well as an assessment of the effectiveness of proposed mitigation strategies.
3. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
    - (a) the planning proposal is categorised as standard, as described in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023) and must be made publicly available for a minimum of 20 working days; and
    - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023).

4. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:
- NSW State Emergency Service (SES)
  - NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW)
    - Conservation Programs, Heritage and Regulations (formerly Biodiversity, Conservation and Science (BCS))
    - Flooding
  - NSW Department of Primary Industries (DPI) - Fisheries
  - Water NSW
  - National Parks and Wildlife Service (NPWS)
  - Endeavour Energy
  - Shoalhaven Water

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 working days to comment on the proposal.

5. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

Dated 24 March 2025



**Chantelle Chow**  
**A/Director, Southern, Western and Macarthur**  
**Region**  
**Local Planning and Council Support**  
**Department of Planning, Housing and**  
**Infrastructure**

**Delegate of the Minister for Planning and Public**  
**Spaces**

PP-2022-4162 (IRF25/23)