

# ASSESSMENT OF DEVELOPMENT APPLICATION

DA 2021/219 – Pacific Drive, Port Macquarie



PR149732

2

15 November 2021

## PLANNING ASSESSMENT REPORT

### Document status

Version	Purpose of document	Authored by	Reviewed by	Approved by	Review date
0	Draft - Assessment of Development Application - DA 2021/219	Sam Mitchell	Rob Dwyer	Rob Dwyer	10 Sept 21
1	Final - Assessment of Development Application - DA 2021/219	Sam Mitchell	Rob Dwyer	Rob Dwyer	29 Oct 21
2	Final - Assessment of Development Application - DA 2021/219 - Revised	Sam Mitchell	Rob Dwyer	Rob Dwyer	15 Nov 21

### Approval for issue

Rob Dwyer



15 November 2021

This report was prepared by RPS within the terms of RPS' engagement with its client and in direct response to a scope of services. This report is supplied for the sole and specific purpose for use by RPS' client. The report does not account for any changes relating the subject matter of the report, or any legislative or regulatory changes that have occurred since the report was produced and that may affect the report. RPS does not accept any responsibility or liability for loss whatsoever to any third party caused by, related to or arising out of any use or reliance on the report.

#### Prepared by:

##### RPS Australia East Pty Ltd

Rob Dwyer  
Planning Manager - Newcastle

Unit 2A, 45 Fitzroy Street  
Carrington NSW 2294

T +61 2 4940 4200  
E [rob.dwyer@rpsgroup.com.au](mailto:rob.dwyer@rpsgroup.com.au)

#### Prepared for:

##### Port Macquarie Hastings Council

Ben Roberts  
Development Assessment Planner

17 Burrawan Street  
Port Macquarie NSW 2444

T +61 2 6581 8111  
E [ben.roberts@pmhc.nsw.gov.au](mailto:ben.roberts@pmhc.nsw.gov.au)

## Contents

<b>Executive Summary.....</b>	<b>1</b>
<b>1 INTRODUCTION .....</b>	<b>2</b>
1.1 Site context.....	2
1.2 Application chronology .....	2
1.3 Description of development.....	4
<b>2 STATUTORY ASSESSMENT.....</b>	<b>9</b>
2.1 Planning and approvals framework - Section 4.15 (1).....	9
2.1.1 (a) the provisions of – .....	9
Fire Safety .....	23
2.1.2 (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality .....	24
2.1.3 (c) the suitability of the site for the development .....	26
2.1.4 (d) any submissions made in accordance with this Act or the regulations .....	27
2.1.5 (e) the public interest .....	29
2.2 Development contributions applicable .....	29
2.3 Conclusion and statement of reason .....	29

## Tables

Table 1	Site Details .....	2
Table 2	List of plans submitted .....	5
Table 3	List of documents submitted .....	7
Table 4	Relevant Environmental Planning Instruments .....	9
Table 5	Port Macquarie Hastings Development Control Plan 2013 .....	20
Table 6	Summary of Submissions .....	27

## Figures

Figure 1	Site Location (source SixMaps) .....	3
Figure 2	Site zoning (source ePlanning Spatial Viewer).....	4
Figure 3	Western elevation showing height exceedance.....	15
Figure 4	Eastern elevation showing height exceedance.....	16
Figure 5	17.5m Height plane showing height exceedance – looking west .....	17
Figure 6	17.5m height plan showing height exceedance - looking north-east.....	18
Figure 7	Streetscape Analysis from Pacific Drive .....	19

## Appendices

- Appendix A Selected development plans and images
- Appendix B Recommended Conditions of Consent

## EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 2021-219, which seeks development consent for the demolition of existing structures, construction of a residential flat building comprising 68 units, lot consolidation and strata subdivision, at 10-13 Pacific Drive, Port Macquarie.

The subject site is zoned R3 Medium Density Residential under *Port Macquarie-Hastings Local Environmental Plan 2011*. The proposed development is defined as a 'residential flat building', and pursuant to Clause 2.3 of *Port Macquarie-Hastings Local Environmental Plan 2011*, development for the purpose of a residential flat building may be carried out by any person with development consent. The proposed development is considered to meet the objectives of the R3 Medium Density Residential zone.

The proposed height exceeds the maximum building height Development Standard (pursuant to Clause 4.3 of the *Port Macquarie-Hastings Local Environmental Plan 2011*) and the application has been accompanied by a 'Written Request' (pursuant to Clause 4.6 of the *Port Macquarie-Hastings Local Environmental Plan 2011*) seeking to justify the contravention. The proposed exceedance in maximum permissible building height does not significantly increase the bulk and scale of the proposed development, cause any additional view loss from neighbouring properties, or surrounding residential properties or have any significant additional adverse scenic/visual impacts or amenity (privacy/overshadowing) impacts on the public domain. Overall, it is considered that compliance with the Development Standard is unreasonable and unnecessary in this instance, and that there are sufficient environmental planning grounds to justify the variation.

The application was advertised and notified in accordance with the Port Macquarie-Hastings Council Engagement Strategy, and twenty (20) submissions, by the way of objection, were received. The issues raised and a response to each issue is considered in this report. It is considered that the proposal suitably responds to the matters raised within the submission.

The application has been assessed in accordance with the matters for consideration under Section 4.15 of the *Environmental Planning & Assessment Act 1979*, and it is recommended that the application be approved.

# 1 INTRODUCTION

RPS Australia East Pty Ltd (RPS) was engaged by Port Macquarie-Hastings Council to prepare a Section 4.15 planning assessment report under the *Environmental Planning and Assessment Act 1979* (EP&A Act) on development application (DA2021 – 219) to which Council is currently a part landowner. The proposed development is for a 68-unit residential flat building in Port Macquarie.

## 1.1 Site context

The site is identified as Lot 1 DP 538077 -10 Pacific Dr, Lot 2 DP 538077 – 13 Pacific Dr, Lot A DP 441800 – 13 Pacific Dr & Lot 101 DP 1244390, Pacific Drive, Port Macquarie, comprising vacant land and an existing Motel. The site is located approximately 1.7 km south-east of the town centre and is located on the western side of the Pacific Drive. Site details are provided in **Table 1**.

The site slopes from the north to the south-west and contains scattered exotic vegetation and maintained grass throughout the majority of the development area. A site location plan is shown in **Figure 1**.

**Table 1 Site Details**

Item	Details
Applicant	Laurus Projects Pty Ltd
Site Owner	Pacific Drive Pty Ltd – all parcels except Lot 101 DP 1244390. Port Macquarie-Hastings Council - Lot 101 DP 1244390.
Land Zoning	R3 Medium Density Residential under <i>Port Macquarie-Hastings Local Environmental Plan 2011</i> – refer to <b>Figure 2</b> .
Site Address	10 - 13 Pacific Drive, Port Macquarie NSW 2444.
Legal Description (current)	Lot 1 DP 538077. Lot 2 DP 538077. Lot A DP 441800. Lot 101 DP 1244390.
Local Government Authority	Port Macquarie Hastings Council.
Current Zoning	R3 Medium Density Residential.
Site Area	4690m2

## 1.2 Application chronology

- 3 November 2020 – Pre-lodgement meeting held between Laurus Projects Pty Ltd and Port Macquarie-Hastings Council.
- 30 March 2021 – Development Application (DA2021 – 219) submitted.
- 9 April 2021 – Assessing Officer Allocated.
- 15 April 2021 to 28 April 2021 – Neighbours Notified.
- 12 May 2021 to 25 May 2021 – Advertised Public Notification.
- 10 June 2021 – Request for information (#1) relating to visual impacts, shadow diagrams, social impacts, architectural sections, bushfire, drainage, traffic, biodiversity, and SEPP (Coastal Management) 2018.
- 29 July 2021 – Request for information (#2) relating to adjacent property tree impacts.
- 22 September 2021 – Council briefing with the Northern Regional Planning Panel.
- 12 October 2021 - Request for information (#3) relating to the need for further commentary on heights of existing buildings in the vicinity of the site, further contextual consideration, design verification statement update and consideration of traffic.



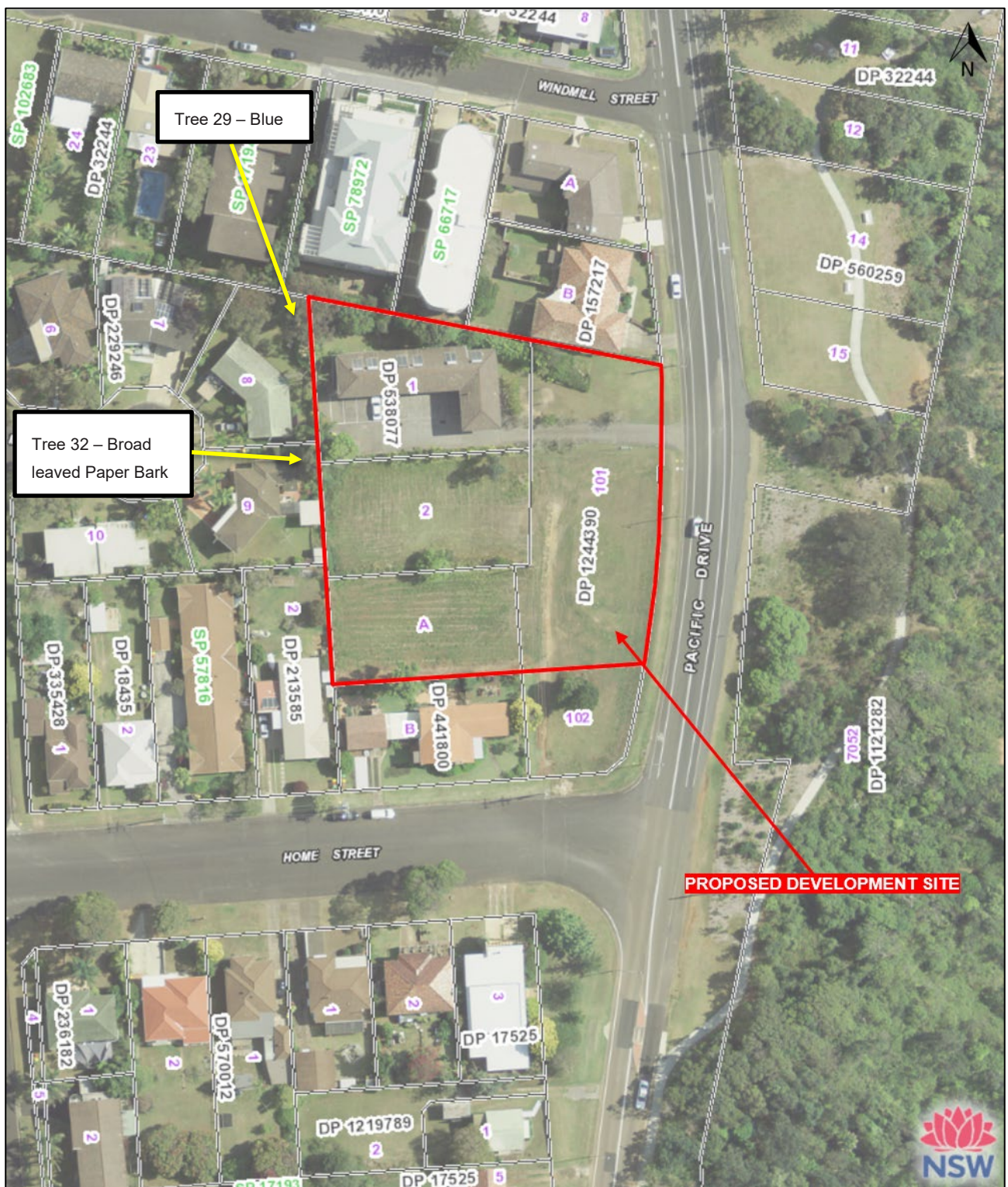


Figure 1 Site Location (source SixMaps)



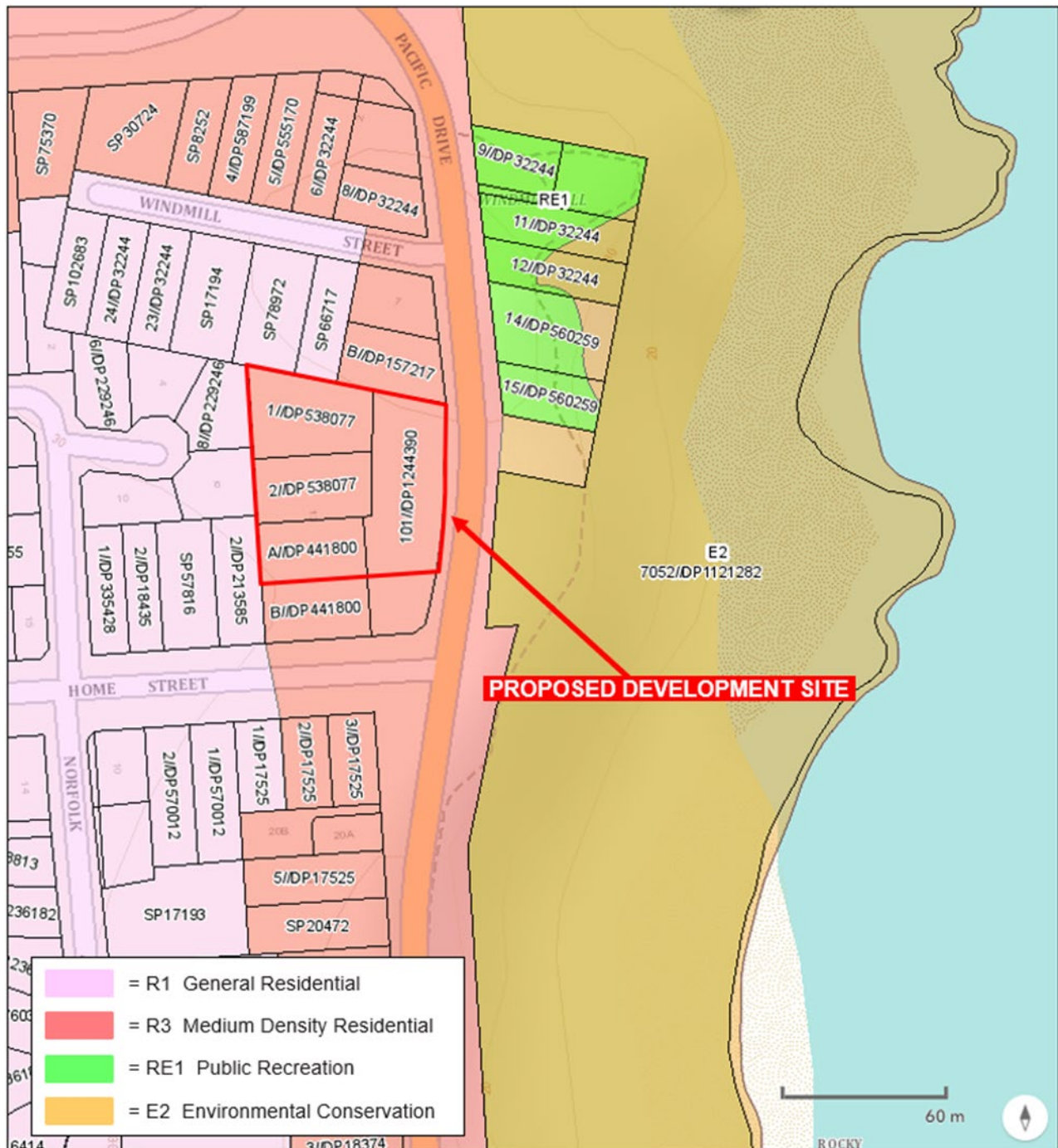


Figure 2 Site zoning (source ePlanning Spatial Viewer)

### 1.3 Description of development

Construction of a residential flat building and associated parking, driveway, services, drainage, landscaping, as well as consolidation of allotments and subsequent strata subdivision.

