NOTICE OF ORDINARY MEETING

Notice is hereby given that a meeting of

Formerly GREAT LAKES COUNCIL
Will be held at the Council Chambers, Breese Parade, Forster on

25 MAY 2016 AT 2.00PM

The order of the business will be as detailed below (subject to variation by Council)

1. Acknowledgement of Country
2. Opening Prayer
3. Apologies
4. Declarations of Pecuniary & Non-Pecuniary Conflicts of Interest
5. Confirmation of the Minutes from previously held meetings: Ordinary Meeting 26 April 2016
6. Consideration of Officers' Reports:
   Director Planning & Environmental Services
   Director Engineering Services
   Director Corporate & Community Development
7. Late Urgent Matters (including Councillor requests for Approved Leave/Attendance at Conferences, Training etc)
8. Consideration of Business in Closed Session
9. Close of Meeting

Glenn Handford
GENERAL MANAGER
# TABLE OF CONTENTS

## CONSIDERATION OF OFFICERS’ REPORTS:

<table>
<thead>
<tr>
<th>Number</th>
<th>Report Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>PES - DA 60/2016 - Alterations &amp; Additions - 5 Burrawong Place Forster</td>
</tr>
<tr>
<td>2</td>
<td>PES - DA 218/2016 - New Dwelling - 7780 Pacific Hwy, Nerong</td>
</tr>
<tr>
<td>3</td>
<td>PES - DA 253/2016 Alterations/Additions - 29 The Boulevarde Hawks Nest</td>
</tr>
<tr>
<td>4</td>
<td>PES - DA 321/2016 - Dual Occupancy - 12 Coolabah Close, Tea Gardens</td>
</tr>
<tr>
<td>5</td>
<td>PES - DA 322/2016 - New Dwelling - 54A Patsys Flat Road, Smiths Lake</td>
</tr>
<tr>
<td>6</td>
<td>PES - DA-335/2016 - Cafe &amp; Farmgate - The Bucketts Way Booral</td>
</tr>
<tr>
<td>7</td>
<td>PES - DA 378-2016 Digital TV Transmission Tower</td>
</tr>
<tr>
<td>8</td>
<td>PES - DA 506/2010 - Alterations/additions - 66 Newman Ave, Blueys Beach</td>
</tr>
<tr>
<td>9</td>
<td>PES - List of Matters Before the Land &amp; Environment Court - May 2016</td>
</tr>
<tr>
<td>10</td>
<td>PES - Consents Issued Under Delegated Authority - April 2016</td>
</tr>
<tr>
<td>11</td>
<td>PES - Penalty Infringement Notices issued April 2016</td>
</tr>
</tbody>
</table>

## DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES

<table>
<thead>
<tr>
<th>Number</th>
<th>Report Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>ES - Supply of Compactor Tuncurry Waste Transfer Station - intention to submit late report</td>
</tr>
<tr>
<td>13</td>
<td>ES - Part Dedication of Lot 1 DP 270100 - Admiralty Ave, Tea Gardens</td>
</tr>
</tbody>
</table>

## DIRECTOR ENGINEERING SERVICES

<table>
<thead>
<tr>
<th>Number</th>
<th>Report Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>14</td>
<td>CCD - Quarterly Budget Review Statement - March 2016</td>
</tr>
<tr>
<td>15</td>
<td>CCD - Community Grants Program</td>
</tr>
<tr>
<td>16</td>
<td>CCD - Investment Report - April 2016</td>
</tr>
</tbody>
</table>

## DIRECTOR CORPORATE & COMMUNITY DEVELOPMENT

<table>
<thead>
<tr>
<th>Number</th>
<th>Report Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>17</td>
<td>PESCONF - Acquisition of Lot 36 DP822638 &amp; Lot 230 DP753212 - Minimbah</td>
</tr>
</tbody>
</table>

## CLOSED COUNCIL

<table>
<thead>
<tr>
<th>Number</th>
<th>Report Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>18</td>
<td>PESCONF - Acquisition of Lot 36 DP822638 &amp; Lot 230 DP753212 - Minimbah</td>
</tr>
</tbody>
</table>
CONSIDERATION OF OFFICERS’ REPORTS:

DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES

1 PES - DA 60/2016 - Alterations & Additions - 5 Burrawong Place Forster

Index: DA 60/2016 & PK 4717
Author: Senior District Building Surveyor - Chad Vowles
Ordinary Meeting: 25 May 2016

DETAILS:

Date Received: 18 August 2015
Applicant: RGR Design
Owner: Mr Robert Henley
Land: Lot 3 DP242807, 5 Burrawong Place, Forster
Area: 676.6m²
Property Key: 4717
Zoning: R2 Low Density Residential, GLLEP 2014

SUMMARY OF REPORT:

- Application for alterations and additions to an existing dwelling.
- 14 Submissions of objection received, concerns over height, impact to surrounding properties, loss of view, privacy, overshadowing and design out of character for local area are the issues of concern.
- Council requested further information to support application.
- Assessment against the numerical controls and the objectives of Great Lakes DCP.
- Design amended to reduce height and increase setback of building.
- Plans re-notified to surrounding properties.
- 10 Submissions of objection received for amended plans. Points of concern similar to original objections.
- Assessment of the amended design completed and report prepared to Council.

SUMMARY OF RECOMMENDATION:

That Development Application No. 60/2016 for dwelling alterations and additions at Lot 3 DP 242807, 5 Burrawong Place, Forster be refused.

FINANCIAL/RESOURCE IMPLICATIONS:

A decision for approval subject to conditions or refusal may lead to an appeal to the Land and Environment Court with inherent cost implications.

POLICY IMPLICATIONS:

Nil.
LEGAL IMPLICATIONS:

A decision for approval subject to conditions or refusal may lead to an appeal to the Land and Environment Court with inherent cost implications.

LIST OF ANNEXURES:

A: Site Plan.
B: Elevations.

LIST OF ATTACHMENTS:

Nil.
SUBJECT SITE AND LOCALITY:
BACKGROUND:

18 August 2015  Development Application lodged.
21 August 2015  Council requested height profiles to be erected prior to notification.
13 October 2015 Applicant advised Council that height profiles had been erected.
19 October 2015 Neighbour notification period commenced.
2 November 2015 Notification period finishes - 14 objections received by Council.
5 November 2015 Council advises Applicant of submissions of objection against proposal.
2 February 2016 Statement of justification for the proposed design submitted by Owner addressing points of public objection.
10 February 2016 Applicant formally submits amended plans to Council with reduced building height and increased front setback.
12 February 2016 Neighbour notification period for amended plans commenced.
29 February 2016 Notification period finishes - 10 objections received by Council.
2 March 2016 Meeting in Council Office between Council's Assessment Officer, the property owners and DA applicant (RGR Design).
21 March 2016 Applicant provides written response to 2nd round of notification objections and submits shadow diagrams to Council for proposal.

PROPOSAL:

The proposed development is for alterations and additions to an existing two (2) storey dwelling. The application proposes to build an additional (third) storey, an external lift shaft to service all three (3) levels and alter the floor plan of the existing two (2) storey dwelling. It is proposed to remove the roof of the existing dwelling and to construct a third floor level including viewing deck. Additions to the existing habitable floor level appear to be limited to an internal stair.

The proposed new storey will provide additional bedroom accommodation, a bar, access stairs, lift access and an external balcony.

Pre-lodgement of DA (May 2015)

Prior to the initial lodgement of any plans to Council, the Owners of the property and Applicant (draftsman) requested a pre-lodgement meeting with Council staff at the Development Assessment Panel in May 2015. At this pre-lodgement meeting, Council flagged several issues that would need to be addressed as part of any future application to Council, including the maximum allowable building height, floor space ratio, front setback to Burrawong Place (lift to be considered as internal design), three (3) storey aspect and views/privacy considerations.

Initial DA Proposal (August 2015)

The development application was lodged with Council in August 2015, with the plans showing a design which exceeded the 8.5m maximum height limitation, and with a front setback between the proposed external lift shaft and the property boundary (to Burrawong Place) of 1.2m rather than the 4.5m setback required under the Council DCP.
The plans were neighbour notified and Council received fourteen (14) objections.

**Amended DA Proposal (February 2016)**

Council received amended plans in February 2016 showing an amended roof design with a reduced maximum level of 8.5m above existing ground level, and an increased front boundary setback to the proposed lift shaft of 2.9m (still non-compliant with the 4.5m minimum distance).

The amended plans were neighbour notified and Council received ten (10) objections.

The amended plans are the subject of this Council report.

**EXISTING DWELLING:**

The current two (2) storey dwelling is a mix of brick and cladding materials with a sheet metal roof which was originally constructed in 1981. A swimming pool has been constructed so that it is partially internal and partially external of the dwelling. Dwelling additions to increase the size of the dwelling were approved by Council in 1987.

**Current ground floor level**
The ground storey of the existing dwelling consists of a double garage, triple carport, bedroom, family room, rumpus room and bar, indoor pool area, laundry, dual staircase and separate bathroom.

**Current first floor level**
The first floor level of the existing dwelling consists of two (2) bedrooms, two (2) ensuites, sunroom, media room, study, dining room, kitchen, lounge room, bathroom and three (3) external balconies.

**SITE DESCRIPTION:**

The site is a relatively flat 676.6m² rectangular allotment with a street frontage to Burrawong Place on the south, and the rear boundary to the west adjoining a right of carriageway (driveway) servicing 3 dwellings. The subject property also shares a boundary with One Mile Beach to the east, approximately 120m from the ocean. The existing two (2) storey dwelling is situated toward the western portion of the allotment.

The local area is characterised by one (1) and two (2) storey residential dwellings to the north, south and west of the site and the coastal edge of the Pacific Ocean to the east.

**REPORT:**

The following matters listed under Section 79C of the Environmental Planning and Assessment Act, 1979, are relevant in considering this application:

a) **The provisions of any environmental planning instrument; any proposed instrument that is or has been the subject of public consultation and which have been notified to the consent authority; any DCP; any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F; any matters prescribed by the regulations; any coastal zone management plan that apply to the development application on the subject land.**

**Great Lakes Local Environmental Plan 2014 (GLLEP 2014)**

Under GLLEP 2014 the development site is zoned R2 Low Density Residential. Mapping indicates that there is a 0.5:1 Floor Space Ratio (FSR) requirement and a maximum height of dwellings of 8.5m. The objectives of the R2 zone are;
To provide for the housing needs of the community within a low density residential environment.

To enable other land uses that provides facilities or services to meet the day to day needs of residents.

Single dwellings are permitted with the consent of Council.

Floor Space Ratio
The maximum allowable floor space ratio (FSR) for new dwellings in the R2 low density residential zoning is 0.5:1. This ratio excludes open balconies, required car parking and stairways/lifts.

The maximum allowable FSR for the 676.6m² allotment at 5 Burrawong Place is 338.3m². The existing dwelling (approved before the current FSR limitations) has an FSR of 393.9m², which is 55.6m² above the current maximum allowable level (exceeds by 16%).

Therefore, the existing dwelling already exceeds the 0.5:1 maximum allowable ratio with a floor space ratio of 0.58:1.

The third storey addition which is the subject of this DA proposes an additional 55m² of living space (excluding the stairs and lift shaft) which would increase the FSR by 0.8 to a total FSR of 0.66:1. This would result in a total of 110.6m² (32%) of living space in excess of the 0.5:1 ratio set out by Council's current Great Lakes Local Environmental Plan 2014 for the low density residential zoning.

Council has the power to vary the requirements of the Local Environmental Plan as set out in clause 4.6 of the L.E.P, which allows some flexibility when applying these development standards in particular circumstances to achieve a better outcome.

In such an instance where Council considers varying the L.E.P, the Applicant of the development application must demonstrate:

"(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
(b) that there are sufficient environmental planning grounds to justify contravening the development standard."

Approval of an excessive non-compliance of Council's floor space ratio requirements has the potential to set a local precedence in the coastal area of Forster, and potentially threatens Council's FSR requirements as a limitation for residential development as set out in the Great Lakes Council Local Environmental Plan (L.E.P).

Maximum Building Height
The maximum height of low density residential dwellings in the R2 land zoning is 8.5m above existing ground level. The objective of the height limitation is:

"(a) to ensure that the scale of proposed buildings is compatible with the existing environmental character and the desired future urban character of the locality...."

The amended plans for the consideration of Council have a maximum roof level of 8.5m, complying with the numerical control as set out in the L.E.P, however the LEP objectives state that the design must also be compatible with the existing local area and surrounding dwellings.

The proposed third storey roofline will have a maximum of R.L 14.9m AHD which is approximately 1.14m higher than the existing roof ridge of the two (2) storey building, which stands at approximately 7.36m above existing ground level.

In contrast, the adjacent two (2) storey dwelling located at 3 Burrawong Place which was approved by Council in 2007 (DA32/2007) has a maximum roof ridge height of R.L 13.0m AHD, which is approximately 1.9m below the roof ridge level proposed by the subject property at 5 Burrawong Place.
A more recent approval granted by Council in the local area of One Mile Beach is that of DA104/2012 at 32 Underwood Road (also a beach front property surrounded by existing homes). This new two (2) storey dwelling was approved by Council in 2012 with a maximum ridge height of 13.6m AHD - approximately 1.3m below the roof level proposed by the subject property.

Whilst the proposed design may comply with the numerical control with a maximum height of 8.5m, the proposal will potentially sit above the existing levels of surrounding and nearby houses in the area by over one (1) metre, and may not be viewed as compatible or within scale of the locality as required by the LEP objective for building height.

**State Environmental Planning Policy SEPP 71**

SEPP 71 applies to all land within the Coastal Zone as defined by the Coastal Protection Act. As this land is situated within one (1) kilometre of the coast, the SEPP applies to the subject site to the extent of requiring Council to consider the matters listed within Clause 8 of the Policy.

Matters listed for consideration under clause 8 of the SEPP have been examined and the following matters thought to be relevant in the instance of this development:

**Clause 2**

(e) to ensure that the visual amenity of the coast is protected.

(k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area.

**Clause 8**

(d) The suitability of development given its type, location and design and its relationship with the surrounding area.

The proposed dwelling additions will be visible from both the sand and water of One Mile Beach - this is confirmed by the fact that the height profiles erected for the roof of the third storey dwelling level can be seen from the beach at present.

The majority of the dwelling will remain unseen from the beach due to the existing dune vegetation, and it is safe to assume that the vegetation in this location will remain due to the protected nature and location of the vegetation.

The 'bulk and scale' of the development in relation to SEPP 71 requirements is a concern, as the proposal will be one of only a few beach front structures be visible from the beach and ocean. Currently, when people using the beach look to the west toward the residential area of One Mile Beach, the immediate beach front properties are shielded by dune vegetation, and only the dwellings to the west of Underwood Road (over 150m from the beach) and beyond up the hillside can been seen from the beach.

Whilst majority of the existing residential building at 5 Burrawong Place will be shielded from public viewing from the coastal zone by the existing dune vegetation, the proposed top storey would be visible from the beach and water (as demonstrated by the erected height profiles). This upper storey portion of the proposal is not consistent with the majority of other beach front properties on One Mile Beach (only portions of other dwellings can be seen through dune vegetation).

A conclusion has been drawn that it would be very difficult to justify this three (3) storey dwelling that appears to exceed the height, bulk and scale of surrounding properties and will have a negative impact on the visual amenity from the coast.
**NSW Coastal Policy 1997**

The 1997 NSW Coastal Policy is a Government Policy, which is a prescribed matter pursuant to Section 79C of the Environmental Planning and Assessment Act 1979. This requires Council to consider the relevant objectives and strategic actions of the policy when assessing development applications.

The objectives and strategic actions of the policy have been reviewed in regard to this application and the development proposal is considered to contravene the relevant objectives and strategic actions of the policy.

The appropriate principle for assessment of visual impact of a proposal from adjoining beaches within Appendix C Table 3 states;

*“In urban areas, where building heights and scale are likely to be greater and more varied, the aim should be for new development to be compatible with the height and scale of existing buildings.”*

In this regard the scale and bulk of the proposed development is considered to be visually dominant and is not supported. Should Council approve the subject application, it is considered that the precedent of acceptable design for beachfront properties of the One Mile Beach area would be modified in a detrimental way that may allow for future developments to follow.

**Coastal Design Guidelines for NSW**

The Coastal Design Guidelines seek to compliment the Coastal Policy and SEPP 71 and give guidance in the design of buildings within the village zone. The Coastal Design Guidelines indicate that building heights and form should be determined by designed based, place specific development control plans to enable built form outcomes to be tested to ensure that they will result in the desired future character of the area.

Numerical heights and building form should also be determined in relation to stated urban design principles. The proposed development is a three (3) storey development in a predominant two (2) storey locality that is considered to impact upon the neighbouring properties in terms of view loss and bulk and scale.

**Development Control Plan 2014**

The purpose of the DCP is to provide detailed guidelines for the development of a dwelling house and dual occupancy development. The DCP also aims at ensuring designers consider site constraints and surrounding developments during the design process. The DCP allows some flexibility in the application of numerical controls where strict compliance is unreasonable or unnecessary having regard to the objective and circumstance of the case.

<table>
<thead>
<tr>
<th>DCP Design Element</th>
<th>Numerical Control</th>
<th>DA Proposal</th>
</tr>
</thead>
</table>
| Primary road boundary setback | Where there are existing neighbouring houses within 40m, the primary road setback should be an average of the setbacks of the nearest two neighbouring houses, with the same primary road frontage.  
Where there are no neighbouring houses the minimum setback from the primary road frontage will vary:  
4.5m minimum setbacks on allotments less than 900m²;  
A reduced primary road setback may be considered when the side and rear boundaries of an allotment are located within (in whole or part) the coastal planning area. It must be demonstrated | The existing dwelling is sited at approximately 4.5m from the front property boundary.  
As Burrawong Place is a short street with only three (3) dwellings fronting the street (excludes battle-axe blocks), it is difficult to establish a common front setback.  
The existing setback is                                                                                                                                 |
|                             | Yes.                                                                             | The existing dwelling complies with the objectives of the current DCP, and the lift shaft forward on the external wall of the dwelling can be considered under the |
The design proposes to incorporate a three (3) storey lift shaft in the front elevation of the building facing Burrawong Place. The lift shaft is 1.7m forward of the existing external wall of the dwelling, with a setback to the front property boundary of 2.91 metres.

The lift shaft is proposed to stand 8.5 metres tall, and it could be argued that the intention of the 'articulation zone' within the DCP is to allow entry features, porticos, balconies, decks, verandahs, and bay windows that do not dominate the streetscape.

The DCP objective of the articulation zone also states "inclusion of an articulation zone must give consideration to view sharing, privacy and amenity impacts to adjoining dwellings." In this instance, the lift shaft design and location has the possibility of detrimentally affecting the amenity and privacy of nearby properties, and detracting from the existing streetscape. It cannot be considered to meet the objectives of the DCP in this regard.

b) The likely impacts of development including environmental impacts on both natural and built environments and social/economic impacts in the locality
**Context and Setting**

The development proposed by the application is a large development and due to the finished height of the proposal (over one metre above adjacent properties), may be considered out of context within the existing built environment of the locality.

The surrounding properties in nearby streets have all been limited to a maximum of two (2) storeys by previous local development controls, and whilst the proposal before Council complies with the maximum height limitation numerical control, and there is no longer a maximum storey limitation within the DCP (only height limitation of 8.5m), the bulk and scale of the proposed design will be unique within the local area, and therefore out of context.

Approval of this proposal may provide reinforcement to, and help establish a precedent for even larger buildings in the One Mile Beach area.

**Site Design and Internal Layout**

The building allotment is a rectangular shape. The Applicant has opted to extend the dwelling vertically to take advantage of extensive coastal views to the east of the development site. The internal layout is un-conventional due to the presence of a partially indoor/outdoor swimming pool on the ground storey.

The existing dwelling has a large number of common space living areas at present including:

- family room
- rumpus bar
- foyer/separate entry
- media room
- sun room
- lounge room
- study

It would be possible to re-purpose some of these areas to the desired additional bedroom accommodation without requiring the addition of an extra storey on top on the existing two (2) storey structure.

**Views**

**Subject property**

Extensive coastal views are available from the existing dwelling. The views are to the east with expansive Pacific Ocean views. The proposed third storey addition would add extensive views to the north-east toward the One Mile Beach sand dune, and to the south east towards Cape Hawke, along with the ocean/sand interface of One Mile beach to the east.

**Nearby properties**

During the second neighbour notification period, of the ten (10) objections received by Council, five (5) submissions directly related to the potential loss of view and outlook if the development application were to be approved by Council.

Concern has been expressed that the view and outlook available of the beach, coast and ocean from private vantage points on a variety of sites will be detrimentally affected. Views available from the outlook of those various properties will be examined. View loss is particularly important in council’s consideration as the building fails to comply with the floor space ratio (FSR) numeric limit provided by the LEP by raising the dwelling an extra storey, and a proposed building height at the absolute height limitation of 8.5m above ground level.
The concern of the property owners specifically relates to the increased roof ridge height when viewed from the west towards the Pacific Ocean, and the three (3) storey lift shaft on the southern side of the dwelling (also when viewed from the west).

Four (4) of the objections relate to the potential loss of distant views over the existing two (2) storey dwelling.

One (1) objection from the adjacent property to the west relates to potential loss of views from eastern facing rooms and balcony. This objection states that the lift shaft and increased ridge height will affect eastern views from the property.

To quantify the impact on view, I refer to the Land and Environment Court Decision Tenacity Consulting v Warringah (2004). In this decision the court used a four step assessment to determine the application based on view sharing principals.

This assessment will estimate the impact of the development proposal.

