

Meeting Attachments

council@shoalhaven.nsw.gov.au | shoalhaven.nsw.gov.au f @ - >

Ordinary Meeting

Meeting Date: Tuesday, 09 September, 2025

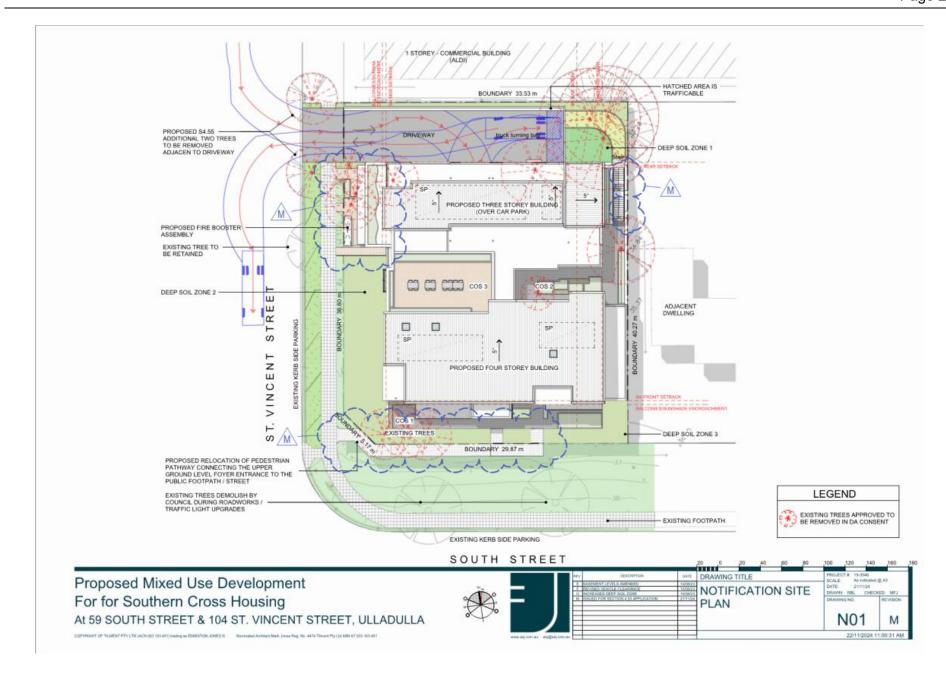
Location: Council Chambers, City Administrative Building, Bridge Road, Nowra

Attachments (Under Separate Cover)

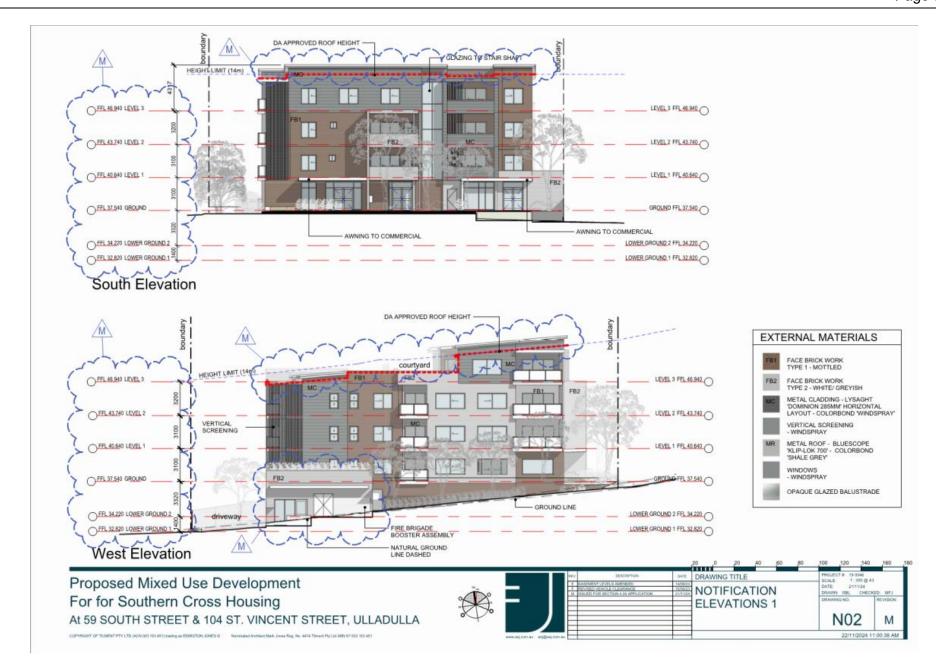
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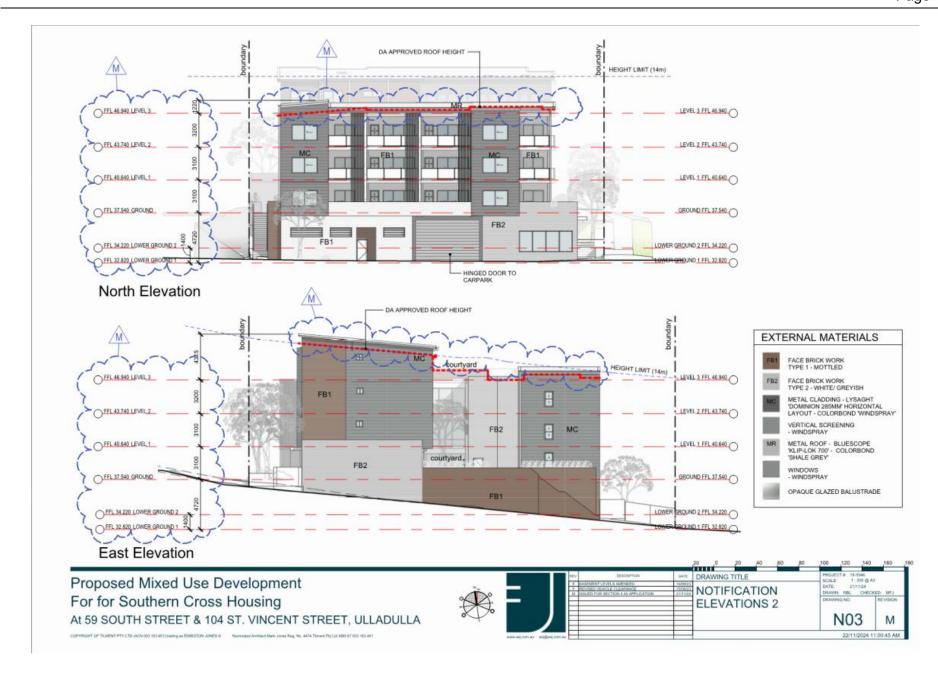
















15/07/2025

Dear Shoalhaven City Council,

RE: South Street, Ulladulla - DA Modification

As a Community Housing Provider, our core mission is to provide safe, secure, and affordable housing to those most in need. In line with this mission, we intend to utilise all dwellings in this project as affordable housing. However, our policy states that we will only formally commit to the minimum number of affordable housing units required under planning controls. This approach is intentional and necessary to ensure the long-term sustainability of our organisation and the services we provide.

While we are committed to maximising affordable housing outcomes, we also need to maintain a level of operational flexibility. The ability to divest or sell a portion of our housing stock, if required, allows us to respond to evolving business needs, manage financial risk, and reinvest in future housing projects or services that benefit the community. Without this flexibility, our capacity to deliver ongoing and expanded support may be compromised.

In short, this policy enables us to balance our social mission with the financial and strategic realities of operating a not-for-profit housing organisation. It ensures we remain resilient and responsive while continuing to prioritise the delivery of affordable housing for those who need it most.

Notwithstanding the above, Southern Cross will formally commit 8 units for 15 years, with the intention to sell 8 dual key units to owner occupiers via our shared equity scheme and lease back 8 studio units for affordable housing for 10 years.

Yours faithfully,

Chief Executive Officer
Southern Cross Community Housing

P 1300 757 885 E info@scch.org.au PO BOX 2351 Bomaderry NSW 2541 www.scch.org.au



Sec.

Section 4.55 Assessment Report

Environmental Planning & Assessment Act 1979

Conflict of interest declaration

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

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

Assessing Officer			16/05/2	2025
Peer Review Officer			30/06/2	2025
Peer Review Officer			Click h	nere to enter a date.
Affiliations and Pecuniary Interests	Have any affiliations or p interests been identified in the Portal lodgement f	by the Applicant		
	Note: Where a pecuniary ir ensure appropriate actions blocking access to TRIM fo staff)	are taken (e.g.		No
	Note: For applications lodg Councillors and Council ref A conflict of interest manag may be required.	er to POL22/149.		
Councillor	Councilor	Date		TRIM Reference
Representations				
Delegation Level Required	Choose an item.			

Parent DA/SF Number	DA2022/1078
MA Number	MA2025/1123
PAN	PAN-525625
Property Address	59 South Street ULLADULLA - Lot 1 DP 530697
Proposal	S4.55(2) to DA22/1078 - Amendments to Building Design and Height, Reduction in the number of Affordable Housing Units from 24 to 8.
Applicant(s)	Southern Cross Community Housing Ltd
Owner(s)	Southern Cross Community Housing Ltd
Owner's consent provided?	Yes
Date Lodged	14/04/2025
Date of site inspection	N/A
Date clock stopped	16/05/2025



Date clock started	6/06/2025		
RFIs	Additional Information	Outcome	
	Requested 16.05.2025 and provided 6.6.2025	Satisfied	
	 Overall height to be shown on elevation and section plans. Address the proposal against the objectives of Clause 4.3 of SLEP 2014. Provide plans that indicate the Affordable units 		
Related Application	☐ Concurrence and/or external agency referral -		
in NSW Planning Portal?	☐ Section 68		
	□ Section 138		
	□ Construction Certificate		
	Note: s138 and CC applications will not be incorporately be provided by the state of the state o		
Number of	NIL		
submissions	Note: where submissions are received Council must give notice of the determination decision to all submitters.		

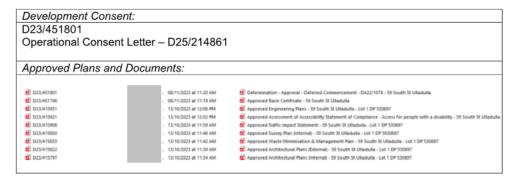
1. Detailed Proposal

Approval History

Development consent for DA22/1078 was issued on 9 October 2023 with a deferred commencement condition for demolition of existing residential buildings and structures, construction of a four (4) storey mixed use development comprising three (3) commercial office and 24 residential apartments as affordable rental housing, basement car parking for 21 vehicles, tree removal and landscaping works

Operational consent was granted on 30.5.2024.

Consent Trim References:



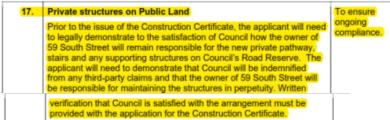
Current Application:



An application to modify the consent has been submitted, in accordance with the provisions of Section 4.55(2).

The application proposes to make the following modifications to the development consent.

- An increase to the building floor levels and roof heights to accommodate garbage truck turning bay head clearance, in the lower ground floor carpark.
- · The inclusions of additional services plant rooms for fire services and general services.
- · Services risers in the Units and Corridors.
- · General amendments to window sizes and set out.
- Changes to the proposed footpaths and stairs on public land to allow for the deletion of Condition 17.



Modifications to Condition 4 for the reduction in Affordable Housing Units from 24 units to 8
units as the Housing SEPP only requires a minimum of 10% to be provided as affordable and
this will provide over 30%.



The Design Amendments can be summarised as follows:

Lower Ground Floor

- Carpark / Basement floor level raised to align with Civil driveway levels. Driveway levels are set by the SCC DA Conditions for the stormwater overland overflow path to the public street stormwater.
- · Carpark footprint extended to the southern boundary.
- · Reduced area of Commercial 1.
- · Added services plant room, fire pump room, fire services break tanks.

Ground Floor

- Floor level increased to allow for garbage truck clearance in carpark below.
- Relocated Stair 2 egress door to eastern façade.
- · Amended Landscape design to the southern boundary (pathway changes).
- · Roof over Commercial 1 extended over Fire Pump Room.
- · Windows modified.

First Floor

- Floor level increased.
- Windows modified.

Second Floor

- Floor level increased.
- · Windows modified.

Third Floor



- · Floor level increased.
- · Windows modified.
- · Bin chute deleted from communal open space.

Site and Roof

- Added external path from new fire pump room to St. Vincent Street.
- · Relocated fire booster from South Street to St. Vincent Street.
- · Roof height increased.
- · Skylight added to roof.

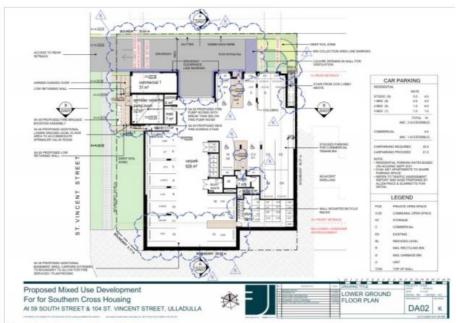


Figure 1 - Basement Floor Plan



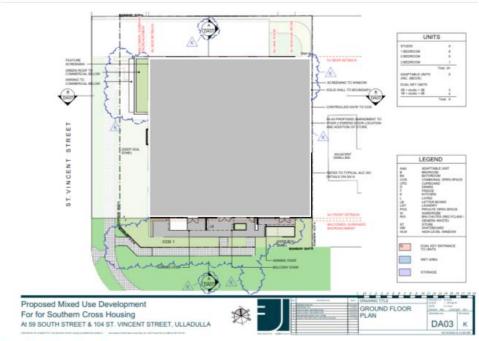


Figure 2 – Ground Floor Plan

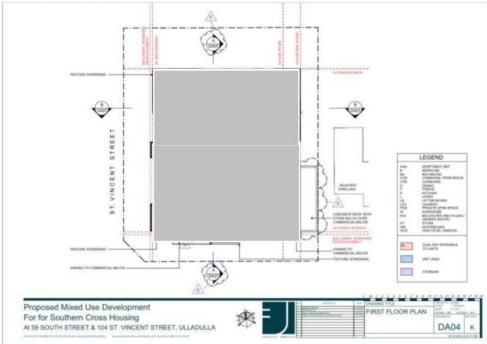


Figure 3 - First Floor Plan



Planning Report - S4.55(2) - Other Modification remain the same Assessment - MA2025/1123

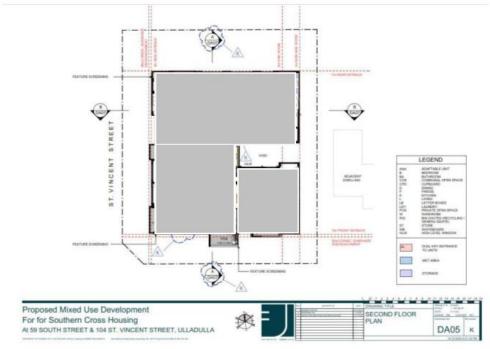


Figure 4 - Second Floor Plan

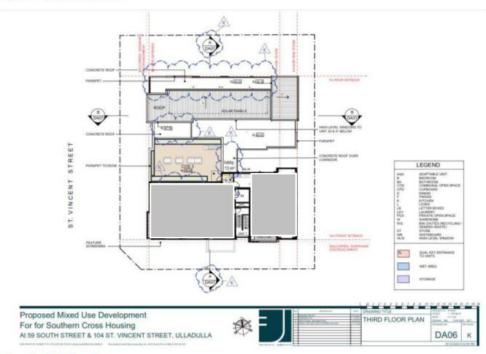


Figure 5 – Third Floor Plan



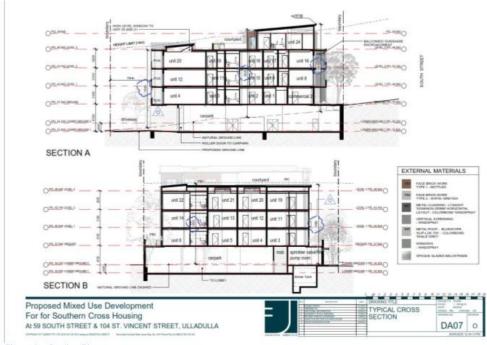


Figure 6 - Section Plan



Figure 7 - South & West Elevations





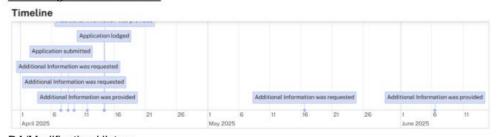
Figure 8 - North and East Elevations

2. Background

Pre-Lodgement Information

N/A

Post-Lodgement Information

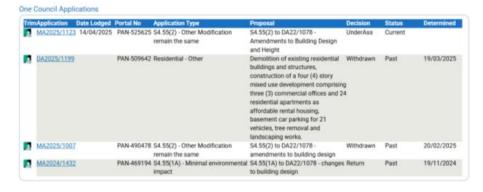


DA/Modification History

DA22/1078 Approved 9.10.2022 and given operational consent on 30 May 2024.



Site History and Previous Approvals



Darts - since 1st July 2005

	Application	Appl. Date	Application Type	Proposal	Status	Completed	
7	DR22/1066	25/01/2022	Sewer Connection	S68 Application - Demolition of Existing Units and Construction of a Mixed Use Development Consisting of Two Commercial Tenancies & 26 Shop Top Apartments	Incomplete		Show Properties
7	DA22/1078	25/01/2022	Development Application	Demolition of Existing Units and Construction of a Mixed Use Development Consisting of Two Commercial Tenancies & 26 Shop Top Apartments	Approved	09/10/2023	Show Properties

3. Consultation and Referrals

Referral	Comments		
Building Surveyor	Council has not been nominated for the CC or as the PC. In this regard, no National Construction Code assessment has been completed for the proposal. The proposal may be subject to performance base solutions provisions of the NCC.		
Waste Services	The modification appears to allow suitable height clearances for a rear-lift type collection vehicle to enter the carpark as part of the swept path diagrams 3 point turn manoeuvre prior to parking near the bin collection point for bin servicing to be carried out.		
District Engineer	No comments		
Shoalhaven Water	WDN to be updated/amended		

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:

 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 no significant changes and the proposal is considered to be quantitatively and qualitatively the same as the development as originally approved.

 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. No submissions were received by Council during the notification period.

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

See consideration of submissions received in Part 5 of this report.

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	Clause 4.3 Height of Building	The new proposed overall height of the building is 15.025m which is central to the site and reduces to around 14.9m at the edge of the building. This variation amounts to a 7% height variation overall.



The change in height is a result of having to increase the height in the basement to enable a waste servicing truck to enter and service the bins in the basement as well as accommodating fire safety measures (sprinkler valve/fire pump room) now required under NCC 2022.

The applicant has provided a statement in their revised SEE explaining how the revised height and the increase of 7% over the maximum height of building 14m will meet the objectives of Clause 4.3.

4.3 Height of buildings
(1) The objectives of this clause are as follows—
(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of a locality,

(a) to ensure that the length of buildings on or in the vicinity of a heritage item or within a heritage conservation.

(c) to ensure that the height of buildings on or in the vicinity of a heritage item or within a heritage conservation.

As previously outlined by Allen Price in the original SoEE, the following outlines the response to Clause 4.3 of SLEP 2014.

a) The site is located in the B3 Commercial Core zone and the existing character of the locality immediately to the north comprises commercial buildings and structures. The height of the proposed development would be consistent with the height, bulk, scale of the existing and desires future character of the locality. The proposed buildings would have a different bulk and height to existing adjoining development to the north and east in the commercial core area and properties in the southern neighbouring mixed use residential area. Notwithstanding, the proposed variation of the development standard will not limit the potential for adjoining sites to be developed to their of the development standard will not limit the potential for adjoining sites to be developed to their permitted capabilities in the future. Further, the sloping topography of the site which falls away from south to north will significantly reduce the height, bulk and scale of the development meaning no discernible change in the locality's character would occur. The height non-compliance with the 14 metre height control results from the change in levels to permit vehicle servicing in the rear lane while maintaining safety at the St Vincent St intersection for pedestrians and increase in fire safety measures now required to this development under the NCC 2022. The variation or 1.025 is minor in nature and has been located on the highest internal floorplate element which is central on the site and then reduces to around 900mm at the edge of the building. The ground level at the building line is ever. The blevel to level to Street reduction the opencyll beight of level at the building line is ever. The blevel to service the scene ground beginning to the control the force provided the service of the service of the service of the provided the service of the permitted of the service of the servi level at the building line is over 2m below the level of south Street reducing the overall height of the building from the street and the neighbours to the south who would be most impacted. The buildings to the south continue to step up the hill further reducing any impact that the height of the building would have on the future character of the locality.



b) There are no existing residential developments on the adjoining property to the north (102 St Vincent Street). The existing school to the west is separated by St Vincent Street and residential properties (62, 64 South Street) to the south are separated by South Street. The site to the east (63 South Street) is the only adjoining site that currently contains residential development and based on the proposed developme layout no adverse visual or acoustic privacy issues will occur. The site and 63 South Street (to the east) is advantaged by its northerly aspect and the proposed development will not detrimentally impact solar

c) The site of the proposed development does not contain any historic items, is not in or near a conservation area and is not associated with any Aboriginal heritage values. The proposed variation will have no effect on heritage matters

- 18 Affordable housing requirements for additional building height
- ent to which this division applies if the
- (a) includes residential flat buildings or shop top housing, and
- (b) does not use the additional floor space ratio permitted under section 16.
 (2) The maximum building height for a building used for residential flot buildings or shop top housing is the maximum permissible building height for the development on the land plus an additional building height of up to 30%, based on a minimum affordable housing component calculated in accordance with subsection (3)
- (3) The minimum affordable housing component, which must be at least 10%, is calculated as follow

affordable housing component = additional building height +2 (as a percentage)

In relation to Division 1 clause 18 above, the property has a maximum permissible height of 14m. The development proposes a minimum of 8 affordable dwellings withing the 24 total dwellings, resulting in 33% affordability in accordance with the above. The development has not utilised the additional FSR permitted under section 16.

The project proposes an additional height of 1,025m above the 14m height limit, resulting in a 7% height variation. Based on the above we would need the minimum 10% affordable housing component to achieve this variation. As noted we are proposing well above this with 33% affordable

In conclusion, the proposed height variation is reasonable within the objective of Clause 4.3(1) of SLEP 2014 and permissible under the Housing SEPP Division 1 clause 18. Please do not hesitate to be in contact if any queries arise while processing the application.

Yours faithfully

DAO comment:

The increase in building height of 7% to 15.025m is considered to be a minor variation on the maximum building height of 14m as set by SLEP 2014.

The land slopes away from south to north with a cross fall of approximately 4m. The breach in the height occurs on the southern side of the lot towards the centre of the building and tapers to a 0.9m breach on the boundary. The increase in height will not have a significant impact on the surrounding amenity in relation to solar access, privacy or view sharing. Neither will it change any impacts to the character of the area on that was previously approved, and will allow the building to function more effectively in relation to the servicing of waste and incorporation of fire safety requirements in the basement.

The building is not in the vicinity of any heritage items or in a heritage conservation area.

The proposed height increase is consistent with the objectives of Clause 4.3 of SLEP 2014.

In addition, Housing SEPP allows for bonuses in height with the incorporation of Affordable Housing. The proposal is to have 8 out of the 24 units identified for Affordable Housing which amounts to 33%. This would allow for a bonus of 4.2m in height (up to 18.2m) and they are only proposing 1.025m increase on a sloping site.



		The proposal as discussed above is consistent with the objectives of In-fill affordable housing. The modification to the original consent relates to an increase in height and an increase in the basement car parking area to accommodate fire safety measures.
		The number of car parking spaces remain the same with 16 allocated for the units and 5 for the commercial tenancies. The SEPP requirements for car parking have been revised since the original application was approved and the new non discretionary requirements for car parking have changed. The car parking requirements are now 19(2)(e) and (f):
		(e) the following number of parking spaces for dwellings used for affordable housing—
		 for each dwelling containing 1 bedroom—at least 0.4 parking spaces,
		(ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces,
		(iii) for each dwelling containing at least 3 bedrooms—at least 1 parking space,
		(f) the following number of parking spaces for dwellings not used for affordable housing—
		(i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces,
		Uniford Specific Control (Control Specific Control Specif
		(ii) for each dwelling containing 2 bedrooms—at least 1 parking space,
		(iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,
		The new calculation is as follows:
State Environmental Planning Policies	SEPP Housing 2021	Unit 1 – ST – Affordable – 0.4 spaces Unit 2 – 1B – Affordable – 0.4 spaces Unit 3 – 2B – Not Affordable – 1 space Unit 4 – ST - Not Affordable – 0.5 spaces Unit 5 – ST - Not Affordable – 0.5 spaces Unit 6 – 1B – Not Affordable – 0.5 spaces Unit 7 – 2B – Affordable – 0.5 spaces Unit 8 – ST - Not Affordable – 0.5 spaces Unit 9 – 1B – Not Affordable – 0.5 spaces Unit 10 – 1B – Affordable – 0.4 spaces Unit 11 – 2B – Not Affordable – 0.5 spaces Unit 12 – ST – Not Affordable – 0.5 spaces Unit 13 – ST – Not Affordable – 0.5 spaces Unit 14 – 1B – Not Affordable – 0.5 spaces Unit 15 – 2B – Affordable – 0.5 spaces Unit 16 – ST – Not Affordable – 0.5 spaces Unit 17 – 1B – Not Affordable – 0.5 spaces Unit 19 – 2B – Not Affordable – 0.5 spaces Unit 19 – 2B – Not Affordable – 0.5 spaces Unit 20 – ST – Not Affordable – 0.5 spaces Unit 21 – ST – Not Affordable – 0.5 spaces Unit 22 – 1B – Not Affordable – 0.5 spaces Unit 23 – 2B – Affordable – 0.5 spaces
		Unit 24 – 3B – Affordable – 1.0 space The proposal requires 13.6 car spaces under the new SEPP requirements. Therefore, the proposal will comply.
		In addition, the reduction in the number of Affordable units to 8 out of the 24 will still comply with the SEPP as it amounts to 33%.



The applicant has provided a letter of justification for the reduction of Affordable Housing Units.

Dear Shoalhaven City Council,

RE: South Street, Ulladulla - DA Modification

As a Community Housing Provider, our core mission is to provide safe, secure, and affordable housing to those most in need. In line with this mission, we intend to utilise all dwellings in this project as affordable housing. However, our policy states that we will only formally commit to the minimum number of affordable housing units required under planning controls. This approach is intentional and necessary to ensure the long-term sustainability of our organisation and the services we provide.

While we are committed to maximising affordable housing outcomes, we also need to maintain a level of operational flexibility. The ability to divest or sell a portion of our housing stock, if required, allows us to respond to evolving business needs, manage financial risk, and reinvest in future housing projects or services that benefit the community. Without this flexibility, our capacity to deliver ongoing and expanded support may be compromised.

In short, this policy enables us to balance our social mission with the financial and strategic realities of operating a not-for-profit housing organisation. It ensures we remain resilient and responsive while continuing to prioritise the delivery of affordable housing for those who need it most.

Notwithstanding the above, Southern Cross will formally commit 8 units for 15 years, with the intention to sell 8 dual key units to owner occupiers via our shared equity scheme and lease back 8 studio units for affordable housing for 10 years.

Yours faithfully

Chief Executive Officer
Southern Cross Community Housing

As the applicant has explained their policy is to commit to the minimum number of affordable housing units as defined by the planning controls so that they ensure long term sustainability of the organisation. Their intention for the other units is to provide 8 studio units as Affordable Units for 10 years and 8 dual key units to owner occupiers via a shared equity arrangement.

Changes to the wording of condition 4 and 75 in the original consent will need to be revised to reflect this.

The applicant has provided floor plans that indicate the affordable units.

Within the proposed development, the 8 of 24 units are designated as affordable housing which are **Units 1, 2, 7, 10, 15, 18, 23 and 24**.

This provides a range of unit sizes throughout the development.

The main change being the change to the Built Form and Scale with the increase in the overall height to 15.025m.

Due to the sloping site, the building has been designed with the highest section towards South St. The building's scale is reduced down to the rear which adjoins commercial premises with a 7m setback due to future service lane as per specific DCP.

The building as modified is still consistent with the character of the original building, the increase in height is minor and the impacts on amenity will not be significantly different to the building as approved. The increase in height will allow the building to function more effectively and achieve NCC compliance.



A revised assessment against the guide is contained in the	Appendix 1.
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ii) Draft Environmental Planning Instrument

Draft EPI	Affected Clause / Provision	Comment
		The modification application raises no additional matters for consideration under any applicable draft Environmental Planning Instrument.

iii) Any Development Control Plan

SDCP 2014 Chapter	Affected Clause / Provision	Comment
Shoalhaven Development Control Plan	Chapter G21 Car	There are no changes proposed to the commercial car parking requirements. The units comply with the SEPP housing car parking requirements which override Council's DCP.
2014	Parking	The layout of the car park has changed slightly but is acceptable. This was discussed with the Development Engineers.
		The modification has removed the stairs that were proposed in the road reserve facing south street. The revised Landscape Plans outline the changes to the footpath connecting the Ground Level Foyer entrance on South St. The new design is based on the installation of a walkway with no stairs, retaining walls or balustrades on public land. The applicant has requested that Condition 17 be deleted from the consent.
	Chapter G18 Streetscape Design for	The applicant had a meeting with relevant staff in Council in 2024 about the proposed pathway and no objections were raised. The modification application was referred to the District Engineer who made no comments.
	Town and Village Centres	COS 1 ANNING OVER BALCONY OVER

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 2000



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

Any coastal zone management plan

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

Other Shoalhaven Council Policies

Shoalhaven Contribution Plan 2019

The proposed modification does alter s7.11 development contributions for the development. The 16 units that are now not allocated to affordable housing will attract contributions as dwellings. Strategic Planning have advised that the units that the social housing provider would need pay full contributions for any dwelling that was not considered genuine affordable housing.

The 8 affordable units are as follows:

- 4 x 1 bedroom
- 3 X 2 bedroom
- 1 x 3 bedroom

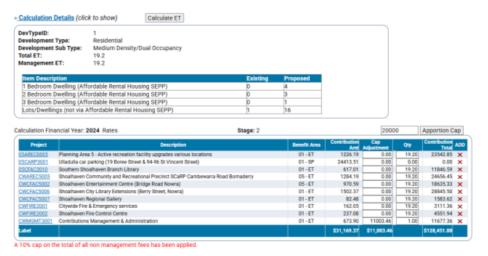


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alculation Type:		
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	Existing	Proposed
1 Bedroom Dwelling (Affordable Rental Housing SEPP)	O	4
2 Bedroom Dwelling (Affordable Rental Housing SEPP)	0	3
	0	1
3 Bedroom Dwelling (Affordable Rental Housing SEPP)		0
Bedroom Dwelling (Affordable Rental Housing SEPP) Bedroom Dwelling (Affordable Rental Housing SEPP)	0	
	1	16
4 Bedroom Dwelling (Affordable Rental Housing SEPP)		16
4 Bedroom Dwelling (Affordable Rental Housing SEPP) Lots/Dwellings (not via Affordable Rental Housing SEPP)	1 0	

NOTE:

Prior to the issue of development consent which requires contributions in accordance with this Plan, credit of the respective ETs or m2 is given to recognise the original approved land use of the development site (i.e. dwelling / building / subdivision).





(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.
- 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 proposal is consistent with the objectives and requirements of SEPP (Housing) 2021
- · 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 proposal is considered to be in the public interest.

Delegations

Guidelines for use of Delegated Authority

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

Given the cost of the development is \$9,978,822 the application must be determined by the Manager, City Development.

Recommendation

This application has been assessed having regard to the Heads of Consideration for Section 4.55(2) under the *Environmental Planning and Assessment Act 1979*. As such, it is recommended that Modification Application No. **MA2025/1123** relating to Development Consent No. **DA22/1078** be approved subject to the recommended modifications to the development consent as detailed below:

- a) modify condition 1 General to update the plan set with the amended plans
- b) modify condition 4 and 75 to reference only 8 affordable housing units
- Modify condition 17 and delete condition 96
- d) Modify contributions calculations to reflect the change in the affordable housing units

All other conditions are to remain unchanged.



Reviewers Comments

The application has been reviewed and the recommendations of the report are concurred with. Section 7.11 contributions (where applicable) have been reviewed and agreed to.





City Development 30/06/2025

City Development 30/06/2025



Appendix 1

State Environmental Planning Policy Housing - Design Quality of Residential Flat Buildings

The extent to which the proposed development complies with SEPP 65's Residential Apartment Design Guide is detailed and discussed in the table below:

Table Key ADG Pro	ovisions	Complies?
Table Key ADG Pro	Communal open space has a minimum area equal to 25% of the site (335.75m²). Two communal open space areas are provided. One on the ground floor level (75m²) and one at the roof top level (93m²) resulting in a total of 168m². Developments achieve a minimum of 50% direct sunlight to the principal useable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June.	Y The quality of the proposed common open space on the ground floor and rooftop are considered good quality and
		quality and accessible to all residents via a common lift. As discussed earlier, more landscaped area and common open space could have been achieved on site, however more importance was placed on ensuring compliance with the built form controls for this site and ensuring the
		adjoining eastern allotments were not landlocked by having no viable vehicular access or drainage opportunities.
Deep soil zone	7% of the site area must be deep soil and have a minimum dimension of 3m (94.01m²).	Y
	118m ² of deep soil is proposed.	'



Planning Report - S4.55(2) - Other Modification remain the same Assessment - MA2025/1123

Table Key ADG Pro	ovisions				Complies?
Visual privacy	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:				
	Building height	Habitable rooms and balconies	Non- habitable rooms		
	up to 12m (4 storeys)	6m	3m		
	up to 25m (5-8 storeys)	9m	4.5m		
	over 25m (9+ storeys)	12m	6m		
	Rear bounda Side bounda	-		Ctroot\	Y
	Side bounda	-		Street)	
	- 5m (non-	habitable b	athroom)		Y
Solar and daylight access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.				
	75% of apartments in mid-winter	receive a	dequate s	unlight	Y
	A maximum of 15% receive no direct sun at mid-winter.				
	Maximum of 12% direct sunlight in mid		nents rece	eive no	Y
Natural ventilation	At least 58% of apa ventilated.	artments a	re naturall	y cross	
					Y
	Overall depth of a apartment does not or line to glass line.14 ventilated. Refer to or for assessment diag These are achieved level windows on up Unit 18 has been a level eastern facing issues encountered Construction Certific resulted in the proje	exceed 18n of 24 units drawings Drams. with corne per levels. mended to a window of during the cate Docu	n, measures (58%) an A11-13 er units an remove tidue to fire preparaments. The	ed glass e cross ad high- the high e rating ation of his has	Whilst there is a numerical non-compliance with building cross over depth, the residential apartments achieve the required natural ventilation, solar access and building separation standards which surmount to good quality



Table Key ADG Provisions		Complies?
	cross flow ventilation requirement. At 58% the non compliance is minimal and the extent of ventilation achieved to apartments considering the large number of studio units is considered consistent with the objective of this clause.	residential amenity for the future residents and adjoining eastern neighbours.
Ceiling heights	Measured from finished floor level to finished floor level, minimum ceiling heights are: Habitable rooms 2.7m. Non-habitable 2.4m.	
	Proposed floor to ceiling heights: 2.7m – 3.1m	Y
	Ceiling heights to apartments maintained in this modification with the proposed level changes for basement	
Apartment size and layout	Apartments are designed to have the following minimum internal areas:	
	Studio – 35m ² 1 bedroom – 50m ² 2 bedroom – 70m ² 3 bedroom – 90m ²	
	Proposal:	
	Studio (35m²): 35 -37m² 1 bed (50m²): 66m² – 71m² 2 bed (70m²) – 90m² 3 bed (90m²)-116m²	Y Y Y
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² .	Υ
	Bedrooms have a minimum dimension of 3m.	Υ
	Living rooms or combined living/dining rooms have a minimum width of :	
	 3.6m for studio and 1-bedroom apartments 	Υ
	4m for 2- and 3-bedroom apartments	Y
	The modification has amended areas to exclude service risers, however the changes are minimal and still maintain the minimum areas set out in the ADG.	



Table Key ADG P	rovisions	Complies?
Private open space and balconies	balconies as follows:	
	Studio – 4m²	Y
	1 bedroom – 8m², 2m minimum depth Unit 6, Unit 14 & Unit 22: 7.82m²	Y
	2 bedroom – 10m², 2m minimum depth Unit 3: 9.6m²; Unit 7, 15 & 23: 9m².	N/A
	3 bedroom – 12m², 2.4m minimum depth For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony, with a minimum area of 15m² and a minimum depth of 3m.	The minor non-compliance with balcony sizes in (m²) will not be noticeable to the residents using them. The balconies are of a sufficient size to enable them to be occupied with small tables and chairs and/or small BBQs and clothes lines. As discussed, there is also common open space available for the residents within the development to use and large recreation areas in short walking and/or driving distance from the subject site. The dual-key apartment service offering also means that when in use, residents of these apartments will have two (2) balconies to use instead of the one (1) which is a positive outcome for those residents.
Common circulation	The maximum number of apartments off a circulation core on a single level is eight.	Y



Table Key ADG Provisions		Complies?
Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided (with at least 50% located within the apartment): 1-bedroom apartments – 6m² 2-bedroom apartments - 8m² 3+ bedroom apartments – 10m²	There are minor non-compliances with the numerical standards for storage space. Storage is provided both within the apartments and in the individual storage spaces assigned in the secure location in car park which is considered satisfactory for the proposed development.



SYDNEY - ILLAWARRA - SHOALHAVEN

BUSHFIRE & EVACUATION SOLUTIONS



Bush Fire Assessment Report

Proposed Residential Alterations and Additions

Lot 2 (No. 1A) Elizabeth Drive VINCENTIA NSW

13 August 2025



Prepared by:

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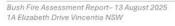
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BUSHFIRE HAZARD RISK ASSESSMENT CERTIFICATE (section 4.14 EP & A Act 1979)

PROPERTY ADDRESS:	1A Elizabeth Drive Vincentia
DESCRIPTION OF PROPOSAL:	Proposed residential alterations and additions
PLAN REFERENCE:	Preliminary Site Plan prepared by NEST Residential Design (Ref: 2629; Issue: 3; dated: 21 January 2025)
HIGHEST BAL RATING:	BAL-FZ
DOES THE PROPOSAL RELY ON ALTERNATE SOLUTIONS?	YES NO BAL-FZ development is performance-based development requiring referral to NSW RFS
BUSHFIRE ASSESSMENT REPORT REFERENCE:	1 - 25036
REPORT DATE	13 August 2025
ACCREDITATION SCHEME/ CERTIFICATION No	FPAA Australia Bushfire Planning & Design Scheme/ BPAD-23038

I (Kieran Taylor) hereby certify the following:

- I. That I am a person who is recognised by the NSW Rural Fire Service as a suitable qualified consultant in bushfire risk assessment; and
- II. That due to the potential exposure of the building to Bushfire Attack Level (BAL) Flame zone, the subject development does not conform with the Acceptable Solutions of the document entitled *Planning for Bush Fire Protection* 2019 (PBP) as prescribed under Section 4.14 of the *Environmental Planning and Assessment Act* 1979). Notwithstanding the above, it is considered that where the recommendations of this report are incorporated, the development is satisfactory in terms of addressing the aim and objectives of PBP; and
- III. Any recommendations or findings of this report are based on an honest appraisal of the constraints that existed at the site at the time of investigation, subject to the scope, resources and information available and provided at the time. Within the confines of the above statements and to the best of my knowledge, this report does not contain any incomplete or misleading information.

Director

BUSHFIRE & EVACUATION SOLUTIONS

13 August 2025



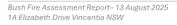


Version Control

Ve	ersion:	Date/ amendments	Authorised by
	1	13 August 2025	KT

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Disclaimer: Any recommendation or advice expressed in this document is made in good faith and in accordance with the relevant legislation for bushfire prone development in NSW. It should be borne in mind that the measures recommended in this report cannot guarantee that a building will survive a bushfire event on every occasion. This is due to the degree of vegetation management, the unpredictable behaviour of bushfires and extreme weather conditions. The author of this report accepts no responsibility for any loss or damage, whether direct or consequential, suffered by any person as the result of or arising from the reliance on the statements, information or recommendations of this document.









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GLOSSARY

Term/ Abbreviation	Meaning
APZ	Asset Protection Zone
AS 2419.1 - 2005	Australian Standard – Fire hydrant installations
AS 3959 - 2018	Australian Standard – Construction of buildings in bushfire prone areas
BAL	Bushfire Attack Level
BFRMP	Bushfire Risk Management Plan
BPL Map	Bushfire prone land map
BPMs	Bushfire Protection Measures
EP & A Act	Environmental Planning & Assessment Act 1979
FFDI	Forest Fire Danger Index
IPA	Inner Protection Area
LGA	Local Government Area
NCC	National Construction Code
NSW RFS	New South Wales Rural Fire Service
OPA	Outer Protection Area
РВР	Planning for Bush Fire Protection 2019
RF Act	Rural Fires Act 1997
scc	Shoalhaven City Council

Asset Protection Zone:

An area surrounding a development managed to reduce the bushfire hazard to an acceptable level. The width of the required asset protection zone varies with slope, vegetation and Fire Danger Index (FDI). The asset protection zone ensures there is no fire path between the hazard and the building.

AS 3959-2018 Construction of buildings in bushfire-prone areas:

The relevant Australian Standard for bushfire prone construction detailing the deemed to satisfy construction provisions for building development in NSW assessed as BAL-12.5 to BAL-40.

Bushfire Attack:

Attack by burning embers, radiant heat or flame generated by a bushfire, which might result in ignition and subsequent damage to, or destruction of a building.





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Bushfire Prone Land:

An area that is subject to, or likely to be subject to bushfire attack. In general, a bushfire prone area is an area mapped for a local government area that identifies the vegetation types and associated buffer zones. Bushfire prone land maps are prepared by local councils and certified by the Commissioner of the NSW RFS.

Bushfire Attack Level (BAL):

A means of measuring the severity of a building's potential exposure to ember attack, radiant heat and direct flame contact using increments of radiant heat expressed in kilowatts per metre squared (kW/m²), and the basis for establishing the requirements for construction to improve protection of building elements from attack by bushfire.

Bush Fire Protection Measures:

A range of measures (controls) available to minimise the risk arising from a bushfire. BPMs include APZs, construction standards, suitable access arrangements, water and utility services, emergency management arrangements and landscaping.

Bush Fire Safety Authority

An approval of the Commissioner of the NSW RFS required for subdivision for residential or rural residential purpose or for a special fire protection purpose listed under section 100B (6) of the *Rural Fires Act*. This form of development is considered to be integrated development.

Forest Fire Danger Index:

An index providing a determination of the chance of a fire starting, its rate of spread, its intensity and the difficulty of its suppression, according to various combinations of air temperature, relative humidity, wind speed and both the long and short-term drought effects.

Planning for Bush Fire Protection 2019:

Legislative planning guideline produced by the NSW Rural Fire Service detailing the specifications and requirements for bushfire prone development in NSW.





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References/Further Reading

Appendix 1 PBP Table A1.12.5
Appendix 2 APZ Profile

Appendix 3 PBP Section 7.5.2 - 7.5.4





SECTION 1: **INTRODUCTION - EXECUTIVE SUMMARY**

Bushfire and Evacuation Solutions have been engaged to complete a bushfire assessment report for proposed residential alterations and additions to an existing dwelling located at 1A Elizabeth Drive Vincentia (herewith 'the subject property').

The subject property is mapped as bushfire prone land on Shoalhaven City Council mapping. The proposal is therefore subject to compliance with the provisions of the NSW Rural Fire Service planning guideline entitled 'Planning for Bush Fire Protection' 2019 (PBP).

The proposed development is constrained by remnant forested vegetation extending to the west and northeast of the site. This analysis has determined that the subject development is located within the flame zone (i.e., BAL-FZ). In NSW, Class 1, 2, 3 or 4 (part) buildings (as defined by the National Construction Code - NCC) and some Class 10 buildings subject to a BAL-FZ rating require an alternate solution and referral to the NSW Rural Fire Service for consideration under section 4.14 of the Environmental Planning & Assessment Act (EP & A Act) 1979.

The proposal is assessed against the specific objectives of PBP (section 7) for infill development. The development is found to be non-compliant with the Acceptable Solutions specified under PBP (Table 7.4a) in terms of the following:

 An Asset Protection Zone (APZ) is not provided in accordance with 29kW/m² (BAL-29) as specified in Table A1.12.5 in Appendix 1 (PBP). In accordance with PBP (Section 7.4) applications proposing BAL-FZ construction are performance based.

Notwithstanding the above, the following bushfire protection measures (as detailed in Section 4 of this report) are recommended as a performance-based approach designed to address the relevant performance criteria of PBP (Section 7 - Residential Infill Development). These measures include:

- On-going landscaping and management of the yard area of the subject property in accordance with Asset Protection Zone (Inner Protection Area) standards;
- New construction in accordance with the relevant sections of AS 3959-2018 and Section 7.5.3 and 7.5.4 of PBP;
- Provision for ember upgrade for the existing dwelling (where not modified);
- Utility installation designed to reduce the potential for fire spread and ignition from gas or electricity;
- Provision for bushfire emergency and evacuation planning arrangements designed to provide for the safety of residents in response to impending bushfire attack.

Where these measures are incorporated, it is considered that the proposal is suitable in terms of satisfying the aim and objectives of PBP for a residential building development as required under section 4.14 of the Environmental Planning and Assessment Act 1979.





1.1 Purpose of Report

The primary purpose of this assessment is to determine compliance (or otherwise) of the subject development when assessed against the aim and objectives (specifications and requirements) of PBP. Based on these requirements, this report seeks to:

- Determine the bushfire parameters relevant to the site (i.e., vegetation (hazard) formation; effective slope underlying the hazard; separation distance between the building and hazard; and FFDI for the local council area);
- Determine the expected fire behaviour and bushfire attack level (BAL) affecting the subject development;
- Assess the proposal with reference to PBP;
- Identify appropriate bushfire protection measures designed to mitigate the bushfire risk and protect occupants of the building against bushfire attack;
- Assist the Consent Authority (SCC) in the determination of the suitability of the proposed development.

The recommendations contained herein may assist in forming the basis of any specific bushfire conditions that Council and/ or the NSW Rural Fire Service may elect to place within the consent conditions issued for the subject development application.

Note: The scope of this report is limited to the bushfire assessment for the proposed development and only contains recommendations for the subject property. Where reference is made to adjacent lands, this report does not purport to assess those lands

Statutory Framework 1.2

The bushfire legislation and statutory controls relevant to the proposed development include:

(I) Environmental Planning and Assessment Act 1979

Section 4.14 - Consultation and development consent - certain bush fire prone land This section details the legislative requirements for development consent for infill development on bushfire prone land.

(II) Planning for Bush Fire Protection 2019

Section 7 - Planning controls for infill development on bush fire prone land. Section 7.4 details the specifications and requirements (Acceptable Solutions) for bushfire protection measures for infill development.

Appendix 1 and Appendix 2:

These sections detail the assessment methodology and submission requirements for development on bushfire prone land.

Ref: I - 25036





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(III) The National Construction Code (NCC):

The NCC contains Performance Requirements and Deemed-to-Satisfy (DTS) provisions relating to the construction of buildings in bushfire prone areas. The construction requirements of the following standards are the DTS solution in the NCC (as varied in NSW, for buildings in designated bushfire prone areas):

- Australian Standard 3959 2018: Construction of buildings in bushfire prone areas:
 and
- NASH Standard: National Association of Steel-framed Housing







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SECTION 2: PROPERTY DETAILS/ PROPOSED DEVELOPMENT

Address/Location: 1A Elizabeth Drive Vincentia NSW

Lot 2 in DP 1257876

Lot Size: 514m².

Mapped as Bushfire Prone Land: Yes - Constrained by Vegetation Category 2 (refer Figure 1).



Figure 1: Locality Map (Insert – SCC Bushfire Prone Land Map)

Other Known Constraints:

A desktop assessment of the publicly available planning enquiry system has found no other constraints to be considered regarding the proposed development upon the subject site.





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No other known significant environmental features have been noted, recorded or advised of as part of this assessment.

2.1 Site Description/ Proposed Development

Lot 2 (No. 1A) Elizabeth Drive is an established residential property (zoned R2 – Low Density Residential) located 1.8 kilometres north of Vincentia village centre (within the Shoalhaven Local Government Area).

The site is occupied by a two-storey clad dwelling with garage underneath. The site adjoins managed residential properties to the south and east and a partly managed residential property to the north.

Adjacent land to the northeast and west/northwest contains remnant forested vegetation (hazard). The extent and proximity of this hazard area is illustrated in Figure 4.

The proposed development is for residential alterations and additions (Class 1a as defined by the BCA) comprising:

- An addition (2 bedrooms, ensuite and entry foyer) and new entry stairway to the east (front) elevation;
- II. A new workshop under the existing house with entry from the northern elevation side.

The location/ site of the proposed development is as denoted in Figure 2 and Figure 4.

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Figure 2: Site Plan (Source: NEST Residential Design)





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SECTION 3 BUSHFIRE HAZARD RISK ASSESSMENT

The relevant bushfire attack level (BAL) is determined using the assessment methodology detailed in Appendix 1 of PBP. The required methodology is detailed as follows:

- Determine vegetation formations in all directions around the building to a distance of 140 metres (refer to A1.2); and
- Determine the effective slope of the land from the building for a distance of 100 metres (refer to A1.4 and A1.5); and
- III. Determine the relevant FFDI for the council area in which the development is to be undertaken (refer to A1.6); and
- Determine the separation distance by measuring from the edge of the unmanaged vegetation to the closest external wall: and
- Match the relevant FFDI, appropriate vegetation, distance and effective slope to determine the appropriate BAL using the relevant tables at the end of this section of PBP (A1.12.5, A1.12.6, and A1.12.7); and
- Refer to Section 3 in AS 3959 and NASH Standard to identify appropriate construction requirements for the calculated BAL.

3.1 Vegetation (bushfire hazard) within 140m of the proposed building/s

Vegetation extent (bushfire hazard) within the study area is derived from aerial photo interpretation (API); a review of the SEED Portal (NSW Government Data/Mapping); and an inspection of the subject property and surrounds. The area/s of vegetation considered as a hazard and subsequent threat to the site is summarised as follows:

Table 1.0: Vegetation (hazard) located within the study area (out to 140 metres)

Direction from	Primary Vegetation	Comment
subject	(hazard) Formation	
dwelling	(Keith 2004 Formations)	
West/	Remnant (modelled as	That associated with foreshore vegetation to the west and
Northwest and	'Rainforest')	remnant vegetation within the road reserve to the northeast.
East		The relevant formation is mapped on the SEED Portal (NSW
		State Vegetation Type Map – refer Figure 3) as South Coast
		Sands Dry Sclerophyll Forests - PCT ID 3638. The fire runs
		from either direction are <50 metres in a direction towards the
		site. The hazard fuel load is therefore downgraded to a
		remnant classification (modelled as 'rainforest) under PBP
		Section A1.11.1
All other	N/A – Managed Land	That associated with residential properties and road reserves
Diversions		and the single of the section of the
Directions		managed/maintained in a minimal fuel condition.

Bush Fire Assessment Report– 13 August 2025 1A Elizabeth Drive Vincentia NSW









Figure 3: Extract – SEED Portal Mapping (NSW State Vegetation Type Map)



Figure 4: Site context / bushfire hazard within study area.









Plate 1: Access (ROW) to subject property showing the east elevation of subject dwelling



Plate 2: Rear elevation – subject dwelling



Plate 3: Waterway at rear of subject property showing saline wetlands along foreshore area







Plate 4: Remnant hazard to the northeast along road reserve



Plate 5: Remnant hazard profile – extending to the northeast along Elizabeth Drive



Plate 6: Remnant hazard profile to the northwest at rear of subject property



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3.2 Effective slope that will influence bushfire behaviour

The effective slope is the gradient within the hazard which will most significantly influence fire behaviour, determined over a distance of at least 100 metres from the building footprint. In this instance, the relevant gradient has been determined using QGIS software (Nearmap/ LIDAR 1 metre contour overlay) and via observations made during the site inspection. The effective slope influencing bushfire behaviour is assessed as:

• Transect 1 (Northeast): Upslope/flat 0 degrees;

• Transect 2 (Northwest): >0-5 degrees (7m fall: 40m run) down slope;



Figure 5: Effective slope analysis (Nearmap/LIDAR 1m Contours) showing setbacks from hazard.

3.3 Separation Distance (between the bushfire hazard and proposed development):

6 metres: between the proposed eastern addition and hazard (T1).

14 metres: between the proposed workshop addition and hazard (T2).



9 metres:

between the proposed workshop addition and hazard (T1);



3.5 Determination of Bushfire Attack Level (BAL)

The relevant BAL rating has been determined using the assessment methodology detailed in PBP (Section A1.1) and the values given in PBP Table A1.12.5 – Refer Appendix 1 of this report).

Table 2.0: BAL Assessment – Proposed Development

Proposed Development	Fire Run (Transect)	Vegetation Formation	APZ/ separation from hazard	Slope Category (PBP)	Bushfire attack level
East addition	Transect 1 (NE)	Remnant	6 metres	Upslope/flat 0°	BAL-FZ
Edot dadition	Transect 2 (NW)	Remnant	17 metres	>0-5° d/slope	BAL-29
Workshop Addition	Transect 1 (NE)	Remnant	9 metres	Upslope/flat 0°	BAL-40
	Transect 2 (NW)	Remnant	14 metres	>0-5° d/slope	BAL-29

Note:

- The highest BAL rating affecting the subject development is assessed as BAL-FZ (proposed East Addition) and BAL-40 (proposed Workshop Addition). In NSW, there are no recognized deemed-to-satisfy arrangements for development within the flame zone. The proposal is therefore required to be referred to the NSW Rural Fire Service for consideration under Section 4.14 of the EP & A Act.
- II. PBP (section A1.8), AS 3959-2018 (section 3.5) and the NSW RFS Policy Note -Application of Shielding Provisions (PBP 2019, A1.8) allow for a reduction by one BAL rating for an elevation that is shielded from the primary source of bushfire attack (unless that façade is also subject to the same bushfire attack level), or where an elevation is exposed to a lower BAL. With reference to these documents, this report recommends that it is appropriate for the south and west facing elevation of the proposed eastern addition to be reduced by one BAL rating (i.e., to BAL-40).

Note: this concession does not apply to sub-floor areas or roofs and only applies where the entire lot is





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managed in accordance with Asset Protection Zone (Inner Protection Area) standards (refer Recommendation 1 – Section 4.1 and Appendix 2).

The categories of bushfire attack, their corresponding risk and relevant construction provisions (AS 3959-2018) are summarised as follows:

Table 3.0: Explanation of BAL Ratings and their corresponding Risk and Construction

Bushfire Attack Level (BAL)	BAL Risk Rating	Description of predicted bushfire attack	Construction Provisions AS3959-2018
BAL - LOW	VERY LOW	Minimal attack from radiant heat and flame due to the separation distance of the building from the vegetation (hazard). Some attack from burning debris is possible.	N/A – insufficient threat to warrant bushfire construction standards.
BAL – 12.5	LOW	Attack from burning debris is significant with radiant heat not greater than 12kW/m ² . Specific construction requirements for ember attack and accumulation of debris are warranted.	Sections 3 & 5 – Specific construction required for ember protection & accumulation of burning debris.
BAL - 19	MODERATE	Attack from burning debris is significant with radiant heat flux (not greater than 19kW/m ² threatening some building elements. Specific construction requirements for ember attack and radiant heat are warranted.	Sections 3 & 6 – Specific construction for protection against ember attack & radiant heat is necessary.
BAL - 29	HIGH	Attack from burning debris is significant with radiant heat flux (not greater than 29kW/m ² threatening building integrity. Specific construction requirements for ember attack and radiant heat are warranted.	Sections 3 & 7 – Specific construction for protection against ember attack and higher radiant heat is necessary.
BAL - 40	VERY HIGH	Radiant heat flux and potential flame contact could threaten building integrity.	Sections 3 & 8 – Buildings must be designed & constructed to withstand extreme radiant heat & potential flame contact.
BAL - FZ	EXTREME	Significant radiant heat and significant higher likelihood of flame contact from the fire front will threaten building integrity and result in significant risk to residents.	Flame zone construction requires an alternate solution & is outside the scope of the DTS requirements of AS3959-2018.

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SECTION 4 RECOMMENDED BUSHFIRE PROTECTION MEASURES

The intent of bushfire protection measures (BPM's) prescribed under PBP (section 7.4 – Infill Development) is given as follows:

To minimize the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

The following BPM's are recommended in accordance with the intent of measures of PBP.

4.1 Landscaping / Asset Protection Zone (APZ) Recommendations

An Asset Protection Zone (APZ) is a buffer zone located between a bushfire hazard and buildings that is designed to mitigate the risk to life and property. This area is managed to minimise fuel loads and reduce potential radiant heat levels, flame, ember and smoke attack at the building elevation.

RECOMMENDATION 1.

That at the commencement of building works (and in perpetuity) the yard area of the subject property is landscaped and maintained in accordance with Asset Protection Zone (Inner Protection Area – IPA) standards.

The above recommendation should ensure that no easily combustible material, structures, available forest fuel/ bushfire vegetation or other items be installed, stored or allowed to re-accumulate and become contiguous within the yard area. Trees planted within the IPA should be well spread out and should not form a continuous canopy. The IPA extent should not support or carry a running bush fire towards the subject development site and associated infrastructure.

The Inner Protection Area should be managed in terms of PBP 2019 A4.1.1 which states:

'The IPA is the area closest to the building and creates a fuel-managed area which can minimise the impact of direct flame contact and radiant heat on the development and act as a defendable space. Vegetation within the IPA should be kept to a minimum level. Litter fuels within the IPA should be kept below 1cm in height and be discontinuous'.