The proposed development specifically comprises:

- Demolition of all existing structures on site.
- Construction of a residential flat building comprising 68 units, being 4 x 1 bedroom, 56 x 2 bedroom, 5 x 3 bedroom and 3 x 4 bedroom. The proposed building will include:

- 2 levels of basement car parking, with access via a single vehicular access point of Pacific Dr, in the south-east corner of the site and separated from the southern boundary by landscaping.
  - 6 levels of residential above the basement, with one unit provided at lower ground level.
  - Service / loading vehicle area to the north of the driveway, accessed within the site to accommodate the waste truck and access the adjacent bin holding area.
  - Visitor car parking located on the Lower Ground Level, which is accessed immediately off the vehicular entry and adjacent to lift and stairs.
  - Basement levels to contain service areas, storage, car parking for 100 spaces (including 2 accessible spaces), 10 bicycle spaces and 4 motorcycle spaces.
  - Pedestrian entry to the site from Pacific Drive at a centralised main entry point into Entry 1 at Ground Level and Entry 2 at Level 1.
  - Common open space provided at Lower Ground Level western side; Ground Floor western side and eastern side adjacent to Entry 1; Level 1 western side and eastern side adjacent to Entry 2; Level 2 north-west corner; and Level 6 Rooftop Terrace with pergola above.
  - A communal area has also been proposed within the building on Level 1 adjacent to Entry 2, for use by residents, as well as an outdoor shower for those returning from the beach.
  - Each unit is provided with ample area of private open space, including a balcony off the living area or courtyard at lower levels.
- Removal of all vegetation, with no significant vegetation identified on the site.
  - Landscaping, as detailed on the concept landscape plans.
  - Civil infrastructure including extension of services to the site and on-site detention including a tank below the service / loading area. Services including electricity, water, stormwater, and sewer will be provided, as detailed on the concept service infrastructure plan. A substation and hydrant/sprinkler have been provided along the eastern boundary and have been located within a landscaped setting.
  - Retaining walls and boundary fencing to north, south and western boundaries which follows the topography and external balustrading to stairs and ramp to basement.
  - Consolidation of all allotments into one.
  - Strata Subdivision.

A list of plans submitted with DA2021 – 219 is found in **Table 2** and a list of documents submitted is found in **Table 3**. **Appendix A** contains a selection of development plans and images extracts from the plans and documents submitted.

**Table 2 List of plans submitted**

Plan No	Revision No.	Plan Title	Drawn by	Date
<b>Site Analysis</b>				
A-1001	A	SITE ANALYSIS	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1010	A	SITE PLAN	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1060	a	UNIT SCHEDULE	Ghazi Al Ali Architect Pty Ltd	12/03/2021
<b>Survey</b>				
A-1101	A	SURVEY PLAN	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1102	A	DEMOLITION PLAN	Ghazi Al Ali Architect Pty Ltd	12/03/2021
<b>Floor Plans</b>				
A-1201	A	LOWER GROUND FLOOR	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1202	A	GROUND FLOOR	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1203	A	LEVEL 01	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1204	A	LEVEL 02	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1205	A	LEVEL 03	Ghazi Al Ali Architect Pty Ltd	12/03/2021



## PLANNING ASSESSMENT REPORT

Plan No	Revision No.	Plan Title	Drawn by	Date
A-1206	A	LEVEL 04	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1207	A	LEVEL 05	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1208	A	LEVEL 06	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1209	A	ROOF	Ghazi Al Ali Architect Pty Ltd	12/03/2021
<b>Elevations</b>				
A-1301	A	EAST ELEVATION	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1302	A	WEST ELEVATION	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1303	A	NORTH ELEVATION	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1304	A	SOUTH ELEVATION	Ghazi Al Ali Architect Pty Ltd	12/03/2021
<b>Sections</b>				
A-1401	A	SECTION AA	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1402	A	SECTION BB	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1406	A	RAMP SECTIONS	Ghazi Al Ali Architect Pty Ltd	12/03/2021
<b>Statistics and Diagrams</b>				
A-2001	A	GFA CALCULATIONS	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2010	A	SOLAR ACCESS DIAGRAM 2D	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2011	A	3D SOLAR JUN 01	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2012	A	3D SOLAR JUN 02	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2020	A	CROSS-VENTILATION DIAGRAM	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2030	A	LANDSCAPE CALCULATION	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2032	A	S-NEIGHBOUR SOLAR ACCESS	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2035	C	CUT AND FILL 01	Ghazi Al Ali Architect Pty Ltd	9/08/2021
A-2036	C	CUT AND FILL 02	Ghazi Al Ali Architect Pty Ltd	9/08/2021
A-2040	A	STORAGE	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2051	B	SHADOW DIAGRAM 9AM	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2052	B	SHADOW DIAGRAM 10AM	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2053	B	SHADOW DIAGRAM 11AM	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2054	B	SHADOW DIAGRAM 12PM	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2055	B	SHADOW DIAGRAM 1PM	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2056	B	SHADOW DIAGRAM 2PM	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2057	B	SHADOW DIAGRAM 3PM	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2058	B	SHADOW DIAGRAM MAY 9AM	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2059	B	SHADOW DIAGRAM MAY 12PM	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2060	B	SHADOW DIAGRAM MAY 3PM	Ghazi Al Ali Architect Pty Ltd	28/06/2021
<b>Material Schedule</b>				
A-2201	A	MATERIAL SCHEDULE 01	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2202	A	MATERIAL SCHEDULE 02	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2203	A	MATERIAL SCHEDULE 03	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2204	A	MATERIAL SCHEDULE 04	Ghazi Al Ali Architect Pty Ltd	12/03/2021
<b>3D</b>				
A-2301	B	3D 01	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2302	B	3D 02	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2303	B	3D 03	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2304	B	3D 04	Ghazi Al Ali Architect Pty Ltd	28/06/2021

## PLANNING ASSESSMENT REPORT

Plan No	Revision No.	Plan Title	Drawn by	Date
<b>Miscellaneous</b>				
5115STG2	0	PLAN OF CONSOLIDATION OF LOTS 1 & 2 DP536077, LOT A DP441600 AND LOT 101 DP1244390	GRAHAM McLEOD BURN	18/03/2021
0002	B	ENGINEERING CONCEPT PLAN	LandDynamics Australia	30/06/2021
0002	A	Appendix B - Concept Drainage Plan	LandDynamics Australia	26/06/2021
A-1201	P4	Appendix C - NAS Hydraulic Consulting SW Pump System Layout	LandDynamics Australia	12/02/2021
0001	D	CONCEPT SERVICING PLAN	LandDynamics Australia	25/06/2021
114317FPLAN	A	Electrical Design Plan	Midstate Power	17/02/2018
0001	D	Survey Plan – Detail Survey	LandDynamics Australia	11/12/2020
0002	A	LANDSCAPE CONCEPT PLAN	Land Dynamics Australia	16/03/2021

**Table 3 List of documents submitted**

Document Name	Revision No.	Prepared by	Date
Statement of Environmental Effect Proposed Residential Flat Building	B	Land Dynamics Australia	28/10/2021
Updated Clause 4.6 Request for variation to clause 4.3 pf PM-H LEP 2011	V2	Land Dynamics Australia	28/10/2021
Arboriculture Impact Assessment Report	0	The Tree MD Pty Ltd Geoffrey Ashton – Arboriculture AQF 5	25/06/2021
Arboriculture Addendum	0	The Tree MD Pty Ltd Geoffrey Ashton – Arboriculture AQF 5	12/08/2021
Biodiversity Assessment Report EC4474-BEC-REP-PacificDrive	2.0	Biodiversity Australia Pty Ltd	09/07/2021
Stormwaqter Management Concept Plan 5115-SW-RPT Rev D	D	STORMWATER MANAGEMENT CONCEPT PLAN 13-17 Pacific Drive, Port Macquarie	25/06/2021
DCP Compliance Table	A	Land Dynamics Australia	30/6/2021
Traffic and Parking Assessment – PR-05848-B4F9	1.0	Building Inovations Australia	17/03/2021
Operational Waste Management Plan SO855	B	Elephants Foot Recycling Solutions	19/03/2021
10-16 Pacific Drive, Port Macquarie DA Acoustic Assessment 20210011.1/0402A/R0/WY	0	Acoustic Logic	4/02/2021
BCA &Access 2019 A1 Indicative Compliance Report for DA Lodgement PRO-05842-N3H5	1.0	Building Inovations Australia	16/03/2021
BASIX Assessor Certificate 2021318	2.4.3.21	Taylor Smith Consulting	17/03/2021
Koala Assessment Report for Residential Developemnt	-	Biodiversity Australia Pty Ltd	01/2021
Bushfire Hazard Assessment	2.0	DAVID PENSINI Building Certification and Environmental Services	12/01/2021
Quantity Survey Report Q21C006	-	Construction Consultants	8/03/2021
SEPP 65 Apartment Design Statement	2	Ghazi Al Ali Architect Pty Ltd	No date – received 28/10/2021

## PLANNING ASSESSMENT REPORT

---

Document Name	Revision No.	Prepared by	Date
Fire Engineering DA Supporting Letter PRO-05843-X1N9	-	BCA Innovations	18/03/2021
Preliminary Site Investigation E24947-E01_Rev0	0	EI Australia	16/12/2020
Geotechnical Investigation Report E24947.G03	0	EI Australia	14/01/2021
Structural Report S20244401-RPT-1 [REV.1]	1	PTC Consulting Engineering	19/01/2021

## 2 STATUTORY ASSESSMENT

### 2.1 Planning and approvals framework - Section 4.15 (1)

The EP&A Act and EP&A Regulation establishes the framework for the assessment and approval of development in NSW. The proposal represents 'local development' under the EP&A Act which requires development consent. The EP&A Regulation sets out the processes and procedures for the assessment and approval of local development and specifies that a DA must be lodged with the consent authority in line with certain specific requirements.

The proposed development has been assessed against the planning controls and principles within the following applicable planning instruments.

#### 2.1.1 (a) the provisions of –

##### 2.1.1.1 (i) any environmental planning instrument

Consideration of any environmental planning instruments is provided in **Table 4**.

**Table 4 Relevant Environmental Planning Instruments**

Comment	Compliance Status
<b>Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000</b> The proposal represents 'local development' under the EP&A Act which requires development consent. The EP&A Regulation sets out the processes and procedures for the assessment and approval of local development and specifies that a DA must be lodged with the consent authority in line with certain specific requirements. The SEE and DA prepared adequately address the requirements of the EP&A Act and Regulation.	Compliant
<b>Biodiversity Conservation Act 2016</b> The ecological significance of the site has examined in the Ecological Report accompanying the application and was considered to be in accordance with the requirements of Section 5A of the EP&A Act, as amended by the Threatened Species Conservation (TSCA) Act 1995, the Commonwealth Environment Protection and Biodiversity Conservation (EPBCA) Act 1999 - Matters of National Environmental Significance and State Environmental Planning Policy (SEPP) No. 44 - Koala Habitat Protection, as well as the relevant provisions for Koala food trees and Endangered Ecological Communities under the PMHC Development Control Plan (DCP) 2013. The vegetation assessment undertaken as part of the Ecological Report indicated that vegetation within the subject site was restricted to occasional lower strata trees and regularly maintained exotic grass species, native vegetation structure was not present.	Complaint
<b>Planning for Bush Fire Protection 2019</b> The site is identified as bushfire prone land as per the Rural Fire Service's online mapping. A Bushfire Assessment was undertaken with respect to the proposal which provided a number of recommendations including construction standards and asset protection zones. Under the condition that the bushfire threat reduction measures and consideration of the recommendations in the report are implemented, the bushfire risk is manageable for the proposed development.	Compliant – ensure the bushfire threat reduction measures and recommendations outlined in the Bushfire Assessment are implemented.
<b>State Environmental Planning Policy (Koala Habitat Protection) 2020</b> The area of the subject land is not greater than 1ha and is located within the Port Macquarie Hastings Local Government Area, <i>SEPP (Koala Habitat Protection) 2020</i> is not applicable. A Koala Assessment Report (completed by a qualified ecologist) was undertaken, including visiting the site and review of koala records.	Complaint – ensure northern fence is retained or replaced with a koala friendly fence to facilitate ingress/egress to neighbouring koala food trees. TPZ of gum located in the northern corner of the site should be protected during construction.
<b>State Environmental Planning Policy No. 55 Remediation of Land</b> A Preliminary Site Investigation (PSI) was undertaken by EI Australia regarding contamination which determined that the potential for contamination to exist on the site	Compliant – "Hazardous materials survey" to be



Comment	Compliance Status
was low and suitable for the proposed use and does not identify the need for further investigation.	conducted prior to any demolition works on site.
<b>State Environmental Planning Policy (Infrastructure) 2007</b> The development is not located immediately adjacent to a classified road or within 40 metres of a Railway corridor. The development is not classified as a Traffic Generating Development in accordance with Clause 104 and Schedule 3 of SEPP. Traffic increases are expected to occur during construction and operation. These increases are unlikely to create adverse impacts as outlined in the Traffic Impact Assessment.	Compliant
<b>State Environmental Planning Policy Coastal Management 2018</b> The development remains clear of the mapped Littoral Rainforest and is separated by the busy Pacific Drive. The buffer does not preclude development. The development will not significantly impact on the biophysical, hydrological, or ecological integrity of the adjacent coastal littoral rainforest, or the quantity and quality of surface and ground water flows to and from the adjacent littoral rainforest.	Compliant
<b>State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development</b> <b>Principle 1: Context &amp; Neighbourhood Character</b> The site is located within an area zoned for medium to high density residential housing. The area as a whole contains a variety of housing densities with tourist, retail and commercial services and the zoning and DCP controls allows a transition to increased residential densities in this Precinct. The development has responded to the slope of the land and is not flood prone. The building responds to the desired future character of the area for higher density in a landscaped setting. The design of the proposed development has had regard to the amenity of the future adjoining properties, providing a suitable setback to all boundaries. <b>Principle 2: Built Form and Scale</b> The proposed development achieves a scale, bulk, and height appropriate to the desired future character of the street and surrounding buildings. It is noted that the proposal has a maximum height of approximately 21.2m, which exceeds the maximum building height of 17.5m that applies to the site under <i>Port Macquarie-Hastings Local Environmental Plan 2011</i> (PMH LEP 2011). Further discussion on the building height is outlined below. The proposed development also achieves an appropriate built form for the site and the building's purpose in terms of building alignments, proportions, building type, articulation, and the manipulation of building elements. <b>Principle 3: Density</b> The proposed development seeks to cater for future demand and desired future densities identified by the zoning of the site and the LEP and DCP controls. The density responds to the site opportunities and constraints and provides a range of floor space yields and apartment mixes. The site is appropriate for higher densities given its location in a transitioning area. <b>Principle 4: Sustainability</b> Solar access is slightly below the recommended guide for apartment solar access. However, a balance between solar access and coastal views has been prioritised for building orientation due to its coastal position, the scheme meets the design criteria and objectives of sun light and orientation. Passive solar design principles have been incorporated through a high level of solar access and natural ventilation of units as well as effective thermal massing. The design responds to environmental concerns by focusing on natural ventilation, and light and incorporates recessed balconies. <b>Principle 5: Landscape</b> The landscape strategy includes courtyards and communal landscaped areas around the perimeter of the site. Deep planting (27%) which provides effective amenity both internally and to the public domain is also proposed within all setbacks. The landscaped open space provides connectivity between the buildings and provides an adequate buffer to ensure maximum amenity is offered to the occupants of the units.	Compliant

Comment	Compliance Status
<p><b>Principle 6: Amenity</b></p> <p>The proposed development generally achieves a positive internal and external amenity for residents and neighbours. In general, appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility is achieved.</p> <p><b>Principle 7: Safety</b></p> <p>The proposed units are oriented to allow windows for passive surveillance of the communal open spaces and the main entrance. All entrances are highly visible, are in highly trafficked areas and have good sight lines across the site. Safety and security measures incorporate unobscured public domain spaces, the basement and all lobbies are wide and brightly lit, with units adjacent to facilitate safety and passive overlooking and all landscaped spaces within the site will be well lit and designed to maximise personal security. There are no entrapment zones identified within the development.</p> <p>Access will be by electronic security devices at the vehicle entry point and the pedestrian entry points and lobbies.</p> <p><b>Principle 8: Housing Diversity and Social Interaction</b></p> <p>The proposal responds to the need for housing and incorporates a range of bedroom numbers and floor sizes. The units and in many instances the private open space is considerably larger than the minimum requirements, increasing the amenity for the occupants.</p> <p><b>Principle 9: Aesthetics</b></p> <p>The architectural style is contemporary and is sympathetic to its coastal surroundings. The design reduces building bulk, and the landscaped setting will ensure they are integrated into their surroundings and the future desired character for the area.</p>	
<p><b>State Environmental Planning Policy (Building Sustainability Index: BASIX)</b></p> <p>A BASIX certificate and stamped plans have been submitted demonstrating that the proposal will comply with the requirements of the SEPP. It is recommended that a condition be imposed to ensure that the commitments are incorporated into the development and certified at Occupation Certificate stage.</p>	Compliant
<p><b>State Environmental Planning Policy No 64—Advertising and Signage</b></p> <p>The proposed signage on the eastern elevation of the wall at the front property boundary, is considered to be a building identification sign and is permitted under <i>SEPP (Exempt and Complying Development Codes) 2008</i> without consent.</p> <p>No further assessment against SEPP No 64—Advertising and Signage, nor Schedule 1 Assessment Criteria of that SEPP is required given the type of signage and that it does not require consent.</p>	Compliant
<p><b>Port Macquarie Hastings Local Environmental Plan 2011</b></p> <p><b>Zoning, Permissibility &amp; Objectives</b></p> <p>The subject site is zoned R3 Medium Density Residential, and the proposed development is categorised as a residential flat building and is a permissible land use with consent.</p> <p>The objectives of the R3 Medium Density Residential are as follows:</p> <ul style="list-style-type: none"> <li>To provide for the housing needs of the community within a medium density residential environment.</li> <li>To provide a variety of housing types within a medium density residential environment.</li> <li>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> </ul> <p>The proposed development is in keeping with the objectives of the zone having regard to the development providing for a variety of dwelling types and densities in the locality and contribute to meeting the housing needs of the community.</p>	Compliant
<p><b>2.6 Subdivision—consent requirements</b></p> <p>Subdivision of land is permissible with development consent.</p>	Compliant
<p><b>4.1 Minimum subdivision lot size</b></p> <p>Subdivision requires a minimum allotment size of 450m<sup>2</sup>. The proposal seeks to Strata subdivide the building, which is permitted below the minimum lot size, which is permitted under this clause.</p>	Compliant

Comment	Compliance Status
---------	-------------------

**4.3 Height of buildings**  
The site has a maximum height control of 17.5m and land to the west of the site has a maximum height control of 11.5m as shown in the figure below.