Tenacity Principles

The first step is the assessment of views to be affected.
Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

The second step is to consider from what part of the property the views are obtained.
For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

The third step is to assess the extent of the impact.
This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

View Assessment

A total of five (5) submissions received by Council against the amended plans mentioned the potential negative effect the design would have on existing coastal/ocean views. Those submissions were received from properties located as follows:

- 28 Seaview Street - approx. 130m south-west of the subject site
- 18 Seaview Street - approx. 105m west of the subject site
- 4 Charles Street - approx. 95m west of the subject site
- 2 Charles Street - approx. 105m west of the subject site
• 8 Underwood Road - approx. 15m west (direct adjacent neighbour)

The above submissions can be categories as follows:
• directly adjacent property (8 Underwood Road)
• distant properties within the locality (2 and 4 Charles St, 18 and 28 Seaview St)

Directly adjacent property (8 Underwood Road)

The property which is subject of the current development application (5 Burrawong Place) and the adjacent property owned by the objector (8 Underwood Road) are both orientated to face east. The primary views are toward the Pacific Ocean and beach dune vegetation of One Mile Beach.

The dwelling at 8 Underwood Road is accessed from Underwood Road and is a corner allotment bounded also by Burrawong Place. The existing dwelling at 8 Underwood Road is a two (2) storey design with a living area and large rear deck on the eastern elevation adjacent to the rear property boundary of the subject lot at 5 Burrawong Place. The rear deck currently provides both seated and standing views to the south east of the ocean and horizon, but not the sand/water interface of the beach.

Comment:
This ocean view from the deck is gained by a south-east outlook over the front yard of 5 Burrawong Place and the open space provided by the Council road (Burrawong Place) and dune vegetation at the back of One Mile Beach.

There is currently no ocean view available directly east or north-east of the deck due to the existing two (2) storey dwelling, only an outlook of sky above the horizon to the east.

Assessment of photographs provided by the Owners of 8 Underwood Road, taken from the existing rear deck facing east towards the subject property (including the erected height profiles) determined the following:

• The additional storey proposed above the existing two (2) storey dwelling at 5 Burrawong Place will not impact on the view east or north-east, but the increased height of the proposal will add to the bulk and scale of the building within direct sight of the deck outlook.

• The proposed lift shaft on the southern elevation of the proposal will impact on an existing view to the east from the property. This impact is considered minor due to the limited sighting of the water due to the dune vegetation behind where the lift shaft is proposed, and the remaining view to the south-east from the deck (over Burrawong Place road reserve) is more highly valued and remains unaffected by the proposal.

• The view loss from standing/seated positions from the rear timber deck of 8 Underwood Road is considered minor.

Whilst the proposed third storey will not impact on the view directly to the east of 8 Underwood Road, the view to the south-east across the front yard of the subject property will suffer a minor impact from the proposed lift shaft forward of the established building line. If the design of the lift shaft were to be relocated (potentially internally), the view loss to 8 Underwood Road would be close to nil.

Distant properties within the locality (2 and 4 Charles St, 18 and 28 Seaview St)

Four (4) submissions with concerns relating to potential loss of view were submitted from the following properties:

• 28 Seaview Street - approx. 130m south-west of the subject site
• 18 Seaview Street - approx. 105m west of the subject site
• 4 Charles Street - approx. 95m west of the subject site
• 2 Charles Street - approx. 105m west of the subject site

Each of these properties is located in an elevated position west of Underwood Road, situated higher than the subject property, with extensive ocean views eastward over the existing two (2) storey dwelling. All of these properties are considered to have 'distant' coastal views due to the distance from the ocean.

Site assessment of each of these properties revealed that each property has an existing extensive ocean view, and that the height profiles erected for the proposal (original design) are visible to some extent. None of the properties currently enjoy a view of the sand/ocean interface of One Mile Beach. In each case, the affected portion of ocean view is only very minor, with the remaining unaffected ocean view to the east still considered expansive for each property. The proposed design will not remove the majority of any of these views, and the impact is considered minor/negligible.

Privacy (Aural and Visual)

Concerns have been raised in two (2) objections with regard to the impact on the neighbour's privacy from the proposed third storey addition and lift shaft.

The adjacent landowners to the west at 8 Underwood Road are concerned that new windows in the proposed third storey (shown on the western elevation of the plans) will reduce the privacy in the main living area and main bedroom. Concern was also raised relating to the west facing glass panels of the lift shaft also facing the same living and bedroom areas.

The adjoining landowners on the immediate northern side (3b Burrawong Place) have objected to the proposed open balcony on the upper floor, with concerns of potential impact on the adjoining dwellings' upstairs living area, adjoining balcony and front yard. The submission to Council request a suitable privacy screen be incorporated into the design if the development is approved by Council.

Council’s Development Control Plan (chapter 5.2) specifies the following in relation to views and privacy:

Objectives

- To protect the amenity and privacy of indoor and outdoor living areas of new and existing residential development.

Controls

1. In designing buildings the concept of ‘view sharing’ should be adopted by considering the impact of buildings on the views enjoyed by neighbours.

2. Visual privacy for adjoining properties and within development projects can where necessary, be achieved by:

   1) Using windows which are narrow, translucent or obscured to bathrooms and toilets;

   2) Ensuring that windows do not face directly onto the windows, balconies or courtyards of adjoining dwellings; or

   3) Screening windows, balconies and courtyards within 3m of a property boundary.

   4) Privacy screens should not impact upon existing view sharing arrangements.

3. Where windows or balconies of dwellings are within 9m of windows or balconies of other dwellings, some form of screening or reduction in window areas should be provided to ensure visual privacy.
Comments

Privacy to 8 Underwood Road

It is unlikely that the proposed windows to the upper storey bedroom (facing west) would cause any loss of privacy, due mainly to the use as a bedroom (infrequently used) and common area near the upper storey stairwell. Most bedrooms are provided with some form of window coverings and these windows are both setback over 3m from the subject property boundary (west), and approximately 20m from the rear deck of the 8 Underwood Road neighbouring property.

Privacy to 3b Burrawong Place

The top storey deck has been designed to maximise the outlook toward the Pacific Ocean to the east. Council's DCP specifies that balconies within 9m of windows or other balconies may require screening to reduce impact on adjoining properties.

The proposed rooftop balcony is located 8.8m from the northern property boundary. There is the potential for unwanted interaction and loss of privacy due to the difference in height between the balconies - as the proposed balcony will be approximately 3.9m above the adjacent property upper storey floor level. If Council were to approve the development, a privacy screen on the northern facing elevation of the upper storey deck may be warranted to protect against unwanted overlooking into the rear yard and common areas of the northern neighbour, however given the distance from the deck to the boundary, staff have not included a condition within the draft conditions of consent.

It is unlikely that the proposed window to the upper storey bedroom located 8m from the boundary (northern elevation) would cause any loss of privacy, as the window services a bedroom (infrequently used), and has a high set sill height for increased privacy and to limit any possible interaction with the adjacent property.

The remaining window on the northern elevation services a stairwell located over 11m from the northern boundary, and will not affect privacy of the neighbouring property.

Overshadowing

A submission was received during the neighbour notification period from the adjoining landowner to the west of the subject site at 8 Underwood Road. The letter requested that the Applicant for the development provide 'shadow diagrams' to allow the assessment of potential overshadowing to the rear of the existing house.

Council requested the shadow diagrams for the proposed additions to the rear of the existing dwelling from the Applicant on 2 March 2016. On 21 March 2016, Council received additional information from the Applicant relating to various issues relating to the proposal including the submission of shadow diagrams as requested.

Council's Development Control Plan (chapter 5.1) specifies the following in relation to solar access and overshadowing:

Objectives

- To ensure solar access to private outdoor areas and minimise the impacts of overshadowing.

Controls

1. Buildings should be designed to allow at least two hours of sunshine upon the internal and outdoor living areas of adjacent dwellings and between 9.00 am and 3.00 pm on 21 June.
2. Where the possibility of overshadowing may occur, shadow diagrams are to be submitted to illustrate the shadows cast by the proposed building at 9.00 am, 12.00 noon and 3.00 pm on 21 June.

The applicant has provided a shadow diagram that illustrates the overshadowing of the proposed development onto the neighbouring dwelling to the west. The following points are raised:

- Between 9.00am and 12.00 noon the neighbouring property to the west has some shading in the south east corner.
- The area affected appears to be a portion of the rear yard and separate garage structure.
- The rear of the dwelling and associated external deck area is completely unaffected.
- From after 12.00 noon onwards the neighbouring property to the west is completely un-impacted by any overshadowing.

The shading is considered minor to the neighbouring property to the west, and the back yard of the adjoining property at 8 Underwood Road will achieve the minimum two (2) hours of sunlight to internal and outdoor living areas after mid-morning during winter solstice, as required by Council's DCP.

**Amenity (loss of natural light)**

A submission was received relating to loss of natural light potentially affecting a nearby property at 6 Underwood Road (north-west of the subject site). The submission was concerned with the dwelling addition (third storey) blocking morning light from entering the rear garden and living room.

The objector submitted a photograph (copy on file) showing the morning sun rising over the existing two (2) storey dwelling to the east.

Council's assessment of the photograph submitted by the Owner's, along with a site inspection concludes that whilst the property at 6 Underwood Road will not be over-shadowed (no shadow would be cast onto the property), there will be a loss of morning sunlight for an extended period into the yard/rear living area if the proposal were to be approved. This loss of morning light would affect the amenity of the existing dwelling at 6 Underwood Road; however, it would not completely remove all morning sun from the affected area. The morning light would however interact with the affected property later in the morning than present.

Any increase to the existing roof ridge height will adversely affect this property, and the loss of early morning sun would be avoided if the third storey dwelling addition were not approved.

**Visual Impact**

The design of the additions is considered inconsistent with the residential character of the locality due to the overall height of the dwelling, external lift shaft forward of the building line and the overall design appearance of a third storey dwelling surrounded by two (2) storey dwellings. The design has the potential to pose a negative visual impact when viewed from the streetscape, adjoining properties and the adjoining coastal land.

**Utilities**

Power, water and sewer all available and connected to the existing dwelling.

**Drainage**

Roof stormwater created from the proposal will be connected to the drainage system of the existing dwelling and required to be piped to the Council kerb and guttering by a condition of development consent if approved by Council.

**Climate Change**

It is not considered that the location of the site will be negatively impacted upon as a result of climate change impacts.
Cumulative Impacts

Council has historically considered the surrounding built form when assessing developments reasonableness with regard to view sharing and context of the proposal. The proposed dwelling additions will have a minor effect on the surrounding existing developments in relation to potential view impact.

However, the proposal has the potential to set a new precedence for finished building height and large floor areas for the locality, and potentially initiate a wave of third storey additions in the One Mile Beach area to existing dwellings in order to gain better ocean views and dwellings with larger floor areas.

It is considered that approval would cause a cumulative impact nibbling away at current development standards.

c) The Suitability of the Site for the Development

The subject site is located in a coastal erosion hazard zone and as such was referred to Council's Investigations Engineer for comment. The site is affected by the 2060 ocean wave run-up level. Due to the fact that the only additional floor space at ground level is the new lift shaft, the engineering comments raise no objection to approval of the application other than to condition any consent to require flood compatible materials for the ground storey lift shaft.

Section 88B Instrument Impacts

Nil.

d) Any Submissions Made in Accordance with the Act or Regulations

The application was notified to adjoining owners in accordance with Council's Policy and ten (10) submissions of objection were received. Three (3) submissions of support were received for the amended plans.

The ten (10) objection submissions referred to the following issues:

**Loss of view (5 submissions)**

Comment:
*This aspect has been discussed at length elsewhere in the report under the heading of "Views".*

**Height of building (6 submissions)**

Comment:
*This aspect has been discussed at length elsewhere in the report under the heading of "Maximum Building Height" in the Great Lakes Local Environmental Plan section of the report.*

**Out of context for locality/ Precedence (8 submissions)**

Council received multiple objections based on the view that the proposed dwelling design would be out of context (not fitting the local surrounds). The objections were concerned with the following:

- Height of building/bulk of design out of context
- Three (3) storey design not typical for local area
- Does not complement the existing local area
- Excessive height for beachfront property at One Mile Beach
Comment: The design of the development is unlike others in local area, and with the addition of a third storey and increase in finished ridge height (1.9m taller than the adjacent beach front dwelling), the dwelling design is out of character with the existing streetscape. The majority of the surrounding and nearby dwellings are traditional two (2) storey structures, and the proposal would be seen as exception to the local character. The height profiles of the proposal can be seen from the beach, unlike many similar established dwellings at the northern end of One Mile Beach, which are hidden from the beach view by dunes and established vegetation.

**Front setback / lift shaft location (7 submissions)**

A total of seven (7) submissions to Council cited the proposed lift shaft as a point of contention. The various submissions on the lift shaft can be summarised as follows:

- Encroaches on front boundary setback
- Unsightly appearance
- Adds bulk to the design
- Dominating streetscape concerns
- Non-compliant with local setback objectives

Comment: The proposed three (3) storey lift shaft will stand approximately 8.5m above the existing ground level, and form part of the highest building element of the dwelling structure. The amended plan submitted to Council reduced the width of the lift shaft structure, and in turn increased the front boundary setback from the original submission. The amended plan now proposes a setback from the lift shaft to the front property boundary of 2.91m.

This issue was previously discussed under the Development Control Plan 2014 section (relating to setbacks).

*An objective of the articulation zone in the DCP states “inclusion of an articulation zone must give consideration to view sharing, privacy and amenity impacts to adjoining dwellings.”*

*In this instance, the lift shaft design and location has the possibility of detrimentally affecting the amenity and privacy of nearby properties, and detracting from the existing streetscape.*

**Impact on privacy of One Mile Beach (4 submissions)**

Four (4) submissions were concerned with the possibility of the proposed upper storey viewing deck being able to view people using One Mile Beach. The concerns were expressed that the northern stretch of One Mile Beach is not overseen by dwellings at present, allowing a private feel to beach users.

The concerns were that an upper storey viewing platform may comprise that privacy for people using One Mile Beach.

Comment: *The existing two (2) storey design currently enjoys ocean views to the east, but not specifically a clear view of the sand/beach area. The proposed third storey upper level viewing platform would give an extensive view of the sand/water interface of the beach.*

*A site inspection on the northern stretch of One Mile Beach (200m each way along the beach in front of the subject lot) revealed that currently there are no houses with extensive direct views looking onto the sand (partial views may be available through vegetation). At the time of Council’s inspection, only the roofs of a number of houses were visible from the sand when looking west.*
However, the height profiles for the proposed development were clearly visible from the sand (beach), indicating that the proposed upper storey viewing platform will provide extensive beach viewing from the top level of the dwelling. These height profiles indicate that the proposed upper storey will be visible over the existing dune vegetation in front of the subject property. This would have the potential to impact beach users, and also set a local precedence for other landowners with similar properties to follow.

**Overshadowing (2 submissions)**

Comment:
This aspect has been discussed at length elsewhere in the report under the heading of “Overshadowing”.

**Privacy loss to adjoining properties (2 submissions)**

Comment:
This aspect has been discussed at length elsewhere in the report under the heading of "Privacy (Aural and Visual)".

**Concerns of possible dual-occupancy (2 submissions)**

Two (2) submissions raised concerns over the dwelling being used as a dual-occupancy if the addition storey (which contains a bedroom, bathroom, living area and bar) were to be approved by Council.

Comment:
The original plans as approved by Council in 1981 show a separate ground storey bar/rumpus room. Currently, the existing dwelling is currently fitted with a traditional kitchen upstairs, with a kitchenette style area in the ground storey bar/rumpus room adjacent to the indoor swimming pool. The dwelling has a single laundry.

It is the opinion of Council staff that the existing set-up is only that of a single dwelling and not dual-occupancy.

The proposal before Council has been lodged as dwelling alterations and additions, and the applicant and Owner have both confirmed in writing to Council that it is not the intention of the alterations to convert the structure into separate living areas capable of being utilised as a dual-occupancy.

The design submitted to Council shows the lift shaft and internal stairs able to be accessed from all three (3) storeys of the dwelling. If a dual-occupancy were intended, it would be more likely to have a design with separate access only to the dual-occupancy portion of a design. This is not the case in the plans before Council.

If approved, a condition would be placed on any development consent to restrict the use of the structure to a single dwelling, and that it may not be used as a dual-occupancy without prior consent of Council. This condition would protect the amenity of the local area.

**Impact to streetscape (3 submissions)**

Similar to the objections based on local character, three (3) objections based on the potential impact of the three (3) storey design with considerable bulk and scale were received by Council.

Comment:
The fact that Burrawong Place is a very short street with only two (2) houses facing the public road makes it difficult to establish a ‘typical’ style of development. The street is a no through road cul-de-sac without any passing traffic. The street is primarily used by pedestrians walking to the beach via a public access, or beach users parking cars in Burrawong Place.
The proposed design will be larger than the current existing house opposite (6 Burrawong Place), and with a maximum height of 8.5m and front boundary setback of 2.9m to the three (3) storey lift shaft in the front yard, the design has the potential to dominate the streetscape for pedestrians passing by, or beach users parking in Burrawong Place.

Noise - lift operation/ air-conditioner location (3 submissions)

Concerns from the adjacent neighbour to the west of the site were raised regarding the potential for noise issues arising from the air conditioning unit on the western elevation, and the potential for noise to be generated by the lift motor.

A submission from a property to the west was received concerning the possible noise disturbance from the air-conditioning unit.

A third submission raised the possibility of the air-conditioning unit to cause nuisance, but the comment was raised by an objector whose property is close to 100m away from the subject site.

Comment:
The proposal shows an external air-conditioning unit mounted on the western wall of the third (upper) storey, approximately 6 metres above existing ground level and 2.7m away from the western property boundary.

This air-conditioning unit is proposed to replace an existing unit in a similar position on the outside of the existing second storey. The current external unit is approximately 1.2m off the western boundary. A search of Council’s records did not find a previous history of noise complaints to Council regarding the current air-conditioner.

The proposed new air-conditioning unit will be an additional 1.5m further away from the western boundary than the current external unit.

The application was referred to Council’s Environmental Health section for comment on the air-conditioner location, and no concerns were raised on the matter. The Environmental Health Officer provided only standard comments relating to acceptable noise levels and hours of operation for the use of the air-conditioning.

The potential for noise from a lift shaft is considered a minor risk, as the motor units are traditionally located within the lift shaft (internal to the dwelling), and the proposed lift shaft is at least 25 metres away from the closest house (8 Underwood Road). The Owner has stated that the lift will be electronically operated, and noise will be of a minimum.

Submissions of support

During the second neighbour notification period by Council for the amended plans, three (3) submissions of support were received for the application.

One (1) submission of support was received from a property owner who was notified of the amended plans, and was subsequently satisfied with the amendments to the dwelling design.

The two (2) remaining submissions came from members of the general public that were not notified as part of the process of Council notification for affected properties. Both property owners were outside the location of the notification process, but provided letters of support for the design.

As part of the documentation provided by the Owner for the amended plans, a letter was provided by the Owner’s medical doctor, stating that the provision of a lift will allow access the current Owner’s to all levels of the dwelling to assist residing in the family home.
Mid Coast Water Comment

The plans for the proposed additions were stamped approved by Mid Coast Water and therefore raise no issues with regard to alterations to water and sewer connections.

e) The Public Interest

Approval of the subject application would set an undesirable precedent in the locality of One Mile Beach and therefore is not in the public interest.

CONCLUSION:

The proposal seeks consent to construct a third storey and external lift shaft on an existing two (2) storey dwelling.

The proposed development is a permissible form of development within the R2 – Low Density Residential zone but considered not to be consistent with the historic implementation of the objectives of the zone which consider broad issues such as the reasonableness of the proposal as well as view sharing.

The bulk and scale of the proposal is considered to be undesirable for the location and therefore not consistent with the broad aims of the NSW Coastal Policy or the more defined requirements of SEPP 71.

The proposed additions to the existing dwelling are considered inappropriate given the potential for the proposal to impact upon the amenity and views of the adjoining neighbours and cumulative impact in terms of a nibbling effect or the likely creation of a precedent permitting three (3) storey scale development along One Mile Beach.

The proposed third storey and increased floor area, being at the highest point of the building, will create a dominant building out of context with the existing built environment of the area.

RECOMMENDATION:

That Development Application No. 60/2016 for dwelling alterations and additions at Lot 3 DP 242807, 5 Burrawong Place, Forster be refused for the following reasons:

1. The proposal does not comply with the floor space ratio objectives of the R2– Low Density Residential zone as contained within the Great Lakes Local Environmental Plan.
2. The scale of proposed building is not compatible with the existing environmental character and the desired future urban character of the locality (LEP objective for height and FSR controls).
3. The proposal does not comply with the requirements of State Environmental Planning Policy No. 71 – Coastal Protection, Clause 2(e), 2(k) and 8(d).
4. The proposal does not comply with the objectives of the articulation zone clause (5.5.2.2) of Council's Development Control Plan.
5. The proposal is not considered to be consistent with the streetscape of the locality in terms of bulk and scale.
6. Approval of the subject application would set an undesirable precedent and therefore is not in the public interest.
DETAILS:

Date Received: 26 November 2015
Applicant: Coastplan Group
Owner: Bao Lin Pty Ltd
Land: Lot 34 DP880637, 7780 Pacific Highway, Nerong
Area: 1,811 ha
Property Key: 18978
Zoning: RU2 Rural Landscape, GLLEP 2014

SUMMARY OF REPORT:

- Application submitted for an expansive new dwelling house.
- Proposal does not comply with the height limitations of GLLEP 2014. Application includes a submission under clause 4.6 of GLLEP 2014 seeking exception to the height control development standard. In accordance with Planning Circular PS-08-003, concurrence of the Director General for Planning may be assumed.
- Proposed development generally considered to be consistent with the various relevant planning controls.
- Application notified to neighbouring property owners in accordance with Council's Policy and no objections were received.
- No Council record of an approval for two (2) existing dwelling houses on the property that are used by the site manager and workers.