Landscaped areas within the APZ are to be maintained in accordance with the following documents:

- 1. PBP 2019: Appendix 4: Asset Protection Zone Requirements (refer Appendix 2 of this report);
- 2. Standards for Asset Protection Zones (NSW Rural Fire Service).

Based on the specifications of these documents, landscaping and maintenance within the IPA should ensure the following:





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- There is minimal fine fuel at ground level which could be set alight by a bushfire.
- A minimum 1-metre-wide area (or to the property boundary where the setbacks are less than 1
 metre) suitable for pedestrian traffic must be provided around the immediate curtilage of the
 building;
- · Planting is limited in the immediate vicinity of the building;
- Trees and shrubs planted within the APZ are of a low-flammability species (i.e., native and/ or introduced species) and should not directly abut the building.
- The use of non-combustible ground surfaces such as gravel paths and paved areas is encouraged, particularly surrounding the building envelope.
- Lawn areas are maintained low cut and clear (i.e., <100mm in height). There shall be minimal
 fine fuel at ground level which could be set alight by a bushfire.
- · Areas under fences, gates and trees are raked and kept clear of fine fuel.
- Gutters, roofs and roof gullies are kept clear of leaves and other debris.
- Verandas, decks, carports, courtyards etc. are not used to store combustible materials and shall be kept free of leaves and other debris.
- Trees may be retained within the IPA where:
 - · Trees at maturity should not touch or overhang the building.
 - Planting is restricted from the immediate vicinity of the building which may over time and if not properly maintained come into contact with the building.
 - Maximum tree cover should be less than 15% and maximum shrub cover less than 10%.
 - Planting should not provide a continuous canopy to the building (i.e., trees or shrubs should be isolated or located in small clusters). Tree canopies should be separated by 2 – 5 metres.

4.2 Construction Standard Recommendations – Flame Zone Construction

This assessment has determined that the proposed building development is located within the flame zone. The current prescriptive/ deemed to satisfy provisions of AS 3959-2018, although including construction requirements for this level of exposure (Flame Zone), are subject to a NSW State variation in PBP (Section 7.5.3) and therefore a performance-based solution is required.

PBP (Section 7.5.3) states:

'Although Chapter 9 of AS 3959 and the NASH Standard has not been adopted, they should still be used as a basis for a performance-based solution demonstrating compliance with the performance requirements of the NCC and PBP for construction in the flame zone'.





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RECOMMENDATION 2.

That the northern and eastern elevations (and entire roof area and subfloor) of the proposed eastern addition is constructed to BAL-FZ standards in accordance with Sections 3 and 9 (BAL-FZ) of Australian Standard AS 3959-2018 'Construction of buildings in bushfire-prone areas' (or the NASH Standard (1.7.14 updated) 'Steel Framed Construction in Bushfire Areas) as appropriate; and PBP Section 7.5.2 and Section 7.5.4 (Refer Appendix 3 of this report).

That the southern and western elevations of the proposed eastern addition; and the proposed workshop addition are constructed to BAL-40 standards in accordance with Sections 3 and 8 (BAL-40) of Australian Standard AS 3959-2018 'Construction of buildings in bushfire-prone areas' (or the NASH Standard (1.7.14 updated) 'Steel Framed Construction in Bushfire Areas) as appropriate; and PBP Section 7.5.2 and Section 7.5.4 (Refer Appendix 3 of this report).

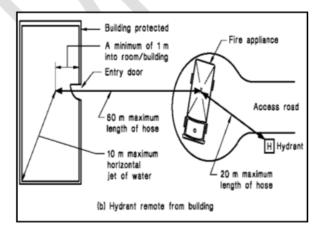
RECOMMENDATION 3.

That the existing dwelling (where not modified) is upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows (where not already protected by metal roller shutters), vents, weepholes and eaves. External doors are to be fitted with draft excluders.

4.3 Water Supply Recommendations

The subject site is serviced by the local reticulated (town) water supply with regularly spaced hydrants installed along the public road network. PBP acceptable solutions for a reticulated water supply area (relevant to the subject development) include:

Fire hydrant spacing, design and sizing complies with the relevant clauses of AS 2419.1 – 2005.







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It is noted that the distance from the most distant point of the subject dwelling to the nearest hydrant (refer Figure 4) is within that prescribed under AS 2419.1-2005 (depicted above).

RECOMMENDATION 4.

That any above ground and external water pipes (including taps) that are connected to the reticulated (town) water supply and are incorporated as part of the subject development are of metal design and manufacture.

4.4 Utilities (Gas and Electricity Supply) Recommendations

RECOMMENDATION 5.

- That any gas connection is installed and maintained in accordance with AS1596 and the requirements of relevant authorities; and
- All fixed gas cylinders are kept clear of all flammable materials to a distance of 10 metres and shielded on the hazard side of the installation (i.e., using non-combustible shielding material);
- Connections to and from gas cylinders are metal; and
- · Polymer-sheathed flexible gas supply lines are not used; and
- Above-ground gas service pipes are metal, including and up to any outlets.
- That any new or re-positioned electricity supply line servicing the subject development is located underground from the connection point at the property boundary to the building.
- For existing overhead electrical transmission lines no part of a tree is closer to the power line
 than the distance set out in accordance with the specifications in ISSC3 Guidelines for
 Managing Vegetation Near Power Lines.

4.5 Vehicle Access/Egress Recommendations

PBP (Table 7.4a) states: 'There are no specific access requirements in an urban area where an unobstructed path (no great than 70m) is provided between the most distant external part of the proposed dwelling 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'

A 70-metre unobstructed path exists between the most distant external part of the subject dwelling and nearest part of Elizabeth Drive supporting the use of an operational firefighting appliance. No additional access recommendations apply.

4.6 Bushfire/ Emergency Evacuation Recommendations

The preparation of bushfire emergency and evacuation procedures in bushfire prone areas has been





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shown to increase the chances of occupant and building survival in the event of bushfire attack. The NSW Rural Fire Service and Fire & Rescue NSW have formulated bushfire survival plans (readily available from their respective websites).

RECOMMENDATION 6.

That a bushfire survival plan shall be prepared for occupants of the dwelling. This plan shall be prepared in accordance with the relevant steps detailed by the NSW Rural Fire Service (http://www.rfs.nsw.gov.au/plan-and-prepare/bush-fire-survival-plan).





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SECTION 5 COMPLIANCE/NON-COMPLIANCE WITH PBP PERFORMANCE CRITERIA BUSHFIRE PROTECTION MEASURES FOR INFILL DEVELOPMENT.

Bushfire Protection Measure (BPM)	Performance Criteria	Comment
Asset Protection	> APZs are provided commensurate with the	Can Comply – Predicated on compliance with
Zones	construction of the building;	Recommendation 1. A defendable space/ APZ is provided
	> A defendable space is provided;	commensurate with the recommended construction
	> APZs are managed and maintained to	standard.
	prevent the spread of fire to the building;	
	> The APZ is provided in perpetuity;	
	> APZ maintenance is practical, soil stability	
	is not compromised and the potential for	
	crown fires is minimised.	
Access	> Firefighting vehicles are provided with safe,	Complies - Access is provided in accordance with the
	all-weather access to structures and hazard	performance criteria of PBP for operational firefighting and
	vegetation;	emergency egress.
	> The capacity of access roads is adequate	
	for firefighting vehicles;	
	> There is appropriate access to water	
	supplies;	
	> Firefighting vehicles can access the	
	dwelling and exit the property safely.	
Water Supplies	> An adequate water supply is provided for	Can Comply – Predicated on compliance with
	firefighting purposes;	Recommendation 4.
	> The integrity of the water supply is	
	maintained;	
	> A static water supply is provided for	
	firefighting purposes in areas where	
	reticulated water is not available.	
Electricity Services	> Location of electricity services limits the	Can Comply – Predicated on compliance with
	possibility of ignition of surrounding bush	Recommendation No. 5.
	land or the fabric of the building.	
Gas Services	> Location and design of gas services will not	Can Comply - Predicated on compliance with
	lead to ignition of surrounding bushland or	Recommendation No. 5.
	the fabric of buildings.	
Construction	> The proposed building can withstand bush	Can Comply – Predicated on compliance with the
Standards	fire attack in the form of embers, radiant heat	recommended bushfire construction standards and APZ
	and flame contact;	(Recommendations 1-3) the subject development can
	> Proposed fence and gates are designed to	achieve the performance requirements of the planning
	minimise the spread of bush fire;	legislation.
	> Proposed Class 10a buildings are designed	
	to minimise the spread of bush fire.	
Landscaping	> Landscaping is designed and managed to	Can Comply – Recommendation No. 1 of this report.
	minimise flame contact and radiant heat to	
	buildings, and the potential for wind-driven	
	embers to cause ignitions.	





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SECTION 6 ENVIRONMENTAL IMPACT OF ANY PROPOSED BUSHFIRE PROTECTION MEASURES

Bushfire Protection Measure	Likely Environmental Impact	Comment
APZ	Minor	Hazard reduction works; clearing, pruning and on-going vegetation management particularly within the front yard area of the subject property as required to comply with APZ (IPA) standards.
Construction Standard	Insignificant	New works to be constructed within approved building envelope.
Water Supply for fire fighting	Insignificant	N/A
Utility service protection	Insignificant	N/A
Vehicle Access	Insignificant	N/A

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CONCLUSION

Where the recommendations of this report are incorporated, it is considered that this development proposal can comply with *Planning for Bushfire Protection 2019*, as required under section 4.14 of the *Environmental Planning and Assessment Act 1979*.

The recommended bushfire protection measures include provision for landscaping and management of the yard area of the subject property in accordance with APZ standards; bushfire construction in accordance with the relevant bushfire construction standards; utility installation designed to reduce the potential for material ignition and fire spread; and bushfire emergency evacuation planning for occupants of the dwelling. These measures reasonably address the aim and objectives of PBP and are consistent with the relative and current bushfire risk to the subject site.

As infill development, the proposal can satisfy the intent of the performance criteria of PBP and as a considered opinion can reasonably facilitate PBP objectives in as far as;

- Affording buildings and their occupants protection from exposure to bushfire;
- Providing for a defendable space to be located around buildings;
- Providing appropriate separation between a hazard and buildings which, in combination with other measures, prevent the likely fire spread to buildings;
- Ensure that appropriate operational access and egress for emergency service personnel and occupants is available;
- Provide for ongoing management and maintenance of bushfire protection measures; and
- Ensure that utility services are adequate to meet the needs of firefighters.

Should any of the above information require clarification or further discussion, please contact the undersigned.

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Kieran Taylor

BUSHFIRE & EVACUATION SOLUTIONS

Bushfire Planning & Design Consultant

Graduate Diploma Design for Bushfire Prone Areas (with Distinction)

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REFERENCES/ FURTHER READING

Australian Standard 3959-2018, Construction of buildings in bushfire prone areas – Standards Australia.

Environmental Planning and Assessment Act (1979) – NSW Government Printer.

- Section 4.14 Consultation and Development Consent Certain Bushfire Prone Land
- Section 10.3 Bushfire Prone Land

Rural Fires Act (1997) - NSW Government Printer

Landscape and building design for bushfire areas (2003) – Ramsay G C & Rudolf L, CSIRO Publishing, Collingwood Victoria.

National Construction Code (2019) - Australian Building Codes Board, Canprint.

Ocean shores to desert dunes: the native vegetation of NSW and the ACT (2004) – Keith D, NSW Dept of Environment and Conservation, Hurstville NSW.

Planning for Bushfire Protection. A guide for councils, planners, fire authorities and developers (2019) – NSW Rural Fire Service.

Standards for Asset Protection Zones - NSW Rural Fire Service





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Appendix 1: PBP Table A1.12.5

ermination of BAL, FFDI 100 - residential dev					
	оторителия	4			
TH VEGETATION FORMATION	BAL-FZ	BUSH FI BAL-40	RE ATTACK LEV BAL-29	EL (BAL) BAL-19	BAL-1
A STATE OF THE STA		Distance (m) asse	et to predominar	it vegetation cla	
Rainforest	< 8	8 -< 11	11 -< 16	16 -< 23	23-<1
Forest (wet and dry sclerophyll) including Coastal Swamp Forest, Pine Plantations and Sub-Alpine Woodland	< 18	18 -< 24	24 -< 33	33 -< 45	45 -< 1
Grassy and Semi-Arid Woodland (including Mallee)	< 9	9-<12	12 -< 18	18 -< 26	26 -< 1
Forested Wetland (excluding Coastal Swamp Forest)	< 7	7-<10	10 < 14	14 -< 21	21 -< 1
Tall Heath	< 12	12 -< 16	16 -< 23	23 -< 32	32 -< 1
Short Heath	< 7	7.<9	9 -< 14	14 -< 20	20 -< 1
Arid-Shrublands (acada and chenopod)	< 5	5 -< 6	6 -< 9	9 -< 14	14 -< 1
Freshwater Wetlands	< 4	4 < 5	5 < 7	7 -< 11	11 -< 1
Grassland	< 8	8 -< 10	10 -< 15	15 -< 22	22 -<
Rainforest	< 11	11-€14	14 -< 21	21-< 29	29 -< 1
Forest (wet and dry sclerophyll) including Coastal Swamp Forest, Pine Plantations and Sub-Alpine Woodland	< 22	22 -< 29	29 -< 40	40 -< 54	54 -< 1
Grassy and Semi-Arid Woodland (Including Mallee)	< 12	12 -< 16	16 -< 23	23 -< 32	32-<1
Forested Wetland (excluding Coastal Swamp Forest)	< 9	9 -< 12	12 -< 18	18 -< 26	26 -< 1
Tall Heath	< 13	13 -< 18	18 -< 26	26 -< 36	36 -< 1
Short Heath	< 8	fi -< 10	10 -< 15	15 -< 22	22 - < 1
Arid-Shrublands (acada and chenopod)	<5	5-<7	7 -< 11	11 << 16	16 -< 1
Freshwater Wetlands	<4	4 -< 6	6-<8	8 -< 12	12 -< 1
Grassland	< 9	9 < 12	12 -< 17	17 -< 25	25 ≺
Rainforest	<14	14 -< 18	18 -< 26	26 - 5 37	37 - < 1
Forest (wet and dry sclerophyll) including Coastal Swamp Forest, Pine Plantations and Sub-Alpine Woodland	< 28	28 -< 36	36 -< 49	49 -< 65	65 -< 1
Grassy and Semi-Arid Woodland (including Mallee)	< 15	15 < 20	20 -< 28	28 - < 39	39 -< 1
Forested Wetland (excluding Coastal Swamp Forest)	< 12	12 -< 16	16 -< 23	23 -< 33	33-<1
Tall Heath	< 15	15 < 20	20 -< 29	29 < 40	40 -<
Short Heath	< 9	9 -< 12	12 -< 18	18 -< 25	25 -< 1
Arid-Shrublands (acada and chenopod)	< 6	6 -< 8	8 -< 12	12 -< 18	18 -< 1
Freshwater Wetlands	<5	5-<6	6-<10	10 -< 14	14-<1
Grassland	< 10	10 -< 13	13 -< 20	20 -< 28	28 -<
Rainforest	< 17	17 -< 23	23 -< 34	34-<46	46 -< 1
Forest (wet and dry sclerophyll) including Coastal Swamp Forest, Pine Plantations and Sub-Alpine Woodland	< 36	36 -< 45	45 < 60	60 -< 77	77 -< 1
Grassy and Semi-Arid Woodland (including Mallee)	< 19	19 -< 25	25 -< 36	36 -< 49	49 -< 1
Forested Wetland (excluding Coastal Swamp Forest)	< 15	15 -< 20	20 -< 29	29 -< 41	41-<1
Tall Heath	< 17	₩ -< 22	22 -< 32	32 < 44	44 - € 1
Short Heath	< 10	10 -< 13	13 -< 20	20 -< 29	29 -< 1
Arid-Shrublands (acada and chenopod)	< 7	7-<9	9 -< 14	14 -< 20	20 -< 1
Freshwater Wetlands	< 5	5-<7	7 -< 11	11 -< 16	16 -< 1
Grassland	<11	11-< 15	15 -< 23	23 -< 32	32 ≺
Rainforest	< 23	23 -< 30	30 -< 42	42 -< 56	56 -< 1
Forest (wet and dry sclerophyll) including Coastal Swamp Forest, Pine Plantations and Sub-Alpine Woodland	< 46	46 ~ 56	56 ≪ 73	73 -< 92	92-<1
Grassy and Semi-Arid Woodland (including Mallee)	< 24	24 -< 32	32 -< 44	44 -< 59	59 -< 1
Forested Wetland (excluding Coastal Swamp Forest)	< 19	19 -< 26	26 -< 37	37 -< 50	50 -< 1
Tall Heath	< 19	19 -< 25	25 -< 36	36 -< 49	49 -< 1
Short Heath	< 11	11-< 15	15 -< 23	23 -< 32	32 -< 1
Arid-Shrublands (acada and chenopod)	< 7	7-<10	10 -< 16	16 -< 23	23 -< 1
Freshwater Wetlands	< 6	6 -< 8	8 -< 13	15 -< 18	18 -< 1
Grassland	<13	13 -< 17	17 -< 26	26 -< 36	36 ≪





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Appendix 2: PBP 2019 - APZ Profile/ description

A4.1 Asset protection zones

An APZ is a fuel-reduced area surrounding a built asset or structure.

For a complete guide to APZs and landscaping, download the NSW RFS document Standards for Asset Protection Zones at:

www.rfs.nsw.gov.au/resources/publications.

An APZ provides:

- a buffer zone between a bush fire hazard and an asset
- an area of reduced bush fire fuel that allows suppression of fire
- an area from which backburning or hazard reduction can be conducted,
- an area which allows emergency services access and provides a relatively safe area for firefighters and home owners to defend their property.

Potential bush fire fuels should be minimised within an APZ. This is so that the vegetation within the planned zone does not provide a path for the transfer of fire to the asset either from the ground level or through the tree concopy.

An APZ, if designed correctly and maintained regularly, will reduce the risk of:

- > direct flame contact on the asset
- damage to the built asset from intense radiant heat
- ember attack.

The APZ should be located between an asset and the bush fire hazard.

The methodology for calculating the required APZ distance is contained within Appendix 1. The width of the APZ required will depend upon the development type. APZS for new development are set out within Chapters 5, 6 and 7 of this document.

In forest vegetation, the APZ can be made up of an inner protection area (IPA) and an outer protection area (OPA).

Inner protection areas (IPAs)

The IPA is the area closest to the asset and creates a fuel-managed area which can minimise the impact of direct flame contact and radiant heat on the development and be a defendable space. Vegetation within the IPA should be kept to a minimum level. Litter fuels within the IPA should be kept below Icm in height and be discontinuous.

In practical terms the IPA is typically the curtilage around the dwelling, consisting of a mown lawn and well maintained gardens.

When establishing and maintaining an IPA the following requirements apply:

Trees

- > 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 ground
- canopies should be separated by 2 to 5m
- 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
- > shrubs should not be located under trees
- shrubs should not form more than 10% ground cover
- cover

 clumps of shrubs should be separated from
 exposed windows and doors by a distance of at
 least twice the height of the vegetation.

Grass

- should be kept mown (as a guide grass should be kept to no more than 100mm in height)
- > leaves and vegetation debris should be removed.

Outer protection areas (OPAs)

An OPA is located between the IPA and the unmanaged vegetation. Vegetation within the OPA can be managed to a more moderate level. The reduction of fuel in this area substantially decreases the intensity of an approaching fire and restricts the pathways to crown fuels; reducing the level of direct flame, radiant heat and ember attack on the IPA.

Because of the nature of an OPA, they are only applicable in forest vegetation.

In practical terms the OPA is an area where there is maintenance of the understorey and some separation in the canopy.

When establishing and maintaining an OPA the following requirements apply:

Trees:

- > tree canopy cover should be less than 30%
- > trees should have canopy separation
- > canopies should be separated by 2 to 5m

Shrubs:

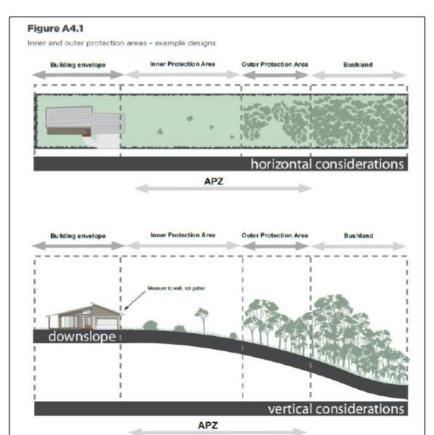
- > shrubs should not form a continuous canopy
- shrubs should form no more than 20% of ground cover

Grass:

- should be kept mown (as a guide grass should be kept to no more than 100mm in height)
- > leaf and other debris should be mown, slashed or

An APZ should be maintained in perpetuity to ensure ongoing protection from the impact of bush fires. Maintenance of the IPA and OPA to the standards given above should be undertaken on an annual basis, in advance of the fire season, as a minimum.









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Appendix 3: PBP 2019 - section 7.5.2 - 7.5.4

7.5.2 NSW State Variations under G5.2(a) 7.5.4 Flaming (i) and 3.10.5.0(c)(i) of the NCC

Certain provisions of AS 3959 are varied in NSW based on the findings of the Victorian Bush Fires Royal Commission and bush fire industry research

The following variations to AS 3959 apply in NSW for the purposes of NSW G5.2(a)(i) of Volume One and NSW 3.10.5.0(c)(i) of Volume Two of the NCC;

- > clause 3.10 of AS 3959 is deleted and any sarking used for BAL-12.5, BAL-19, BAL-29 or BAL-40 shall: > be non-combustible; or
 - > comply with AS/NZS 4200.1, be installed on the outside of the frame and have a flammability index of not more than 5 as determined by AS 1530.2; and
- clause 5.2 and 6.2 of AS 3959 is replaced by clause 7.2 of AS 3959, except that any wall enclosing the subfloor space need only comply with the wall requirements for the respective BAL; and
- > clause 5.7 and 6.7 of AS 3959 is replaced by clause 7.7 of AS 3959, except that any wall enclosing the subfloor space need only comply with the wall requirements for the respective BAL;
- fascias and bargeboards, in BAL-40, shall comply
 - > clause 8.4.1(b) of AS 3959; or > clause 8.6.6 of AS 3959

7.5.3 Construction in the flame zone

The flame zone is the area that has significant potential for sustained flame contact during a bush fire. The flame zone is determined by the calculated distance at which the radiant heat of the design fire exceeds 40kW/m

The NCC references AS 3959 and the NASH Standard. The NSW variation to the NCC excludes both AS 3959 and the NASH Standard as a Deemed to Satisfy solution for buildings that are required to be constructed to BAL-FZ as defined in AS 3959

Although Chapter 9 of AS 3959 and the NASH Standard has not been adopted, they should still be used as a basis for a performance based solution demonstrating compliance with the performance requirements of the NCC and PBP for construction in the flame zone.

All fiame zone developments should be sited and designed to minimise the risk of bush fire attack. Buildings should be designed and sited in accordance with appropriate siting and design principles to ensure the safest protection from bush fire impacts.

Materials that allow flaming can be problematic and are not supported by the NSW RFS for the following reasons:

- flaming materials increase the exposure of other elements of construction and the adjoining structure to flame contact after a bush fire front has passed; and
- flaming materials will potentially increase the exposure of occupants of the building to radiant heat, direct flame contact, smoke after a bush fire front has passed.

This increase in exposure can contribute to the risk of loss of life and compromise the ability of residents to defend their property and egress from the building once the bush fire front has pass

In addition, it can reduce the ability of occupants to make safe and effective decisions about their safety

Where there is potential for materials of construction to ignite as a result of bush fire attack, the proposed building solution generally fails the construction performance criteria for residential infill development.

For development which may be subject to flame contact (BAL-40 and BAL-FZ), systems tested in accordance with AS 1530.8.1 and AS 1530.8.2 respectively will be considered, except that there is to be no flaming of the specimen except for

- > window frames that have passed the criteria of AS 1530.8.1 and AS 1530.8.2, may be approved provided their flaming is not considered to empromise the safety of other elements of the building; and
- use of other minor elements which allow flaming may be considered provided they do not compromise the integrity of the fire safety of the building (examples include address numbers, house names, decorative artwork, etc).

Flaming of other more significant elements of the building (such as aesthetic wall cladding) is considered to pose an unacceptable risk and will not

7.6 Fences and gates

Fences and gates in bush fire prone areas may play a significant role in the vulnerability of structure during bush fires. In this regard, all fences in bush fire prone areas should be made of either hardwood or non-combustible material.

However, in circumstances where the fence is within 6m of a building or in areas of BAL-29 or greater, they should be made of non-combustible material only.









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

shoalhaven.nsw.gov.au/contact | 1300 293 111

shoalhaven.nsw.gov.au 🖪 🛭 🗖 🕶 💆

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	DA24/1462
Applicant	Kennards Self Storage
Description of development	Demolition of main existing building & construction of two new multi-storey self-storage buildings, construction of two new smaller buildings (Building 4 next to existing Building 3, and Building 8 next to existing Building 7), construction of a new driveway and circulation area, car parking, landscaping works and business identification signage
Property	177 Princes Highway SOUTH NOWRA Lot 23 DP841302
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.
 - 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.

וחואט	TIONS					REASON
ONDI	110143	NEASON				
1.	Approved	plans and su	pporting docu	mentation		To ensur
	following a	approved plan	carried out ins and docum ontexpressly rea	nents, excep	t where the	
	Approved P	lans				documents.
	Plan Number	Revision Number	Plan Title	Drawn by	Date of Plan	
	22-046 DA002	В	Demolition Plan	MCHP Architects	19/1/24	
	22-046 DA010	N	Proposed Site Plan	MCHP Architects	17/2/25	
	22-046 DA100	F	Building 1 – Ground Floor Plan	MCHP Architects	28/6/24	
	22-046 DA101	F	Building 1- First Floor Plan	MCHP Architects	28/6/24	
	22-046 DA102	F	Building 1- Second Floor Plan	MCHP Architects	28/6/24	
	22-046 DA103	F	Building 1- Third Floor Plan	MCHP Architects	28/6/24	
	22-046 DA104	D	Building 1- Roof Plan	MCHP Architects	19/1/24	_
	22-046 DA105	E	Building 2- Ground Floor Plan	MCHP Architects	28/6/24	
	22-046 DA106	E	Building 2- First Floor Plan	MCHP Architects	28/6/24	
	22-046 DA107	E	Building 2- Second Floor Plan	MCHP Architects	28/6/24	



22-046 DA108	E	Building 2- Third Floor Plan	MCHP Architects	28/6/24
22-046 DA109	С	Building 2- Roof Plan	MCHP Architects	19/1/24
22-046 DA110	С	Building 4 - Ground Floor & Roof Plan	MCHP Architects	19/6/24
22-046 DA112	С	Building 8 - Ground Floor & Roof Plan	MCHP Architects	19/6/24
22-046 DA200	D	Building 1 - North & East elevation		19/1/24
22-046 DA201	D	Building 1 South & West elevation	MCHP Architects	19/1/24
22-046 DA202	С	Building 2 North & East elevation	MCHP Architects	19/1/24
22-046 DA203	С	Building 2 South & West elevation	MCHP Architects	19/1/24
22-046 DA204	В	Building 4 North, South & West elevations	MCHP Architects	19/1/24
22-046 DA206	В	Building 8 North, South & East elevations	MCHP Architects	19/1/24
22-046 DA207	D	Building 1 – Sections	MCHP Architects	19/6/24
22-046 DA208	D	Building 2 – Sections	MCHP Architects	19/6/24
22-046 DA209	С	Building 4 – Sections	MCHP Architects	19/6/24
22-046 DA211	С	Building 8 – Sections	MCHP Architects	19/6/24
22-046 DA212	A	Building 1 – Sections	MCHP Architects	21/6/24
22-046 DA213	A	Proposed Retaining Wall	MCHP Architects	21/6/24
22-046 DA600	В	Signage Plan	MCHP Architects	19/1/24



	LPDA24- 238	В	Land: Site F	scape lan	Conzept Landsca Architect	ре	26/6/24	
	LPDA24- 238 Sheet 1	В	Land Site F	lan	Conzept Landsca Architect	ре	26/6/24	
	LPDA24- 238 Sheet 2	В	Land: Plan	scape	Conzept Landsca Architect	ре	26/6/24	
	LPDA24- 238 Sheet 3	В	Detai Spec	ls & fications	Conzept Landsca Architect	ре	26/6/24	
	Approved Doo	cuments						
	Document titl	le	Version number	Prepare	ed by	Date doc	e of ument	
	Integrated Cycle Mana Study	Water gement	В	JN Re Engine	esponsive ering	20.0	02.2024	
	Waste Mana Plan	gement	-	Kennar Storage		03.0	06.2024	
	In the event condition of	-		-			plans and a	
2.	Existing Infr Any required the develope	d alterat	ions or da	mage to	infrastru	uctui	re will be at	To ensure existing infrastructure is accounted for
	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.						and any damage to infrastructure is suitably repaired.	
3.	Prescribed Conditions The development must comply with Part 4, Division 2, Subdivision 1, of the Environmental Planning and Assessment Regulation 2021, as applicable.						To ensure compliance with prescribed conditions.	
4.	Shoalhaven Water – Compliance with Conditions 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						To ensure compliance with Shoalhaven Water requirements.	



	Water and evidence provided to the Certifier for each applicable stage.	
5.	Habitat Modification, Removal and Management - no clearing work proposed This consent does not permit removal or disturbance of native vegetation on the property, including but not limited to, canopy trees, understorey and groundcover vegetation.	To retain native vegetation and habitat for native wildlife, including threatened species
6.	Concurrence and Referral – Department of Planning and Environment - Water The General Terms of Approval issued by Department of Planning and Environment - Water, Reference No: IDAS-2024-10532 dated 26 February 2025 are included as conditions of this consent and must be complied with.	To ensure compliance with external concurrence and referral advice.
7.	Concurrence and referral – NSW Rural Fire Service The recommendation issued by NSW RFS, Reference No: DA20240724003009 dated 5 August 2025 are included as conditions of this consent and must be complied with.	To ensure compliance with external concurrence and referral advice.
8.	Concurrence and Referral – Endeavour Energy The recommendation issued by Endeavour Energy dated 24/7/24 are included as conditions of this consent and must be complied with.	To ensure compliance with external concurrence and referral advice.
9.	Occupation - Satisfaction of Conditions of Consent The development must not be occupied or used before an Occupation Certificate has been issued by the Principal Certifier. If an Occupation Certificate is not required, the use must not commence until all conditions of development consent have been met or other satisfactory agreements have been made with Council (i.e., a security).	To ensure conditions of consent are complied with or other satisfactory arrangement made.



10.	First Use Approval – Retail Tenancy No approval is given for the use of the 'retail tenancy' as marked on the architectural plans. In this regard, a separate first use approval must be obtained for use of this tenancy.	To ensure that approval requirements for the retail tenancy are appropriately assessed
11.	Exposure Risk Assessment An Exposure Risk Assessment must be prepared, prior to any demolition works commencing on the site, which: a) Provides a description of the potential for exposure to any contaminants; and b) Provides control measures to ensure the risk is appropriately managed during the carrying out of demolition works. The Exposure Risk Assessment must be implemented for the life of the demolition works.	To ensure risk to personnel is appropriately managed
12.	Detailed Site Investigation (DSI) Detailed Site Investigation (DSI) must be undertaken by a suitably qualified person and in accordance with the NSW Environment Protection Authority (EPA) - Guidelines for Consultants Reporting on Contaminated Sites. The DSI must be submitted to Council's Senior Environmental Health Officer for review prior to works being undertaken.	To ensure correct handling of contaminated sites.
13.	Remediation Action Plan (RAP) Where sub-soils are required to be disturbed, a Remediation Action Plan (RAP) must be prepared for the site (subject to the findings of the DSI) that has been prepared by a suitably qualified person and in accordance with the EPA Guidelines for Consultants Reporting on Contaminated Sites. The RAP must be submitted to Council's Senior Environmental Health Officer for review prior to works being undertaken.	To ensure correct handling of contaminated sites.
	ITION WORK Demolition Work Commences	
CONDIT	TIONS	REASON



14.	Demolition - Decommissioning of Services
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Before demolition work commences:

- 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.
- Internal water lines must be disconnected from the existing water meter currently servicing the property.
- c) The capped off sewer junction and disconnected water lines must be inspected by Shoalhaven Water. For all inspections contact Shoalhaven Water on 4429 3569.

The developer must provide the Certifier with evidence of compliance with the above requirements on completion of works.

To ensure services are appropriately decommissioned and capped off where required.

DEMOLITION WORK

During Demolition Work

CON	DITIONS	REASON	
1	Demolition – Standards Demolition work must be carried out in accordance with all applicable Australian Standards and SafeWork Code of Practice.	To ensure demolition works are carried out appropriately.	
10	Asbestos removal must be carried out in accordance with AS2601-2 SafeWork NSW – Code of Practice, Demolition Work [ISBN 978-0-642-78415-5] and as applicable, by a person holding the relevant licence issued by SafeWork NSW.	To ensure demolition works are carried out appropriately.	
	A licence is not required to remove less than 10m² of non-friable asbestos, provided that the total amount of non-friable asbestos removed from the lot does not exceed 10m². Asbestos must be taken for disposal to the licensed Waste		
	Management Facility identified in the approved Waste Management Plan.		
	Post asbestos removal and before further work on the site, the following must be submitted to the Certifier:		
	 a) A clearance certificate issued by a licensed asbestos assessor or competent person as required by the Work, 		



Health and Safety Regulation 2017 for the specific type of asbestos removal work confirming that the area has been cleaned satisfactorily and is safe to be re-occupied for normal use.

- 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 nonfriable asbestos from the lot.
- Documentary evidence of the legitimate disposal of all asbestos in the form of tip receipts from an approved waste management facility.

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

DEMOLITION WORK

On Completion of Demolition Work

CONDITIONS		REASON	
	17.	Demolition - Completion of Works Demolition work, once commenced, must be completed within three (3) months.	To ensure demolition works are completed within an acceptable timeframe.

BUILDING WORK

CONDITIONS

Before Issue of a Construction Certificate

CONDITIONS		REASON			
18.	Council Approvals – Evidence		sure	all	
	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.	approvals	ls	are	



19.	Existing Infrastructure Any required alterations or damage to infrastructure will be at the developer's expense. 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.	To ensure existing infrastructure is accounted for and any damage to infrastructure is suitably repaired.
20.	National Construction Code – Clause 64 Upgrade (Partial) Pursuant to clause 64 of the Environmental Planning and Assessment Regulation 2021 it is required that the existing buildings shown as Buildings 3 and 7 are upgraded to partial conformity with the Performance Requirements of the National Construction Code (NCC). In this regard, the buildings are required to meet compliance with the performance requirements of the NCC in respect to the following: a) External walls within three (3) metres of a fire source feature have the Fire Resistance Level required to comply with Type C construction. Before the issue of Construction Certificate, evidence must be provided to the Certifier, detailing how the existing building will be upgraded to partial conformity, as outlined above, with the NCC in force at the date of issue of the Construction Certificate.	To ensure compliance with the NCC.
21.	Access for People with a Disability Before the issue of a Construction Certificate, plans and specifications must be provided to the satisfaction of the Certifier, detailing how the building will comply with Access for People with a Disability in the National Construction Code (NCC) in force at the date of issue of the Construction Certificate. Section 68 Application – Water Supply, Sewerage and Stormwater Drainage Before the issue of a Construction Certificate, an application for water supply, sewerage and stormwater drainage, (as required)	To ensure appropriate disabled access is provided. To ensure relevant approvals are obtained.
23.	must be approved under section 68 of the Local Government Act 1993. Retaining Walls - Design Standards	To ensure retaining walls



Before the issue of a Construction Certificate for approved retaining walls exceeding 600mm in height and/or within 1m of a property boundary, detailed design plans must be prepared and submitted to the Certifier for approval. The retaining walls must satisfy the following:

are appropriately designed.

- a) For retaining walls exceeding 600mm in height a professional engineer has certified the retaining walls as structurally sound, including in relation to (but not limited to) the ability to withstand the forces of lateral soil load; and
- b) For retaining walls less than 600mm in height the Certifier must be satisfied that the retaining walls are structurally sound, including in relation to (but not limited to) the ability to withstand the forces of lateral soil load.
- Retaining walls, footings and drainage must be contained wholly within the development site.
- d) Construction within a registered easement is prohibited.

Retaining walls not shown on the approved plan must meet the criteria for Exempt retaining walls and comply with the relevant criteria listed in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, or be approved by way of Complying Development before construction and comply with the relevant criteria listed in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

24. Biodiversity - Construction Environmental Management Plan

Before the issue of a Construction Certificate, a Construction Environment Management Plan (CEMP) is to be prepared outlining all environmental mitigation measures during construction, including but not limited to, riparian protection fencing, unexpected finds protocol, erosion and sediment control measures, drainage, access and waste disposal.

The CEMP is to be provided to Shoalhaven City Council for review and approval.

The CEMP is to include all relevant environmental measures prescribed by these conditions.

To ensure an appropriate Construction Environmental Plan has been prepared.

25. 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):

To ensure applicable local infrastructure contributions are collected.



Project	Description	Rate	Qty	Total	GST	GST Incl
CWFIRE2001	Citywide Fire & Emergency services	\$162.05	19.98	\$3,237.76	\$0.00	\$3,237.76
CWFIRE2002	Shoalhaven Fire Control Centre	\$237.08	19.98	\$4,736.86	\$0.00	\$4,736.86
CWMGMT3001	Contributions Management & Administration	\$797.46	1.00	\$797.46	\$0.00	\$797.46
				0.1	Totale	£0.770.00

Sub Total: \$8,772.08 GST Total: \$0.00 Estimate Total: \$8.772.08

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.

The Contributions Plan 2019 can be accessed on Councils website www.shoalhaven.nsw.gov.au or may be inspected on the public access computers at the libraries and the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.

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)

26. Housing and Productivity Contribution

Before the issue of a construction certificate, the housing and productivity contribution (HPC) set out in the table below is required to be made.

Housing and productivity contribution	Amount
Housing and productivity contribution (base component)	\$180,308.44
Total housing and productivity contribution	\$180,308.44

The HPC must be paid using the NSW planning portal.

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).

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.

To require contributions towards the provision of regional infrastructure



	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.	
27.	Long Service Levy 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 Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to the Certifier.	To ensure compliance with long service levy requirements.
28.	Flooding – Building Design Before the issue of a Construction Certificate, a professional engineer, (as defined in the National Construction Code) must submit to the satisfaction of the Certifier, certification that the following items have been detailed on the construction drawings: a) All floor levels must be constructed at or above the Flood Planning Level (2050 scenario 1% Annual Exceedance Probability flood level plus 500mm freeboard) as documented on a Flood Certificate obtained from Council that is based on the latest flooding information held. b) Any portion of the structure below the 2050 scenario Flood Planning Level must be built from flood compatible materials. c) All electrical installations must be constructed above the 2050 scenario Flood Planning Level or be able to be isolated prior to a flood event.	To ensure appropriate design is undertaken before works commence.
29.	Water Sensitive Urban Design – Private Devices 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.	To ensure stormwater infrastructure is designed appropriately.

То

stormwater infrastructure is

ensure



31.

Manual

The drainage design must also not include any uncoated metal (i.e. Copper etc.) surfaces such as roofs, facades and/or downpipes. 30. Water Sensitive Urban Design - Water Quality, Retention and Reuse Before issue of a Subdivision Works Certificate, a detailed design of permanent water quality, retention and reuse devices must be certified by a professional engineer, (as defined in the National Construction Code) who can demonstrate the appropriateness of the proposed design for the site in accordance with Council's Engineering Design and Construction Specifications and is to be approved by Council. Specifications can be found on Council's website. The stormwater treatment, retention and reuse design must comply with the following: a) A stormwater treatment plan consisting of: i) 6 x Ocean Guards treating new pavement, including the new carpark fronting the site and the central pavement between the two new buildings as a primary treatment; and ii) 2 x Jellyfish proprietary devices. b) For proprietary treatment devices, documentation from the supplier providing evidence that the proposed device has been appropriately sized for the contributing catchment must be submitted. Documentation from an independent performance evaluation and accepted pollutant removal efficiency claims consistent with national stormwater quality improvement device evaluation protocol (SQIDEP) must be submitted with the	
Before issue of a Subdivision Works Certificate, a detailed design of permanent water quality, retention and reuse devices must be certified by a professional engineer, (as defined in the National Construction Code) who can demonstrate the appropriateness of the proposed design for the site in accordance with Council's Engineering Design and Construction Specifications and is to be approved by Council. Specifications can be found on Council's website. The stormwater treatment, retention and reuse design must comply with the following: a) A stormwater treatment plan consisting of: i) 6 x Ocean Guards treating new pavement, including the new carpark fronting the site and the central pavement between the two new buildings as a primary treatment; and ii) 2 x Jellyfish proprietary devices. b) For proprietary treatment devices, documentation from the supplier providing evidence that the proposed device has been appropriately sized for the contributing catchment must be submitted. Documentation from an independent performance evaluation and accepted pollutant removal efficiency claims consistent with national stormwater quality improvement device evaluation protocol (SQIDEP) must be submitted with the	
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MUSIC report to support their use in MUSIC. c) The WSUD strategy must be able to remove 80% of Total Suspended Solids (TSS), 45% of Total Nitrogen (TN) and 45% of Total Phosphorus (TP) for the total site area as demonstrated using MUSIC software. The detailed MUSIC model must be provided to Council for acceptance. d) The post-development duration of stream forming flows must be no greater than a stream erosion index of 2.	

Water Sensitive Urban Design - Operation and Maintenance

Adopted WSUD Management, Operation and Maintenance Manual/s for the permanent water quality facilities must be



submitted to Council before the issue of the Construction Certificate. The manuals must be prepared by a suitably qualified professional in accordance with the objectives and criteria identified in the approved Integrated Water Cycle Management Plan.

designed appropriately.

32. Erosion and Sediment Controls – Erosion and Sediment Control Plan

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.

All plans must include:

- a) Site access location and stabilisation details and restrictions;
- b) Erosion control locations and types;
- c) Sediment control locations and types;
- d) Soil, water and drainage management plans;
- e) Site rehabilitation details;
- f) Inspection and maintenance details;
- g) Identification of existing vegetation and site revegetation to have 70% cover established before plan is decommissioned;
- Existing and final contours (clearly distinguished and adequately annotated);
- 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.

not be decommissioned until at least 70% revegetation cover has been established.

To ensure ongoing compliance.



33. Car Parking Design Standards

Prior to the issue of a Construction Certificate, certified engineering design plans and specifications must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The car parking and access design must comply with the following:

- a) Generally in accordance with the approved plans
- b) AS2890.1 and AS2890.6 where relevant.
- c) Constructed in accordance with the following:
 - i) for light vehicular loading
 - ii) with an asphaltic concrete (AC) flexible pavement designed and constructed for a minimum traffic loading of 1 x ¹⁰⁶ 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
- d) Bordered in accordance with Council's Standard Drawings by:
 - concrete kerbing, except where surface runoff is concentrated, in which case concrete integral kerb and gutter must be constructed.
 - ii) a concrete edge strip (min 150mm wide and 300mm deep).

34. Stormwater - Car Park Drainage Design Standards

Before 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.

- a) The stormwater drainage design must comply with the following:
- b) The approved stormwater concept plans prepared by Jones Nicholson (Drawing No: N0231365 – CSK01, Rev: B) on 20th February 2024
- Major and minor drainage systems in accordance with Council's Engineering Design Specifications - Section D5 -Stormwater Drainage Design.

To ensure carparking has been appropriately designed.

To ensure stormwater infrastructure is designed appropriately.



- d) The minor and major systems must be designed for a 18.13% AEP and 1% AEP rainfall events, respectively.
- e) Discharged by pipework or overland flow to Council's stormwater system in accordance with the following:
 - 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.
 - 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.
- 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.

35. Stormwater - Alteration to Existing System Design Standards

Before the issue of a Construction Certificate stormwater plans must be prepared by a Licensed Plumber or a professional engineer, (as defined in the National Construction Code), and submitted to the Certifier.

- a) Drainage must be designed and constructed in accordance with:
 - i) Generally, in accordance with the approved plans prepared by Jones Nicholson (Drawing No: N0231365 – CSK01, Rev: B) on 20th February 2024, subject to providing further scour protections at all outlet pipes
 - ii) the National Construction Code
- iii) Council's Engineering Design Specifications
- iv) Development Control Plan G2
- b) Design plans must demonstrate that:
 - any existing component of the stormwater system to be relied upon has been checked and certified to be in good condition and operating satisfactorily.

To ensure stormwater infrastructure is designed appropriately.



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.

c) 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.

36. Driveway - Design Standards (Urban)

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 minimum 20 MPa reinforced concrete, reinforced with minimum SL82 mesh, on a 150mm compacted fine crushed rock base with centrally placed slab and minimum 150mm 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) Provide swept paths for the design vehicle (19m Articulated Vehicle (AV)) at the entry and exit driveways without interfering with adjacent structures or encroaching onto southbound travel lane. Any modifications or realignment of the internal driveway kerb to achieve this swept path must be demonstrated on the design.

To ensure road and pavement infrastructure is appropriately designed.

BUILDING WORK

Before Building Work Commences

CONDITIONS REASON



37.	Appointment of Principal Certifier Before building/subdivision work commences a Principal Certifier must be appointed.	To ensure a Principal Certifier is appointed where required.
38.	Construction Certificate A Construction Certificate must be obtained from either Council or a certifier before any building work can commence.	To ensure a appropriate building and Subdivision Certificates are obtained.
39.	Dilapidation Report (Minor) 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. Note: A dilapidation report can comprise of video footage and photos of adjacent public infrastructure and relevant structures on adjoining properties.	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.



40.	Works within the Road Reserve – Submissions to Council	То	ensure
	Before undertaking any works within an existing road reserve, the	ongoing	
	developer must obtain the consent of Council under section 138	complian	ce.
	of the Roads Act, 1993.		
	The following details must be submitted to Council as part of the		

application:

- a) Any civil works design required by this consent.
- b) Evidence of the contractor's Public Liability Insurance to an amount of \$20 million.
- Name and contact information of the person responsible for all relevant works.
- d) A Traffic Control Plan prepared, signed, and certified by a person holding the appropriate Transport for NSW (TfNSW) accreditation.

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.

41. Construction Traffic Management Plan

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.

Details must include, but are not limited to:

- a) Stabilised site construction access location
- b) Proposed haulage routes for delivery of materials to the site
- c) Proposed haulage routes for spoil disposal from the site
- Traffic control planning for each of the various phases of construction and/or vehicle movements associated with construction
- e) Parking arrangements for construction employees and contractors
- Proposed maintenance of the haulage routes and access locations
- g) Name of the person responsible for such maintenance
- h) Loading / unloading areas
- i) Requirements for construction or work zones
- j) Pedestrian and cyclist safety

To ensure ongoing compliance.



	k) Speed zone restrictions.	
42.	Erosion and Sediment Control Prior to the commencement of any works, the approved erosion and sediment control measures as shown on the Typical Details and ESM Site Plan (JN Responsive Engineering) (Drawing numbers N0231365 ESM2 B & ESM3 B) must be implemented by the contractor and inspected and approved by the Certifier prior to the commencement of any other site works.	To protect adjoining vegetation and fauna habitat.
	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).	
	The erosion and sediment measures must be maintained for the life of the construction period and until runoff catchments are stabilised.	
43.	Notice of Commencement 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 'Commencement Notice for Building or Subdivision Work and Appointment of Principal Certifying Authority'.	To ensure appropriate notice is given to Council.
44.	Shoalhaven Water – Application for Certificate of Compliance 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. 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 https://shoalwater.nsw.gov.au/planning-building/developers-consultants/water-development-notice to make application for a Certificate of Compliance or call (02) 4429 3214 to learn more about applying. Upon the receipt of the application, Shoalhaven Water will	To ensure a Water Development Notice and Certificate of Compliance are obtained.
	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.	

biodiversity

values



	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.	
45.	Toilet Facilities – Temporary Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must: a) be a standard flushing toilet connected to a public sewer, or	To ensure suitable toilet facilities are provided.
	 b) have an on-site effluent disposal system approved under the Local Government Act 1993, or c) be a temporary chemical closet approved under the Local Government Act 1993. 	
	NG WORK Building Work	
CONDIT	TIONS	REASON
46.	Acid Sulfate Soils - Unexpected Finds If acid sulfate soils are encountered during excavation and/or construction works, all work must cease, and Shoalhaven City Council notified immediately. The extent of acid sulfate soil must be evaluated by a qualified environmental consultant with experience in the assessment of acid sulfate soils and a preliminary assessment provided to Council. Council will determine an appropriate response, including if an Acid Sulfate Soils Management Plan is required to be prepared and implemented, before works can recommence.	To ensure acid sulfate soils are appropriately managed.
47.	Riparian Area Exclusion Zone	To protect

The creek and bank beyond the existing hardstand must be

managed as an exclusion zone during construction. The parking of machinery and vehicles, refuelling, cleaning tools, storing of fuel, chemicals, building or landscaping materials, soil, spoil, rubbish, or the disposal of liquid waste within this area is

prohibited.



48.	Biodiversity – Construction Environment Management Plan (During Works) During Works, the appropriate measures specified in the	To protect biodiversity values
	approved Construction Environmental Management Plan must be implemented.	
49.	Wildlife Protection Measures	To protect
	During building works, the following wildlife protection measured are to be followed:	biodiversity values
	 a) All vegetation to be removed must be inspected for wildlife prior to removal. 	
	 Sheds proposed for demolition ay provide habitat for microbats and other native wildlife and must be inspected prior to removal. 	
	c) Works must cease until any wildlife present has relocated.d) All vehicles and mechanical plant must be inspected for wildlife prior to operation.	
	e) All trenches must be inspected for wildlife prior to backfilling.	
	Any injured wildlife must be referred to a local Veterinary Clinic or into the care of Wildlife Rescue South Coast (0418 427214 or 0417 238 921).	
50.	Discovery of relics and Aboriginal objects	To ensure the
	While site work is being carried out, if a person reasonably suspects a relic or Aboriginal object is discovered:	protection of objects of potential
	a) the work in the area of the discovery must cease immediately.	significance during works.
	b) the following must be notified:	
	i) 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. 	
	Site work may recommence at a time confirmed in writing by:	
	a) for a relic – the Heritage Council; or	
	b) 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.	
51.	Stormwater - Overland Flow, Redirecting and/or Concentrating Stormwater All excavation, backfilling and landscaping works must not result in:	To ensure ongoing compliance.
	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.	
	b) the redirection and/or concentration of stormwater flows onto neighbouring properties.	
52.	Stormwater - Connections in Road Reserve 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. Note: A section 138 approval under the Roads Act 1993 will be required for any works within the road reserve.	To ensure stormwater connections are appropriately installed.
53.	Site Management - Hours for Construction Construction may only be carried out between 7.00am and 5.00pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday. Proposed changes to hours of construction must be approved by Council in writing.	To ensure site work occurs within appropriate construction hours.
54.	Site Management - Maintenance of Site and Surrounds During works, the following maintenance requirements must be complied with: a) All materials and equipment must be stored and delivered wholly within the work site unless an approval to store them elsewhere is held. b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.	To ensure the site is maintained in a safe and secure manner.



c)	Where tree or vegetation protection measures are in place,
	the protected area must be kept clear of materials and / or
	machinery.

- d) The developer must maintain the approved soil water management / erosion and sediment control measures to the satisfaction of the Certifier for the life of the construction period and until runoff catchments are stabilised.
- e) During construction:
 - all vehicles entering or leaving the site must have their loads covered, and
 - all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- f) At the completion of the works, the work site must be left clear of waste and debris.

55. Site Management - Noise

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 & 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.

To protect the amenity of neighbouring properties.

BUILDING WORK

Before Issue of an Occupation Certificate

CONDI	REASON		
56.	Waste - Private Collection Service 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.	To ensure appropriate waste management agreement entered into.	an is
	The agreement must ensure: a) the removal of all waste from the developed property.		



	 b) the service is functional and meets the operational requirements for the developed property. c) the service minimises environmental nuisances including noise and other adverse impacts on the safety and amenity of residents and the public. d) the developer/owner indemnifies Council against claims for loss or damages, should Council take over provision of the service at some point in the future. 	
57.	Works in the Road Reserve - Evidence of Completion 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 Roads Act 1993.	To ensure ongoing compliance
58.	Works in the Road Reserve - Works as Executed 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. The Works as Executed dimensions and levels must be shown in red on a copy of the approved plans and comply with the following requirements: a) Council's Development Engineering Construction Specification. b) Show compliance with the approved design plans of all road and drainage works. c) Show any retaining walls including footings and agricultural drainage lines. d) Show the location of all underground service conduits. Include all deviations from the approved Civil Engineering Plans.	To ensure ongoing compliance
59.	Stormwater - Works as Executed Before the issue of an Occupation 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.	To ensure ongoing compliance



	The Works as Executed be shown in red on a copy of the approved plans. This plan must verify locations & sizes of all pipelines. 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).	
60.	Driveway - Evidence of Completion Before the issue of a full Occupation Certificate, all driveway works internal to the site as shown on the approved plans must be completed.	To ensure the completion of the driveway in a timely manner
61.	Retaining Walls – Certification 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 are constructed in accordance with the approved engineering design plans. The Certifier must be satisfied that all retaining walls have been constructed in accordance with the relevant retaining wall plans and specifications, and in accordance with the requirements of any other conditions of this consent. Note: This condition does not prevent a partial Occupation Certificate to be issued for the parts of the development that have been completed.	To ensure retaining walls have been constructed appropriately.
62.	Dilapidation Report (Minor) – Evidence of Completion 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.	To ensure any damage not previously identified in the Dilapidation Report is suitably repaired.
63.	Fire Safety – Evidence of Compliance Before the issue of an Occupation Certificate the Certifier must be provided with a Final Fire Safety Certificate showing compliance with the Fire Safety Schedule.	To ensure compliance with the Fire Safety Schedule.



64.	Shoalhaven Water – Certificate of Compliance Before the issue of any Occupation Certificate, a Certificate of Compliance under section 307 of the Water Management Act 2000 must be obtained from Shoalhaven Water to verify satisfactory compliance with all conditions for the supply of water and sewerage, as listed on the Water Development Notice. 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.	To ensure compliance with Shoalhaven Water requirements.
65.	Section 68 Approvals – Evidence of Completion All the conditions under the approval of section 68 of the Local Government Act 1993 are to be complied with before the issue of an Occupation Certificate.	To ensure compliance with section 68 approval.
	NG WORK ation and Ongoing use	
CONDIT	TIONS	REASON
66.	Occupation - Satisfaction of Conditions of Consent The development must not be occupied or used before an Occupation Certificate has been issued by the Principal Certifier.	To ensure conditions of consent are complied with or other satisfactory arrangement made.
67.	Stormwater - Maintenance of Stormwater Infrastructure The approved stormwater design and any associated on-site detention must be maintained for the life of the development in accordance with the approved documents and maintenance programs.	To ensure ongoing compliance
68.	Riparian Zone Management The creek and bank beyond the existing hardstand must be managed as a riparian zone in perpetuity. The parking of machinery and vehicles, refuelling, cleaning tools, storing of fuel, chemicals, building or landscaping materials, soil, spoil,	To ensure protection of the riparian zone



	rubbish, or the disposal of liquid waste within this area is prohibited.	
69.	Noise – Commercial/Industrial Development The use of the approved development must not give rise to transmission of unacceptable vibration or an offensive noise to any place of different occupancy or the public in accordance with the NSW Environment Protection Authority's Noise Policy for Industry and Noise Guide for Local Government (guideline) and the Protection of the Environment Operations Act (POEO Act).	To protect the amenity of neighbouring properties
70.	Fire Safety – Annual Statement A building owner must ensure that an annual fire safety statement prepared by a competent fire safety practitioner is issued each year and that a copy of the statement is provided to the Shoalhaven City Council and the Commissioner of Fire and Rescue NSW. An application form is available on Council's website. Note: An annual fire safety statement is a declaration by, or on behalf of a building owner that a competent fire safety practitioner (CFSP) has: a) assessed, inspected and verified the performance of each existing essential fire safety measure that applies to the building 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 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.	To ensure an annual fire safety statement is prepared.

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

Environmental Planning & Assessment Act 1979

Conflict of interest declaration

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

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

Assessing Officer			4/08/2	2022
Peer Review Officer			14/08/2025	
Peer Review Officer			Click	here to enter a date.
Peer Review Officer			Click	here to enter a date.
Affiliations and Pecuniary Interests	Have any affiliations or pecuniary interests been identified by the Applicant in the Portal lodgement form? Note: Where a pecuniary interest is identified ensure appropriate actions are taken (e.g. blocking access to TRIM folder for affected staff) Note: For applications lodged by Council staff, Councillors and Council refer to POL22/149. A conflict of interest management statement may be required.		No	
Councillor	Councilor	Date		TRIM Reference
Representations	Nil			
Delegation Level	Ordinary Council (Clause 4.6 Departure)			

Report Recommendation	Approval
Development Description	Demolition of the main existing building and construction of two new multistorey self-storage buildings, construction of two new smaller buildings (Building 4 next to existing Building 3, and Building 8 next to existing Building 7), construction of a new driveway and circulation area, car parking, landscaping works and business identification signage.
Variations Proposed	□ DCP departure – Nil



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	☑ Clause 4.6 exception		
	Clause number	4.3 – Building Height	
	Percentage variation	42%	
	Determination date	To Be Confirmed	
DA Number	DA2024/1462		
PAN	PAN-441190		
Property Address	177 Princes Highway SOL	JTH NOWRA NSW 2541 - Lot 23 DP 841302	
Applicant(s)	Kennards Self Storage Pty	y Ltd	
Owner(s)	Kennards Self Storage Pty	y Ltd	
Owner's consent?	Yes		
Date Lodged	9 July 2024		
Date of site inspection	2/08/2024		
Date clock stopped	23/07/2024		
Date clock started	20/02/2025		
Related Application in NSW Planning	☑ Concurrence and/or e	xternal agency referral	
Portal?	☐ Section 68		
	☐ Section 138		
	☐ Construction Certificate		
Note: s138 and CC applications be determined separately.		s will not be incorporated into the Development Consent and will	
Number of 0 submissions Note: where submissions are received.		eceived Council must give notice of the determination decision to	
	all submitters.	and a second mass give notice of the accommitted of decision to	



1. Detailed Proposal

The proposal consists of demolition of the main existing building & construction of two new multi-storey self-storage buildings, construction of two new smaller buildings, construction of a new driveway and circulation area, car parking, landscaping works and business identification signage.