Non-compliant however a request to vary the development standard has been provided.



The proposed development exceeds the maximum height by up to 3.7m in a small number of sections. The portion of the roof which exceeds the controls is unlikely to result in amenity impacts and will not be discernible from the public domain due to the location of the variation and the inability to identify when viewing from the public domain at street level. The height exceedances are primarily due to slope of the natural ground level with the majority of the proposed development is compliant with the maximum height zoning for the site.

The application however has been accompanied by a 'Written Request' (pursuant to Clause 4.6) seeking to justify the contravention of a Development Standard, see following discussion under 4.6.

**4.4 Floor Space Ratio**  
The site has a floor space ratio (FSR) of 1.5:1 on the entire site as shown on the PMH LEP 2011- Floor Space Ratio Map. Land to the west has an FSR of 0.65:1. FSR controls are shown on the figure below. Compliant



The proposed building complies with this control being a total of 6879.61m², which equates to 1.48:1, complying with this requirement.

Comment	Compliance Status
<p><b>4.6 Exceptions to Development Standards</b></p> <p>A request to vary a development standard pursuant to the provisions of Clause 4.6 of PMH LEP 2011, the relevant clause being Clause 4.3 Height of Building, is requested as part of this DA.</p> <p>The proposed height of 21.2m exceeds the maximum building height Development Standard of 17.5m (Clause 4.3), equating to a variation of 21.1%. Accordingly, the application has been accompanied by a 'Written Request' (pursuant to Clause 4.6), seeking to justify the contravention. <b>Figure 3 to Figure 7</b> provide elevations and height plan views illustrating where the proposed development exceeds the 17.5 m maximum building height.</p> <p>It is noted that the maximum building height Development Standard (pursuant to Clause 4.3), is not a Development Standard excluded by Clause 4.6 (6) or (8).</p> <p>The objectives of Clause 4.3 are:</p> <ul style="list-style-type: none"> <li>(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,</li> <li>(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,</li> <li>(c) to minimise the adverse impact of development on heritage conservation areas and heritage items,</li> <li>(d) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan.</li> </ul> <p>The land immediately to the west of the subject site has a maximum height limit of 11.5m and maximum FSR of 0.65:1, noting a pocket of land of 1.5:1. The current development on the immediately adjoining land to the west is single storey dwellings, which is well below the future desired planning for the land which has a height limit which would potentially accommodate up to 4 storeys.</p> <p>The land immediately to the south of the subject site has a maximum height limit of 17.5m and maximum FSR of 1.5:1, which is the same as the subject site. The Architectural Plans identifies the future possible development on the land to the south, also refer to <b>Figure 7</b>, having regard to LEP controls and proposed separation. The proposed building is appropriately designed along the southern portion to transition to a future permissible development, as envisaged in the planning controls and broader planning of the area.</p> <p>The 'Written Request' includes the following environmental planning grounds justification for the maximum height variation.</p> <ul style="list-style-type: none"> <li>• The proposed development provides outcomes which are consistent with the development standards which are relevant to internal and external privacy, amenity and solar access and the additional height does not result in additional adverse impacts.</li> <li>• The separation between the proposed building and the adjoining properties assists with reducing any bulk or scale impacts from the minor height variation, in particular to the transitioning area to the west.</li> <li>• The height variation does not impact upon the desired future character of the area and the proposed built form, layout and design reference allows for a rhythm within the development to be established which is not repetitious and uninteresting in form.</li> <li>• The proposal in its current form provides additional residential options in the wider area. Strict compliance with the height control may result in the partially exposed upper units being located elsewhere, with corresponding reduction in generous setbacks and greater building footprint.</li> <li>• The portion of the roof which exceeds the controls is unlikely to result in amenity impacts and will not be discernible from the public domain due to the location of the variation and the inability to identify when viewing from the public domain at street level. The images detail the maximum height at the worst point above natural ground level, noting it is a portion only due to the slope, and not the entire building exceeding the height limit.</li> <li>• Due to the slope and orientation to maximise views, the building has been designed to step down the hill and as such views are over the dwelling below and onto its roof. The additional height on the centre of the building will not be directly overlooking the immediately adjoining neighbours.</li> </ul>	<p>A request to vary the development standard has been provided.</p>



Comment	Compliance Status
<ul style="list-style-type: none"> <li>With respect to views and the height variation, the areas of exceedance are generally in the central to central-southern area of the roof. The potential for view loss is from the northern properties only and the height variation in that area relates to a lift overrun only. The site could accommodate a larger, bulkier development than proposed and closer to the eastern boundary which would further obstruct views and result in a taller building due to topography, which would obstruct more views and has the potential to remove a large majority of water views. However, this is not what is proposed, and the building's siting and design is considered to be appropriate having regard to view sharing and reasonableness. Further, the views experienced are over a vacant private parcel of land, which has provided borrowed amenity for the residents for a large number of years. Council's planning controls for the area have envisaged this form of density on this land and a varied design would likely result in some obstruction of views in order to achieve the desired planning outcome for this area. The view impact of the proposed development is considered acceptable and the view sharing reasonable and equitable.</li> <li>Given that the FSR control is not exceeded by the overall development, there is no additional floor space benefit from the height variation and therefore no environmental impacts related to floor space.</li> <li>The additional height does not impact upon noise generation, pedestrian or vehicular access, waste management, heritage, drainage or services.</li> </ul> <p>It is considered that the proposal is consistent with the relevant objectives of the Development Standard and for the R3 Medium Density Residential zone. The proposed exceedance in maximum permissible building height does not significantly increase the bulk and scale of the proposed development, cause any additional view loss from neighbouring properties, or surrounding residential properties or have any significant additional adverse scenic/visual impacts or amenity (privacy/overshadowing) impacts on the public domain.</p> <p>Overall, it is considered that compliance with the Development Standard is unreasonable and unnecessary in this instance, and that there are sufficient environmental planning grounds to justify the variation.</p>	
<b>5.10 Heritage conservation</b> The site is not mapped as containing a heritage item, archaeological site or aboriginal place of heritage significance.	Compliant
<b>6.3 Development Control Plan</b> Port Macquarie Hastings Development Control Plan 2013 applies to the site, specifically, Parts C2: Residential Flat Development and D2: Port Macquarie East of DCP 2013 apply. The site is located within the Windmill Hill Precinct.	Compliant – refer to Section 2.1.1.3(iii) below.
<b>7.1 Acid Sulfate Soils</b> The site is not mapped as containing acid sulphate soils.	Not applicable (N/A)
<b>7.2 Earthworks</b> Earthworks are required as part of the construction phase of the proposed development. There will be a requirement for cut and fill activities along with the construction of various retaining walls. Earthworks are not expected to significantly impact upon the environment, adjoining properties, or drainage of the site.	Compliant
<b>7.3 Flood Planning</b> The proposed development is not located within a flood planning area.	N/A
<b>7.5 Koala Habitat</b> The development site is not identified as koala habitat.	N/A
<b>7.9 Development subject to Acoustic Controls</b> The site is not subject to acoustic controls.	N/A
<b>7.13 Essential Services</b> The Service Plan and Electrical Design provided for the proposed development indicates that essential services are capable of being delivered to the site.	Compliant



Page 15



Figure 4 Eastern elevation showing height exceedance



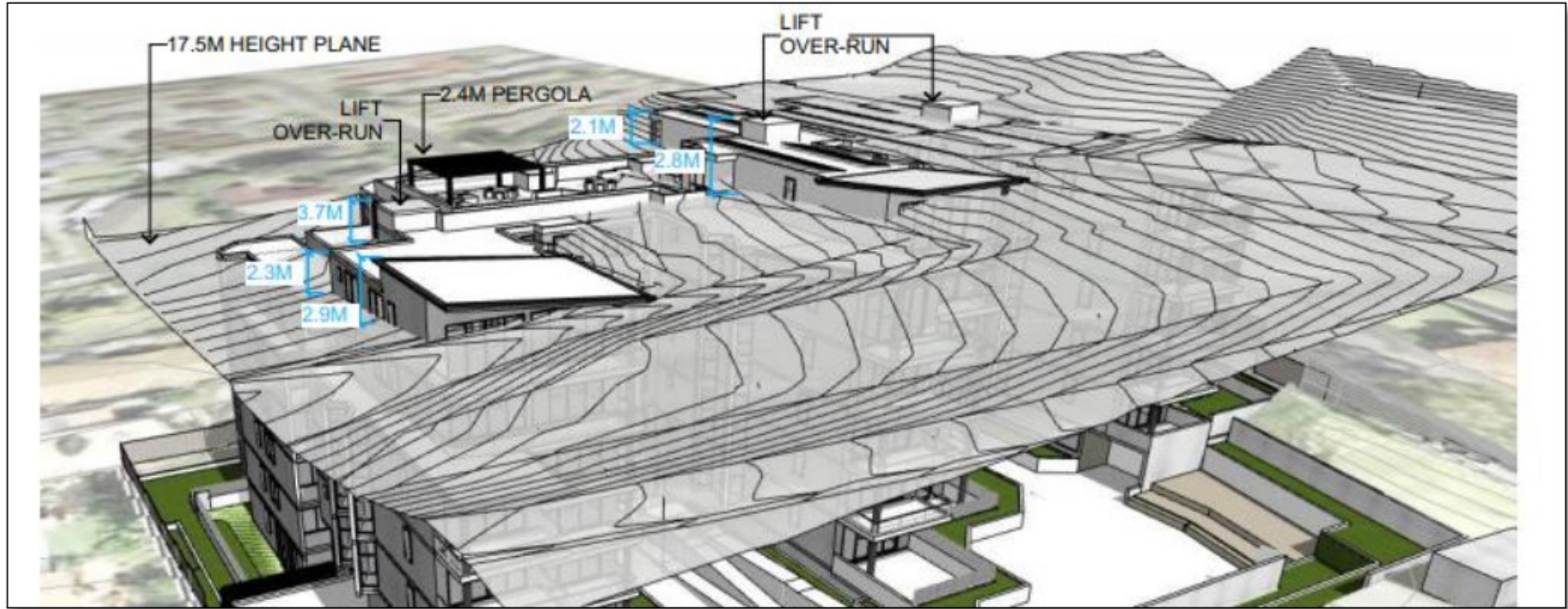


Figure 5 17.5m Height plane showing height exceedance – looking west



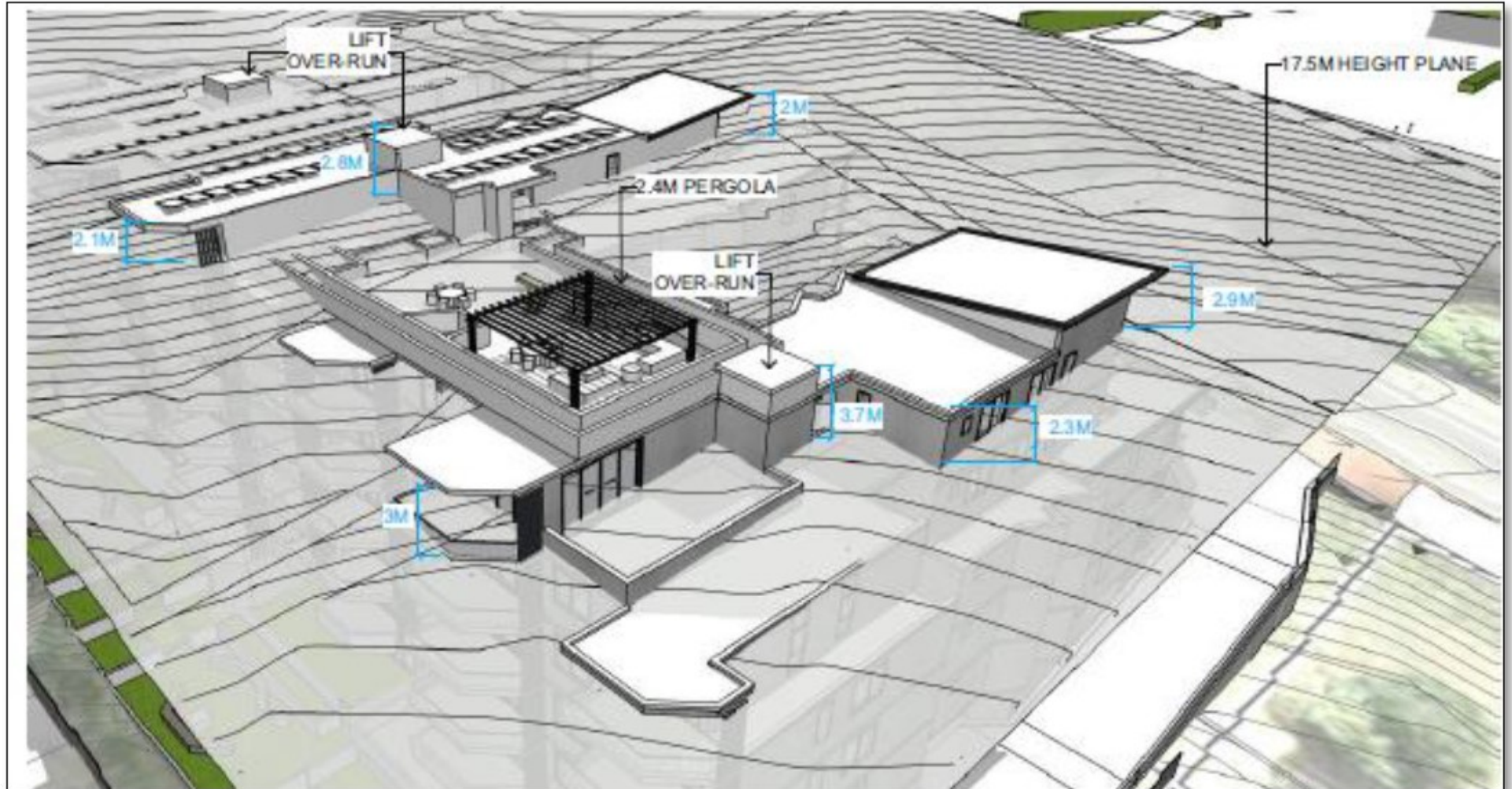


Figure 6 17.5m height plan showing height exceedance - looking north-east



## STREETSCAPE ANALYSIS

Figure 7 Streetscape Analysis from Pacific Drive

**2.1.1.2 (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)**

No proposed instruments apply to the site.