SUMMARY OF RECOMMENDATION:

Approval subject to conditions.

FINANCIAL/RESOURCE IMPLICATIONS:

Cost of defending any appeal against Council's decision.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

A decision for approval subject to conditions or refusal may lead to an appeal to the Land and Environment Court requiring legal representation.
LIST OF ANNEXURES:
A: Plans of proposed development.

LIST OF ATTACHMENTS:
Nil.
SUBJECT SITE AND LOCALITY:

PROPOSAL:
To construct an expansive architecturally designed one (1) and part two (2) storey dwelling. The part lower level will contain garaging for up to ten (10) vehicles, a store, cellar, plant room, laundry, bathroom, stair and lift to the upper habitable level that is built around a central courtyard. A swimming pool will be located to the northern side of the building. The design style of the building is modern.

The existing access from the highway will be upgraded.

SITE DESCRIPTION:
The site is located to the south eastern side of the Pacific Highway, just south of Nerong village. It is a large rural property that is used for broad scale agricultural activities. There are two (2) dwellings on the site that are occupied by a farm manager and workers.

The topography of the site is variable and the proposed dwelling will be located on the top of a cleared hill centrally located on the site. The existing access point from the highway will be maintained.

There is no Council record for the two (2) existing dwellings that are located to the southern side of the site, close to the highway. The two (2) buildings appear to be well constructed conventional dwellings.
REPORT:

The following matters listed under Section 79C of the Environmental Planning and Assessment Act, 1979, are relevant in considering this application:

a) **The provisions of any environmental planning instrument; any proposed instrument that is or has been the subject of public consultation and which have been notified to the consent authority; any DCP; any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F; any matters prescribed by the regulations; any coastal zone management plan that apply to the development application on the subject land.**

*Environmental Planning and Assessment Act 1979 (EPAAA 1979)*

The subject site is mapped as bush fire prone and in accordance with Section 79BA of the EPAA 1979 the application is to be assessed having regard to the provisions of the publication ‘Planning for Bushfire Protection 2006’. In this regard the application and submitted bushfire assessment were referred to the Rural Fire Service (RFS). The RFS support the proposed development subject to conditions that are included in this report’s recommendation.

*State Environmental Planning Policy (BASIX) 2004 (SEPP BASIX)*

SEPP BASIX applies to all new housing developments in New South Wales and requires that they be designed to use less potable water and be responsible for fewer greenhouse gas emissions by setting energy and water reduction targets. The SEPP must be read in conjunction with the Environmental Planning and Assessment Regulation 2000, which requires that a development application must be accompanied by a BASIX certificate. A Basix Certificate No. 678114S has been submitted indicating that the proposed development conforms to the requirements of SEPP BASIX subject to the requirements identified in the documentation.

*State Environmental Planning Policy No.71 – Coastal Protection (SEPP71)*

The provisions of SEPP71 apply to the proposed development as the land is located within the Coastal Zone. The site is not located in a Sensitive Coastal Location, as defined by SEPP71.

The proposed development is considered to satisfactorily address both the aims and the relevant provisions of SEPP 71.

*State Environmental Planning Policy (Rural Lands) 2008*

All development being undertaken on land within a rural or environmental land use zone must be considered against the ‘rural planning principles’ contained within Clauses 7 and the matters for consideration for rural dwellings under clause 10 of the SEPP. The site is zoned RU2 – Rural Landscape under the Policy. The proposed dwelling house is considered to be consistent with the rural planning principles and the matters for consideration listed in Clause 10. Accordingly, the proposed development is considered to achieve the aims of the Policy.

*Great Lakes Local Environmental Plan 2014 (GLLEP 2014)*

Part 2 - Land use table

The site is located in a RU2 - Rural Landscape Zone and the proposed dwelling use is permissible in the zone with development consent. The relevant objectives of the zone are to encourage sustainable primary industry production by maintaining and enhancing the natural resource base, to maintain the rural landscape character of the land, to provide for a range of compatible land uses, including extensive agriculture and to secure a future for agriculture in the area by minimising the fragmentation of rural land and loss of potential agricultural productivity. The proposed development is considered to be consistent with the relevant objectives of the zone.
Part 4 - Principal development standards
This Part identifies various numerical development standards for proposed development. The relevant development standards are:

4.2A - Erection of Dwelling Houses on Land in certain Rural and Environment Protection Zones
The objectives of this clause are to minimise unplanned rural residential development and to enable the replacement of lawfully erected dwelling houses in certain rural and environment protection zones. The clause applies to the erection of dwelling houses in the RU2 zone. The clause makes provision that Council may grant development consent to the erection of one (1) dwelling house on a site with a lot size not less than 40ha. The subject site has an area of 1,811ha and already contains two (2) dwelling houses used for accommodation of the site manager and workers. There is no Council record for either of those dwelling houses. The applicant has not provided evidence of the lawful existence of either dwelling house, in fact has suggested that one (1) of the dwelling houses could be demolished with the other dwelling house used as a secondary dwelling house (see comments on clause 5.4 below). The suggested outcome is considered reasonable, would be consistent with the objectives of the clause and would permit favourable determination of this development application. This report’s recommendation includes a condition that addresses this issue.

4.3 - Height of building - The relevant objectives of the standard are to ensure the scale of proposed buildings is compatible with the existing environmental character and the desired future character of the locality. The proposed development has a maximum overall height of approximately 15.47 metres to the north eastern wing of the building, 6.97 metres above the 8.5 metres maximum height control. The height of the proposed development is considered satisfactory in this rural context and having regard to the objectives of the clause notwithstanding the excess in height. The application includes a submission under clause 4.6 of GLLEP 2014 concerning an exception to the development standard and this issue will be discussed below.

4.4 - Floor space ratio - The relevant objectives of the standard are to ensure the scale of proposed development is compatible with the existing environmental character of the locality. The maximum floor space ratio for the RU2 zone IS 0.4:1.00. The proposed development including both existing dwellings has a floor space ratio of less than 0.0002:1.0. The proposed outcome is considered to be consistent with the relevant objectives of the clause.

4.6 - Exceptions to Development Standards
The objective of this clause is to provide an appropriate degree of flexibility in applying certain development standards to particular development and to achieve better outcomes for and from development by allowing flexibility in particular circumstances. In accordance with the provisions of this clause development consent may be granted for development even though the development would contravene a development standard and subject to the Council considering a written request from the applicant seeking to justify the contravention of the development standard. In this regard the applicant's planning consultant has submitted the following justification for the development standard departure.

The proposed building has been architecturally designed for the top of the hill and features vaulted floating wings as a key feature which extend from the main building form to float above the ground and draw the key feature views (Broughton Island, Wallis Lake, Port Stephens and rural outlooks) into the building with vaulted ceilings heights approximately 3.7 - 5.5 metres above the highest point of the hill, with the highest point of the vaulted wings approximately 7.7 metres higher than this highest point of the hill. As the land falls away from the hill side, however, the top of these vaulted wings exceeds the 8.5 m height limit, with up to 6.9m of vacant space under the floor of these wings. The design has had regard for the surrounding landscape but has maximised the access to the key design feature for the site. The design has achieved this without relying on increasing building height at the highest point of the site, instead preferring to maintain a single storey design and spread over the site.
Whist the building exceeds the maximum height limit; it is located on a very large rural property, is located at the top of a hill nearly 100 metres in height and is not visually prominent from areas outside the subject land. As such, the effects of this non-compliance with the height limit does not result in significant impacts to the surrounding landscape as can be seen in the photomontage of the building as viewed from The Pacific Highway shown below (refer to SEE page 18).

As a first step in determining if the application is unreasonable or unnecessary in this case, the objectives of the development standard are determined. Clause 4.3 lists the objectives of the development standard as follows:

(a) to ensure that the scale of proposed buildings is compatible with the existing environmental character and the desired future urban character of the locality,
(b) to encourage residential development that is consistent with AS 4299 - 1995, Adaptable housing.

The proposed dwelling is not located in an urban area and urban character is not a consideration. Adaptable housing objectives are relevant to urban situations in medium and high density residential zones. Based on the application of the control to a rural zoning, the following underlying objectives may be identified:

- To maintain a rural landscape character.
- To ensure buildings do not dominate rural skylines.

The proposed building is located on a very large rural property and enjoys very large setbacks to all boundaries and even larger distances to public areas from where the building may be viewed. The proposed building will maintain a rural character for the area.

The proposed building has been designed specifically for the site and has sought to maximise the desirable characteristics of the site, being the 360° views available, whilst trying to address less desirable characteristics, being the high exposure to unfavourable winds. To achieve this, the design seeks to maintain the majority of the dwelling on a single level with a transparent building form around a central courtyard, which would allow access to views even in unfavourable weather conditions. To assist in assessing and highlighting the most significant views, the large cantilevered wings have been provided which highlight the high elevation of the site. Interestingly, this desire to retain a single level has resulted in the height exceedance, whereas alternate designs may have increased height at the peak of the hill and stepped down the hill with 2 or 3 storeys. Such an outcome may have complied with the height limits but would invariably be more bulky and more dominant on the landscape. While the absolute high points of the building exceed the height control (due to site topography), these wings are floating and do not present significant bulk due to their detachment from the ground. The proposal has utilised a highly skilled design outcome for the site, maximising the most desirable site features, but still respecting the landscape. The proposed building does not rise high above the existing hill top and will not dominate the rural skyline. The photomontage of the dwelling shows the minimal effect of the proposed dwelling on the rural landscape.

The proposed development is consistent with the objectives of the standard, notwithstanding the non-compliance with the numerical control.

Accordingly, it is considered that in having regard to the proposed design outcome compliance with the development standard for height would be unreasonable and that there are sufficient environmental planning grounds to support the proposed development. In accordance with Planning Circular PS-08-003, concurrence of the Director General for Planning may be assumed.
5.4 - Controls relating to miscellaneous permissible uses
Subclause (9) provides that secondary dwellings should have a total floor area not exceeding 60 square metres or 20% of the total floor area of the principal dwelling, whichever is the greater. As discussed previously under the heading 4.2A - Erection of Dwelling Houses on Land in certain Rural and Environment Protection Zone, the applicant has suggested that retention of one (1) of the existing dwellings on the site could be on the basis that it is a secondary dwelling. Either of the dwellings would comply and accordingly one (1) of the dwellings could be retained whilst the other is demolished. This aspect has been addressed by a condition in this report's recommendation.

Part 5 - Miscellaneous provisions

5.5 Development within the coastal zone - The relevant objectives of the clause are to provide for the protection of the coastal environment through promoting the principles of ecologically sustainable development and to implement the principles of the NSW Coastal Policy (discussed later in this report under the heading NSW Coastal Policy 1997). The proposed development is considered to be consistent with the above objectives having regard to the matters listed for consideration under clause 5.5.

Part 7 - Additional local provisions

7.1 Acid sulfate soils - The objective of the clause is to ensure that development does not disturb, expose or drain acid sulphate soils and cause environmental damage. The Acid Sulphate Soils Planning Map identifies the location of the proposed dwelling house as possibly class 5 land. The requirements of the Class 5 category apply to works within 500 metres of Classes 1,2,3 or 4 that would lower the water table in those classes below 1 metre Australian Height Datum. The subject building is within 500 metres of an adjoining class however given its location and elevation it is unlikely that there will be any impact on the water table in the adjoining class.

7.2 Earthworks - The objective of this provision is to ensure that earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses and features of the surrounding land. The proposed development includes limited excavation works to construct the development and install services. Issues of soil erosion, sedimentation and drainage impacts will be managed during and after construction and appropriate conditions are included in this report's recommendation. Accordingly, the proposed development will be consistent with the objective of this clause.

7.5 Stormwater management - The objective of this clause is to minimise the environmental impacts of stormwater on the site and adjoining properties, native bushland, groundwater, wetlands and receiving waters. Given the size of the site and rural location roof water will be directed to and collected in storage tanks for re-use. Overflow and surface water will then be directed to landscaped areas and vegetated swales beyond and down-slope of the building. This outcome is considered to satisfactorily address the objectives of this clause.

7.6 Drinking water catchment - The objective of this clause is to protect drinking water catchments by minimising the adverse impacts of development on the quality and quantity of water entering and stored in drinking water storages. The position of the proposed building is on the outer fringe of the mapped drinking water catchment. Wastewater will be collected and directed away from the mapped catchment.

7.21 Essential services - This clause requires that development consent must not be granted to development unless the Council is satisfied that essential services (i.e. water, electricity, sewage, stormwater drainage and road access) are available or that adequate arrangements have been made to make them available. Given the rural locality, the proposed development has access to all relevant necessary services subject to the conditions contained in this report's recommendation.
**NSW Coastal Policy 1997**

The New South Wales Coastal Policy is a broad policy for the Coastal Zone that is required to be considered having regard to the provisions of Clause 92 of the Environmental Planning and Assessment Regulations 2000.

The site is located within the Coastal Zone. Relevant to the principles of the Coastal Policy, the proposed development will not compromise the natural, cultural heritage (both indigenous and European) and spiritual values of the coastal area. The proposed development is considered to be a low impact development that incorporates the principles of ESD and implements the planned urban development of this residential locality.

The proposed development will not compromise the goals or strategic actions of the Coastal Policy.

**Development Control Plan No. 2014 (DCP 2014)**

The aim of the Plan is to ensure good quality, sustainable development outcomes that maintain a high level of environmental amenity. The Plan is designed to allow flexibility in the application of its controls where strict compliance is considered unreasonable or unnecessary provided the relevant objectives of the Plan have been achieved.

The relevant provisions of the Plan are discussed as follows:

**Part 3 Character Statements** - The proposed development is considered to be contextually appropriate in its rural setting, it will ensure protection of the natural environment and the design will encourage passive surveillance and security, in accordance with the relevant provisions of the Part 3.

**Part 4 Environmental Considerations** - The proposed development will not have any significant environmental impact. The issue of bushfire has been satisfactorily addressed by the Rural Fire Service, with their requirements included in conditions of this report's recommendation. Effluent disposal has been satisfactorily addressed having regard to the building's location on the fringe of a mapped Drinking Water Catchment (refer to conditions of this report's recommendation).

**Part 5 Single Dwellings, Dual Occupancies, Villas and Townhouses** - The relevant numerical provisions of this Part are tabulated below and then addressed in the following commentary:

<table>
<thead>
<tr>
<th>Design Issue</th>
<th>DCP 2014</th>
<th>Proposal</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Built Form - max. external wall length (clause 5.4)</td>
<td>12.0 m</td>
<td>Max. &gt;12.0 m</td>
<td>No</td>
</tr>
<tr>
<td>Garage setback from front building façade (clause 5.4)</td>
<td>500 mm</td>
<td>generally underground and visually located approx. 3.2km from the front boundary</td>
<td>Yes</td>
</tr>
<tr>
<td>Garage door max. total width (clause 5.4)</td>
<td>6.0 m</td>
<td>&gt; 6.0 m</td>
<td>No</td>
</tr>
<tr>
<td>Garage door max. to width of building (clause 5.4)</td>
<td>50%</td>
<td>&lt;50%</td>
<td>Yes</td>
</tr>
<tr>
<td>Min. eave width north, east and west (clause 5.4)</td>
<td>600 mm</td>
<td>Ranges from 0.00 mm to &gt; 600mm</td>
<td>Yes/No</td>
</tr>
<tr>
<td>Setbacks (clause 5.5.4)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Building Height - floor level above ground level on sloping sites >1:6 (clause 5.6)

- **Front**: 18.0 m
- **Sides**: 10.0 m
- **Rear**: 10.0 m

- **Height**: 5.1 m

**Compliance**: No (must be >5.1 m)

### Private outdoor areas (clause 5.8)

- **Dimensions**: 24m²
- **Minimum dimensions**: 4m

**Compliance**: Yes (must be >24m² & >4.0 m)

### Fences and Walls (clause 5.9)

- **Maximum height**: 1.2m
- **Minimum 50% open design**:

**Compliance**: No (must be > 1.2m & <50% open design)

### 5.1 Solar Access and Overshadowing

- The proposed development ensures suitable solar access to proposed outdoor areas and does not cast shadowing on neighbouring properties.

### 5.2 Views and Privacy

- The proposed development does not impact on views and outlooks from neighbouring properties. The privacy relationship between the proposed dwelling and neighbouring development is considered satisfactory.

### 5.3 Energy Efficiency

- The objectives of this clause are to ensure the thermal comfort of residents and to minimise the need for electrical lighting, heating and cooling and thereby limit greenhouse gas emissions. The clause refers to compliance with SEPP BASIX (refer to the earlier heading State Environmental Planning Policy (BASIX) 2004 (SEPP BASIX)) and in that regard the proposed development is compliant and accordingly is consistent with the objectives of this clause.

### 5.4 General Building Design

- The relevant objectives of this clause are to encourage high quality design that responds to the environment and to ensure that garages are located so as not dominate the development's streetscape presentation or adversely affect adjoining properties.

- The design of the proposed dwelling is not considered to detract from its rural setting nor the property's presentation to the highway, that is approximately 3.25km to the west, and is consistent with the objectives of the RU2 zoning as described in GLLEP 2014 (refer to earlier heading). Built form is well articulated and the proposed garaging is generally located under the building in a large basement car park.

- The proposed development achieves the required energy efficiency rating under BASIX notwithstanding its design with some windows without eaves.

- The overall height of the building including the height of floor levels above existing ground is considered satisfactory given the issues discussed earlier under the heading Great Lakes Local Environmental Plan 2014 (GLLEP 2014).

- The proposed fencing, in proximity to the highway, is limited and designed/positioned to create an attractive and safe entry/exit point to/from the site in this rural locality.

### Part 10 - Car Parking, Access, Alternative and Active Transport

- The proposed development includes covered parking in a basement for at least ten (10) vehicles, well in excess of Council's minimum requirements. Alternate modes of transport are not available or feasible in this rural locality. Vehicle access is considered to be safe and in this regard RMS has advised no objection with respect to the proposed upgraded access/egress to/from The Pacific Highway.
Part 11 - Water Sensitive Design - The relevant objectives are to reduce the consumption of potable water, to reduce waste water discharge into the receiving environment, to harvest wastewater and urban stormwater runoff where appropriate. Given the rural location roof water will be directed to and collected in storage tanks for re-use. Overflow will then be directed to vegetated swales beyond and down-slope of the building. This outcome is considered to satisfactorily address the objectives of this Part.

Part 12 - Tree and Vegetation Preservation - The development does not require the removal of any significant trees and the site is not within a recognised Tree Preservation Area under GLLEP 2014.

Part 13 - Landscaping and Open Space - The objective of this Part is to encourage development design which responds to the topography of the site and provides for the retention of mature native tree species. Given the size of the site and its rural locality the minimum of 30% of the site landscaped area and 50% of that deep soil, are well exceeded. Landscaped generous boundary setbacks complement the development. Accordingly, a landscape concept plan is not required and the proposed development achieves the objective of the Part.

Part 14 - Waste Management - The relevant objectives of this Part are to encourage sustainable waste management that includes re-use and recycling of commercial waste. A waste management plan is required by a condition of this report's recommendation.

Accordingly, the proposed development is generally considered to be consistent with the relevant objectives and requirements of DCP 2014.

Great Lakes Council Erosion and Sediment Control Policy

The aim of this policy is to minimise erosion and sedimentation in catchments, resulting from the disturbance of the soil surface associated with building works, changes in land use and urban development, the installation of services and road construction and maintenance. This is to ensure that potential pollutants are not directed to natural and artificial water bodies.

The construction works associated with the proposed development will be managed to ensure that erosion and sediment control measures comply with the aims and requirements of the Policy thereby protecting the water quality of neighbouring natural and artificial water bodies. Appropriate conditions of consent are recommended.

b) The likely impacts of development including environmental impacts on both natural and built environments and social/economic impacts in the locality

Context and Setting

The proposed development is considered to be contextually appropriate on this large site in this rural location.

Site Design and Internal Layout

The large rural site readily accommodates the proposed dwelling house. The internal design is expansive and capable of accommodating staff and guests.

Views

The proposed building enjoys 360° views and does not impact on views from distant neighbouring properties.

Privacy (Aural and Visual)

The proposed development does not unreasonably impact on the privacy relationship with distant neighbouring properties. The proposed motor cycle development to a neighbouring property is not considered to adversely impact on the proposed development.
Overshadowing
The proposed development does not overshadow distant neighbouring properties.

Visual Impact
The proposed development does not have an adverse visual impact.

Flora and Fauna
The proposed development does not have a significant impact on local flora and fauna.

Cumulative Impacts
Approval of the proposed development does not establish and undesirable precedent for future development in this rural locality.

c) The Suitability of the Site for the Development
The site is suitably sized, configured and located to accommodate the scale and design of the proposed dwelling house. With the exception of bush fire, the site is not subject to any significant natural hazards. The issue of bushfire has been addressed by the RFS and their requirements are included as conditions of this report's recommendation.

d) Any Submissions Made in Accordance with the Act or Regulations
The application was notified to neighbouring property owners in accordance with Council’s Policy and no objections were received. However, the owner of a neighbouring property, on which a motorbike complex has been approved and is currently under construction, has indicated that the location of the proposed development may be impacted from noise with use of the motorbike complex. Council has assessed the relationship and has determined that the future use of the motorbike complex will not be obtrusive and any impact will be minimal and will be compliant with the lowest criteria under the Environmental Protection Authority’s ‘Industrial Noise Policy’.

e) The Public Interest
The proposal, subject to the recommended conditions, does not establish an undesirable precedent for future residential development in the locality. The proposal is considered to be consistent with the planning requirements for the area.