A detailed description of the proposal as described in the submitted Statement of Environmental Effects includes the following:

Demolition

Demolition works comprise:

- removal of the main warehouse building through the centre of the site
- removal of the existing fence along the front (eastern) boundary
- removal of two trees and associated kerb and gutter at the north-western corner
- removal of the existing retaining wall aligning the southern boundary
- removal of the existing sheds and fence at the western end of the allotment.

Construction

The proposed works comprise:

- a new building (Building 1) at the eastern end of the allotment, including a showroom, separate tenancy (the use of which will be subject to a separate development application) and selfstorage units. The building will be four storeys in height
- a building at the western end of the allotment (Building 2) comprising self-storage units, over four levels
- a new building (Building 4), located adjacent to Building 3 at the south-western corner, containing self-storage units
- a new building (Building 8), located adjacent to Building 7 at the north-western corner, containing self-storage units
- a new driveway circulation system to provide access to each of the buildings and seventeen car parking spaces (including one disabled space) to the east of Building 1
- relocation of an existing electricity pillar at the eastern end of the allotment
- relocation of an existing power pole located in the proposed position of Building 4
- a new entry and exit gate, restricting access to the storage units, on the northern and southern side of Building 1
- a new retaining wall along the southern boundary
- a new driveway egress point at the north-western corner
- a new blade sign, 6m in height is the front landscape setback.

In accordance with the submitted SEE, the applicant nominates the proposed land use as being 'Storage Premises' and a 'separate tenancy – the use of which will be subject to a separate development application'. Accordingly, no land use characterisation would be applied to the 'retail tenancy' and any consent would be conditioned with the requirement for the tenancy to be the subject a first use Development Application.



Landscaping

Minor landscaping works are proposed to the frontage with the service road.

Materials and finishes

The exterior built form will be treated with non-combustible cladding and paint finish; corrugated sheeting and concrete blockwork, or similar materials, as shown on the Architectural Drawings. These will surround aluminium-framed windows and doors.

Lower-level openings will also be treated with powder coat finish roller doors.

Signage

Building identification signage will:

- one signage panel on the ground floor of the northern elevation
- four signage panels along the ground floor of the eastern elevation of Building 1, fronting Princes Highway
- one signage panel on the ground floor of the southern elevation, approximately 5.34m long and 0.8m high
- illuminated corporate wall sign, measuring 6.6m in length and 2m in height on the fourth level of Building 1, facing east, in conjunction with the illuminated corporate 'lock' logo to the south of this
- illuminated wall sign, 5.34m in length and 1.23m in height on the southern elevation of Building
 1 at the fourth level
- one pylon sign located on the eastern frontage, partially illuminated, and measuring 6m in height and 2.38m wide.

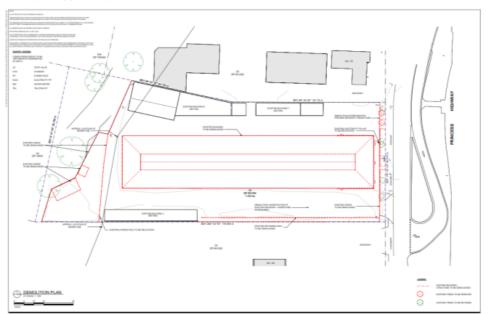


Figure 1: Demolition Plan



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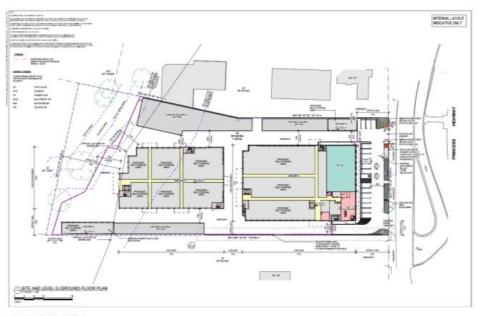


Figure 2: Site Plan

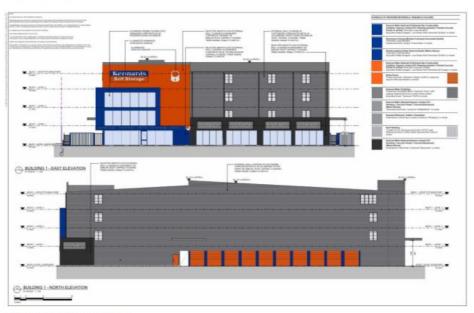


Figure 3: Building 1 Elevations



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Figure 4: Building 1 Elevations



Figure 5: Building 2 Elevations





Figure 6: Building 2 elevations

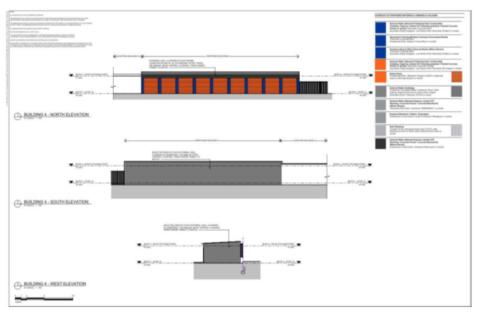


Figure 7: Building 4 elevations



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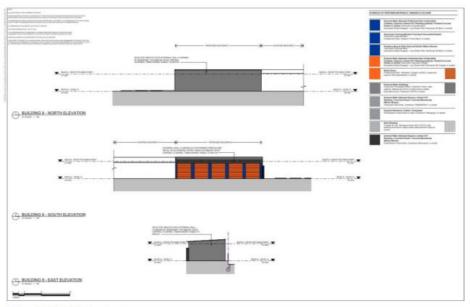


Figure 8: Building 8 elevations

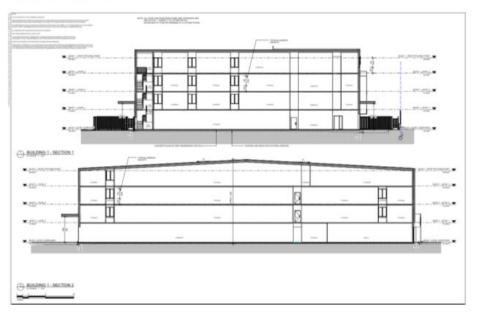


Figure 9: Building 1 Sections



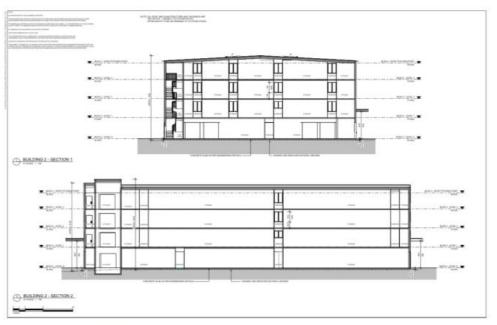


Figure 10: Building 2 sections

2. Subject Site and Surrounds

Site Description



Figure 21: Aerial imagery of subject site

The development site comprises Lot 23 DP 841302 (177 Princes Highway, South Nowra). The site is located on the western side of the Princes Highway, off a service road and is approximately 175m north



of Central Avenue and is occupied by an existing self-storage facility and associated outbuildings. Refer to Location Map.

The site currently has four main buildings and some peripheral, shed-like structures distributed across this, with the main building, running in an east-west direction.

Vehicular entry to and from the site is currently via a combined entry and exit point that is located at the end of the Princes Highway service road.

Site & Context

The development site:

- Contains the existing Kennards Self Storage Facility with Nowra Creek running through the western section of the site.
- Is zoned E3 Productivity Support and has a total area of 1.123ha.
- Is identified as being part flood and bush fire prone land.
- Has existing access via service road from the Princes Highway; and
- Adjoins land zoned E4 General Industrial under SLEP 2014.

Surrounds

- To the immediate north are four (4) industrial buildings with a recently constructed 2 storey motor showrooms fronting the site.
- Further north is Bunnings Warehouse which has a maximum height of 15.5m.
- To the immediate south is Coates Hire which consists of a double storey building and a large industrial building and an open area for storage of hire equipment
- Further south is bulk retail precinct including Harvey Norman and Carpet Court located on Central Avenue.
- To the immediate west is Nowra Creek and further west is an industrial precinct with building that have frontage to Bellevue St.
- The immediate surrounds are essentially a precinct characterised by industrial and bulky retail and good developments.

Site Visit

A site visit was carried out on 2 August 2024.

Photos of the site and surrounding area are provided below.



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Photo 1 - View looking west to the subject site



Photo 2 - View looking west to the subject site and to existing development on southern boundary



Photo 3 - View looking east along southern elevation of existing storage facility (from rear of site) and adjoining ancillary building



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Photo 4 - View looking south near north-eastern corner of subject site



Photo 5 - View looking west along northern elevation of existing storage premises



Photo 6 - View looking east along northern elevation of storage premises and ancillary detached building



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Photo 7 - View north along northern boundary with existing development of immediate adjoining northern lot



Photo 8 - View looking southwestern boundary of subject site



Photo 9 - View looking north near western boundary of subject site



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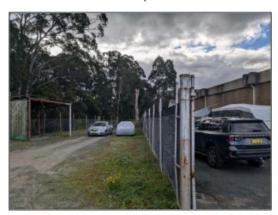


Photo 10 - View looking north near western boundary of subject site



Photo 11 - View looking to south-west boundary of subject site



Photo 12 - View looking north along eastern boundary of subject site



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Photo 13 - View looking north-west along frontage of subject site with Bunnings in background



Photo 14 - View looking south to frontage of Bunnings Warehouse

Deposited Plan and 88B Instrument

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



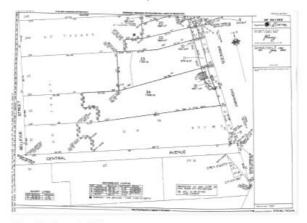


Figure 12: Deposited Plan

3. Background

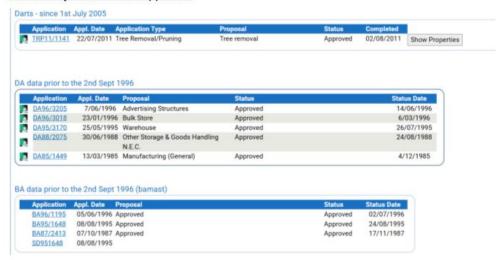
Pre-Lodgement Information

There have been no pre-lodgement discussions prior to lodgement of the application.

Amendments during the process

No amendments occurred during the application process

Site History and Previous Approvals





4. Consultation and Referrals

Internal Referrals

The application was referred internally to the following Council areas:

Internal Referrals		
Referral	Comments	
Biodiversity	No objection subject to recommended conditions. Conditions to be imposed as recommended.	
Development Engineer	No objection subject to recommended conditions. Conditions to be imposed as recommended. Assessment Officer Note: A comment was provided in the referral that the DAO must raise the issue of the Traffic Impact Assessment (TIA) and requirement for SIDRA analysis with the applicant in response to Transport for NSW's request.	
	However as detailed below, Transport for NSW have since retracted this request and no longer require this information to be submitted in support of the DA.	
Floodplain Management	No objection subject to recommended conditions relating to floodplain management, onsite detention and water sustainable urban design. Conditions to be imposed as recommended.	
Waste	No objection subject to recommended conditions. Conditions to be imposed as recommended.	
Building Surveyor	No objection subject to recommended conditions. Conditions to be imposed as recommended.	
Shoalhaven Water	No objection subject to recommended conditions. Conditions to be imposed as recommended.	

External Referrals

The application was referred externally to the following external authorities:

External Referrals	
Referral Comments	
Endeavour Energy	No objection subject to recommended conditions. Condition to be imposed in any consent requiring compliance with the Endeavour Energy consent conditions.



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NSW Rural Fire Service	No objection subject to recommended conditions. Condition to be imposed in any consent requiring compliance with the Rural Fire Service consent conditions.	
Transport for NSW	Transport for NSW initially requested further information from the applicant including the requirement for the following:	
	 Updated Traffic and Parking Assessment Report (TPIA) including ISDREA modelling of the Centra Ave and Jelliecoe St roundabouts with the Pacific Highway. 	
	Amended Swept paths.	
	Updated swept paths were submitted and reviewed by Council's Development Engineer to confirm they were satisfactory.	
	Further justification was provided by the applicant's traffic consultant to TfNSW. On the basis of the further justification provided, TfNSW advised that they accept the information provided and that an amended TPIA is no longer required	
	No objection.	

5. Other Approvals

Integrated Development		
Agency Recommendation		
Department of Planning and Environment-Water	General Terms of Approval (GTAs) issued by DPE (Water) (see IDAS-2024-10532). A condition of consent would be imposed, requiring compliance with the issued GTAs.	

6. Assessment

This report assesses the proposed development/use against relevant State, Regional and Local Environmental Planning instruments and policies in accordance with the provisions of the Environmental Planning and Assessment Act 1979 (EP&A Act).

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) Environmental Planning Instruments and DCPs

The following planning instruments and controls apply to the proposed development:

Biodiversity Conservation Act 2016 and Biodiversity Conservation Regulation 2017

Projects assessed under Part 4 of the EP&A Act are required to address the requirements of the BC Act which includes provisions for offsetting once certain thresholds are met.

An assessment against section 7.3 of the Biodiversity Conservation Act concludes the following:

· No impact on threatened species



- It is unlikely to have an adverse effect on an endangered or critically endangered ecological community:
- No impacts on habitats of a threatened species or ecological community;
- · No impact on any area of outstanding biodiversity value
- The proposed development is not part of a key threatening process.

Further, Council's Environmental Assessment section has also advised the following:

- 1. The site is not affected by Terrestrial Biodiversity Mapping however clause 7.5 of the LEP does apply to all areas within 40m of the top of bank to a riparian area. In summary this requires the proposal to avoid and minimise environmental impacts. Given the proposal does not include vegetation removal and will have no further impact to the current developed state of the site this will be achieved through measures to mitigate impacts to the riparian area during demolition, construction and operation of the new storage facility
- The Bushfire Protection Assessment has determined the site currently complies with the APZ standards prescribed. No native vegetation clearing is required to establish an APZ.
- Threatened species or endangered ecological communities will not be significantly impacted by the proposal.
- 4. The Biodiversity Values Map does not affect land on the property.
- The proposed works do not trigger entry into the BOS.

Given the above, no further consideration of biodiversity or ecological issues under the Act is required.

Illawarra Shoalhaven Regional Plan 2041

The Illawarra Shoalhaven Regional Plan (ISRP) 2041 is a 20-year land use plan prepared in accordance with Section 3.3 of the Environmental Planning and Assessment Act 1979 and applies to the local government areas of Wollongong, Shellharbour, Kiama and Shoalhaven.

It is designed to inform Council's land use planning, private sector, and wider community of the NSW Government's approach to creating a connected, sustainable, innovative and vibrant Illawarra Shoalhaven.

The DISRP lists the following four themes which contain a total of 30 objectives:

- A productive and innovative region
- A sustainable and resilient region
- · A region that values its people and places
- A smart and connected region.

A review of the proposed development has found that it is generally consistent with the themes and objectives of the DISRP.

The subject land is within a rea mapped "Biodiversity Corridors Revised 2023".

The Biodiversity impact of this development has been considered see Biodiversity referral comments.





Figure 3 - ISRP 2041 mapping

Council Policies

Nil Council policies applicable.

Environmental	Planning	Instrument
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Shoalhaven Local Environmental Plan 2014

State Environmental Planning Policy (Biodiversity and Conservation) 2021

State Environmental Planning Policy (Industry and Employment) 2021

State Environmental Planning Policy (Planning Systems) 2021

State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Transport and Infrastructure) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation. It is considered that the proposed development does not unduly impact upon any existing biodiversity or trees or vegetation on the site.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of Land

The subject site is not identified as potentially contaminated land and there is no indication that the land has been used for a purpose which would require remediation prior to the construction. The proposal is satisfactory with regard for the provisions of the SEPP.



State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

 Subdivision 2 Development likely to affect an electricity transmission or distribution network

The proposal involves work within proximity to electricity infrastructure. The application was referred to Endeavour Energy for comment with no objection being raised subject to advice. Referral comments have been taken into consideration.

Division 17 Roads & Traffic

The development site has a frontage to a classified road. Council is satisfied that access to the site is safe and appropriate.

The proposed development is not considered to adversely affect the safety, efficiency or ongoing operation of the classified road.

The proposed development has been appropriately designed and located so as to minimise and/or ameliorate potential impacts from traffic noise or vehicle emissions arising from the adjacent classified road.

Further a referral was also sent to Transport for NSW (TfNSW) who have advised no objection to the proposal.

State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3 Advertising and Signage

The following table outlines the manner in which the proposed signage addresses the assessment criteria of the SEPP – Advertising and Signage.

Consideration	Comment
Character of the Area	The proposed signage is consistent with the character of the area and similar to other industrial signage within the locality.
Special Areas	The proposed signage would not detract from the amenity or visual quality of the area, subject to conditions.
Views & Vistas	The proposed signage does not obscure or compromise important views nor does it propose to penetrate the skyline or obstruct a vista or views to other advertisers.
Streetscape, setting or landscape	The proposed signage responds to the context of the locality. It does not require ongoing vegetation management and is not proposed as a means to reduce signage clutter or to screen any unsightliness. The signage design is considered to be rational and appropriately contributes to the streetscape.



Site & Building	The proposed signage will not have any significant impacts on the streetscape.
	The scale, proportion and positioning is acceptable and the materiality is compatible with the finishes and colours of the building.
Associated devices and logos with advertising structures	Conditions of consent are recommended to ensure that the signage will not have a detrimental impact on neighbouring amenity.
Illumination	Illumination is proposed as depicted ion the submitted architectural plans.
	It is noted that illumination is restricted to the Kennards Self Storage corporate panels on the southern and eastern elevations.
	The illumination is considered acceptable subject to condition/s in any consent.
Safety	The signage will not have an adverse impact on pedestrian, sight lines and vehicle safety.

The proposed signage is consistent with the aims and objectives of the SEPP and as such, is supported.

Shoalhaven Local Environmental Plan Local Environmental Plan 2014

Land Zoning

The land is zoned E3 Productivity Support under the Shoalhaven Local Environmental Plan 2014.

Characterisation and Permissibility

The proposal is best characterised as Self Storage Units under *Shoalhaven Local Environmental Plan 2014*. The proposal is permitted within the zone with the consent of Council.

The applicant has identified that the separate tenancy nominated on the plans as 'Retail' would not have a land use applied at this time. As such, a condition would be applied in any consent requiring a first use approval be established prior to any use of the tenancy.

Notwithstanding, it is noted that, should the future use of the tenancy be 'Retail', as nominated on the submitted plans, such a use (Retail Premises) would be permissible, being an additional permitted use recognised under Schedule 1.27 of the LEP. Per the Building Surveyor referral response, appropriate NCC compliance for the construction of the tenancy would be imposed in any consent.



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Zone Objectives

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

Applicable Clauses

Clause	Comments	Complies/ Consistent	
Part 2 Permitted or pro	hibited development		
2.7 Demolition requires development consent	Demolition works are proposed and consent has been sought for these works as part of this application	Complies	
Part 4 Principal development standards			
4.3 Height of buildings	The property is situated within an area where there is no maximum building height specified hence 4.3 (2A) is applicable where there is no maximum height for any land, the height of a building on the land is not to exceed 11 metres. The proposal has a maximum height of 15.7m.	Complies	



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	The proposal exceeds the 11-metre height standard by 4.7m and the applicant is relying on the provisions of Clause 4.6 of SLEP 2014 to seek an exception to the height development standard.			
	See discussion under the Issues section in the proceeding sections of this report			
4.6	This application proposes a maximum building height of 15.7m in a precinct where the maximum building height is 11m. The applicant sought to vary this building height development standard via a Clause 4.6 variation.			
Exceptions to development	A variation of 42% (4.7m) is sought essentially where lift overruns are sited.	твс		
standards	The proposed height variation is to be reported to the Ordinary Council Meeting on 9 th September 2025 as it proposed a height variation of more than 10%.			
	Refer detailed assessment carried out in Report below.			
Part 5 Miscellaneous p	Part 5 Miscellaneous provisions			
5.10 Heritage conservation	The site is not an identified heritage item, is not situated in the immediate vicinity of an item, or is situated in a heritage conservation area and as such the provisions of cl.5.10 do not apply to the proposal.	N/A		
	The application was referred to Council's Natural Resources and Floodplain Section and no objection was raised subject to recommended conditions of consent.			
5.21 Flood planning	Council is satisfied that the proposed development is compatible with the flood hazard of the land and will not significantly adversely affect floor behaviour. The proposed development is viewed as satisfactory with regard to the considerations set out in clause 5.21.	Complies		
Part 7 Additional local p	provisions			
	The site is mapped as being Class 5 meaning that development consent is required for any works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres AHD.			
7.1 Acid sulfate soils	However, given it is not within 500m of any Class 1 to 4 mapped areas, the preparation of an acid sulphate soils management plan is not required in this instance.	Complies		
	The proposal is satisfactory with regard for the objectives and provisions of cl.7.1			
7.2 Earthworks	The proposed building works have been appropriately sited to minimise cut and fill with site disturbance being limited to the amount required to accommodate footings and services.	Complies		



	The proposal is satisfactory in regard the objectives and provisions of cl.7.2	
7.6	Nowra creek, a category 1 watercourse intersects with the north-east corner of the site. The creek line itself and bank are vegetated and existing development including hardstand is above western bank. However, much of the associated riparian corridor buffer which covers the eastern portion of the site is currently developed with hardstand and an existing storage facility.	
Riparian land and watercourses	The proposed development area has been intentionally sited to provide sufficient separation. The proposed development will not result in any detrimental impacts upon this mapped watercourse, subject to suitable consent conditions to appropriately manage demolition and construction activities so as to prevent any unintended pollution incidents.	Complies
7.11 Essential services	All essential services are available or can be made available to the proposed development.	Complies
Schedule 1 Additional Permitted Uses	Schedule 1.27 provides that Retail Premises are an additional permitted use.	Complies

Draft Environmental Planning Instruments

There are no draft environmental planning instruments that are on exhibition or have been exhibited but not yet gazetted that apply to the site or that relate to the proposed works.

Shoalhaven Development Control Plan 2014

The relevant matters to be considered under Shoalhaven Development Control Plan 2014 for the proposed development are outlined below.

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

Chapter G2 gives applicants guidance about how to implement sustainable stormwater management in the development application process, provide design principles for stormwater management that assist development and outline controls for the management of stormwater (including water quality, waterway stability, detention, erosion and sediment control).



In this regard, Council's Development Engineer has reviewed the plans of the proposed development and found that compliance with the provisions of Chapter G2 is able to be achieved, subject to imposition of and compliance with the recommended conditions.

G5: Biodiversity Impact Assessment

Is the proposal biodiversity compliant development?

Yes

G7: Waste Minimisation and Management Controls

The provisions of Chapter G7 apply to the proposed development. A Waste Minimisation and Management Plan (WMMP) was provided with the application.

Any consent issued would include standard conditions requiring compliance with this WMMP.

G9: Development on Flood Prone Land

The application has been referred to Council's Floodplain Section with no objection being raised.

G20: Industrial Development

See Appendix A.

G21: Car Parking and Traffic

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.

There is no specific requirement under s5.1 of Shoalhaven DCP G21 for this type of development regarding the number of necessary parking spaces. However, if this were to be assessed as a "warehouse or distribution centre," the parking rate of 1 space per 300m2 of floor area would apply. Based on this classification, the development site (including existing buildings) would need to provide a minimum of 18 parking spaces, which is in close alignment with the applicant's proposal as per Shoalhaven DCP G21. The proposal provides for 17 car spaces which is considered to be satisfactory.

Number of on-site car parking spaces required by Section 5.1 of Chapter G21	Number of car parking spaces provided
53	17

Council's Development Engineer reviewed the proposal in accordance with the controls of this Chapter and found that compliance was able to be achieved, subject to implementation of conditions within any consent, relating to driveway and car parking design standards.

Such conditions would be imposed in any consent.

Based on the above, Development Services is satisfied that compliance with the applicable controls within Chapter G21 has been achieved.



G22: Advertising and Signage See Appendix B.

Planning Agreement or Draft Planning Agreement

There are no planning agreements applying to this application.

Environmental Planning and Assessment Regulation 2021

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

Any coastal zone management plan

N/A

Other Management Plans

N/A

(b) Other impacts of the development

The proposed development will not cause any unacceptable amenity impacts to neighbouring properties or visual impacts to the streetscape. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

The variation to the height limit of the Shoalhaven DCP 2014 is supported for approval.

Planning for Bushfire Protection

The application was referred to RFS for comment. A response has been received from the RFS and will be made a condition of the consent.

Head of Consideration	Comment
Natural Environment	Impacts on the natural environment have been assessed as part of the development application. It was found that the proposal is unlikely to create a detrimental impact on the natural environment surrounding the subject site, or to any endangered and nonendangered species of flora and fauna. Council is satisfied that the development would not have an adverse impact upon the natural environment.
Built Environment	The proposed development is unlikely to create any adverse impacts on the surrounding built environment. The proposed development is considered to be of an appropriate scale and unlikely to create any detrimental impacts on the adjoining properties or the locality as a



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Head of Consideration	Comment
	whole. The proposal will facilitate a self-storage development, which would be consistent with the zoning and surrounding built form and the desired future built character of the locality.
Social Impacts	No adverse social impacts are envisaged to occur as a result of the proposal.
Economic Impacts	No adverse economic impacts are envisaged to occur as a result of the proposal.

(c) Suitability of the site for the development

The proposal is deemed to be a suitable development of the site and is not considered to give rise to any adverse amenity impacts to the adjoining properties or visual impacts to the streetscape.

- 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) Consultation

The application was notified in accordance with Council's Community Consultation Policy with letters being sent within a 120m buffer of the site, including Shoalhaven Business Chamber during the period 20 November 2024 to 5 February 2025. The proposal was also advertised in the local press on one occasion (South Coast Register). As with all applications, the application is also viewable on Council's DA tracking website.

No submissions were received in relation to Council's notification of the development

(e) The Public Interest

It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

Key Issues

The following key issue is relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

Building Height

The applicant (S Choi) 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 4.3 – Building height of the SLEP 2014, and the following provides a description of the nature of the variation sought:

Clause 4.3 Height of Buildings

The property is situated within an area where there is no maximum building height specified hence Clause 4.3 (2A) is applicable where there is no maximum height for any land, the height of a building on the land is not to exceed 11 metres.

This application proposes a maximum building height of 15.7m. The applicant sought to vary this building height development standard via a Clause 4.6 variation.

A variation of 42% (4.7m) is sought essentially where lift overruns are sited.

The proposed height variation is to be reported to the Ordinary Council Meeting on 9th September 2025 as it proposed a height variation of more than 10%.

- (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).

The applicant has provided justification for compliance with subclause 3(a) and (b) within their written request prepared by Hamptons dated 9th August 2024.

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

Consistency with the underlying objectives of the standard:

As discussed in the preceding section of the report, the proposed height of the development is appropriate to the context and is compatible with the 11-metre height limit.

The proposal positively responds and satisfactorily addresses the characteristics of the site and its broader context. The proposal is of a height and scale that is sympathetic to its immediate context and does not impede views, it is not visually intrusive, nor does it create privacy or overshadowing issues.

The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3)(a).

Having regard to the objectives of the zone (refer to the objectives cited earlier in this report) the development does not compromise the objectives of either the Business Development or General Industrial zones. Notably, the proposal will provide for a range of employment opportunities as well as providing storage facilities. It is also noted that this development is replacing effectively the same development, albeit at a larger scale.

Although the height contravention appears numerically large, the height is consistent with existing height, bulk and scale of the existing character of the locality. Further the visual impact is minimised by use of front and side setbacks and the height is distributed across two separate built forms and has shorter building proportion facing the street due to the orientation of the site.

The surrounding area also reflects the height with the existing Bunnings Warehouse located north of the site already has a maximum height of 15.5m and accordingly the height of the proposed development is not inconsistent with the height of surrounding existing buildings and will not appear as significantly different in scale.

The contravention does not raise any matters of significance having regard to State or regional environmental planning. It does not have implications for any State Environmental Planning Policies in the locality or impacts which are considered of a State or regional scale.

Height, scale and massing of the development

It is important for any assessment of building height and neighbourhood character to balance the range of influencing factors affecting this area, including policy provisions, existing height characteristics of nearby built form and preferred future character development of the area.

The proposal is consistent with the key objectives of the E3 Productivity support zone in that it provides a land use that, subject to conditions, is compatible with surrounding industrial and bulky goods land uses.



In considering the objectives of the zone, the proposal is considered contextually appropriate.

The height of the development exceeds the height limit however there are examples such as the Bunning Warehouse north of the site which also exceed the height limit by a similar margin.

The proposed intrusion above the 11-metre height limit is essentially only for a small section of the building being the lift over-run. Most of the building is essentially 1.7m above the height limit.

The proposal is consistent with the objectives of the height standard, to ensure that the height of development is appropriate to the condition of the site and its context:

The building height variation does not generate unreasonable overshadowing impacts on the surrounding properties.

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

The applicant's written request demonstrates sufficient environmental planning grounds to justify contravening the height development standard for this particular proposal for the following reasons:

- The proposal is consistent with the key objectives of the E3 zone in that it provides a land use that subject to condition is compatible with surrounding light industries and warehouse uses and provides a use for the needs of the community which would not be suited to locations in other employment zones
- In considering the objectives of the zone for the provision of a range of facilities and services, light
 industries, warehouses and offices the proposal is considered contextually appropriate.
- The height of the development exceeds the height of surrounding development however it is consistent with the bulk and scale of Bunnings Warehouse. The height is considered appropriate in the context of the zone and surrounding existing development where its visual impact is reduced due to these elements.
- The proposed intrusion above the 11-metre height limit is essentially only the roof portion of the buildings and the main height increase is from the lift overrun which is only a small portion of the roof. Most of the building at the roof pitching point is 12.6m which is a 1.6m height intrusion.
- The proposal is consistent with the objectives of the height standard, to ensure that the height of development is appropriate to the condition of the site and its context:



 The building height variation does not generate overshadowing impacts which could impact the amenity of surrounding properties given the site context of a light industries and bulky goods.

(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)

- (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).

Financial Implications

State and Local Infrastructure Contributions

Shoalhaven Contribution Plan 2019

The proposed development is considered to increase the demand for community facilities in accordance with the Shoalhaven Contributions Plan 2019 (the Plan).

The development is most aptly characterised as an 'Industrial' and 'retail' development for the purpose of calculating contributions under the Plan.



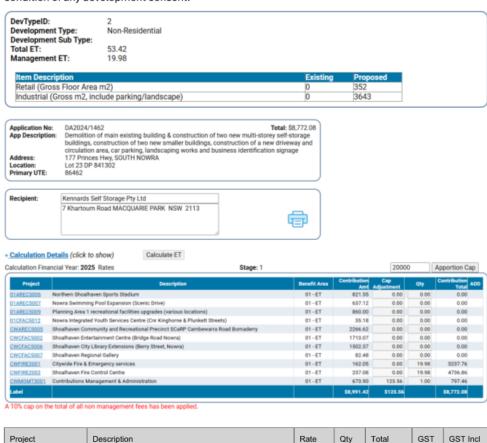
Industrial development is calculated at 1 ET per 200m² in accordance with Section 3.7.3 of the CP. When calculating contributions to apply a 1ET credit for an existing dwelling/lot, you would include 200m² in the existing field of the Contributions Calculator for industrial development. However, in this instance, the site is already constructed with existing built form, hardstand and landscaped areas in an approved scenario. As such, a credit has been given for the areas of the site containing existing built form, hardstand and landscaped areas, those of which are being retained for use as part of the new proposed development.

Notwithstanding, the construction of the new buildings on the site requires the demolition of the existing central building and hardstand areas in order for Buildings 1, 2, 4, and 8 to be constructed. This effectively returns these built form areas to a natural state, prior to the construction of the new buildings. As such, no credit has been applied to the areas of the site which are subject to the construction of Buildings 1, 2, 4, and 8.

Contributions would therefore be charged in the following method, which represents the building footprint area of each development component:

- 3,643m² industrial footprint area; and
- 352m² retail footprint area.

The above charges have been represented in the following tables, which would be imposed as a condition of any development consent:





CWFIRE2001	Citywide Fire & Emergency services	\$162.05	19.98	\$3,237.76	\$0.00	\$3,237.76
CWFIRE2002	Shoalhaven Fire Control Centre	\$237.08	19.98	\$4,736.86	\$0.00	\$4,736.86
CWMGMT3001	Contributions Management & Administration	\$797.46	1.00	\$797.46	\$0.00	\$797.46

Sub Total: \$8,772.08

GST Total: \$0.00

Estimate Total: \$8,772.08

Housing and Productivity Contribution

State Contributions Does the proposed development trigger the Housing and Productivity Yes - Industrial Contribution (HPC)? Development 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. Strata subdivision of land or building for dwellings Development for business, office or retail premises or specified commercial purposes Square metre of new GFA Development for industry or specified industrial purposes Development for which a contribution is required A housing and productivity contribution is required for development for which development consent is granted if it involves development of any of the following (a) residential development, (b) commercial development, (c) industrial development. (2) In this Order, residential development means any of the following-(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 (residential subdivision). (b) strata subdivision of residential accommodation (other than strata subdivision of high-density dwellings) (residential strata subdivision) (c) high-density residential development, (d) development for the purposes of a manufactured home estate. (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 accommoda permitted with development consent are any of the following— (a) build-to-rent housing. (b) a manufactured home estate (c) seniors living. Schedule 2 sets out exemptions from the housing and productivity contribution Development identified in Schedule 2 is not to be included in the determination a housing and productivity contribution. For the purposes of this Order, each class of development referred to in subclauses (1) and (2) is a *HPC class of development* and any development involving development within a HPC class of development is *HPC developme*



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Delegations						
Are any clause 4.6 exceptions pr	Yes					
		Percentage (%) Extent of Departure				
11m height limit	4.7m (15.7m)	42%				
Are any DCP performance-based	solutions proposed?	No				
Acceptable Solution Numerical Extent of Departure		Percentage (%) Extent of Departure				
Nil						

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	Senio Plann		Lead		Manager/ Director		Elected Council
Extent of clause 4.6 exception	Nil	<	2%	<5	5%	<10%		>10% OR non- numerical development standard
DCP Performance Bas	sed Solutions							
Level of Delegation	Assessing Officer	S	enior Plai	anner Lead		Ma	anager	
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 has the Delegated Authority to determine the Development Application.

The height variation must be determined by Council as it is more than 10% of the standard.

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:

Reas	ons for Grant of Consent
1)	The proposed development is consistent with the relevant objectives 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.

City Development 4/08/2025



Reviewers Comments

The application has been reviewed and the recommendations of the report are concurred with. Section 7.11 contributions (where applicable) have been reviewed and agreed to.

City Development 14/08/2025

Reviewers Comments

The application has been reviewed and the recommendations of the report are concurred with. Section 7.11 contributions (where applicable) have been reviewed and agreed to.

City Development
Click here to enter a date.

Reviewers Comments

The application has been reviewed and the recommendations of the report are concurred with. Section 7.11 contributions (where applicable) have been reviewed and agreed to.

City Development
Click here to enter a date.

:L25.293 - Attachment 2

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Appendix A - G20 - Industrial Development

4 Objectives

The objectives are to:

- i. Foster economic growth and employment generation through the promotion of
- ii. industrial land that is well serviced or able to be well serviced.
- iii. Encourage innovative, well-designed, quality industrial development.
- iv. Protect the amenity and privacy of adjoining premises and occupiers.
- v. Recognise the risk of natural hazard and ensure that development is designed and
- vi. located to minimise this risk.
- vii. Ensure there is adequate vehicular access and on-site manoeuvring for the scale of
- viii. the proposed development.

5 Controls

5.1 Site Suitability

Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
P1	A1.1		Complies
The development is compatible with the character of the site.	Cut and fill on the site does not exceed 1.0m.		
with the character of the site.	A1.2		Complies
	A site plan and site analysis plan is submitted with the development application.		
P2	A2.1		Complies
The site has sufficient area and dimensions to accommodate all areas necessary for the proposed industrial development.	A site plan showing location and dimensions of buildings, parking area, service vehicle areas, storage and landscaping is submitted with the development application.		



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P3	A3.1		Complies
Adjoining sites are not be negatively impacted by the proposed development and drainage works.	Adequate drainage is designed and provided to ensure stormwater is discharged to an approved discharge point, easement or road drainage system.		Compaes
	A3.2 A drainage plan is submitted with the development application.		Complies
5.2 Building Setbacks			
Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
P4	A4.1	A minimum 17m from setback	Complies
The building setbacks are consistent with adjoining development and enable:	A minimum front setback of 10m is provided. A4.2		N/A
 the efficient use of the site; vehicle manoeuvring areas 	A minimum secondary setback of 5m is provided.		
where vehicles can enter and exit the site in a forward direction; visible staff and visitor parking; an attractive streetscape character; the location of utility services, storage and drainage paths; and Unimpeded development of adjacent sites.	A4.3 The side and rear setbacks satisfy: The fire safety construction requirements of the Building Code of Australia for the proposed building, and Site development requirements for drainage, landscaping, vehicle access and manoeuvring.		Complies



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P5	A5.1		N/A
The building setbacks are satisfactory to Council in the Flinders Industrial Estate, South Nowra.	Where a service road to Albatross Road applies, a minimum front setback of 10m is provided.		
Nowra.	A5.2	Front setback is 17m	Complies
	For all other sites, a minimum front setback of 15m and minimum secondary setback of 10m is provided.		
	A5.3		Complies
	Only landscaping and minimal car parking are provided within the front/primary and secondary setbacks.		
P6 The building setbacks are satisfactory to Council in the	A6.1 Sites west of the Princes Highway provide a minimum front setback of 18m.	Proposal is located in South Nowra	N/A
South Ulladulla Industrial precinct.	A6.2 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).		N/A
P7	A7.1		N/A
The building setbacks are satisfactory to Council in South Nowra (Bellevue Street,	The 10m front setback (the concessional zone) may be encroached into if it can be demonstrated that the development will not		



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Prosperity Street, Jellicoe Street, Central Avenue, Quinns Lane and Browns Road, South Nowra).	negatively impact on the amenity or character of the area.		
Biowiis noau, South Nowiaj.	A7.2		N/A
	The concessional zone has a minimum front setback of 6m and an average minimum front building line of 8m.		
	A7.3		N/A
	Buildings within the concessional zone do not reduce the ability of service vehicles to manoeuvre onto, around and out of the site.		
	A7.4		N/A
	Buildings within the concessional zone are single storey in height.		
	A7.5		N/A
	The main use of the concessional zone is for landscaping. Car parking and manoeuvring areas are discouraged.		
5.3 Building and Site Design			
Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
P8	A8.1	Maximum 15.7m height	Does not comply
The building has a height and bulk consistent with the streetscape.	The building complies with the height limits in the Shoalhaven LEP 2014.		Proposal exceeds 11m height limit by 4.7m.
	I .		



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	A8.2 If Shoalhaven LEP 2014 does not specify a height limit, the building does not exceed 11m above the natural ground level.	Maximum 15.7m height	Does not comply Proposal exceeds 11m height limit by 4.7m.
P9 Visual elements are introduced to reduce the bulk, height and scale of the building.	A9.1 The elevation closest to the road includes additional design relief or a lower scale building form.	Proposed elevation to frontage provides articulation and interest and is consistent with existing development in the surrounds.	Complies
P10 The front of the building addresses the road frontage.	A10.1 The main entry to the building is easily identifiable from the street and directly accessible through the front of the building.		Complies
	A10.2 Street numbering that is at least 300mm high and easily visible for pedestrians and motorists in identifying the premises is provided.		Complies
	A10.3 Showroom display areas and other low scale building elements are located at the front of the building and face the road frontage.	Self-storage facility	N/A
P11 The design incorporates the use of materials appropriate to the emerging character of the	A11.1 The building surfaces, texture, colours or material arrangement are sympathetic to the emerging character of the area.	Materials are consistent with the existing development onsite and in the surrounds.	Complies



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locality, with innovation being encouraged.	A11.2 Building materials provide interest and variation to complement the streetscape.	Complies
	A11.3 Building design does not include large unbroken expanses of wall or building mass.	Complies
	A11.4 Council will not agree to the use of "zincalume" material on any industrial building if an adverse impact on amenity or traffic safety will result and/or if substantial glare nuisance occurs; the amenity of workers on the site is of primary importance. Council may consider the use of "zincalume" where it can be demonstrated that will not have substantial impact."	Complies
P12 The development recognises and implements energy and water conservation principles.	A12.1 The industrial development is designed to reduce reliance on energy consumption and water usage.	Complies
P13 The building design is energy efficient and provides good solar access to the development and surrounding development.	A13.1 Direct solar access must be maintained for at least 3 hours between 9am and 3pm on June 21 to: Existing rooftop solar systems; 10m² of north facing roofs where a rooftop solar system is not yet in place.	Complies



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<u> </u>			v
	A13.2 A reliable and accurate shadow diagram may be required to demonstrate the impact of shadows resulting from existing and proposed building works between 9am and 3pm on June 21.		
P14 The roof/wall design and materials avoid glare hazard to	A14.1 Roof and wall materials (especially uncoloured or light-coloured metal cladding) do not cause		Complies
traffic users in the adjacent road system.	excessive glare to traffic using the adjacent roads.		
P15	A15.1		Complies
Car parking is located to avoid conflict and promote safety.	Visitor and customer car parking is separated from delivery and operational vehicle movements.		
5.4 Provisions for Fences and Sc	reen Walls		
Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
P16 The development provides fences and walls which: • are attractive and blend with	A16.1 Fencing forward of the front building line is of an open form and a maximum of 2.4m in height above the natural ground level.	No new fencing proposed. Existing fencing to remain around perimeter of the site.	N/A
landscaping on the premises; • consider location, height, materials and colours to provide	A16.2 Fence materials do not conceal the area between the road frontage and the building.		N/A



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compatibility with and compliment or enhance the streetscape; • Do not impede the sight lines of vehicles using the driveway.	A16.3 Fences do not obstruct sight distances for traffic, the entry and exit of vehicles or pedestrian safety.	N/A
provide effective screening of external storage areas or incompatible uses on the site, and	A16.4 Gates that are on or close to the road frontage do not open in the direction of the footpath and must be fixed open within the site.	N/A
Assist in highlighting entrances and paths.	A16.5 Where a site has direct frontage to the Princes Highway or other major road, gates are located away from the front boundary to allow the largest vehicle to normally use the premises to park onsite while the gate is opened.	N/A
	A16.6 Solid fences or screen walls are located along the side and rear site boundary (and around external storage areas) as long as they are behind the front building line.	N/A
	A16.7 Fence materials do not cause excessive glare to traffic using the adjacent roads.	N/A
	A16.8 The location of fencing does not interfere with utilities, services, operational requirements or other sites.	N/A



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5.5 Landscaping			
Performance Criteria	Acceptable Solutions	Proposed Development	Compliance
P17 Landscaping softens the building/site when viewed from public roads and provides a landscaping buffer where an industrial area is adjacent to residential areas.	A17.1 Landscaping is provided between the front boundary and the building line.		Complies
	A17.2 Defined landscaping beds are a minimum of 1m in width not including kerbs or borders.		Complies
	A17.3 Deep soil plantings, low maintenance planting and low water use species are provided where appropriate.		Noted
	A17.4 Landscaping does not interfere with the sight lines required for pedestrian and vehicles both internal and external to the site.		Complies



Appendix B – G22 – Advertising and Signage

5 Controls

5.1 Design Guidelines

You should consider these design guidelines when planning and locating all signage.

5.1.1 Matters for consideration

- . Consider the design of the building (Figure 3).
- · Aim for fewer signs that display easy to read information.
- Street signs in shopping areas are not easily discernible.
- The prominent display of street numbers can reduce the need for advertising signs.
- Signage reflecting the Shoalhaven image should incorporate sandstone.
- Carefully considering sign proposals above awning level can protect valuable streetscapes.
- Pay particular attention to the impact of painted wall signs and corporate colours.
- Internally illuminated or animated signs are generally inappropriate for a heritage item or building or heritage conservation area.
- Projecting signs are only necessary if businesses rely on the passing trade of road travellers.

Note: A projecting sign is any sign attached to and projecting at right angles from a wall.

- Signs should not adversely affect the amenity of adjoining residential (or other) land uses. In general, physical buffers resulting from topography, road configuration, tree or shrub planting or isolation from a residential area by a road, railway or park will help to limit the effect of advertisements on the local business area. Where there is a direct interface, signs should not be located on walls facing residences (Figure 4).
- · Signs should either:
 - o reinforce the architectural design of the building or its streetscape; or Contribute to a new image for the building and its streetscape.
- To achieve either of the above strategies, advertising signs should:
 - Maintain a decorative skyline profile to a parapet, or comprise a new architecturally appropriate profile to a parapet sign.
 - Relate in location and dimensions to the design of the building on which they are placed.
 - o Be placed in locations similar to adjacent buildings to create a visual theme and easy to read signage.



- Not project above parapet lines or obscure views of land forms, vegetation or buildings which contribute to local environmental character.
- o Improve visual interest by modifying monotonous parapet lines using decorative, and possibly, thematic sign silhouettes.
- o Be used as false parapets on shops without parapets where neighbouring shops have parapets.
- o Be limited in number to promote visibility and reduce crowding and clutter.
- o Larger traditional signs that are no longer acceptable should be lowered.

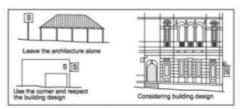




Figure 3: Considering building design

Figure 4: Protecting Residential Amenity

Comments: The signage is considered to have been designed appropriately.

5.1.2 Shape

Signage can be designed into a wide range of shapes to produce a unique design. When designing your sign, check with your neighbour as the most original sign can lose its 'zing' if a similar treatment is displayed only a few metres away. See Figure 5 below for alternatives to a traditional square or rectangular sign.



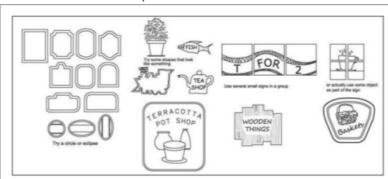


Figure 5: Alternatives to a traditional square or rectangle sign

Comments: The shape of the signage is appropriate, having regard to the nature of the development.

5.1.3 Determining suitable sign locations for buildings

These steps will help guide you in identifying appropriate locations (or opportunities) for signage that fits the form of the building façade.

STEP 1: Identify sign opportunities.

The scale of advertising signs should be compatible with the buildings on which they are erected, as well as with nearby buildings, street widths and other existing signs. In most cases, appropriate dimensions are achieved by restricting signs to grid locations and panels. This ensures the original architectural character (set by the lines of awnings, window and door openings, parapet lines and setbacks) remains dominant. The façade should be subdivided using the main design lines to form a series of panels. Traditional building designs can be broken into a grid based on the alignments of the parapet, cornice, verandah, window and door. See Figure 6 for an example of this procedure.



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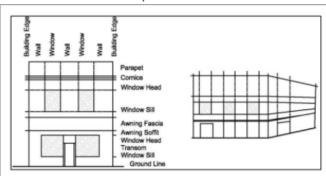


Figure 6: Establishing the façade grid

STEP 2: Identify possible sign panels.

The rectangles of the grid may be used separately or joined together to form horizontal or vertical panels (Figure 7). On buildings with decorative façades, signs should not be placed over the decorative forms or mouldings. Instead, they should appear on the undecorated wall surfaces.



Figure 7: Opportunities for Signage - Horizontal or Vertical Panels

STEP 3: Apply this technique to a series of buildings.

This shows the possible panels for the streetscape and provides the basis for developing patterns and themes. Figure 8 shows how the technique of good sign placement can produce a uniform and clean series of sign possibilities. This example also shows that sign panels do not have to consist of straight lines or be contained in a perimeter margin. Despite this, you should consider these elements if you are looking at introducing



architectural formality or continuity with the surrounding area that is presently lacking in the building. Signs should complement and appear as an integral part of the building.

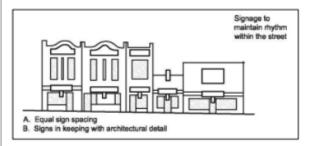


Figure 8: Developing Patterns and Themes

Comments: The location of signage on the building is considered to be appropriate, and enables maximum visibility to customers, whilst being of a size and scale that is suitable.

5.1.4 Appropriate sign opportunities

Signs in smaller centres should aim to attract pedestrians and car occupants (both local and visiting). To provide information to pedestrians, you could use:

- · suspended under-verandah signs, ground floor window signs on the adjacent footpath; or
- Awning face/fascia signs, parapet signs, first floor wall face signs on the opposite footpath.

Note: Awning face/fascia sign is any sign painted on or attached to the front face of an awning that does

- o not project above or below the fascia or return end of the awning to which it is attached
- o not extend more than 300 mm from the fascia or return end of the awning
- Not extend or project beyond a point 600 mm within the vertical projection of the kerb line.

To provide information to road users, you could use:

- projecting above awning parapet level signs;
- awning face/fascia signs; or
- Suspended under-verandah signs.

Above awning signs can significantly affect the local streetscape and as a result, opportunities are limited.



Note: An above awning sign is any sign located on top of an awning or verandah where no part of the sign projects above the roof, parapet or ridgeline, or beyond the awning edge.

Comments: The signage is located appropriately to take advantage of its location adjacent to frontage to the Pacific Hwy slip lane.

5.1.5 Safety

Advertising signs and their supporting structures should not:

- · be hazardous to passers-by;
- obscure a driver's or pedestrian's view of road vehicles, rail vehicles, pedestrians or features of the road, railway or footpath such as junctions, bends, changes in width (Figure 9);
- · be so highly illuminated that they cause discomfort to, or inhibit the vision of approaching drivers or pedestrians; or
- Be liable to interpretation as an official traffic sign or be confused with instructions given by traffic signals/other devices or impair the
 conspicuous nature of traffic signals or signs.

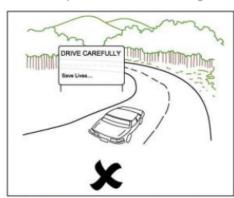


Figure 9: Example of a sign that obscures a view of the road

Comments: The signage is not likely to create an issue as it relates to sight lines or creating an obstruction for traffic /pedestrians.



5.1.6 Design, construction and maintenance

Not only should a sign be simple, clear and efficient but it should inspire confidence in the business or product advertised. As a result, your building façade should not be visually spoiled by the method of providing electrical services to a sign (Figure 10). Maintenance of signs should be as easy as possible. It should also be remembered that, when changing sign panels, it is economical to reuse existing mountings, service installations and framing. This consideration may affect proposed sign locations and may cause standard sign dimensions (as accepted in the outdoor advertising industry) to be chosen. Signs should also be located to discourage vandalism and avoid impact from footpath maintenance vehicles.

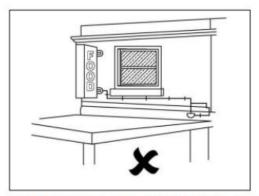


Figure 10: Example of exposed electrical services to a sign

Comments: The signage has been designed in such a way, that it results in minimal maintenance requirements.

5.1.7 Design guidelines for heritage buildings

Historically, signs were placed to allow the architectural details of buildings to remain prominent. Where possible, you should locate your signs in the same fashion.

Figure 11 identifies the following opportunities for sign location on heritage buildings:

- a solid parapet above a cornice;
- the horizontal panel below a cornice;
- · verandah fascias ground or upper floor;



- spandrel panels below windows;
- · ground or first floor windows; and

On side upper storey walls.

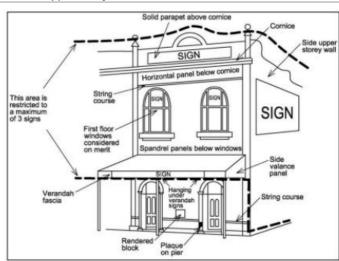


Figure 11: Opportunities for sign location on heritage buildings

You should design your sign to avoid placement on or over cast iron

verandah freeze work or balustrades. Signage should be above an historic parapet or roof line.

Modern standardised trademark advertising is not usually appropriate on heritage buildings unless the presentation is modified. Placing the modern sign in a panel with a perimeter margin can do this (Figure 12). The surrounding wall surface should be painted in sympathetic heritage colours where appropriate.

The number of signs should be restricted as follows:

- up to three sign locations on a building with a verandah;
- two on a building without a verandah;
- one hanging under awning sign;
- Painted window signage can be considered on merit.



Note: An under awning sign is a sign suspended from underneath an awning or verandah.

In relation to a heritage building:

- permanent signs on shop windows should not cover more than 25% of each window area between the window-sill and door head;
- the verandah fascia sign should have a maximum height of 175mm with lettering a maximum height of 150mm;
- fluorescent and iridescent paints are inappropriate;
- if illumination is required, the sign should be illuminated by external floodlighting;
- The placement of any advertisement should not detract from the design form of a heritage precinct.

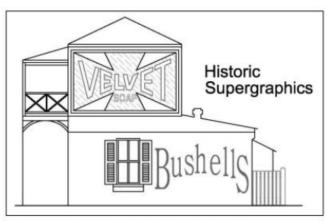


Figure 12: Appropriate signage on a heritage building

Comments: N/A - not heritage listed.

5.1.8 Total sign face area

Note: If your proposal includes any additional or special signage, Council will consider the total sign face area when compared to the width of the street frontage of the building or site. In doing so, flexibility can be retained by owners and tenants to determine their own priorities for signage and types of signage. This also creates an equitable situation where, the most important signage will be given the opportunity to carry its message without being jeopardised by adjoining signs on the site.

When calculating your total permitted sign face area, you should include the sign face area of all lawful existing and exempt signs on the property. This calculation includes all advertising signs whether or not a sign is directly related to the business being conducted on the land.

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Total sign face area is expressed mathematically as follows:

$$T = (\underline{a+b+c}) - d$$

Where:

T = Total sign face area permitted per property

a = Maximum sign face area of proposed on-building signs

b = Maximum sign face area of proposed free-standing signs

c = Maximum sign face area of proposed signs on structures

d = All lawful existing signs and exempt signs on the property

n = 1, 2 or 3 according to the different types of signs proposed to be erected on the property, e.g on-building, freestanding or on-structures

Note: Traffic, security and safety signs do not contribute to the total sign face area permitted on a property. An existing sign means any sign that was lawfully displayed on a building or site as at the date of adoption of this DCP, or any sign approved by Council at that date, but not yet displayed or erected.

Comments: The signage has bene assessed against the controls within Chapter G22 applicable for all business and commercial zones.

5.1.9 Free-standing signs on multi-frontage properties

Where a property has two or more separate street frontages, each frontage will be assessed as a separate property. This means that for each frontage, the maximum sign face area, maximum height and number of permitted signs will be calculated according to the length of the frontage upon which they would be erected.

Properties having a secondary frontage to the beach or a public reserve, for example, are not considered to be double frontage properties. Generally, Council will not encourage or approve advertising signs fronting beaches and public reserves.

Comments: The freestanding blade sign has been assessed against the applicable controls and is considered to be appropriate given the location and design.

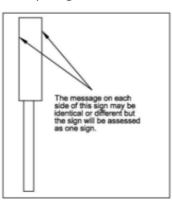
5.1.10 Double-sided signs

A double sided sign is assessed as one sign for the purpose of calculating sign face area.

Note: A double-sided sign is two signs, back to back, on a single structure, where both sides of the sign are identical in sign face area, dimensions and content.



A V-shaped sign will be assessed as two (2) signs.



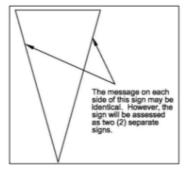


Figure 13: Pylon sign

Figure 14: V-shaped sign

Note: A pylon sign is any freestanding elevated sign supported by one or more columns, pylons or poles where the display area may include separate removable and replaceable slats, panels or other components.

Comments: NA - no double sided signs.

5.1.11 Multi-tenanted sites

Special provision has been made for multi-tenanted sites in commercial and industrial zones. Where a multi-tenanted site has been strata subdivided, the total sign face area calculations will be based upon the area and dimensions of the parent property.

Comments: N/A - not a multi-tenanted site.

5.1.12 Battle-axe properties

Special provision has been made for battle-axe properties. You should address the following when designing your signage:

- Only one free-standing sign should be erected per property and it must be located on the property boundary.
- The separation distance from the nearest adjacent free-standing sign shall be equal to the width of the proposed sign. For example, if your proposed sign is 4m in width, it must be located 4m from the nearest adjacent free-standing sign.



- To calculate the maximum sign face area for free-standing signs, the maximum width of the property shall be taken to be the road frontage.
- · You are to satisfy the performance criteria for free-standing signs.

Comments: - N/A - not a battle axe property.

5.2 Signs within a public road reserve or on a footpath

Notwithstanding any other provision or standard contained within this Chapter, you must design any sign suspended over a public road to:

- · have a minimum clearance of 2.6m above ground/footpath level;
- be at least 600mm from the kerb/roadway edge; and
- Not project more than 1.2m over any property boundary adjoining a public road.

