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ABN 62 610 350 056

**Our Ref:** DA 79/2022; TPA1870/2 ; PAN- - DW

Notice is hereby made under Clause 118 of the Environmental Planning and Assessment Regulation 2021 of a determination of an application to modify a development consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979* (the Act) for the development described below. This notice is also given pursuant to the requirements of Schedule 1, Clause 20(2) of the Act.

The consent should be read in conjunction with the reasons for determination and reasons why the conditions have been imposed contained in Schedule 1 and conditions contained in Schedule 2. Details of any approvals under Section 4.46 of the Act are included in Schedule 3.

#### DETERMINATION DETAILS

<b>Determination Outcome:</b>	<b>Approval, subject to amended conditions</b>
<b>Date of Determination:</b>	18 April 2023

#### APPLICATION DETAILS

<b>Development Application No:</b>	79/2022
<b>Applicant's Name:</b>	Perception Planning
<b>Applicant's Address:</b>	PO Box 107, CLARENCE TOWN NSW 2321,
<b>Property Address:</b>	LOT: 1 DP: 1124046, 438 Bingleburra Road SUGARLOAF
<b>Description of Development:</b>	Torrens Title Subdivision of land
<b>Date of original determination:</b>	11 November 2022
<b>Date from which the consent operates:</b>	11 November 2022
<b>Date of Section 4.55 Modification Determination:</b>	18 April 2023
<b>Date on which the consent shall lapse:</b> (unless physical commencement has occurred)	11 November 2027

Donna Watson  
**DEVELOPMENT ASSESSMENT OFFICER**

## SCHEDULE 1

### REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

*The determination decision was reached for the following reasons:*

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Dungog Local Environmental Plan 2014*, State Environmental Planning Policy (Resilience and Hazards), State Environmental Planning Policy (Biodiversity & Conservation).
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Dungog Council Development Control Plan No 1.
- Subject to the recommended conditions the proposed development will be provided with adequate essential services required under the Dungog LEP.
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.

### REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

*The following conditions are applied to:*

- Confirm and clarify the terms of Council's Approval;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.

## SCHEDULE 2

### PART A – GENERAL CONDITIONS

#### 1. Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan Title.	Drawn By.	Dated.
Plan of Proposed Subdivision of Lot 1 DP 1124046; Sheet 01 Edition A	Graeme Ferguson (Project 21657)	16.05.2022

Document Title.	Prepared By.	Dated.
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Statement of Environmental Effects	Perception Planning (Job Reference: J002986)	10.05.2022 (Version 1)
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In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

**Note:** an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

**Reason:** To ensure all parties are aware of the approved plans and supporting documentation that applies to the development

2. Any relocation or alterations of public utilities made necessary as a result of the development are to be carried out at no cost to Council.
3. The Applicant shall comply with all relevant prescribed conditions of development consent under the Environmental Planning and Assessment Regulation 2021.
4. **NSW Rural Fire Service Requirements**  
Should electricity be connected to the proposed lots, as part of the subdivision, then any works undertaken shall comply with the following in accordance with Table 5.3c of Planning for Bush Fire Protection 2019:
  - a. where practicable, electrical transmission lines are underground;
  - b. where overhead, electrical transmission lines are proposed as follows:
    - (i) lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
    - (ii) no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.

## **PART B – WHILE ANY WORK IS BEING CARRIED OUT**

5. The control of erosion, and the prevention of silt discharge into drainage systems and waterways, will be necessary in accordance with Landcom's Soils and Construction Manual - April 2004. Erosion control measures are to be implemented prior to the commencement of any physical works and shall be maintained until satisfactory completion and restoration of site earthworks, including revegetation of all exposed areas.
6. **No tree removal**  
This consent does not authorise the removal of any trees or other native vegetation from the land.
7. **Uncovering relics or Aboriginal objects**  
While any physical work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:
  - (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
  - (b) is of State or local heritage significance; and

“Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

**Reason:** To ensure the protection of objects of potential significance during works

## **PART C – BEFORE THE ISSUE OF A SUBDIVISION CERTIFICATE**

### **8. Subdivision Certificate to be lodged**

An application for Subdivision Certificate is required to be made to Council. The application for Subdivision Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2021.

### **9. Approval required for work in any road reserve**

Separate approval from Council as the Roads Authority must be obtained under Section 138 of the Roads Act 1993 prior to the commencement of any works within a Council road reserve. For any such works, detailed engineering design plans must be submitted to Council for approval with any application for a Subdivision Certificate. No works are to be carried out within any road reserve until the approval required by this condition is obtained.

### **10. Plan of subdivision**

No building envelopes are approved via this consent. Building envelopes are not to be shown on any linen plan.

### **11. No earthworks approved via this consent**

This consent does not authorise any earthworks (associated with, for example, any dwelling site or access to/from any dwelling site). There are no earthworks ancillary to the proposed subdivision. If proposed, consent is required to be obtained for any earthworks under the provisions of Clause 6.2 of Dungog Local Environmental Plan 2014.

### **12. Linen Plan – Number of copies**

Submission of an original plan of survey by a Registered Surveyor and six (6) copies to Council for subdivision approval.

**Advice:** The final plans must conform generally with the subdivision proposal shown on the concept plan submitted with the Development Application and incorporate Council’s requirements.

Council’s fee covers the cost of providing copies of the plan of survey to relevant internal Council departments and to Government departments as required.