CONCLUSION:

The proposal is considered to be suitable for the site and the locality having regard to the development controls for this rural locality and maintains a reasonable relationship with neighbouring properties. Non-compliance with the height control under GLLEP 2014 is acceptable given the design outcome and the circumstances of the case. In respect to the two (2) existing dwellings on the site, in accordance with the applicant's suggestion, one (1) dwelling could remain as a complying secondary dwelling and the other dwelling could be demolished.

Accordingly, the application is supported and recommended for approval subject to conditions.

RECOMMENDATION:

It is recommended that DA 218/2016 for the erection of a dwelling house and retention of a secondary dwelling house at Lot 34 DP880637, 7780 The Pacific Highway, Nerong be approved subject to compliance with the following conditions:
GENERAL CONDITIONS

1. Development in accordance with approved plans

The development must be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

<table>
<thead>
<tr>
<th>Document Type</th>
<th>Plan No. &amp; version</th>
<th>Prepared by</th>
<th>Dated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cover Sheet- site plan</td>
<td>da01</td>
<td>EJE Architecture</td>
<td>October 2015</td>
</tr>
<tr>
<td>Site Analysis Plan</td>
<td>da- a01</td>
<td>EJE Architecture</td>
<td>11/11/2015</td>
</tr>
<tr>
<td>Overall Site Plan</td>
<td>da-a02</td>
<td>EJE Architecture</td>
<td>5/11/2015</td>
</tr>
<tr>
<td>Residence Siting Plan</td>
<td>da-a03</td>
<td>EJE Architecture</td>
<td>5/11/2015</td>
</tr>
<tr>
<td>Basement Level Floor Plan</td>
<td>da-a04</td>
<td>EJE Architecture</td>
<td>9/11/2015</td>
</tr>
<tr>
<td>Ground Level Floor Plan</td>
<td>da-a05</td>
<td>EJE Architecture</td>
<td>9/11/2015</td>
</tr>
<tr>
<td>Roof Plan</td>
<td>da-a06</td>
<td>EJE Architecture</td>
<td>5/11/2015</td>
</tr>
<tr>
<td>North &amp; West Elevations</td>
<td>da-a07</td>
<td>EJE Architecture</td>
<td>9/11/2015</td>
</tr>
<tr>
<td>South &amp; East Elevations</td>
<td>da-a08</td>
<td>EJE Architecture</td>
<td>9/11/2015</td>
</tr>
<tr>
<td>Sections a-a &amp; b-b</td>
<td>da-a09</td>
<td>EJE Architecture</td>
<td>9/11/2015</td>
</tr>
<tr>
<td>Site Entry Gate Details</td>
<td>da-a10</td>
<td>EJE Architecture</td>
<td>5/11/2015</td>
</tr>
</tbody>
</table>

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

Reason: Information and to ensure compliance.

2. Secondary Dwelling House

One of the existing dwelling houses is to be demolished prior to the occupation of the new dwelling house. The retained existing dwelling house is approved for use as a 'Secondary Dwelling House' and in this regard measured floor plans and elevations of the retained dwelling house are to be submitted to Council for record purposes prior to the issue of a Construction Certificate for the new dwelling house.

Reason: To authorise the use of the existing dwelling house.

3. Compliance with Building Code of Australia

All building work must be carried out in accordance with the requirements of the Building Code of Australia as in force on the date the application for the relevant construction certificate or complying development certificate was made.

Reason: Prescribed condition under the Environmental Planning & Assessment Regulation 2000.

4. Insurance requirements under Home Building Act 1989

In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or

b) to the erection of a temporary building.
Reason: Prescribed condition under the *Environmental Planning & Assessment Regulation 2000*.

5. **Notification of Home Building Act 1989 requirements**

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

a) in the case of work for which a principal contractor is required to be appointed:
   i) the name and licence number of the principal contractor, and
   ii) the name of the insurer by which the work is insured under Part 6 of that Act,

b) in the case of work to be done by an owner-builder:
   i) the name of the owner-builder, and
   ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

Reason: Prescribed condition under the *Environmental Planning & Assessment Regulation 2000*.

6. **Ecological issues**

There must be no harming, removal or disturbance of remnant native vegetation for any aspect of the construction or occupation of the approved dwelling.

Reason: To protect the natural environment.

**PRIOR TO THE COMMENCEMENT OF ANY DEMOLITION WORK**

The following conditions must be satisfied prior to the demolition of any building:

7. **Waste management plan**

Prior to the commencement of any demolition work, a waste management plan prepared in accordance with the requirements of Council’s Waste Management Policy must be submitted to and approved by the certifying authority.

Reason: To ensure adequate and appropriate management of waste and recycling.

8. **Install erosion and sediment control measures**

Prior to the commencement of any demolition work, suitable erosion and sediment controls must be installed in accordance with "*The Blue Book - Managing Urban Stormwater (MUS): Soils and Construction*" (Landcom) and maintained for the duration of the work.

Reason: To protect the environment from the effects of erosion and sedimentation.
PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions must be complied with prior to the issue of any Construction Certificate:

9. Structural details

Prior to the issue of a construction certificate, structural drawings prepared by a suitably qualified and experienced structural engineer must be submitted to and approved by the certifying authority. The plans must include details for:

a) All reinforced concrete floor slabs and/or beams or raft slab (having due regard to the possible differential settlement of the cut and fill areas.

b) Footings of the proposed structure.

c) Structural steel beams/columns.

Reason: To ensure structural stability and safety.

10. Erosion and sediment control plan

Prior to the issue of a construction certificate, an erosion and sediment control plan prepared by a suitably qualified person in accordance with “The Blue Book – Managing Urban Stormwater (MUS): Soils and Construction” (Landcom) must be submitted to and approved by the certifying authority. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices including catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams, and sedimentation basins.

Reason: To protect the environment from the effects of erosion and sedimentation.

11. On-site sewage management system - Section 68 application

Prior to the issue of a construction certificate, an application under Section 68 of the Local Government Act 1993 to install an on-site sewage management system must be obtained from Council. The application for Section 68 approval must be accompanied by a report prepared by a suitably qualified professional with demonstrated experience in effluent disposal matters. The report must address the site specific design of sewage management in accordance with the requirements of the Local Government Act 1993, the Local Government (General) Regulation 2005 and Guidelines approved by the Director General.

The application must include details on the type of system to be installed that is capable of treating wastewater to an advanced secondary treatment standard (BOD <10mg/L; SS<10mg/L; FC’s<10/100ml) for the intended hydraulic load proposed. A detailed operational and management plan must be submitted with the application that demonstrates how the system is to be operated and maintained in accordance with Council requirements and other relevant standards, which must include the provision of flow balancing of treated wastewater during peak loads. A detailed site plan (to scale- minimum of 1:500) must be included with the application that includes the location, size and dimensions of the subsurface irrigation field in relation to existing structures, any environmentally sensitive areas. The site plan must include details of any existing or proposed drainage work.

Reason: To ensure suitable onsite sewage disposal is provided to the development to protect public health and the natural environment.
12. **BASIX Certificate**

Prior to the issue of a construction certificate, plans and specifications detailing all of the BASIX Certificate commitments must be submitted to and approved by the certifying authority. The proposed development must be constructed in accordance with the requirements of BASIX Certificate No.678114S, dated 10 November 2015. Where changes to the development are proposed that may affect the water, thermal comfort or energy commitments, a new BASIX Certificate will be required.

**Reason:** Prescribed condition under the *Environmental Planning and Assessment Regulation 2000.*

13. **Detail of pool fence**

Prior to the issue of a construction certificate, plans and specifications for the fence around the swimming pool must be submitted to and approved by the certifying authority. The fence must be in accordance with the *Swimming Pools Act 1992* and *Australian Standard AS1926.1: Swimming pool safety – Safety barriers for swimming pools.*

**Reason:** To ensure the development complies with swimming pool barrier construction standards.

14. **Water storage where not connect to a reticulated supply**

Prior to the issue of a construction certificate, plans and specifications for the water storage facility must be submitted to and approved by the certifying authority. The water storage facility must have a minimum capacity of 30,000 litres, be screened to prevent vermin from entering the facility and fitted with an outlet incorporating a first flush system. Where water to serve flushing toilets is provided from a dam or other source, the water storage facility capacity can be reduced to 18,000 litres.

**Reason:** To provide an adequate water supply.

15. **Long Service Levy**

Prior to the issue of a construction certificate, a Long Service Levy must be paid to the Long Service Payments Corporation. The amount payable is currently based on 0.35% of the cost of the work. This is a State Government levy and is subject to change.

These payments may be made at Council’s Customer Service Centres. Cheques must be made payable to Great Lakes Council.

**Reason:** Statutory requirement

**PRIOR TO THE COMMENCEMENT OF ANY WORK ASSOCIATED WITH THIS CONSENT**

The following conditions must be satisfied prior to the commencement of any building construction or subdivision work:

16. **Construction certificate required**

Prior to the commencement of any building or subdivision construction work (including excavation), a construction certificate must be issued by a certifying authority.

Enquiries regarding the issue of a construction certificate can be made to Council’s Customer Service Centre on 6591 7222.
Reason: Statutory requirement under the Environmental Planning and Assessment Act 1979.

17. **Notification of commencement and appointment of principal certifying authority**

Prior to the commencement of any building or subdivision construction work (including excavation), the person having the benefit of the development consent must appoint a principal certifying authority and give at least two (2) days’ notice to Council, in writing, of the persons intention to commence construction work.

Reason: Statutory requirement under the Environmental Planning and Assessment Act 1979.

18. **Site access**

Public access to the site and building works, materials and equipment on the site is to be restricted, when building work is not in progress or the site is unoccupied. The public safety provisions must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.

Reason: To ensure public health and safety during the construction of the development.

19. **Pollution prevention sign**

Council’s “PREVENT POLLUTION” sign must be erected and maintained in a prominent position at the frontage of the property so that it is clearly visible to the public for the duration of construction work.

Council’s PREVENT POLLUTION sign can be purchased at Council’s Customer Enquiry Counter at the Forster, Tea Gardens and Stroud administration buildings.

Reason: To increase industry and community awareness of developer's obligations to prevent pollution and to assist in ensuring compliance with the statutory provisions of the Protection of the Environment Operations Act 1997.

20. **Toilet facilities - unsewered areas**

Prior to the commencement of work, toilet facilities must be provided at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a toilet connected to an accredited sewage management system approved by the Council.

Reason: To maintain the public health and the natural environment.

21. **Site construction sign**

Prior to the commencement of work, a sign or signs must be erected in a prominent position at the frontage to the site.

a) showing the name, address and telephone number of the principal certifying authority for the work, and

b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

c) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

Reason: Prescribed condition under the Environmental Planning and Assessment Regulation 2000.
22. Waste management plan

Prior to the commencement of work, a waste management plan prepared in accordance with the requirements of Council’s Waste Management Policy must be submitted to and approved by the certifying authority.

**Reason:** To ensure adequate and appropriate management of waste and recycling.

**CONDITIONS TO BE SATISFIED DURING DEVELOPMENT WORK**

The following conditions must be complied with during any development work:

23. Construction times

Construction and/or demolition works, including deliveries on or to the site must not unreasonably interfere with the amenity of the neighbourhood and must occur only in accordance with the following:

Monday to Friday, from 7 am to 6 pm.

Saturday, from 8 am to 1 pm.

No construction and/or demolition work, including deliveries are to take place on Sundays or Public Holidays.

**Reason:** To maintain amenity during construction of the development.

24. Construction dust suppression

All necessary works must be undertaken to control dust pollution from the site. These works must include, but are not limited to:

a) restricting topsoil removal;
b) regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion);
c) alter or cease construction work during periods of high wind;
d) erect green or black shadecloth mesh or similar products, 1.8m high around the perimeter of the site and around every level of the building under construction.

**Reason:** To maintain amenity during construction of the development.

25. Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a suitable waste bin/enclosure. Building materials must be delivered directly onto the property. Footpaths, road reserves and public reserves must be maintained clear of rubbish, building materials and other items at all times.

**Reason:** To ensure that materials and waste do not adversely affect traffic or pedestrian safety and amenity.

26. Temporary pool fencing

Temporary fencing must be installed around the pool site during its construction to prevent entry by children. The temporary fencing must remain in place until permanent fencing is erected.

**Reason:** Public safety.
27. **Maintenance of sediment and erosion control measures**

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

**Reason:** To protect the environment from the effects of erosion and sedimentation.

28. **Burning of felled trees prohibited**

The burning of trees and vegetation felled during clearing of the site is not permitted. Where possible, vegetation is to be mulched and reused on the site.

**Reason:** To maintain amenity and environmental protection.

29. **Compliance with waste management plan**

During demolition and/or construction of the development, waste disposal must be carried out in accordance with the approved waste management plan.

**Reason:** To ensure waste is minimised and recovered for recycling where possible.

30. **Standards for demolition work**

All demolition works must be undertaken in accordance with the provisions of *Australian Standard AS 2601: The demolition of structures*. Prior to demolition, all services must be disconnected and capped off.

**Reason:** To protect public health and safety.

31. **Aboriginal heritage**

This consent does not authorise the harming of an Aboriginal object or place. Under the National Parks and Wildlife Act 1974, it is the responsibility of all persons to ensure that harm does not occur to an Aboriginal object or place. If an Aboriginal object is found, whilst undertaking development work, all work must stop and the NSW Office of Environment and Heritage notified. All directions of the Office of Environment and Heritage must be complied with at all times.

**Reason:** To protect Aboriginal heritage.

**PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

The following conditions must be satisfied prior to any occupation or use of the building:

32. **Works to be completed**

The building/structure or part thereof must not be occupied or used until an interim occupation/final occupation certificate has been issued in respect of the building or part.

**Reason:** To ensure compliance with the development consent and statutory requirements.

33. **Rainwater storage facility**

Prior to the issue of a final occupation certificate, the rainwater storage facility must be structurally sound and, if applicable, in accordance with manufacturers details. Overflow from
the storage facility must be disposed of in a manner that does not cause nuisance to neighbouring properties or degradation of land.

**Reason:** To ensure rainwater storage facilities are structurally adequate and overflow from the storage facility is discharged in a proper manner that protects adjoining properties.

### 34. On-site sewage management system - approval to operate

Prior to the issue of an occupation certificate, a copy of the plumber/installers drainage diagram must be submitted to Council in accordance with Department of Fair Trading requirements. Prior to the commissioning of the on-site sewage management system, an application is to be submitted and approved by Council for the operation of the on-site sewage systems. The installers/manufacturer is to provide Council with a commissioning certificate for the proposed on-site sewage management system, which clearly states that the system has been installed as per Council’s approval, and any recommendations made in the geotechnical report submitted by Regional Geotechnical Solutions (RGS01135.1-AC).

**Reason:** To ensure public health and safety.

### 35. BASIX Compliance

Prior to the issue of a final occupation certificate, all of the required commitments listed in the BASIX certificate must be fulfilled.

**Reason:** Prescribed condition under the *Environmental Planning and Assessment Regulation 2000*.

### 36. Pool safety

Prior to the issue of an occupation certificate, a sign must be erected in the immediate vicinity of the swimming pool bearing the words ‘*Young children must be supervised when using this swimming pool*’. The sign must be in a prominent position and be in accordance with the *Swimming Pools Regulation 2008*. Fences, gates, walls, etc. enclosing the general swimming pool area must be maintained in good repair and condition at all times. Depth markers must be installed 150 mm above the water line of the proposed swimming pool.

**Reason:** Statutory requirement and safety.

### 37. Pool backwash in rural areas

Prior to the issue of a final occupation certificate, pool water disposal and backwash must be directed to a soakage trench 3.0 metres long by 600mm wide by 600mm deep located so that it does not cause any nuisance to adjoining properties or damage to any structures and directs wastewater away for the mapped water catchment area.

**Reason:** To prevent environmental pollution and health impacts.

### 38. Internal driveway in accordance with the approved plans

Prior to the issue of a final occupation certificate, a driveway must be constructed from the property boundary to the proposed car spaces in accordance with the approved plans.

**Reason:** To ensure suitable vehicular access is provided to the development.

### 39. Stormwater treatment system

Prior to issue of any occupation certificate, two rainwater tanks, two transpiration trenches and grassed swales must be constructed in accordance with the approved plans (Stormwater...
Filtration Plan Drawing No. D01, dated December 2015). The trenches, swales and site stormwater management must meet the following criteria:

- Two transpiration trenches (23m long x 1m wide x 1 deep) are to receive overflow from two 50,000KL rainwater tanks receiving 100% of the roof area.

- The transpiration trench must be a minimum size of one cubic metre of coarse gravel (40-50mm) per 50m² of roof and collected hardstand areas. The trench must be totally encased in a geo-fabric and located to ensure maximum solar exposure and avoidance of vehicular traffic or easement/s. Stormwater must be delivered into the upper portion of the trench via a perforated inlet pipe. The trench must be designed to be contiguous with the site contours. Stormwater overflow must not be directed in a concentrated flow onto any adjoining property. Alternatively, the infiltration area can be designed: a) By a qualified practising civil engineer/surveyor. The civil engineer/surveyor is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field, b) With a safety factor of 2 to allow for any long-term deterioration in infiltration rate, c) In accordance with the requirements of Section 9.4 of the NSW Department of Housing manual, Managing Urban Stormwater – Soils and Construction, and Version 11 of ATConditions.dot file 23 d) With percolation tests on the site in accordance with Appendix 4.1F of Australian Standard AS/NZS 1547:2000: On-site Domestic-wastewater management.

- Swale 1 (nearest Staff Wing) is to be a minimum size of 1.5m wide at the base, by 15m long, and 10-20cm deep.

- Swale 2 (centre Driveway) is to be a minimum size of 1.5m wide at the base, by 10m long, and 10-20cm deep. Flow from Swale 2 is piped to tailout drain.

- Swales are to be constructed at a grade of 1-5%.

- The end of the swale is to be contoured to discharge into the grassed areas.

- Runoff from the driveway area is to be directed to driveway tailout drain or grass with a 1-2% cross fall.

**Reason:** To ensure water quality requirements as contained in the Water Sensitive Design section of the Great Lakes Development Control Plan are met.

40. **Compliance of stormwater treatment system to plans**

Prior to the issue of any occupation certificate, written certification by the builder or plumber shall be provided to the certifying authority that the treatment swale has been installed in accordance with the approved conditions.

**Reasons:** To ensure compliance with Council's water quality objectives and comply with Chapter 11 of Great Lakes DCP and ensure that the stormwater treatment system is constructed in accordance with approved conditions of consent.

**ONGOING USE**

The following conditions must be satisfied during the ongoing use of the development.

41. **Stormwater treatment system maintenance**

The swale and vegetation is maintained in perpetuity by the owner.

**Reason:** To ensure that ongoing compliance with Chapter 11 of the Great Lakes DCP.
OTHER AGENCY CONDITIONS

42. Bush Fire Requirements

The development must be carried out in compliance with the following bush fire conditions:

(a) Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuelloads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. At the commencement of building works and in perpetuity the property around the building to a distance of 52 metres shall be maintained as an asset protection zone. The asset protection zone shall comprise of 35.0 metres as an inner protection area (IPA) and 17.0 metres as an outer protection area (OPA) as outlined below:

   (i) The inner protection area shall comprise of the following:
       • minimal fine fuel at ground level;
       • vegetation that does not provide a continuous path to building/s for the transfer of fire;
       • shrubs and trees that do not form a continuous canopy and vegetation is planted/cleared into clumps rather than continuous rows;
       • species that retain dead material or deposit excessive quantities of ground fuel are avoided;
       • shrubs and trees are pruned or removed so they do not touch or overhang the building/s; and
       • vegetation is located far enough away from the building/s so that plants will not ignite the building/s by direct flame contact or radiant heat emission.

   (ii) The outer protection area shall comprise of the following:
       • vegetation that does not provide a continuous path for the transfer of fire; and
       • fuel loadings are maintained below 8 tonnes per hectare by mowing, slashing or other approved hazard reduction methods.

2. Prior to the issuing of an Occupation Certificate, a Vegetation Management Plan shall be submitted to Council. The Plan shall provide details on the following actions:
   • The management of the outer protection area on slopes greater than 18 degrees. The management actions must ensure compliance with section 4.1.3 and Appendix 2 of ‘Planning for Bush Fire Protection 2006’ and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
   • The management of the lands between the remnant vegetation areas to the east, south and west. The management actions are to achieve a maximum fuel load of 4 tonnes per hectare for the existing grassland areas.

(b) Water and Utilities

The intent of measures is 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. To achieve this, the following conditions shall apply:

1. In recognition that no reticulated water supply is available to the development, a total of 20,000 litres fire fighting water supply shall be provided for fire fighting purposes. The fire fighting water supply shall be installed and maintained in the following manner:

   (i) Fire fighting water supply tank(s) shall be located not less than 5 metres and not more than 20 metres from the approved structure.
   (ii) A hardened ground surface for fire fighting truck access is to be constructed up to and within 4 metres of the fire fighting water supply.
(iii) New above ground fire fighting water supply storage’s are to be manufactured using non combustible material (concrete, metal, etc). Where existing fire fighting water supply storage’s are constructed of combustible (polycarbonate, plastic, fibreglass, etc) materials, they shall be shielded from the impact of radiant heat and direct flame contact.