Comments: N/A - no signs proposed within the public road reserve or on the footpath.

5.3 Discouraged signs

Applications for the following types of signs and promotional devices are discouraged by Council:

- Any moving, reflective or floodlit signs that may adversely affect traffic safety or neighbourhood amenity including trailer mounted variable message boards;
- Free-standing billboards, bulletin boards and the like;
- Corporate sponsorship or branding (where an entire building is painted in corporate colours or corporate logos);
- · Bunting or bandit signs;
- Signs on top of awnings;
- Signs on or above a roof unless:
 - o The sign is integral to the architectural features of the building; or
 - The sign has a suitable backdrop.
- Signs greater than or erected at a height greater than 10m above natural ground level;
- Signs within navigable waters that are prohibited under SEPP 64;
- Motor vehicle signs that are not exempt;
- Advertising signs in schools (except for signs for school related activities such as fetes, plays, etc);
- Signs fronting beaches and public reserves; and
- · Portable signs within road reserves.



Note: A moving sign is any sign either illuminated or non-illuminated including rotating, trivision, carousel, animated, computer controlled, moving display or message signs with a single or variable message. A billboard or bulletin board may be on-building, free-standing, painted or comprise two or more poster panels. Bunting includes decorative flags, pennants and streamers. A bandit sign is any sign displayed on or attached to a tree, post, utility pole, vehicle or structure located within or near any water, road or rail transportation corridor and includes fly posters.

Applications for some signs, however, may be considered on their merits provided Council is satisfied that the proposed sign is appropriate in the circumstances. For example, such a sign might include a painted roof sign on a heritage building.

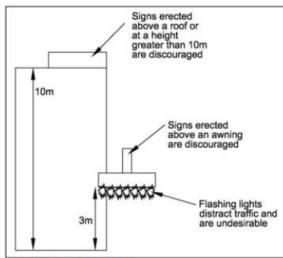


Figure 15: Discouraged Signs

Comments: - No discouraged signs are being proposed.

5.4 Sign content

Industry standards for sign content is governed by the Code of Ethics administered by the Advertising Standards Bureau. Although this Chapter does not provide controls for sign content, Council may take into consideration sign content in the assessment of your application.

Comments: Sign content is considered to be appropriate and is designed for business identification means only.



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5.5 General Controls					
All Business and Industrial Zones	ll Business and Industrial Zones				
Performance Criteria	Acceptable Solutions	Proposed Development	Compliance		
P1	On-Building Signs				
To ensure advertising signs/structures: • are associated with a lawful use of the land; and • relates to the land, or to the premises situated on that	A1.1 For corner lots, maximum sign face area is to be calculated by taking the average building width when measured parallel to both the front property boundary and secondary street frontages.	N/A – not a corner lot.			
 land; or identifies a person residing or carrying on an occupation or business on the land or premises; and/or gives particulars of the goods or services dealt with or provided on the land or premises; is a directional sign for an approved tourist facility in the 	Maximum sign face area of any one (1) sign is not to exceed 8m2. e.g. A building width of 10m will permit 15m2 of sign face area on the building.	Given a building width of 10m permits 15m2 of signface area, the proposed building width of 39.6m permits 59.4m2 of signface area. The total proposed onbuilding signface area does not exceed this requirement.			
Shoalhaven; or Is an advertisement for a business located in the Shoalhaven.	A1.3 Maximum sign face area should not exceed 1.5m2 of sign face area per metre of maximum building width which is measured parallel to the front property boundary.	As above – compliance achieved.			



- relate well to and integrates with existing built and vegetated forms
- do not dominate the streetscape or skyline
- do not adversely affect traffic safety
- do not restrict sight distances at entrance/exit to any property
- do not obstruct sightlines to signs on adjoining property
- do not detract from the heritage significance of the building or place
- do not project over windows or architectural features of a building
- are consistent with the design guidelines outlined in this Chapter
- are treated on the rear view of single-sided signs to blend with the surrounding streetscape or field of view
- · reduce visual clutter
- achieve equity between property owners/occupiers
- have a design relationship between multiple signs
- have a design relationship to each other individual signs in the case of a free-standing directory sign

Free-Standing Signs

A1.4

Maximum sign face area should not exceed 0.35m2 of sign face area per linear metre of road frontage.

A1.5

Maximum sign face area of any one (1) sign is not to exceed 8m2. e.g. A 20m frontage will permit 7m2 of sign face area for a freestanding sign.

A1.6

Maximum height should not exceed:

Single sign	7 m
Two or more signs	5 m
Frontage - 40-99 m*	
Single sign	7-10 m
Two or more signs	5-7m
Frontage - 100 m or more	
Single sign	10m
Two or more signs	7m



Based on 0.35m2 per linear metre of road frontage, a maximum signface area for a freestanding sign of 21m2 is permitted (based on a 60m road frontage). The proposed freestanding sign is compliant with this requirement.

Based on the 60m road frontage, 21m2 of signface area for the freestanding sign is permitted. Compliance is achieved with this requirement.

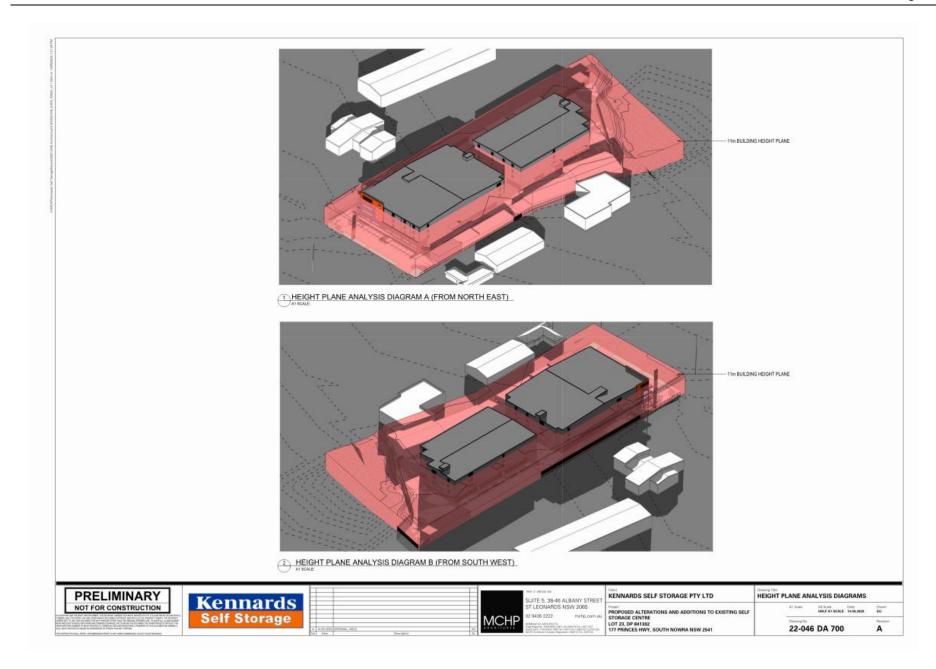
The height is not permitted to exceed 7m for a single sign. The blade sign is proposed to be 6m in height, which complies.



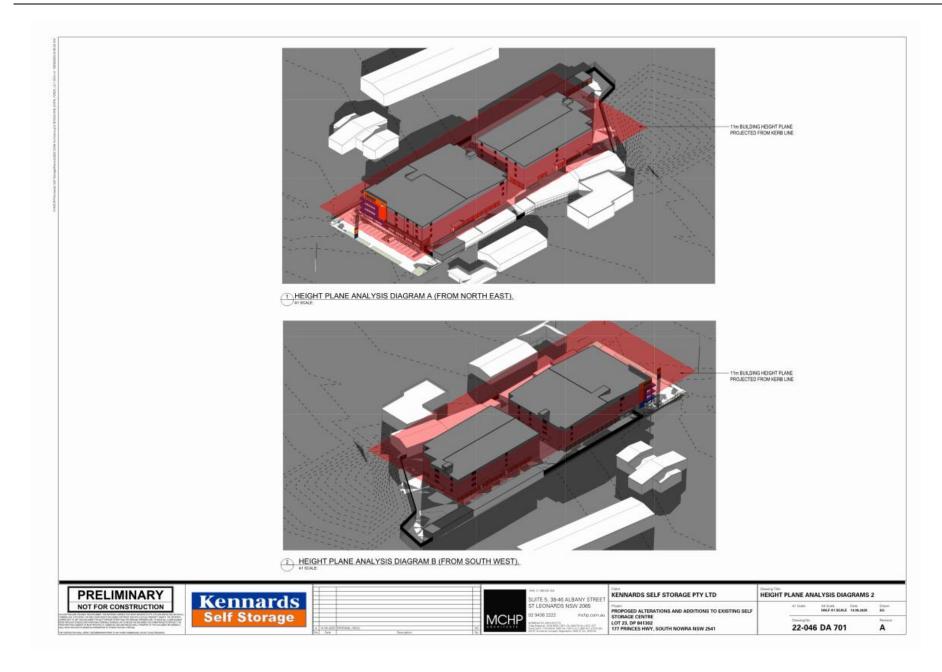
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accommodating the signs of other tenants in respect of any free-standing sign on a multitenanted site Affixed to structures are wholly contained within the dimensions of the structure.	Minimum separation distance between freestanding signs is calculated by adding together the height of the proposed sign and the nearest adjacent sign as follows: Height of proposed sign + height of adjacent sign = separation distance required. e.g. The separation distance required between two freestanding signs (6m and 3m each) would be 9m. A1.7 Minimum side boundary setback is 3m.	Achieved – the minimum 3m side setback is achieved for all signage.	Complies
	Signs on Structures A1.8 Maximum sign face area should equal 1% of floor area or site area occupied.	1% of the floor area proposed as part of the development is equal to 152m2 (based on a total proposed floor area of 15,200m2). The total signface area for all signs combined does not exceed this figure.	
	A1.9 Maximum sign face area of any one (1) sign is not to exceed 8m2 e.g. a floor area of 200m2 will permit 2m2 of sign face area. A site area of 800m2 will permit 8m2 of sign face area.	Based on the fact a site area of 800m2 would permit 8m2 of signface area – given the site area is 1.12ha, a signface area of 112m2 is permitted. Compliance is achieved with this	

requirement.













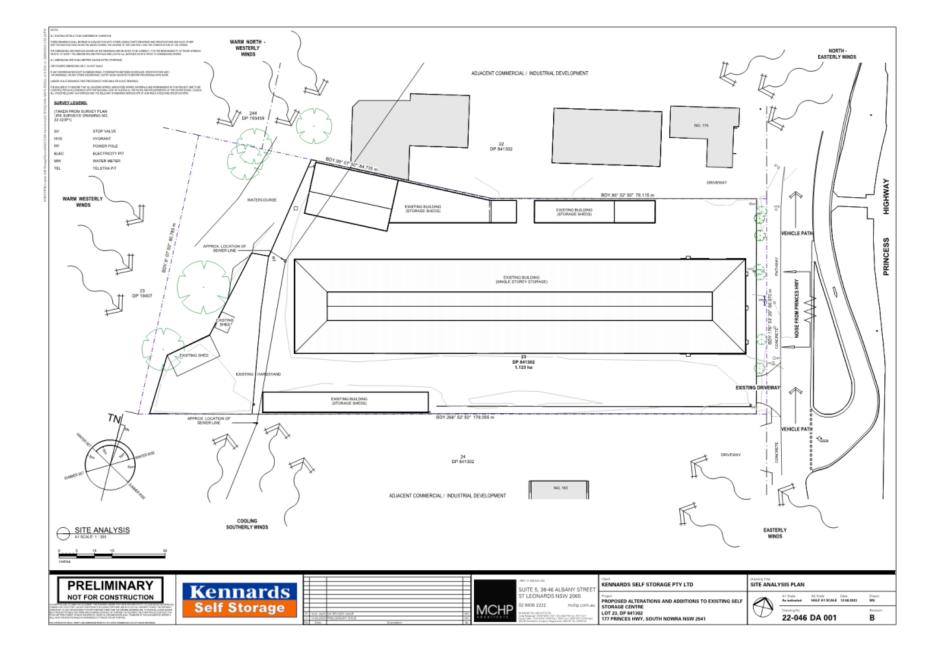
PROPOSED BUILDING IN CONTEXT - VIEW LOOKING NORTH FROM PRINCES HIGHWAY



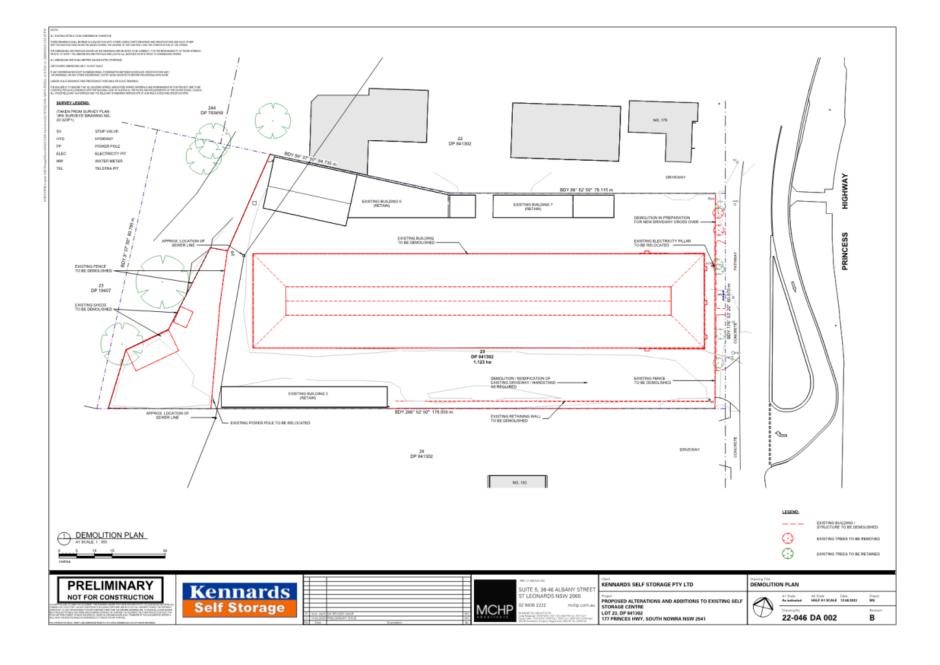
PROPOSED BUILDING IN CONTEXT - VIEW LOOKING SOUTH FROM PRINCES HIGHWAY

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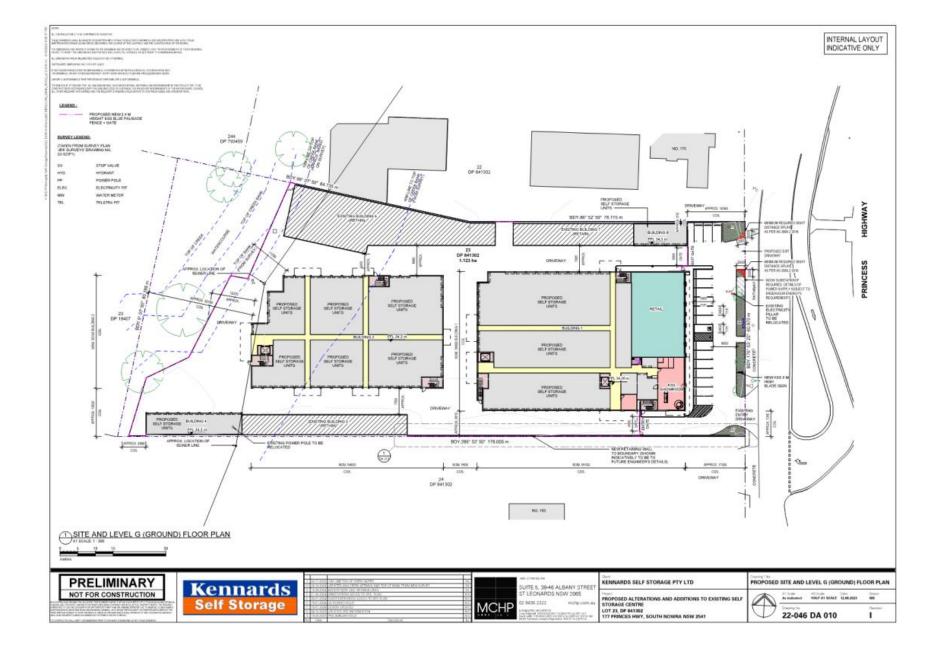