Condition No. 13 was amended on 18 April 2023 and now reads:

### **13. Plan of subdivision and section 88B requirements**

The plan of subdivision and Section 88B instrument shall establish the following title encumbrances with Council being nominated as the sole authority to release, vary or modify each encumbrance unless specifically noted otherwise.

The plan of subdivision and instrument under Section 88b of the Conveyancing Act is to set out the following easements, positive covenants and restrictions to user:

- Creation of any easements necessary to supply proposed Lots 101 and 102 with reticulated power in the future.
- Advising that proposed Lots 101 and 102 may not be serviced by reticulated power and fixed line telecommunications/NBN.
- Creation of any easements necessary to ensure that any transmission lines or other assets of an energy provider on private land be “protected” (by an easement).
- On each allotment, no native vegetation is to be removed for the proposed subdivision, erection of any future buildings or for the purpose of any bushfire asset protection zones.
- In accordance with the bush fire assessment prepared by Hunter Bushfire Services and dated April 2022:
  - (a) Any future dwelling(s) on each of the proposed allotments must provide a static water supply as per Table 5.3d of the NSW Rural Fire Service (RFS) guideline, Planning for Bush Fire Protection 2019 (or corresponding provisions of any successor document). Static water supply is to comprise a metal or concrete water supply tank not more than 20 metres from the respective dwelling.
  - (b) A 65mm Storz outlet with a ball valve is to be fitted to any water supply tank(s).
  - (c) the ball valve, pipes and tank penetration are adequate for the full 50mm inner diameter water flow through the Storz fitting and are constructed of a metal material.
  - (d) a hardened ground surface for fire fighting truck (Category 1) access is to be provided to within 4 metres of the Storz outlet/fitting.
  - (e) Gas supply (if provided) is to be in accordance with the provisions of PBP (2019).
  - (f) Internal property access roads must comply with the following:
    - two-wheel drive, all-weather roads;
    - each property access road must provide a minimum 12 metres outer radius turning circle and be clearly sign posted as a dead end. Turning areas to be in accordance with Appendix 3 of the NSW Rural Fire Service (RFS) guideline, Planning for Bush Fire Protection 2019 (or corresponding provisions of any successor document);
    - the acceptable solutions of Table 5.3b of Planning for Bush Fire Protection 2019 (or corresponding provisions of any successor document).

All costs associated with the easements, positive covenants and restrictions to user, including any legal costs payable to Council, are to be paid by the owner on whose behalf the applicant has lodged the application.

The signed 88B instrument shall be submitted to Council prior to release of the Subdivision Certificate. The encumbrances must be shown on the final plan of subdivision and signed Section 88B instrument, shall be submitted to Council prior to release of the Subdivision Certificate.

14. Prior to the issue of the Subdivision Certificate, the developer shall ensure that satisfactory arrangements have been made with Council for the supply and erection of property identification numbers. A payment to Council for each lot created is required for rural addressing purposes.

**15. Payment of section 7.11 Contributions**

Pursuant to section 7.11 of the EP&A Act and in accordance with the Dungog Local Infrastructure Contributions Plan 2019 (adopted April 2019), a contribution of \$11,284.62 shall be paid to Council.

The contribution is for the following:

Open space and recreation	\$2,253.57
Road and traffic	\$8,864.57
Plan administration	\$ 166.48

The amount to be paid is to be adjusted at the time of actual payment, in accordance with the provisions in section 6.3 of the Dungog Local Infrastructure Contributions Plan 2019. The contribution is to be paid prior to the release of any Subdivision Certificate.

**Reason:** To ensure development contributions are paid to address the increased demand for public amenities and services resulting from the approved development

Condition 16 – deleted on 18 April 2023

**~~16. Electricity supply certificate~~**

~~If not already provided to the parent allotment, suitable arrangements being made with an energy provider to ensure that:~~

- ~~⊖ electricity will be available to proposed Lot 101 created by the subdivision when and if development is proposed on the land;~~
- ~~⊖ that any transmission lines or other assets of an energy provider on private land be “protected” by an easement; and~~
- ~~⊖ where development requires the relocation of transmission lines or other assets, the applicant is required to make satisfactory arrangements with an energy provider for such relocation to be carried out.~~

**17. Telephone supply certificate**

If not already provided to the parent allotment, suitable arrangements being made with a telecommunications carrier to ensure that:

- communication will be available to proposed Lot 101 created by the subdivision when and if development is proposed on the land;
- that any transmission lines or other assets of a telecommunications carrier on private land be “protected” by an easement; and
- where development requires the relocation of transmission lines or other assets, the applicant is required to make satisfactory arrangements with a telecommunications carrier for such relocation to be carried out.

**Advice:** For details of arrangements pertaining to the land, applicants must contact a telecommunications carrier direct.

A letter from a telecommunications carrier stating that suitable arrangements have been made is to be submitted to Council, and accepted, prior to release of the linen plan of subdivision.

### **SCHEDULE 3**

#### **APPROVAL UNDER SECTION 4.47**

Nil

### **SCHEDULE 4**

#### **RIGHT OF APPEAL**

If you are dissatisfied with this decision:

- a review of determination can be made under Section 8.2 of the Act, or
- a right of appeal under Section 8.7 of the Act can be made to the Land and Environment Court within six (6) months from the date on which that application is taken to have been determined.