**2.1.1.3 (iii) any development control plan**

**Port Macquarie Hastings Development Control Plan 2013**

The Port Macquarie Hastings Development Control Plan 2013 (DCP) is applicable to the site and the current proposal. In addition to the general DCP provisions, Parts C2: Residential Flat Development and D2: Port Macquarie East of DCP 2013 apply. The site is located within the Windmill Hill Precinct. A review of the DCP provisions against the proposed development is provided in **Table 5**.

**Table 5 Port Macquarie Hastings Development Control Plan 2013**

Requirements	Comments	Compliance Status
<b>Part B – General Provisions</b>		
B1 – Advertising & Signage	The building identification signage is deemed to be Exempt development and does not require consent.	Compliant
B2 – Environmental Management	The proposed development generally achieves a balance between assisting in appropriate development whilst conserving the most important biodiversity assets and maintaining the ecological processes that sustain them.  The proposal provides a Waste Management Plan. Cut and fill will be required. The existing paling fence will be maintained or alternatively if removal is required it will be replaced with a Koala friendly fence of similar construction.	Compliant
B3 – Hazards Management	The site is not located within the vicinity of the airport and does not impact airspace.  Bushfire hazard has been considered in the Bushfire Assessment Report with appropriate APZ and BAL ratings recommended for the development. The recommended bushfire measures do not affect vegetation or habitats.  The site is not flood affected or subject to coastal management.  The site is not subject to Acid Sulphate Soils in the developable area.  The site is not identified as being subject to acoustic controls.	Compliant
B4 – Transport, Traffic Management, Access & Car Parking	The proposed development contains car parking within the basement, which is accessed via Pacific Drive with sufficient spaces and appropriate layout to meet the DCP requirements.  A dedicated service vehicle / waste collection bay is proposed at the front of the site, accessed off the driveway once into the development.  The car parking layout as detailed on the Architectural Plans has been reviewed with respect to compliance with AS 2890.1-2004.  Drainage of the basement and driveway has been incorporated into the stormwater design.  Landscaping of driveways has been indicated on the concept landscape plan and the driveways are noted to be constructed and sealed as per the DCP requirements.  The proposed development is estimated to increase the existing Annual Average Daily Trips (AADT) of 7000 trips by	Compliant

Requirements	Comments	Compliance Status
	3.5% and is not considered to generate an adverse impact to existing traffic conditions. The entry and exit point to Pacific Drive is proposed via one consolidated vehicular entry point with sufficient space to allow for forward entry and exit to the site. Sufficient room for queuing is anticipated based on the design.	
B5 – Social Impact Assessment & Crime Prevention	<p>The proposed development will have a positive social impact to the greater Port Macquarie region, providing additional residential accommodation. Infill development with increased density is encouraged through the current zoning and objectives. The proposed development does not result in loss of rural land and allows people wanting to downsize to remain in the local area.</p> <p>An increase in residents to the area will also provide an economical benefit for surrounding businesses.</p> <p>The proposed development will have an impact to immediate surrounding residents through the introduction of new residents, built form, changes in community composition, traffic and potential increase in noise. However, these impacts are unlikely to result in any adverse social or economic effects in the locality.</p> <p>The proposed lighting and fencing will be provided as part of the common area works and casual surveillance has been incorporated into the design of the building. The slope of the land allows for casual surveillance. Use of landscaping will assist in ensuring blank walls are not provided, which are targeted for graffiti.</p>	Compliant
<b>Part C – Development Specific Provisions</b>		
<b>C2: Residential Flat Development, Tourist and Visitor Accommodation, and Mixed-Use Development</b>		
Application & Purpose	The proposed development is subject to SEPP 65. The compliance of the proposed development with SEPP 65 is outlined in <b>Table 4</b> .	Compliant
Site Design and Analysis	The site characteristics, and that of the adjoining sites, have been considered in the design of the development.	Compliant
Site Layout	The site layout of the development and within the building provides a pleasant, manageable, and functional living environment, which integrates with the neighbourhood. The energy-efficiency and solar access of the building has been considered and the targets met with the ADG and BASIX.	Compliant
Streetscape and Front Setback	<p>A 3m setback is required from the street frontage in R3 zones. The proposed development is sufficiently setback ranging from 18m to 40m following the form of the proposed building. There is no consistent front setback alignment due to part of the road reserve along Pacific Drive being recently closed and incorporated into this development.</p> <p>The setback allows for adequate open space for landscaping, visual and acoustic privacy.</p>	Compliant
Side and Rear Setbacks	<p>The requirements for side setbacks of 3m and down to 1.5m for 75%) and the 6m rear setback of the building and basement are exceeded by the proposed development design. The ADG setbacks and separation have been satisfied.</p> <p>The section of exceeded setback is not expected to have a significant impact to surrounding residents with the upper levels of the building compliant with the setback requirements.</p>	Compliant
Landscapes	The provided landscape design plans are adequate in addressing the provisions outlined in the DCP.	Compliant
Fences and Walls	The proposed front fence design outlined in the landscape design plan has adequate setbacks and fence heights meeting the provisions outlined in the DCP. The fencing along the	Compliant



Requirements	Comments	Compliance Status
	northern boundary of the site is a timber paling fence. If removal of this fence is required, it shall be replaced with a Koala friendly fence of similar construction.	
Amenity	The dwelling and residential flat buildings to the north are unlikely to be impacted upon by the proposed building due to the topography and orientation of the windows and building. The dwellings to the west and south are considerably lower due to the topography and it is expected that the majority of overlooking will be onto roofs and the setback of the building from those boundaries, in conjunction with fencing and landscaping, will ensure privacy loss is minimised. The proposed building is primarily oriented to the east to the view of the ocean and the west to the mountains.	Compliant
Acoustic Privacy	The proposed development is sited away from the road for quiet areas and is generally compliant with the provisions outlined in the DCP.	Compliant
Accessibility	All areas of the development are designed to be accessible, including pathways, lifts and accessible parking spaces. The proposed development is generally designed in accordance with Australian Standard AS1428	Compliant
Social Dimensions and Housing Affordability	The proposed development provides a mix of housing types to cater for different budgets and housing needs. The site is located opposite Windmill Hill reserve which provides access to the Coastal Walk. The location is within walking distance to the centre of Port Macquarie and other facilities including Oxley Park playing fields.	Compliant
Aesthetics	The building has been architecturally designed, which responds to the location and incorporates building articulation to assist in integrating the proposed built form into the existing locality and desired future character for this immediate area.	Compliant
Roof Form	The design provides a visually interesting and harmonious roof scape and addition to the existing skyline.	Compliant
Façade Composition and Articulation	The design provides appropriate articulated and harmonious facades that defines the public domain.	Compliant
Security, Site Facilities and Services	Consideration has been given to the functionality of the building and the needs of the residents in designing the proposed building.	Compliant
Laundries and Clothes Drying Facilities	Each unit is provided with a laundry area for washing and drying of clothes.	Compliant
Mailboxes	Mailboxes are integrated into the building via the main pedestrian entry from the street and are sighted to ensure accessibility and security.	Compliant
Safety and Security	The proposed development has been planned around the CPTED principles. The entries to the buildings for pedestrians and vehicles are located towards Pacific Drive and the layout incorporates lighting and casual surveillance and avoids areas of entrapment.	Compliant
Utilities	Adequate provision of essential services to residential development has been incorporated into the design. The proposed development design has limited visual or acoustic impact arising from provision of essential services.	Compliant
<b>Part D – Locality Specific Provisions</b>		
<b>D2: Port Macquarie East - D2.1: East Port Neighbourhood</b>		
Precinct Structure Plans	The design is generally in accordance with the Windmill Hill precinct structure plan.	Compliant

Requirements	Comments	Compliance Status
Lot Size and Frontage	The DCP requires a minimum lot width of 22m for a residential flat building with the proposed height. The subject site has a frontage to Pacific Drive of approximately 60m.	Compliant
Building Height	The proposed development exceeds the maximum building height limit prescribed in the LEP. A Clause 4.6 variation has been submitted as part of the DA. The proposed exceedance in maximum permissible building height does not significantly increase the bulk and scale of the proposed development, cause any additional view loss from neighbouring properties, or surrounding residential properties or have any significant additional adverse scenic/visual impacts or amenity (privacy/overshadowing) impacts on the public domain and the desired character of the street and precinct.	Compliant

#### **2.1.1.4 (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**

No planning agreement has been offered or entered into relating to the site.

#### **2.1.1.5 (iv) the regulations that apply to the land to which the development application relates**

##### **Fire Safety**

Under Part 9 of the Environmental Planning & Assessment Regulation 2000, owners of buildings must provide the Fire & Rescue NSW Commissioner with a copy of the Fire Safety Certificate for the building (along with the current Fire Safety Schedule). The Fire Safety Certificate is issued when essential fire safety measures have been assessed by a qualified person as being capable of performing to the standard defined by the Schedule. A condition has been included within the recommended draft conditions to provide for this to occur on an annual basis.

##### **Prescribed Conditions**

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the Building Code of Australia, are recommended to be imposed as conditions of consent where applicable.

##### **Advertising and Notification**

The application was advertised and notified, in accordance with the requirements of the Regulations and Port Macquarie-Hastings Council.

##### **Clause 92 - Additional Matters**

A condition has been included within the recommended draft conditions requiring demolition works to be undertaken in accordance with the provisions of Australian Standard 2601.

## 2.1.2 (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

### Assessment of Natural Environmental Impact

#### Topography and scenic impacts

The proposed development is compatible with existing and future surrounding land uses. The site is zoned to allow the proposed development and is located close to the township of Port Macquarie. The proposed design provides a landscaped buffer between the existing dwellings to the north, south and west and has had regard to the environmental qualities of the site.

The building process will be managed so to minimise the disruption to the adjoining properties and the environment. The site slopes towards Pacific Drive and the plans demonstrate that adequate areas of private open space and vehicular access can be accommodated on the site notwithstanding the slope.

#### Flora and fauna

Construction of the proposed development will require the removal of at a total of 25 trees to be removed which are a mixture of native and non-native species. No Hollow Bearing Trees exist on the subject site. No primary or secondary Koala Food Trees will require removal for the subdivision.

A Biodiversity Assessment Report (BAR) has been prepared and includes a five-part test of significance in accordance with the *Biodiversity Conservation Act 2016*. The five-part test of significance included consideration of the Koala and the Grey-headed Flying Fox.

No threatened flora or fauna species were recorded during the survey carried out as part of the BAR and the vegetation on site does not qualify as an endangered ecological community (EEC). Two threatened fauna species (Koala and the Grey-headed Flying Fox) were identified as having at least a low potential to use the subject site as a small part of a larger range.

In relation to the Koala the BAR acknowledges evidence presented from local residence of the movement of Koalas along the northern boundary of the site with evidence showing movement along the existing wooden paling fence.

The significance assessments carried out for the proposed development determined that the proposal is not expected to significantly impact upon the potentially occurring threatened species on subject site due to the limited extent of vegetation requiring removal: the extent of anthropogenic influences in the area; the fact that local populations of the subject species would extend beyond the study area; and the proposed ameliorative measures detailed in the BAR. The BAR concludes that a Biodiversity Development Assessment Report is not required.

An Arborist Report has been prepared and assesses the potential impact of development upon trees within neighbouring properties. Updated building plans give evidence of encroachments sustained on Tree 29 (Broad Leaved Paper Bark located on adjoining Lot 9 DP 229246) and Tree 32 (Blue Gum located on adjoining Lot 8 DP 229246), refer to **Figure 1** for location, and that they are minor encroachments that will not adversely impact the trees utilising Tree Protection Zone formations within the Australian Standard Protection of trees on development sites AS 4970-12.

To ensure continued access for wildlife (Koala) along the northern boundary the existing paling fence should be maintained or alternatively if removal is required it should be replaced with a Koala friendly fence of similar construction.

#### Micro-Climate Impacts

The proposed development does not impact on micro-climates.

#### Water & Air Quality Impact

The site is not flood affected and water is available to the site and can be extended to accommodate the proposed development.

A Services Plan accompanies the application which details proposed water, stormwater and sewer, and appropriate existing and proposed easements to ensure all lots can legally drain to the street. When the

development is completed, air pollution caused by the operation of the development is not expected to be significant nor create any long-term impacts.

### Soils

As previously assessed, the site is unlikely to include any contaminated soil (or other contaminating agents) based on the site's land use history and the site is suitable for the construction of the proposal. Disturbance to insitu soils on site will be minimised by undertaking all erosion and sediment control practices during construction in accordance with "NSW Department of Housing - *Managing Urban Stormwater, Soils & Construction*" 2004 (*Blue Book*).

### Construction

Construction impacts are considered capable of being managed, standard construction and site management conditions have been recommended.

## Assessment of Built Environment Impacts

### Impact on the Area's Character

Council has identified the site and surrounds for redevelopment opportunity to achieve higher densities. The PMH LEP 2011 permits residential flat buildings and provides height and floor space controls reflecting the desire for higher density development. The proposal is considered to be of a scale that is in keeping with the future development of the surrounding built environment of the transitioning area and provides a gradual transition of building height to surrounding future development.

### Aural & Visual Privacy Impact

As mentioned previously the proposed development has been designed in such a way to maximise visual and acoustic privacy by minimising direct views between primary indoor and outdoor living area of adjoining dwellings.

### Impact on Solar Access

Due to the slope of the site down to Pacific Drive, overshadowing cannot be avoided for any design constructed to allowable building height prescribed in the PMH LEP 2011. The Architectural Plans include shadow diagrams for mid-winter, and it reveals that there will be overshadowing impacts in the morning to surrounding land to the west and south, however as the sun moves around during the day, the shadowing direction and amount varies. The eastern corner of the dwelling to the south (Lot B DP 441800) experiences the greatest impact. It is to be acknowledged that due to the topography sloping south and as such the subject land is higher. It is considered that a single or two storey dwelling immediately to the north of the boundary Lot B DP 441800 would result in similar overshadowing for the same time period.

### View Impacts

The slope of the land allows for the proposed dwellings to look over the roofs of the dwellings to the south and west and further beyond to the mountains.

### Environmentally Sustainable Development (ESD)

The proposal incorporates passive solar design principles, which will allow for the units to enjoy levels of thermal comfort and to minimise the reliance on mechanical ventilation, heating, and cooling. The proposal includes measures to address energy efficiency and will be required to comply with the requirements of BASIX.

### Waste Management

Provision has been made for a dedicated waste storage and collection area within the site and will be serviced by private waste contractors. No adverse impacts anticipated. Sufficient bin collection area is available off street. Standard precautionary site management condition recommended.



### Structural Design

The Structural Report prepared for the proposed development outlines the required structural requirements for the current design. It is noted that the building is still in an early design stage and structure design requirements may change as the architectural designs change.

### Assessment of Social and Economic Impacts

The economic impacts to the surrounding businesses and services are expected to be positive with an increase in local population. The proposal is not considered to have any significant adverse economic impacts on the locality. A likely positive impact is that the development will maintain employment in the construction industry, which will lead to flow impacts such as expenditure in the area.

The following positive social impacts of the development are outlined below as per the SEE:

- Provision of a variety of housing in the Port Macquarie area.
- Development site is within proximity to commercial, recreation and community services.
- Increased economic and social benefits to local businesses from new population.
- Enrichment of the local community by supporting a diversity of population.
- Provision of housing stock diversity in Port Macquarie, consistent with previous planning for the area including UGMS and DCP.

Below are the identified negative social impacts of the development as outlined in the SEE.

- Impacts on existing social cohesion of the existing community.
- Risk perception within the existing community.
- Increased concentration of people in close proximity to each other and other local residents.
- Increased traffic and impact on road safety in local area.
- Impact on the existing character/identity of the local area.

The social impacts identified during the planning stage of the project indicates that the proposed development will not have unreasonable/ negative social impacts in the locality. A range of measures are proposed to mitigate impacts in the locality as outlined in the proposed development SEE.