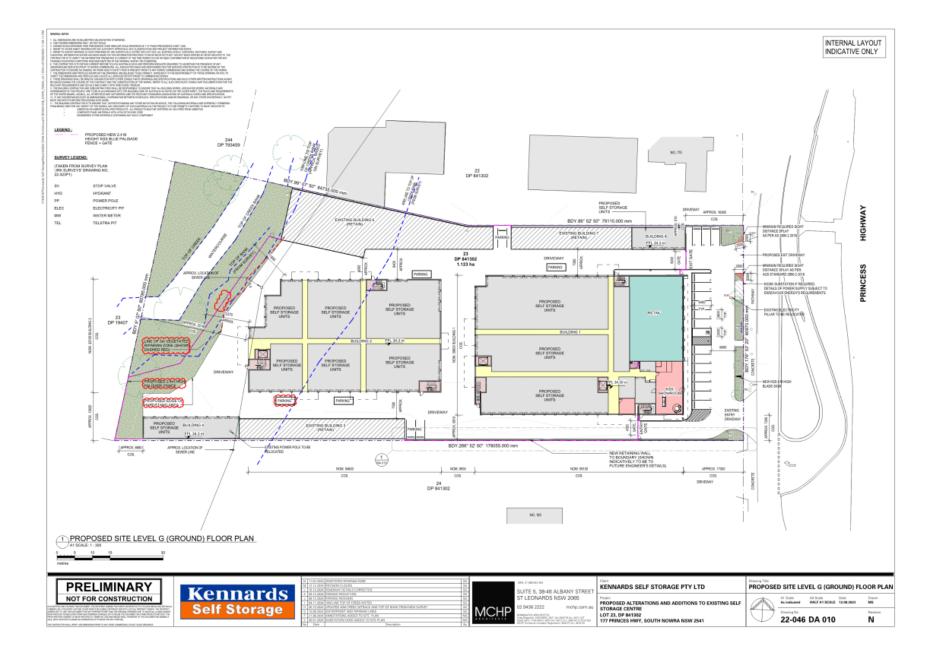




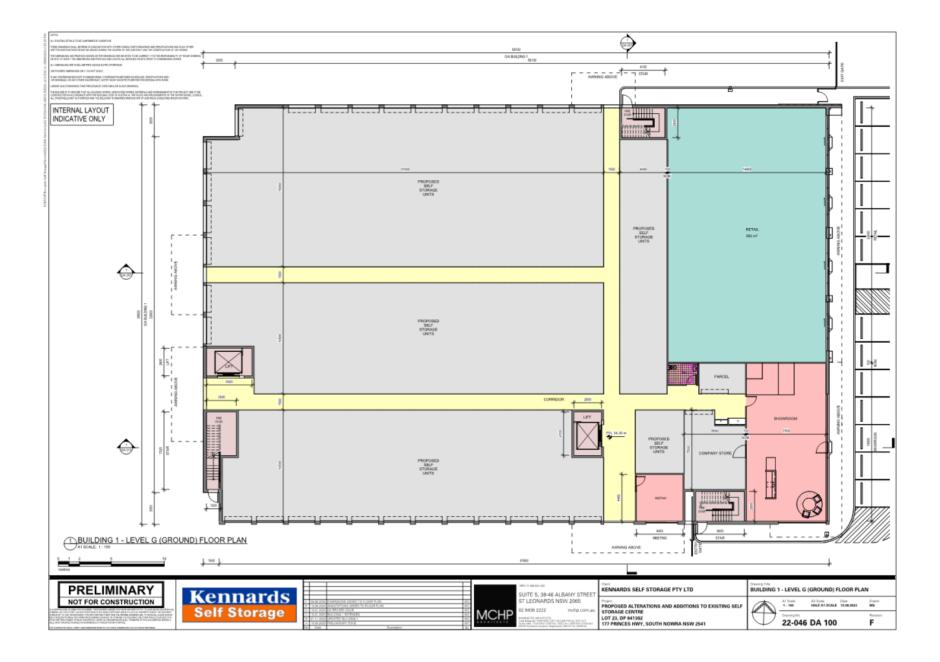




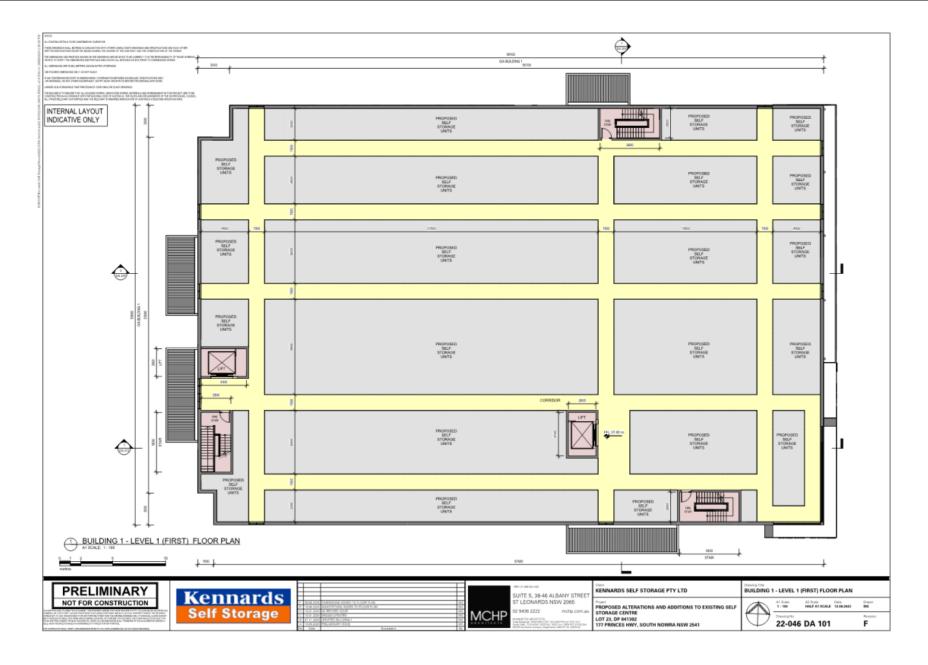




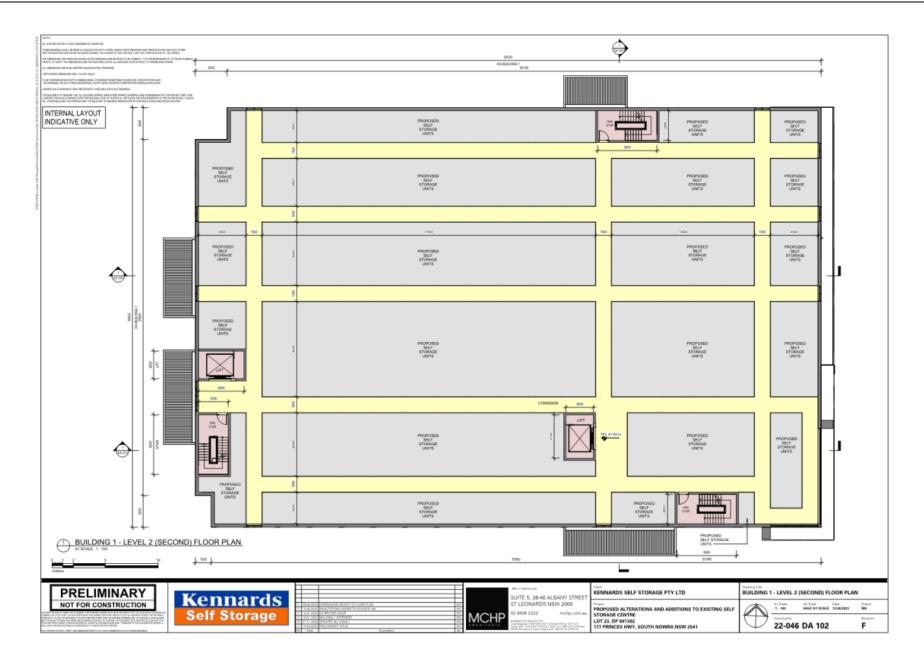




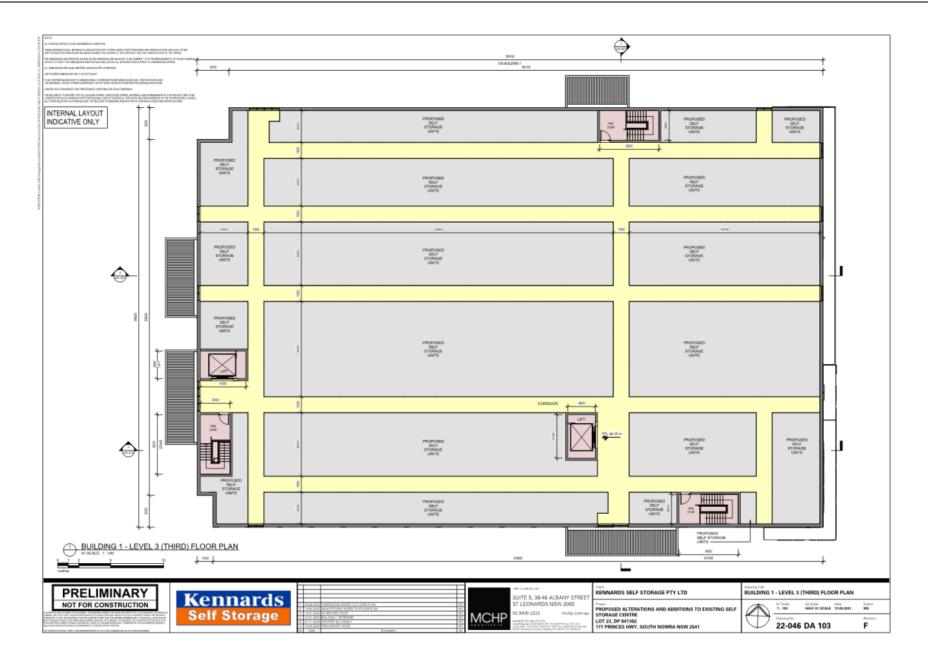




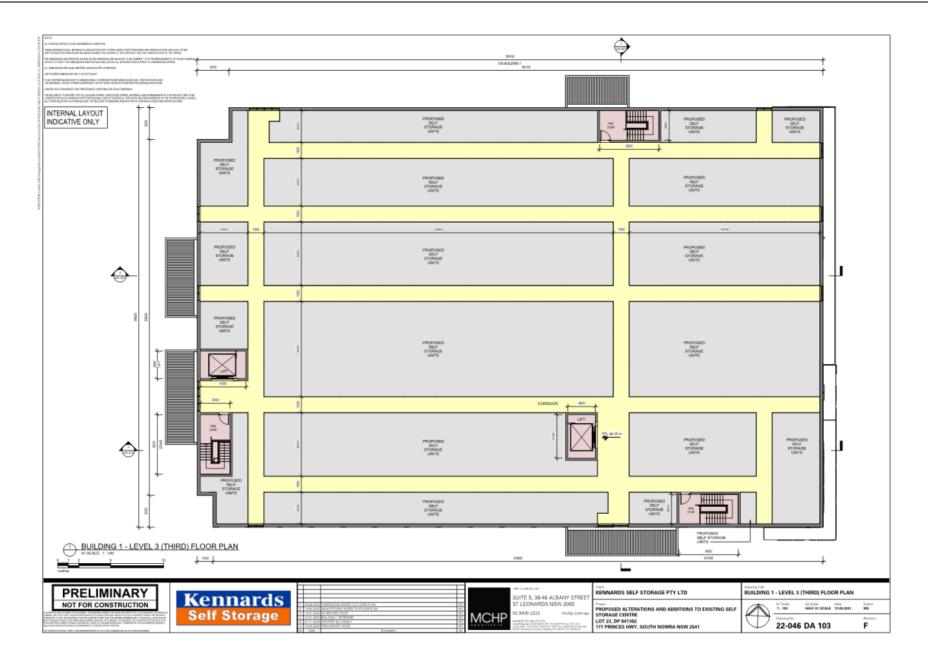




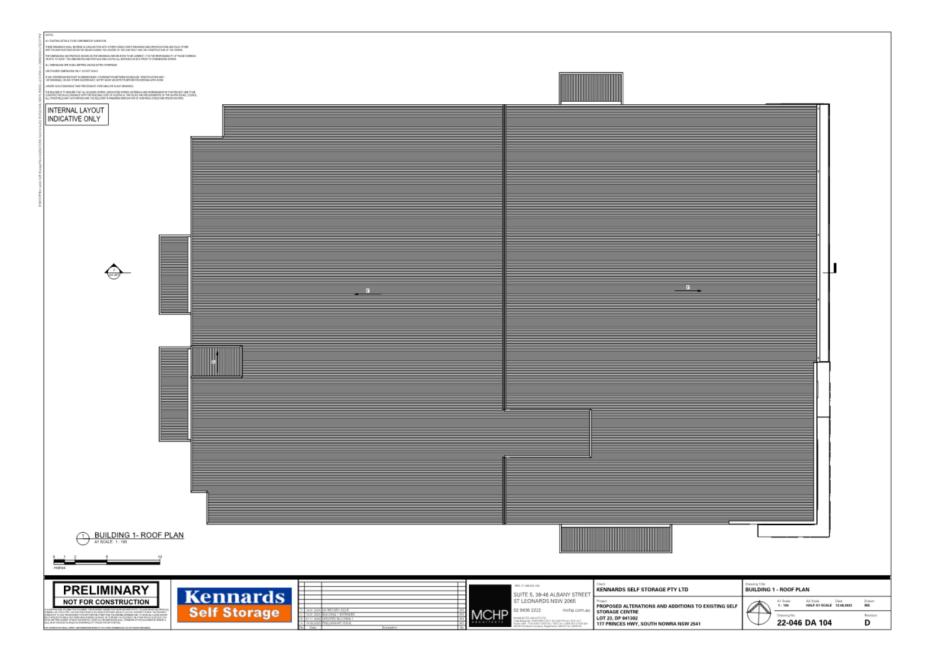




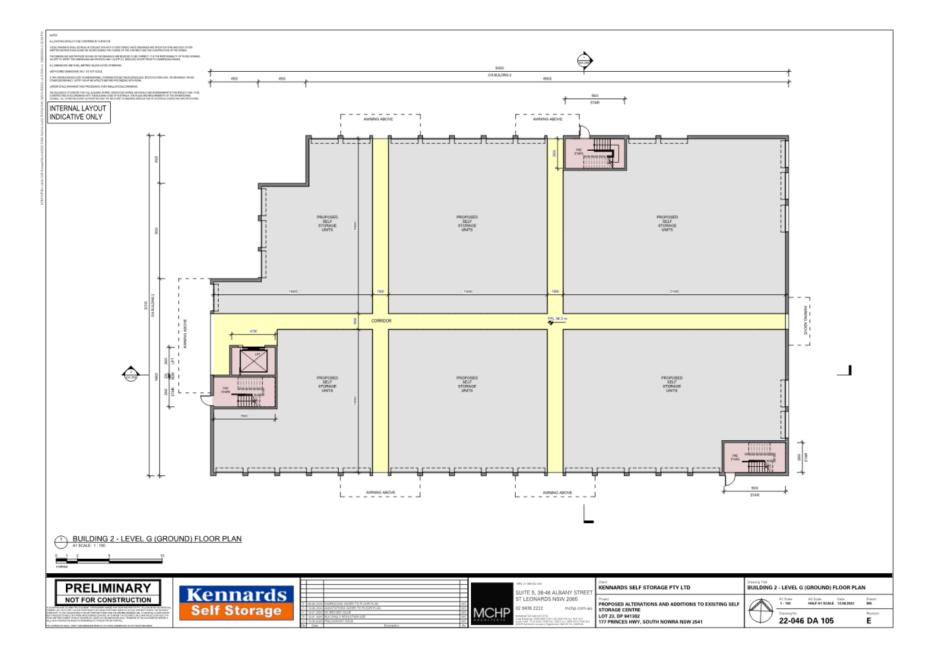




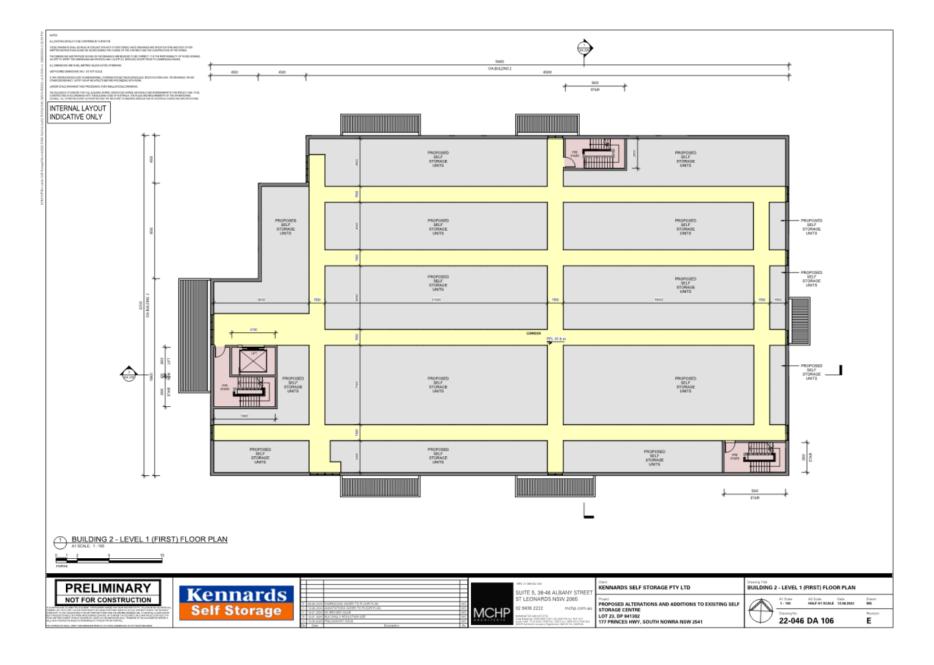




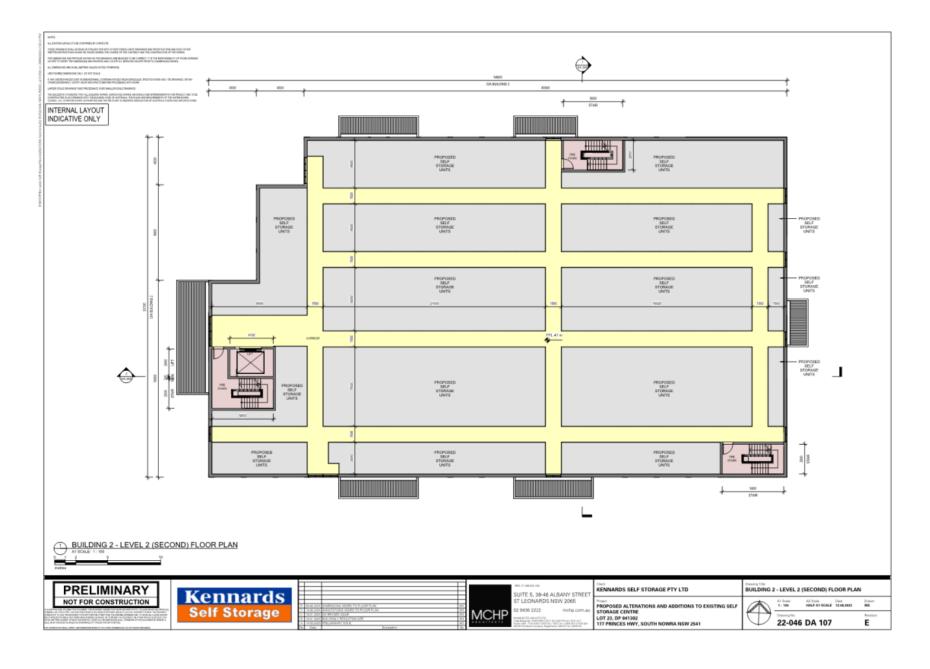




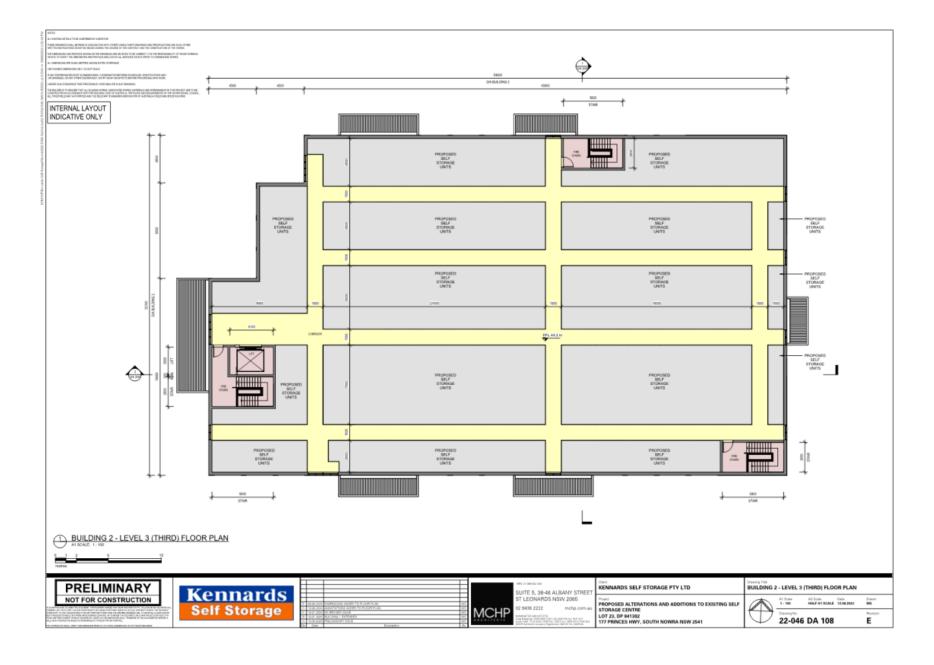




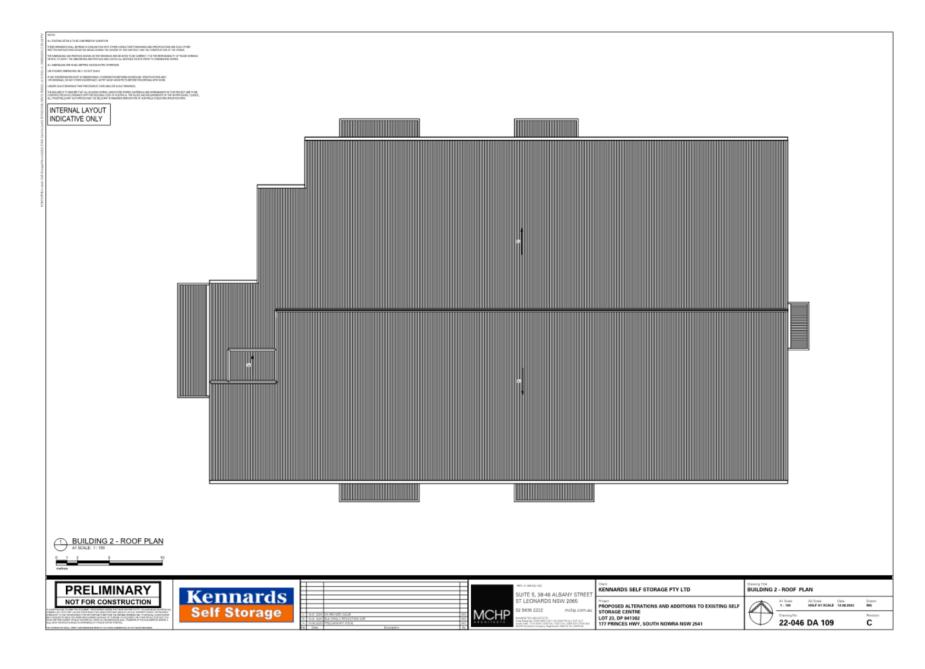




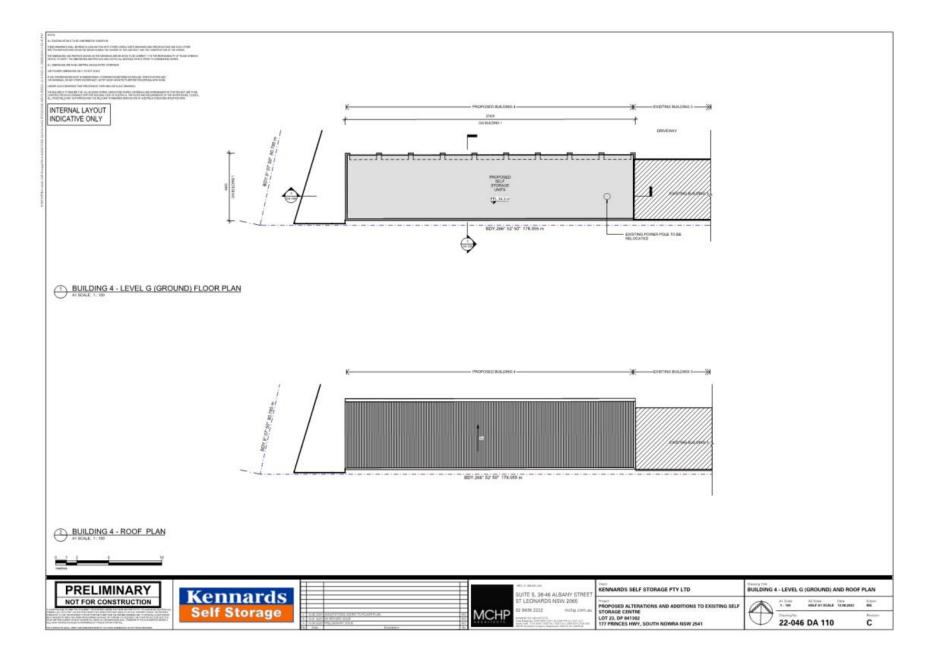




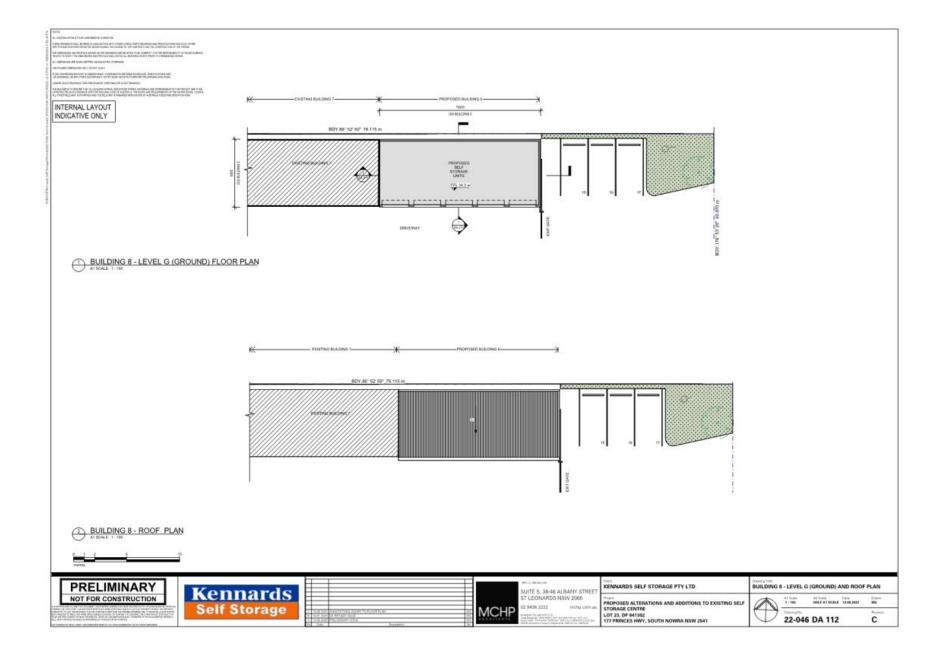




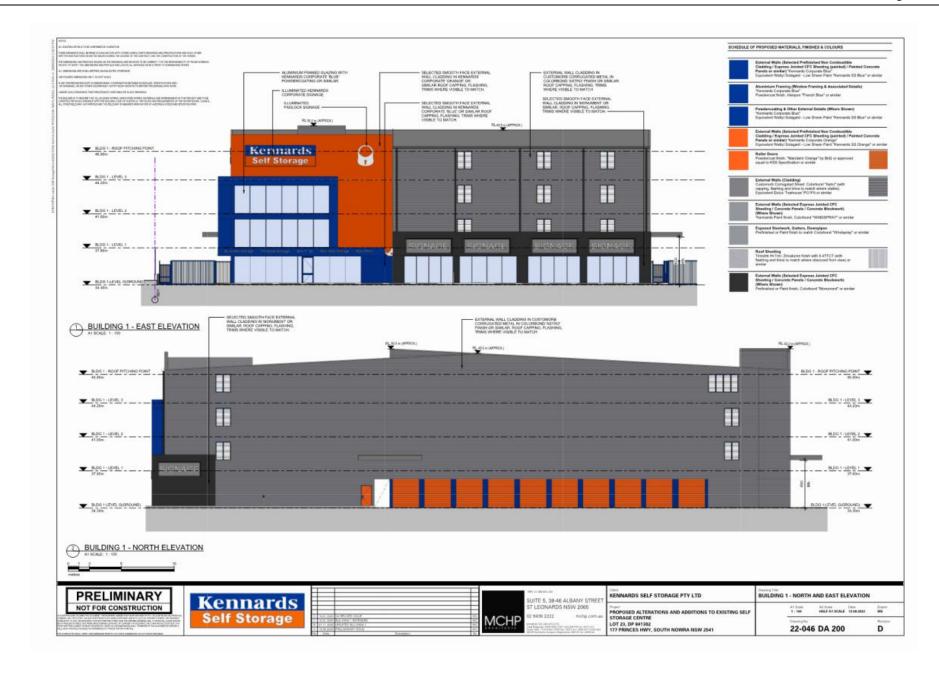




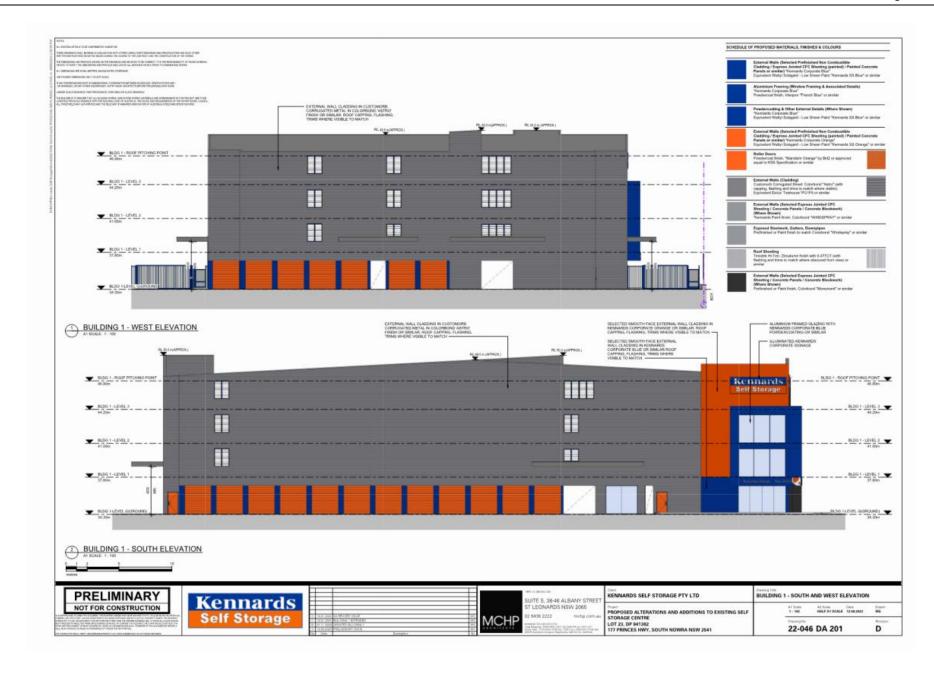




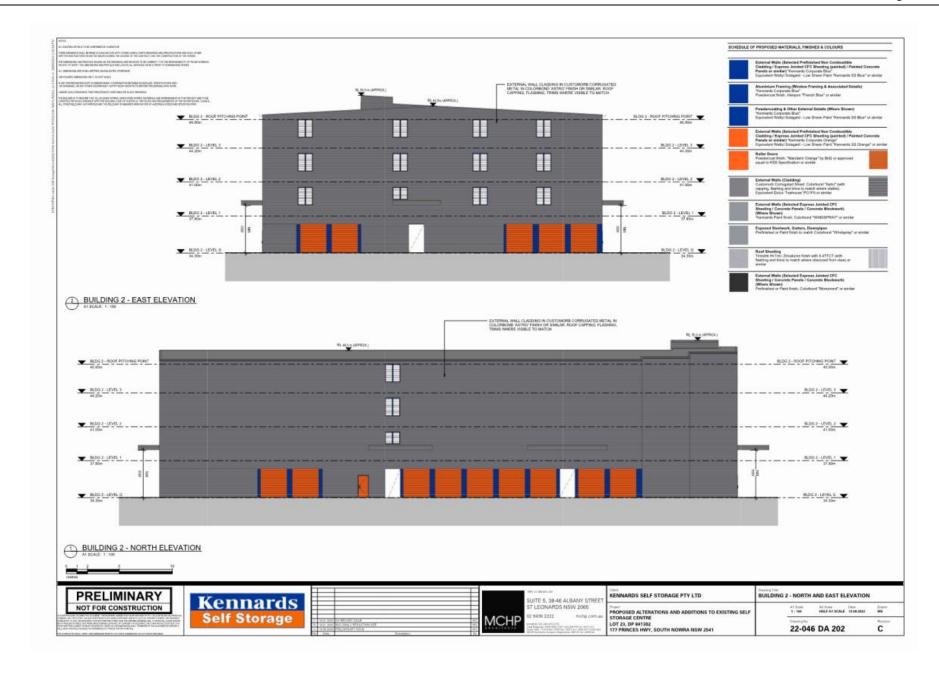




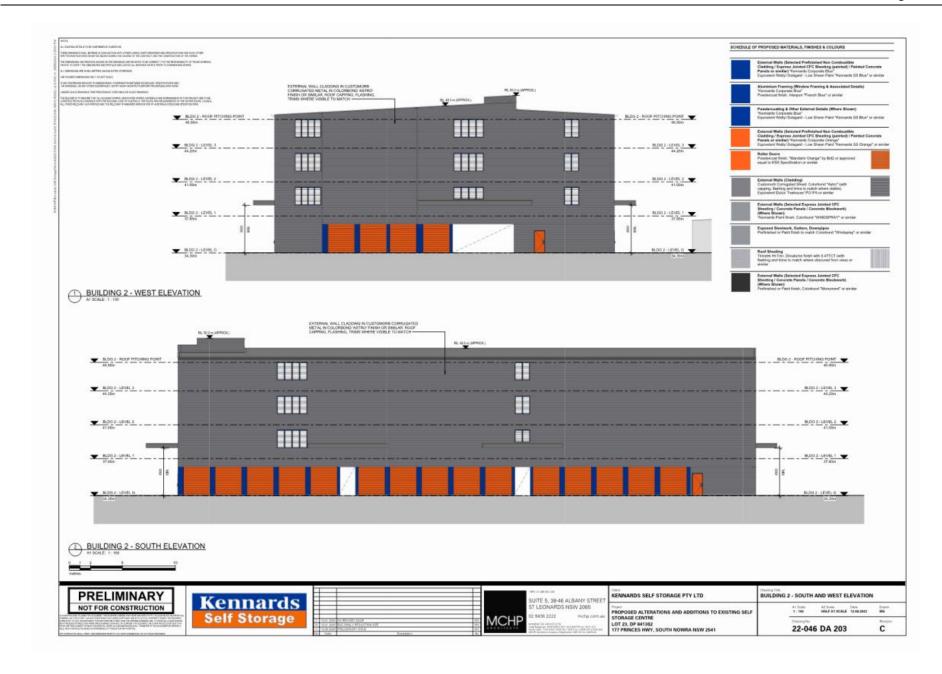




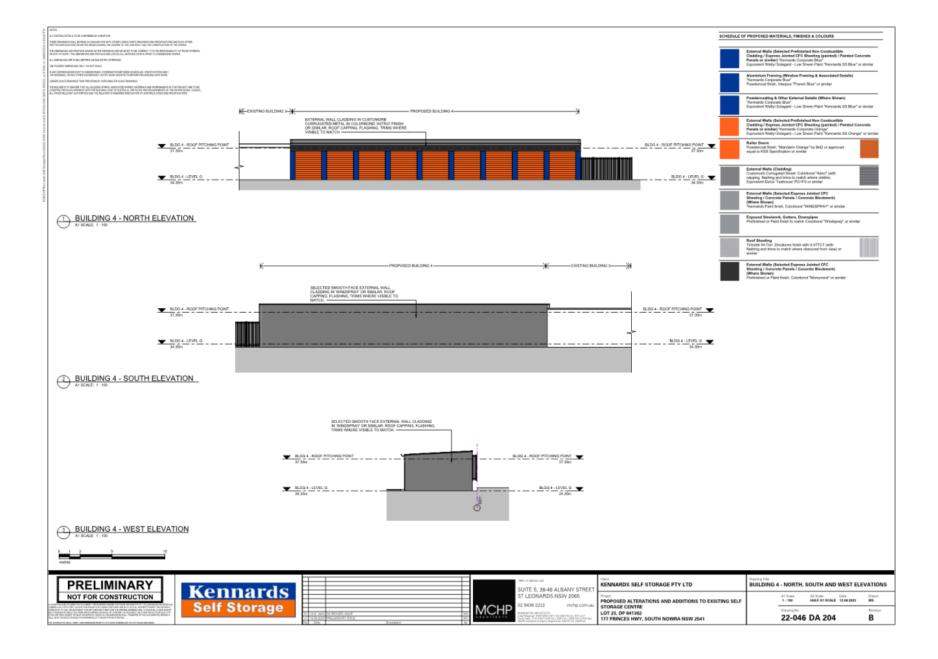




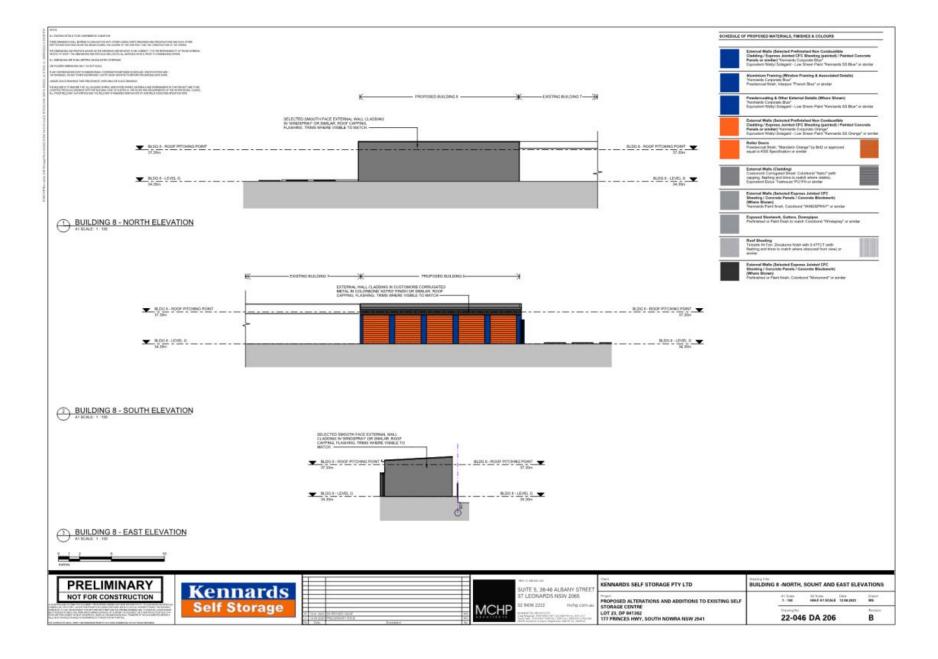




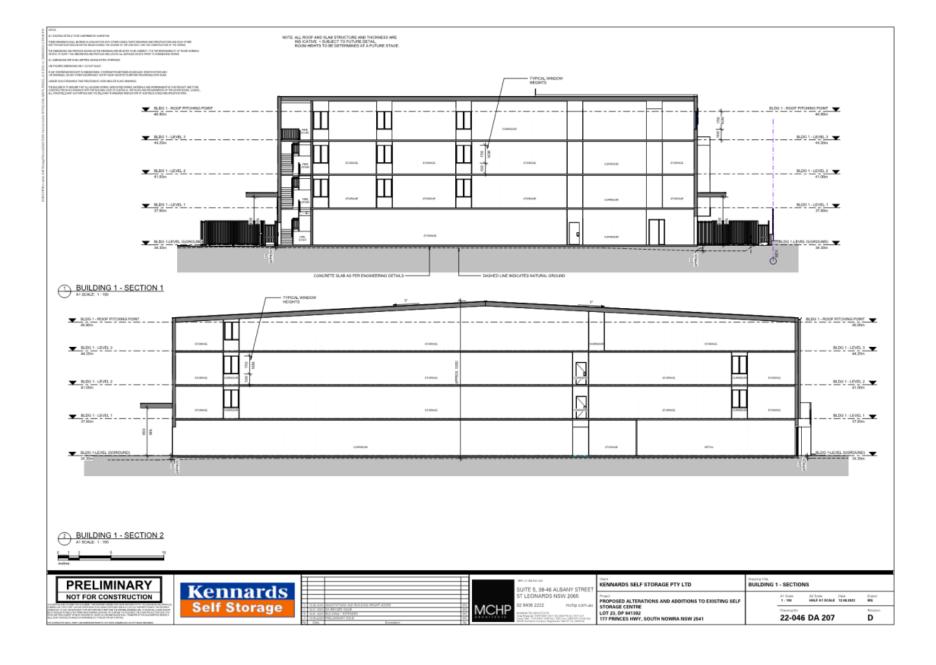




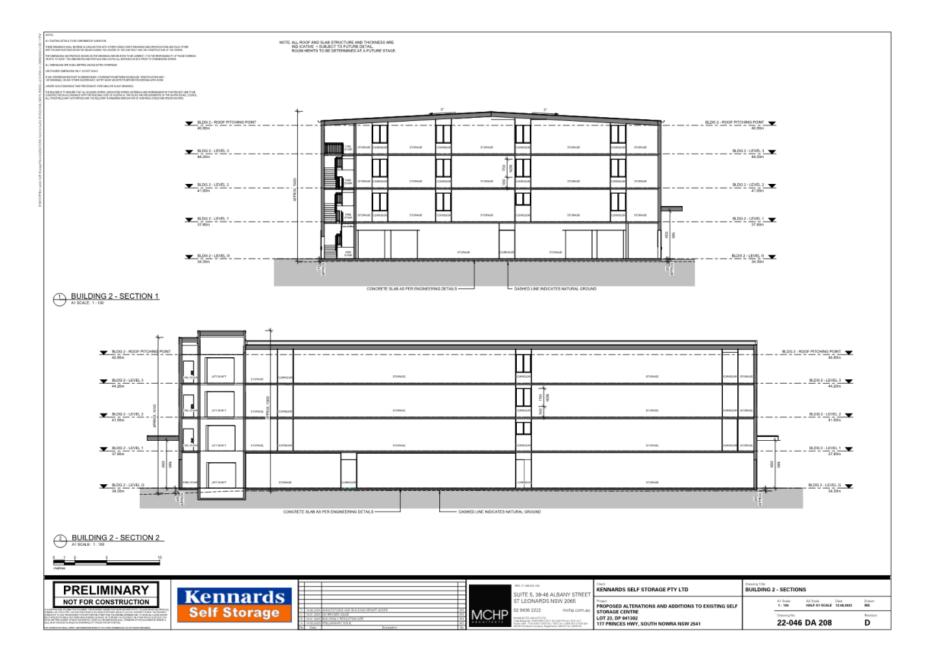




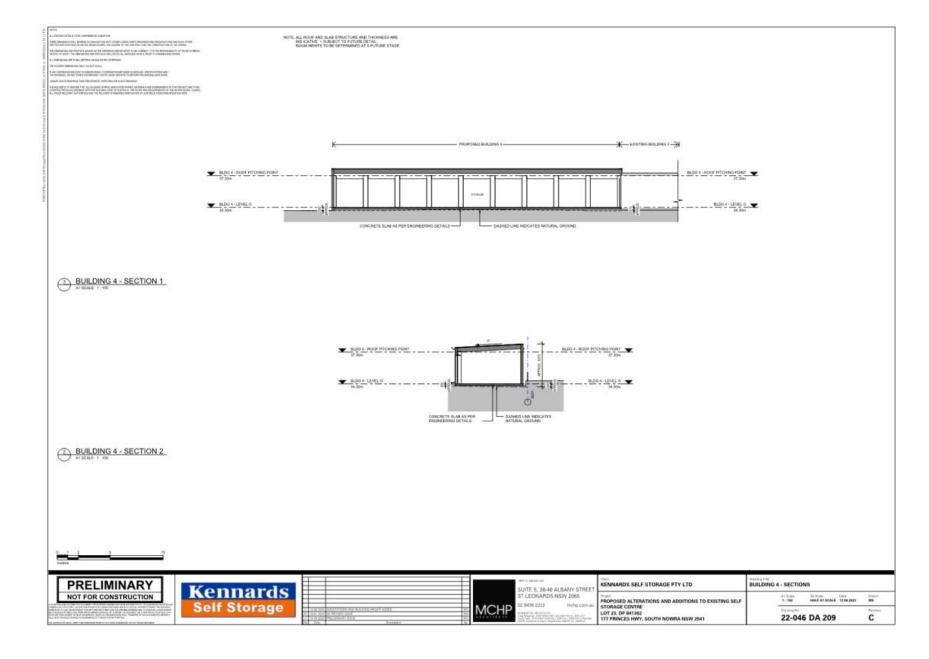




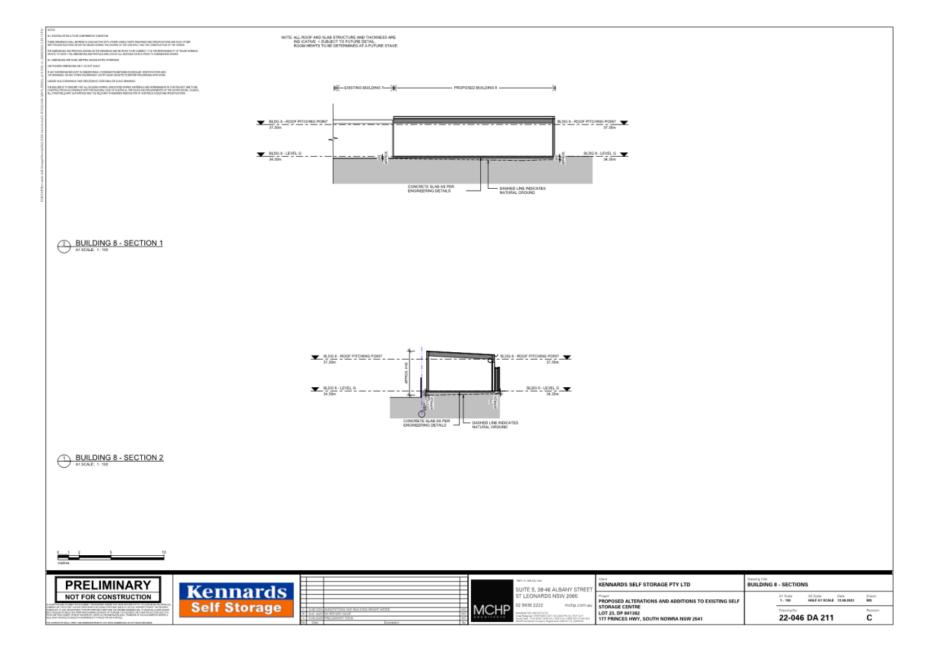




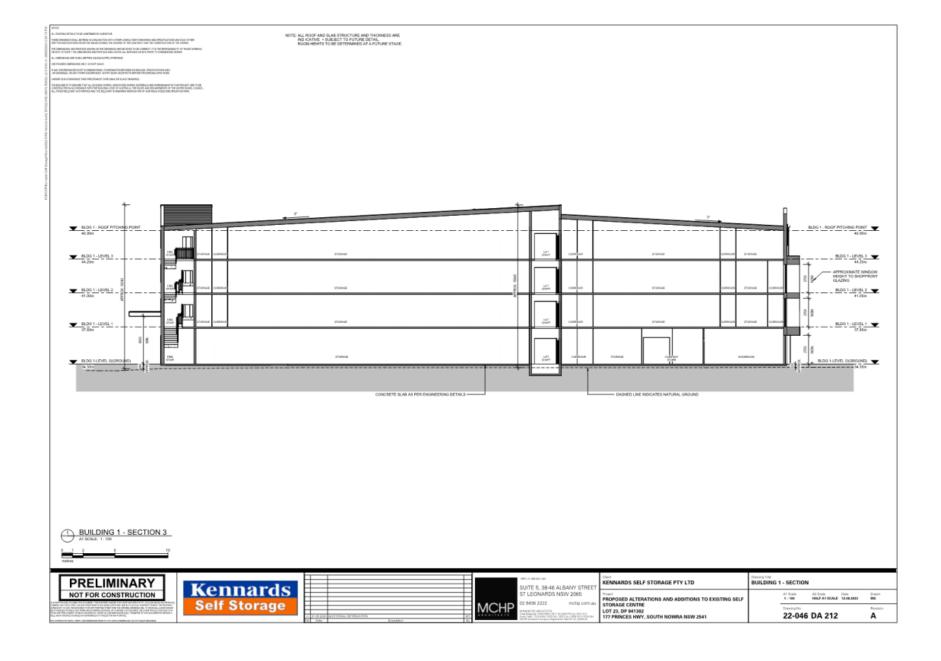




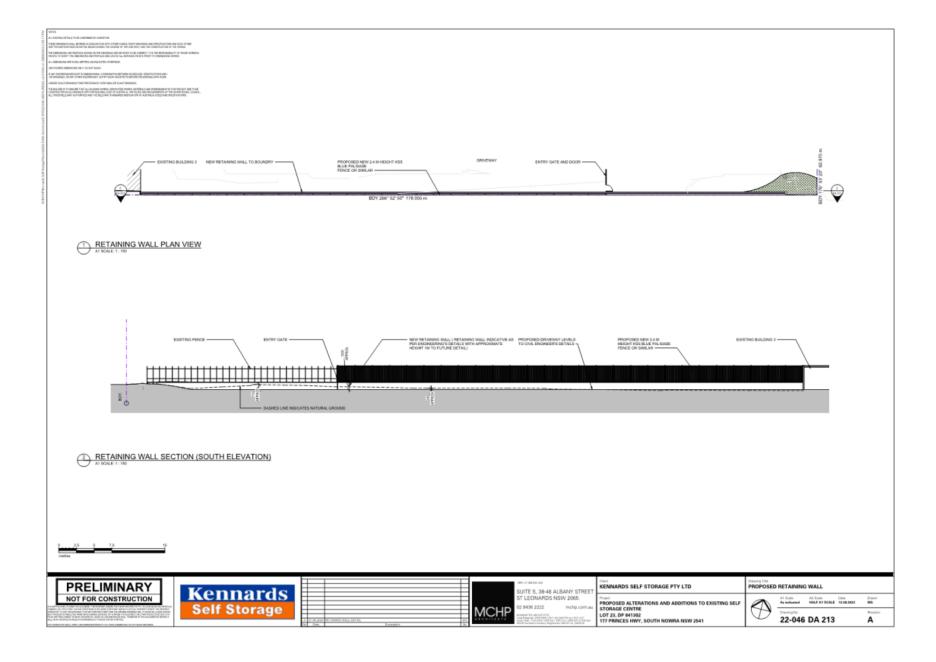




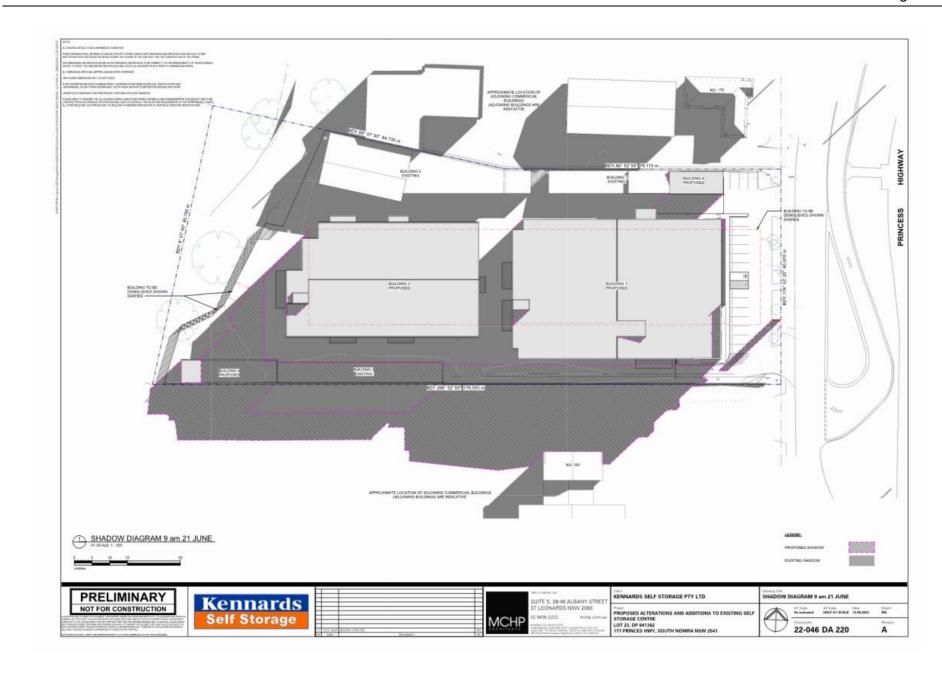




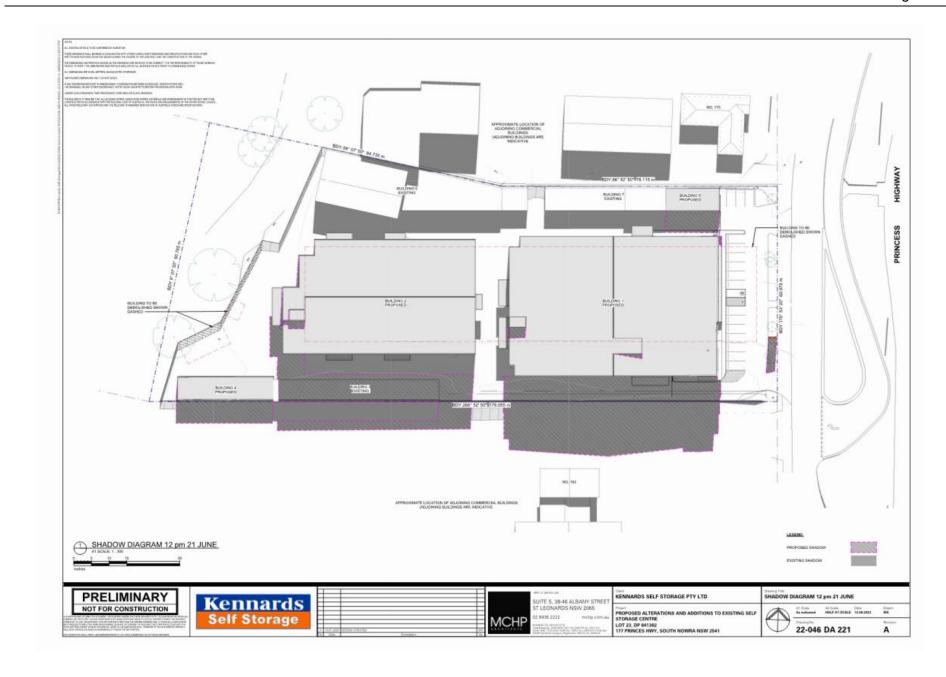




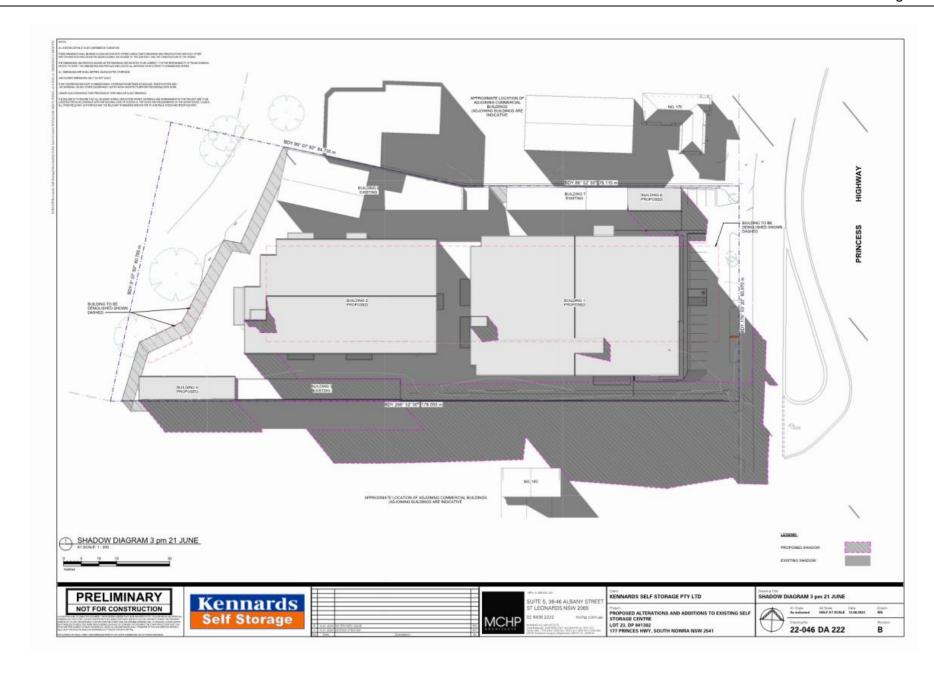




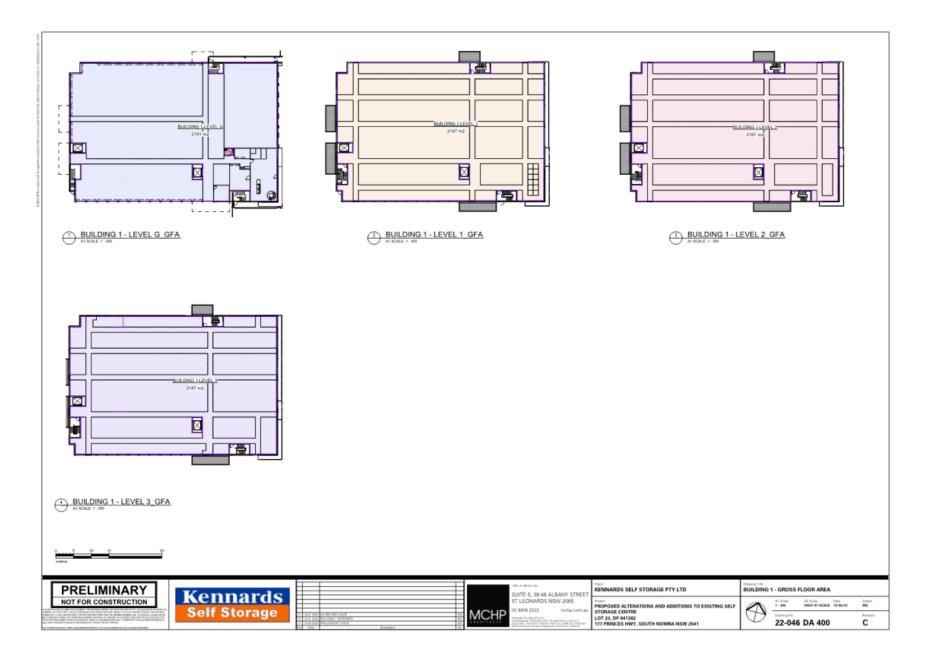




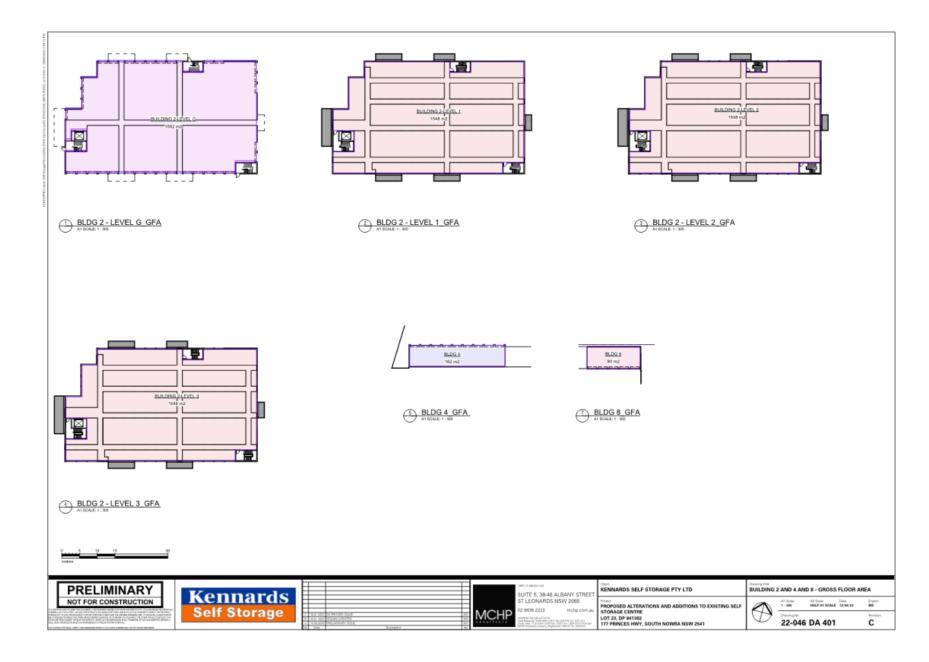




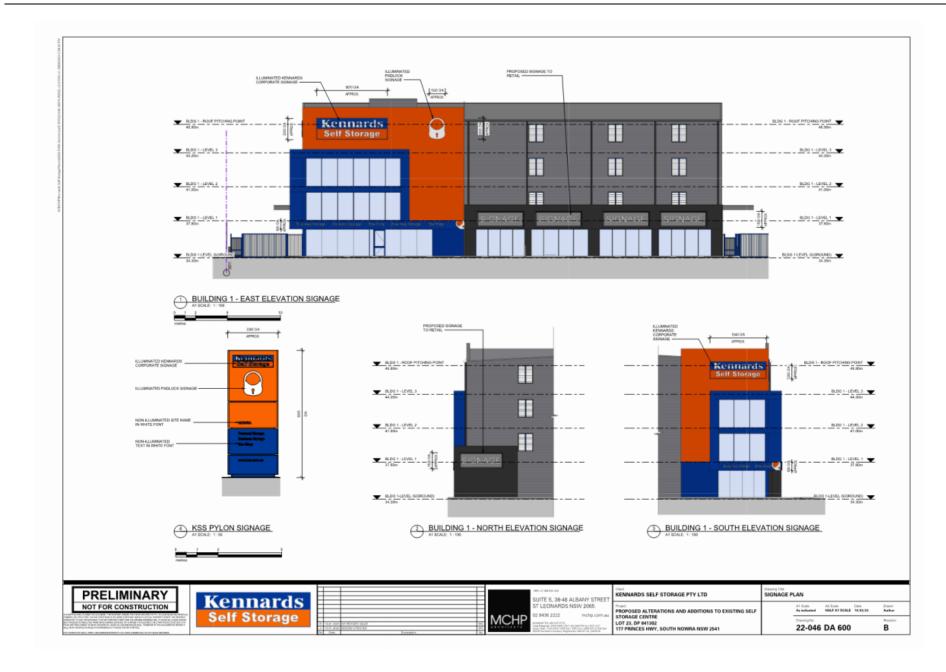




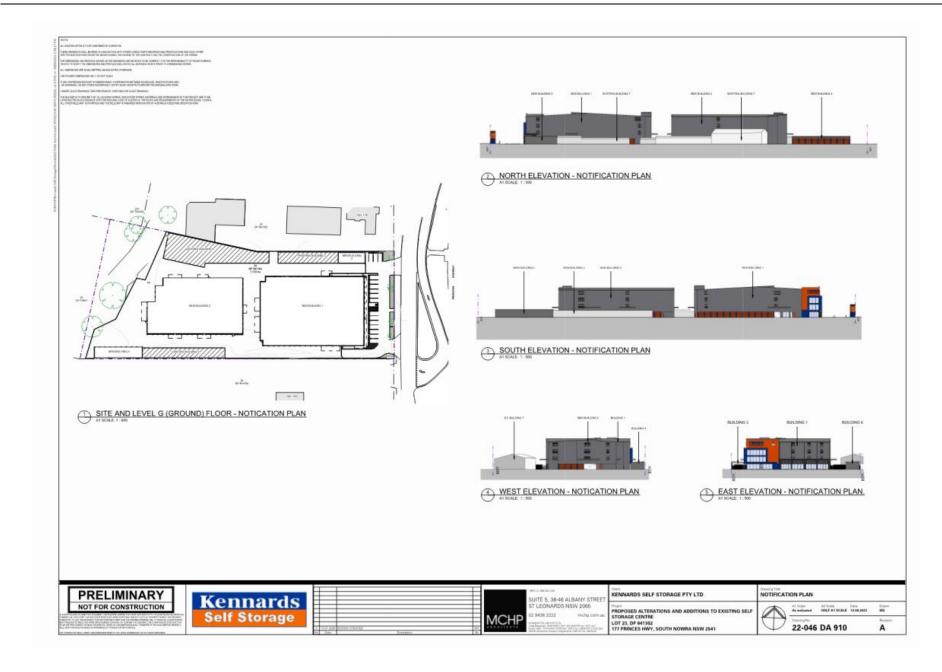














Section 4.15 Assessment Report - DA2025/1448

Shoalhaves

Section 4.15 Assessment Report

Environmental Planning & Assessment Act 1979

Conflict of interest declaration

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

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

Circumstances. This statem	nem snould then be countersign	ed by the Manager.			
Assessing Officer			20/05/	2025	
Peer Review Officer	Choose an item.		Click	here to enter a date.	
Affiliations and Pecuniary Interests	Have any affiliations or pecuniary interests been identified by the Applicant in the Portal lodgement form?				
	Note: Where a pecuniary interest is identified ensure, appropriate actions are taken (e.g. blocking access to TRIM folder for affected staff)			No	
	Note: For applications lodged Councillors and Council refer conflict of interest management required.	to POL22/149. A			
Councillor Representations	Councilor	Date		TRIM Reference	
Delegation Level Required	Clause 4.6 > 10% to be reported to Council				
Report Recommendation	Refusal				
Development Description	Change of Use of Training Facility to Dwelling				
Variations Proposed	☐ DCP departure				
	☑ Clause 4.6 exception	ı			
	Clause number	4.2D			
	Percentage variation	92.14%			
	Brief justification for the variation	Compliance with this standard is unnecessary give the objectives of the clause Strict compliance is unreasonable as it would thwart one of the objectives of 4.2D (3) (a) being achieved. The 40ha minimum lot size standard has been abandoned by Council. The existing building has been in existence for many years and the proposal will not involve any significant physical works.			
	Determination date	TBA			



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DA Number	DA2025/1448		
PAN	PAN-526077		
Property Address	682 Yalwal Road BAMARANG NSW 2540 - Lot 3 DP 1277665		
Applicant(s)			
Owner(s)			
Owner's consent provided?	Yes		
Is the proposal a	No		
Crown development application under Division 4.6 of the	Note: A Crown development application means a development application made by or on behalf of the Crown and includes public authorities prescribed by the EP&A Regulations 2021 e.g. NSW Land & Housing Corporation, Landcom etc.		
EP&A Act 1979?	Note: Development on Crown land does not necessarily mean it is a Crown development application. An application for an individual/private purpose and not made by or on behalf of the Crown is not a Crown development application.		
Date Lodged	14 April 2025		
Date of site inspection	5/06/2025		
Date clock stopped	22/05/2025		
Date clock started	Click here to enter a date.		
Related Application in NSW Planning	☐ Concurrence and/or external agency referral (CNR)		
Portal?	☐ HPC Contributions (CON)		
	☐ Planning Panel (PPSSTH)		
	☐ Section 68 (S68)		
Number of	One		
submissions	Note: where submissions are received Council must give notice of the determination decision to all submitters.		

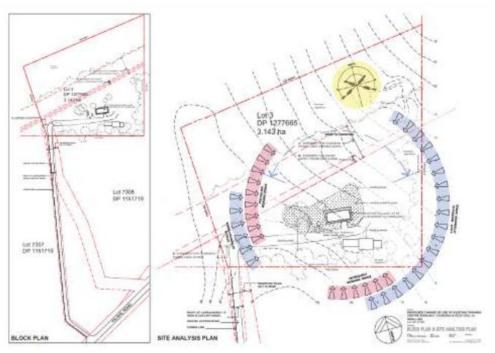
1. Detailed Proposal

The proposal includes:

- Change of use of the existing approved training centre building into a dwelling house.
- Clause 4.6 variation request to Clause 4.2D of SLEP 2014 for the minimum lot size for a
 dwelling house.
- Alterations to existing building.
- The development application also includes a Vegetation Management Plan that proposes
 environmental protection works for the site that will be tied to the conversion of the training
 centre to a dwelling house.



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Site Plan



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Elevations

The plans and information referred to are as follows:

Plans				
Plan Number	Revision Number	Plan Title	Drawn by	Date of Plan
DA01		Site Analysis	Nicholas Powell Architect	May 2023
DA02		Site Plan	Nicholas Powell Architect	June 2023
DA03		Floor Plan and Elevations	Nicholas Powell Architect	May 2023



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Documents			
Document title	Version number	Prepared by	Date of document
Vegetation Management Plan	V3	ecological	10 March 2025
SEE		Allen Price	7/4/2025
Clause 4.6 Variation		Allen Price	7/4/2025
Bushfire Assessment Report		Kieran Taylor	4 March 2025
SDCP 2014 Assessment		Cowman Stoddart	

2. Subject Site and Surrounds

Site Description



Figure 1: Aerial imagery of subject site

The subject site is accessed via an existing right of way from Yalwal Road. The site contains a former mud brick making industry and ancillary training centre building and other non-habitable structures.

The lot is traversed by easements for electricity and there is a water main that runs adjacent to the electricity easement.

The access to the site is from a right of carriageway over the adjoining lot to Yalwal Road. The site is on top of the ridge and the land slopes away to the east.

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As noted in the Applicant's Statement of Environmental Effects, the mud brick making industry ceased operations in 2017.

The surrounding area is rural in character and the site is adjoined by bushland to the north, south, east and west.

Summary of Site and Constraints

GIS Map Layer			
	Lot Area		3.13ha
	Zone		C2 Environmental Conservation
			C3 Environmental Management
			The second secon
			The proposed dwelling building is situated on C2 zoned land.
	Does the land have a	dwelling entitlement?	No
	Note: for rural land refer to	clause 4.2D of Shoalhaven	
	LEP 2014.		Clause 4.6 provided that seeks a variation to the minimum lot size for a dwelling under Clause 4.2D.
	Does the property adjoint National Parks or other	r public reserve?	Yes - Potential impact to Crown land. Referral to Crown Lands required.
	Note: Consideration should development requires or im adjoining land.		
	Has appropriate surve provided?	y information been	N/A - Survey inforamtion not required
er	Note: For residential develo the <u>DA Requirements for Lo Matrix</u>), the following criteria for when additional survey of	odgement Checklist (DA a should be used as a guide	
Lay	Development Type and setbacks	Required Survey Information	
Topographic Layer	Rural sheds/garages with setbacks >10m	Builders' dumpy levels	
_ab	Rural sheds/garages	Spot levels and	
6	with setbacks >5m	identification survey	
8	Rural sheds/garages	Part survey of affected	
Į į	with setbacks <5m Urban sheds with	Spot levels	
"	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	



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	Rural retaining walls Survey information as necessary	
	Fall direction of land	Other
	Slope of land >20%?	No
Site Inspection	Works within proximity to electricity infrastructure?	Yes - Referral to Endeavour Energy required. • Development within or immediately adjacent to an easement for electricity purposes
Site I	Is the development adjacent to a <u>classified</u> <u>road</u> ?	No •
	Is the development <u>adjacent to a rail</u> <u>corridor</u> ?	No
Eastern Gas High Pressure Pipeline (Jemena)	Site within proximity to the eastern gas high pressure pipeline? within the licence area of a pipeline for gas, or for petroleum or other liquid fuels, licensed under the Pipelines Act 1967, or within 20m of the centreline (measured radially) of a relevant pipeline, or within 20m of land the subject of an easement for a relevant pipeline.	No
	Access to reticulated sewer?	No - The site is/will be serviced by an on-site sewage management system
Utility Network	Does the proposal require a new connection to a pressure sewer main (i.e. a new dwelling connection)? It is sewer Produce Main I trang Main Surcharge Main Under Construction Building over sewer policy applicable?	N/A No



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	Note: Zones of influence can differ based on soil type (e.g., sandy soils vs clay soils). If unsure discuss with Shoalhaven Water.	
	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)?	No
	On-site sewage management (OSSM) - Is the development located suitably away from any effluent management areas (EMA) or effluent disposal areas (EDA)?	Yes - buildings and structures are located outside of OSSM areas
	Note: Ensure you have adequate information about the location of existing OSSM systems	
	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.	Yes
	Note: EMA/EDAs should be located at least 20m away from a downstream water main and at least 10m from an upstream water main.	
	Aboriginal Cultural Heritage	No
	Bush Fire	Yes
	Coastal Hazard Lines (applies to location of proposed development)	No
"	Coastal Hazard Area	No
Vers	Potentially Contaminated Land	No
Laj	Flood	No
Environmental Layers	Note: There are several catchments that have not have flood studies conducted. Sites outside of the flood study area may still be subject to flooding. Refer to advisory note on p.3 of Chapter G9 of Shoalhaven DCP 2014.	
viro	☑ Horal Date	
En	M ☐ Flood Studies	
	Development on waterfront land (i.e. within 40m of a watercourse)	No
	Note: A Controlled Activity Approval (CAA) may be required for works within 40m of a watercourse. The Waterfront land e-tool can be used to determine if a CAA is required.	
Plan ning Lay ers	Development Control Plan - Area Specific Chapters	No



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	Draft Exhibited Planning Proposal	No
	Shoalhaven LEP (Jerberra Estate) 2014	No
	Acid Sulfate Soils	Class 5
	Buffers	No •
	Terrestrial Biodiversity	No
	Local Clauses	No
	Coastal Risk Planning	No
	<u>Heritage</u>	No
	Scenic Protection	Yes
	Riparian Land and Watercourses	No
	Note: Clause 7.6 applies to all land identified as "Riparian Land", "Watercourse", and all land within 50m of the top bank of a "Watercourse".	
	Sydney Drinking Water Catchment area (e.g. NorBE) Note: NorBE Assessments submitted to Council can be viewed from the "Lodged" tab in the NorBE online assessment tool shown below. NorBE Assessment Libertal Market (SA)	No
	SEPP (Resilience and Hazards) 2021 – Chapter 2 Coastal Management	No
	Marine Park Estate	No
BV Map	Biodiversity Values Map	No

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Site Inspection Observations

Refer to site inspection report.



Figure 1 - Looking north across site



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Figure 2 - Existing shed to south of property



Figure 3 – Looking east across the site



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Figure 4 – Electrical easement to north of existing buildings



Figure 5 – Existing ex training facility building



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Figure 6 - Access within the site



Figure 7 – Shipping container



Deposited Plan and 88B Instrument

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

Part 1 (Creation)

Number of item	Identity of easement, profit à	Burdened lot(s) or parcel(s):	Benefited lot(s),
shown in the	prendre, restriction or positive		road(s), bodies or
intention panel on	covenset to be created and		Prescribed
the plan	referred to in the plan		Authorities
1	Restriction on the use of land	3	Shoethaven City Council

Part 2 (Terms)

Terms of restriction numbered 1 in the plan

- s) No part of the property around the Training Facility shall be managed other than in accordance with Planning for Bush Fire Protection 2006 and the Rural Fire Service's document Standards for Asset Protection Zones and as follows:
 - To the north as an inner Protection Area for 15 metres and 10 metres as an Outer Protection Area; and
 - To the east as an Inner Protection Area for 20 metres and 15 metres as an Outer Protection Area; and
 - To the south and west as an inner Protection Area for 10m and 10 motros as an Outor Protection Area.
- b) No landscaping shall be provided that does not comply with Appendix 5 of Pisnning for Bush Fire Protection 2006.

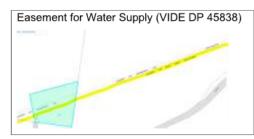
Authority whose consent is required to release, vary or modify the restriction numbered 1 in the plan.

Shoalhaven City Council

Restriction	Commentary
Restriction numbered 1 in DP1277665 Tame of record annualization 1 inchanges of forest of the records sound the Training Stating and their incognition in the income for the sound the Training Stating and their incognition in the income of the forest sound the soun	N/A – this restriction relates to the ongoing maintenance of APZs relating to the Training Facility. As noted in this application the use of the training facility has ceased. This restriction would not relate to the maintenance of an APZ around a dwelling as proposed by this application and bushfire hazards would be separately considered.
Easement for Transmission Line (VIDE V4636-2013)	The application was referred to Endeavour Energy with no objection being raised subject to advice and conditions (D24/34094).



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The application does not involve the construction of any new buildings in proximity to the easement for water supply. The proposal does would not effect or compromise the easement.

3. Background

Pre-Lodgement Information

Application DA23/1640 was refused on 12/02/2024 for the following reasons:

REASONS FOR REFUSAL

- Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal is non-compliant with the development standards set out in clause 4.2D Shoalhaven LEP 2014 and inconsistent with the clause objectives.
- 2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the application has not satisfied the requirements of clause 4.6 Shoalhaven LEP 2014 as it has been sought to apply to varying the development standards set out in clause 4.2D in that the application does not demonstrate that compliance with the development standards is unreasonable or unnecessary in the circumstances of the case.
- 3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the application has not satisfied the requirements of clause 4.6 Shoalhaven LEP 2014 as it has been sought to apply to varying the development standards set out in clause 4.2D in that the application does not demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard.
- 4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, Council is not satisfied that the proposal is compatible with the considerations set out in clause 5.16 of Shoalhaven LEP 2014.
- Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the information submitted with the development application does not satisfactorily demonstrate that the site is suitable for the proposed use.
- 6. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, having regard to the above matters to address the relevant provisions of Environmental Planning and Assessment Act, 1979, the granting of development consent is not considered to be in the public interest.



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Post-Lodgement Information

Timeline



Date	Information Requested
22/05/2025	RFS requested amendments be mad to the Bushfire Report that addresses the appropriate section of Planning for Bushfire Protection 2019
13/06/2025	Applicant provides response to RFS

Site History and Previous Approvals

	Application	Appl. Date	Application Type	Proposal	Status	Completed	CO TOTAL CONTROL OF
1	DAZ3/1649	21/09/2023	Development Application	Miscellaneous Conversion of Existing Training Centre to Owelling House	Hefused	12/02/2024	Show Properties
2	0021/1223	09/83/2021	Final Occupation Certificate	New Bural Dwelling - proposed training centre only	Approved	09/83/2021	Show Properties
A	0518/1047	02/02/2018	Section 96 Amendment	New Rural Dwelling - proposed training centre and managers residence	Approved	22/83/2018	Show Properties
A	SC15/1058	04/118/2016	Subdivision Certificana	New Hura: Ewelling - proposed training centre and managers residence - 1 lot subdivision	Approved	19/84/2021	Show Properties
A	CC16/1489	27/04/2016	S138 Approval	New Bural Dwelling proposed training centre and managers residence	Approved	09/85/2016	Show Properties
T.	001601385	17/03/2016	Construction Certificate	Subdivision Construction Certificate	Approved	14/84/2016	Show Properties
A	DS15/1393	29/09/2015	Section 96 Amendment	New Rural Dwelling - proposed training centre and managers residence - \$96 Delete Conditions 49 % 50	Withdrawn	08/03/2016	Show Properties
	DS12/1916	23/01/2012	Section 96 Amendment	New Bural Dwelling proposed training centre and managers residence - Sec 96 1(a) mirror reverse of floor plan & change roof pitch.	Approved	07/85/2013	Show Properties
7	DS09/1340	08/89/2089	Section 96 Amendment	OPERATIONAL CONSENT New Hural Dwelling proposed training centre and managers residence	Approved	22/81/2018	Show Properties
	0008/2063	21/08/2008	Construction Cartificate	Training Contra Only	Approved	15/12/2016	Show Properties
	0808/1097	21/08/2008	Section 96 Amendment	New Rural Dwelling - proposed training centre and managers residence - Section 96	Approved	27/08/2008	Show Properties
A	DS08/1311		Section 96 Amendment	New Bural Dwalling - proposed training centre and managers residence - Sec96 to correct error in Condition 1 (b), 49, 50	Approved	09/87/2068	Show Properties
	0905/1452	01/09/2006	Section 96 Amendment	Modification of consent	Approved	24/81/2007	Show Proporties
	DR05/3385	05/12/2005	SMF Application	New Bural Dwelling - proposed	Approved	23/01/2008	Show Properties

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BA05/4012 06/12/2005 Development Application	residence New Bural Dwelling - proposed training centre and managers residence	Approved 23/01/2008 Show Properties
Is the proposed development compatib previous approvals?	le with any relevant	Yes
Are there any orders applying to the pro-	operty?	No
Note: Orders are viewable under the Developm details.	ent – Orders tab in the property	
Does the proposal appear to include/relate to any unauthorised building work?		No
Note: A DA can only approve prospective works retrospective works must be dealt with under a Certificate process.		

4. Consultation and Referrals

Internal Referrals	nternal Referrals	
Referral	Comments	
Biodiversity	Comprehensive response from Biodiversity in relation to their assessment of the proposed Vegetation Management Plan provided in the referral D25/220384.	
	Summary of key points:	
	1. Clause 11(3) of the Shoalhaven LEP 1985 enabled the creation of an allotment less than 40 hectares provided that the land use was not for a dwelling house. As such, a dwelling house was never intended to be permitted on the land following the subdivision into the parcel smaller than the minimum lot size. Similarly, the lot is smaller than the minimum lot size specified in the Shoalhaven LEP 2014 which therefore does not permit dwelling houses. As such, the proposal is not permitted by Clause 4.2D of the LEP.	
	2. The objectives of the standard (ie. C2 Environmental Conservation zone) are difficult to achieve under the current proposal given the large clearing required by the electricity easement and access road. The lot already requires substantial clearing and the regional biodiversity corridor for the operation and maintenance of the transmission line. Permanent clearing and associated impacts of permitting a dwelling house exacerbate the existing impacts associated with the transmission line. The small size of the lot does not allow for an appropriate balance between development and environmental values.	
	 The objectives of the C2 Environmental Conservation zone are considered reasonable and necessary to this parcel of land given its position in the landscape. The subject land is located between two conservation areas, being Bamarang 	



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Nature Reserve and Crown Land reserve. The parcel is also surrounded by in-tact native vegetation on all sides that provide habitat for threatened species and from part of the *Illawarra Shoalhaven Regional Plan 2041* Nowra biodiversity corridor, making the site environmentally sensitive.

- 4. While consents have been granted for dwelling houses on lots smaller than the minimum lot size by Council in the Bamarang locality, an aerial image review of these locations appear that a balance between development and the conservation of environmentally sensitive bushland could be achieved, hence meeting the objectives of the zone. The existing clearing on the subject lot required by the electricity easement restricts the bushland area to be conserved in the lot, making it smaller in comparison to the developed area.
- 5. While the VMP generally meets Council's requirements for such plan, the question is raised whether the plan proposed actions that the landowner already has a legal obligation to complete, including regeneration of land cleared without consent (unless approval for this clearing has been obtained by other relevant authorities) and weed control under the Biosecurity Act 2015.
- 6. The change of land use will result in the increase of human presence on the subject land with the potential for indirect or future adverse impacts to sensitive environments within and adjoining the subject land, making the proposal inconsistent with the aims of the *Illawarra Shoalhaven Regional Plan 2041* biodiversity corridors.
- The Biodiversity Offset Scheme thresholds are set based on minimum lot size. Therefore allowing development on a lot smaller than the minimum lot size allows for clearing greater than intended under the scheme.
- The legal mechanisms protecting vegetation proposed to be set aside for conservation on the subject land are generally weak and have the potentially to be varied or modified in the future if a precedence of a dwelling house is set

No additional information is requested at this stage until the cl. 4.6 variation is resolved. Please see commentary regarding the environmental planning implications of the variation request provided above.

If Council determines that there are grounds to approve the application, the following information would be required to further inform the assessment:

 A Flora and Fauna Assessment including a 7.3 Test of Significance or a Biodiversity Development Assessment Report if the proposal triggers entry into the Biodiversity Offset Scheme. Clearing required to establish and operate



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the OSSM system must be considered as well as the
increased Asset Protection Zone required by the new Bushfire Report (Bushfire & Evacuation Solutions).
Evidence of consent issued by Council or approval provided
by the Southern Rivers Catchment Management Authority (now Local Land Services) for the clearing undertaken
within the subject property, particularly the vegetation within
the areas identified as 'Medium Timber' and 'Light Timber'
on the approved plans (dated 07/11/2007 and numbered 1 - 4 by Nicholas Powell architect) associated with
DA05/4017 (as modified by DS09/1340) and the area
beyond the required asset protection zone specified in
Condition 6 of the consent. Revised Vegetation Management Plan that:
Provides the results of targeted surveys for
threatened species along with management actions
proposed to restore threatened species habitat on the property.
 Includes appropriate feral animal control.
Re-considers the use of rabbit-proof fencing as this
would prevent the movement of native wildlife across this property. A combination of wildlife
friendly fencing along with feral animal control
should be considered.
 Includes a fence plan to delineate the development area and the retain/regenerated bushland to prevent
encroachment and further clearing.
A document proposing a robust legal mechanism to ensure the appairs implementation of the Vagetation Management
the ongoing implementation of the Vegetation Management Plan and to restrict future development encroaching into the
areas of retained bushland.
A Tree Removal and Retention Plan detailing native A secretarion that will require election or that will be imposted.
vegetation that will require clearing or that will be impacted by the proposal. For example, the current plans show the
proposed OSSM located under canopy of trees which will
either requiring clearing to ensure system works effectively or if they are retained, they may be impacted by
waterlogging and/or nutrient enrichment.

External Referrals		
Referral	Comments	
NSW Rural Fire Service	No objection subject to conditions of consent	
Endeavour Energy	No objection subject to recommended conditions	

5. Other Approvals

6. Statutory Considerations



Environmental Planning and Assessment Act 1979

<u>Section 4.14</u> Consultation and development consent – certain bush fire prone land

Is the development site mapped as bush fire prone land?	Yes - Complete below table and assessment against Planning for Bush Fire Protection.	
Is there vegetation within 100m of the proposed development that would form a bush fire hazard as identified in Planning for Bush Fire Protection?	Yes - Complete below table and assessment against Planning for Bush	
Note: The bush fire mapping cannot be relied upon solely for identifying bush fire hazards.	Fire Protection.	
Is the development subject to a performance based solution or a BAL-FZ?	Yes - Referral to NSW RFS required.	
Note: As per <u>Appendix 2</u> of PBP 2019, performance based solutions should be undertaken and fully justified by a qualified consultant BPAD practitioner.		
Note: The NSW variation of <u>H7D4</u> 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> .		

Division 4.6 Crown Development

Is the proposal a Crown development application under <u>Divi</u> the EP&A Act 1979?	ision 4.6 of No
Note: A Crown development application means a development application on behalf of the Crown and includes public authorities prescribed by the <u>Regulations 2021</u> e.g. NSW Land & Housing Corporation, Landcom etc.	

Biodiversity Conservation Act 1979

Does the application include works or vegetation removal within the Biodiversity Values mapped area?	No
Does the application involve clearing of native vegetation above the area clearing threshold?	No



The area threshold yardes depended or	n the minimum let size (shown in the Lot Size Maps made		
	Plan (LEP)), or actual lot size (where there is no minimum lot		
Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply		
Locathan 1 ha	0.25 ha or mose		
1 ha to kee than 40 ha	0.5 he or more		
40 ha to less than 1000 ha	1 ha or more		
1000 ha or more	2 ha or more		
	likely to be required for the intended use of the land after it is		
and the second			
	comment is located has different minimum lot sizes the smaller		
	iopment is located has different minimum lot sizes the smaller is used to determine the area cleaning threshold.		
If the land on which the proposed development at saves. Will the proposed developecies or ecological co		ing to the	No
If the land on which the proposed development of services or ecological contents in section 7.3 of the significance)?	clopment have a significant impact or omnunities, or their habitats, accord	ing to the if (i.e. 'test of If (see threatened	No

Local Government Act 1993

Do the proposed works require approval under <u>Section 68</u> of the Local Government Act 1993?	Yes - see s68 type nominated below.	
☐ Water supply, sewerage and/or stormwater works		
☐ Operation of a system of sewage management (i.e. on-site sewage management system)		
☐ Installation of a manufactured home		
☐ Installation of a domestic oil or solid fuel heating appliance, other than a portable appliance (i.e. a fire place)?		

Marine Estate Management Act 2014

Does the application include any works within the marine park or	No
aquatic reserve?	

7. Statement of Compliance/Assessment



The following provides an assessment of the submitted application against the matters for consideration under <u>Section 4.15</u> 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
Shoalhaven Local Environmental Plan 2014
State Environmental Planning Policy (Biodiversity and Conservation) 2021
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
State Environmental Planning Policy (Resilience and Hazards) 2021
State Environmental Planning Policy (Transport and Infrastructure) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 3 Koala habitat protection 2020

Qı	Question		Yes		No	
1.	Is the land zoned RU1, RU2 or RU3? Note: 'Chapter 3 applies to RU1, RU2 and RU3 (or equivalent) zoned land. Chapter 4 applies to all other zones.	\boxtimes	Proceed to Question 2		N/A - Chapter 4 Koala habitat protection 2021 applies.	
2.	Does the subject site have a site area >1ha or does the site form part of a landholding >1ha in area?		Proceed to Question 3	\boxtimes	Assessment under SEPP not required.	

Chapter 4 Koala habitat protection 2021

Question	Yes		No	
 Is the land zoned RU1, RU2 or RU3? Note: 'Chapter 3 applies to RU1, RU2 and RU3 (or equivalent) zoned land. Chapter 4 applies to all other zones. 		N/A - Chapter 3 Koala habitat protection 2020 applies.	\boxtimes	Proceed to Question 2
Is there an approved koala plan of management for the subject land?		Complete assessment under "Approved Koala Plan of Management for Land".		Proceed to Question 3



Ques	tion	Yes		No	
>1	oes the subject site have a site area Iha or does the site form part of a ndholding >1ha in area?		Complete assessment under "No Approved Koala Plan of Management for Land".	\boxtimes	Complete assessment under "Other Land".
Other	r Land				
A)	the land 'core koala habitat'? ote: 'core koala habitat' means an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas are recorded as being present at the time of assessment of the land as highly suitable koala habitat, or an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas have been recorded as being present in the previous 18 years.		Koala assessment report required.		Proposal satisfactory under SEPP.

State Environmental Planning Policy (Primary Production) 2021

Chapter 4 Remediation of land

Question	Yes		No	
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?	\boxtimes	Proceed to Question 2		Assessment under SEPP and DCP not required.



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Question		Yes		No	
2.	Are there any previous investigations about contamination on the land?		Detailed investigation required.	\boxtimes	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?	\boxtimes	Detailed investigation required.		Proceed to Question 4

As noted in the submitted Statement of Environmental Effects, the site was previously used for a mud brick making. The facility manufactured mud bricks from natural material and did not involve the storage of any chemicals or fuels on site. Council is satisfied that the land is not likely contaminated and, in this regard, would be suitable for residential occupation.

State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 2 Standards for residential development — BASIX

BASIX Certificate	
Has the application been supported by an appropriate BASIX Certificate?	
Note: Residential development BASIX Certificates are required for: • Erection (but not the relocation of) of all new residential dwellings. • Development that involves the change of use by which a building becomes a dwelling. • Alterations and additions to dwellings that cost \$50,000 or more. • Swimming pools and spas with a combined capacity of 40,000 litres or more.	N/A
Is the BASIX Certificate valid and has the DA been submitted within 3 months of date of issue of the BASIX Certificate?	Yes
Have BASIX commitments identified to be shown in the DA been shown on the DA plans?	Yes

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

Considerations	Comments			
<u>Division 5</u> - Electricity transmission or distribution networks				
Part 2.3 Division 5 Subdivision 2 – Development likely to affect an electricity transmission or distribution network				



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	Does the proposed development involve work within proximity to electricity infrastructure?	Yes - Consultation with Endeavour Energy required
-		

Shoalhaven Local Environmental Plan Local Environmental Plan 2014

Land Zoning

The land is zoned C2 Environmental Conservation and C3 Environmental Management under the Shoalhaven Local Environmental Plan 2014.

Characterisation and Permissibility

The proposal is best characterised as change of use to a dwelling house under *Shoalhaven Local Environmental Plan 2014*. The proposal is permitted within the zone with the consent of Council.

Zone objectives

C2 – Environmental Conservation		
Objective	Comment	
To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.	The proposed change of use would not have a significant adverse effect on the ecological, scientific, cultural or aesthetic values of the	
To prevent development that could destroy,	land.	
damage or otherwise have an adverse effect on those values.	The proposed change of use would not have a significant adverse effect the water quality and	
To protect water quality and the ecological integrity of water supply catchments and other	ecological values of nearby catchments and watercourses.	
catchments and natural waterways.	The proposed change of use would not have a	
To protect the scenic, ecological, educational and recreational values of wetlands, rainforests, escarpment areas and fauna habitat linkages.	significant adverse effect on the scenic, ecological, educational and recreational values of wetlands, rainforests, escarpment areas or fauna habitat linkages.	
To conserve and, where appropriate, restore natural vegetation in order to protect the erosion and slippage of steep slopes.	The proposed change of use would not have a significant adverse effect on existing native vegetation.	

The proposal is consistent with the objectives of the Environmental Conservation zoning as an individual. However, the proposal will set precedent for unplanned rural development posing a threat to the long-term preservation and sustainable management of the environment.

Applicable Clauses

Clause	Comments	Complies/ Consistent			
Part 1 Pr	eliminary				
1.9A	Clause 1.9A can be used to suspend some covenants and restrictions as to user. Please discuss with supervisor if you intend to apply clause 1.9A.	Noted			
Part 2 Pe	Part 2 Permitted or prohibited development				



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2.7	Demolition is permitted but only with development consent.	Complies
Part 4 Pr	incipal development standards	
4.2D	Clause 4.2D(3) specifies that development consent must not be granted for the erection of a dwelling house on land to which the clause applies unless one of the criteria (a) – (d) is satisfied.	Non compliant
	The subject allotment does not satisfy any of the criteria set out in 4.2D(3) and therefore a clause 4.6 exception has been applied for and this is further discussed in Appendix B.	
	The application is proposing 92.1% variation of clause 4.2D(3).	
	The extension of the variation is not supported as the approval of the proposal will have negative social impact and will set a precedent for unplanned rural residential developments.	
	The proposed development involves the change of the use of the existing training centre building to the dwelling house, on land zoned C2 Environmental Conservation.	
	The surrounding area comprises bushland with National Parks land to the east and south, crown land to the west which includes the Bamarang Reservoir and privately owned land to the north. Clause 4.2D establishes a minimum lot size (or other criteria) for dwelling entitlements in rural and environmental zones with the objective of minimising unplanned rural residential development. It is noted that DA05/4017 originally proposed a training centre and a managers' residence. Following correspondence from Council outlining issue with the residence not being subservient to the training facility (D06/80042 & D07/29754, the managers' residence was withdrawn from the proposal (D07/41660). In the assessment of DA05/4017 it was made clear in the assessment and correspondence with the Applicant, that the subdivision of the land that resulted in the creation of Lot 3 DP 1277665 (the subject site), that Lot 3 DP 1277665 would not have a dwelling entitlement.	
	CONTROL POTENTIAN CONTROL AND AND CONTROL POTENTIAN CONTROL POTENT	
	20th June, 2006	
	Overman Socialist Fty Ltd PO Hee vit Will NOWEA NEW 2541	
	Atwention: Steve Reforded t	
	Dez Sk Dez Sk Dez Skernet Amiliation DAGGISTZ - Salaticións Desilion & Terition Tarible	
	Development Application DA054B17 - Subdividen, Dwelling & Tenining Facility Lot 2 DP 1040676, Yahval Rd, Banarang	
	In reference to the storementioned development application, Council has completed an assessment of the proposals with the following fluidings, i.e.	
	Subdivision 1) The proposed references to permittable under 102000 11(1) of the	
	Steafnesh Local Environmental Flan, however, the empended let will not become willing our discour.	
	Extract from D06/80042	
	Clause 11(3)(a) from Shoalhaven LEP 1985 which applied at the time of determination of DA05/4017 read as follows:	
	 The Council may grant consent for a subdivision of land to which this clause applies (except land within Zone No 7 (d2) or 7 (f2)) 	

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7.6	The develop Category 1"	oment site is located on land identified as "Watercourse	Complies
	Class 5	The proposal does not involve work within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the water table is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 land.	
	Class	Commentary	
7.1		land is mapped as acid sulfate soils:	Complies
	Iditional local		
Part 5 Mi	scellaneous p	provisions	
4.6	out in clause	tion seeks an exception to the development standards set e 4.2D(3)(a). The application has been supported by a exception statement and this is further discussed in	Does not comply – clause 4.6 exception has been applied for and considered
	The propose exceed the l		
4.3	the height of	height limit set by the Height of Buildings Map and therefore fany building on the land must not exceed a maximum metres as per sub-clause (2A).	Complies
	house and re preferred and proposal wo precedent for	f have considered the proposed change of use to a dwelling esultant dwelling entitlement would be incompatible with the d predominant use of the land given the lot size. The old have negative social impact by setting an undesirable or the erection of dwellings on other undersized lots in rural mental zones and contribute to unplanned rural residential of t.	
	Shoalhaven created that	from the assessment of DA05/4017 and clause 11(3) of LEP 1985 which applied at the time Lot 3 DP 1277665 was the intent of the allotment was to restrict its use as eccommodation and not grant consent for a dwelling	
	а	the allotment proposed to be created is currently lawfully used for a purpose (other than agriculture, forestry, a dwelling-house or dwellings, or tourist accommodation under clause 20) for which it may be used without or only with the consent of the Council, or will be used for such a purpose before the plan of subdivision or strata plan is registered, and	
		s to create an allotment of less than 40 hectares if the noil is satisfied that:	



	It is considered that the proposed development will not likely have an adverse impact on the watercourse stability or water quality, aquatic and riparian species, habits and ecosystems, or the passage of fish and other aquatic organisms within or along the watercourse. The proposed development will not preclude the future rehabilitation of the watercourse and its riparian areas. The proposal will not likely increase water extraction from the watercourse.	
	The proposed development has been appropriately designed to minimise impact on the watercourse and the proposal is viewed as satisfactory with regard to the considerations set out in clause 7.6.	
7.7	The proposed works are not located on land with a slope of >20% and are not located on land identified as a "sensitive area".	Complies
7.8	The subject land is mapped as "Scenic Protection" on the Scenic Protection Area Map.	Complies
	The proposed development is compatible with the surrounding area and would not have an unreasonable or detrimental impact on the visual amenity of the area.	
7.9	The proposed development will not penetrate the Limitation or Operations Surface.	Complies
<u>7.11</u>	Reticulated electricity is available to the site.	Complies
	Potable water will be appropriately provided to the development via rainwater tanks.	
	Effluent will be appropriately managed on site.	
	There is suitable vehicle access to the site.	