(iv) Non combustible materials (concrete, metal, etc) will only be used to elevate or raise fire fighting water supply tank(s) above the natural ground level.

(v) A 65mm metal Storz outlet with a gate or ball valve shall be fitted to any fire fighting water supply tank(s) and accessible for a fire fighting truck.

(vi) The gate or ball valve, pipes and tank penetration are adequate for the full 50mm inner diameter water flow through the Storz fitting and are constructed of a metal material.

(vii) All associated fittings to the fire fighting water supply tank(s) shall be non-combustible.

(viii) Any below ground fire fighting water supply tank(s) constructed of combustible (polycarbonate, plastic, fibreglass, etc) materials shall be shielded from the impact of radiant heat and direct flame contact.

(ix) Any fire fighting water supply tank(s) located below ground shall be clearly delineated to prevent vehicles being driven over the tank.

(x) All water supplies for fire fighting purposes shall be clearly signposted as a fire fighting water supply.

(xi) Below ground fire fighting water supply tank(s) shall have an access hole measuring a minimum 200mm x 200mm to allow fire fighting trucks to access water direct from the tank.

(xii) Fire fighting water supply tank(s) and associated fittings, located within 60 metres of a bushfire hazard and on the hazard side of an approved building, shall be provided with radiant heat shielding to protect the tank from bush fire impacts and maintain safe access to the water supply for fire fighters.

(xiii) A minimum 5hp or 3kW petrol or diesel powered pump(s) shall be made available to the water supply. A 19mm (internal diameter) fire hose(s) and/or reel(s) shall be connected to the pump. Fire hose(s) and/or reel(s) must be installed so that each elevation of the building can be reached by a fire hose(s). The fire hose(s) and/or reel(s) must be constructed in accordance with ‘AS/NZS 1221:1997, Fire hose reels’ and shall be installed in accordance with ‘AS 2441:1988 Installation of fire hose reels’ as in force on 1 September 2005.

(xiv) Pumps are to be shielded from the direct impacts of bush fire.

(xv) A Static Water Supply (SWS) sign shall be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:
   • Markers must be fixed in a suitable location so as to be highly visible; and
   • Markers should be positioned adjacent to the most appropriate access for the water supply.

Note: The definition of below ground dedicated fire fighting water supply tank(s) is when the outlet valve is located below natural ground level.

2. In recognition that the dwelling maybe connected to a gas supply, the following requirements are to be complied with:

(i) Reticulated or bottled gas is to be installed and maintained in accordance with the current Australian Standard AS/NZS 1596: ‘The storage and handling of LP gas’ and the requirements of relevant authorities. Metal piping is to be used.

(ii) All fixed gas cylinders are kept clear of all flammable materials to a distance of 10 metres and be shielded on the hazard side of the installation.

(iii) Gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal.
Access

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

- Property access roads shall comply with the following requirements of section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006':
- Bridges clearly indicate load rating and pavements and bridges are capable of carrying a load of 15 tonnes;
- Roads do not traverse a wetland or other land potentially subject to periodic inundation (other than a flood or storm surge);
- A minimum carriageway width of 4 metres with a minimum 1 metre vegetation clearing either side. Any carriageway constriction along the property access road shall be no less than 3.5 metres in width and for a distance of no greater than 30m.
- The property access road have passing bays every 200 metres that are 20 metres long by 2 metres wide, making a minimum trafficable width of 6 metres at the passing bay;
- A minimum vertical clearance of 4 metres to any overhanging obstruction, including tree branches;
- Internal roads provide a loop road around the dwelling or incorporate a turning circle with a minimum 12 metre outer radius;
- Curves have a minimum inner radius of 6 metres and are minimal in number to allow for rapid access and egress. The minimum distance between the inner and outer curves is 6 metres;
- The crossfall is not to exceed 10 degrees. Maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

- New construction shall comply with Sections 3 and 8 (BAL 40) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

Landscaping

Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

Details from an appropriately qualified bushfire consultant (BPAD) accredited with the Fire Protection Association of Australia or a building certifier accredited with the Building Professionals Board demonstrating compliance with these conditions, must be submitted to the certifying authority prior to the issue of the Occupation Certificate

Reason: To ensure work is carried out in accordance with the determination and other statutory requirements.
ANNEXURES:

A: Plans of Proposed Development
PES - DA 253/2016 Alterations/Additions - 29 The Boulevarde Hawks Nest

Index: DA 253/2016 & PK 11330
Author: District Building Surveyor - Mr Nick Green
Ordinary Meeting: 25 May 2016

DETAILS:

Date Received: 16 December 2016
Applicant: Mr D and Ms N Cottrell
Owner: As above
Land: Lot 39 DP 211069, 29 The Boulevarde, Hawks Nest
Area: 461.6m$^2$
Property Key: 11330
Zoning: R2 Low Density Residential, GLLEP 2014

SUMMARY OF REPORT:

- Application submitted for dwelling additions and alterations including the erection of an additional storey.
- Application notified and one submission received raising concerns about loss of privacy, noise, parking and use of the dwelling as a rental property.
- Proposal assessed and found to be generally consistent with the objectives of Council’s Local Environment Plan and Development Control Plan but additional privacy measures may be required.

SUMMARY OF RECOMMENDATION:

The application be approved subject to the attached conditions including a deferred commencement condition requiring a privacy screen on the rear facing deck.

FINANCIAL/RESOURCE IMPLICATIONS:

Any decision may be appealed in the Land and Environment Court and there may be a cost of defending the decision.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

Any decision may be appealed in the Land and Environment Court.
LIST OF ANNEXURES:
A: A copy of the site plan and elevations.

LIST OF ATTACHMENTS:
Nil.
SUBJECT SITE AND LOCALITY:
PROPOSAL:

The application proposes alterations and additions to the existing dwelling. The works include:

- The demolition of the rear deck and the erection of a new deck across the entire width of the rear of the dwelling. A sheet metal clad skillion roof will be erected over the deck. The deck will be erected 900mm from the western side boundary.
- The first floor front deck will be demolished and a new deck will be erected in its place. This deck is stepped and has front boundary setbacks varying between 3.97m and 4.4m along The Boulevarde and 3.42m to the splay corner. The deck will be setback 2.52m from the western boundary.
- The ground floor and first floor will be reconfigured internally to reduce the bedrooms from five to four.
- An additional level will be erected over the front half of the first floor. This level will contain a living area and a front deck. The level will be setback between 5.2m and 6.6m from The Boulevarde boundary and 2.52m from the western property boundary.

A copy of the site plan and elevations is contained in Annexure A. A full copy of the plans is on the Development Application (DA) file for viewing of the Development Control Unit (DCU).

SITE DESCRIPTION:

The site is located on the north western corner of The Boulevarde and Jacabba Street. The site is relatively flat with slight fall in a northerly direction. Current improvements to the land include a two storey dwelling with front and rear decks. The front deck is setback 4.4m from The Boulevarde front property boundary which is the primary road for the property. The existing garages are setback approximately 2.785m from the Jacabba Street property boundary which is the secondary road frontage. There is no significant vegetation that is required to be removed to allow the erection of the new work. The site is bordered by two storey residential dwellings to the north and the west.

REPORT:

The following matters listed under Section 79C of the Environmental Planning and Assessment Act, 1979, are relevant in considering this application:

a) The provisions of any environmental planning instrument; any proposed instrument that is or has been the subject of public consultation and which have been notified to the consent authority; any DCP; any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F; any matters prescribed by the regulations; any coastal zone management plan that apply to the development application on the subject land.

Great Lakes Local Environmental Plan 2014 (GLLEP 2014)

Under GLLEP 2014 the development site is zoned R2 Low Density Residential. Mapping indicates that there is a 0.5:1 Floor Space Ratio (FSR) requirement and a maximum height of 8.5m for buildings. The objectives of the R2 zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Garages are permitted with the consent of Council. The proposed additions increase the FSR to 0.48:1 and the maximum height of the proposed additions is 8.5m metres. The development complies with the objectives, height and FSR requirements of GLLEP 2014.
**State Environmental Planning Policy**

State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71) applies to all land within the coastal zone as defined in the Coastal Protection Act 1979 and accordingly applies to the subject site to the extent of requiring Council to consider the matters listed in Clause 8 of the Policy. In this regard, the proposal is considered acceptable as it will not impinge on the scenic qualities of the coast and its design is considered suitable for the context of the surrounding area, without any significant detrimental impacts to neighbouring properties. The completed dwelling is unlikely to dominate views from the beach front as the existing coastal vegetation will screen the dwelling, with the ground and first floor unlikely to be visible, and the top storey will be mainly visible.

**NSW Coastal Policy 1997**

The 1997 NSW Coastal Policy is a Government Policy, which is a prescribed matter pursuant to Section 79C of the Environmental Planning and Assessment Act 1979. This requires Council to consider the relevant strategic actions of the policy when assessing development applications. It is considered that the proposed development raises issues in terms of objective 2.1.3 of the Policy. That is “Physical and ecological processes and hazards will be assessed when considering development proposals”. The site is not affected by the Coastal Recession and is located behind the 2060 Hazard Line.

**Coastal Design Guidelines for NSW**

The Tea Gardens/Hawks Nest area is considered to be a Coastal Village under the Coastal Design Guidelines. The proposal is considered to be consistent with the design guidelines for Coastal Villages.

**Development Control Plan**

The proposal was assessed against the requirements of the Great Lakes Development Control Plan (DCP) and the proposal was found to be generally consistent with the objectives of the DCP. The proposal however did not satisfy the following control within the DCP 5.2(2) (c) Screening windows, balconies and courtyards within 3m of a property boundary. The western elevations of the decks are not are not fitted with the privacy screens. While the plans in Annexure A indicate that the front decks are fitted with privacy screens the owner has requested that these screens be deleted but has indicated that a privacy screen will be provided to the rear deck.

Note: The front deck on the first floor has been squared off so that the deck varies between 4.4m and 3.97m from The Boulevarde property boundary. This building line encroachment is consistent with existing setback of the front deck (4.4m) and the articulation zone allowances of Clause 5.5 of the DCP.

A full DCP assessment is on the DA file for viewing of the DCU.

**The likely impacts of development including environmental impacts on both natural and built environments and social/economic impacts in the locality**

**Context and Setting**

The proposed additions are consistent with the residential nature of the Winda Woppa area in Hawks Nest. There are several examples of three storey dwellings along The Boulevarde and The Anchorage which are the main streets of Winda Woppa. Due to the relatively flat nature of the area, the view issues experienced in other areas such as One Mile Beach, Bluesys Beach and Boomerang Beach are generally not an issue in Winda Woppa. The approval of the proposal is not expected to create any new precedents and the completed dwelling will not be seen as being out of context with the area. It is also considered that the existing building with the celestial windows across the front elevation can already be mistaken for a three storey dwelling.
Site Design and Internal Layout

The positioning of the existing building has dictated the positioning of the new work. This work has been designed to provide views to across Port Stephens from the upper levels of the dwelling.

Views

The proposed building is not expected to have any additional view impacts as the majority of the new work is situated above the existing two storey section of the dwelling.

Privacy (Aural and Visual)

The proposed additions include first floor decks of increased size at the front and rear of the building and a new deck on the top storey. The applicant has indicated that they are prepared to install privacy screening on the rear deck and a condition has been included in the recommendation requiring this.

The applicant has indicated that they do not wish to install privacy screens on the front decks as shown on the western elevation in Annexure A. It is considered by the owner that the inclusion of the privacy screens will interrupt the views in a south-westerly direction from the proposed decks. The dwelling on the adjoining site to the west has been orientated so that it is angled slightly in a south-westerly direction and the front decks on this dwelling are erected with a solid wing wall at the eastern end. Therefore it is agreed that the proposed new decks do not need to provide privacy measures. It is also considered that the majority of decks along The Boulevarde are open at each end and privacy is already lost to decks that face the street due to the public nature of the area.

The proposed additions are for residential purposes and are not considered to create noise impacts that are inconsistent with the locality.

Access, Transport and Traffic

The existing double garage is accessed from Jaccaba Street. The new deck section at the rear of the dwelling provides for additional parking and has been raised to allow boat or caravan parking. The application was referred to Council's Transport Assets Section and concerns were not raised regarding the existing garage arrangement which is setback only 2.785m from the street where current DCP controls would require a 6.0m setback.

Climate Change

The site is not affected by the coastal recession zone that runs along The Boulevarde and is above the 2060 levels for flooding.

Any Submissions Made in Accordance with the Act or Regulations

The application was notified to adjoining owners in accordance with Council’s Policy and one submission was received. The submission referred to the following issues:

1. Adding a third floor to the house will increase the potential for more beds in the house (whether they are in bedrooms or the proposed 3rd floor “rumpus” room) which means additional numbers of holiday makers using the house at one time.

Comment:

The existing dwelling is currently a 5 bedroom dwelling. The proposed works reduce the number of bedrooms in the dwelling to 4. The owner has provided a submission that confirms that it is not intended to use the top floor in the building as a bedroom. A condition of consent has been included in the recommendation that restricts the use of the top floor of the building as a bedroom.
2. The proposed large decks (3 in total) will create excessive noise and reduce the present privacy we enjoy in our property. There appears to be no screening planned for the ends of the decks to protect the privacy of adjoining residents. In general, decks around rental properties in Winda Woppa always disturb neighbours. Increasing the number and size of the outdoor decking areas increases the potential for much more noise from the property which is not desirable throughout the night.

Comment:
The owner has indicated that the rear deck will be fitted with a privacy screen and this is required by the deferred commencement condition in the recommendation.

When privacy was first raised with the applicant as an issue, amended plans were provided with privacy screens on the western side of the front decks. The applicants have indicated that they wish to withdraw inclusion of privacy screens to the front decks as they believe that privacy of the adjoining property will not be impacted upon.

The concerned party is correct in saying that outdoor decks do create the potential for increased noise levels from the users. The Boulevarde which has sweeping views of Port Stephens is an area synonymous with outdoor decks and open living. The majority of dwellings along this street have large front and rear decks including the adjoining property to the west. The proposed decks are consistent in size with other decks in the Hawks nest area. The DCP does not provide any size limitations for decks.

3. There is not enough parking for the inevitable increase in numbers of cars associated with a larger rental property. There is currently only 2 car spaces available for visitor's cars at 29 The Boulevarde because the present double garage is unavailable to renters as it contains the owner's personal property. Therefore the property only has 2 parking spaces available to renters. As a result, people renting 29 The Boulevarde park outside adjoining properties and often block access and damage grass verges and under lawn watering systems and shrubs in the process. During the recent holiday period there up to 5 cars at the property.

Comment:
There are two parking spaces provided in the existing garage which satisfies the requirements of the DCP for a dwelling at this size. The owner has indicated that the area under the rear deck has been designed for parking including boat and caravan parking and an additional two parking spaces are available in this area.

CONCLUSION:

It is concluded that the proposed additions and alterations to the existing dwelling are acceptable provided that suitable privacy screens are installed on the rear deck. The concerns raised by the adjoining owners have been addressed and it is found that visual privacy will be addressed, sufficient parking is provided and that the proposal is likely to result in a decrease in inhabitants due to the reduced number of bedrooms. It would appear the concerns raised are based around the previous use of the dwelling as holiday accommodation. Holiday accommodation is permitted in the area and the Winda Woppa part of Hawks Nest is very popular with holiday makers due to the sweeping views of Port Stephens and the close proximity to Jimmy’s Beach.
RECOMMENDATION:

It is recommended that the application for the erection of dwelling additions and alterations on land known as Lot 39 DP 211069, 29 The Boulevarde, Hawks Nest be approved subject to the attached conditions.

Deferred Commencement Conditions

1. In accordance with Section 80(3) of the Environmental Planning and Assessment Act, 1979, this is a deferred commencement consent. The consent will not operate until evidence, as specified in the following deferred commencement conditions, has been submitted to and approved by the consent authority and written notice given under Section 100(4)(b) of the Environmental Planning and Assessment Regulation 2000 that the deferred commencement conditions have been satisfied and the date from which the consent operates:

   a) Elevation plans are to be submitted that have a privacy screen that is a minimum of 1.5m high and no greater than 50% open to the western side of the rear deck. The privacy screens on the western side of the front decks can be deleted.

   Reason: To protect the amenity of the adjoining property.

Evidence required to satisfy the above deferred commencement condition/s must, in accordance with Clause 95(3) of the Environmental Planning and Assessment Regulation 2000, be submitted to Council within twelve months of the date of this consent.

Under Section 80A of the Environmental Planning and Assessment Act 1979, the following conditions will apply, following written notice given under Section 100(4)(b) of Environmental Planning and Assessment Regulation 2000 and subject to any further conditions reasonably arising from compliance to the terms of the deferred commencement condition/s.

GENERAL CONDITIONS

1. Development in accordance with approved plans

   The development must be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

<table>
<thead>
<tr>
<th>Plan type/Supporting Document</th>
<th>Plan No. &amp; version</th>
<th>Prepared by</th>
<th>Dated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Plan and Floor Plans</td>
<td>Sheets 1, 2, 3, 4 and 7 of 9</td>
<td>Piper Plans</td>
<td>Dec 15</td>
</tr>
<tr>
<td>Elevations</td>
<td>To be provided in accordance with Deferred commencement condition</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

   The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

   Reason: Information and to ensure compliance.
2. **Compliance with National Construction Code Series- Building Code of Australia**

All building work must be carried out in accordance with the requirements of the *National Construction Code Series - Building Code of Australia* as in force on the date the application for the relevant construction certificate or complying development certificate was made.

**Reason:** Prescribed condition under the *Environmental Planning & Assessment Regulation 2000*.

---

3. **Insurance requirements under Home Building Act 1989**

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates has been given documentary evidence or written notice of the following information:

a) in the case of work for which a principal contractor is required to be appointed:
   
   i) the name and licence number of the principal contractor, and
   
   ii) if the contractor is required to have a contract of insurance for any authorised works, a Statement of Cover with the name of the insurer by which the work is insured under Part 6 of that Act.

b) in the case of work to be done by an owner-builder:
   
   i) the name of the owner-builder, and
   
   ii) if the owner-builder is required to hold an owner-builder permit under that Act, the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates has been given the notice of the updated information.

**Reason:** Prescribed condition under the *Environmental Planning & Assessment Regulation 2000*.

---

4. **Notification of Home Building Act 1989 requirements**

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

a) in the case of work for which a principal contractor is required to be appointed:
   
   i) the name and licence number of the principal contractor, and
   
   ii) the name of the insurer by which the work is insured under Part 6 of that Act,

b) in the case of work to be done by an owner-builder:
   
   i) the name of the owner-builder, and
   
   ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

**Reason:** Prescribed condition under the *Environmental Planning & Assessment Regulation 2000*. 

---
5. Adjustment to utility services

All adjustments to existing utility services made necessary by the development are to be undertaken at no cost to Council.

Reason: To ensure utility services remain in serviceable operation.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions must be complied with prior to the issue of any construction certificate:

6. Structural details

Prior to the issue of a construction certificate, structural drawings prepared by a suitably qualified and experienced structural engineer must be submitted to and approved by the certifying authority. The plans must include details for:

a) All reinforced concrete floor slabs and/or beams or raft slab (having due regard to the possible differential settlement of the cut and fill areas.

b) Footings of the proposed structure.

c) Structural steel beams/columns.

Reason: To ensure structural stability and safety.

7. MidCoast Water approval

Prior to the issue of a construction certificate, a Certificate of compliance from MidCoast Water, stating that satisfactory arrangements have been made and all payments finalised for the provision of water supply and sewerage to the development, must be submitted to the certifying authority.

Reason: To ensure suitable water and sewage disposal is provided to the development.

8. BASIX Certificate

Prior to the issue of a construction certificate, plans and specifications detailing all of the BASIX Certificate commitments must be submitted to and approved by the certifying authority. The proposed development must be constructed in accordance with the requirements of the relevant BASIX Certificate. Where changes to the development are proposed that may affect the water, thermal comfort or energy commitments, a new BASIX Certificate will be required.

Reason: Prescribed condition under the Environmental Planning and Assessment Regulation 2000.

9. Bond required to guarantee against damage to public land

Prior to the issue of a construction certificate, a Damage Bond Application form together with payment of a bond in the amount of $2000 and an administration fee of $320 must be submitted to Council. The bond is payable for the purpose of funding repairs to any damage that may result to Council assets from activities/works associated with the construction of the development and to ensure compliance with Council standards and specifications.
A final inspection will be carried out by the responsible Council officer and the bond (minus any fees required for additional inspections) will be considered for refund:

a) once all works, including landscaping, driveway construction, turfing, etc, have been completed, and
b) following issue of an occupation certificate by the certifying authority.

The damage bond is reviewed periodically and therefore the fee and bond amount payable will be determined from Council’s current fees and charges document at the time of lodgement of the damage bond.

Reason: Protection of public assets.

PRIOR TO THE COMMENCEMENT OF ANY WORK ASSOCIATED WITH THIS CONSENT

The following conditions must be satisfied prior to the commencement of any building construction or subdivision work:

10. Construction certificate required

Prior to the commencement of any building or subdivision construction work (including excavation), a construction certificate must be issued by a certifying authority.

Enquiries regarding the issue of a construction certificate can be made to Council’s Customer Service Centre on 6591 7222.

Reason: Statutory requirement under the Environmental Planning and Assessment Act 1979.

11. Notification of commencement and appointment of principal certifying authority

Prior to the commencement of any building or subdivision construction work (including excavation), the person having the benefit of the development consent must appoint a principal certifying authority and give at least two (2) days notice to Council, in writing, of the persons intention to commence construction work.