### 2.1.3 (c) the suitability of the site for the development

#### Traffic, Parking & Access

The addition in traffic, parking, and access associated with the development is unlikely to have any adverse impacts to the existing road network within the immediate locality. Refer to Item B4 in **3** above.

#### Accessibility

Accessible car parking and ramps have been proposed within the development, which allows for disabled access throughout the development, including from the street to the entry and the basement and via lifts to the units.

#### Hazards

The subject land is not identified as flood affected nor does it contain acid sulfate soils.

The subject land is identified as bushfire prone, and a Bushfire Hazard Assessment accompanies this application which recommends asset protection zones, water provision, landscaping principals and driveway construction details.

#### Overall Suitability

The site is considered to be suitable for new housing as it is located in an existing residential area and has no unmanageable constraints. The proposal is suitable for the subject land and provides additional housing stock. The proposal is a permissible land use and has been designed to complement the character locality.

There are no hazardous land uses or activities nearby and the site is well appointed with respect to public transport.

## 2.1.4 (d) any submissions made in accordance with this Act or the regulations

Twenty (20) written submissions (as objections) were submitted in response to the public exhibition of the proposed development after lodgement of the Development Application. Key issues raised in the submissions received and planning comments are provided in **Table 6**.

**Table 6 Summary of Submissions**

Submission Issue Summary	Planning Comment and Response
Traffic and parking and safety of cyclists and pedestrians.	<p>With respect to parking, the development proposes 100 spaces, which is well in excess of the required 89 spaces under the DCP and includes 2 accessible spaces. In addition, 10 bicycle spaces are proposed and 4 motorcycle spaces. All visitor spaces are provided at lower ground floor and access to the basement levels is via a pedestrian ramp or lifts.</p> <p>Access to the site is proposed to the existing Pacific Drive. The existing roads will service the units and no new road construction is required.</p> <p>The Traffic &amp; Parking Assessment submitted with the application considers the existing and proposed traffic generation, and it is anticipated that the road network within the area will have sufficient capacity, with the report stating, "is not anticipated to generate any adverse impacts on the existing traffic conditions (3.5% increase in daily trips)."</p> <p>The entry and exit to Pacific Drive is considered within the assessment and the one consolidated vehicular entry point is supported. Sufficient room for queuing is anticipated based on the design.</p>
Ecology, in particular koalas	<p>A Biodiversity Assessment Report (BAR) has been prepared and includes a five-part test of significance in accordance with the <i>Biodiversity Conservation Act 2016</i>. The five-part test of significance included consideration of the Koala and the Grey-headed Flying Fox.</p> <p>In relation to the Koala the BAR acknowledges evidence presented from local residence of the movement of Koalas along the northern boundary of the site with evidence showing movement along the existing wooden paling fence. To ensure continued access for wildlife (Koala) along the northern boundary the existing paling fence should be maintained or alternatively if removal is required it should be replaced with a Koala friendly fence of similar construction (lapped and capped timber fencing as per the Koala POM).</p>
Size and scale of the development and character	The development is located within the R3 Medium Density Residential zone. The design is generally in accordance with the desired future character detailed within the Windmill Hill precinct structure plan contained with the Port Macquarie Hastings DCP 2013.
Compliance with DCP or ADG	The proposed development is considered to be generally in accordance with the provisions of Port Macquarie Hastings DCP 2013.
Not the desired future character	As described in the Windmill Hill precinct structure plan contained with the Port Macquarie Hastings DCP 2013, the Windmill Hill Precinct will continue to evolve as a medium density residential precinct with a diverse range of housing types. Building forms along the northern and eastern edges of the precinct will reflect the higher landform in this area and form a distinct edge to the open space, stepping down in height towards the west. It is considered that the development as proposed is generally in accordance with the desired future character of the area.
Conflict of Interest Concern	At the time of assessment Lot 101 DP 1244390 was within the ownership of Port Macquarie-Hastings Council. An independent assessment of the DA has occurred (this assessment report) and the DA will be determined by the Joint Regional Planning Panel.
Sunlight Access Concerns	Accompanying the DA is a Design Verification from the project Architect detailing how the building design is in accordance with the Principles of SEPP 65 (Design Quality of Residential Apartment Development and the associated Apartment Design Guide (ADG). Passive solar design principles

Submission Issue Summary	Planning Comment and Response
	<p>have been incorporated through a high level of solar access and natural ventilation of units as well as effective thermal massing. The design responds to environmental concerns by focusing on natural ventilation, and light and incorporates recessed balconies. The proposal achieves solar access in winter between 8am to 4pm to 67.7% of the units. All other units achieve solar access, with nil receiving none. Having regard to the topography of the site sloping downwards towards the south, it is the lower level central and south-west units which do not achieve the requirement. The "E" shape of the building was designed to allow for greater solar access and achieves a good outcome when considering the other factors, in particular slope.</p> <p>In relation to potential loss of sunlight and overshadowing of adjoining properties the Architectural Plans include shadow diagrams for mid-winter, and it reveals that there will be overshadowing impacts in the morning to surrounding land to the west and south, however as the sun moves around during the day, the shadowing direction and amount varies. The eastern corner of the dwelling to the south (Lot B DP 441800) experiences the greatest impact. It is to be acknowledged that due to the topography sloping south and as such the subject land is higher. It is considered that a single or two storey dwelling immediately to the north of the boundary Lot B DP 441800 would result in similar overshadowing for the same time period. The minimum standards for overshadowing at midwinter are satisfied to not warrant refusal of the DA.</p>
Acoustic Concerns	<p>An Acoustic Assessment has been undertaken and recommended construction requirements have been included to provide a suitable environment for the residents of the proposed building. Consideration has also been given to the noise generated by the development including from the basement and waste area.</p>
Loss of privacy and amenity	<p>The proposed development has been designed in such a way to maximise visual and acoustic privacy by minimising direct views between primary indoor and outdoor living area of adjoining dwellings. Good separation has been provided to the existing allotments adjoining the development. This combined with the future landscaping will enhance the visual appearance of the development whilst assisting with minimising amenity impacts from the new units.</p>
Reduced Property Values	<p>Land surrounding the site is zoned R3 Medium Density Residential (to the south) and R1 General Residential (to the west). The proposed development is considered to be consistent with the desired future character of the area.</p> <p>In general, new development increases surrounding property values in the long term (with a few exceptions) because new development usually means more opportunities to enrich the community.</p>
Stormwater Concerns	<p>A Stormwater Assessment has been prepared to provide information on stormwater quality and quantity control and addresses the pre and post development scenarios for the development. The proposed development will not have any significant adverse impacts on water resources and the water cycle.</p>
View Concerns	<p>It is considered that the proposed development and does not adversely impact view corridors from public spaces or adjoining neighbours. The proposed development provides for reasonable and equitable sharing of views, between both the subject and neighbouring properties. There are no whole views or iconic views lost or obstructed by the proposal. The south-western views are maintained.</p> <p>The proposed building will not be highly visible from the beach due to the setback and presence of vegetation between the road and water. The proposal is an increased density for the site, however consistent with existing buildings to the north. The design responds strongly to its coastal location by the design and materials which ensures a visually pleasing building. The high level of landscaping surrounding the building will considerably reduce the visual prominence of the building from a distance, unlike the roofs of existing housing in the wider area.</p>

Submission Issue Summary	Planning Comment and Response
Light Pollution	Normal lighting associated with medium density development will be installed. No undue or unreasonable impacts are expected.
Damage to adjoining properties during construction	During construction, some noise and vibration is likely to be created however construction activities will be short term and will only occur during those hours permitted by the Council. A Construction Environmental Management Plan will be prepared, as a condition of consent, which will detail measures that will protect the public, and the surrounding environment, during site works and construction.

### 2.1.5 (e) the public interest

It is considered there are no matters of public interest pertaining to the proposal which will facilitate the orderly and efficient use of land within the area which has been zoned for residential accommodation. The proposal provides an opportunity for more choice of housing in the market. The development of the site will improve the supply of housing in the Port Macquarie region, in accordance with the regional strategies.

The proposed development satisfies relevant planning controls and will not adversely impact on the wider public interest.

## 2.2 Development contributions applicable

Development contributions will be required towards augmentation of town water supply and sewerage system head works under Section 64 of the *Local Government Act 1993*.

Development contributions will be required in accordance with Section 7.11 of the EP&A Act towards roads, open space, community cultural services, emergency services and administration buildings.

## 2.3 Conclusion and statement of reason

The application has been assessed in accordance with Section 4.15 of the EP&A Act.

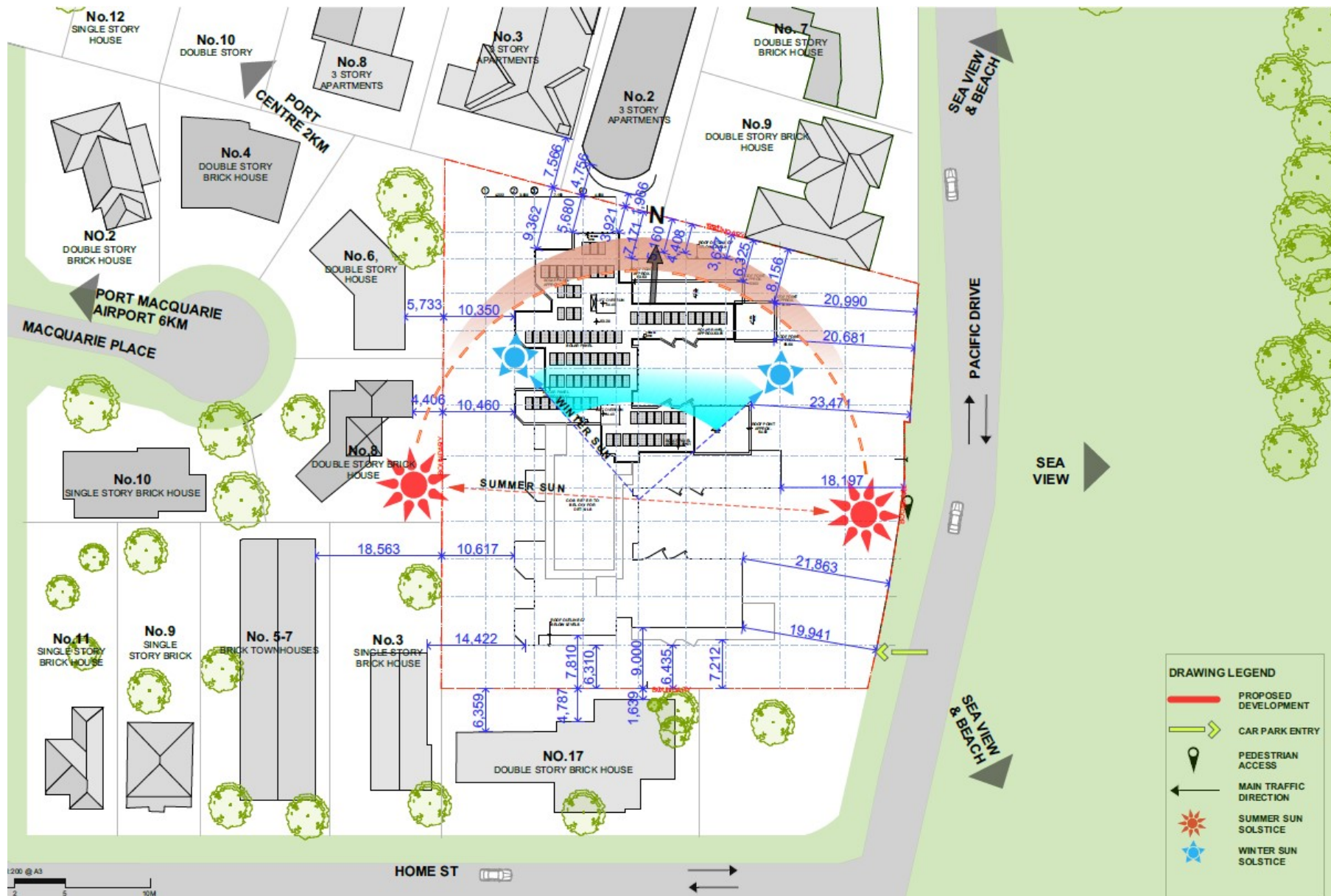
Issues raised during assessment and public exhibition of the application have been considered in the assessment of the application and amendments made to the proposal. Where relevant, conditions have also been recommended to manage the impacts attributed to these issues.

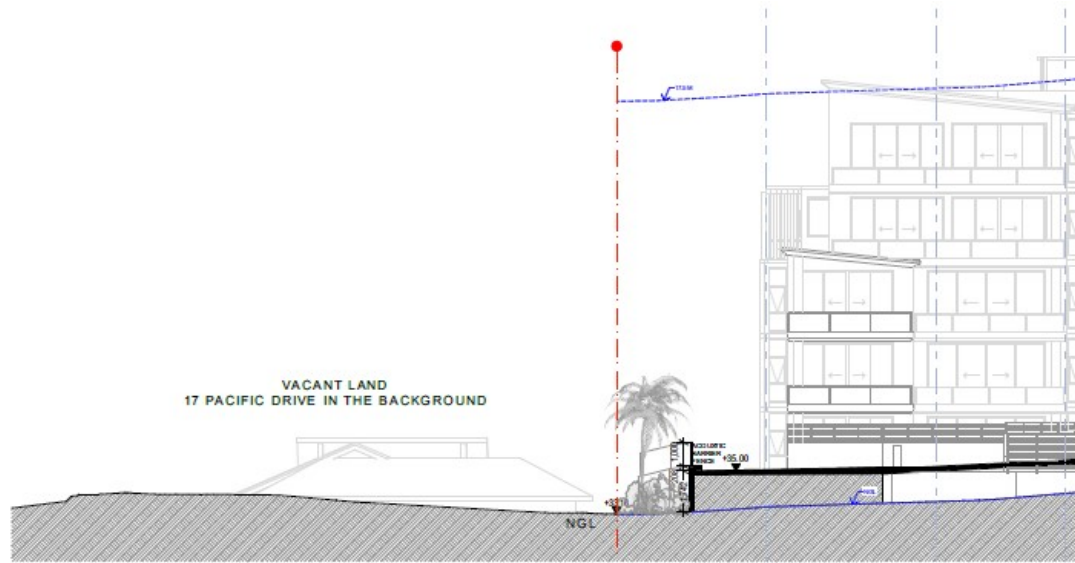
The site is considered suitable for the proposed development and the proposal adequately addresses relevant planning controls. The development is not considered to be contrary to the public's interest and will not result in significant adverse social, environmental, or economic impacts. It is recommended that the application be approved, subject to the recommended conditions of consent provided in the attachment section of this report.