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

Generic DCP Chapter			
G1: Site Analysis, Sustainable Design and Building Materials			
Has the application been supported by a suitable site / site analysis plan?	Yes		

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Have appropriate details of colours and materials been submitted with the application?	N/A				
G2: Sustainable Stormwater Management and Erosion/Sediment Control					
Has the application been supported with appropriate erosion and sediment control details?	N/A				
Does the development require on site detention (OSD) to be provided? Note: OSD may not be suitable in instances where a development appropriately	No - Large rural allotment. OSD is not required.				
relies on a charged drainage line to the street as it may compromise the effectiveness of the drainage system.					
Has the application been supported appropriate stormwater drainage details?	Yes - See commentary below				
Existing building with existing system, lot surrounded by bushland and identified.	no stormwater issues				
G3: Landscaping Design Guidelines					
Is existing/proposed landscaping appropriate? Note: The planting of weed species listed in the South East Regional Strategic Weed Management Plan 2023 – 2027 is not supported. They have provided a Vegetation Management Plan with the proposal.	Please see assessment of the vegetation Management Plan from Biodiversity Officer Referral above.				
Does the proposal impact on any street trees?	N/A				
G4: Tree and Vegetation Management					
Have any trees proposed to be removed been clearly shown on the site plan (where required)?	N/A				
Does the development encroach into the Tree Preservation Zone (TPZ) or Structural Root Zone (SRZ) of any trees to be retained (including trees on adjoining properties and within the road reserve)?	N/A				
Note: TPZ and SRZ encroachments can be calculated using the <u>AS4970-2009</u> calculator.					
Note: Australian Standard AS4970 – 2009 sets out the methodology for calculating TPZ and SPZ.					
Note: Where there are major encroachments into the TPZ or the SRZ an arborist report (prepared by a level 5 consulting arborist) demonstrating that the development will ensure that the tree remains viable.					
G5: Biodiversity Impact Assessment					



Is the proposal satisfactory with regard to biodiversity impacts?	The applicant has provided a Vegetation Management Plan (VMP) to support the application. The VMP has been referred to Biodiversity for assessment. Please see referral response above.			
G7: Waste Minimisation and Management Controls				
Has the application been supported by an appropriate waste minimisation and management plan?	Yes			
G8: Onsite Sewage Management				
Has the application been supported by an appropriate on-site sewage management report (where required)?	Yes - See Chapter G8 assessment in Appendix.			
G12: Dwelling Houses and Other Low Density Residential Develop	oment			
See Appendix A				
G21: Car Parking and Traffic				
The proposed development does not give rise to additional parking requirements. Existing vehicle parking and vehicle manoeuvring areas are maintained on site.				
G26: Acid Sulphate Soils and Geotechnical (Site Stability) Guidelines				
Is the development suitable with regard to acid sulfate soils?	Yes			
Does the application suitably address issues with regard to erection of any buildings or structures on land with a slope >20% or on land with stability problems?	N/A			

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 62 Does the application result in a change of use of an existing building but does not propose any building works? Yes - Upgrade vorquired under cla Conditions of conseinposed accord



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Clause 64 Partial Upgrade	Does the application involve alterations or additions to an existing building?	Yes - It is considered appropraite to require a partial upgrade to the building. Conditions to be imposed accordingly.
Clause 64 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?	Yes - It is considered appropraite to require the existing building / part of the existing building be brought into total conformity with the NCC. Conditions to be imposed accordingly.

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

Any coastal zone management plan

The proposed development is consistent with the applicable <u>coastal zone management plans / coastal management programs.</u>

Other Shoalhaven Council Policies

State and Local Infrastructure Contributions

ate Contributions						
Poes the proposed development trigger the Housing and Productivity Contribution (HPC)?						
lote: 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 sviewed and confirmed in the Portal.						
	ent lodge		sterial planning orders. Different Orders and 2024. See the NSW Government webpa			
			Contributions Guide to the Ministerial and guidance for calculating HPC.			
		,	1			
Carrieral Co.	ant Danser					
Central Co	est, Mareiern ed Loseer Her					
ar Dezelopment	ed Lower His	nter				
Development class Residential	ed Losser Hu Amount	Unit now dwelling				
Development class Residential subdivision Medium or high-classiny residential	Amount S8,000	Unit Incw dwelling lot				
Browlassmand classes Residential subdivision Medium or night-density residential development Manufactured	Amount S8,000 S6,000	Unit Inow dwelling now dwelling new dwelling				

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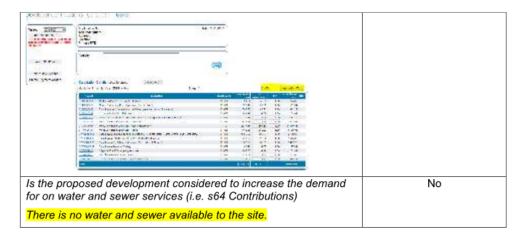


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Local Contributions					
Is the development site an "old subdivision Shoalhaven Contributions Plan 2019?	No				
Is the proposed development considered for community facilities in accordance wit Contributions Plan 2019? The approval for the subdivision consent	No The consent DA05/4017 had a contribution amount in it for the subdivision. It				
Condition: Contribution for Additional Sendors under Packheire St. Tax development with generals a ment for activismal various makes facilities development with general a ment feel or activismal various makes facilities and activities and activities activiti	nab				
Where s7.11 contributions are raised for have they been capped (where required) <u>Direction</u> ?		Yes - \$20,000.00 - \$7.11 cap under Section 6 of Direction			
	Capped Rate (per dwelling/lot)				
Infill residential development (Section 6 of Direction)	\$20,000.00				
Greenfield residential development (Schedule 2 of Direction) Note: The <u>Direction Amendment dated 7/12/2021</u> 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					
Land where there is no cap (Schedule 1 of Direction)	No Cap				
Note: Section 6 of the Environmental Planning and Infrastructure) Direction 2012 (most recent consolid available here – noting that this does not consolid amendments to the Direction) sets the capped rate. Note: Where s7.11s are capped, the 'Apportion Capped amount and selected.	dated version of Direction is ate subsequent or future e for residential development.				



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

DA05/4017 charged contributions for the subdivision of the subject land, as per the Contribution Plan 2019...

'only newly created residential lots or increase in intensity/change of residential land use will be levied a contribution.'

(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 have a significant adverse impact on the natural environment as an increase of human presence on the subject land with the potential for indirect or future adverse impacts to sensitive environments within and adjoining the subject land.
Built Environment	The proposed development will not have a significant adverse impact on the built environment.
Social Impacts	The proposed development will have a negative social impact in the locality as it will set a precedent for unplanned development.
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 not considered suitable for the proposed development.

· The development is permissible with Council consent within the zone.



- · The proposal does not support the local zoning objectives.
- The proposal is inconsistent with the objectives and requirements of the Shoalhaven Local Environmental Plan 2014.
- The proposal is inconsistent with the objectives and requirements of the Shoalhaven Development Control Plan 2014.
- · The intended use is not 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. One submissions were received by Council from DPIE – Crown Lands not objecting to the proposal as it will have no impact on the adjoining Crown Land.

(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 p	Yes		
Development Standard	Numerical Extent of Departure	Percentage (%) Extent of Departure	
4.2D	36.857ha	92.14%	

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	5%	<10%	>10% OR non- numerical development standard
DCP Performance Based Solutions						
Level of Delegation Assessing Officer		Senior Pl	Senior Planner			Manager



Extent of DCP performance-based ≤25% solutions	≤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.

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:

Reas	ons for Refusal
1)	Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal is non-compliant with the development standards set out in clause 4.2D Shoalhaven LEP 2014 and inconsistent with the clause objectives.
2)	Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the application has not satisfied the requirements of clause 4.6 Shoalhaven LEP 2014 as it has been sought to apply to varying the development standards set out in clause 4.2D in that the application does not demonstrate that compliance with the development standards is unreasonable or unnecessary in the circumstances of the case.
3)	Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the application has not satisfied the requirements of clause 4.6 Shoalhaven LEP 2014 as it has been sought to apply to varying the development standards set out in clause 4.2D in that the application does not demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard.
4)	Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, Council is not satisfied that the proposal is compatible with the considerations set out in clause 5.16 of Shoalhaven LEP 2014.
5)	Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the information submitted with the development application does not satisfactorily demonstrate that the site is suitable for the proposed use.



Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, having regard to the above matters to address the relevant provisions of Environmental Planning and Assessment Act, 1979, the granting of development consent is not considered to be in the public interest.

Choose an item.
Choose an item.
City Development
Click here to enter a date.

Reviewers Comments

The application has been reviewed and the recommendations of the report are concurred with. Section 7.11 contributions (where applicable) have been reviewed and agreed to.

Choose an item.
Choose an item.
City Development
Click here to enter a date.



Appendix A - Assessment Checklist: Chapter G12: Dwelling Houses and Other Low Density Residential Development

Objectives of Chapter G12

The objectives of are to:

- i. Ensure a comprehensive design-oriented approach to housing resulting in high quality urban design, development and residential amenity.
- ii. Maintain and enhance the amenity of existing and future residential areas.
- iii. Ensure development is compatible with the bulk, scale and character of the area, including scenic, landscape, pastoral or environmental qualities.
- iv. Set appropriate environmental criteria for energy efficiency, solar access, privacy, noise, vehicular access, parking, landscaping and open space.
- v. Ensure that development has due regard and is sympathetic to the physical constraints of the site.
- vi. Allow for efficient use of existing services and facilities, including utility services transport systems and community facilities.
- vii. Promote wider and more affordable housing choice in Shoalhaven. Implement agreed strategic directions and respond to demographic needs.

5 General Controls

5.1 Building Envelope

Is the proposed development wholly contained within the building envelope?



Figure 1: Building envelope

Yes



Section 4.15 Assessment Report

5.2 Orientation and Siting		
Does the proposed development re	espond to the constraints and opportunities of the site?	Yes
5.3 Local Character and Context		
Is the proposed development comp	patible with the existing and desired character of the area?	Yes
5.4 Building Form, Design and M	laterials	
Is the proposed development appr	opriately designed and articulated?	Yes
5.5 Visual and Acoustic Privacy		
Note: A7.1 identifies direct views between storey windows are within 9m of privacy so windows.	naintain appropriate visual privacy to adjoining properties? living area windows should be screened or obscured where ground and second ensitive zone areas of adjacent dwellings and within 12m for third storey and higher area windows should be screened or obscured where they are located within 12m of a space. Physical Physics of Adjacent Dwelling area windows to private open space.	Yes - Appropraite separation is provided for living area windows



Is external plant equipment appropriately located to minimise noise impacts to neighbouring properties?	Yes
5.6 Solar and Daylight Access	
Does the proposed development incorporate appropriate solar, water and energy efficiencies?	Yes
Does the proposed development ensure that at least 3 hours of direct sunlight between 9am and 3pm on June 21 st of the following is maintained to adjacent dwellings?	
 10m² of private open space 50% of windows and glazed doors of north facing living areas Appropriate area of north facing roof and solar collectors 	Yes
Note: Solar panels often operate on string inverters meaning that the series of solar panels match energy output to the lowest performing solar panel. With this system, if part of any solar panel is overshadowed consistently throughout the day it reduces the overall performance of all solar panels in the array. Consideration should be given accordingly to overshadowing of solar collectors - Solar Inverters: Pros And Cons Of String Inverters Vs. Microinverters	
5.7 Vehicle and Pedestrian Access	
Does the development provide appropriate vehicle and pedestrian access?	Yes - The proposal is consistent with the development controls in G12 and G21.
5.8 Trees and Vegetation	
Does the proposal preserve existing vegetation where practicable and/or replace vegetation (as appropriate)?	Yes
5.9 Servicing	
Are all essential services available to the site?	Yes
5.10 Water Management and Conservation	



Is water and stormwater management for the development appropriate?	Yes - The proposal is consistent with the development controls in G12 and G2.
5.11 Waste Management – Demolition and Construction	
Will waste generated from demolition and construction be appropriately managed and disposed of?	Yes - Recommended conditions of consent will require a suitable Waste Management Plan be provided to the Certifier
6 Dwelling Houses, Rural Worker's Dwellings and Associated Development	
N/A – The application does not propose the construction of a new dwelling or alterations and additions to a	an existing dwelling.
6.1 Principal Controls	
6.1.1 Density	
The proposed development does not exceed a floor space ratio of 0.5:1 in the R1, R2, R5, RU5 or SP3 zones.	N/A - The subject site is not zoned, R1, R2, R5, RU5 or SP3. The bulk and scale of the development is appropraite for the locality.



	Front Setback Primary road frontage	Front Setback Secondary road floringe	Side Setback	Rear setback	Front Setback Primary road frontage	Paraliel Road Frontage	Side Settlack No road frontage and to public reserve	Bide Setback Secondary road Sortage	Roar setback	Rear/side sedsack to foreshore reserve
For lots up to 4,000m ²	12.6m	50% of the front setback	Sm	7.5m	Lots under 600m ² . • Sm to dwellings. • Am to verandaha, patios and awrings. Lots 600m ² - 900m ² . • Sm to dwellings.	3m	900mm to dwellings and detached non- habitable outbuildings. 450mm from eaves/ guters.	3.5m	Sm (average).	7.5m.
For lots between 4,000m ² and 10,000m ²	20m		7.5m							
For lots greater than 10,000m² (1ha)	30m		10m				Where perking spaces are proposed at the rear of a dwelling, one 2.4m side settack is			
					patics and awnings					
Zone				C	Note: Reduced settacks may be considered when the private character pennis and the future desired character pennis and the future desired character of the area is not projectiond. 2 Environmenta	I Conservation	on			
Zone Lot size					Note: Reduzed settacks may be considered when the prevailing about character permits and the future desired character of the area is not projectioned.	I Conservation	on			
				3.	Note: Reduced settacks may be considered when the preceding sites of the character permits and the future desired character of the area is not projectiond. 2 Environmenta			roposed		



Front setback	Front setback (to dwellings)	The building proposed to change the use to dwelling house has no frontage to the public road.
Predominant building line setback		N/A
Secondary road frontage		N/A
Parallel road frontage setback	3m	N/A
Side setback (s)	10m	>10m
Rear setback	7.5m	>7.5m
Rear / side setback to foreshore reserve	7.5m	N/A

The proposed development complies with the acceptable solutions and performance criteria. It is considered that the proposal has been appropriately designed and the bulk and scale of the building is compatible with adjoining development and the surrounding area.

6.2 Amenity

6.2.1 Landscaping

Minimum Landscaped Area	Acceptable Solution	Proposed
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enorgachments (i.e. or sonatum), heren	and were excludes any any part of a building shand arrows and any respe, dollness drying		45%	>45%
Table 5: Minimum land	decaped area			
Lat Area	Minimum Landscaped Area (of lot area)			
200m²-300m²	10%			
>300m* 450m*	16%			
>450m²-600m²	20%			
>600m² -900m²	30%			
>900m²-1,500m²	40%			
>1,500m2	46%			
6.2.2 Priva	te Open Spa	ace		
Does the de	evelopment j	provide at least 50m² of appropriately	dimensioned and sited private open space?	Yes
6.2.3 Stora	ge and Lau	ndry Facilities		
Does the de	evelopment _l	provide suitable laundry and clothes w	vashing/drying facilities?	Yes
Does the de	evelopment _l	provide suitable internal storage areas	s?	Yes
6.2.4 Car P	arking			
Does the de	evelopment j	provide suitable car parking?		Yes - The proposal is consistent with the development controls in G12 and G21.



6.3 Configuration and Design				
6.3.1 Building Form, Design and Materials				
Has the building been designed to incorporate appropriate building facades and entrances?	Yes			
Does the development avoid garage dominated design?	N/A			
6.3.2 Detached Habitable Rooms and Studios				
N/A – the application does not include the construction of a detached habitable room/studio.				
6.3.6 Waste Management – Bin Storage, Presentation and Collection				
Does the proposed development provide suitable bin storage locations screened or concealed from the street?	Yes			
Does the site provide suitable kerbside frontage to enable kerbside bin collection? Note: at least 1m should be provided per waste/recycling bin with a 0.5m separation between each bin.	Yes			



Appendix A - Assessment Checklist: Chapter G8 - Onsite Sewage Management

Proposed and Existing Onsite Sewage Management (OSSM) Syster	n				
Does the application include installation of a new or alteration to an existing onsite sewage management (OSSM) system?	Yes - Alteration to existing OSSM system				
If the proposal relies on the capacity of the existing OSSM system, has the application been supported by suitable information demonstrating that the system has capacity for any increased loading?	Yes - Existing OSSM system has adequate capacity An additional 15 m long x 1.0 m wide x 0.6 m deep trench has been proposed.				
Does the proposal require decommissioning of an existing OSSM system?	No				
s the subject site located within the Sydney Drinking Water Catchment area?	No				
What is the type of proposed effluent treatment? Note: If "other" specify the type of treatment proposed.	Septic Tank				
What is the type of proposed effluent disposal? lote: If "other" specify the type of disposal proposed.	Absorption system				
What is the proposed effluent loading?					
Note: Equivalent population (EP) means the number of persons deemed to be accommodated on the property (i.e. number of bedrooms or rooms capable of being used as bedrooms). Note: Council generally accepts a loading rate of 150L – 200L per person per day*.	Proposed EP (i.e. number of bedrooms)	Proposed Loading (liters/person/day)	Proposed Total Loading (liters/day)	Is proposed loading acceptable?	
Where a proposal is outside this range, loading rates should be discussed with Council's Plumbing and Drainage Team of Environmental Health Officer.	3	150 L/person/day	750 L/day	Yes	
Note: For development within the Sydney Drinking Catchment area, wastewater oading rates are <u>Sydney Drinking Water Catchment Guidelines</u> .					



Terror de la company de la com		
Does the application involve a complex or novel OSSM system?	N/A - No increase in effluent loading	
Does the OSSM system provide suitable disinfection of wastewater? Note: wastewater that has not been disinfected must not be applied to the ground surface.	Yes	
Are effluent application areas appropriately sized to cater for proposed loading?	Yes	
Does the application nominate a suitable secondary reserve area of 100% of the designed effluent application area which is available for future use?	Yes - Appropriate secondary reserve area is nominated on the plan	
Are effluent application areas suitably signposted?	No	
Are separate OSSM systems provided for each occupancy/dwelling? Note: Separate OSSM systems and effluent application areas must be provided for each dwelling, secondary dwelling or dwelling within a dual occupancy.	N/A	
For subdivisions, do allotments have a minimum lot size > 2500m²	N/A	
For subdivisions, can more than one type of OSSM system be achieved on site?	N/A	



	fer		

Note: buffer distances are measured as a ground surface flow line and are not based on the closest measured distance. For example, the inclusion of bund walls or diversion drains may be used to increase buffer distances.

Note: **Primary treatment** means the separation of suspended material from wastewater by settlement and/or flotation in septic tanks, primary settling chamber, anaerobic process of treatment, prior to effluent discharge to either a secondary treatment process, or to a land-application system.

Note: Secondary treatment means anaerobic and aerobic biological processing and settling or filtering of effluent received from a primary treatment unit.

Effluent application areas must not be used as primary recreation areas for the property.	Complies	
Where surface spray irrigation is proposed, the effluent application area must be suitably isolated (i.e. fenced off or delineated by a garden bed) and must not be used for recreation purposes.	N/A	
Note: Effluent application areas must not be used to grow vegetables for human consumption		
Note: The use of effluent for fruit trees shall comply with AS1547		
Are effluent application areas sited >100m from any perennial (permanent) watercourse, waterbody (i.e. permanent rivers, streams or lakes)?	Yes	
Are effluent application areas sited >100m from any groundwater bores?	Yes	
Are effluent application areas sited >40m from any intermittent waterways, farm dams or street drainage systems (e.g. gutters, swales, table drains and drainage channels or drainage depressions)?	Yes	
Are effluent application areas setback >1m from the dripline of trees and vegetation?	Yes	
Absorption system What are the proposed buffer distances for the absorption system?	The proposal uses the existing On site sewage management system approved under DA05/4017 (modified by DS09/1340). The additional absorption trench is on the east side of the existing trenches. The Effluent	



	Disposal report suggests the new absorption trench to be constructed 6m away from the Eastern boundary. However, there are no measures of distance between the proposed trench and the boundary. An estimated measurements comparing the plan and GIS images, shows approximate 6m of distance. The existing onsite sewage management system complies with buffer requirements.
Site Constraints	
Does the effluent application area provide adequate depth to groundwater in accordance with Australian Standard AS1547:2012?	N/A
Does the effluent application area provide adequate soil depth to bedrock or other confining layer in accordance with Australian Standard AS1547:2012?	N/A
Is the effluent application area and wastewater treatment system located above the 5% AEP flood level?	N/A



Note: Check the Flood Planning Certificate for 5% AEP levels.		
Are all electrical components located above the 1% AEP flood level? Note: sealed submerged plumbing facilities may be located below the 1% AEP flood level with appropriate flood protection.	N/A	
Is the slope under effluent application areas appropriate? Note: surface spray irrigation should be located on slopes <12%. Where slopes exceed 12% subsurface irrigations should be utilisted in areas where site stability is not compromised and surfacing of effluent is not likely to occur.	Yes - The applicaiton proposes surface irrigation on a slope <12%	
Is stormwater runoff and surface flows directed away from effluent application areas?	Yes	
Will the onsite sewage management system and effluent application areas be installed in accordance with the relevant Australian Standards?	Yes - Recommended conditions of consent to be imposed accordingly	
Does the onsite sewage management system avoid groundwater pollution? Note: where soils exhibit a high permeability (greater than 3.5m/day), the application needs to demonstrate through further investigation that pollution of groundwater will not occur.	N/A	
Is the land capable of disposing of effluent during times of wet weather?	N/A	



Appendix B - Clause 4.6 Detailed Consideration

The proposed development seeks a cl4.6 exception to development standards. Consideration of the clause 4.6 exception is provided below:

Cl4.6 Exception to the Shoalhaven Local Environmental Plan 2014

Development Standard

Clause 4.2D(3)(a): Erection of dual occupancies (attached) and dwelling houses on land in certain rural, residential and conservation zones

- (3) To adoption current must not be greated for the exection of a dwelling bouse on lond to which this clause applies unless the lond—
 - (a) is a lot that has at least the minimum lot size shown on the Lot Size Map in relation to that land, or
 - (b) is a lot created before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or
 - (c) is a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the exection of a dwelling house would have been permissible if the plan of subdivision had been registered before that commencement, or
 - (co) as a let created under chase 4 IE(3)(d)(n), or
 - (cb) as a lot enoted under closes 4.2B(3)(f), (g) or (h), or
 - (ee) as a lot created following a boundary adjustment under clause 4.2G, or
 - (d) would have been a lot or a holding referred to m paragraph (a) (b) or (c) had it not been affected by-
 - (i) a minor realignment of its boundaries that did not create an additional lot, or
 - (ii) a subdivision creating or widening a public road or public reserve or for another public purpose, or
 - (iii) a consolidation with an adjoining public road or public reserve or for another public purpose.

Make

A dwelling cannot be erected on a lot created under clause 9 of State Environmental Flamming Policy (Floral Lands) 2000 or clause 4.2.

Extent of proposed departure from development standard

LEP clause	Numerical Standard	Proposed Solution	Numerical Departure	% Departure
4.2D (3)(a)	40ha	3.143ha	36,857.00ha	92.14%

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Applicant's clause 4.6 statement

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 Allen Price PL (Ref: 130376) and dated 7/04/2025 (TRIM Ref: D25/162079)



7.2 JUSTIFICATION OF DEPARTURE TO CLAUSE 4.20(3)(A)

This Written Statement seeks to justify the departure to the provisions of Clause 4.2D 15(a) of the 8LEP 2014. Clause 4.2D 25(a) reflectively imposes a minimum loss state of 10 halfor the structure of a dwelling house on the subject size. The subject land comprises an area of 5.1d 3 nectates which is 36.50 mectates become non-municipate requirement, which represents a departure to this new agreement states and by about 90%.

This Mitten Statement demonstrates that compliance with Classe 4.70(3(a) of SLEP 2014 is uncastrated and uncoessary given the specific circumstances of this case: that there are sufficient environmental planning grounds to justify contravention of this isotriction, and that the proposal is in the public interest.

7.2.1 - COMPLIANCE WITH STANDARD UNREASONABLE OR UNNECESSARY

Harrianogard to Casso 4 of Mathianny son that there is sufficient, as the atomic contravention of the 40 hallot minor size development partial of Clause 4.2000x1 of the SLEP 2014 as it would be uncarroundly and understand understanding the following october.

1. Consistency with Objectives of Development Standard.

As detailed in Section 6.1 above the abjectives of Clause 4.2D are

Character State (State Character State Charact

- (a) to mirarsise unplanted rural residential development.
- (b) to enable the replacement of Awritaby erected deciling houses incertain and residential and conservation zones.
- (c) to control regines identify density affected by fits forices autodivision patterns as Zone SSI arrest at Residential.

Objective ichis not applicable to this mater as the land is not zoned RSLarge Lot Residential.

The development application is consistent with the stated objectives of Clause 4.20 as:

The SLEP 2014 does not define what is meant by Clause 4.20f(kg) by the term.
 "appliance/postdential/development".

In this regard it should be noted that Expinose C submed in Sharp a Name Manicipal Council (2004) ASWEEC 1360 a planned outcome can be in accordance with the provisions of the LDP, and those provisions located development standards which may be contravened provided that the contravention is partitled pursuant to the terms of cli4 electrons. A clearing on the subject also would any be unplanned development if the consent outcome, A clearing on the subject also would any be unplanned development if the consent authority were to conclude that the minimum lost size for the exection of a dwelling provided for in cli4 20 of the LPP were a prohibition, or in the attendance if them were no cli4 & written request or the cli4 4 written request were deficient. The satisfaction of the terms of cli4 electrons in the execution of a dwelling provided that the grant of concent to the execution of a dwelling (or rather in this case the adaptive re-use of anexisting building as a dwelling) on a C2 Environmental Conservation lot less than 40ha may be a planned authority.

- The proposal involves the adaptive re-use of an existing training centre into a dwelling house. Further the existing training centre building was constructed lawfully. The development application does not propose the construction of a new building.
- The trianing centre building lends itself to an adaptable floorplan so that no significant physical works will need to be made to convert the existing training centre into a dwelling house. Apart from these small works, no substancive works are required to explicit this change of use.

Given the proposal involves the adaptive re-use of an existing approved building only; and does not recentilate significant works, it is considered the proposal will not involve "unplanted note."

Cannot 4 6 Million Statement 482 News Million X (1972) 945 (Hermonia) 1929 37 - 770 A 2005 - Proportified 1821/6 - Golden Burkeldby A control approved to the Production Statement I regional ARM \$7.600.025.97



residential development". No new buildings or development are proposed. This is an important distinction with this proposal.

The adaptive reliese of the existing training centre into a divelling house rather involves a sustainable relieve of an exempounder utilised building. The involves having centre is of a high-quality immediate the change of use of this building. The desting training centre is of a high-quality immediate this convenient on providing an efficient provide energy building suitable for residential use. To deny the use of this building for residential use would be to deny an ammentify suitable abuilding to residential use.

meanigraphia to the planning provisions that apply to the site. There are no other attensive uses that the building could be visibly put. The C2 zone allows several actual set both with and without consum, however, many of them are not variable or retexant for the subject site.

- Given the bushfire AP2 requirements for rouristupes the site would not be suitable for bed and browkfast or ecotomist facilities. (Bed and browkfast development by definition occur in dwelling houses.)
- Dual occupancies (attached) are not permissible in this situation for the same reason that dwelling houses are not permitted, as the minimum locking is not men. In addition, home businesses are not permissible for a similar reason as they depend on the existence of a dwelling house or dual occupancy to be permitted.
- Boat sheds, dyster squaculture, water recreation structures, and water supply
 systems are not relevant as the she is not located in the vicinity of the relevant water
 bodies to enable these activities.
- Emergency services facilities rety on the existence of an emergency services organisations which do not occur on the subject site.
- Environmental facilities deposed on existing nearby recreational sati or accentific study activities, of which none exist in the vicinity.
- En-ironmental protection works are not relevant.
- Recreation areas refers to the use of public land and therefore not relevant.
- Research stations involve a public authority in which is not applicable to the
- . Brack alengt relevant
- Severage systems are simply not necessary for the site, especially considering the lands prividely owned.

Clause II 4 Mitter Statement 652 Yokyal Road Lot 3 DR127M45FBarvarong Roge 31 - 2/04/2023 - Project Ant 130/3M Labelty Intributly a sortering approved under Professional Standards Legislation. ABM62 607 045 972. Given these discurstances, there are landed alternative permissible uses that the existing training centre could be reasonably put to

As detailed in Section 6.4.1 the proposal does not involve unplanned rural residential development. The subject site was granted approval as a multiplick making operation in 1999, with the training facility and machinery sted approved in 2006. The training facility was built and utilised for over 10 years with no negative effects to the surrounding locality. Under these risrumatizations there is nothing unplanted for a commodating the multiplic making business as existing approvedibuilding as a develop house considering the multiplic making business is no straight width or operational and there are no agrificant physical works required to create the change of use.

if the training centre continues to be left vacant and unused, there is a righ risk of property crime that is likely to after. The likelihood of the building being variabled about not be exercised, as a vacant building is likely to increase the chance of property crime. With the subject side being located which a C2 environmental conservation and C3 environmental management zone consideration should be given to encouraging permanent accupation and hence, presence on the side to provide security to ensure any shance of property crime union included; be

Further the proposed change of use will not necessfate any additional vegetation cleaning. The development application is supported by a Sustrine Assessment prepared by Dustrine & Evacuation Solutions that demonstrates the required APZ can be achieved within the existing cleaned, managed yard arcs surrounding the oxisting building. This is an important consideration as it means their without properties of the oxisting building. This is an important expansional transfer and the expansion of the oxisting building the second oxisting building in equipments.

indeed the development application is supported by a Vegetation Hanagement Plan (VMP) prepared by the Largical Australia. The VMP will be the change of use of the sociating braining centre-building to a developing house to the entered above of the event state. Given the historic use of the site for brick making, and as a significant part of the site is subject to a power into transmission experience, the vegetation within the site is somewhat obsorbed. The VMP makes providing for the rehabilitation and restoration of the site, having regard to bushful and providing a measure by which the site can be managed in the longer term by having someone reside on the land. Will realize the internal environmental values of this site, ensuring an improved overall environmental and concentration.

The proposal will therefore be consistent with the first objective of Clause 4.2D as the proposal will not involve "upplaneed real residential development".

litwing regard to the above, it is my view that the strict compliance with Clause 4.2D/3/a) is unnecessary and unreasonable given the specific circumstances of this case, and there is

Clause 4.6 Written Statement 602 Yelves Road Lot 52P427N645 Demanag Raps 32 - 7/04/2025 - Project Ref. 1002TN Liberty Introducty's scheme approximation Professional Standards Legislation, ACN-62-607-645-772.

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Section 4.15 Assessment Report

aufficient justification for contravention of the 40 ha minimum lot size development standard of Clause 4.20(3)(a) of the SLEP 2014 given:

- The proposal does not involve any new buildings. Finabling the change of use of this existing training centre into a dwelling house will enable permanent occupation of the site allowing better management of the land interms of bushfire, site rehabilitation and weed management that will have benefits not only for the subject site but also adjoining land. In this regard no additional vegetation disturbance is necessary to accommodate bushfire asset protection zones for the dwelling house; and the proposed change of use of this existing building to a dwelling house will be tried to a VMP that will seek to restore vegetation within the site. Such will provide an overall improved town planning outcome.
- As the proposal involves the adaptive re-use of an existing building the natural character
 of the locality will be maintained consistent with the aims of the SLEP 2014 and the
 objectives of the C2 and C3 zones that apply to the land.
- The proposal will also be consistent with the specific objectives that underpin Clause 4.2D in that:
 - is withouteout inurpainted rula readential development, and
- It will involve the conversion of an existing lawfully constructed training facility into a
 dwelling house in an environmental conservation zone.

Under the above circumstances and having regard to the first "test" set by the "Wehbe" case and which Preston CI references in hitlist Action, the objectives detailed in Clause 4 20/3((a) will be achieved notwithstending non-compliance with this development standard, and hence strict compliance with this development standard is unnecessary.

2. Abandonment of Development Standard

thany settlement and development of Nows and its surrounds, and also the subsequent history of planning provisions that have applied within the Shoahaven City Council, the locality is one, that contains lawfully erected dwelling houses on a variety of allotment sizes, with many of the allotments containing dwelling houses having loss sizes less than 40 hectares in area.

In the vicinity of the site, within an approximate 5.5km radius, there are at least 80 separate allotments which comprise areas sess than 40 hectares and contain lawfully elected dwelling houses pitch in region is below), in effect and hisning regard to the fourth test set by the wence case and which Preston CI references in Instial Action, Council has essentially abandoned application of the minimum 40 hallot size development standard in this locality. The majority of lots which contain dwelling houses within the vicinity of the subject site are lots that are less than

Clause d 6 Winner Statement 682 Yalusi Road (2013 DRV277665) Barranang Paga 53 - 1/10 0/2025 - Proport Ref. 1303 Nr. Labbity Intrincial by a striking approved under Professional Standards Legislation. ASV 62 607 545 972. the 40-hectare lot size minimum specified by Clause 4.20(3(a). Under these circumstances strict compliance with this development standard is unreasonable.

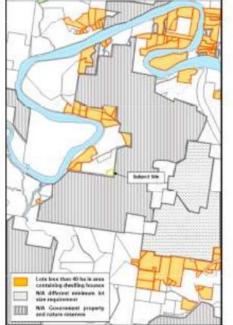


Figure 6 - Allotments with less than 40ha and which contain dwelling houses within vicinity of subject site

 Compilance with Development Standard is Unreasonable or Inappropriate due to Specific Circumstances of this Case

Classe 4.6 Written Statement 652 Yalma Phadritot 3.DP1277665; Bamarang Paga 34 - 7/04/2025 - Project Ref. 1303.78 Labsty Intellety a seatement approved under Professional Standards Legislation. ABN 62-60F 045-972



Each development application must be considered on its even mests a sed this proposal has its own facts that distinguishers it, including the history associated with the creation of the subject land, and the fact that the building already exists and was constructed is while.

The hallony of the lot is creation and its historic use, and the subsequent essection of that use are integral to the putilibration that continued compliance with this development standard is unreasonable.

For several years, Refer lingens' business, "Make it Mudbricks", operated on his brother's, John Jirgens' land. As "Nake it Mudbricks progressed", both Peter and John desired to simplify the ownership and use of the land so that Peter could operate his business on the land under Peter's ownership. Peter had no desire to own the entire land that his business controlly operated on, as 43.34 halvas an excessive area and siso contained a tourist use that was owned and operated by John, Peter only required a small area to make mud bricks. As such, the land that was associated with the business was subdivided to meate Lot 3. DP 1277665 comprising 3.143 ha. This subdivision, and the subsequent acquisition by Peter enabled Peter to own the land upon which his business operated.

The configuration of Lot 3 was determined by the practicality for the operation of the muderick business. Peter did not require all 43.34 ha of land to create mud bricks and indeed John operated another toursty oriented business on the land. At the time, there was never any intention for the fot to be utilised to hold a dwelling house, as the mud brick business was always intended to operate for many years.

Earth Building Solutions were the maincustomer for mudbricks manufactured at the site. In 2017 Earth Building Solutions ceased purchasing mudbricks from "Make It Mudbricks". As of the 21 of April 2017, "Make it Mudbricks" ceased trading.

This SEE is appointed by correspondence prepared by Peter Hickoon center of Earth Building Solutions and also the President of the Earth Building Association of Australia (Annexure II of the SEE).

As pullined in the correspondence from Peter Hickson (the "Hickson correspondence"), several factors were responsible for the reduction in viability of mudbricks manufactured by "Make it Mudbricks".

- The Hickson correspondence identifies difficulties in achieving building construction requirements under NatHERs which resulted in mud brick construction becoming looked on less favourably when compared to other construction methods (such a Strawbale construction). This adversally affected the market for mud brick construction.
- The grop in owner building construction. According to the Hickson correspondence the increasing difficulties for owner builders to obtain finance and increased regulatory

Clause C.S. Witten Disservent 452 Mayor Road (Lot 2 DR) 278450 (Demanting Fage 15 - July 2004) (Oct. 1 Negeri Met. 1907). (Oct. 2004) (Oct. 2 Negeri Met. 1907) (Oct. 2 Negeri Met. 1907) (Oct. 2 Negeri Met. 2 Nege

framework resulted in a reduction in owner builders. People building with mud bricks were mostly owner builders. The reduction in owner building resulted in a decline in mud brick construction, training and mud brick sales.

- Increasing property and land prices has also played a role in the decine of mud brick construction. According to the Hickson correspondence it is less likely that people will purchase an expensive small residential altothers and then build a low cost austanable mathoick home.
- Mud-brick construction is also labour intensive and therefore more expensive when compared to other earth construction techniques such as rammed earth and formed cobearth building techniques. These alternative earth construction techniques, according to the Hickson correspondence, are more cost effective construction methodologies when compared to mud-brick manufacture.

Combined the above factors have according to the Hickson colrespondence resulted in a decline in mud brick construction, and therefore mud brick construction training and sales. The "Make it Mudbricks" operations became unvisible and operations ceased in 2017.

Following the cessation of the mud brick manufacturing operations the site has aid vacant and unused.

7.2.2 - ENVIRONMENTAL PLANNING GROUNDS THAT JUSTIFY CONTRAVENTION OF

Having regard to Clause 4.6(3(b) it is my view that there are sufficient environmental planning grounds to justify contraversing the 40 his minimum lost size development standard of Clause 4.2D(3(a) of the SLEP 2014 under the specific originatances of this case as follows. The contraversitions the initialing lot size of 3.144 his jus. 36.857 habiting the control.

As cultimed in Section 2.6 of the Departments: Guide to Varying Development Standards" the term "environmental planning grounds" while not defined either by the Act of LEP, refer to grounds that relate to the subject matter, scope and purpose of the Act, including objects in Section 1.3 of the Act. The scope of environmental planning grounds is wide.

The "Guide to Varying Development Standards" states that sufficient environmental planning grounds need to be established by the facts of the Statement. The Statement must justify the contravention of the development standard, not simply promote the benefits of the development.

According to the "Quide to Varying Development Standards":

Clause 4.6 (Bittern Statement 632 Yawa) Read/Los 3 DP/277665) Barnarang Raya 16 - 2004/2023 - Project Ref. 1307-8. - Los Statement Ref. 2007-9. - Los Statement Ref. 2007-9. - Ref. 2007-9



the grounds must:

- be sufficient to justify the contravertion.
- 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.

Avoiding adverse impacts may constitute sufficient environmental planning grounds as it promotes 'good design and amenity of the built environment' ID one of the objects of the EP&A Act. However, the lack of impact must be specific to the non-compliance to justify the breach. Other examples of environmental planning grounds include:

- dealing with the unique circumstances of the site such as historical excavation of basements or swimming pools
- 4. achieving consistency with the streetscape and existing built form
- 5. responding to flood planning levels
- 6. responding to topography
- 7. Improving public benefit
- achieving equal or better amenity outcomes (solar access, privacy, views/outbook)
- being consistent with the prevailing subdivision pattern.
- conserving built and cultural heritage values.
- II. protecting or avoiding impacts to an area of environmental or biodiversity value.

In all cases, the justification must be specific to the aspect of the development that is the subject of the proposed contravention. Importantly, environmental planning grounds which justify the contravention of a development standard in one case may not justify contravention in another.

Having regard to Clause 4.6(3)(b), and Section 2.4 of the Department's "Guide to Varying Development Standards", it is may view that there are sufficient environmental planning grounds to justify contravening the 40 hectare minimum lot size development standard of Clause 4.3 lot the LEPJunder the specific circumstances of this case.

7.2.2.1 Consistency with Planning Strategies and Plans

As outlined in Section 5.2 the term 'environmental planning grounds' is not defined by the SLEP 2014. As Prestant CL in Initial Action notes such grounds would include consideration of the Objects of the EPSA Act outlined in Section 1.3 of the Act. As detailed in Section 1.3 the Objects of the Act.

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources.
- (b) to facState ecologically sustainable development by integrating relevant economic, engineering and social considerations in decision-fisiking about environmental planning and assessment.
- (c) to promote the orderly and economic use and development of land.
- (d) to promote the delivery and maintenance of affordable housing.
- (e) to protect the privionment, including the conservation of threatened and other species of native animals and plants, ecological communities and
- (f) to promote the sustainable management of built and cultural certiage (including Aboriginal cultural heritage).
- (g) to promote good design and amenty of the built environment.
- (h) to promote the property construction and mentenance of duvidings, including the protection of the health and safety of their occupants.
- to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State.
- to provide increased apportunity for community participation in environmental phenoing and assessment

The above Objects are in my view manifested in the aims and objectives that underpin State, regional and local planning strategies, plans and policies.

Inmy view the 40-hectare minimum lot size development standard imposed by Clause 4.2D(3)(a) seeks in part to achieve objects detailed in the Sawana-Shoalhaven Regional Plan and the Shoalhaven LEP 2014.

Cranse 4.6 Written Statement 682 Yalwai Posel Loc 3 DP1277669 Barrarang Rape 37 - 770472025 - Project 941, 130378 Lobothy Immedia by a software approximationally Professional Standards Legislation. ABN 62 609 045 977

Clause d.d. Witners Statement AEJ Yalvai Road 3 of 1.0PU77846; Barriesing Nage 35 - 7/C4/2023 - Project Ref. 19339. Labelsylmteridgy authorisis agent red and the Professional Standards (agoleten, ABNA2.607.045.972.



(Vawarra-Shoathaven Regional Plan (ISRP) 2041

The ISRP provides the strategic policy, planning and decision-making framework to guide the region to sustainable growth over the ned 20 years.

In summary the plan sets out four main goals, however, in my mind the following goals have releasance to Clause 4.20(3(a) of the SLEP 2014:

- · a sustainable and resilient region
- · a region that values its people and places
- · A sustainable and resilient region

The ISRP identifies the region's highen/hormental value lands. This mapping identifies land with significant environmental value, with 43% of the region 1250,000 hectares) possessing high environmental value or forms part of a bloddwestly conidor. The subject land is not identified having high environmental value or forming part of a bloddwestly conidor in terms of the Regional Plan. The development application with therefore not be inconsistent with this goul of the ISRP.

Indeed, the proposal involves the adaptive re-use of an existing unused building by comerting it to a dwelling house. No vegetation disturbance will be required to be undertaken for the communion of the building for such a use or for buildful asset protection zone.

Furthermore, enabling the building to undergo a change of use into a dwelling house will ensure better management and rehabilitation of the land. Such would provide a better outcome for the on-going management and use of the land to manage the environmental and biodiversity values of the land by allowing Swebbilly at these particular discumstances.

Critically this development application is supported by a VMP. Given the historic use of the site for brick making, and as a significant part of the site is subject to a power line transmission easement, the vegetation within the site is somewhat disturbed. The VMP makes provision for the rehabilitation and restoration of the site, having regard to the bushfite and powerfine easement requirements that apply to the site.

The objectives of the VMP is to improve the ecological health and integrity, maintain and enhance his bat values within the VMP area. The VMP addresses at liauses related to the protection of existing vegetation from impacts associated with the undertaking any earthworks and any edge affects as well as undertaking bush regeneration and management actions to improve its extent, condition and resilience.

Improving weed and past management, an integral component of the VMP, on the subject land will also benefit resignationing lands surrounding the site by reducing the potential for weeds and peat speading from the subject are and intesting these neighbouring properties.

Clause 4.4 Michael Statement 682 Falest Breath at 10P2/766 Mitheritating Rigis 19 - 7/04/2022 - Project Ref. 1003/9. Libebily Printed by a potential approved under Professional Standards Legislation. ADN 62 609-045 972. Aregion that values its people and pieces.

The ISRP confirms the ever-growing housing issue that is present in the region, it also aims to ensure that although more housing is required, fend must not be compromised in this process, encouraging the protection and maintenance of the existing emittenment, local character, and heilitage.

The conversion of the training facility into a dwelling house utilises existing resources and provides additional housing in the sing.

Furthermore, the existing building is located in such a way that it will not conflict with neighbouring properties. The proposal is also well protected from its surrounds and is not visible from the road, ensuring that the dwelling house does not impact on the natural amenity or the character of the region.

Indeed, enabling the adaptive re-use of the existing building as a dwelling may encourage better land management in terms of bushles and substitution of the site. The WMP that supports the development application will be the adaptive re-use of the existing training centre into a dwelling with the rehabilitation of the site. Improving bushline, and site rehabilitation on the subject site will also benefit neighbouring properties and the overall environment. Allowing flexibility in this particular case would provide a better planning and environmental outcome for the ongoing management and use of the subject site which will benefit the ongoing operation of neighbouring lands.

The Objectives of the Shoalhaven Local Environmental Plan 2014 and the C2 and C3

zones

The objectives of the SLEP 2014 and the zones that apply to the subject wite also provide context within which to consider the environmental planning grounds that underpin the development standard in question.

The subject land is zoned C2 Environmental Conservation and C3 Environmental Management, under the provisions of the Shoalhaven Local Environmental Plan 2014.

The existing training centre is sited within that part of the site zoned C2.

The existing vehicle access driveway is mainly be sited within the C2 zone but also slightly encroaches into the C3 zone.

The objectives of the C2 Environmental Conservation Zone are

 To protect, manage and restore areas with special ecological, scientific, outural or aexthetic values.

Clause 4.6 Winther Statement 662 Taked RoadsLot 3.04/27/660/Barnarang Roge 40 - 7/04/2025 - Rogiocoller 1807/9 Lubbilly Introduced by a archeric approved and or Professional Standards Legislation ABN 62 609 045 972.

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- To prevent development that could destroy, damage or otherwise have an adverse effect or those values.
- To protect water quality and the ecological integrity of water supply catchments and other catchments and natural waterways.
- To protect the scenic, ecological, educational and recreational values of wetlands, rainforests, escarpment areas and fauna habitat inkages.
- To conserve and, where appropriate, rectors natural vegetation in order to protect the erosion and slippage of steep slopes.

The objectives of the C3 zone are:

- To protect, manage and restore areas with special ecological, scientific, cultural or anothetic values.
- To provide for a limited range of development that does not have an adverse effection those values.
- To protect the natural and contural features of the landscape, including coastal
 and foreshore areas, that contribute to scene, value and visual amends.
- To maintain the stability of coastal land forms and protect the water quality and ecological values of estuarios and coastal streams.

However, in summary, those objectives that have specific relevance to this proposal would assumblely suck to protect, manage, restore and conserver natural widerways, flora and fauna, and areas of high ecological, scientific cultural and are the fic winds.

These objectives of the GZ zone themselves are underpinned by the overall "Aims" of the SLEP 2014 which are detailed in Clause 1,2(2) of the SLEP 2014 and which include:

- (f) This Plan aims to make local environmental planning provisions for land in Showhaven in accordance with the relevant standard environmental planning instrument under section 1.20 of the Act.
- (2) The particular aims of this Plan are as follows-
 - (a) to encourage the proper management, development and conservation of natural and man-made resources.
 - (b) to facilitate the social and economic wellbeing of the community.
 - (c) to ensure that suitable land for beneficial and appropriate uses is
 - (e) to minimise the risk of harm to the community through the appropriate management of development and land use.

In my view, having regard to the aims of the SLEP 2014, one of the underlying historic justifications for the articular tion of the 4D historical minimum lot size in the LEP by clause 4.2D(3)(a) is to protect and maintain the agricultural land resource.

Classe 4.6 Withher Statement 662 Rales/Road Lot 3 DPC2/8650Semining Rage 41 - 703-2/3025 - Project Febr 170278. Labory Eministry a schemo approved under Prohestiana' Standardst, egislation. ASR4-2-609-045-972. The subject sits comprises an area of only 3.143 ha and comprises Class 5 Agricultural land use and therefore unsuitable for agriculture.

The convention of the training centre into a dwelling house enabling its permanent occupation will provide accept for the better management of the land and environment interms of busintine and weed management. Such would provide a better outcome for the on-going management and use of the subject site. Such will also benefit ongoing weed and pestmanagement for adjoining properties.

Furthermore, having regard to the aims of the LEP and the objectives of the C2 zone, and having regard to the matters reised in Section 7.3.1 of the SEE that supports the development application; it is also my view that the proposal will maintain the rural landscape character of the locality.

- As a evident from Figure 3 above, the locality is one that is characterised by numerous rural allotments with areas less than 40 hectares and upon which dwelling houses are located. The proposal will therefore comprise a density of development that is not entirely inconsistent with the settlement pattern and rural character of the surrounding locality.
- The existing building is a single storey, low profile building form which blands at with the surrounding landform.
- The existing building is finished with external materials and colours that are muted and computative to the local landscape content.
- The location of the existing building is not visually prominent and well screened from view.

Furthermore, given the location of existing vegetation on the site between this vantage point and the proposed dwelling house, pougled with the low-profile design and the use of muted external materials and colours, the existing building is not visually prominent within the broader land scape and this will maintain the natural land scape character of the area.

Small portions of the site are also zoned C3 Environmental Management, however the proposal down not implie any buildings or works within the C3 portions of the site.

The proposal will not have any significant effects on flota and fasta, local amenty, or hartisgs value. Both the existing building and accessoroactain existing and located within existing cleared areas of the site. No vegetation disturbance is required either for the constituction of new buildings (as none are proposed) or for the provision of any building loss home are proposed or for the provision of any building Asset Protection Zenes around the existing building and access. This is an important consideration as it means there will

Clause & 6 Witten Streetment 682 Yawar Road (Lot 3.0F127N65) Surviving



be no need for vegetation clearing to satisfy bushfire requirements which is entirely consistent with the thrust of the above CZ zone objectives. The proposal will not adversely affect the ecological, scientific, cultural or advitable to whats of the affect with proposal will not must in any againfront impact on the environmental values of the subject site.

Enabling the adaptive re-use of the existing building as a diveiling will allow for better management of the land in respect to bushfire and rehabilitation of disturbances. Such would provide a better outcome for the ongoing management of the environmental and biodiversity values of the lending allowing flexibility in these particular circumstances.

in this regard this development application is supported by a Vegetation Management Plan (VMP) prepared by Eco Logical Australia. The VMP will be the change of use of the existing training centre building to a dwelling house to the remediation of the overall site.

Given the historic use of the site for brick making, and as a significant part of the site is subject to a power line transmission easement, the vegetation within the site is somewhat disturbed. The VMP makes provision for the rehabilitation and restoration of the site, cognisant of the bushfire and powerfine easement requirements that apply to the site.

The works proposed in the VMP align with the objectives of the C2 Environmental Conservation. Zone (Shoalhaven Local Environmental Plan 2014) including:

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse
- To protect water quality and the ecological integrity of water supply catchments and other catchments and natural waterways.
- To protect the scenic ecological educational and recreational values of wedlands, rainforests, escapment areas and fauna habitat linkages.
- To conserve and, where appropriate, restore natural vegetation is order to protect
 the erosion and slippage of steep slopes.

The VMP outlines areas to be revegetated and recommends fully structured vegetated areas where possible. The implementation of the VMP will achieve the C2 zone objectives by maintaining native species cover and integrity within the VMP area and assating natural regeneration through active restoration actions, such as treating weed species and introducing native species fether as plants or seeds). The VMP covers a five-year maintenance period or the achievement of the performance criteria, whichever is longer. This VMP may either

Clause 4.6 Whitney Statement 652 Yalma Road Ltd 3 CR 127/655 Samueling Page 45 - 750-2505 - Product Red 1350% Labelty Findol by a scheme agrained under Professional Statebank Legislation. ABN 62-609 CAS 972 be implemented all at once or staged by areas as long as each stage follows the full VMP program.

The rehabilitation of vegetation within site and providing a means by which the site can be managed in the longer turn by having commonw reside on the land, will nective the intervent environmental values of this atta, consistent with the annulin, objectives of the DR cone that applies to the land; and which will ensure an improved overall town planning outcome.

7.2.3 SITE SPECIFIC ENVIRONMENTAL GROUNDS

The following site-specific environmental grounds justify the proposed variation to the minimum 40-becture allotment size development standard:

- The adaptive re-use of the existing training canths into a dwelling flower will involve a
 sustainable re-use of an existing under-utilised building. Only minimal work is required
 to enable the change of use of this building. The existing training centre is of a highquality transced earth construction providing an efficient passive energy building
 suitable for residential use. To deny the use of this building for residential use would be
 to deny an emmently suitable structure to be used.
- The proposal is supported by Bushfire Assessment that confirms no additional vegetation disturbance will be necessary to accommodate the change of use. This is an important consideration as it means that there will be no need for vegetation clearing to satisfy bushfire requirements.
- The proposal is also supported by a VMP that ties the change of use of the existing
 building to the rehabilitation of existing detaited areas within the site. The
 rehabilitation of vegetation within site and providing a means by which the site can be
 managed in the longer term by having summare realide on the land, will restore the
 inherent environmental values of this site, and ensure an improved overall town
 examine outcome.
- Approval of this proposal despite continvention of the 40-hactare development standard imposed by Clause 4.20(3(a) of the SEEP 2014 will not set an undesirable precedent given the specific circumstances of this case. The proposal involves the adaptive re-use of an existing building that was lewfully constructed. The proposal does not involve a proposed new building. These circumstances, and the history surrounding the creation and use of the subjection days specific to this particular case.

Clause 4.4 (Motion Statement 462) Yawai Roodit of 3 091278451 Burnarang. Page 46 - 7/04/2025 - Project Ref 1903/6 Labbity (Motion by a scheme, approximationer Professional Standards Legislation, ADN 42 609 045 972.

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It is my view that these circumstances alone are unique to the subject land, and supporting the proposed contravention of the 40-hectare minimum lot size development standard that applies to this land will not of itself set an undestrable precedent for other such proposals elsewhere.

In my view the encroachment of the 40-hectare minimum lot size development standard in this specific case will be consistent with and promote the Objects of the Act of the EP&A Act in terms of:

- promoting the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources(a)
- facilitating ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment (b)
- · promoting the orderly and economic use and development of land (c):
- Protecting the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats (e);

The variation to 40-hectare minimum lot size development standard will not result in unsatisfactory planning outcomes, including setting an undesirable precedent, and the purpose of the proposal and the variation of the development control is consistent with the objects of the Act to facilitate the orderly and economic development of the land. Indeed, approval of this proposal will facilitate the rehabilitation of vegetation within the subject land bringing about an improved planning outcome.

In light of the above, there are no environmental planning grounds that warrant maintaining and/or enforcing the 40-hectare minimum lot size development standard in this instance. Rather, there are clear and justifiable environmental planning ments that validate the flexible application of the 40-hectare minimum lot size development standard enabled by Clause 4.6 of the LEP.



Assessing Officer Commentary

Unreasonable or Unnecessary

The Applicant contends in the submitted clause 4.6 exception statement, that compliance with the development standard set out in clause 4.2D(3)(1) is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the development standard, the development standard has been abandoned and the historic use of the land and subsequent cessation of that use results in a parcel of land that could not be viable for any other permitted use. Council does not concur with the justification set out in the submitted clause 4.6 exception statement; the following points are made in response to the Applicant's commentary:

- Council does not agree that the objectives of the clause 4.2D(3)(1) development standard are achieved notwithstanding non-compliance with the development standard. The objectives of clause 4.2D are as follows:
- 2. to minimise unplanned rural residential development,
- 3. to enable the replacement of lawfully erected dwelling houses in certain rural, residential and conservation zones,
- 4. to control rural residential density affected by historical subdivision patterns in Zone R5 Large Lot Residential.

With regard to objective (a) clause 4.2D establishes a minimum lot size (or other criteria) for dwelling entitlements in rural and environmental zones with the objective of minimising unplanned rural residential development. It is noted that DA05/4017 originally proposed a training centre and a managers' residence. Following correspondence from Council outlining issues with the residence not being subservient to the training facility (D06/80042 & D07/29754), the managers' residence was withdrawn from the proposal (D07/41660). In the assessment of DA05/4017 it was made clear in the assessment and correspondence with the Applicant, that the subdivision of the land that resulted in the creation the subject allotment, that Lot 3 DP 1277665 would not have a dwelling entitlement.



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	20th June, 2006			
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	Aftennoor Steve Kichardson			
	Dom Sie			
Development Application DA05/4817 - Subdivision, Dwelling & Testining Facility Lot 2 DP 1040676, Yabroll Rd, Ramarang				
	In reference to the abovementationed development application, Council has completed an assessment of the proposals with the following findings, i.e.			
	Subdivision 5) The proposed officeroom is permissible moder (1966) of the Shoulkeron Local Environmental Plan, however, the proposed for will not have deadling an element.			

Extract from D06/80042

Clause 11(3)(a) from Shoalhaven LEP 1985 which applied at the time of determination of DA05/4017 read as follows:

- 5. The Council may grant consent for a subdivision of land to which this clause applies (except land within Zone No 7 (d2) or 7 (f2)) so as to create an allotment of less than 40 hectares if the Council is satisfied that:
 - a) the allotment proposed to be created is currently lawfully used for a purpose (other than agriculture, forestry, a dwelling-house or dwellings, or tourist accommodation under clause 20) for which it may be used without or only with the consent of the Council, or will be used for such a purpose before the plan of subdivision or strata plan is registered, and

...