Reason: Statutory requirement under the Environmental Planning and Assessment Act 1979.

12. Site access

Public access to the site and building works, materials and equipment on the site is to be restricted, when building work is not in progress or the site is unoccupied. The public safety provisions must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.

Reason: To ensure public health and safety during the construction of the development.

13. Installation of erosion & sediment control measures

Prior to the commencement of work, erosion and sediment controls must be in place in accordance with Great Lakes Council Erosion and Sediment Control Policy and “The Blue Book – Managing Urban Stormwater (MUS): Soils and Construction” (Landcom). In particular, the following erosion and sediment control measures must be installed:
a) Silt fence or sediment barrier.
b) Temporary driveway from the edge of road to the building site.
c) Temporary downpipes immediately upon installation of the roof covering.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

Reason: To protect the environment from the effects of erosion and sedimentation.

14. Pollution prevention sign

Council’s “PREVENT POLLUTION” sign must be erected and maintained in a prominent position at the frontage of the property so that it is clearly visible to the public for the duration of construction work.

Council’s PREVENT POLLUTION sign can be purchased at Council’s Customer Enquiry Counter at the Forster, Tea Gardens and Stroud administration buildings.

Reason: To increase industry and community awareness of developer’s obligations to prevent pollution and to assist in ensuring compliance with the statutory provisions of the Protection of the Environment Operations Act 1997.

15. Toilet facilities - sewered areas

Prior to the commencement of work, toilet facilities must be provided at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a standard flushing toilet connected to a public sewer.

Reason: To maintain public health.

16. Site construction sign

Prior to the commencement of work, a sign or signs must be erected in a prominent position at the frontage to the site.

a) showing the name, address and telephone number of the principal certifying authority for the work, and
b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
c) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

Reason: Prescribed condition under the Environmental Planning and Assessment Regulation 2000.

CONDITIONS TO BE SATISFIED DURING DEVELOPMENT WORK

The following conditions must be complied with during any development work:
17. **Construction times**

Construction and/or demolition works, including deliveries on or to the site must not unreasonably interfere with the amenity of the neighbourhood and must occur only in accordance with the following:

Monday to Friday, from 7 am to 6 pm.

Saturday, from 8 am to 1 pm.

No construction and/or demolition work, including deliveries are to take place on Sundays or Public Holidays.

**Reason:** To maintain amenity during construction of the development.

18. **Builders rubbish to be contained on site**

All builders rubbish is to be contained on the site in a suitable waste bin/enclosure. Building materials must be delivered directly onto the property. Footpaths, road reserves and public reserves must be maintained clear of rubbish, building materials and other items at all times.

**Reason:** To ensure that materials and waste do not adversely affect traffic or pedestrian safety and amenity.

19. **Maintenance of sediment and erosion control measures**

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

**Reason:** To protect the environment from the effects of erosion and sedimentation.

20. **Removal of asbestos**

All asbestos containing material associated with demolition/renovation works must be removed, handled and disposed of in accordance with the requirements of the NSW Workcover Authority and the following requirements:

a) If asbestos is present in an amount greater than 10m$^2$, then the demolition and removal must be undertaken by a WorkCover licensed demolition contractor who holds the appropriate WorkCover licence (e.g. Asbestos Demolition Licence) for the material to be demolished.

b) All asbestos must be removed from the site and be disposed of at an approved licensed waste facility. All asbestos waste must be delivered to an approved licensed waste facility in heavy duty sealed polyethylene bags.

c) The bags are to be marked "Caution Asbestos" with 40mm high lettering. Twenty four (24) hours’ notice must be given to the waste facility prior to disposal.

d) Receipts of the disposal of all asbestos to a licensed waste facility must be provided to Council within fourteen (14) days of the material being disposed.

**Reason:** To protect public health and safety and to ensure the correct disposal of asbestos waste.

**Informative:**
The generator and owner of the waste, has a legal obligation under s143 of the Protection of the Environment Operations Act 1997 ("the Act") to ensure the waste is transported to and disposed of at a facility that can lawfully be used as waste facility for that waste.

In NSW, all asbestos sheeting or asbestos waste must be taken to a landfill that can lawfully receive this waste. Transporters of asbestos waste must now use WasteLocate to provide information to the EPA regarding the movement of any load over 100kg of asbestos waste, or 10m2 or more of asbestos sheeting within NSW. WasteLocate makes it easy for transporters to comply with these reporting obligations under the Waste Regulation and the Asbestos and Waste Tyre Guidelines by creating a consignment number, which can be used to track the location of the waste.

If you have paid for an asbestos removal service (e.g. from a household or construction site), you should request the WasteLocate consignment number from the transporter. You can then use this number to track the load at https://wastelocate.epa.nsw.gov.au/ to make sure it has reached its intended destination, just like a parcel in the post. If the load is not delivered, please contact the EPA.

What to do with asbestos waste

For more information on how to safely deal with asbestos at home or in the workplace, please visit:


More information on WasteLocate

More information about WasteLocate is available on the EPA website at:


Should you require any further information, please contact the EPA on 131 555.

21. Standards for demolition work

All demolition works must be undertaken in accordance with the provisions of *Australian Standard AS 2601: The demolition of structures*. Prior to demolition, all services must be disconnected and capped off.

**Reason:** To protect public health and safety.

22. Survey of building location

A survey certificate prepared by a registered surveyor must be submitted to the certifying authority at the following stages of the development:

a) Prior to the construction of footings or first completed floor slab showing the area of land, building under construction and boundary setbacks.

b) Upon completion of the roof timbers, before roofing is laid, indicating the ridge height to be no greater than 8.5m above the existing ground levels.

c) At completion, indicating the relation of the building and any projections to the boundaries and that the building has been erected to the levels approved in the development consent.

**Reason:** To ensure compliance with the approved plans.
PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions must be satisfied prior to any occupation or use of the building:

23. Works to be completed

The building/structure or part thereof must not be occupied or used until an interim occupation/final occupation certificate has been issued in respect of the building or part.

Reason: To ensure compliance with the development consent and statutory requirements.

24. Internal driveway in accordance with the approved plans

Prior to the issue of a final occupation certificate, a driveway must be constructed from the property boundary to the proposed car spaces in accordance with the approved plans.

Reason: To ensure suitable vehicular access is provided to the development.

25. Stormwater drainage work

Prior to the issue of a final occupation certificate, stormwater must be collected and disposed of to the existing system. Drainage lines within the road reserve must be sewer class or other approved equivalent. All drainage works must be installed by a suitably qualified person and in accordance with the requirements of Australian Standard AS/NZS 3500.3: Plumbing and drainage – Stormwater drainage.

Reason: To ensure compliance with the development consent and statutory requirements.

26. Smoke Alarm/s required

Prior to the issue of an occupation certificate, a smoke alarm/s must be installed and maintained within the entire building and be located in accordance with the Building Code of Australia. The alarm must be hard wired and comply with the Australian Standard 3786 be contained in each storey.

Reason: Environmental Planning and Assessment Regulation 2000 fire safety requirement.

27. BASIX Compliance

Prior to the issue of a final occupation certificate, all of the required commitments listed in the BASIX certificate must be fulfilled.

Reason: Prescribed condition under the Environmental Planning and Assessment Regulation 2000.
ONGOING USE

28. Premises not to be converted to dual occupancy

The premises must not be converted for dual occupancy purposes without the prior consent of Council.

Reason: To protect the amenity of adjoining premises.

29. Use of the second storey

The second storey (upper floor) of the dwelling is not to be used as a bedroom.

Reason: The use of the dwelling is consistent with the use described on the approved plans and to protect the amenity of the adjoining premises by restricting the amount of occupants that may inhabit the dwelling.
ANNEXURES:

A: A copy of the site plan and elevations.

PIPER PLANS
PACIFIC PALMS 0418 428099
andrewpiper3@bigpond.com

PROPOSED EXTENSION TO RESIDENCE
FOR: D & N COTTRELL
AT: 29 THE BOULEVARD HAWKS NEST
ORDINARY Meeting of the Great Lakes Council held 25 MAY 2016
CONSTRUCTION NOTES:

GENERAL:
The whole of the work is to be constructed to comply with the National Construction Code, and all requirements of locally constituted authorities.

TILING:
All timber used is to be straight and true and free of defects. Timber shall comply with the Australian Standards. Timber marketing Act. Timber sizes should be in accordance with Australian Standard 1664.

BRICKWORK:
All masonry construction shall comply with AS 4727.1 and AS 3700.0.

WALLS, FENCING:
All walls shall be of brickwork as selected with 10mm control joints @ 6000mm, c.t.e.

ROOFING:
Provide roof sheeting in profile as selected by owner & installed in accordance with manufacturer's written instructions. Installation to be carried out using approved fasteners & accessories.

PLUMBING:
Extend existing plumbing to provide for water requirements.

SANITARY:
Existing sanitary services as selected in accordance with the requirements of the local plumbing authority.

ELECTRICAL:
Extend existing wiring to provide for light and power points as selected in accordance with the requirements of the local power supplier and Standards Association of Australia wiring rules.
DETAILS:

Date Received: 15 February 2016
Applicant: Newall Constructions
Owner: Mr M & Mrs R Lo Rocco
Land: Lot 961 DP 1125830, 12 Coolabah Close, Tea Gardens

Area: 650.2m²
Property Key: PK 36559
Zoning: R2 Low Density Residential, GLLEP 2014

SUMMARY OF REPORT:

- Development Application No. 321/2016 lodged seeking consent for the erection of an attached dual occupancy on a vacant allotment.
- Application notified to neighbouring property owners in accordance with Council's Policy and submissions were received from three (3) neighbouring properties.
- Proposed development generally considered to be consistent with the various relevant planning controls.

SUMMARY OF RECOMMENDATION:

Approval subject to conditions.

FINANCIAL/RESOURCE IMPLICATIONS:

Cost of defending any appeal against Council's decision.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

A decision for approval subject to conditions or refusal may lead to an appeal to the Land and Environment Court requiring legal representation.

LIST OF ANNEXURES:

A: Plans of proposed development.
LIST OF ATTACHMENTS:

Nil.
SUBJECT SITE AND LOCALITY:
BACKGROUND:

This section of the residential estate was created with registration of DP1063829 on 12 December 2004. The subject parcel of land was recognised as lot 96 in that deposited plan. A re-subdivision of Lot 95 and 96 in DP1063829 reducing the area of Lot 95 and enlarging the area of Lot 96, creating Lot 963 and Lot 964 in DP1124937, was registered 10 April 2008. Lot 964 was then subdivided to create two (2) lots, Lots 961 and 962 in the current DP1125830. The subject lot is 961. The Section 88B Restrictions imposed by the developer (Myall River Downs Pty Ltd) on DP1063829 carry forward to the current DP 1125830. Those restrictions will be discussed further in the consideration of neighbour’s concerns under the later heading Any Submissions Made in Accordance with the Act or Regulations.

PROPOSAL:

To erect a single storey attached dual occupancy. Each three (3) bedroom dwelling unit will have a single attached garage. The design will be conservative, consistent with that of residential development in this locality, with brick veneer external walls and covered by a pitched tiled roof. No form of subdivision is proposed.

SITE DESCRIPTION:

The site is located on a right angled corner in the street close to its southern end. The site is relatively flat and with no significant vegetation. The residential locality is generally characterised by single storey dwelling houses.

REPORT:

The following matters listed under Section 79C of the Environmental Planning and Assessment Act, 1979, are relevant in considering this application:

a) The provisions of any environmental planning instrument; any proposed instrument that is or has been the subject of public consultation and which have been notified to the consent authority; any DCP; any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F; any matters prescribed by the regulations; any coastal zone management plan that apply to the development application on the subject land.

Environmental Planning and Assessment Act 1979 (EPAA 1979)

The subject site is mapped as bush fire prone and in accordance with Section 79BA of the EPAA 1979 the application is to be assessed having regard to the provisions of the publication ‘Planning for Bushfire Protection 2006’. In this regard the application included a bushfire assessment prepared by a suitably qualified professional that subject to conditions demonstrated that the development was satisfactory having regard the provisions of ‘Planning for Bushfire Protection 2006’. The conditions of that assessment are included in this report’s recommendation.

Great Lakes Local Environmental Plan 2014 (GLLEP 2014)

The following consideration addresses the relevant provisions of the Plan.

Part 1.9A - Suspension of covenants, agreements and instruments

This Part provides that for the purpose of enabling development on land in a zone to be carried out in accordance with this Plan or with a consent granted under the Environmental Planning and Assessment Act 1979 (EPAA 1979), any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose. However, the clause does not apply to a covenant imposed by the Council or that the
Council requires to be imposed. The clause was approved for inclusion in the Plan by the Governor pursuant to section 28 of the EPAA 1979. As will be discussed later in this report under the headings Section 88B Instrument Impacts and Any Submissions Made in Accordance with the Act or Regulations the current covenants on Title do not restrict Council from favourably determining this development application.

Part 1.2 - Aims of the Plan
The relevant aims of the Plan are to protect and enhance the environmental, scenic and landscaped assets of the area and to facilitate the orderly and sustainable economic development of land. The proposed development is considered to be consistent with these aims.

Part 2 - Land use table
The site is located in a R2 Low Density Residential Zone and the proposed dual occupancy is a permissible use in the zone with development consent. The relevant objective of the zone is to provide for housing needs of the community within a low density residential environment. The proposed development is contextually appropriate and considered to be consistent with this objective.

Part 4 - Principal development standards
This Part identifies various numerical development standards for proposed development. The relevant development standards are:

4.3 - Height of building - The relevant objectives of the standard are to ensure the scale of proposed buildings is compatible with the existing environmental character and the desired future urban character of the locality. The proposed single storey development has a maximum height of approximately 5.4 metres and sits below the desired maximum height control of 8.5 metres in a built environment generally comprised of single storey residential buildings. The proposed development is not considered to unreasonably impact on the residential amenity relationship with neighbouring properties. Accordingly, the proposed development is considered to be consistent with the relevant objectives for building height.

4.4 - Floor space ratio - The relevant objectives of the standard are to ensure the scale of proposed development is compatible with the existing environmental character and the desired future urban character of the locality. The maximum floor space ratio in the R2 zone is 0.5:1.00. The proposed development has a floor space ratio of 0.34:1.00. The scale of the proposed development is considered to be contextually appropriate and maintains a reasonable amenity relationship with neighbouring residential properties. Accordingly, the proposed development is considered to be consistent with the relevant objectives for floor space ratio.

Part 5 - Miscellaneous provisions

5.5 - Development within the coastal zone - The relevant objectives of the clause are to provide for the protection of the coastal environment through promoting the principles of ecologically sustainable development and to implement the principles of the NSW Coastal Policy (discussed later in this report under the heading NSW Coastal Policy 1997). The proposed development is considered to be consistent with the above objectives having regard to the matters listed for consideration under clause 5.5.

Part 7 - Additional local provisions

7.1 - Acid sulfate soils - The objective of the clause is to ensure that development does not disturb, expose or drain acid sulphate soils and cause environmental damage. The Acid Sulphate Soils Planning Map identifies the site as class 3 land. The requirements of that class relate to excavations below 1.0 metre or likely to lower the water table more than 1.0 metre below the natural ground surface. The proposed development will have limited excavations to depths below 1.0 metre and accordingly significant issues are unlikely to arise in respect to potential acid sulphate soils. Accordingly, the proposed development is considered to be consistent with the objective of the clause.
7.2 - Earthworks - The objective of this provision is to ensure that earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses and features of the surrounding land. The proposed development includes limited excavation works to construct the development and install services. Issues of soil erosion, sedimentation and drainage impacts will be managed during and after construction and appropriate conditions are included in this report's recommendation. Accordingly, the proposed development will be consistent with the objective of this clause.

7.5 - Stormwater Management - The objective of this clause is to minimise the environmental impacts of stormwater on the site and adjoining properties, native bushland, groundwater, wetlands and receiving waters. The proposed stormwater management includes rain water tanks to both dwelling units, consistent with BASIX requirements. Dwelling unit A will have any overflow directed to an infiltrating rain garden however tank overflow from dwelling unit B, due to site constraints, will go directly to the street gutter. The proposed outcome is considered satisfactory in achieving stormwater quality targets and the objectives of this clause.

7.21 - Essential services - This clause requires that development consent must not be granted to development unless the Council is satisfied that essential services (i.e. water, electricity, sewage, stormwater drainage and road access) are available or that adequate arrangements have been made to make them available. The proposed development has access to all relevant necessary services subject to the conditions contained in this report's recommendation.

State Environmental Planning Policy (BASIX) 2004 (SEPP BASIX)

SEPP BASIX applies to all new housing developments in New South Wales and requires that they be designed to use less potable water and be responsible for fewer greenhouse gas emissions by setting energy and water reduction targets. The SEPP must be read in conjunction with the Environmental Planning and Assessment Regulation 2000, which requires that a development application must be accompanied by a BASIX certificate. A Basix Certificate No. 679082M dated 30 October 2015 has been submitted together with an ABSA Assessor Certificate prepared by Assessor 20094 Certificate No. 1008484527 indicating that the proposed development conforms to the requirements of SEPP BASIX subject to the requirements identified in the documentation.

State Environmental Planning Policy No. 71 - Coastal Protection (SEPP71)

The provisions of SEPP71 apply to the proposed development as the land is located within the Coastal Zone. The site is not located in a Sensitive Coastal Location, as defined by SEPP71.

The proposed development is considered to satisfactorily address both the aims and the relevant provisions of SEPP 71.

NSW Coastal Policy 1997

The New South Wales Coastal Policy is a broad policy for the coastal zone that is required to be considered having regard to the provisions of Clause 92 of the Environmental Planning and Assessment Regulations 2000.

The site is located within the Coastal Zone. Relevant to the principles of the Coastal Policy, the proposed development will not compromise the natural, cultural heritage (both indigenous and European) and spiritual values of the coastal area. The proposed development is considered to be a low impact development that incorporates the principles of ESD and implements the planned urban development of this residential locality.

The proposed development will not compromise the goals or strategic actions of the Coastal Policy.
**Coastal Design Guidelines for NSW**

The Guidelines are designed with reference to the NSW Coastal Policy 1997, complementing the State Government's Coastal Protection Package and are based on the principles of ecologically sustainable development. Whilst recognising the pressures due to an expected future population growth of coastal areas the guidelines establish a set urban design principles to ensure new development is sensitive to the unique natural and urban settings of coastal places.

The Guidelines classify Tea Gardens and Hawks Nest as a 'coastal town' that is under pressure to grow and is at risk from impacts of increased traffic, degradation of water quality in waterways, adverse impacts on the environment and reduction of the existing town character. The proposed development is considered to be consistent with the scale and desired character of development in the locality and the relevant urban design guidelines contained in Part 2 of the document.

**Development Control Plan 2014**

The aims of the Plan are to ensure good quality, sustainable development outcomes that maintain a high level of environmental amenity. The Plan is designed to allow flexibility in the application of its controls where strict compliance is considered unreasonable or unnecessary provided the relevant objectives of the Plan have been achieved.

The relevant provisions of the Plan are discussed as follows:

**Part 3 Character Statements** - The proposed development is considered to be contextually appropriate, it will complement the desired character of this coastal locality and it will encourage passive surveillance and security in accordance with the relevant provisions of the Part 3.

**Part 4 Environmental Considerations** - The site is not prone to any significant natural or man-made hazards. The proposed development does not create any adverse ecological impacts.

**Part 5 Single Dwellings, Dual Occupancies, Villas and Townhouses**

The relevant numerical provisions of this Part are tabulated below and then addressed in the following commentary:

<table>
<thead>
<tr>
<th>Design Issue</th>
<th>DCP 2014</th>
<th>Proposal</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Massing element max. length on corner lot</td>
<td>12.0 m</td>
<td>13.615 m</td>
<td>No (+)</td>
</tr>
<tr>
<td>Garage setback from front building façade</td>
<td>500 mm</td>
<td>500mm to 2500mm</td>
<td>Yes</td>
</tr>
<tr>
<td>Garage setback from front boundary (min.)</td>
<td>6.0 m</td>
<td>Min. 6.0 m</td>
<td>Yes</td>
</tr>
<tr>
<td>Garage door max. total width</td>
<td>6.0 m</td>
<td>2.35 m</td>
<td>Yes</td>
</tr>
<tr>
<td>Garage door max. to width of building</td>
<td>50%</td>
<td>8.5 to 19.8%</td>
<td>Yes</td>
</tr>
<tr>
<td>Min. eave width north, east and west</td>
<td>600 mm</td>
<td>600 mm</td>
<td>Yes</td>
</tr>
<tr>
<td>Front setback</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>East frontage (corner block concession)</td>
<td>3.0 m</td>
<td>Min. 3.5 m</td>
<td>Yes</td>
</tr>
<tr>
<td>South frontage (average of neighbouring)</td>
<td>5.25 m</td>
<td>Min. 5.5 m</td>
<td>Yes</td>
</tr>
<tr>
<td>Side boundary setback (min.)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unit A (west side)</td>
<td>0.9 m</td>
<td>4.005 m</td>
<td>Yes</td>
</tr>
<tr>
<td>Unit B (north side)</td>
<td>0.9 m</td>
<td>1.135 m</td>
<td>Yes</td>
</tr>
</tbody>
</table>
Private Outdoor Areas (min.)

<table>
<thead>
<tr>
<th></th>
<th>min.</th>
<th>&gt;24m²</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit A</td>
<td>4m</td>
<td>&gt;24m²</td>
<td>Yes</td>
</tr>
<tr>
<td>Unit B</td>
<td>4.005m</td>
<td>&gt;24m²</td>
<td>Yes</td>
</tr>
</tbody>
</table>

(+), see commentary below 5.4

5.1 Solar Access and Overshadowing - The proposed development ensures suitable solar access to proposed outdoor areas and does not cast unreasonable shadowing on neighbouring properties.