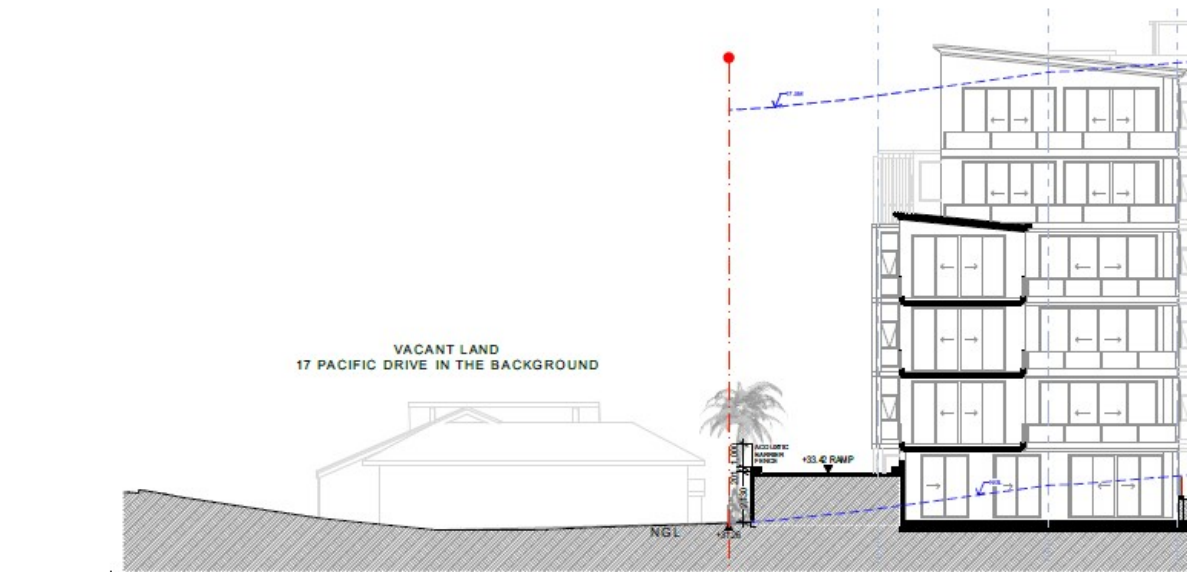
## Appendix A

### Selected development plans and images

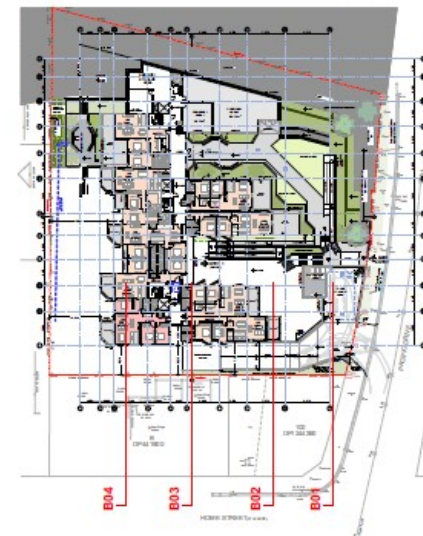


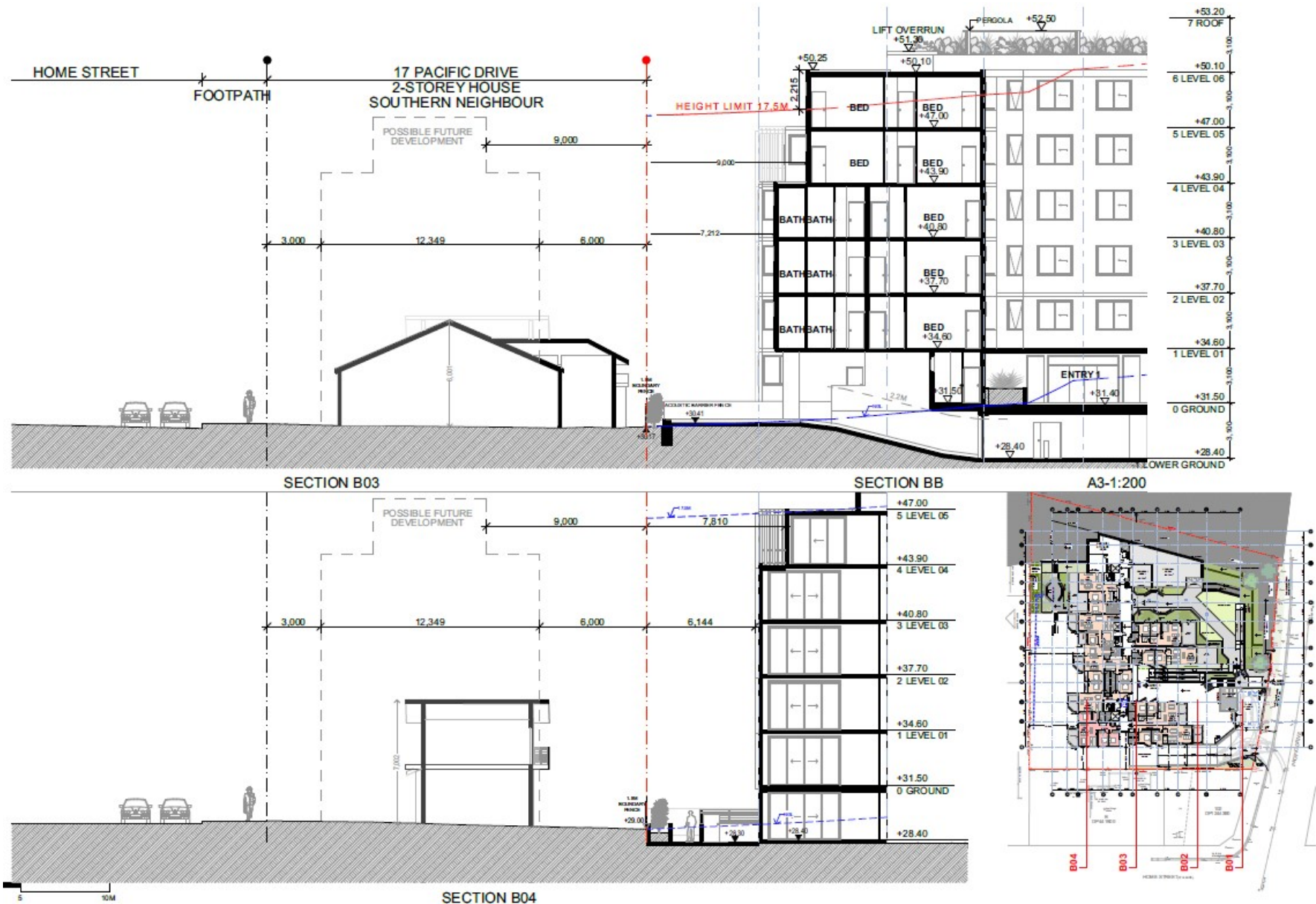


SECTION B01



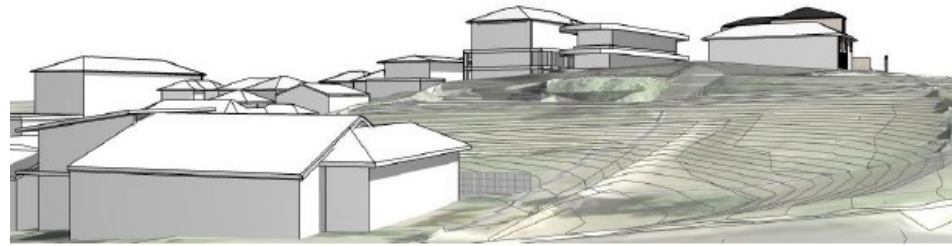
SECTION B02







## PLANNING ASSESSMENT REPORT



03 Home St (East) -Existing



03 Home St (East) - Proposal



04 Pacific Dr (Hight Point) -Existing



04 Pacific Dr (Hight Point) - Proposal



01 Macquarie PI - Existing



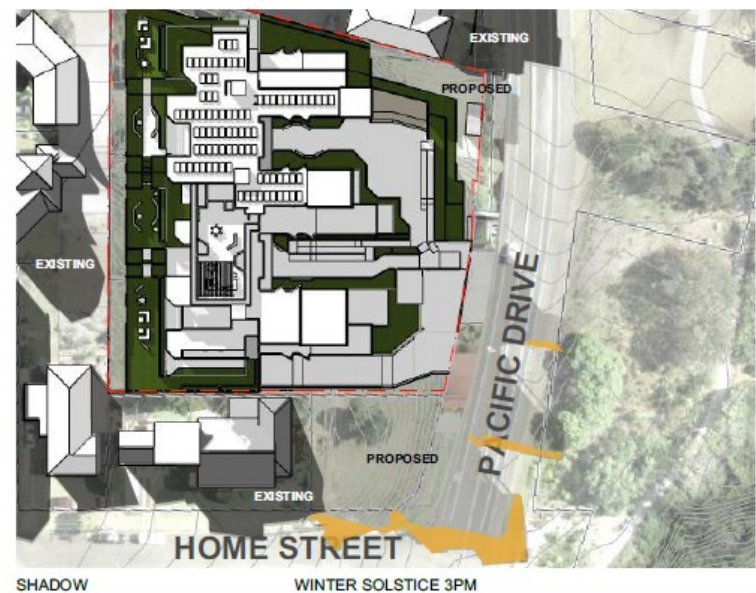
01 Macquarie PI - Proposal



02 Home St (Rear) - Existing



02 Home St (Rear) - Proposal



## Appendix B

### Recommended Conditions of Consent



## Recommended Conditions of Consent

### PART A – GENERAL CONDITIONS

#### Prescribed Conditions

The development is to be undertaken in accordance with the prescribed conditions of Part 6 - Division 8A of the Environmental Planning & Assessment Regulations 2000.

1. The development is to be carried out in accordance with the plans and supporting documents set out in the following table, as stamped and returned with this consent, except where modified by any conditions of this consent.

Plan No.	Revision No.	Plan title	Drawn by	Date
<b>Site Analysis</b>				
A-1001	A	SITE ANALYSIS	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1010	A	SITE PLAN	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1060	a	UNIT SCHEDULE	Ghazi Al Ali Architect Pty Ltd	12/03/2021
<b>Survey</b>				
A-1101	A	SURVEY PLAN	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1102	A	DEMOLITION PLAN	Ghazi Al Ali Architect Pty Ltd	12/03/2021
<b>Floor Plans</b>				
A-1201	A	LOWER GROUND FLOOR	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1202	A	GROUND FLOOR	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1203	A	LEVEL 01	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1204	A	LEVEL 02	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1205	A	LEVEL 03	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1206	A	LEVEL 04	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1207	A	LEVEL 05	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1208	A	LEVEL 06	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1209	A	ROOF	Ghazi Al Ali Architect Pty Ltd	12/03/2021
<b>Elevations</b>				
A-1301	A	EAST ELEVATION	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1302	A	WEST ELEVATION	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1303	A	NORTH ELEVATION	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1304	A	SOUTH ELEVATION	Ghazi Al Ali Architect Pty Ltd	12/03/2021
<b>Sections</b>				
A-1401	A	SECTION AA	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1402	A	SECTION BB	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-1406	A	RAMP SECTIONS	Ghazi Al Ali Architect Pty Ltd	12/03/2021
<b>Statistics and Diagrams</b>				
A-2001	A	GFA CALCULATIONS	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2010	A	SOLAR ACCESS DIAGRAM 2D	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2011	A	3D SOLAR JUN 01	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2012	A	3D SOLAR JUN 02	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2020	A	CROSS-VENTILATION DIAGRAM	Ghazi Al Ali Architect Pty Ltd	12/03/2021

## PLANNING ASSESSMENT REPORT

Plan No.	Revision No.	Plan title	Drawn by	Date
A-2030	A	LANDSCAPE CALCULATION	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2032	A	S-NEIGHBOUR SOLAR ACCESS	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2035	C	CUT AND FILL 01	Ghazi Al Ali Architect Pty Ltd	9/08/2021
A-2036	C	CUT AND FILL 02	Ghazi Al Ali Architect Pty Ltd	9/08/2021
A-2040	A	STORAGE	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2051	B	SHADOW DIAGRAM 9AM	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2052	B	SHADOW DIAGRAM 10AM	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2053	B	SHADOW DIAGRAM 11AM	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2054	B	SHADOW DIAGRAM 12PM	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2055	B	SHADOW DIAGRAM 1PM	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2056	B	SHADOW DIAGRAM 2PM	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2057	B	SHADOW DIAGRAM 3PM	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2058	B	SHADOW DIAGRAM MAY 9AM	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2059	B	SHADOW DIAGRAM MAY 12PM	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2060	B	SHADOW DIAGRAM MAY 3PM	Ghazi Al Ali Architect Pty Ltd	28/06/2021
<b>Material Schedule</b>				
A-2201	A	MATERIAL SCHEDULE 01	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2202	A	MATERIAL SCHEDULE 02	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2203	A	MATERIAL SCHEDULE 03	Ghazi Al Ali Architect Pty Ltd	12/03/2021
A-2204	A	MATERIAL SCHEDULE 04	Ghazi Al Ali Architect Pty Ltd	12/03/2021
<b>3D</b>				
A-2301	B	3D 01	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2302	B	3D 02	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2303	B	3D 03	Ghazi Al Ali Architect Pty Ltd	28/06/2021
A-2304	B	3D 04	Ghazi Al Ali Architect Pty Ltd	28/06/2021
<b>Miscellaneous</b>				
5115STG2	0	PLAN OF CONSOLIDATION OF LOTS 1 & 2 DP536077, LOT A DP441600 AND LOT 101 DP1244390	GRAHAM McLEOD BURN	18/03/2021
0002	B	ENGINEERING CONCEPT PLAN	LandDynamics Australia	30/06/2021

## PLANNING ASSESSMENT REPORT

Plan No.	Revision No.	Plan title	Drawn by	Date
0002	A	Appendix B - Concept Drainage Plan	LandDynamics Australia	26/06/2021
A-1201	P4	Appendix C - NAS Hydraulic Consulting SW Pump System Layout	LandDynamics Australia	12/02/2021
0001	D	CONCEPT SERVICING PLAN	LandDynamics Australia	25/06/2021
114317FPLAN	A	Electrical Design Plan	Midstate Power	17/02/2018
0001	D	Survey Plan – Detail Survey	LandDynamics Australia	11/12/2020
0002	A	LANDSCAPE CONCEPT PLAN	Land Dynamics Australia	16/03/2021

Document No.	Revision No.	Prepared by	Date
Statement of Environmental Effect Proposed Residential Flat Building	B	Land Dynamics Australia	28/10/2021
Updated Clause 4.6 Request for variation to clause 4.3 pf PM-H LEP 2011	V2	Land Dynamics Australia	28/10/2021
Arboriculture Impact Assessment Report	0	The Tree MD Pty Ltd Geoffrey Ashton – Arboriculture AQF 5	25/06/2021
Arboriculture Addendum	0	The Tree MD Pty Ltd Geoffrey Ashton – Arboriculture AQF 5	12/08/2021
Biodiversity Assessment Report EC4474-BEC-REP-PacificDrive	2.0	Biodiversity Australia Pty Ltd	09/07/2021
Stormwaqter Management Concept Plan 5115-SW-RPT Rev D	D	STORMWATER MANAGEMENT CONCEPT PLAN 13-17 Pacific Drive, Port Macquarie	25/06/2021
DCP Compliance Table	A	Land Dynamics Australia	30/6/2021
Traffic and Parking Assessment – PR-05848-B4F9	1.0	Building Inovations Australia	17/03/2021
Operational Waste Management Plan SO855	B	Elephants Foot Recycling Solutions	19/03/2021
10-16 Pacific Drive, Port Macquarie DA Acoustic Assessment 20210011.1/0402A/R0/WY	0	Acoustic Logic	4/02/2021
BCA &Access 2019 A1 Indicative Compliance Report for DA Lodgement PRO-05842-N3H5	1.0	Building Inovations Australia	16/03/2021
BASIX Assessor Certificate 2021318	2.4.3.21	Taylor Smith Consulting	17/03/2021
Koala Assessment Report for Residential Developemnt	-	Biodiversity Australia Pty Ltd	01/2021

## PLANNING ASSESSMENT REPORT

Document No.	Revision No.	Prepared by	Date
Bushfire Hazard Assessment	2.0	DAVID PENSINI Building Certification and Environmental Services	12/01/2021
Quantity Survey Report Q21C006	-	Construction Consultants	8/03/2021
SEPP 65 Apartment Design Statement	2	Ghazi Al Ali Architect Pty Ltd	No date – received 28/10/2021
Fire Engineering DA Supporting Letter PRO-05843-X1N9	-	BCA Innovations	18/03/2021
Preliminary Site Investigation E24947-E01_Rev0	0	EI Australia	16/12/2020
Geotechnical Investigation Report E24947.G03	0	EI Australia	14/01/2021
Structural Report S20244401-RPT-1 [REV.1]	1	PTC Consulting Engineering	19/01/2021

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.

2. No building or subdivision work shall commence until a Construction Certificate or Subdivision Works Certificate has been issued and the applicant has notified Council of:
  - a. the appointment of a Principal Certifying Authority; and
  - b. the date on which work will commence.

Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.

3. This consent allows the strata-subdivision of the units, subject to the submission of an application for a Strata Certificate.
4. Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.
5. The development site is to be managed for the entirety of work in the following manner:
  - a. Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation.
  - b. Appropriate dust control measures.
  - c. Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained. Where work adjoins the public domain, fencing is to be in place so as to prevent public access to the site.
  - d. Building waste is to be managed via an appropriate receptacle.
  - e. Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
  - f. Building work being limited to the following hours, unless otherwise permitted by Council.