It is evident from the assessment of DA05/4017 and clause 11(3) of Shoalhaven LEP 1985 which applied at the time Lot 3 DP 1277665 was created, and that the intent of the allotment was to restrict its use as residential accommodation and not grant consent for a dwelling entitlement. Accordingly, the use of the land for rural residential development as proposed by DA25/1448 was not planned, intended or accounted for. DA25/1448 is not consistent with objective (a) of clause 4.2D and the application has not demonstrated that compliance with the development standard is unreasonable or unnecessary. The adaptive reuse of the building to residential accommodation in order to provide security and address abandonment issues is not suitable justification that compliance with the development standard is unreasonable or unnecessary; any security issues could be addressed through non-planning measures e.g. fencing, security cameras, regular maintenance of the property. The land could also be consolidated with adjoining land or the buildings could be demolished. Cessation and abandonment of a use does not justify contravention to the clause 4.2D development standard.



- a. Council does not agree that the development standards set out in clause 4.2D(3) have been abandoned. The Applicant's clause 4.6 exception statement identifies some properties below the minimum lot size that have dwellings. As noted by the Applicant these allotments below the 40ha minimum lot size can be attributed to early settlement of the area and subsequent history of planning provisions and the erection of dwelling houses on these allotments are likely to have complied with development standards/controls applicable at that time. Clause 4.2D deals with historical settlement patterns and historical planning provisions by providing other criteria (other than minimum lot size) to establish a dwelling entitlement and also permits the replacement of lawfully erected dwelling houses. The existence of allotments with dwelling houses which have less than 40ha does not mean the clause 4.2D(3) development standard has been abandoned. The application does not demonstrate that compliance with the development standard is unreasonable because the development standard has been abandoned.
- b. Council does not agree that compliance with the development standard is unreasonable or inappropriate due to the existing use of the land. The commercial viability of the previously approved land use and subsequent cessation of the use does not justify that conversion of the building to a dwelling house and resultant creation of a dwelling entitlement on an undersized allotment that was not intended for rural residential development. The previous land use does not provide planning grounds for contravention to the clause 4.2D development standard.

The justification by the applicant does not demonstrate that compliance with the development standard are unnecessary or unreasonable having regard to the test set out in Wehbe v Pittwater Council 2007. The following comments are provided with regard to the "Wehbe tests":

6. The justification does not demonstrate that the objects of the development standard are achieved notwithstanding noncompliance with the development standard. To this point, Council is not satisfied that the clause 4.2D objective "to minimise unplanned rural residential development" is achieved. The proposed development and development of an allotment which does not satisfy the criteria in 4.2(3) would contribute to unplanned rural residential development. This was further reiterated in the correspondence from the Department of Planning and Environment which declined secretary's concurrence (note – secretary's concurrence is no longer a requirement under clause 4.6) for the previous application DA23/1640 which was subsequently refused. The Department cited reasons for the decision including "the proposal would set an undesirable precedent for the erection of dwellings on other undersized lots in rural and environmental zones" and "the proposal could have adverse environmental impacts that would be inconsistent with the Illawarra Shoalhaven Regional Plan 2041 and Shoalhaven LEP 2014". The Department went on to say that the proposal is not in the public interest and rather if the proposal has merit, a strategic planning process should be used to consider any change to a development standard. It is noted that the requirement for secretary's concurrence has been repealed from the legislation, previously subclause (4)(b), and no longer required. It is on this basis that the applicant has submitted this current application as they believe that:

The Planning Secretary's letter refusing concurrence to the development application DA 23/1640 repeatedly, and incorrectly, referred to this earlier proposal being for the "erection of a dwelling". No new building was proposed to be erected. The application was for a change of use of an existing building only.



For this reason, the approval of the development could not be seen, in our view, as a "precedent" for the erection of dwellings on other undersized lots" as put forward by the Planning Secretary. Each development application must be considered on its own merits and this particular development has its own facts that would distinguish it, such as the fact that the building already exists and was constructed lawfully.

The applicant has responded by stating that the Department reasons relate to the erection of dwellings on undersized lots and not to an existing building that is proposed to be an adaptive reuse to a dwelling. However, the intention of the statement from the department and the use of the word erection comes from Clause 4.2D which uses the word erection and is the reason for this clause 4.6 variation request.

The justification does not establish that the underlying objective or purpose of the development standard is not relevant to the development, such that compliance is unnecessary. Council is not satisfied that the clause 4.2D objective "to minimise unplanned rural residential development" is achieved through the development and its noncompliance with the development standard.

- 7. The justification does not establish that the underlying purpose of the development standard is defeated or thwarted if compliance is required, such that compliance becomes unreasonable. In Council's view, the underlying purpose of the clause is to promote the orderly and economic use and development of land. The proposed noncompliance with the 4.2D development standard is contrary to the purpose of the development standard and also the objects of the Environmental Planning and Assessment Act 1979, in that it facilitates unplanned rural residential development on an allotment not intended to do so.
- 8. The justification does not demonstrate that the development standard has been virtually abandoned or destroyed. The existence of allotments in the area with dwelling houses which have less than 40ha does not mean the clause 4.2D(3) development standard has been abandoned as these developments were likely subject to different and historical legislation. Clause 4.2D deals with historical settlement patterns and historical planning provisions specifically by providing other criteria (other than minimum lot size) to establish a dwelling entitlement and also permits the replacement of lawfully erected dwelling houses.
- 9. DA05/4017 made it clear that the subdivision and creation of Lot 3 DP1277665 would not result in the creation of a dwelling entitlement and the land was not intended for residential use. The application contends that, due to the unviability of the existing land use and subsequent cessation of that use, this justifies the adaptive reuse of the building to a dwelling house which would assist in addressing issues of security and building abandonment. This justification is not concurred with by Council staff and the justification does not establish that the zoning area of the proposed development was unreasonable or inappropriate such that the development standard which is appropriate to that zoning is no longer reasonable or necessary for that particular area.
- 10. The applicant has provided a Vegetation Management Plan to improve the environmental aspects of the lot. The assessment by Council's Biodiversity Officer has concluded that although the objectives of the C2 zone are difficult to achieve on a lot that has an electricity transmission line running through it which requires ongoing maintenance of vegetation, the objectives of the C2 Environmental Zone are considered reasonable and necessary to this parcel of land given its position in the landscape. The subject land is located between two conservation areas, being Bamarang Nature Reserve and Crown Land reserve. The parcel is also surrounded by in-tact native vegetation on all sides that provide habitat for threatened species and from part of the *Illawarra Shoalhaven Regional Plan 2041* Nowra biodiversity corridor, making the site environmentally sensitive.



While consents have been granted for dwelling houses on lots smaller than the minimum lot size by Council in the Bamarang locality, an aerial image review of these locations appear that a balance between development and the conservation of environmentally sensitive bushland could be achieved, hence meeting the objectives of the zone. The existing clearing on the subject lot required by the electricity easement restricts the bushland area to be conserved in the lot, making it smaller in comparison to the developed area.

While the VMP generally meets Council's requirements for such plan, the question is raised whether the plan proposed actions that the landowner already has a legal obligation to complete, including regeneration of land cleared without consent (unless approval for this clearing has been obtained by other relevant authorities) and weed control under the *Biosecurity Act 2015*.

The change of land use will result in the increase of human presence on the subject land with the potential for indirect or future adverse impacts to sensitive environments within and adjoining the subject land, making the proposal inconsistent with the aims of the *Illawarra Shoalhaven Regional Plan 2041* biodiversity corridors.

The Biodiversity Offset Scheme thresholds are set based on minimum lot size. Therefore, allowing development on a lot smaller than the minimum lot size allows for clearing greater than intended under the scheme.

The legal mechanisms protecting vegetation proposed to be set aside for conservation on the subject land are generally weak and have the potentially to be varied or modified in the future if a precedence of a dwelling house is set.

11. The NSW RFS has considered the proposal and has no objections subject to conditions of consent

Sufficient Environmental Planning Grounds

The Applicant's clause 4.6 statement contends that by contravening the development standard and permitting the residential use of the land it would enable better management of the land and natural areas. The applicant has submitted a Vegetation Management Plan that proposes to rehabilitate and restore the land that has been negatively impacted by the mud brick operation and electrical easement maintenance. The application also contends that the proposal is consistent with and will achieve the objectives of the C2 and C3 zone as they apply to the land and the underlying objectives of clause 4.2D.

Council staff do not agree with the applicant's justification and is of the view that the development and noncompliance with the development standard is contrary to the objects of the Environmental Planning and Assessment Act 1979. Although the applicant is planning to rehabilitate and manage the land subject to obtaining dwelling entitlement, it is Council's opinion that the proposal does not promote the orderly and economic use and development of land, in that the proposal has adverse social impact by facilitating unplanned rural residential development in areas not



intended to do so. Similarly, the proposal is not consistent with the underlying objectives of clause 4.2D, rather it is contrary to objective (a) in clause 4.2D in that it facilitates unplanned rural residential development on an allotment that was not intended to do so.

The application has not demonstrated that there are sufficient environmental planning grounds to justify contravening the clause 4.2D development standard.





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

shoalhaven.nsw.gov.au/contact | 1300 293 111

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DRAFT NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	DA2025/1448
Applicant	
Description of development	Change of use of training facility to dwelling house
Property	682 Yalwal Rd BAMARANG
	Lot 3 DP 1277665
Determination	Refusal
Date of determination	ТВА

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by way of refusal.

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

[#Contact Name#] [#Contact Position#]



- Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal is non-compliant with the development standards set out in clause 4.2D Shoalhaven LEP 2014 and inconsistent with the clause objectives.
- 2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the application has not satisfied the requirements of clause 4.6 Shoalhaven LEP 2014 as it has been sought to apply to varying the development standards set out in clause 4.2D in that the application does not demonstrate that compliance with the development standards is unreasonable or unnecessary in the circumstances of the case.
- 3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the application has not satisfied the requirements of clause 4.6 Shoalhaven LEP 2014 as it has been sought to apply to varying the development standards set out in clause 4.2D in that the application does not demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard.
- 4. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the information submitted with the development application does not satisfactorily demonstrate that the site is suitable for the proposed use.
- 5. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, having regard to the above matters to address the relevant provisions of Environmental Planning and Assessment Act, 1979, the granting of development consent is not considered to be in the public interest.



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.



Clause 4.6 Variation Statement

Conversion of Existing Training Centre to Dwelling House

For

Site address

682 Yalwal Road (Lot 3 DP1277665) Bamarang

Date 7/04/2025

Project Reference: 130376







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Table of Revisions

Initial	Rev	Date	Details
SR	0	7/04/2025	Client Review
SR	1	7/04/2025	Issued for DA Approval.



1.0 INTRODUCTION

This Clause 4.6 Written Request supports a development application submitted to Shoalhaven City Council seeking approval for the the adaptive re-use of an existing training centre into a dwelling house at 682 Yalwal Road, Bamarang.

The existing training facility was approved in 2005 in conjunction with the approved mud brick making business that had been in operation since 1999 on the subject site. The business in question is no longer in operation today, but the training centre building remains on the land unused and underutilised.

The subject site is zoned C2 Environmental Conservation (and partly C3 Environmental Management) under the provisions of the Shoalhaven Local Environment Plan (SLEP) 2014 ("the LEP"). The existing building is situated within that part of the site zoned C2.

Dwelling houses are permissible with consent within the C2 zone. Clause 4.2D of the LEP outlines the relevant provisions for the erection of a dwelling houses within the C2 zone. Under Clause 4.2D, development consent may be granted for the erection of a dwelling house on land zoned C2 provided the subject land comprises the minimum lot size under mapping that support the LEP; or the lot was on which was created before the LEP commenced and upon which a dwelling house was previously permissible. The minimum allotment area requirements that applies to the site is 40 hectares. The subject site comprises an area of 3.143 hectares.

Clause 4.6 of the Shoalhaven LEP 2014 enables the Council as the consent authority to grant consent for development even though the development contravenes a development standard. Clause 4.6 aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

The consent authority's satisfaction in respect of those matters must be informed by the objectives of Clause 4.6, which are to provide an appropriate degree of flexibility in the application of the relevant controls and to achieve better outcomes for and from the development in question by allowing flexibility in particular circumstances.

The Land and Environment Court has established a set of factors to guide assessment of whether a variation to development standards should be approved. The original approach was set out in the judgment of Justice Lloyd in Winten Property Group Ltd v North Sydney Council [2001] 130 LGERA 79 in relation to variations lodged under the former State Environmental Planning Policy 1 – Development Standards (SEPP 1). This approach was later rephrased by Chief Justice Preston, in the decision of Wehbe v Pittwater Council [2007] NSW LEC 827 (Wehbe).



While these cases referred to SEPP 1, the analysis remains relevant to the application of Clause 4.6(3)(a) of the Shoalhaven LEP 2014. Further guidance on Clause 4.6 of the Standard Instrument has been provided by the Land and Environment Court in a number of decisions, including:

- Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118;
- Turland v Wingecarribee Shire Council [2018] NSWLEC 1511;
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009;
- Micaul Holdings Pty Limited v Randwick City Council [2015] NSWLEC 1386; and
- Moskovich v Waverley Council [2016] NSWLEC 1015.

Clause 4.2D(3)(a) of the LEP is contained in Part 4 of the SLEP 2014. This part of the LEP is titled "Principal Development Standards" and is therefore a development standard and open to such a Statement made pursuant to Clause 4.6.

This Statement provides justification that the development standard detailed in the provisions of Clause 4.2D(3)(a) may be contravened by the grant of development consent because strict compliance with the provisions of this clause under the specific circumstances associated with this development application would be unreasonable and unnecessary; that there are environmental planning grounds to justify the contravention of these development standards; and that the proposal is in the public interest.

This Clause 4.6 variation has been prepared in accordance with the Department of Planning & Environment (DPE) "Guide to Varying Development Standards" (November 2023). This request should be read in conjunction with the Statement of Environmental Effects (SEE) and other supporting documentation submitted with this development application.

In summary the Clause 4.6 Written Statement demonstrates:

- With respect to the development standard outlined in Clause 4.2D(3)(a) which
 imposes a minimum lot size of 40 ha for the erection of a dwelling house within the
 C2 zone:
 - that compliance with this standard is unnecessary given the objectives that underpin both the clause and the zones will be achieved without compliance with this minimum lot size development standard;
 - that strict compliance with this development standard would be unreasonable as it would thwart one of the objectives of Clause 4.2D(3)(a) from being achieved:
 - that the 40 hectare minimum lot size standard has been abandoned by Council
 in this locality given the prevailing settlement pattern and therefore strict
 compliance with this development standard is unreasonable; and
 - the existing building the subject of the application has been in existence for many years. The proposal will not involve any significant physical works. There is



- no reason as to why the change of use should have any additional impacts on the site and the surrounding area.
- Strict compliance with Clause 4.2D(3)(a) would prevent or thwart the objectives of this development standard from being achieved and hence strict compliance with this development standard under the circumstances is unreasonable.



2.0 SITE AND PROPOSED DEVELOPMENT

2.1 - SITE DESCRIPTION

The subject site is 682 Yalwal Road, Bamarang (Lot 3 DP 1277665) and is an irregular shaped allotment comprising an area of 3.143 ha.

Figure 1 is a site locality plan while Figure 2 is an aerial photograph over the site and surrounding locality.

The subject land contains disturbed areas where the previous mud brick making operations took place as well as an electricity transmission laine easement that bisects the subject land. This area includes the training centre which is an earth rammed building with metal skillion roof (Figure 3). The cleared area of the site also includes a range of sheds and outbuildings. The area of the site to the north of the power line easement is mainly bushland. The fringes of the site along the boundaries to the east and south also contain bushland vegetation.

The site enjoys vehicle access to Yalwal Road via an existing all-weather gravel driveway. This access driveway is situated within a legal right of carriageway providing coincidental legal and protected access to Yalwal Road to and from the subject site.

Surrounding lands are heavily vegetated with some properties to the north and east containing existing dwelling houses set within clearings on bushland allotments. In addition, there is a variety of surrounding tourist and industrial businesses, including:

- Bamarang Dam to the south-west;
- Bamarang filtration plant to the west;
- Bamarang Bush Retreat and Bamarang Bush Cabins to the north;
- West Nowra Recycling and Waste Depot to the north-east;
- Jemena Nowra Gas Terminal to the east; and
- Lumo Generation gas-fired power station to the south.

The subject land is zoned C2 Environmental Conservation and partly C3 Environmental Management, under the Shoalhaven Local Environmental Plan 2014. The existing training facility that is to be converted into a dwelling house is situated within the part of the site zoned C2.



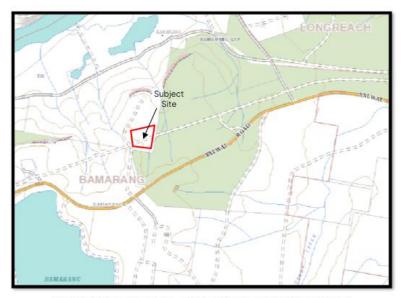


Figure 1: Aerial Image of Site (Source: Six/Near Maps)



Figure 2: Aerial image of Subject Land (Source : Nearmaps).





Figure 3: View of existing training centre building



3.0 BACKGROUND

In August 1998 Shoalhaven City Council resolved to prepare a Local Environmental Plan (LEP) over part of Lot 22 DP 746233 to enable the establishment of a mud brick making operation through an "allowance clause" (Schedule 9 amendment) in the then Shoalhaven LEP 1985.

The amending LEP was made by the Minister for Urban Affairs and Planning on 19 March 1999 (LEP Amendment No. 154).

Development application DA 99/1500 for an "Industry – Mud Brick Making" was granted on 23 April 1999 to the landowner, John George Jirgens. The part of the subject land to be developed was leased by Peter Jirgens (the business operator). The industry commenced shortly after consent was granted.

The subject land at the time of approval of DA 99/1500 was Lot 22 DP 746233 having an area of approximately 50 hectares.

On 30th August 1999 Council granted a further approval over the land. The consent was in respect of a subdivision of Lot 22 pursuant to Clause 11(3) of Shoalhaven LEP 1985 to enable excision of a tourist facility (comprising a guest house and two holiday cabins) which adjoined Bamarang Road, some distance from the mud brick making operation.

On 20 June 2002 DP 1040676 was registered. The DP created two lots:

- Lot 1 7.145 ha around the tourist facility;
- Lot 2 43.34 ha for the residue land, including the mud brick manufacturing area.

In 2005 our firm submitted a development application to establish a training centre and manager's residence ancillary to the established mud brick making facility as well as for the subdivision of the land upon which the mud brick making industry was situated. This DA (DA05/4017) was approved by Council on the 23 January 2008 (operational consent) minus the manager's residence component. A Final Occupation Certificate was issued for this building by Council on the 9th March 2021 (OC 21/1223).

The land upon which the mud brick making operation was located was subsequently excised from the remainder of Lot 2. The land upon which the mud brick making operation occurs is Lot 3 DP 1277665.

Lot 3 DP 1277665 was created by the provisions of Clause 11(3) of the Shoalhaven Local Environmental Plan that applied at that time. Clause 11(3) at that time permitted the subdivision



of land zoned rural to create an allotment of less than 40 ha provided Council was satisfied that the lot to be created was being or would be used for a purpose other than agriculture, forestry, dwelling-house or a dwelling. In other words, the subject land was created on the basis that the proposed lot could not be used for a dwelling house. Under these circumstances, the subject land would not enjoy a dwelling entitlement.

The mud brick manufacturing company that operated the mud brick making and training operation was "Make it Mudbricks" operated by Peter Jirgens. "Make it Mudbricks" primarily supplied "Earth Building Solutions" with mud bricks for their operations. Orders from Earth Building Solutions however ceased in 2017. As a result "Make it Mudbricks" ceased operations in 2017. Since that time the land owner has sought alternative uses that the site could be put without success. The existing training centre remains unoccupied and unused to the present day.

DA 23/1640

A development application DA 23/1640 was submitted by Cowman Stoddart on behalf of our client on 21 August 2023. This development application sought to convert the existing Training Centre (approved under DA 05/4017) to a dwelling house. As with this current development application this previous development application was supported by a Clause 4.6 Written Statement justifying the departure to the minimum lot size requirements that applies to the subject site under the LEP.

At that time, the variation to the development standard required the concurrence from the then Planning Secretary of the Department of Planning & Environment ("the Department") pursuant to the then Clause 4.6(4)(b) of the LEP. The Department however determined not to grant concurrence citing the following reasons:

- The subject site was created under Shoalhaven Local Environmental Plan 1985 for the purpose of "training centre" (commercial) use, with no dwelling entitlement;
- the applicant has not adequately demonstrated that the proposed 92.14%
 variation from the minimum lot size for the erection of a dwelling development standard is reasonable or necessary;
- the proposal could set an undesirable precedent for the erection of dwellings on other undersized lots in rural and environmental zones
- the proposal could set a precedent for adverse environmental impacts that would be inconsistent with the Illawarra Shoalhaven Regional Plan 2041 and Shoalhaven LEP 2014; and



it is in the public interest that a variation of this size is not supported. Rather, should
the proposal have merit a strategic planning process should be used to consider
changing the development standard.

Subsequently the Council refused development application DA on the 12 February 2024 on the basis of the following reasons:

- Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal is non-compliant with the development standards set out in clause 4.2D Shoalhaven LEP 2014 and inconsistent with the clause objectives.
- 2) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the application has not satisfied the requirements of clause 4.6 Shoalhaven LEP 2014 as it has been sought to apply to varying the development standards set out in clause 4.2D in that the application does not demonstrate that compliance with the development standards is unreasonable or unnecessary in the circumstances of the case.
- 3) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the application has not satisfied the requirements of clause 4.6 Shoalhaven LEP 2014 as it has been sought to apply to varying the development standards set out in clause 4.2D in that the application does not demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard.
- 4) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, Council is not satisfied that the proposal is compatible with the considerations set out in clause 5.16 of Shoalhaven LEP 2014.
- 5) Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the information submitted with the development application does not satisfactorily demonstrate that the site is suitable for the proposed use.
- 6) Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, having regard to the above matters to address the relevant provisions of Environmental Planning and Assessment Act, 1979, the granting of development consent is not considered to be in the public interest.

Following Council's determination of this previous development application (DA 23/1640), the LEP, and in particular Clause 4.6, has been amended such that the Planning Secretary's concurrence is no longer required for a variation to a development standard. The consent authority however is still required to be satisfied 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.



The Planning Secretary's letter refusing concurrence to the development application DA 23/1640 repeatedly, and incorrectly, referred to this earlier proposal being for the "erection of a dwelling". No new building was proposed to be erected. The application was for a change of use of an existing building only.

For this reason, the approval of the development could not be seen, in our view, as a "precedent for the erection of dwellings on other undersized lots" as put forward by the Planning Secretary. Each development application must be considered on its own merits and this particular development has its own facts that would distinguish it, such as the fact that the building already exists and was constructed lawfully.

Notwithstanding the above, this new development application, is supported by a Vegetation Management Plan (VMP) for the subject site, that will tie the change of use of the existing training centre to a dwelling house to the remediation of the overall site. Given the historic use of the site for brick making, and as a significant part of the site is subject to a power line transmission easement, the vegetation within the site is somewhat disturbed. The VMP will make provision for the rehabilitation and restoration of the site, cognisant of the bushfire and powerline easement requirements that apply to the site. This will ensure the "restore" elements of the objectives of the C2 zone that apply to the site are achieved and which will ensure a net beneficial environmental outcome.



4.0 THE PROPOSAL

This development application seeks Shoalhaven City Council's approval for the change of use of the existing approved training centre building into a dwelling house on the subject site. Critically the proposal does not involve the erection of a new building.

The manufacturing company that operated the mud brick making and training operation was "Make it Mudbricks" operated by Peter Jirgens. "Make it Mudbricks" primarily supplied "Earth Building Solutions" with mudbricks for their clients. However orders from Earth Building Solutions ceased in 2017 and the company "Make it Mudbricks" was cancelled in the same year. Mudbrick manufacturing and training has therefore not taken place from the subject site since 2017.

The change of use of the existing training centre into a dwelling house, will not require any significant physical alterations. The existing layout of the building allows it to be converted easily into a three-bedroom dwelling, with an open living, kitchen and dining area, bathroom, laundry and toilet facilities. The proposal therefore does not involve the erection of a new building. Some minor alterations will need to be made, including:

- Installation of kitchen joinery, cabinets and appliances;
- Installation of the laundry cabinets, laundry tub, and space for washing machine.

Vehicular access to the subject site is provided by way of an existing all-weather driveway extending from Yalwal Road to the west of the subject site. The existing driveway crosses the adjoining Lot 7308 DP1151719. The driveway is situated within an existing right of carriageway under DP1184863. The development application is supported by documentation confirming this right of carriageway.

The following services are available:

- Telephone;
- Electricity;
- gas (bottled).

Water

The site is connected to a reticulated water supply. Roof water is currently collected and stored in 20,000L rainwater tank located to the west of the existing training centre. It is proposed that this rainwater tank will be used for fire fighting purposes.



Effluent

The subject land is not connected to reticulated sewerage and as such effluent will need to be managed on site. A Report on Effluent Disposal has been prepared for this proposal (Annexure 5). Effluent disposal is further discussed on Section 7.3.2 of this SEE.

Vegetation Management Plan

As outlined in Section 2.0 above, this development application includes provision for a Vegetation Management Plan (VMP) for the subject site, that will tie the change of use of the existing training centre building to a dwelling house to the remediation of the overall site. The Vegetation Management Plan has been prepared by Eco Logical Australia and forms Annexure? to this SEE.

Given the historic use of the site for brick making, and as a significant part of the site is subject to a power line transmission easement, the vegetation within the site is somewhat disturbed. The VMP makes provision for the rehabilitation and restoration of the site, having regard to the bushfire and powerline easement requirements that apply to the site.

The objectives of the VMP is to improve the ecological health and integrity, maintain and enhance habitat values within the VMP area. The VMP addresses all issues related to the protection of existing vegetation from impacts associated with the undertaking any earthworks and any edge effects as well as undertaking bush regeneration and management actions to improve its extent, condition and resilience.

The works proposed in the VMP also align with the objectives of the C2 Environmental Conservation Zone (Shoalhaven Local Environmental Plan 2014) including:

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- To protect water quality and the ecological integrity of water supply catchments and other catchments and natural waterways.
- To protect the scenic, ecological, educational and recreational values of wetlands, rainforests, escarpment areas and fauna habitat linkages.
- To conserve and, where appropriate, restore natural vegetation in order to protect the erosion and slippage of steep slopes.

The VMP outlines areas to be revegetated and recommends fully structured vegetated areas where possible. Eco Logical Australia indicate the implementation of the VMP will achieve the C2



zone objectives by maintaining native species cover and integrity within the VMP area and assisting natural regeneration through active restoration actions, such as treating weed species and reintroducing native species(either as plants or seeds). The VMP covers a five-year maintenance period or the achievement of the performance criteria, whichever is longer. This VMP may either be implemented all at once or staged by areas as long as each stage follows the full VMP programme.

The total VMP area is approximately 2.94 ha and encompasses four (4) management zones, as shown in Figure 4:

- Zone 1: Utility Protection Zone (1.4 ha)
- Zone 3: Assisted regeneration (1.16 ha)
- Zone 4: Partial revegetation (0.07 ha)
- Zone 5: Full revegetation (0.31 ha)

Management specifications for these zones has been detailed in the VMP.



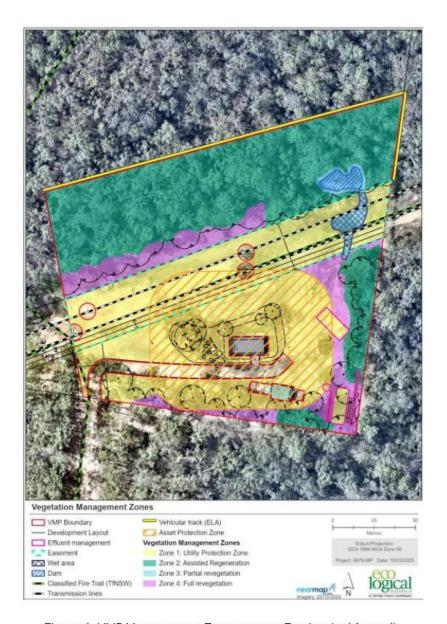


Figure 4: VMP Management Zones source Eco Logical Australia



5.0 CLAUSE 35B – ENVIRONMENTAL PLANNING & ASSESSMENT (EP & A) REGULATIONS 2021

Clause 35B of the EP & A Regulations stipulates:

35B Additional requirements for development applications involving contravention of development standards

- (1) This section applies to a development application that proposes, in accordance with a relevant EPI provision, development that contravenes a development standard imposed by any environmental planning instrument.
- (2) The development application must be accompanied by a document that sets out the grounds on which the applicant seeks to demonstrate 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.
- (3) In this section-

relevant EPI provision means-

- (a) clause 4.6 of a local environmental plan that adopts the provisions of the Standard Instrument, or
- (b) an equivalent provision of another environmental planning instrument.

This Statement has been prepared in accordance with Clause 35B of the EP & A Regulations. The matters raised by Clause 35B(2) above are addressed in **Section 7.2** of this Statement.



6.0 CLAUSE 4.6 OF SHOALHAVEN LOCAL ENVIRONMENT PLAN 2014

Clause 4.6 of Shoalhaven Local Environment Plan 2014 (SLEP 2014) stipulates:

- 4.6 Exceptions to development standards
 - (1) The objectives of this clause are as follows—
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
 - (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
 - (3) Development consent must not be granted 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).

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

- (7) (Repealed)
- (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.

6.1 - CLAUSE 4.6 AND ITS USE

Clause 4.6 of the SLEP 2014 provides for an appropriate degree of flexibility in applying certain development standards and aims to achieve better outcomes to and from development by allowing flexibility where strict compliance can be shown to be unreasonable or unnecessary in the circumstances of the case; and where there are sufficient environmental planning grounds to justify contravening the development standard.

Before applying the discretionary power of Clause 4.6 the consent authority must be satisfied that the standard for which the departure is sought is a "development standard" and not a matter which would prohibit the proposal.

Part 4 of the SLEP 2014 contains the Primary Development Standards of the SLEP 2014.

A development standard is defined within Section 1.4 of the EP&A Act.

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"Development standard" means provisions of an environmental planning instrument in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of –

- a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or works, or the distance of any land, building or work from any specified point;
- b) the proportion or percentage of the area of a site which a building or work may occupy;
- the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work;
- d) the cubic content or floor space of a building;
- e) the intensity or density of the use of any land, building or work;
- f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment;
- g) the provision of facilities for the standing, movement, parking, servicing manoeuvring, loading or unloading of vehicles;
- h) the volume, nature and type of traffic generated by the development;
- i) road patterns;
- j) drainage;
- k) the carrying out of earthworks;
- I) the effects of the development on patterns of wind, sunlight, daylight or shadows;
- m) the provision of services, facilities and amenities demanded by the development;
- n) the emission of pollution and means for its prevention or control or mitigation; and
- o) such other matters as may be prescribed.

Having regard to the definition of "development standard", including paragraphs (a) and (c) it is considered that Clauses 4.2D(3)(a) of the SLEP 2014 contains development standards.

Clause 4.2D(3)(a) prescribes a minimum area of land upon which a consent authority is able to approve the erection of a dwelling house. Such would comprise a development standard having regard to paragraph (a) above as it applies to the "area" of land.

Furthermore, Clauses 4.2D(3)(a) is contained in Part 4 of the SLEP 2014, containing the "Primary Development Standards" of the SLEP 2014. This reinforces the contention that the provisions of Clauses 4.2D(3)(a) is a development standard.

As a development standard, consideration of this clause is therefore open to Written Statements made pursuant to Clause 4.6.

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Further, prior to issuing development consent to a development that contravenes a development standard pursuant to Clause 4.6, a consent authority must also be satisfied that an Applicant has demonstrated:

- that compliance with that development standard is unreasonable or unnecessary in the circumstances [Clause 4.6(3)(a)]; and
- that there are sufficient environmental planning grounds to justify contravening the development standard [Clause 4.6(3)(b)].

6.2 INITIAL ACTION PTY LTD V WOOLLAHRA MUNICIPAL COUNCIL [2018] NSWLEC 18

Preston CJ in Initial Action Pty Ltd v Woollahara Municipal Council [2018] NSWLEC 118 ("Initial Action") provides an informative instruction with the approach to making a written request under Clause 4.6 for the grant of development consent in contravention of a development standard. As outlined in Section 4.1 above Clause 35B of the EP & A Regulations requires the written statement to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). The written statement must demonstrate the following matters:

- firstly, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (Clause 4.6(3)(a)); and
- secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (Clause 4.6(3)(b)).

As to the first matter, Clause 4.6(3)(a), Preston CJ in "Initial Action" summarises common ways an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary by referencing his findings in Wehbe v Pittwater Council [2007] NSWLEC827 ("Wehbe"). Although the decision in Wehbe was in the context of an objection under State Environmental Planning Policy No. 1 – Development Standards to compliance with a development standard, according to Preston CJ the discussion is equally applicable to a written statement under Clause 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.

In Wehbe, Preston provided a "five-part test" for consent authorities to consider when assessing a proposal that seeks to vary a development standard as follows:

 the objectives of the standard are achieved notwithstanding non-compliance with the standard.

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- the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.
- the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.
- the development standard has been virtually abandoned or destroyed by the council's own
 actions in granting consents departing from the standard and hence compliance with the
 standard is unnecessary and unreasonable.
- the compliance with development standard is unreasonable or inappropriate due to existing
 use of land and current environmental character of the particular parcel of land. That is, the
 particular parcel of land should not have been included in the zone.

Preston CJ notes that the above five tests are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. Preston CJ states "An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way."

The second leg of Clause 4.6(3)(b) requires that there are sufficient environmental planning grounds to justify contravening the development standard. Preston CJ in Initial Action notes that 'environmental grounds' are not defined but would "refer to ground that relate to the subject matter, scope and purpose of the EP & A Act, including the objects in S.1.3 of the Act." Environmental grounds would, by inference, include the Aims of the SLEP 2014 outlined in Clause 1.2(2).

According to Preston CJ (at par 24 in Initial Action) the environmental planning grounds relied on in the written statement under Clause 4.6 must be "sufficient". There are two respects in which the written statement needs to be "sufficient". First, the environmental planning grounds advanced in the written statement must be sufficient "to justify contravening the development standard". The focus of Clause 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds.

The environmental planning grounds advanced in the written statement must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole.

6.3 DEPARTMENT OF PLANNING AND ENVIRONMENT GUIDELINES

The Department of Planning & Environment (DPE) have prepared a "Guide to Varying Development Standards" (November 2023) ("the Guide"). Part A of the Guide clarifies

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requirements for preparing, assessing and determining documents to vary development standards. It aims to:

- explain the tests in clause 4.6 of the Standard Instrument LEP;
- clarify how to prepare and assess a variation request, including applying the tests;
- identify the circumstances in which clause 4.6 does and does not apply.

Section 3 of the Guide addresses how to prepare a Variation Statement that would satisfy the requirements of Clause 4.6.

Clause 35B of the EP&A Regulation explicitly requires a development application to be accompanied by a document (the written statement) that sets out the grounds on which an applicant seeks to demonstrate that:

- compliance with the development standard is unreasonable or unnecessary in the circumstances.
- there are sufficient environmental planning grounds to justify the contravention of the development standard.

The written statement is a standalone document lodged with the DA. In summary the Guide specifies that the written statement should:

- identify the development site.
- describe the proposed development.
- note the relevant environmental planning instrument and zoning of the site.
- identify the development standard that the applicant is seeking to vary.
- identify aspects of the proposed development that contravene the development standard (including where there is more than one aspect of a development that contravenes the development standard), including:
 - o where these aspects occur or are located within the site
 - o the extent of variation associated with each.
- include an assessment of the proposed variation against the relevant tests in clause 4.6(3)(a) and (b).

This Written Statement made pursuant to Clause 4.6 has been prepared having regard to the contents of the Guide.



7.0 WRITTEN STATEMENT - CLAUSE 4.2D (3)(A)

This Written Statement seeks to justify the contravention of the development standard imposed by Clause 4.2D(3)(a) of the SLEP 2014 as it applies to the development proposed by this development application.

7.1 - NON-COMPLIANCE WITH CLAUSE 4.2D(3)(A) OF SLEP 2014

The ability to erect a dwelling house on land zoned C2 is controlled in part by the provisions of Clause 4.2D of the SLEP 2014.

Clause 4.2D reads:

- 4.2D Erection of dual occupancies (attached) and dwelling houses on land in certain rural, residential and conservation zones
- (1) The objectives of this clause are as follows-
 - (a) to minimise unplanned rural residential development,
 - (b) to enable the replacement of lawfully erected dwelling houses in certain rural, residential and conservation zones,
 - (c) to control rural residential density affected by historical subdivision patterns in Zone R5 Large Lot Residential.
- (2) This clause applies to land in the following zones—
 - (a) Zone RU1 Primary Production,
 - (b) Zone RU2 Rural Landscape,
 - (c) Zone RU4 Primary Production Small Lots,
 - (d) Zone R5 Large Lot Residential,
 - (e) Zone C2 Environmental Conservation,
 - (f) Zone C3 Environmental Management,
 - (g) Zone C4 Environmental Living.
- (3) Development consent must not be granted for the erection of a dwelling house on land in a zone to which this clause applies, and on which no dwelling house has been erected, unless the land is:
 - (a) a lot that is at least the minimum lot size specified for that land by the Lot Size Map, or
 - (b) a lot created before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or



(c) a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house would have been permissible if the plan of subdivision had been registered before that commencement, or

(ca) is a lot created under clause 4.1E(3)(d)(ii), or

(cb)is a lot created under clause 4.2B(3)(f), (g) or (h), or

(cc)is a lot created following a boundary adjustment under clause 4.2G, or

(d)would have been a lot or a holding referred to in paragraph (a), (b) or

(e)had it not been affected by-

- (i) a minor realignment of its boundaries that did not create an additional lot, or
- (ii) a subdivision creating or widening a public road or public reserve or for another public purpose, or
- (iii) a consolidation with an adjoining public road or public reserve or for another public purpose.

Note.

A dwelling cannot be erected on a lot created under clause 9 of <u>State Environmental Planning Policy (Rural Lands) 2008</u> or clause 4.2.

- (4) Development consent must not be granted under subclause (3) unless—
 - (a) no dwelling house has been erected on the land, and
 - (b) if a development application has been made for development for the purpose of a dwelling house on the land—the application has been refused or it was withdrawn before it was determined, and
 - (c) if development consent has been granted in relation to such an application—the consent has been surrendered or it has lapsed.

(5)Development consent may be granted for the erection of a dwelling house on land to which this clause applies if there is a lawfully erected dwelling house on the land and the dwelling house to be erected is intended only to replace the existing dwelling house.

(6)In considering whether to grant consent for the erection of a dwelling house in accordance with this clause on land to which clause 7.3 applies, the consent authority must—

(a) consider whether the land is predominantly prime crop and pasture land, and



(b)be satisfied that the dwelling house is essential for the proper and efficient use of the land for agriculture (including turf farming).

(6A)This clause applies to a dual occupancy (attached) in the same way as it applies to a dwelling house.

(7)In this clause-

holding means all adjoining land held by the same person or persons, even if separated by a road, railway or waterbody.

The Minimum Lot Size Map that applies to the subject land imposes a minimum lot size of 40 hectares for the subject land (Figure 3).

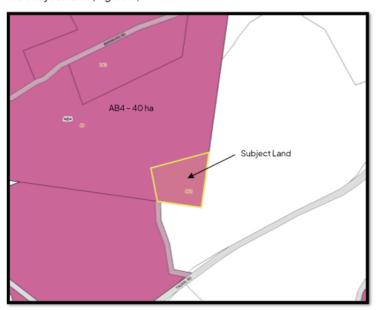


Figure 5 : Minimum Lot Size map under the LEP as it applies to subject land (source – Shoalhaven City Council)

Clause 4.2D(3)(a) has been highlighted in bold above and has the effect that development consent must not be granted for the erection of a dwelling house on a lot zoned C2 unless the lot has a minimum area as specified on the Minimum Lot Size map that supported the SLEP 2014. As is evident form, Figure 4 above, the minimum lot size that applies to the subject land is 40 hectares.



The proposal seeks development consent for the adaptive re-use of an existing training facility building into a dwelling house on the subject site. The proposal does not seek to construct a new dwelling house. The subject site comprises an area of 3.143 hectares. The subject site is therefore 36.857 hectares below the minimum lot size requirement having regard to clause 4.2D(3)(a). This represents a departure to this development standard by about 92%.

Clause 4.6 of SLEP 2014 makes provision for exceptions to development standards and enables Council to consent to development even though it may be inconsistent with a development standard. The provisions of Clause 4.6 require that a written statement accompany a proposal that justifies the contravention of a development standard.

This Written Statement has therefore been prepared pursuant to Clause 4.6 and provides justification that the development standard may be contravened by the grant of development consent because strict compliance with the provisions of Clause 4.2D(3)(a) would be unreasonable and unnecessary under the specific circumstances associated with the application; and because there are sufficient environmental planning grounds to justify contravening the development standard. Furthermore, this written statement demonstrates the proposal is in the public interest.

7.2 - JUSTIFICATION OF DEPARTURE TO CLAUSE 4.2D(3)(A)

This Written Statement seeks to justify the departure to the provisions of Clause 4.2D(3)(a) of the SLEP 2014. Clause 4.2D(3)(a) effectively imposes a minimum lots size of 40 ha for the erection of a dwelling house on the subject site. The subject land comprises an area of 3.143 hectares which is 36.857 hectares below the minimum lot size requirement, which represents a departure to this development standard by about 92%.

This Written Statement demonstrates that compliance with Clause 4.2D(3)(a) of SLEP 2014 is unreasonable and unnecessary given the specific circumstances of this case; that there are sufficient environmental planning grounds to justify contravention of this restriction; and that the proposal is in the public interest.

7.2.1 - COMPLIANCE WITH STANDARD UNREASONABLE OR UNNECESSARY

Having regard to Clause 4.6(3)(a) it is my view that there is sufficient justification for contravention of the 40 ha minimum lot size development standard of Clause 4.2D(3)(a) of the SLEP 2014 as it would be unreasonable and unnecessary under the specific circumstances of this case for the following reasons:

Consistency with Objectives of Development Standard

As detailed in Section 6.1 above the objectives of Clause 4.2D are:

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- (a) to minimise unplanned rural residential development,
- (b) to enable the replacement of lawfully erected dwelling houses in certain rural, residential and conservation zones,
- (c) to control rural residential density affected by historical subdivision patterns in Zone R5 Large Lot Residential.

Objective (c) is not applicable to this mater as the land is not zoned R5 Large Lot Residential.

The development application is consistent with the stated objectives of Clause 4.2D as:

- The SLEP 2014 does not define what is meant by Clause 4.2D(1)(a) by the term "unplanned rural residential development".
 - In this regard it should be noted that Espinosa C outlined in *Sharp v Kiama Municipal Council [2024] NSWLEC 1360* a planned outcome can be in accordance with the provisions of the LEP, and those provisions include development standards which may be contravened provided that the contravention is justified pursuant to the terms of cl 4.6 of the LEP. Such a justified contravention of a development standard is a planned outcome. A dwelling on the subject site would only be unplanned development if the consent authority were to conclude that the minimum lot size for the erection of a dwelling provided for in cl 4.2D of the LEP were a prohibition, or in the alternative, if the minimum lot size is a development standard, a dwelling would be unplanned if there were no cl 4.6 written request or the cl 4.6 written request were deficient. The satisfaction of the terms of cl 4.6 is a jurisdictional prerequisite which adds weight to any conclusion that the grant of consent to the erection of a dwelling (or rather in this case the adaptive re-use of an existing building as a dwelling) on a C2 Environmental Conservation lot less than 40ha may be a planned outcome.
- The proposal involves the adaptive re-use of an existing training centre into a dwelling
 house. Further the existing training centre building was constructed lawfully. The
 development application does not propose the construction of a new building.
- The training centre building lends itself to an adaptable floorplan so that no significant physical works will need to be made to convert the existing training centre into a dwelling house. Apart from these small works, no substantive works are required to enable this change of use.

Given the proposal involves the adaptive re-use of an existing approved building only; and does not necessitate significant works, it is considered the proposal will not involve "unplanned rural



residential development". No new buildings or development are proposed. This is an important distinction with this proposal.

The adaptive re-use of the existing training centre into a dwelling house rather involves a sustainable re-use of an existing under-utilised building. Only minimal work is required to enable the change of use of this building. The existing training centre is of a high-quality rammed earth construction providing an efficient passive energy building suitable for residential use. To deny the use of this building for residential use would be to deny an eminently suitable structure to be re-used for an alternative purpose that is permissible in the C2 zone.

Having regard to the planning provisions that apply to the site, there are no other alternative uses that the building could be viably put. The C2 zone allows several activities both with and without consent, however, many of them are not suitable or relevant for the subject site.

- Given the bushfire APZ requirements for tourist uses the site would not be suitable
 for bed and breakfast or ecotourist facilities. (Bed and breakfast development by
 definition occur in dwelling houses.)
- Dual occupancies (attached) are not permissible in this situation for the same reason that dwelling houses are not permitted, as the minimum lot size is not met. In addition, home businesses are not permissible for a similar reason as they depend on the existence of a dwelling house or dual occupancy to be permitted.
- Boat sheds, oyster aquaculture, water recreation structures, and water supply systems are not relevant as the site is not located in the vicinity of the relevant water bodies to enable these activities.
- Emergency services facilities rely on the existence of an emergency services organisations which do not occur on the subject site.
- Environmental facilities depend on existing nearby recreational use or scientific study activities, of which none exist in the vicinity.
- Environmental protection works are not relevant.
- Recreation areas refers to the use of public land and therefore not relevant.
- Research stations involve a public authority in which is not applicable to the privately owned subject site.
- · Roads are not relevant.
- Sewerage systems are simply not necessary for the site, especially considering the land is privately owned.



Given these circumstances, there are limited alternative permissible uses that the existing training centre could be reasonably put to.

As detailed in Section 6.4.1 the proposal does not involve unplanned rural residential development. The subject site was granted approval as a mud brick making operation in 1999, with the training facility and machinery shed approved in 2005. The training facility was built and utilised for over 10 years with no negative effects to the surrounding locality. Under these circumstances there is nothing unplanned by a proposal that seeks to adaptively re-use an existing approved building as a dwelling house considering the mud brick making business is no longer viable or operational and there are no significant physical works required to enable this change of use.

If the training centre continues to be left vacant and unused, there is a high risk of property crime that is likely to arise. The likelihood of the building being vandalised should not be overlooked, as a vacant building is likely to increase the chance of property crime. With the subject site being located within a C2 environmental conservation and C3 environmental management zone, consideration should be given to encouraging permanent occupation and hence, presence on the site to provide security to ensure any chance of property crime (arson included) be minimised.

Further the proposed change of use will not necessitate any additional vegetation clearing. The development application is supported by a Bushfire Assessment prepared by Bushfire & Evacuation Solutions that demonstrates the required APZ can be achieved within the existing cleared managed yard area surrounding the existing building. This is an important consideration as it means there will be no need for vegetation to be cleared to satisfy bushfire requirements.

Indeed the development application is supported by a Vegetation Management Plan (VMP) prepared by Eco Logical Australia. The VMP will tie the change of use of the existing training centre building to a dwelling house to the remediation of the overall site. Given the historic use of the site for brick making, and as a significant part of the site is subject to a power line transmission easement, the vegetation within the site is somewhat disturbed. The VMP makes provision for the rehabilitation and restoration of the site, having regard to bushfire and powerline easement requirements that apply to the site. The rehabilitation of vegetation within site and providing a means by which the site can be managed in the longer term by having someone reside on the land, will restore the inherent environmental values of this site, ensuring an improved overall environmental and town planning outcome.

The proposal will therefore be consistent with the first objective of Clause 4.2D as the proposal will not involve "unplanned rural residential development".

Having regard to the above, it is my view that the strict compliance with Clause 4.2D(3)(a) is unnecessary and unreasonable given the specific circumstances of this case and there is



sufficient justification for contravention of the 40 ha minimum lot size development standard of Clause 4.2D(3)(a) of the SLEP 2014 given:

- The proposal does not involve any new buildings. Enabling the change of use of this existing training centre into a dwelling house will enable permanent occupation of the site allowing better management of the land in terms of bushfire, site rehabilitation and weed management that will have benefits not only for the subject site but also adjoining land. In this regard no additional vegetation disturbance is necessary to accommodate bushfire asset protection zones for the dwelling house; and the proposed change of use of this existing building to a dwelling house will be tried to a VMP that will seek to restore vegetation within the site. Such will provide an overall improved town planning outcome.
- As the proposal involves the adaptive re-use of an existing building the natural character
 of the locality will be maintained consistent with the aims of the SLEP 2014 and the
 objectives of the C2 and C3 zones that apply to the land.
- The proposal will also be consistent with the specific objectives that underpin Clause
 4.2D in that:
 - it will not result in unplanned rural residential development; and
 - it will involve the conversion of an existing lawfully constructed training facility into a dwelling house in an environmental conservation zone.

Under the above circumstances and having regard to the first 'test' set by the "Wehbe" case and which Preston CJ references in Initial Action, the objectives detailed in Clause 4.2D(3)(a) will be achieved notwithstanding non-compliance with this development standard, and hence strict compliance with this development standard is unnecessary.

2. Abandonment of Development Standard

Early settlement and development of Nowra and its surrounds, and also the subsequent history of planning provisions that have applied within the Shoalhaven City Council, the locality is one that contains lawfully erected dwelling houses on a variety of allotment sizes, with many of the allotments containing dwelling houses having lots sizes less than 40 hectares in area.

In the vicinity of the site, within an approximate 5.5km radius, there are at least 80 separate allotments which comprise areas less than 40 hectares and contain lawfully erected dwelling houses (refer Figure 5 below). In effect and having regard to the fourth 'test' set by the Wehbe case and which Preston CJ references in Initial Action, Council has essentially abandoned application of the minimum 40 ha lot size development standard in this locality. The majority of lots which contain dwelling houses within the vicinity of the subject site are lots that are less than



the 40-hectare lot size minimum specified by Clause 4.2D(3)(a). Under these circumstances strict compliance with this development standard is unreasonable.

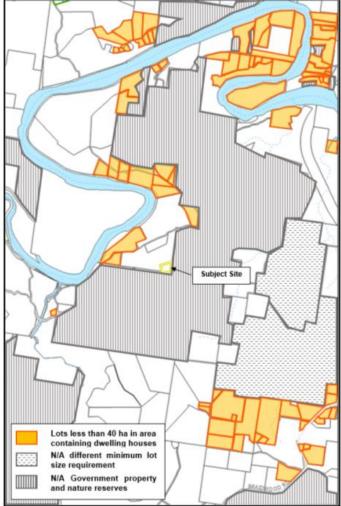


Figure 6 - Allotments with less than 40ha and which contain dwelling houses within vicinity of subject site

3. Compliance with Development Standard is Unreasonable or Inappropriate due to Specific Circumstances of this Case



Each development application must be considered on its own merit's and this proposal has its own facts that distinguishes it, including the history associated with the creation of the subject land; and the fact that the building already exists and was constructed lawfully.

The history of the lot's creation and its historic use, and the subsequent cessation of that use are integral to the justification that continued compliance with this development standard is unreasonable.

For several years, Peter Jirgens' business, "Make it Mudbricks", operated on his brother's, John Jirgens' land. As "Make it Mudbricks progressed", both Peter and John desired to simplify the ownership and use of the land so that Peter could operate his business on the land under Peter's ownership. Peter had no desire to own the entire land that his business currently operated on, as 43.34 ha was an excessive area and also contained a tourist use that was owned and operated by John; Peter only required a small area to make mud bricks. As such, the land that was associated with the business was subdivided to create Lot 3 DP 1277665 comprising 3.143 ha. This subdivision, and the subsequent acquisition by Peter enabled Peter to own the land upon which his business operated.

The configuration of Lot 3 was determined by the practicality for the operation of the mudbrick business. Peter did not require all 43.34 ha of land to create mud bricks and indeed John operated another touristy oriented business on the land. At the time, there was never any intention for the lot to be utilised to hold a dwelling house, as the mud brick business was always intended to operate for many years.

Earth Building Solutions were the main customer for mudbricks manufactured at the site. In 2017 Earth Building Solutions ceased purchasing mudbricks from "Make it Mudbricks". As of the 21 of April 2017, 'Make it Mudbricks' ceased trading.

This SEE is supported by correspondence prepared by Peter Hickson owner of Earth Building Solutions and also the President of the Earth Building Association of Australia (Annexure 8 of the SEE).

As outlined in the correspondence from Peter Hickson (the "Hickson correspondence"), several factors were responsible for the reduction in viability of mudbricks manufactured by "Make it Mudbricks".

- The Hickson correspondence identifies difficulties in achieving building construction requirements under NatHERs which resulted in mud brick construction becoming looked on less favourably when compared to other construction methods (such a Strawbale construction). This adversely affected the market for mud brick construction.
- The drop in owner building construction. According to the Hickson correspondence the increasing difficulties for owner builders to obtain finance and increased regulatory



framework resulted in a reduction in owner builders. People building with mud bricks were mostly owner builders. The reduction in owner building resulted in a decline in mud brick construction, training and mud brick sales.

- Increasing property and land prices has also played a role in the decline of mud brick construction. According to the Hickson correspondence it is less likely that people will purchase an expensive small residential allotment and then build a low cost sustainable mud brick home.
- Mud brick construction is also labour intensive and therefore more expensive when
 compared to other earth construction techniques such as rammed earth and formed cob
 earth building techniques. These alternative earth construction techniques, according to
 the Hickson correspondence, are more cost effective construction methodologies when
 compared to mud brick manufacture.

Combined the above factors have according to the Hickson correspondence resulted in a decline in mud brick construction, and therefore mud brick construction training and sales. The "Make it Mudbricks" operations became unviable and operations ceased in 2017.

Following the cessation of the mud brick manufacturing operations the site has laid vacant and unused.

7.2.2 – ENVIRONMENTAL PLANNING GROUNDS THAT JUSTIFY CONTRAVENTION OF STANDARD

Having regard to Clause 4.6(3)(b) it is my view that there are sufficient environmental planning grounds to justify contravening the 40 ha minimum lot size development standard of Clause 4.2D(3)(a) of the SLEP 2014 under the specific circumstances of this case as follows. The contravention is the existing lot size of 3.143 ha (i.e. 36.857 ha below the control).

As outlined in Section 2.6 of the Departments 'Guide to Varying Development Standards" the term 'environmental planning grounds" while not defined either by the Act or LEP, refer to grounds that relate to the subject matter, scope and purpose of the Act, including objects in Section 1.3 of the Act. The scope of environmental planning grounds is wide.

The "Guide to Varying Development Standards" states that sufficient environmental planning grounds need to be established by the facts of the Statement. The Statement must justify the contravention of the development standard, not simply promote the benefits of the development.

According to the "Guide to Varying Development Standards":

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the grounds must:

- 1. 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.

Avoiding adverse impacts may constitute sufficient environmental planning grounds as it promotes 'good design and amenity of the built environment' 10 - one of the objects of the EP&A Act. However, the lack of impact must be specific to the non-compliance to justify the breach. Other examples of environmental planning grounds include:

- dealing with the unique circumstances of the site such as historical excavation of basements or swimming pools
- 4. achieving consistency with the streetscape and existing built form
- 5. responding to flood planning levels
- 6. responding to topography
- 7. improving public benefit
- achieving equal or better amenity outcomes (solar access, privacy, views/outlook)
- 9. being consistent with the prevailing subdivision pattern
- 10. conserving built and cultural heritage values.
- 11. protecting or avoiding impacts to an area of environmental or biodiversity value.

In all cases, the justification must be specific to the aspect of the development that is the subject of the proposed contravention. Importantly, environmental planning grounds which justify the contravention of a development standard in one case may not justify contravention in another.

Having regard to Clause 4.6(3)(b), and Section 2.4 of the Department's "Guide to Varying Development Standards", it is my view that there are sufficient environmental planning grounds to justify contravening the 40 hectare minimum lot size development standard of Clause 4.3 (of the LEP) under the specific circumstances of this case.



7.2.2.1 Consistency with Planning Strategies and Plans

As outlined in Section 5.2 the term 'environmental planning grounds' is not defined by the SLEP 2014. As Preston CJ in Initial Action notes such grounds would include consideration of the Objects of the EP&A Act outlined in Section 1.3 of the Act. As detailed in Section 1.3, the Objects of the Act include:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (c) to promote the orderly and economic use and development of land,
- (d) to promote the delivery and maintenance of affordable housing,
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
- (g) to promote good design and amenity of the built environment,
- (h) to promote the property construction and maintenance of buildings, including the protection of the health and safety of their occupants,
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
- (j) to provide increased opportunity for community participation in environmental planning and assessment.

The above Objects are in my view manifested in the aims and objectives that underpin State, regional and local planning strategies, plans and policies.

In my view the 40-hectare minimum lot size development standard imposed by Clause 4.2D(3)(a) seeks in part to achieve objects detailed in the Illawarra-Shoalhaven Regional Plan and the Shoalhaven LEP 2014.



Illawarra-Shoalhaven Regional Plan (ISRP) 2041

The ISRP provides the strategic policy, planning and decision-making framework to guide the region to sustainable growth over the next 20 years.