5.2 Views and Privacy - The proposed development does not unreasonably impact on views and outlooks from the proposed dwellings and neighbouring residential development. The privacy relationship between proposed dwellings and between proposed dwellings and neighbouring residential development is considered satisfactory.

5.3 Energy Efficiency - The objectives of this clause are to ensure the thermal comfort of residents and to minimise the need for electrical lighting, heating and cooling and thereby limit greenhouse gas emissions. The clause refers to compliance with SEPP BASIX (refer to the earlier heading State Environmental Planning Policy (BASIX) 2004 (SEPP BASIX) and in that regard the proposed development is compliant and accordingly is consistent with the objectives of this clause.

5.4 General Building Design - The relevant objectives of this clause are to encourage high quality design that responds to the environment and to ensure that garages are located so as not dominate the development's streetscape presentation or adversely affect adjoining properties.

The design for each of the proposed dwelling units is conservative and consistent with the character of the existing neighbouring residential development. Built form is well articulated and the proposed garaging is setback from the building façade and does not detract from the presentation of the development to the streetscape. Front entries to each of the proposed dwelling units, fronting either street, are directly visible from the street, whilst each of the proposed dwellings generally have 600mm eave and gutter overhangs to northern, eastern and western external walls.

5.5.2 Residential and Village Zones - Proposed boundary setbacks provide sufficient separation between buildings to ensure reasonable privacy, solar access, residential amenity and beneficial landscaping. Front setbacks for this corner block are considered satisfactory having regard to the presentation of the building to the existing streetscape character.

5.8 Private Outdoor Areas - Each proposed dwelling unit has private outdoor areas that are functional, suitably sized and located for their purpose and consistent with the objective of this clause.

Part 10 Car Parking, Access, Alternative and Active Transport

The relevant objectives of this clause are to require an adequate level of on-site parking based upon anticipated occupancy rates, to ensure safe access, to integrate vehicle access and parking facilities without compromising street character of landscaping, to ensure that parking requirements do not place an undue burden on developers or additional liability on present and future ratepayers and to promote alternative modes of transport (i.e. walking, cycling, bus) that may reduce the parking demand.
The proposed development provides one (1) garaged car space for each dwelling unit, compliant with the requirements of this Part. Also parking for at least one (1) other vehicle i.e. visitor is available on each driveway. Access and manoeuvring are considered satisfactory. The site is located within reasonable flat walking or cycling distance from the local amenities.

Part 11 Water Sensitive Design

The relevant objectives are to reduce the consumption of potable water, to reduce waste water discharge into the receiving environment, to harvest wastewater and urban stormwater runoff where appropriate. The proposed stormwater management includes rain water tanks to both dwelling units, consistent with BASIX requirements. Dwelling unit A will have any overflow directed to an infiltrating rain garden however tank overflow from dwelling unit B, due to site constraints, will go directly to the street gutter. The proposed outcome is considered satisfactory in achieving stormwater quality targets and the objectives of this clause subject to conditions that are included in this report's recommendation.

Part 13 Landscaping and Open Space

The objectives of this part are to encourage design outcomes that respond to the topography of the site, provide for retention of vegetation where appropriate and maintain a low density setting and open character derived from the spaces and landscaping between buildings and the street.

Numerical compliance is tabulated as follows.

<table>
<thead>
<tr>
<th>Design Issue</th>
<th>DCP 2014</th>
<th>Proposal</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Min. landscape area of site</td>
<td>30%</td>
<td>43%</td>
<td>Yes</td>
</tr>
<tr>
<td>Min. deep soil</td>
<td>15%</td>
<td>43%</td>
<td>Yes</td>
</tr>
<tr>
<td>Native species (min.)</td>
<td>90%</td>
<td>Condition of consent</td>
<td>Yes</td>
</tr>
</tbody>
</table>

The proposed development has been designed to provide appropriately sized and located areas of landscaping that will contribute to the residential amenity of the site as well as the presentation of the development to the streetscape. A comprehensive landscape design for the site will be required by condition included in this report's recommendation.

Part 14 Waste Management

The relevant objectives of this Part are to encourage sustainable waste management that includes re-use and recycling of commercial waste. A waste management plan will be required as a condition of this report's recommendation that acknowledges Council's bin requirements.

Accordingly, the proposed development is considered to be consistent with the relevant objectives and generally with the requirements of DCP 2014.

Erosion and Sediment Control Policy

The aim of this policy is to minimise erosion and sedimentation in catchments, resulting from the disturbance of the soil surface associated with building works, changes in land use and urban development, the installation of services and road construction and maintenance. This is to ensure that potential pollutants are not directed to natural and artificial water bodies.

The construction works associated with the proposed development can be managed to ensure that erosion and sediment control measures comply with the aims and requirements of the Policy thereby protecting the water quality of neighbouring natural and artificial water bodies. Appropriate conditions of consent are included in this report's recommendation.
**Tree Planting in Streets Policy**

The Policy objectives are to enhance the environment by promoting planting of suitable trees and shrubs on footpath verges and to reduce maintenance costs resulting from the planting of unsuitable trees. The Policy requires the planting of Council’s nature strip and in this regard appropriate conditions of consent are included in this report’s recommendation.

**Great Lakes Council’s Vehicle Crossing Policy**

The Policy provides guidelines on the provision of vehicle crossings and driveways to properties by setting an appropriate standard for their construction and maintenance. Appropriate conditions are included in this report’s recommendation that address proposed vehicular access.

**Section 94 Contributions**

Approval of the proposed development would require Section 94 contributions in accordance with Council's Great Lakes Wide 2006 and Tea Gardens District Contribution Plans. The requirement is addressed by a condition of this report’s recommendation.

**b) The likely impacts of development including environmental impacts on both natural and built environments and social/economic impacts in the locality**

**Context and Setting**

The proposed development relates positively with the local context and maintains a reasonable relationship with the character, height and scale of neighbouring development.

**Site Design and Internal Layout**

The site design, including its configuration and size, are considered suitable for residential development including the proposed attached single storey dual occupancy.

The design layout of each dwelling unit, including the positioning and sizing of active and non-active rooms, is considered to be suitable for future residents.

**Overshadowing**

The proposed development does not cast unreasonable shadowing on neighbouring properties.

**Visual Impact**

The proposed development does not detract from the visual qualities of the neighbouring sites, the locality or the streetscape.

**Flora and Fauna**

The proposed development does not create any adverse ecological impacts.

**Cumulative Impacts**

The proposed development, subject to the recommended conditions, does not set an undesirable precedent for future residential development in this locality. The proposed development is considered to be consistent with the existing and current future planning requirements for the area.

**c) The Suitability of the Site for the Development**

The topography and configuration of the site are suitable for the proposed use and scale of the development. Environmental issues are limited and satisfactorily addressed in the proposed design and adequate utility services are available. The site is not susceptible to any natural hazards to a significant extent.

Accordingly, the site is considered to be suitable for the proposed development.
Section 88B Instrument Impacts

The current Certificate of Title DP1125830 that includes the subject site (Lot 961) and the western adjoining site (Lot 962) inherit the Section 88B Instrument attached to a previous historical DP1063829. At that time the current site formed part of Lot 96 in DP1063829. The relevant terms of that 88B Instrument that referred to 'Restriction on Use' burdened and benefited Lots 81 to 100 in that Title (subject site part of Lot 96) and were imposed and can only be varied by the original developer, Myall River Downs Pty Ltd, whilst the developer remains the proprietor of any lots in the estate known as Myall River Downs. The developer has since ceased trading. Notwithstanding the restrictions cease to operate after 12 February 2024. The Council did not impose nor is it beneficiary to the 'Restriction on Use' that relate to matters including:

- Restriction of one dwelling per lot without approval of the developer.
- Design and materials of building construction.
- Minimum floor areas for development.
- Limitation on removal of excavated material and trees.
- Stormwater disposal and stormwater tanks.
- Limitations on fencing.

The neighbours have raised this issue (that the proposed development does not comply with the 'Restriction on Use') in their submissions that are considered under the following heading.

Part 1.9A of GLLEP 2014 provides that for the purpose of enabling development on land in a zone to be carried out in accordance with the Plan or with a consent granted under the EPAA 1979, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose. However, the Part does not apply to a covenant imposed by the Council or that the Council requires to be imposed. The Part was approved for inclusion in the Plan by the Governor pursuant to section 28 of the EPAA 1979. The Council did not impose nor is it beneficiary to the 'Restriction on Use' and therefore the current covenants on Title for 'Restriction on Use' do not restrict Council from favourably determining this development application.

It is noted that a single storey dual occupancy development exists on the corner of Coolabah Close and Settlers Way, that original site and development having been subdivided by Torrens Title. Similar Section 88B restrictions exist for that site.

Any Submissions Made in Accordance with the Act or Regulations

The application was notified to adjoining owners in accordance with Council’s Policy and submissions were received from three (3) neighbouring properties. The submissions referred to the following issues:

1. The eastern setback of the proposed building from Coolabah Close is out of character with the front building setbacks of neighbouring properties and the street amenity. A minimum 6.0 metres setback is suggested. A 3.0 metre wide sewage easement runs along the eastern side of the site.

   **Comment:** The site is a corner allotment and the proposed building is located approximately 3.5 metres from the eastern boundary with Coolabah Close and clear of the 3.0 metre wide sewage easement. In this regard it is noted that MidCoast Water has granted their approval. The neighbouring properties generally have only one (1) frontage and are developed by single storey dwellings set back 6.0 metres from their single front boundary. Council’s DCP 2014 encourages a primary road setback based on an average of two (2) neighbouring houses with the same primary frontage however special provision is made in the DCP for setbacks of development on corner allotments, allowing a minimum of 3.0 metres on the longest street frontage to ensure optimum use of the site for the residences and private outdoor areas. The proposed development is consistent with this design outcome and the relevant objectives of the
Plan that promote streetscapes that are comprised of landscaped setbacks, ensure safe vehicular access and egress to/from the site and provide a suitable amenity for the building's occupants.

Accordingly, the concerns of the neighbours are not supported.

2. The eastern setback of the proposed building from Coolabah Close impacts on sight lines for general street traffic, for vehicles proceeding south and for vehicles reversing from driveways and having regard to the safety of children playing in the locality.

**Comment:** The position of the proposed development in respect to both property frontages enables satisfactory sight distances for vehicles entering and exiting the site and for other vehicles travelling in the street and for the general public. Opposing driveways are not uncommon in this and other residential localities. Accordingly, the concerns of the neighbours are not supported.

3. Non-compliance with Section 88B restrictions on Title concerning minimum floor area limitations, a limit of one (1) dwelling per property, no tree removal, disposal of stormwater and fencing.

**Comment:** This issue was considered under the previous heading Section 88B Instrument Impacts. The Council is neither beneficiary nor party to the 'Restriction on Use' contained in the Section 88B Instrument on the Title to the subject site. In accordance with Part 1.9A of the EPAA 1979, Council can determine the development application notwithstanding the restrictions on Title. The proposed development (dual occupancy) is permissible in the zone and it complies with the maximum statutory floor space ratio stipulated in GLLEP 2014. The proposed development will require the removal of street planting for proposed driveways and this will be offset with new street planting and landscaping of the site. Proposed stormwater management will be comprised of tank storage, then to rainwater gardens and finally any overflow from heavy storms directed to the street gutter in accordance with Council's requirements. No new fencing is proposed with this development.

Accordingly, the concerns of the neighbours are not supported.

4. The proposed driveways appear to require the removal of two street trees.

**Comment:** The proposed individual driveway crossings to each frontage will require the removal of two (2) street trees (Tuckeroos) however this is not considered fatal to determination of the development application and suitable replacement planting (Tuckeroos) is required as conditioned in this reports recommendation.

5. Lack of information on proposed fencing. Fencing should be timber not Colorbond.

**Comment:** No new fencing is proposed with this development.

6. Doubling of traffic and noise.

**Comment:** Only one (1) covered off street parking space is provided for each dwelling unit (based on the floor area of each dwelling unit) in accordance with DCP2014. Although visitor parking on site is not required in accordance with DCP 2014, the design would allow one (1) additional vehicle parking space on the driveway to each garage and within the site boundaries. This outcome would be little different to a single dwelling on the site, with double garage and driveway parking and not considered to significantly increase traffic or noise in this residential locality.

Accordingly, the concerns of the neighbours are not supported.
7. Efficiency of proposed stormwater system and potential for minor flooding of adjoining residences.

Comment: The locality is above the 2060 1% flood height. Given the scale of the proposed development and the stormwater management system, the development is not considered to significantly impact on the potential for localised flooding.

8. Setback of unit B may be too close to side fence given water storage tank.

Comment: The northern side boundary setback of the building is 1135mm. The water storage tank sits under the proposed eave overhang and occupies approximately 700mm of that setback leaving a clear width of approximately 435mm, limited but sufficient for a person to access between the tank and the existing boundary fence.

9. Site Layout Plan refers to compliance with policy requirements of Port Stephens Council.

Comment: This reference has been corrected on the amended plan that is annexed to this report and referred to in condition 1 of the recommended development consent

e) The Public Interest

The proposed development is consistent with the relevant planning controls for the locality, as discussed in this assessment.

The proposal will not detract from the character of the existing streetscape or the general locality, nor will it undermine any of the social or economic values of the site or surrounding area. The proposal is considered to be consistent with the objectives of the relevant zone and will not have an unreasonable impact upon neighbouring properties.

Accordingly, approval of the proposed development would not be contrary to the public interest.

CONCLUSION:

The proposal is considered to be suitable for the site and the locality having regard to the current development controls and maintains a reasonable relationship with neighbouring developments.

Accordingly, the application is supported and recommended for approval subject to conditions.

RECOMMENDATION:

It is recommended that DA 321/2016 for a dual occupancy development at Lot 961 DP1125830, 12 Coolabah Close, Tea Gardens be approved subject to compliance with the following conditions:

The following conditions have been applied to ensure that the development complies with the provisions of the Environmental Planning and Assessment Act and Regulations and Policies of Council:

GENERAL CONDITIONS

1. Development in accordance with approved plans

The development must be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent:

<table>
<thead>
<tr>
<th>Plan type/Supporting Document</th>
<th>Plan No. &amp; version</th>
<th>Prepared by</th>
<th>Dated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Plan</td>
<td>Drawing 02A</td>
<td>Newall Homes</td>
<td>Apr. 2016</td>
</tr>
<tr>
<td>Floor Plan</td>
<td>Drawing 03A</td>
<td>Newall Homes</td>
<td>Apr. 2016</td>
</tr>
<tr>
<td>Elevations</td>
<td>Drawing 04A</td>
<td>Newall Homes</td>
<td>Apr. 2016</td>
</tr>
</tbody>
</table>
The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

**Reason:** Information and to ensure compliance.

2. **Compliance with Building Code of Australia**

All building work must be carried out in accordance with the requirements of the *Building Code of Australia* as in force on the date the application for the relevant construction certificate or complying development certificate was made.

**Reason:** Prescribed condition under the *Environmental Planning & Assessment Regulation 2000*.

3. **Insurance requirements under Home Building Act 1989**

In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or

b) to the erection of a temporary building.

**Reason:** Prescribed condition under the *Environmental Planning & Assessment Regulation 2000*.

4. **Notification of Home Building Act 1989 requirements**

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

a) in the case of work for which a principal contractor is required to be appointed:
   i) the name and licence number of the principal contractor, and
   ii) the name of the insurer by which the work is insured under Part 6 of that Act,

b) in the case of work to be done by an owner-builder:
   i) the name of the owner-builder, and
   ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

**Reason:** Prescribed condition under the *Environmental Planning & Assessment Regulation 2000*. 

---

**Elevations**

<table>
<thead>
<tr>
<th>Drawing 05A</th>
<th>Newall Homes</th>
<th>Apr. 2016</th>
</tr>
</thead>
</table>

**Section**

<table>
<thead>
<tr>
<th>Drawing 06A</th>
<th>Newall Homes</th>
<th>Apr. 2016</th>
</tr>
</thead>
</table>

**Schedules & Basix Report**

<table>
<thead>
<tr>
<th>Drawing 07A</th>
<th>Newall Homes</th>
<th>Apr. 2016</th>
</tr>
</thead>
</table>
5. **Water and Utilities with regard to bushfire protection**

Water, Electricity and gas services are to comply with section 4.1.3 of ‘Planning for Bush Fire Protection 2006’. All above ground water and gas service pipes external to the building are required to be metal, including and up to any taps.

**Reason:** To ensure compliance is achieved with Planning for Bushfire Protection.

6. **Adjustment to utility services**

All adjustments to existing utility services made necessary by the development are to be undertaken at no cost to Council.

**Reason:** To ensure utility services remain in serviceable operation.

**PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

The following conditions must be complied with prior to the issue of any Construction Certificate:

7. **Structural details**

Prior to the issue of a construction certificate, structural drawings prepared by a suitably qualified and experienced structural engineer must be submitted to and approved by the certifying authority. The plans must include details for:

a) All reinforced concrete floor slabs and/or beams or raft slab (having due regard to the possible differential settlement of the cut and fill areas.

b) Footings of the proposed structure.

c) Structural steel beams/columns.

**Reason:** To ensure structural stability and safety.

8. **Erosion and sediment control plan**

Prior to the issue of a construction certificate, an erosion and sediment control plan prepared by a suitably qualified person in accordance with "The Blue Book – Managing Urban Stormwater (MUS): Soils and Construction" (Landcom) must be submitted to and approved by the certifying authority. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices including catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams, and sedimentation basins.

**Reason:** To protect the environment from the effects of erosion and sedimentation.

9. **MidCoast Water approval**

Prior to the issue of a construction certificate, a Certificate of compliance from MidCoast Water, stating that satisfactory arrangements have been made and all payments finalised for the provision of water supply and sewerage to the development, must be submitted to the certifying authority.

**Reason:** To ensure suitable water and sewage disposal is provided to the development.
10. **BASIX Certificate**

Prior to the issue of a construction certificate, plans and specifications detailing all of the BASIX Certificate commitments must be submitted to and approved by the certifying authority. The proposed development must be constructed in accordance with the requirements of BASIX Certificate No.679082M, dated 30 October 2015. Where changes to the development are proposed that may affect the water, thermal comfort or energy commitments, a new BASIX Certificate will be required.

**Reason:** Prescribed condition under the *Environmental Planning and Assessment Regulation 2000.*

11. **External roofing colour**

Prior to the issue of a construction certificate, details of the colour of the roof must be submitted to and approved by the certifying authority. Metal roof sheeting must be painted or be of a coloured metal that minimises reflection and is sympathetic and compatible with the building and surrounding environment. Zincalume finish or off-white colours are not permitted.

**Reason:** To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

12. **Preparation of a final landscape plan**

Prior to the issue of a construction certificate, a final landscape plan prepared by a qualified landscape architect or horticulturalist must be submitted to and approved by the certifying authority. The Final Landscape Plan must include the following information:

a) Demonstration of the predominant use of species that are local native plants. Council encourages that at least 90% native plants.

b) Specification of the details of all proposed plantings on the land, including common and botanical names and potential height/ spread at maturity, planting densities and quantities.

c) Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

d) A plan of the locations of all proposed planting

e) Details of planting procedure and maintenance, including watering, management of safety and risk, replacement of lost and damaged stock

f) Details of the use of mulch and the type and quantity of soil material to be imported to the land.

**Reason:** To ensure that adequate landscaping is established as part of the development for amenity and local habitat.

13. **S94 contributions**

Prior to the issue of a construction certificate, a monetary contribution must be paid to Council in accordance with Section 94 of the *Environmental Planning and Assessment Act 1979.* The services and facilities for which the contributions are levied and the respective amounts payable under each of the relevant plans are set out in the following table:

<table>
<thead>
<tr>
<th>Code</th>
<th>Contributions Plan</th>
<th>Facility</th>
<th>quantity</th>
<th>unit</th>
<th>rate</th>
<th>amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>GLW-04</td>
<td>Great Lakes Wide Library Bookstock</td>
<td>2</td>
<td>persons</td>
<td>@</td>
<td>$76.31</td>
<td>$152.62</td>
</tr>
<tr>
<td>GLW-07</td>
<td>Great Lakes Wide Headquarters Building</td>
<td>2</td>
<td>persons</td>
<td>@</td>
<td>$458.19</td>
<td>$916.38</td>
</tr>
<tr>
<td>GLW-05</td>
<td>Great Lakes Wide s94 Admin</td>
<td>2 persons</td>
<td>@ $210.22</td>
<td>= $420.44</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-------</td>
<td>----------------------------</td>
<td>----------</td>
<td>-----------</td>
<td>---------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TGHN08</td>
<td>Tea Gardens District Major Roads</td>
<td>1 1-way trips</td>
<td>@ $421.83</td>
<td>= $421.83</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TGHN04</td>
<td>Tea Gardens District Open Space</td>
<td>2 persons</td>
<td>@ $1,451.33</td>
<td>= $2,902.66</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TGHN01</td>
<td>Tea Gardens District Library and Community Facilities</td>
<td>2 persons</td>
<td>@ $547.66</td>
<td>= $1,095.32</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TGHN10</td>
<td>Tea Gardens District Surf Life Saving</td>
<td>2 persons</td>
<td>@ $70.33</td>
<td>= $140.66</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td>= $6,049.91</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Contribution rates are subject to indexation. The rates shown above are applicable until 30 June following the date of consent. Payment made after 30 June will be at the indexed rates applicable at that time.