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sunday or public holidays



The builder to be responsible to instruct and control his sub-contractors regarding the hours of work.

6. The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.
7. The general terms of approval from the following authorities, as referred to in section 4.50 of the Environmental Planning and Assessment Act 1979, and referenced below, are attached and form part of the consent conditions for this approval.
  - NSW Rural Fire Service - The General Terms of Approval, Reference DA20210507001823-Original-1 and dated 11 October 2021, are attached and form part of this consent.
8. A separate development application for any proposed advertising signs (other than signs which are exempt development or approved under this consent) must be submitted to and approved by council prior to the erection or display of any such signs.
9. The provision, at no cost to Council, of concrete foot paving for the full street frontages of the development. A 1.2metre wide footpath (unless varied in writing by Council) is required with design details in accordance with AUSPEC and Council Standard drawing ASD103. The design plans must be approved by Council pursuant to Section 138 of the Roads Act.
10. The restoration of any vehicle access rendered redundant by the development, to standard kerb and footpath formation at no cost to Council, in accordance with Council's current AUSPEC Specifications and Standards. All works must be approved by Council pursuant to Section 138 of the Roads Act.
11. The developer is responsible for any costs relating to minor alterations and extensions to ensure satisfactory transitions of existing roads, drainage and Council services for the purposes of the development.
12. The applicant shall provide security to the Council for the payment of the cost of the following:
  - a. making good any damage caused to any property of the Council as a consequence of doing anything to which the consent relates,
  - b. completing any public work (such as road work, kerbing and guttering, footway construction, utility services, stormwater drainage and environmental controls) required in connection with the consent,
  - c. remedying any defects in any such public work that arise within twelve (12) months after the work is completed.

Such security is to be provided to Council prior to the issue of the Subdivision Certificate/Construction Certificate or Section 138 of the Roads Act, 1993.

The security is to be for such reasonable amount as is determined by the consent authority, being an amount that is 10% of the contracted works for Torrens Title subdivision development/the estimated cost plus 30% for building development of public works or \$5000, whichever is the greater of carrying out the development by way of:

- i. deposit with the Council, or
- ii. an unconditional bank guarantee in favour of the Council.

The security may be used to meet any costs referred to above and on application being made to the Council by the person who provided the security any balance remaining is to be refunded to, or at the direction of, that person. Should Council have to call up the bond and the repair costs exceed the bond amount, a separate invoice will be issued. If no application is made to the Council for a refund of any balance remaining of the security within 6 years after the work to which the security relates has been completed the Council may pay the balance to the Chief Commissioner of State Revenue under the Unclaimed Money Act 1995.

13. Provision of an automatic stormwater sump and pump system designed by a Practising Hydraulic Engineer for the disposal of seepage and stormwater in the basement storey. The system shall incorporate a standby pump. The design plans for the required services must be approved by Council pursuant to Section 68 of the Local Government Act 1993.

14. The existing footpath/verge area in Pacific Drive is to be raised to contain stormwater in the street. Design plans must be approved by Port Macquarie-Hastings Council pursuant to Section 138 of the Roads Act 1993.
15. The required relocation and/or replacement of the sewer pipe that traverses the land is the responsibility of the proponent. Any costs associated with these works shall be the responsibility of the proponent.
16. The applicant is to ensure the proposed development will drain to the existing point of connection to Council's sewerage system.

## PART B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE OR SUBDIVISION CERTIFICATE

17. Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
  - Position and depth of the sewer (including junction)
  - Stormwater drainage termination point
  - Easements
  - Water main
  - Proposed water meter location
18. Submission to the Principal Certifying Authority prior to the issue of a Construction Certificate or Subdivision Works Certificate detailed design plans for the following works associated with the developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DQS:
  - a. Road works along the frontage of the development including provision of CHR(s) turning treatment (inclusive pavement widening and any structures required).
  - b. Sewerage reticulation. Due to the scale of the development and the increased load on sewer infrastructure, it is necessary to discharge all sewage to a new or existing manhole. Any abandoned sewer junctions are to be capped off at Council's sewer main and Council notified to carry out an inspection prior to backfilling of this work.
  - c. Water supply. Final water service sizing will need to be determined by a hydraulic consultant to suit the domestic and commercial components of the development, as well as fire service and backflow protection requirements in accordance with AS3500. Each individual unit shall be individually metered with the meters either located at an easily accessible location unless the water supply to the whole site is metered with a single larger meter with private meters at each unit. Details are to be provided on the hydraulic plans.
  - d. Stormwater systems.
  - e. Provision of a 1.2m (unless varied in writing by Council), concrete footpath paving across the full road frontage of the property.
19. An application pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate.

Such works include, but not be limited to:

- Civil works
- Traffic management
- Work zone areas
- Hoardings

- Concrete foot paving
- Footway and gutter crossing
- Functional vehicular access

20. Payment to Council, prior to the issue of the Construction Certificate of the Section 7.11 contributions set out in the “Notice of Payment – Developer Charges” schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied, pursuant to the Environmental Planning and Assessment Act 1979 as amended, and in accordance with either the provisions of the following plans (as amended) or a Planning Agreement:

- Port Macquarie-Hastings Administration Building Contributions Plan 2007
- Hastings S94 Administration Levy Contributions Plan 2003
- Port Macquarie-Hastings Open Space Contributions Plan 2018
- Hastings S94 Major Roads Contributions Plan 2004
- Port Macquarie-Hastings Community Cultural and Emergency Services Contributions Plan 2005

The plans may be viewed on Council’s website or during office hours at the Council Chambers located on the corner of Burrawan and Lord Streets, Port Macquarie, 9 Laurie Street, Laurieton, and High Street, Wauchope.

The attached “Notice of Payment” is valid for the period specified on the Notice only. The contribution amounts shown on the Notice are subject to adjustment in accordance with CPI increases adjusted quarterly and the provisions of the relevant plans. Payments can only be made using a current “Notice of Payment” form. Where a new Notice of Payment form is required, an application in writing together with the current Notice of Payment application fee is to be submitted to Council.

21. Prior to the issue of the Construction Certificate, a Compliance Certificate under Section 307 of the Water Management Act 2000 must be obtained from the Water Authority.

Note1: Port Macquarie-Hastings Council is defined as a Water Supply Authority under section 64 of the Local Government Act 1993. As part of the Notice of Requirements of the Water Authority under Section 306 of the Water Management Act 2000, the payment of a cash contribution is required, prior to the issue of a Construction or Subdivision Certificate (whichever occurs first), of the Section 64 contributions, as set out in the “Notice of Payment – Developer Charges” schedule attached to and included as part of this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied in accordance with either the provisions of the relevant Section 64 Development Servicing Plan or a Planning Agreement.

Note 2: A Section 307 Compliance Certificate issued by the Water Authority at the construction certificate stage only relates to the payment of contributions in accordance with the Development Servicing Plan or a Planning Agreement. A further Compliance Certificate may be required for other water management works prior to occupation or the issue of an Occupation or Subdivision Certificate relating to the development.

Note 3: The Water Authority will accept payment of the equivalent amount of contributions under Section 608 of the Local Government Act 1993.

22. Submission to Council of an application for water meter hire, which is to be referred to the Water Supply section so that a quotation for the installation can be prepared and paid for prior to the issue of a Construction Certificate. This application is also to include an application for the disconnection of any existing service not required.

23. Prior to release of the Subdivision Works Certificate or Construction Certificate the submission of details to Council for the disposal of any spoil gained from the site and/or details of the source of fill, heavy construction materials and proposed routes to and from the site, including, but not limited to:

- The pavement condition of the route/s proposed (excluding collector, sub-arterial and arterial roads) for the haulage of fill material to the site and/or haulage of excess material from the site.

The condition report shall include photographs of the existing pavement and pavement deflection test results taken in the travel lanes;

- Recommended load limits for haulage vehicles and;
- A procedure for monitoring the condition of the pavement during the haulage;
- Bond to guarantee public infrastructure is not damaged as a result of construction activity, and;

Council shall determine the need for and extent of any rectification work on the haulage route/s considered attributable by the haulage of materials to and/or from the site.

24. The finished floor level of the building shall be at least 1050mm above the soffit of Council's sewer main. Details indicating compliance with this are to be submitted to the Principal Certifying Authority with the application for Construction Certificate.
25. Footings and/or concrete slabs of buildings adjacent to sewer lines or stormwater easements are to be designed so that no loads are imposed on the infrastructure. Detailed drawings and specifications prepared by a practising chartered professional civil and/or structural engineer are to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.
26. Prior to the issue of the Construction Certificate a dilapidation report shall be prepared by a suitably qualified person for buildings on adjoining properties. Such report shall be furnished to the Principal Certifying Authority.
27. The design of the carpark and accesses is to be in accordance with Australian Standard 2890 (including AS 2890.1, AS 2890.2 and AS 2890.6). Certification of the design by a suitably qualified consultant is to be provided to the Principal Certifying Authority prior to release of the Construction Certificate.
28. Prior to the issue of any Construction Certificate, the provision of water and sewer services to the land are to be approved by the relevant Water Authority and relevant payments received.
29. A stormwater drainage design is to be submitted and approved by Council prior to the issue of a Construction Certificate. The design must be prepared in accordance with Council's AUSPEC Specifications and the requirements of Relevant Australian Standards and make provision for the following:
  - a. The legal point of discharge for the proposed development is defined as a direct connection to Council's downstream piped drainage system.
  - b. The design is to be generally in accordance with the stormwater drainage concept servicing plans.
  - c. The design shall incorporate on-site stormwater detention facilities to limit site stormwater discharge to pre development flow rates for all storm events up to and including the 1% AEP event. Summary calculations demonstrating compliance with the above requirements for the median storm in the critical duration for the design AEP shall be submitted (20%, 5% & 1% AEP at minimum) Alternative is to submit an electronic model in DRAINS format for electronic review. Note that pre development discharge shall be calculated assuming that the site is a 'greenfield' development site as per AUSPEC requirements.
  - d. The design shall include water quality controls designed to achieve the targets specified within AUSPEC D7.
  - e. Where works are staged, a plan is to be provided which demonstrates which treatment measures are to be constructed with which civil works stage. Separate plans are required for any temporary treatment (where applicable e.g. for building phase when a staged construction methodology is adopted) and ultimate design.
  - f. The design is to make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
  - g. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
  - h. The design shall provide details of any components of the existing stormwater drainage system servicing the site that are to be retained.

- i. Plans shall clearly demonstrate how stormwater discharge from those un-drained landscaped areas at the rear of the property are discharged onto the land and across boundaries of adjoining downstream properties in such a manner as to not result in an increase, or concentration of stormwater flows.
30. The building shall be designed and constructed so as to comply with the Bushfire Attack Levels (BAL) prescribed in the bushfire safety authority issued by NSW RFS dated 12 August 2021. Details shall be submitted to the Principal Certifying Authority with the application for Construction Certificate demonstrating compliance with these requirements.
31. Footings and/or concrete slabs of buildings adjacent to sewer lines or stormwater easements are to be designed so that no loads are imposed on the infrastructure. Detailed drawings and specifications prepared by a practising chartered professional civil and/or structural engineer are to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.
32. The design of the carpark and accesses is to be in accordance with Australian Standard 2890 (including AS 2890.1, AS 2890.2 and AS 2890.6). In this regard any blind aisle will require turning bays and all spaces must be accessible. Certification of the design by a suitably qualified consultant is to be provided to the Principal Certifying Authority prior to release of the Construction Certificate.
33. The existing sewer including junction and/or stormwater drainage shall be located on the site and the position and depth indicated on the plans which accompany the application for the Construction Certificate.
34. Prior to release of the Construction Certificate submission of a Waste Management Plan, in accordance with Council's current requirements.
35. Where augmentation is required on adjoining property, owner's consent shall be provided to Council with any Section 68 application and/or Subdivision Works Certificate where augmentation is required on adjoining property including: (Delete when not applicable)
  - Council's sewer infrastructure (i.e. sewer junction, sideline or manhole)
36. A certifying authority must not issue a Construction Certificate for the residential flat development unless the certifying authority has received a statement by the qualified designer verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles specified in State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development.
37. Detailed drawings and specifications prepared by a professional engineer for all retaining walls supporting:
  - i. earthworks that are more than 600mm above or below ground level (existing); or
  - ii. located within 1m of the property boundaries; or
  - iii. earthworks that are more than 1m above or below ground level (existing) in any other location;are to be submitted to the Principal Certifying Authority with the application for Construction Certificate.
38. Prior to the issuing of the Construction Certificate, the Principal Certifying Authority (PCA) shall submit certification to Council that a detailed acoustic review of the mechanical plant to be installed within the proposed building and site, has been carried out by a suitably qualified and practising acoustic consultant to determine the required acoustic treatments to control noise emissions from mechanical plant to satisfactory levels, has been carried out. Details of the required acoustic treatments shall be submitted to Council.
39. Prior to the of the Construction Certificate, the Principal Certifying Authority (PCA) shall submit construction details and certification to Council from a suitably qualified and practising acoustic consultant for the 1.8m high acoustic barrier.



## PART C – PRIOR TO ANY WORK COMMENCING ON SITE

40. A minimum of one (1) week's notice in writing of the intention to commence works on public land is required to be given to Council together with the name of the principal contractor and any major sub-contractors engaged to carry out works. Works shall only be carried out by a contractor accredited with Council.
41. A controlled activity approval shall be obtained from the airport operator for any crane that may be used during the construction phase that would penetrate the Obstacle Limitation Surface (OLS). To avoid any doubt as to whether an approval is required, applicants should check with the airport operator at the earliest possible stage.
42. Prior to works commencing an application being made to the electricity and telecommunications service providers. Services are required to be underground.
43. Provision of a hoarding, fence or other measures to restrict public access to the site during the course of works. Where the hoarding will encroach upon public land an application for approval under section 138 of the Roads Act, 1993 is to be lodged with Council.
44. Where a sewer manhole and/or Vertical Inspection Shaft (VIS) exists within a property, access to the manhole/VIS shall be made available at all times. Before during and after construction, the sewer manhole/VIS must not be buried, damaged or act as a stormwater collection pit. No structures, including retaining walls, shall be erected within 1.0 metre of the sewer manhole or located so as to prevent access to the manhole.

## PART D – DURING WORK

45. Development works on public property or works to be accepted by Council as an infrastructure asset are not to proceed past the following hold points without inspection and approval by Council. Notice of required inspection must be given 24 hours prior to inspection, by contacting Council's Customer Service Centre on (02) 6581 8111. You must quote your Construction Certificate number and property description to ensure your inspection is confirmed:
  - a. at completion of installation of erosion control measures;
  - b. at completion of installation of traffic management works;
  - c. at the commencement of earthworks;
  - d. when the sub-grade is exposed and prior to placing of pavement materials;
  - e. when trenches are open, stormwater/water/sewer pipes and conduits jointed and prior to backfilling;
  - f. before pouring of kerb and gutter;
  - g. prior to the pouring of concrete for sewerage works and/or works on public property;
  - h. during construction of sewer infrastructure;
  - i. during construction of water infrastructure;
  - j. prior to sealing and laying of pavement surface course.

All works at each hold point shall be certified as compliant in accordance with the requirements of AUSPEC Specifications for Provision of Public Infrastructure and any other Council approval, prior to proceeding to the next hold point.

46. The site is in an area known to contain rock that may contain naturally occurring asbestos (NOA). Should potential NOA be located on site notification shall be provided to Council and Workcover prior to works proceeding. No work shall recommence until a NOA management plan has been approved by Council or Workcover.
47. A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
48. Provision being made for support of adjoining properties and roadways during construction.
49. The applicant must ensure that if any unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the

affected area(s) and the Heritage Council of NSW must be notified as required by s146 of the Heritage Act 1977. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

50. The proponent is responsible for ensuring that the existing stormwater pipe traversing/adjoining the land is not damaged while performing any works. If the existing stormwater pipe is damaged during the course of performing the works, the proponent will:
  - a. notify Council immediately when the breakage occurs, and
  - b. repair the damage at no cost to Council
51. During all phases of demolition, excavation and construction, it is the responsibility of the applicant and their contractors to:
  - a. Ascertain the exact location of the Council stormwater drainage pipeline and associated pits traversing the site in the vicinity of the works.
  - b. Take measures to protect the in-ground Council stormwater drainage pipeline and associated pits.
  - c. Ensure dedicated overland flow paths are satisfactorily maintained through the site.