In summary the plan sets out four main goals, however, in my mind the following goals have relevance to Clause 4.2D(3)(a) of the SLEP 2014:

- a sustainable and resilient region
- · a region that values its people and places
- · A sustainable and resilient region

The ISRP identifies the region's 'high environmental value' lands. This mapping identifies land with significant environmental value, with 43% of the region (250,000 hectares) possessing high environmental value or forms part of a biodiversity corridor. The subject land is not identified as having high environmental value or forming part of a biodiversity corridor in terms of the Reginal Plan. The development application will therefore not be inconsistent with this goal of the ISRP.

Indeed, the proposal involves the adaptive re-use of an existing unused building by converting it to a dwelling house. No vegetation disturbance will be required to be undertaken for the conversion of the building for such a use or for bushfire asset protection zone.

Furthermore, enabling the building to undergo a change of use into a dwelling house will ensure better management and rehabilitation of the land. Such would provide a better outcome for the on-going management and use of the land to manage the environmental and biodiversity values of the land by allowing flexibility in these particular circumstances.

Critically this development application is supported by a VMP. Given the historic use of the site for brick making, and as a significant part of the site is subject to a power line transmission easement, the vegetation within the site is somewhat disturbed. The VMP makes provision for the rehabilitation and restoration of the site, having regard to the bushfire and powerline easement requirements that apply to the site.

The objectives of the VMP is to improve the ecological health and integrity, maintain and enhance habitat values within the VMP area. The VMP addresses all issues related to the protection of existing vegetation from impacts associated with the undertaking any earthworks and any edge effects as well as undertaking bush regeneration and management actions to improve its extent, condition and resilience.

Improving weed and pest management, an integral component of the VMP, on the subject land will also benefit neighbouring lands surrounding the site by reducing the potential for weeds and pest spreading from the subject site and infesting these neighbouring properties.

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A region that values its people and places

The ISRP confirms the ever-growing housing issue that is present in the region. It also aims to ensure that although more housing is required, land must not be compromised in this process, encouraging the protection and maintenance of the existing environment, local character, and heritage.

The conversion of the training facility into a dwelling house utilises existing resources and provides additional housing in the area.

Furthermore, the existing building is located in such a way that it will not conflict with neighbouring properties. The proposal is also well protected from its surrounds and is not visible from the road, ensuring that the dwelling house does not impact on the natural amenity or the character of the region.

Indeed, enabling the adaptive re-use of the existing building as a dwelling may encourage better land management in terms of bushfire and rehabilitation of the site. The VMP that supports the development application will tie the adaptive re-use of the existing training centre into a dwelling with the rehabilitation of the site. Improving bushfire, and site rehabilitation on the subject site will also benefit neighbouring properties and the overall environment. Allowing flexibility in this particular case would provide a better planning and environmental outcome for the ongoing management and use of the subject site which will benefit the ongoing operation of neighbouring lands.

The Objectives of the Shoalhaven Local Environmental Plan 2014 and the C2 and C3

zones

The objectives of the SLEP 2014 and the zones that apply to the subject site also provide context within which to consider the environmental planning grounds that underpin the development standard in question.

The subject land is zoned C2 Environmental Conservation and C3 Environmental Management under the provisions of the Shoalhaven Local Environmental Plan 2014.

The existing training centre is sited within that part of the site zoned C2.

The existing vehicle access driveway is mainly be sited within the C2 zone but also slightly encroaches into the C3 zone.

The objectives of the C2 Environmental Conservation Zone are:

 To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.

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- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- To protect water quality and the ecological integrity of water supply catchments and other catchments and natural waterways.
- To protect the scenic, ecological, educational and recreational values of wetlands, rainforests, escarpment areas and fauna habitat linkages.
- To conserve and, where appropriate, restore natural vegetation in order to protect the erosion and slippage of steep slopes.

The objectives of the C3 zone are:

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To protect the natural and cultural features of the landscape, including coastal and foreshore areas, that contribute to scenic value and visual amenity.
- To maintain the stability of coastal land forms and protect the water quality and ecological values of estuaries and coastal streams.

However, in summary, those objectives that have specific relevance to this proposal would essentially seek to protect, manage, restore and conserve natural waterways, flora and fauna, and areas of high ecological, scientific, cultural and aesthetic values.

These objectives of the C2 zone themselves are underpinned by the overall "Aims" of the SLEP 2014 which are detailed in Clause 1.2(2) of the SLEP 2014 and which include:

- (1) This Plan aims to make local environmental planning provisions for land in Shoalhaven in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.
- (2) The particular aims of this Plan are as follows-
 - (a) to encourage the proper management, development and conservation of natural and man-made resources,
 - (b) to facilitate the social and economic wellbeing of the community.
 - to ensure that suitable land for beneficial and appropriate uses is made available as required,
 - (e) to minimise the risk of harm to the community through the appropriate management of development and land use.

In my view, having regard to the aims of the SLEP 2014, one of the underlying historic justifications for the introduction of the 40 hectares minimum lot size in the LEP by clause 4.2D(3)(a) is to protect and maintain the agricultural land resource.



The subject site comprises an area of only 3.143 ha and comprises Class 5 Agricultural land use and therefore unsuitable for agriculture.

The conversion of the training centre into a dwelling house enabling its permanent occupation will provide scope for the better management of the land and environment in terms of bushfire and weed management. Such would provide a better outcome for the on-going management and use of the subject site. Such will also benefit ongoing weed and pest management for adjoining properties.

Furthermore, having regard to the aims of the LEP and the objectives of the C2 zone; and having regard to the matters raised in Section 7.3.1 of the SEE that supports the development application; it is also my view that the proposal will maintain the rural landscape character of the locality:

- As is evident from Figure 3 above, the locality is one that is characterised by numerous rural allotments with areas less than 40 hectares and upon which dwelling houses are located. The proposal will therefore comprise a density of development that is not entirely inconsistent with the settlement pattern and rural character of the surrounding locality.
- The existing building is a single storey, low profile building form which blends in with the surrounding landform.
- The existing building is finished with external materials and colours that are muted and sympathetic to the local landscape context.
- The location of the existing building is not visually prominent and well screened from view.

Furthermore, given the location of existing vegetation on the site between this vantage point and the proposed dwelling house, coupled with the low-profile design and the use of muted external materials and colours, the existing building is not visually prominent within the broader landscape and thus will maintain the natural landscape character of the area.

Small portions of the site are also zoned C3 Environmental Management, however the proposal does not involve any buildings or works within the C3 portions of the site.

The proposal will not have any significant effects on flora and fauna, local amenity, or heritage values. Both the existing building and access road are existing and located within existing cleared areas of the site. No vegetation disturbance is required either for the construction of new buildings (as none are proposed) or for the provision of any bushfire Asset Protection Zones around the existing building and access. This is an important consideration as it means there will



be no need for vegetation clearing to satisfy bushfire requirements which is entirely consistent with the thrust of the above C2 zone objectives. The proposal will not adversely affect the ecological, scientific, cultural or aesthetic values of the site. The proposal will not result in any significant impact on the environmental values of the subject site.

Enabling the adaptive re-use of the existing building as a dwelling will allow for better management of the land in respect to bushfire and rehabilitation of disturbances. Such would provide a better outcome for the ongoing management of the environmental and biodiversity values of the land by allowing flexibility in these particular circumstances.

In this regard this development application is supported by a Vegetation Management Plan (VMP) prepared by Eco Logical Australia. The VMP will tie the change of use of the existing training centre building to a dwelling house to the remediation of the overall site.

Given the historic use of the site for brick making, and as a significant part of the site is subject to a power line transmission easement, the vegetation within the site is somewhat disturbed. The VMP makes provision for the rehabilitation and restoration of the site, cognisant of the bushfire and powerline easement requirements that apply to the site.

The works proposed in the VMP align with the objectives of the C2 Environmental Conservation Zone (Shoalhaven Local Environmental Plan 2014) including:

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- To protect water quality and the ecological integrity of water supply catchments and other catchments and natural waterways.
- To protect the scenic, ecological, educational and recreational values of wetlands, rainforests, escarpment areas and fauna habitat linkages.
- To conserve and, where appropriate, restore natural vegetation in order to protect the erosion and slippage of steep slopes.

The VMP outlines areas to be revegetated and recommends fully structured vegetated areas where possible. The implementation of the VMP will achieve the C2 zone objectives by maintaining native species cover and integrity within the VMP area and assisting natural regeneration through active restoration actions, such as treating weed species and reintroducing native species(either as plants or seeds). The VMP covers a five-year maintenance period or the achievement of the performance criteria, whichever is longer. This VMP may either



be implemented all at once or staged by areas as long as each stage follows the full VMP program.

The rehabilitation of vegetation within site and providing a means by which the site can be managed in the longer term by having someone reside on the land, will restore the inherent environmental values of this site, consistent with the specific objectives of the C2 zone that applies to the land; and which will ensure an improved overall town planning outcome.

7.2.3 SITE SPECIFIC ENVIRONMENTAL GROUNDS

The following site-specific environmental grounds justify the proposed variation to the minimum 40-hectare allotment size development standard:

- The adaptive re-use of the existing training centre into a dwelling house will involve a sustainable re-use of an existing under-utilised building. Only minimal work is required to enable the change of use of this building. The existing training centre is of a high-quality rammed earth construction providing an efficient passive energy building suitable for residential use. To deny the use of this building for residential use would be to deny an eminently suitable structure to be used.
- The proposal is supported by Bushfire Assessment that confirms no additional vegetation disturbance will be necessary to accommodate the change of use. This is an important consideration as it means that there will be no need for vegetation clearing to satisfy bushfire requirements.
- The proposal is also supported by a VMP that ties the change of use of the existing building to the rehabilitation of existing disturbed areas within the site. The rehabilitation of vegetation within site and providing a means by which the site can be managed in the longer term by having someone reside on the land, will restore the inherent environmental values of this site, and ensure an improved overall town planning outcome.
- Approval of this proposal despite contravention of the 40-hectare development standard imposed by Clause 4.2D(3)(a) of the SLEP 2014 will not set an undesirable precedent given the specific circumstances of this case. The proposal involves the adaptive re-use of an existing building that was lawfully constructed. The proposal does not involve a proposed new building. These circumstances, and the history surrounding the creation and use of the subject land are specific to this particular case.



It is my view that these circumstances alone are unique to the subject land, and supporting the proposed contravention of the 40-hectare minimum lot size development standard that applies to this land will not of itself set an undesirable precedent for other such proposals elsewhere.

In my view the encroachment of the 40-hectare minimum lot size development standard in this specific case will be consistent with and promote the Objects of the Act of the EP&A Act in terms of:

- promoting the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources (a)
- facilitating ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment (b)
- promoting the orderly and economic use and development of land (c);
- Protecting the environment, including the conservation of threatened and other species
 of native animals and plants, ecological communities and their habitats (e);

The variation to 40-hectare minimum lot size development standard will not result in unsatisfactory planning outcomes, including setting an undesirable precedent, and the purpose of the proposal and the variation of the development control is consistent with the objects of the Act to facilitate the orderly and economic development of the land. Indeed, approval of this proposal will facilitate the rehabilitation of vegetation within the subject land bringing about an improved planning outcome.

In light of the above, there are no environmental planning grounds that warrant maintaining and/or enforcing the 40-hectare minimum lot size development standard in this instance. Rather, there are clear and justifiable environmental planning merits that validate the flexible application of the 40-hectare minimum lot size development standard enabled by Clause 4.6 of the LEP.



8.0 CONCLUSION

A development application has been submitted to Shoalhaven City Council seeking the adaptive re-use of an existing training centre into a dwelling house at 682 Yalwal Road, Bamarang.

The existing training facility was approved in 2005 in conjunction with the approved mud brick making business that had been in operation since 1999 on the subject site. The business in question is no longer in operation today, but the training centre building remains on the land unused and underutilised.

The subject site is zoned C2 Environmental Conservation (and partly C3 Environmental Management) under the provisions of the Shoalhaven Local Environment Plan (SLEP) 2014. The existing building is situated within that part of the site zoned C2.

Dwelling houses are permissible with consent within the C2 zone. Clause 4.2D of the LEP outlines the relevant provisions for the erection of a dwelling houses within the C2 zone. Under Clause 4.2D, development consent may be granted for the erection of a dwelling house on land zoned C2 provided the subject land comprises the minimum lot size under mapping that support the LEP; or the lot was on which was created before the LEP commenced and upon which a dwelling house was previously permissible. The minimum allotment area requirements that applies to the site is 40 hectares. The subject site comprises an area of 3.143 hectares.

Clause 4.6 of Shoalhaven LEP 2014 makes provision for exceptions to development standards and enables Council to consent to development even though it may be inconsistent with a development standard. The provisions of Clause 4.6 require that a Written Statement accompany a proposal that seeks to justify the contravention of a development standard.

This Written Statement, made pursuant to Clause 4.6, demonstrates strict compliance with Clause 4.2D(3)(a) of Shoalhaven LEP 2014 would be unreasonable and unnecessary under the specific circumstances of this case, and that there are sufficient environmental planning grounds to justify contravention of the development standards outlined in this clause:

In summary the Clause 4.6 Written Statement demonstrates:



- The strict compliance with the 40-hectare minimum lot size as required by Clause 4.2D(3)(a) of the LEP is unnecessary and unreasonable under the specific circumstances of this case:
 - that compliance with this standard is unnecessary given the objectives that underpin both the clause and the zones will be achieved without compliance with this minimum lot size development standard;
 - that the 40-hectare minimum lot size standard has been abandoned by Council in this locality given the prevailing settlement pattern and therefore strict compliance with this development standard is unreasonable; and
 - the existing building the subject of the application has been in existence for many years. The proposal will not involve any significant physical works. Further the proposal development does not require vegetation to be cleared to satisfy bushfire requirements. There is no reason as to why the change of use should have any additional impacts on the site and the surrounding area.
- There are also sufficient environmental planning grounds to justify contravening the 40 hectare minimum lot size development standard of Clause 4.2D(3)(a) of the LEP:
 - The proposal will be consistent with and better achieve the aims of the Illawarra Shoalhaven Regional Plan and the Shoalhaven LEP 2014 and the objectives of the C2 and C3 zones that apply to the land under the LEP.
 - The proposal will not have any significant effects on flora and fauna, local amenity, or heritage values. Both the existing building and access road are existing and located within existing cleared areas of the site. No vegetation disturbance is required either for the construction of new buildings (as none are proposed) or to satisfy bushfire requirements. Such is entirely consistent with the thrust of the aims and objectives of the above planning instruments and provisions. The proposal will not adversely affect the ecological, scientific, cultural or aesthetic values of the site. The proposal will not result in any significant impact on the environmental values of the subject site.
 - Enabling the adaptive re-use of the existing building as a dwelling will allow for better management of the land in respect to bushfire and rehabilitation.
 Such would provide a better outcome for the ongoing management of the



- environmental and biodiversity values of the land by allowing flexibility in these particular circumstances.
- The development application is supported by a VMP which will tie the change of use of the existing training centre building to a dwelling house to the rehabilitation of vegetation of the overall site. Given the historic use of the site for brick making, and as a significant part of the site is subject to a power line transmission easement, the vegetation within the site is somewhat disturbed. The VMP makes provision for the rehabilitation and restoration of the site consistent with the thrust of the aims and objectives of the above planning instruments and provisions.
- The rehabilitation of vegetation within sit, and providing a means by which the site can be managed in the longer term by having someone reside on the land, will restore the inherent environmental values of this site and will ensure an improved overall town planning outcome.
- There are also site-specific environmental grounds that justify the proposed variation to the minimum 40-hectare allotment size development standard:
 - The adaptive re-use of the existing training centre into a dwelling house will involve a sustainable re-use of an existing under-utilised buildingTo deny the use of this building for residential use would be to deny an eminently suitable structure to be used.
 - The proposal is supported by Bushfire Assessment that confirms no additional vegetation disturbance will be necessary to accommodate the change of use.
 - The proposal is also supported by a VMP that ties the change of use of the existing building to the rehabilitation of existing disturbed areas within the site.
 - The proposal will not set an undesirable precedent given the specific circumstances of this case. The proposal involves the adaptive re-use of an existing building that was lawfully constructed. These circumstances, and

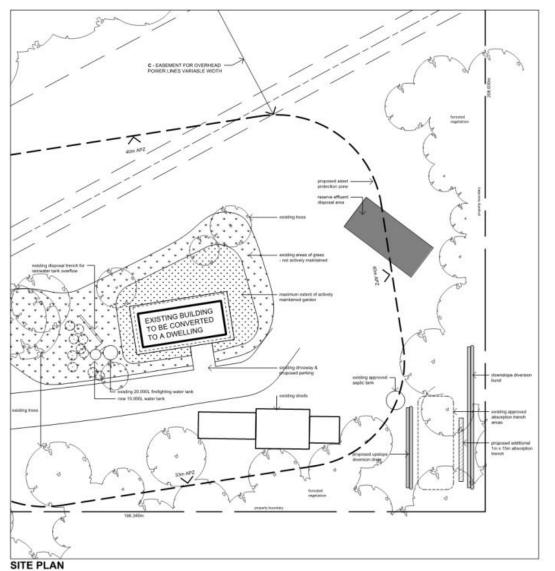


the history surrounding the creation and use of the subject land are specific to this particular case.

Under these circumstances this Written Statement made pursuant to Clause 35B of the EP & A Regulations 2021 and having regard to Clause 4.6 of the SLEP 2014 requests that the Council exercise the discretionary authority outlined in Clause 4.6 of the SLEP 2014 and support this development application that the Written Statement supports notwithstanding the proposed development may be in contravention of Clause 4.2D(3)(a) of the SLEP 2014.

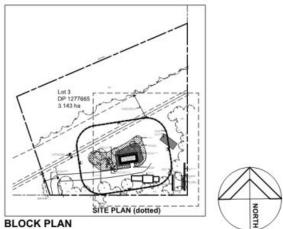
Principal Planner Allen Price Pty Ltd.







ELEVATIONS



Project: PROPOSED CHANGE OF USE OF EXISTING TRAINING CENTRE (DA05/4017, CC08/2063 & OC21/1223) to DWELLING Lot 3, DP 1277665

DWELLING Lot 3, DP 127766.
Drawing:

NOTIFIGATION PLAN

 Scale:
 Date:
 Dwg. No:
 Revision:

 NTS
 Aug. 2023
 DA 04
 Registration No. 6893

 PO Box 473 Nowra, NSW 2541,
 M: 040228250, E: nparch1@bigpond.com







2025 AUSTRALIAN COASTAL COUNCILS CONFERENCE

Held at the Mantra Mooloolaba Beach Resort

Thursday 31 July and Friday 1 August 2025

Report by: Mayor Patricia White

CIr Selena Clancy



CONFERENCE REPORT

SUMMARY

The 2025 Australian Coastal Councils Conference was convened by the Australian Coastal Councils Association Inc. at the Mantra Mooloolaba Beach, Mooloolaba, on the Sunshine Coast, Queensland on 31 July and 1 August 2025. It was attended by representatives of coastal councils from around the country, in addition to members of the coastal research community and representatives of relevant government agencies. The conference was hosted by Sunshine Coast Council. Highlights of the 2025 conference included the following:

Rebuilding for Resilience after Extreme Weather Events – The lessons learned from Cyclone Alfred and the need to focus on long-term resilience in the reconstruction process. Mr. Jimmy Scott, General Manager of Integration & Coordination, Queensland Reconstruction Authority.

Cyclone Alfred Exposes Weaknesses in Australia's Vital Infrastructure - The need to adopt an approach that emulates the forms, processes and systems found in nature to build resilience to future extreme weather events. Presented by Professor Cheryl Desha, Science and Innovation Director, Natural Hazards Research Australia.

Sustainable Coastal Tourism – Presented by Professor James Higham, Distinguished Professor, Department of Tourism and Marketing, Griffith University. Tourism is evolving more dynamically than ever, raising the challenges of rapidly changing patterns of visitor demand and visitor behaviour. For coastal councils this means finding ways to manage increasing numbers of tourists in iconic but fragile coastal locations and dealing with the potential negative impacts of overtourism.

The Power of Local in a Shared Responsibility for Healthy and Resilient Coastlines – Presentation by Dr Dave Moore, Manager Environment ad Sustainability Policy, Sunshine Coast Council.

Sustainable Ocean Plan – Presentation by Matt Flood, Director, Sustainable Ocean Plan Taskforce, Commonwealth Department of Climate Change, Energy, the Environment and Water.

Short-term Rentals in Urban and Coastal Communities: Impacts and Policy Responses – Presentation by Nicole Gurran, Professor of Urban and Regional Planning, at The University of Sydney. Professor Gurran released the findings of a new study which updates and extends the landmark research report, *Planning responses to online short-term holiday rental platforms*, which was released in 2018. *A copy is available in the Councillors Information Folder attached to this report.*

Coastal Policy Forum – Delegates considered priority coastal issues and proposed future directions at a coastal policy forum held on Friday 1 August. The delegates, representing coastal councils and other coastal stakeholders from around Australia, subsequently endorsed the need for key initiatives set out in the 2025 Mooloolaba Communiqué, which is included in the following pages.

A copy of the final program for the 2025 Australian Coastal Councils Conference is provided in the following pages, together with additional information on the presentations made at the event.



MOOLOOLABA COMMUNIQUÉ

Preamble

On 1 August 2025 the Australian Coastal Councils Association Inc. consulted with delegates attending the 2025 Australian Coastal Councils Conference at Mooloolaba, Queensland, to identify issues of current concern to councils in Australia's coastal areas. The priority issues and proposed future directions were presented at the Conference. The delegates, representing coastal councils and other coastal stakeholders from around Australia, unanimously endorsed the need for the following key initiatives:

- A National Coastal Adaptation Strategy
- A National Coastal Adaptation Fund
- A Ministerial portfolio that includes specific responsibility for Coasts

Communiqué

We call on the Australian, State and Territory Governments to work with the local government sector to adopt and implement a coordinated national response to coastal climate risks and other coastal hazards.

The Coastal Hazards Working Group representing all jurisdictions (formed in 2019 by the Meeting of Environment Ministers to provide advice on managing coastal hazards in Australia), released a report titled Towards A National Collaborative Approach to Managing Coastal Hazards in Australia. This report set out a number of key recommendations which were submitted to the National Energy and Climate Change Ministerial Council.

Two of these recommendations, strongly endorsed for action by ACCA, are:

- Develop a National funding program to support local and regional coastal hazard risk management, including the areas of essential data, risk assessment, planning, adaptation actions, monitoring, education and communication.
- Develop a national Coastal Hazards Adaptation Strategy. The strategy will establish a national approach to coastal hazards management, setting an agenda for integrated and coordinated national action to address and manage coastal hazards over the next 15 years.

We call on the Australian Energy and Climate Change Ministerial Council to adopt these two key recommendations. The scale and impact of coastal hazards along Australia's vast coastline requires a national approach, national leadership and national funding. We therefore call on the Australian Government to appoint a Minister with specific portfolio responsibility for our Coasts.

Coastal Councils across the nation need an authorising environment to get on with mitigation and adaptation. They need equitable governance frameworks and ways to integrate caring for sea country knowledge and cultural connections of First Nations people. We need coordinated consultation and collaboration with the States and Territories to build resilient, adaptive coastlines and communities.

Conclusion

Climate science has provided us with excellent projections of the impacts of storm surges, erosion, sea level rise and disasters on our national coastline. Inaction is not an option. The ACCA and the Coastal Hazards Working Group agree the key to adopting a national response is a National Coastal Adaptation Strategy and Fund. So, we know what needs to happen to tackle this rapidly developing crisis and therefore call on the Australian, State and Territory Governments to make it happen.



2025 AUSTRALIAN COASTAL COUNCILS CONFERENCE

FINAL PROGRAM

THEME: A SUSTAINABLE COASTAL FUTURE

THURSDAY 31 July - DAY ONE, Mantra Room, Mantra Mooloolaba Beach Resort

09:00	WELCOME TO COUNTRY Aunty Bridgette Chilli, Law Lore Woman of the Mooloolah Kabi Kabi
09:10	WELCOME TO CONFERENCE Cr Sharon Cadwallader - Chair, Australian Coastal Councils Association Inc. and Mayor, Ballina Shire Council.
09:15	WELCOME TO THE SUNSHINE COAST AND CONFERENCE OPENING Mayor Rosanna Natoli, Sunshine Coast Council.
09:25	REBUILDING FOR RESILIENCE AFTER EXTREME WEATHER EVENTS — The lessons learned from Cyclone Alfred and the need to focus on long-term resilience in the reconstruction process. Mr. Jimmy Scott, General Manager of Integration & Coordination, Queensland Reconstruction Authority.
10:00	CYCLONE ALFRED EXPOSES WEAKNESSES IN AUSTRALIA'S VITAL INFRASTRUCTURE – The need to adopt an approach that emulates the forms, processes and systems found in nature to build resilience to future extreme weather events. Presented by Professor Cheryl Desha, Science and Innovation Director, Natural Hazards Research Australia.
10:30	Morning tea
11:00	SUSTAINABLE COASTAL TOURISM – Presented by Professor James Higham, Distinguished Professor, Department of Tourism and Marketing, Griffith University. Tourism is evolving more dynamically than ever, raising the challenges of rapidly changing patterns of visitor demand and visitor behaviour. For coastal councils this means finding ways to manage increasing numbers of tourists in iconic but fragile coastal locations and dealing with the potential negative impacts of overtourism.
11:25	THE POWER OF LOCAL IN A SHARED RESPONSIBILITY FOR HEALTHY AND RESILIENT COASTLINES. Presentation by Dave Moore, Manager Environment and Sustainability Policy, Sunshine Coast Council.
11:45	SUSTAINABLE OCEAN PLAN. Presentation by Matt Flood, Director, Sustainable Ocean Plan Taskforce, Commonwealth Department of Climate Change, Energy, the Environment and Water.
12:05	SUNSHINE COAST COUNCIL COASTAL MANAGEMENT PROGRAM. Presented by Brad Wilson, Coordinator – Coastal, Lakes & Wetlands with Sunshine Coast Council.
12:25	Lunch



13:15 CONCURRENT SESSION - COASTAL SITE TOUR - Southern Sunshine Coast

This site tour explored key coastal locations along the southern part of the Sunshine Coast including the Pumicestone Passage. Participants visited Moffat Beach, Happy Valley, North Bribie Island, and the TS Onslow Naval Cadet site, and were provided with an opportunity to learn more about seawalls, open spaces, and foreshore areas, as part of Sunshine Coast Council's coastal management planning, design, community engagement and delivery activities

13:15 CONCURRENT SESSION -COASTAL SITE TOUR - Blue Heart Sunshine Coast blue carbon trial

The Blue Heart is a place, a project and a partnership committed to sustainable and adaptive floodplain management in the Maroochy River floodplain. The blue carbon trial is currently a priority project within the Blue Heart area. Tidal restriction structures on publicly owned land were removed to allow for tidal inundation and natural recruitment of estuarine species. It is the first blue carbon farming project to be registered under the Australian Carbon Credit Unit Scheme in Australia. This site visit will provide an overview of the broader Blue Heart project with a focus on the blue carbon trial.

13:30 CONCURRENT SESSION, Mantra Room – Coastal Roundtable: What are the issues?

This informal exchange started with an update on recent workshops in May in Victoria and at the ALGA NGA in Canberra in June and explored key issues for coastal councils

15:00 Afternoon tea

15:30 CONCURRENT SESSION, Mantra Room – Coastal Roundtable: What are the priorities?

This workshop expanded on the priorities to provide a framework for the final session of the conference

17:00 CONFERENCE DAY ONE CONCLUDES

18:30 CONFERENCE DINNER

Venue: See Restaurant.

Address: 123 Parkyn Street, Mooloolaba



FRIDAY 1 AUGUST - DAY TWO, Mantra Room, Mantra Mooloolaba Beach Resort

09:00 BUILDING A RESILIENT AUSTRALIA – Presentation by Kylie Macfarlane, Deputy CEO and Chief Operating Officer of the Insurance Council of Australia, on the risks facing coastal communities from climate change, the impact of these risks on insurance affordability and availability, and the policy reforms/investments required to manage these risks.

09:30 RETREAT – A facilitated panel discussion navigating the complexities of coastal retreat and relocation of communities, infrastructure and ecosystems away from high-risk coastal areas. Led by Jacquie White, Chair, Victorian Marine and Coastal Council with panelists Professor Nicole Gurran, Professor of Urban and Regional Planning, The University of Sydney, and Professor Cheryl Desha, Science and Innovation Director, Natural Hazards Research Australia.

10:00 COASTAL CASE STUDIES

BASS COAST SHIRE HOMELESSNESS THINK TANKS – Presentation by Colette McMahon, Manager Community Wellbeing and Culture, Bass Coast Shire Council. For coastal councils grappling with similar challenges of increased homelessness, illegal camping and housing market constraint this model offers a case study and roadmap for activating local networks, addressing service gaps and integrating homelessness action into broader community wellbeing and safety agendas.

NEW MODELS FOR PARTNERSHIP AND INNOVATION IN BEACH SAFETY – Presentation by Nick Grant-Collins, Co-ordinator Community Safety and Resilience, Bass Coast Shire Council on a local, regional and state-wide innovative collaboration to define new structures and programs for drowning prevention in Victoria and across Australia.

10:40 Morning tea

- 11:10 SHORT-TERM RENTALS IN AUSTRALIA'S COASTAL REGIONS: RECENT IMPACTS AND POLICY RESPONSES Presentation on the final report of a new study by Professor Nicole Gurran, Professor of Urban and Regional Planning, The University of Sydney, which updates and extends the landmark research report, *Planning responses to online short-term holiday rental platforms*, which was released in 2018.
- 11:35 BENEFICIAL USES OF DREDGE SPOIL AND SEAGRASS WRACK. Presentation by Ralph Roob, Strategic Coastal Planner, City of Greater Geelong on nature based coastal protection solutions to address coastal erosion as well as cliff stability.
- 12:00 ENTRANCE MANAGEMENT IN THE SHOALHAVEN. Presentation by Nigel Smith, Lead Coastal Management (Coastal Engineer), Shoalhaven City Council on balancing natural processes of coastal rivers and lakes in highly dynamic areas for the purposes of flood mitigation.
- 12:25 Lunch



13.30	COASTAL CASE STUDIES
	USING SUSTAINABLE MATERIALS AND LONG LASTING 316 GRADE STAINLESS STEEL FENCING TO STABILISE AND RESTORE DUNES ALONG THE NORTHERN BEACHES, SYDNEY. Presentation by Adam Burrowes, Special Project Officer, Northern Beaches Council and Rod O'Loan, Chief Operating Officer, Stainless Steel Wire & Mesh
13:50	OPTIMISING COASTAL RESILIENCE: DRONE-POWERED CLOUD PLATFORMS FOR ADVANCED EROSION MONITORING AND MANAGEMENT. Presentation by Jasmine Jarvis, Account Executive, Propeller
14:10	SHARKSAFE. Presentation by Neill Laurenson of Shark Safe Barrier Australia on an eco-friendly technology designed to exclude large sharks from designated areas.
14:30	COASTAL ROUNDTABLE UPDATE AND DISCUSSION. Led by Cr Sarah Gilligan, Deputy Mayor, South Gippsland Shire Council
15:15	Afternoon tea
15:45	FINAL SESSION –2025 CONFERENCE COMMUNIQUÉ – Facilitated discussion to consider adoption of the 2025 Conference Communiqué
16:30	CONFERENCE DAY TWO CONCLUDES



CONFERENCE KEYNOTE SPEECHES

Welcome to the Conference - Speech by Sharon Cadwallader, Chair, Australian Coastal Councils Association and Mayor, Ballina Shire Council (NSW)

I would like to begin by acknowledging the Traditional Owners of the land on which we meet today, the Mooloolah Kabi Kabi people, and pay my respects to their Elders past, present, and emerging. I extend that respect to all Aboriginal and Torres Strait Islander peoples here today.

Mayor Rosanna Natoli, of Sunshine Coast Council, Elected representatives and officers of coastal councils from around Australia, Representatives of government agencies, Colleagues

It gives me great pleasure, on behalf of the Australian Coastal Councils Association, to welcome you to the 2025 Australian Coastal Councils Conference.

Each year this event provides an opportunity to hear about the many projects and developments that are of specific interest to coastal councils and their communities. And this year is no exception.

During this morning's sessions we will hear about the impact of ex-tropical Cyclone Alfred on coastal areas in south-east Queensland and north-east NSW in early March this year, the lessons learned from that extreme weather event, and the importance of focusing on resilience in the reconstruction process.

Later in the morning we'll hear some ideas on how to meet the rapidly changing patterns of tourism demand and visitor behaviour in coastal areas and how to deal with the potentially negative impacts of overtourism.

One of the highlights of the conference is the release tomorrow of the final report of a new study by a research team at The University of Sydney which looks at the impacts and potential planning responses to the increase in short-term holiday rental properties in coastal regions.

This report highlights the rapid growth in the number of properties listed on platforms such as Airbnb and Stayz in Australia's coastal regions, where the growth in short-term rental accommodation is at least three times the rate of growth across Australia as a whole.

There have been substantial changes in the short-term rental market in recent years, and it will be of interest to hear the recommendations by the research team on how to deal with them.

The other area that is critical to coastal councils is the issue of insurance affordability, and tomorrow we will hear from the Deputy CEO and Chief Operating Officer with the Insurance Council of Australia, Kylie Macfarlane, who will provide an outline of the effects climate impacts are having on both insurance affordability and availability.

We will also be hearing about initiatives to develop nature-based solutions to mitigate coastal hazards, which are currently being implemented in various locations around Australia.

In important sessions on the final day of the event we will come together for a roundtable on coastal policy options. In the final session we will be developing a conference communique, which is aimed at developing key policy proposals as an outcome of this conference. Our aim is to develop better management of the coast, closer collaboration between the three levels of government, and urgent action to protect our communities.



At this point I would like to say a word or two about the way in which this conference is structured and how the Association goes about organising our events.

Those of you who have attended our conference in previous years know it is not one of the largest events on the conference calendar. Rather, we are very selective in framing the conference program. Our aim is to showcase the current state of knowledge in coastal planning and management and where possible link the presentations under relevant themes.

One other point of difference – over the years we have attracted a number of delegates who make a point of meeting at this conference and sharing notes on the coastal issues they are facing in their local area.

I for one look forward to catching up with the familiar faces around the room over the next couple of days and I know many others feel the same way.

At this point I would like to acknowledge the support we have received from Sunshine Coast Council which is hosting this event.

It is significant that we are staging this event on the Sunshine Coast, because this is where the Association had its genesis 21 years ago in 2004. This event provides us with an opportunity to look back over some of the achievements of the organisation over the course of that period. One of our main achievements, I believe, is the way in which we have helped to place coastal issues firmly on the national political agenda.

The Australian coast is one of Australia's most highly valued social, economic, and environmental assets, yet it is under increasing threat from a complex range of hazards and climate risks.

These are matters which are now the subject of intense scientific study and government action at Federal, state, and local government level which is aimed at safeguarding the coast in the long term from the inevitable impacts of climate change and other coastal hazards. I firmly believe our advocacy over the years has helped to make this happen.

The latest example of the innovative work we have been undertaking is the study of the impacts and responses to the growth of short-term holiday rental listings in urban and coastal areas which I mentioned earlier. This is recognised as a world-leading research project, conducted by a team of expert researchers at The University of Sydney.

Finally, to those of you who have joined us here today - I welcome each and every one of you. I look forward to catching up with those who have attended previous conferences. But equally, I look forward to meeting those of you who are attending for the first time.

I invite you to share your ideas and experiences with one other as we work together to find sustainable solutions to the complex challenges facing our coastal communities.

Thank you for joining us and I'm confident you will find the time that you spend with us over the next few days will be of real value and benefit.

Now, it gives me great pleasure to call on Mayor Rosanna Natoli, Mayor of Sunshine Coast Council, to welcome you to the City and to officially open the 2025 Australian Coastal Councils Conference.



Welcome to the Sunshine Coast and Conference Opening - Speech by Mayor Rosanna Natoli, Sunshine Coast Council

Welcome to our Sunshine Coast Biosphere.

I would like to echo the acknowledgement of our traditional owners.

It is our pleasure to be your host for the 2025 Australian Coastal Councils Conference, bringing together coastal council representatives and other stakeholders from all over Australia.

We look forward to sharing our coastal attributes and our strategic work in coastal management: our policy, planning, monitoring and reporting.

It's all about caring for our coastal environments, ensuring our built environment is resilient, and that we as a community continue to access and use our coastal assets in a sustainable way.

Our coastline is central to our lifestyle and our region's character.

It supports our biodiversity, our economy, and the health and wellbeing of our people. I think it's safe to say anyone attending this conference has a similar situation in your own council area.

Our communities have a close connection with our beautiful coastal spaces.

Our designation as a UNESCO Biosphere Reserve reminds us of those connections and the impact everyone can make.

Council has an important part to play as we face the impacts of extreme weather events, coastal erosion, and sea level rise on our coastline.

As one of the founding members of the Australian Coastal Councils Association, we have formed a strong collaborative relationship with the organisation.

The Association has played a leading role in advocating for coastal policy initiatives, such as the fifty million dollar Coastal and Estuarine Risk Mitigation Program and the one-billion-dollar Disaster Ready Fund, announced by the Federal Government in 2022.

It has commissioned ground-breaking coastal research, including a study through the Planning Research Centre at The University of Sydney.

That study identified best practice models of local and regional planning for coastal communities.

It also provided one of the earliest assessments of the projected impacts of climate change on the coast.

This was a warning that coastal communities, particularly those beyond the capital cities, would be at the forefront of impending climate change impacts.

Here on the Sunshine Coast, that has certainly been the case, the Bribie Island breakthrough and the impacts on communities near Golden Beach being the most prominent example.

We're putting our Coastal Hazard Adaptation Strategy into action.



That includes working with communities in priority areas to establish localised plans for erosion or inundation.

Coastal councils are at the frontline of managing these risks but lack the necessary resources and national framework to address them effectively.

That's why the Australian Coastal Councils Association plays such an important role.

The gains it has made so far are significant, but we believe coastal councils will need more support for the coastal adaptation and risk reduction required at a national scale in the coming decades.

Together, we will have the opportunity during this event to identify key issues to be included in the conference communique.

This is an opportunity for you to help guide the Association's future policy agenda.

We're proud to be hosting these critical conversations here on the Sunshine Coast.

We encourage you to explore our region during your stay and are happy to provide any local tips

I now declare the 2025 Australian Coastal Councils Conference officially underway.

SUMMARY OF PRESENTATIONS

PPT presentations made at the conference will shortly be available at the Australian Coastal Councils Association web site - https://www.coastalcouncils.org.au

Rebuilding for Resilience after Extreme Weather Events

Jimmy Scott, General Manager of Integration & Coordination, Queensland Reconstruction Authority, told delegates the 2024-25 season had been record breaking for Queensland in terms of the sheer number of disaster events and in particular the severity of events including Tropical Cyclone Alfred, the North and Far North Tropical Low, and the Western Queensland Surface Trough. He said the agency at the centre of efforts to prepare for and recover from these extreme weather events is the Queensland Reconstruction Authority, the lead state agency responsible for disaster recovery and resilience in Queensland. Jimmy Scott said the role of the QRA is to:

- assist local communities to recover sooner from disasters and maximise recovery and resilience outcomes for the state
- coordinate programs that support and build disaster relief and recovery readiness, capability and resilience at the local level
- provide responsive and integrated services to communities before, during and after natural disasters.

Jimmy Scott outlined the lessons learned from these events and the need to focus on rebuilding for resilience after extreme weather events.

The Cyclone Alfred Exposes Weaknesses in Australia's Vital Infrastructure

Professor Cheryl Desha, Science and Innovation Director, Natural Hazards Research Australia, told delegates that experts were able to map the path and character of the cyclone, which meant communities in its path knew what to expect and could prepare accordingly.



However, Professor Desha pointed out, Alfred's force exposed major weaknesses in vital infrastructure. Electricity outages reached record levels, peaking at more than 300,000 across Queensland and northern NSW, which was the largest ever loss of power from a natural hazard. She made the point that as climate change worsens, extreme weather events such as Alfred will become more severe, and it will be important to minimise the risks of infrastructure failing during these events by implementing a broad range of measures extending beyond those adopted in the past.

Sustainable Coastal Tourism

Professor James Higham, Distinguished Professor, Department of Tourism and Marketing, Griffith University, takes a special interest in tourism and global environmental change. He told delegates that tourism is evolving more dynamically than ever, raising the challenges of rapidly changing patterns of visitor demand and visitor behaviour. For coastal councils this means finding ways to manage increasing numbers of tourists in iconic but fragile coastal locations and dealing with the potential negative impacts of overtourism.

The Power of Local in a Shared Responsibility for Healthy and Resilient Coastlines Dave Moore, Manager Environment and Sustainability Policy, Sunshine Coast Council, told delegates that one of the key issues facing coastal councils is the challenge of maintaining the iconic coastal environment and way of life for future generations. He said Sunshine Coast Council is addressing this challenge through an Environmental and Liveability Strategy which is focused on preserving and enhancing the area's outstanding natural assets over the next

25 years, while maintaining the community's valued lifestyle into the future.

Sustainable Ocean Plan

Matt Flood, Director, Sustainable Ocean Plan Taskforce, Commonwealth Department of Climate Change, Energy, the Environment and Water, told delegates that Prime Minister Anthony Albanese is Australia's representative on the 18-nation High Level Panel for a Sustainable Ocean Economy. In this role he has committed to managing 100% of our ocean sustainably, through the development of a sustainable ocean plan. Matt Flood said the draft plan identifies a national shared vision for our ocean to 2040 and outlines 8 national priorities, highlighting the outcomes we want to achieve and opportunities for action. Importantly, the Sustainable Ocean Plan is national in scope, covering not just offshore Commonwealth waters, but also includes state, territory, and local council coastal management areas. It will help guide collective action across jurisdictions and sectors, to help address the complex issues that these groups cannot tackle alone.

Sunshine Coast Council Coastal Management Program

Brad Wilson, Coordinator – Coastal, Lakes & Wetlands with Sunshine Coast Council, told delegates that Sunshine Coast Council has introduced several coastal policies and programs to protect and enhance the region's coastline in response to environmental pressures such as climate change and population growth. These include the overarching Coastal Management Program, which focuses on maintaining healthy beaches, dunes, canals and coastal lakes, which is supported by scientific tools to monitor erosion and sand movement.

Brad Wilson said this program is also supported by the Healthy Coast Management Plan and

Brad Wilson said this program is also supported by the Healthy Coast Management Plan and the Shoreline Erosion Management Plan.

Coastal Site Tour – Southern Sunshine Coast - This site tour explored key coastal locations along the southern part of the Sunshine Coast including the Pumicestone Passage. Participants visited Moffat Beach, Happy Valley, North Bribie Island, and the TS Onslow Naval Cadet site, and were provided with an opportunity to learn more about seawalls, open spaces, and foreshore areas, as part of Sunshine Coast Council's coastal management planning, design, community engagement and delivery activities.



Coastal Site Tour – Blue Heart Sunshine Coast Blue Carbon Trial – The Blue Heart is a place, a project and a partnership committed to sustainable and adaptive floodplain management in the Maroochy River floodplain. The blue carbon trial is currently a priority project within the Blue Heart area. Tidal restriction structures on publicly owned land were removed to allow for tidal inundation and natural recruitment of estuarine species. It is the first blue carbon farming project to be registered under the Australian Carbon Credit Unit Scheme in Australia. This site visit provided an overview of the broader Blue Heart project with a focus on the blue carbon trial.

Coastal Roundtable

This concurrent session provided an update on recent workshops in Victoria, in May, and Canberra, in June. It provided an opportunity for delegates to explore key issues facing coastal councils. The workshop was facilitated by Cr Sarah Gilligan, Deputy Mayor of South Gippsland Shire Council, and identified priority issues to provide a framework for the final session of the conference.

Building a Resilient Australia

Kylie Macfarlane, Deputy CEO and Chief Operating Officer of the Insurance Council of Australia, presented this session which considered a question posed by most coastal homeowners around Australia – for how much longer will they be able to get insurance cover if they are located in a high-risk area, and if so, how affordable will it be? And what mitigation measures and policy reforms are needed to improve community resilience in high-risk locations?

Retreat – This was a panel discussion facilitated by Jacquie White, Chair of the Victorian Marine and Coastal Council. Panel members Professor Nicole Gurran, Professor of Urban and Regional Planning at The University of Sydney and Professor Cheryl Desha, Science and Innovation Director, Natural Hazards Research Australia, discussed the process of the proactive and planned relocation of people, infrastructure and assets away from areas vulnerable to climate change and hazards such as coastal flooding, sea-level rise and wildfires.

Bass Coast Shire Homelessness Think Tanks

Colette McMahon, Manager Community Wellbeing and Culture, Bass Coast Shire Council, presented this coastal case study on an issue which is a growing challenge in coastal councils – the issue of homelessness. Colette McMahon told delegates that Bass Coast Shire has tackled the issue in partnership with local service agencies and Victoria Police through a community-led response that demonstrates the power of local coordination, sector integration, and place-based innovation in addressing complex social challenges. It also highlights the benefits of unlocking state intervention in early intervention.

New Models for Partnership and Innovation in Beach Safety

Nick Grant-Collins, Coordinator Community Safety and Resilience, Bass Coast Shire Council, presented this case study on a beach safety issue experienced by a growing number of coastal councils – the increasing incidence of drownings among tourists and culturally and linguistically diverse communities. He told delegates that following a series of tragic drownings last summer, Bass Coast Shire worked in partnership with land managers, tourism peak bodies and response agencies through the Beach Safety Working Group to significantly improve digital messaging and evaluation, signage and safety outcomes at local beaches. Recognising the need for new models of regional collaboration in addressing the issue, Bass Coast Shire, in partnership with Mornington Peninsula Shire and inner metro councils Casey, Cardinia and Dandenong, established the Cross-Council Beach Safety and Drowning Prevention Group, working directly with Life Saving Victoria and key agencies.



Short-term Rentals in Australia's Coastal Regions: Recent Impacts and Policy Responses – Presentation on the final report of a new study by a team of researchers at The University of Sydney, led by Professor Nicole Gurran, Professor of Urban and Regional Planning, The University of Sydney. Professor Gurran told delegates rapid growth in listings on short-term holiday rental platforms, such as Airbnb and Stayz, had emerged as a key issue in coastal regions.

She said six years ago, in 2017, to provide some guidance to councils on the options available for responding to the issue, the Australian Coastal Councils Association commissioned a collaborative research project, involving nine coastal councils, which was conducted by the School of Architecture, Design and Planning at The University of Sydney. The report titled Planning responses to online short-term holiday rental platforms, was released at the 2018 Australian Coastal Councils Conference.

Professor Gurran said that since that time, there have been substantial changes affecting the short-term holiday rental market. These changes include significant growth in remote working arrangements, due to the Covid 19 pandemic, a major increase in domestic migration to non-metropolitan areas and a big increase in domestic tourism demand. As a result, many councils around Australia have experienced substantial increases in the number of residential homes now available through short-term holiday rental platforms.

Nowhere has this growth been stronger than in Australia's coastal regions. Back in 2023, there were more than 171,000 Airbnb listings across Australia as a whole, representing about 1.6% of Australia's entire housing stock. But in the 11 coastal council areas that participated in the latest research project, there was an average density of property listings on the Airbnb platform of 5.2% of the total housing stock, or more than three times higher than the national average. At the same time, a number of states have changed or are reviewing their regulatory frameworks for managing short-term rentals. In view of these changes, the Association decided it was time to commission a new study, as an update to the research project carried out in 2017-18.

Beneficial Uses of Dredge Spoil and Seagrass Wrack

Ralph Roob, Strategic Coastal Planner, City of Greater Geelong, presented a case study concerning the issue of dealing with the removal, disposal or beneficial use of dredge spoil and seagrass wrack, which is a widespread issue that can prove costly for councils managing the coast. Ralph Roob told delegates the City of Greater Geelong has explored the issue and trialled innovative beneficial uses in terms of nature-based coastal protection solutions and the role they can play in addressing coastal erosion as well as cliff stability. The main issues the City needs to address is safe navigation into boat harbours as well as maintaining the amenity of popular swimming beaches.

Entrance Management in the Shoalhaven

Nigel Smith, Lead Coastal Management (Coastal Engineer), Shoalhaven City Council, Told delegates that Shoalhaven City Council, in conjunction with the NSW State Government, is responsible for the management of the entrances to a number of rivers and coastal lakes known as Intermittently Closed and Open Lakes or Lagoons. These coastal rivers and lakes are diverse, complex ecosystems and comprise highly dynamic areas which are constantly changing, whether they are open or closed to the ocean. He said as part of the Council's approach to entrance management, several Entrance Management Policies have been developed for high-risk estuary areas associated with potential flooding risks.

Using Sustainable Materials and Long-lasting 316 Grade Stainless Steel Fencing to Stabilise and Restore Dunes along the Northern Beaches

Adam Burrowes, special projects officer with Northern Beaches Council, and **Rod O'Loan**, Chief Operating Officer Stainless Steel Wire & Mesh Pty. Ltd, told delegates in this case study that the material currently widely used in coastal locations is galvanised fencing products. But



these tend to corrode in a relatively short time. Once the galvanised coating has been removed the mild steel wire is exposed and this accelerates the rate of corrosion. They told delegates that an alternative to galvanised fencing is stainless steel fencing, which has recently been used in a fencing application at Curl Curl Beach on Sydney's northern beaches.

Optimising Coastal Resilience: Drone-powered Cloud Platforms for Advanced Erosion Monitoring and Management

Jasmine Jarvis, Account Executive, with Australian software company Propellor, told delegates that following an extreme weather event, such as ex-Tropical Cyclone Alfred, one of the challenges facing coastal councils impacted by the event, is to monitor the effect of coastal erosion on local beaches. She said Propellor's, survey-grade 3D mapping drones, are used for coastal monitoring by empowering local councils with accessible, high-accuracy, frequent survey updates of coastlines. Each drone survey is automatically overlaid over the previous one to easily visualise and quantify changes, allowing environmental teams to monitor erosion, assess the impacts after extreme weather events, and track the effects of conservation projects over time.

Shark Safe

Neill Laurenson, of Shark Safe Barrier Australia, told delegates that one of the challenges facing coastal councils is managing the risk of encounters between people and sharks at recreational beaches. He presented information on an eco-friendly technology which has been developed to exclude large sharks, such as Great Whites and Bull Sharks, from designated areas and, which has recently been installed in the Bahamas.

Coastal Roundtable Update and Discussion

Cr Sarah Gilligan, Deputy Mayor of South Gippsland Shire Council, facilitated this final session of the 2025 Australian Coastal Councils Conference. She told delegates the session was aimed at providing an opportunity for delegates to explore key issues facing coastal councils and to develop a Communiqué as the formal outcome of the event.

She reminded delegates of the inquiry conducted by the House of Representatives Standing Committee on Climate Change, Water, Environment and the Arts in 2009, and the inquiry report, titled *Managing our coastal zone in a changing climate: the time to act is now,* which was released in October 2009.

Sarah Gilligan noted that Recommendation 44 in the report recommended that the Australian Government, in cooperation with state, territory and local governments, and in consultation with coastal stakeholders, develop an Intergovernmental Agreement on the Coastal Zone to be endorsed by the Council of Australian Governments. The intergovernmental agreement should:

- define the roles and responsibilities of the three tiers of government—federal, state and local involved in coastal zone management
- · include a formal mechanism for community consultation
- incorporate principles based on strategic regional coastal planning and landscape scale/ecosystem based coastal zone management
- include an effective implementation plan with resources allocated to ensure that objectives are realised
- be overseen by a new Coastal Zone Ministerial Council
- · be made public

She said the Government response to the inquiry report was - Agreed in Principle

Sarah Gilligan said she was blown away by the level of knowledge and experience in the room, and said she saw her role, as coastal advocate, to listen, follow and keep the conversation alive and connecting the political and bureaucratic dots.



She said she began her efforts in this space after stumbling across a local climate change-created opportunity – a common-sense natural adaptation restoring a natural floodplain around a tidal estuary system that is degraded grazing land. Bringing land use change conversations in her council led to the challenge of 700 undeveloped blocks located in an extreme risk environment, which led to property value, insurance and "you can't tell people they can't build on blocks they've bought zoned residential" conversations... which led to a multi-award winning coastal strategy that says "don't build in a floodplain" BUT doesn't address legacy planning issues, emergency management, tourism pressures and all the complex elements we've heard over and over through this conference.

She said her next expansion of knowledge in this space was the ACCA 2023 Fremantle conference which was attended by a strong contingent of Victorian delegates. That is where she was first inspired by the Blue Heart project and remains inspired to this day.

At the 2023 event at Fremantle, she listened to how we are all operating under different governance arrangements, a lack of integration between coastal hazards, emergency management capacity and planning reform as it relates to coastal hazards. Data sharing being just one element of the disfunction. Not a lot seems to have changed. After the Fremantle event, together with Sarah Race (ex-Mornington Peninsula Shire councillor), Michael Whelan (ex-Bass Coast Shire councillor) Tom Crook, of East Gippsland Shire Council and Karen Foster of Moyne Shire Council, we organised a Coastal Roundtable for Victorian Councils in 2023. This made it clear that each council faced similar frustrations in implementing the aims of the Victorian Marine and Coastal Act due to the lack of the state's own planning controls that work against its core aims to: Avoid, Accommodate, Adapt, Protect and Retreat.

From this, South Gippsland Shire Council started working with JLT, an insurance firm providing mutual schemes to the local government sector, on another roundtable with a focus on risk and giving local government an authorising environment to work in ahead of the state. Ironically our first coastal risk roundtable, planned at the Venus Bay surf club was cancelled due to high-risk storms and the day being held in an extreme risk environment with one road in and one out.

The roundtable was held in Melbourne in May this year in partnership with the Municipal Association of Victoria and JLT. It was attended by representatives of 18 of the 22 Victorian Coastal councils who discussed key challenges and advocacy priorities with a set of outcomes that support the Communiqué of the 2024 ACCA Conference, which called for:

A national approach via a Federal Coastal Adaptation Strategy and Fund and a minister for the coast.

She said following this, a national roundtable was held in Canberra in conjunction with the ALGA National General Assembly in June this year, which resulted in a successful start to sharing the load with feedback from coastal councils from around Australia indicating we are not alone.

Critical definitions differ between states, funding and governance arrangements appear to be a mess and not providing a framework for an orderly equitable prioritisation of work and way for residents and property owners to understand and own risk. There is no one source of truth or authorising environment from which local governments can plan with.

Sarah Gilligan said as the level of government closest to people, I believe councils need a toolkit of definitions and words to use, ways to talk to impacted landholders and residents as the planning reforms catch up with changing coastlines, risk and vulnerability profiles – how do we talk to our communities about what is coming when we don't have fit for purpose planning tools, adaptation and retreat solutions and funding paths?

Being on the audit and risk committee and understanding the coastal landscape through an insurance, audit and risk lens has been helpful for me, and finding opportunities in natural



adaptation are my silver linings. The risk lens has given me an authorising environment to talk about adaptation as a mitigation tool and a positive thing at council. It's a big blunt stick but risk and liability works in motivating action. I'm aware everyone is at different stages of physical and social change, every time I hear from others the way forward becomes clearer.

So later today we will be developing a communique to take back to your council, to your local members and to spread far and wide. But for now, I'd like to open up a conversation around the room about how you think we can galvanize our position in this space through the lens of us as a national local government sector and create actions that aren't in isolation but support each other.

My question for our discussion is:

 What's THE most important challenge for your organisation to tackle to allow you to lead and get on with coastal adaptation? (social, environmental, political other)

Some provocations from the last two days;-

- What if we get it right?
- How do we depoliticise coastal needs whilst driving it politically?
- Word shapes world
- We are unique innovation is hard to commercialise particularly in govt.
- LG has a superpower holding space
- Backzoning and betterment
- Big map exercise
- ROI mitigation vs response spends \$1 get \$10 back
- The intersection of disaster, risk, housing and planning woefully inadequately addressed
- Military terms for scary actions around wicked problems are not good defend and retreat (no offence Karen)
- Insurance is still driving the narrative
- Embedding equity and choice is crucial
- Legacy planning and building codes
- Isolation, inundation, erosion, storm surges and sea level rise
- Shorter term policy goals that address the NOW and the future
- Backyard to bushland, plants are part of our defence
- Water quality is a social license indicator
- Oceans absorb 90% of excess human caused heat
- Blue and teal carbon
- Cyclones are national and going to be more frequent, don't think this is an east coast problem
- Prioritising efforts without forgetting the mitigation opportunities
- Bringing councils and states together
- Actions of the sea are not covered by any insurance
- Be ahead of ready
- The time to act is now

Discussion in the final session of the Coastal Roundtable led to the adoption of the Mooloolaba Communiqué, which is reproduced on page 3 of this report.

Closing Remarks

Sharon Cadwallader, Chair of the Australian Coastal Councils Association and Mayor of Ballina Shire Council, in northern NSW, delivered the following remarks at the conclusion of the 2025 Australian Coastal Councils Conference.



Climate change impacts are already being experienced in many coastal areas around the country. There is a need to respond as a matter of urgency. There is a lot at stake. The coast is home to our state capitals and to more than 85% of our population. It makes a substantial contribution to the Australian economy. But it is at risk from a range of threats, including sea level rise, more frequent and severe extreme weather events, and widespread coastal erosion. There is no time to lose if we are to save this iconic national asset for the benefit of future generations. So, the Australian Coast Council requests delegates to seek the support of your council for the conference communique when it is finalised, and to indicate support for it to the Australian Minister for Climate Change and Energy, The Hon Chris Bowen, who is also Chair of the Energy and Climate Change Ministerial Council. You could also send a copy to your local Federal MP.

Mayor Patricia White Councillor Selena Clancy