Stormwater drainage pipes can be damaged through applying excessive loading (such as construction machinery, material storage and the like). All proposed structures and construction activities must be sited fully clear of Council's stormwater drainage pipes, pits, easements, watercourses and overland flow paths on the site.

If the Council pipeline is uncovered during construction, all work must cease and the Certifying Authority and Council must be contacted immediately for advice.

Any damage caused to Council's stormwater drainage system must be immediately repaired in full and at no cost to Council.

52. The demolition of any existing structure shall be carried out in accordance with Australian Standard AS 2601: The Demolition of Structures. No demolition materials shall be burnt or buried on site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Should the demolition works obstruct or inconvenience pedestrian or vehicular traffic on an adjoining public road or reserve, separate application shall be made to Council to enclose the public place with a hoarding fence.

Should asbestos be present, its removal shall be carried out in accordance with the National OH&S Committee – Code of Practice for Safe Removal of Asbestos and Code of Practice for the Management and Control of Asbestos in Workplaces.

53. If removal of the existing fence on the northern boundary of the site is required the applicant must replace the fence with a suitable koala friendly fence.

## **PART E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE / STRATA CERTIFICATE**

54. The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
55. Prior to the release of any bond securities held by Council for infrastructure works associated with developments, a formal written application is to be submitted to Council specifying detail of works and bond amount.
56. The owner/applicant is responsible for ensuring that any imported fill is either Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM). Prior to the issue of an Occupation Certificate, certification is to be provided to Council demonstrating that the fill is either VENM or ENM.
57. Submission prior to the issue of a Subdivision Certificate of a plan prepared by a Registered Surveyor showing location of existing road formation relative to reserved and dedicated roads to enable determination of any road widening necessary. Any road widening is to be at no cost to Council.
58. Vehicle ramps, driveways, turning circles and parking spaces being paved, sealed and line marked prior to occupation or the issue of the Occupation Certificate or commencement of the approved land use.

59. Provision of a sign at the front vehicular access point within the property, prior to occupation or the issue of the Occupation Certificate, indicating that visitor/customer parking is available on-site.
60. Prior to occupation or the issuing of the Occupation Certificate provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.
61. An appropriately qualified and practising consultant is required to certify the following:
- all drainage lines have been located within the respective easements, and
  - any other drainage structures are located in accordance with the Construction Certificate.
  - all stormwater has been directed to a Council approved drainage system
  - all conditions of consent/ construction certificate approval have been complied with.
  - Any on site detention system (if applicable) will function hydraulically in accordance with the approved Construction Certificate.
62. Each onsite detention system is to be marked by a plate in a prominent position which states:
- “This is an onsite detention system. It is an offence to reduce the volume of the tank or basin or interfere with any part of the structure that controls the outflow”.
- This plate is to be fixed into position prior to occupation or the issue of the Occupation or Subdivision Certificate.
63. Prior to the issue of an Occupation Certificate, a positive covenant is to be created under Section 88E of the Conveyancing Act 1919, burdening the owner(s) with the requirement to maintain the on-site stormwater detention facilities on the property.
- The terms of the 88E instrument with positive covenant shall include, but not be limited to, the following:
  - The Proprietor of the property shall be responsible for maintaining and keeping clear all pits, pipelines, trench barriers and other structures associated with the on-site stormwater detention facilities (“OSD”).
  - The Proprietor shall have the OSD inspected annually by a competent person.
  - The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all pits, pipelines, trench barriers and other structures in or upon the said land which comprise the OSD or which convey stormwater from the said land; and recover the costs of any such works from the proprietor.
  - The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the OSD, or failure to clean, maintain and repair the OSD.
- The proprietor or successor must bear all costs associated in the preparation of the subject 88E instrument. Evidence of registration with the Lands and Property Information NSW shall be submitted to and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate.
64. Prior to the issue of an Occupation Certificate, a positive covenant is to be created under Section 88E of the Conveyancing Act 1919, burdening the owner(s) with the requirement to maintain the water quality control facilities within the site.
- In addition, a maintenance schedule for the water quality controls must be submitted to Council for approval with the stormwater work-as executed plans. This maintenance schedule and work as executed plan shall be registered and referred to as part of the positive covenant.
- The terms of the 88E instrument with positive covenant shall include, but not be limited to, the following:
- The Proprietor of the property shall be responsible for inspecting, maintaining and keeping clear all components of and structures associated with the stormwater quality improvement device (SQID) in accordance with the maintenance plan in order to achieve the design system performance targets.
  - The Proprietor shall have the SQID inspected annually by a competent person.

- c. The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all components or structures in or upon the said land which comprise the SQID and recover the costs of any such works from the proprietor.
- d. The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the SQID, or failure to clean, maintain and repair the SQID.

The instrument shall be created and registered on the title of the relevant lot(s) with the Lands and Property Information (LPI) NSW. The plan and terms of the easement must be endorsed by Council through formal application prior to lodgement at the Lands and Property Information NSW. Evidence of registration shall be submitted to and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate.

65. A final Dilapidation Report including a photographic survey must be submitted after the completion of works. A copy of this Dilapidation Report together with the accompanying photographs must be given to the property owners. A copy must be submitted to Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Any damage identified in the Dilapidation Report must be fully rectified by the applicant or owner at no cost to the Council prior to the issue of an Occupation Certificate.

66. Prior to Council accepting new stormwater infrastructure, a CCTV inspection of all new and modified stormwater assets must be undertaken in accordance with the Conduit Inspection Reporting Code of Australia WSA 05.

A copy of the CCTV inspection footage and inspection report prepared and certified by a suitably qualified person shall be provided to Council prior to the acceptance of works into the nominated 'into maintenance period'.

67. Prior to occupation or the issuing of any Occupation Certificate a section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council.
68. All works relating to public infrastructure shall be certified by a practicing Civil Engineer or Registered Surveyor as compliant with the requirements of AUSPEC prior to issue of Occupation/Subdivision Certificate or release of the security bond, whichever is to occur first.
69. A Certificate of Compliance under the provisions of Section 307 of the Water Management Act must be obtained prior to the issue of any occupation or subdivision certificate. The application for the certificate is to include an acceptable Work-As-Executed plan for water and sewer mains and services from a Professional Engineer or Registered Surveyor.
70. Written confirmation being provided to the Principal Certifying Authority (PCA) from any properly qualified person (eg the builder), stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.
71. Landscaped areas being completed prior to occupation or issue of the Certificate.
72. Ancillary works shall be undertaken at no cost to Council to make the engineering works required by this Consent effective to the satisfaction of Director of Council's Infrastructure Division. Such works shall include, but are not limited to the following:
- a. The relocation of underground services where required by civil works being carried out.
  - b. The relocation of above ground power and telephone services
  - c. The relocation of street lighting
  - d. The matching of new infrastructure into existing or future design infrastructure
73. Prior to the issue of an occupation certificate evidence to the satisfaction of the Certifying Authority from the electricity and telecommunications providers that satisfactory services arrangements have been made to the dwellings (including street lighting and fibre optic cabling where required).
74. The plan of subdivision and Section 88B instrument shall establish the following restrictive covenants restrictions, easements and/or covenants; with the Council having the benefit of these covenants and having the sole authority to release, vary or modify these covenants each restriction, easement and/or covenant.



- a. Restriction as to user for private garbage service to be in place requiring the collection of all domestic waste comprising general waste (rubbish), recycling and food and garden organics by a private contractors. All wastes are to be collected as separate waste streams. Garbage collection by private contractors shall occur from within the property and not obstruct the use of the public roads.
75. Submission of a compliance certificate accompanying Works as Executed plans with detail included as required by Council's current AUSPEC Specifications. The information is to be submitted in electronic format in accordance with Council's "CADCHECK" requirements detailing all infrastructure for Council to bring in to account its assets under the provisions of AAS27. This information is to be approved by Council prior to issue of the Strata or Occupation Certificate. The copyright for all information supplied, shall be assigned to Council.
76. The strata certificate shall not be issued until such time that the building associated with this development is substantially commenced (as determined by Council).
77. A certifying authority must not issue an Occupation Certificate to authorise a person to commence occupation or use of the development unless the certifying authority has received a statement by the qualified designer verifying that the development achieves the design quality of the development as shown in the plans and specifications in respect of which the Construction Certificate was issued.
78. Prior to the issuing of any type of Occupation Certificate, or occupation of the building, whichever occurs first, certification from a suitably qualified and practising acoustic consultant shall be submitted to the PCA and Council certifying that glazing, acoustic seals, sealant, external glazed doors, external walls, ceilings and roof construction complies with the requirements set out in the Acoustic Logic DA Acoustic Assessment Report.
79. Prior to the issuing of any type of Occupation Certificate, or occupation of the building, whichever occurs first, certification from a suitably qualified and practising acoustic consultant shall be submitted to the PCA and Council certifying that the construction of the 1.8m high acoustic barrier is satisfactory to obtain the required noise attenuation.

## PART F – OCCUPATION OF THE SITE

80. On site car parking in accordance with the approved plans to be provided in an unrestricted manner at all times during the operations of development for use by both residents and visitors.
81. The basin of the outflow control pit and the debris screen must be cleaned of debris and sediment on a regular basis by the owner.
82. Any exterior lighting on the site shall be designed and installed so as not to cause a nuisance or adverse impact on the amenity of the surrounding area by light overspill. The lighting shall be the minimum level of illumination necessary for safe operation and must be designed, installed and used in accordance with AS 4282 control of the obtrusive effects of outdoor lighting. No flashing, moving or intermittent lighting is permitted on the site.



## NSW RURAL FIRE SERVICE

Port Macquarie-Hastings Council  
PO Box 84  
PORT MACQUARIE NSW 2444

Your reference: (CNR-20476)  
Our reference: DA20210427001653-Original-1

**ATTENTION:** Ben Roberts

Date: Thursday 12 August 2021

Dear Sir/Madam,

### Integrated Development Application

s100B – Subdivision – Strata Title Subdivision

10 Pacific Drive PORT MACQUARIE NSW 2444, 2//DP538077, 1//DP538077, A//DP441800, 101//DP1244390

I refer to your correspondence dated 26/04/2021 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, are now issued subject to the following conditions:

### General Conditions

1. This Bush Fire Safety Authority, issued under Section 100B of the Rural Fires Act 1997, relates to the following:
  - plan set prepared by Ghazi Al Ali Architect Pty Ltd, numbered P20-011, revision A, dated 12th March, 2021; and
  - 'BAL Plan' submitted as Attachment 3 of the correspondence prepared by David Pensini Building Certification and Environmental Services dated 28th June, 2021.

### Asset Protection Zones

***Intent of measures: to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the buildings are below critical limits and prevent direct flame contact.***

2. At the commencement of building works or the issue of a subdivision certificate (whichever comes first), and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire site must be managed as an Inner Protection Area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019. When establishing and maintaining an IPA the following requirements apply:
  - tree canopy cover should be less than 15% at maturity;
  - trees at maturity should not touch or overhang the building;
  - lower limbs should be removed up to a height of 2 m above the ground;
  - tree canopies should be separated by 2 to 5 m;
  - preference should be given to smooth barked and evergreen trees;

#### Postal address

NSW Rural Fire Service  
Locked Bag 17  
GRANVILLE NSW 2142

#### Street address

NSW Rural Fire Service  
4 Murray Rose Ave  
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555  
F (02) 8741 5550  
[www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)

- large discontinuities or gaps in vegetation should be provided 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;
- 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 100 mm in height); and
- leaves and vegetation debris should be removed.

### **Construction Standards**

***Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.***

3. New construction of the eastern units, as identified on the 'BAL Plan' submitted as Attachment 3 of the correspondence prepared by David Pensini Building Certification and Environmental Services, dated 28th June, 2021 must comply with section 3 and section 6 (BAL 19) Australian Standard AS3959-2018 Construction of buildings in bush fire-prone areas or the relevant BAL 19 requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A -2015). New construction must also comply with the construction requirements for BAL 19 in Section 7.5 of Planning for Bush Fire Protection 2019.
4. New construction of the western units, as identified on the 'BAL Plan' submitted as Attachment 3 of the correspondence prepared by David Pensini Building Certification and Environmental Services, dated 28th June, 2021 must comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2018 Construction of buildings in bush fire-prone areas or the relevant BAL 12.5 requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements for BAL 12.5 in section 7.5 of Planning for Bush Fire Protection 2019.
5. The buildings must be setback a minimum of 15 metres from the eastern boundary.
6. Fences and gates must comply with Section 7.6 of Planning for Bush Fire Protection 2019.

### **Water and Utility Services**

***Intent of measures: to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.***

7. The provision of water, electricity and gas must comply with Table 5.3c of Planning for Bush Fire Protection 2019.

### **Landscaping Assessment**

8. Landscaping is to comply with the principles of Appendix 4 of Planning for Bush Fire Protection 2019.

### **General Advice – Consent Authority to Note**

This Bush Fire Safety Authority has been issued on the basis of a standalone performance solution utilising short fire run modelling.

For any queries regarding this correspondence, please contact Danette Cook on 1300 NSW RFS.

Yours sincerely,

Alan Bawden  
**Supervisor Development Assessment & Plan**  
**Built & Natural Environment**



**NSW RURAL FIRE SERVICE**

# **BUSH FIRE SAFETY AUTHORITY**

Subdivision – Strata Title Subdivision

10 Pacific Drive PORT MACQUARIE NSW 2444, 2//DP538077, 1//DP538077, A//DP441800,  
101//DP1244390

RFS Reference: DA20210427001653-Original-1

Your Reference: (CNR-20476)

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority confirms that, subject to the General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under *s100b of the Rural Fires Act 1997*.

**Alan Bawden**

**Supervisor Development Assessment & Plan  
Built & Natural Environment**

Thursday 12 August 2021

## Developer Charges - Estimate

**Applicants Name:** Land Dynamics  
**Property Address:** Pacific Drive, Port Macquarie  
**Lot & Dp:** Lot(s):1 & 2, A and 101,DP(s):538077, 441800 and 1244390  
**Development:** DA 2021/219 - Residential Flat Building



Water and Sewerage Headworks Levies are levied under S64 of the LGA Act & S306 of the Water Management Act 2000.  
 Other contributions are levied under Section 7.11 of the Environmental Planning and Assessment Act and Council's Contribution Plans.

Levy Area	Units	Cost	Estimate
1 Water Supply	28.18	\$10,498.00 Per ET	\$295,833.60
2 Sewerage Scheme Port Macquarie	43.75	\$3,983.00 Per ET	\$174,256.20
3 Since 1.7.04 - Major Roads - Port Macquarie - Per ET	40.85	\$7,869.00 Per ET	\$321,448.60
4 Since 31.7.18 - Open Space - Port Macquarie - Per ET	40.85	\$5,798.00 Per ET	\$236,848.30
5 Commenced 3 April 2006 - Com, Cul and Em Services CP - Port Macquarie	40.85	\$4,760.00 Per ET	\$194,446.00
6 Com 1.3.07 - Administration Building - All areas	40.85	\$937.00 Per ET	\$38,276.40
7 N/A			
8 N/A			
9 N/A			
10 N/A			
11 N/A			
12 N/A			
13 N/A			
14 N/A			
15 Admin General Levy - Applicable to Consents <b>approved after 11/2/03</b>		2.2% S94 Contribution	\$17,402.40
16			
17			
18			
<b>Total Amount of Estimate (Not for Payment Purposes)</b>			<b>\$1,278,511.50</b>

NOTES: These contribution rates apply to new development and should be used as a guide only.  
 Contributions will be determined in conjunction with a Development Application (DA) or Complying Development Application (CDA).  
 DAs will be subject to the contributions plans in force at the time of issue of the Consent and for CDCs at time of lodgement.  
 Contribution Rates are adjusted quarterly in line with the CPI.

**DATE OF ESTIMATE:**

**20-Sep-2021**

**Estimate Prepared By Ben Roberts**

**This is an ESTIMATE ONLY - NOT for Payment Purposes**

and Dynamics, Pacific Drive, Port Macquarie, 20-Sep-2021.xls

**PORT MACQUARIE-HASTINGS COUNCIL**