The Contributions Plan and the Standard Schedule for Section 94 Plans may be viewed on Council’s web site or at Council’s offices at Breese Parade, Forster.

**Reason:** Statutory requirement to be paid towards the provision or improvement of facilities and services.

14. **Long Service Levy**

Prior to the issue of a construction certificate, a Long Service Levy must be paid to the Long Service Payments Corporation. The amount payable is currently based on 0.35% of the cost of the work. This is a State Government levy and is subject to change.

These payments may be made at Council’s Customer Service Centres. Cheques must be made payable to Great Lakes Council.

**Reason:** Statutory requirement

15. **Construction of buildings in bushfire-prone areas (multiple BAL)**

Prior to the issue of a construction certificate, plans and specifications detailing the construction of the building to Bushfire Attack Level (BAL) 12.5 as defined in Australian Standard AS 3959-Construction of buildings in bushfire-prone areas and section A3.7 Addendum Appendix 3 of "Planning for Bush Fire Protection" must be submitted to and approved by the certifying authority.

**Reason:** To ensure the development complies with bush fire construction standards.

16. **Driveway levels application**

Prior to the issue of a construction certificate, a Driveway Levels Application must be submitted to Council for approval. A Driveway Levels Application Form must be completed and submitted to Council together with the application fee and all required plans and specifications.

Driveways must be constructed by a qualified/licensed contractor at no cost to Council in accordance with the driveway levels and construction standards issued by Council.

**Reason:** To ensure works within Council’s road reserve are constructed to a suitable standard for public safety.
17. **Bond required to guarantee against damage to public land**

Prior to the issue of a construction certificate, a Damage Bond Application form together with payment of a bond in the amount of $4,000 and a non-refundable administration fee of $320 must be submitted to Council. The bond is payable for the purpose of funding repairs to any damage that may result to Council assets from activities/works associated with the construction of the development and to ensure compliance with Council standards and specifications.

A final inspection will be carried out by the responsible Council officer and the bond (minus any fees required for additional inspections) will be considered for refund:

a) once all works, including landscaping, driveway construction, turfing, etc, have been completed, and
b) following issue of an occupation certificate by the certifying authority.

The damage bond is reviewed periodically and therefore the fee and bond amount payable will be determined from Council’s current fees and charges document at the time of lodgement of the damage bond.

**Reason**: Protection of public assets.

**PRIOR TO THE COMMENCEMENT OF ANY WORK ASSOCIATED WITH THIS CONSENT**

The following conditions must be satisfied prior to the commencement of any building construction work:

18. **Construction certificate required**

Prior to the commencement of any building construction work (including excavation), a construction certificate must be issued by a certifying authority.

Enquiries regarding the issue of a construction certificate can be made to Council’s Customer Service Centre on 6591 7222.

**Reason**: Statutory requirement under the *Environmental Planning and Assessment Act 1979*.

19. **Notification of commencement and appointment of principal certifying authority**

Prior to the commencement of any building construction work (including excavation), the person having the benefit of the development consent must appoint a principal certifying authority and give at least two (2) days notice to Council, in writing, of the persons intention to commence construction work.

**Reason**: Statutory requirement under the *Environmental Planning and Assessment Act 1979*.

20. **Site access**

Public access to the site and building works, materials and equipment on the site is to be restricted, when building work is not in progress or the site is unoccupied. The public safety provisions must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.

**Reason**: To ensure public health and safety during the construction of the development.
21. **Erosion & sediment measures in accordance with approved plans**

Prior to the commencement of work, erosion and sediment controls must be installed in accordance with the approved erosion and sediment control plan and must be maintained for the duration of the project.

**Reason:** To protect the environment from the effects of erosion and sedimentation.

22. **Pollution prevention sign**

Council’s “PREVENT POLLUTION” sign must be erected and maintained in a prominent position at the frontage of the property so that it is clearly visible to the public for the duration of construction work.

Council’s PREVENT POLLUTION sign can be purchased at Council’s Customer Enquiry Counter at the Forster, Tea Gardens and Stroud administration buildings.

**Reason:** To increase industry and community awareness of developer’s obligations to prevent pollution and to assist in ensuring compliance with the statutory provisions of the Protection of the Environment Operations Act 1997.

23. **Toilet facilities - sewered areas**

Prior to the commencement of work, toilet facilities must be provided at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a standard flushing toilet connected to a public sewer.

**Reason:** To maintain public health.

24. **Site construction sign**

Prior to the commencement of work, a sign or signs must be erected in a prominent position at the frontage to the site.

a) showing the name, address and telephone number of the principal certifying authority for the work, and

b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

c) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

**Reason:** Prescribed condition under the *Environmental Planning and Assessment Regulation 2000*.

25. **Waste management plan**

Prior to the commencement of work, a waste management plan prepared in accordance with the requirements of Council’s Waste Management Policy must be submitted to and approved by the certifying authority. It should be noted that a three (3) bin system is required for each dwelling unit consisting of a 140L Garbage, 240L Recycling and 240L Greenwaste bins.

**Reason:** To ensure adequate and appropriate management of waste and recycling.
CONDITIONS TO BE SATISFIED DURING DEVELOPMENT WORK

The following conditions must be complied with during any development work:

26. Construction times

Construction and/or demolition works, including deliveries on or to the site must not unreasonably interfere with the amenity of the neighbourhood and must occur only in accordance with the following:

Monday to Friday, from 7 am to 6 pm.

Saturday, from 8 am to 1 pm.

No construction and/or demolition work, including deliveries are to take place on Sundays or Public Holidays.

Reason: To maintain amenity during construction of the development.

27. Construction dust suppression

All necessary works must be undertaken to control dust pollution from the site. These works must include, but are not limited to:

a) restricting topsoil removal;

b) regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion);

c) alter or cease construction work during periods of high wind;

d) erect green or black shadecloth mesh or similar products, 1.8m high around the perimeter of the site and around every level of the building under construction.

Reason: To maintain amenity during construction of the development.

28. Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a suitable waste bin/enclosure. Building materials must be delivered directly onto the property. Footpaths, road reserves and public reserves must be maintained clear of rubbish, building materials and other items at all times.

Reason: To ensure that materials and waste do not adversely affect traffic or pedestrian safety and amenity.

29. Maintenance of sediment and erosion control measures

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

Reason: To protect the environment from the effects of erosion and sedimentation.

30. Compliance with waste management plan

During demolition and/or construction of the development, waste disposal must be carried out in accordance with the approved waste management plan.

Reason: To ensure waste is minimised and recovered for recycling where possible.
31. Survey of building location

A survey certificate prepared by a registered surveyor must be submitted to the certifying authority prior to the construction of footings or first completed floor slab setting out the approved location of the building in respect to the boundaries of the site.

Reason: To ensure compliance with the approved plans.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions must be satisfied prior to any occupation or use of the building:

32. Works to be completed

The building/structure or part thereof must not be occupied or used until an interim occupation/final occupation certificate has been issued in respect of the building or part.

Reason: To ensure compliance with the development consent and statutory requirements.

33. Site to be landscaped

Prior to the issue of a final occupation certificate, the site must be landscaped in accordance with the approved landscape plan.

Reason: To ensure compliance with the development consent and to maintain amenity.

34. Rainwater tank

Prior to the issue of a final occupation certificate, rainwater tank/tank-stand installations must be structurally sound and in accordance with manufacturers details. Overflow from the tank must be connected to the existing stormwater system, or disposed of in a manner that does not cause nuisance to neighbouring properties or degradation of land.

Reason: To ensure rainwater tanks stands are structurally adequate and overflow from the tank is discharged in a proper manner that protects adjoining properties.

35. MidCoast Water approval

Prior to the issue of a final occupation certificate, a certificate of compliance from MidCoast Water, stating that satisfactory arrangements have been made and all payments finalised for the provision of water supply and sewerage to the development, must be submitted to the principle certifying authority.

Reason: To ensure suitable water and sewage disposal is provided to the development.

36. BASIX Compliance

Prior to the issue of a final occupation certificate, all of the required commitments listed in the BASIX certificate must be fulfilled.

Reason: Prescribed condition under the Environmental Planning and Assessment Regulation 2000.
37. Bushfire mitigation requirements

Prior to the issue of an Interim or Final Occupation Certificate, the following bush fire mitigation requirements must be incorporated into the completed development:

- The new building works are to be constructed in accordance with Bushfire Attack Level BAL 12.5 as defined in Australian Standard AS 3959- Construction of buildings in bushfire-prone areas and section A3.7 Addendum Appendix 3 of "Planning for Bush Fire Protection".

Reason: To improve bush fire safety.

38. Stormwater Treatment System

Prior to issue of any occupation certificate, the infiltrating raingarden must be constructed in accordance with the approved Site Plan sheet 02 dated 7/12/15, including any amendments contained within these conditions.

a) Unit A is to have an infiltrating raingarden with a minimum filter surface area of 7m$^2$. The infiltrating raingarden is to receive overflow from the 2.5KL rainwater tank collecting 100% of the roof area. The driveway is to be constructed with a 1-2% cross fall directed to the raingarden. Unit B is to have a 2.5KL rainwater tank collecting 100% of the roof water with overflow directed to the street. Runoff from the driveway area is to be directed to adjoining landscaped areas with a 1-2% cross fall.

b) The infiltrating raingarden is to be constructed to allow infiltration into the in situ sandy soil. The garden (from the base) is to consist of: 400mm of sandy loam filter media and 100mm of depth for water detention, the top of the garden is to be finished a minimum of 50mm (freeboard) above the maximum water level on three sides with the side closest to the house finished at a minimum 100mm above the maximum water level.

c) The sides of the raingarden must be lined with a HDPE impermeable liner (or equivalent) extending 1000mm below the top of the garden to avoid exfiltration of water into surrounding sands.


e) High flow from the overflow pit is to be laid on a 1:100 grade to the kerb and gutter via a suitably manufactured kerb adaptor. Drainage lines within the road reserve must be sewer class or other approved equivalent. All drainage works must be installed by a suitably qualified person and in accordance with the requirements of Australian Standard AS/NZS 3500.3: Plumbing and drainage – Stormwater drainage.

f) Inlet pipes to the raingarden from the rainwater tank are to contain rock protection to prevent erosion.

g) Have 50% of the raingarden area planted with a minimum of 2 species from Great Lakes Council's Fact Sheet 15 'Local Plant Selection for Raingardens, Guidance for Water Sensitive Provisions of the Great Lakes Development Control Plan' (April 2014), at densities indicated in the fact sheet. The remaining area is to be planted with species of the owners choosing which are suited to intermittently dry and wet conditions.

h) Be protected by sediment and erosion control measures during construction and be connected to the stormwater and planted after all hardstand areas have been paved / sealed and cleaned.
Reason: To ensure water quality requirements as contained in the Water Sensitive Design section of the Great Lakes Development Control Plan are met.

39. Compliance of infiltrating raingarden to plans

Prior to the issue of any occupation certificate, written certification by the builder or plumber is to be submitted to the certifying authority that construction levels and drainage lines have been installed in accordance with the approved stormwater drainage plans and conditions.

Reason: To ensure compliance with Council's water quality objectives and comply with the Water Sensitive Design section of the Great Lakes Development Control Plan and ensure that the raingarden systems are constructed in accordance with approved plans and standards and conditions of consent.

40. Raingarden Maintenance for Dwellings

Prior to issue of any occupation certificate a permanent notice identifying the location of the raingarden is to be displayed in the metre box or other visible locations on the property.

The raingarden shall be maintained by the owner in perpetuity including free draining filter media and approved plant species and densities (including the removal of weeds) and protection from erosion and scour within the raingarden.

Reason: To ensure that ongoing compliance with the Water Sensitive Design section of the Great Lakes Development Control Plan.

41. Sealed driveway in accordance with approved Driveways Level Application

Prior to the issue of a final occupation certificate, driveways must be constructed from the edge of the road formation to the property boundary in accordance with the approved Driveway Levels Application.

Reason: To ensure suitable vehicular access to the development.

42. Internal driveway in accordance with the approved plans

Prior to the issue of a final occupation certificate, driveways must be constructed from the property boundary to the proposed garages in accordance with the approved plans.

Reason: To ensure suitable vehicular access is provided to the development.

43. Street tree planting

Prior to the issue of a final occupation certificate, the street tree planting removed for driveway construction on both street frontages must be replaced in accordance with the following schedule:

a) Cupaniopsis anacardoides - Tuckeroo
b) be protected by a suitable tree guard,
c) provided with slow release fertiliser,
d) be mulched with 100mm of native tree mulch.

Reason: To maintain environmental and streetscape amenity.
ONGOING USE
The following conditions must be satisfied during the ongoing use of the development.

44. Asset Protection Zone (APZ)

The entire property must be maintained in perpetuity as an inner protection area (IPA) as outlined within section 4.1.3. and Appendix 5 of ‘Planning for Bushfire Protection 2006’ and the NSW Rural Fire Service’s document ‘Standards for asset protection zones’. Landscaping to the site is to comply with the principles of Appendix 5 of ‘Planning for Bushfire Protection 2006’.

Reason: To provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels of buildings are below critical limits and to prevent directed flame contact with a building.
ANNEXURES:

A: Plans of proposed development.

1. ALL WORKMANSHIP, MATERIALS & CONSTRUCTION TO BE IN ACCORDANCE WITH RELEVANT S.A.A. CODES, THE BUILDING CODE OF AUSTRALIA - VOLUME 3 & POLICY REQUIREMENTS OF GREAT LAKES COUNCIL.
2. ALL AREA'S, DIMENSIONS, SITE CONDITIONS & DEPARTURES TO BE CHECKED & CONFIRMED ON SITE & WITH RELEVANT LOCAL GOVERNMENT.
3. FIGURED DIMENSIONS ARE TO BE TAKEN IN REFERENCE TO STATED DIMENSIONS UNLESS OTHERWISE STATED. ALL DIMENSIONS ARE NORMAL & ALL DIRECTIONS ARE TO STRUCTURAL ELEMENTS & DO NOT INCLUDE FINISHED BOUNDARIES SUCH AS PLANTING BORDERS, TILING ETC.
4. THESE DRAWINGS ARE TO BE READ IN CONJUNCTION WITH RELEVANT STRUCTURAL, ENGINEERS DETAILS & SITE PLANS.
5. BUILDINGS TO BE PROTECTED AGAINST SUDDEN RAIN ENTERING, IN ACCORDANCE WITH AS 1393 1987.
6. WATERPROOFING OF PATIOS IS TO COMPLY WITH AS1433.1983.
7. WALL, FRAME & BRICKWORK, ROOF & ROOFING, IS ALL TO BE DONE IN ACCORDANCE WITH AS1662 - 1999 RESIDENTIAL FLAT ROOF FRAME CONSTRUCTION THE DOWN & BRACING PLAN TO BE SUPPLIED BY DESIGNER.
8. ALL MASONRY WORK TO COMPLY WITH AS1379 1988.
9. CEILINGS HEIGHTS TO BE DETERMINED ABOVE FINISHED FLOOR LEVEL, UNLESS OTHERWISE STATED. ALL STEPS DOWNS IN GARDEN & NOTIFIED ON PLANT LAYOUT AND SITE PLAN, IF NOT STATED ALL STEPS DOWNS A 1:10. НЕ 1:10.
10. SITE IS ZONED A, TERRAIN CATEGORY 3, WITH A WIND CLASSIFICATION OF NO WIND.
11. CONNECT DOWNPIPES TO GUTTER & DISCHARGE TO GUTTER OUTLET AT THE FRONT OF THE BLOCK.
12. WATER TEMPERATURE TO ALL OUTLETS (EXCEPT LAUNDRY & WASHING) IS NOT TO EXCEED 10°C.
PES - DA 322/2016 - New Dwelling - 54A Patsys Flat Road, Smiths Lake

DETAILS:

Date Received: 18 February 2016

Applicant/owner: Mr S and Mrs D Brassey

Land: Lot 71 DP 1168879, 54A Patsys Flat Road, Smiths Lake

Area: 450m²

Property Key: 37640

Zoning: RU5 Village under, GLLEP 2014

SUMMARY OF REPORT:

- Application submitted for a two (2) storey dwelling.
- Two (2) objections received when application neighbour notified.
- Profiles erected to determine level of impact on views and application re notified.
- One (1) objection withdrawn and no submissions received.
- Several attempts made to call original objector; however as oversees could not make contact.
- Proposal does not comply with the height limitations of GLLEP 2014.
- Non-compliance with the height limitation discussed.
- Address issues raised in the original submission.

SUMMARY OF RECOMMENDATION:

That Development Application No. 322/2016, for a two (2) storey dwelling located at Lot 71 DP 1168879, 54A Patsys Flat Road, Smiths Lake, be approved subject to conditions of consent.

FINANCIAL/RESOURCE IMPLICATIONS:

A decision for approval subject to conditions or refusal may lead to an appeal to the Land and Environment Court with inherent cost implications.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

A decision for approval subject to conditions or refusal may lead to an appeal to the Land and Environment Court with inherent cost implications.
LIST OF ANNEXURES:

A: Site-Roof Plan and Elevations.
B: Plan of front elevation showing relationship to road level.
C: Survey Plan showing profile locations.

LIST OF ATTACHMENTS:

Nil.
SUBJECT SITE AND LOCALITY:

BACKGROUND:

18 February 2016  Development application received for a two (2) storey dwelling, which included a written request for variation of the LEP requirements.

26 February 2016  Development application neighbour notified.

4 & 10 March 2016  Two (2) submissions received from neighbouring property owners.

14 March 2016  Discussed submissions with designer with regard to what measure could be considered to vary height.

30 March 2016  Requested that profiles be erected to allow neighbours a better opportunity to view impacts.

12 April 2016  Confirmation that profiles have been erected with accompanying Surveyor Plan.

13 April 2016  Development application re notified with profiles in place.

21 April 2016  Letter from neighbour withdrawing his objection following his inspection of the profiles.

27, 28 & 29 April 2016  Attempted to make contact with the remaining objector, from the original notification; however was advised by a neighbour that they had gone overseas for six (6) weeks.
PROPOSAL:

The proposal is for a two (2) storey dwelling to be located on a steeply sloping site. The design of the proposal has taken into account the steep site constraints and has been designed accordingly. The dwelling will consist of light weight timber framed construction with external cladding and a metal roof.

SITE DESCRIPTION:

The subject site is located on the southern side of Patsys Flat Road, Smiths Lake. There are established Eucalypt trees on the allotment, some of which will need to be removed. The site falls steeply from front to back with approximately 8 metres fall over the site.

REPORT:

The following matters listed under Section 79C of the Environmental Planning and Assessment Act, 1979, are relevant in considering this application:

a) The provisions of any environmental planning instrument; any proposed instrument that is or has been the subject of public consultation and which have been notified to the consent authority; any DCP; any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F; any matters prescribed by the regulations; any coastal zone management plan that apply to the development application on the subject land.

Great Lakes Local Environmental Plan 2014 (GLLEP 2014)

Under GLLEP 2014 the development site is zoned RU5 Village. Mapping indicates that there is a 0.4:1 Floor Space Ratio (FSR) requirement and a maximum height of dwellings of 8.5 metres. The objectives of the RU5 zone are:

- To provide for a range of land uses, services and facilities that are associated with a rural village.
- To provide for a range of land uses, services and facilities that are associated with a coastal village.
- To enable non-residential development that does not prejudice the established land use pattern within the village.

Dwellings are permitted with consent on the land. The proposed dwelling is not expected to conflict with objectives of the village zone, which applies to the locality. The proposed dwelling will result in compliance with the Floor Space Ratio requirements with a total FSR of 0.35:1. However; the dwelling does exceed the height limitation of 8.5 metres as the proposed height of the dwelling is up to 8.96 metres above the existing ground level. Clause 4.6 of the LEP allows for flexibility in applying certain development standards to development applications. The relevant sections of Clause 4.6 have been listed and discussed below.

Clause 4.6 Exceptions to development standards

1. The objectives of this clause are as follows:

   (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
   (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
Comment: Given the minor nature of the variation, (460mm variation to height limit) on the very rear eave line of the dwelling and due to the steep nature of the site it is considered that flexibility in this instance is reasonable.

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

Comment: The maximum height of a building is not a development standard that is excluded from the operation of this clause.

3. Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

Comment: The applicant has made a written request under 4.6 of the LEP to consider the variation to the height limitation. The objectives of Clause 4.3 Height of Buildings are as follows:

(i) to ensure that the scale of proposed buildings is compatible with the existing environmental character and the desired future urban character of the locality,
(ii) to encourage residential development that is consistent with AS 4299–1995, Adaptable Housing.

The applicant has detailed the following issues as justification for the non-compliance:

- This clause 4.6 variation request is in relation to the height limit requirement from the Great Lakes Environmental Plan & the DCP 2014. The site has a height limit of 8.5 metres. A minimal portion of the proposal exceeds the 8.5 metre height limit. The dwelling has a maximum height of 8.96 metres which is 460mm above the 8.5 metre height limit.

- Due to the minor area of non-compliance and the very steep nature of the site we request an exception to the height limit. The house has been designed across the site to reduce the impact of overshadowing to the neighbouring dwelling south of the site.

- The proposal has been designed to ensure that the dwelling is compatible with the height, bulk and scale of the existing and desired future character of the surrounding area. Due to the very steep nature of the locality there are a number of neighbouring houses that appear to be well above the height limit. From the street the house appears as a single storey dwelling. Therefore the area of non-compliance is barely visible from the street frontage.

The proposal has been considered against Section 79C of the Environmental Planning and Assessment Act and it is considered that there are sufficient planning grounds to justify contravention of the development standard.

A copy of the submission from the applicant is contained on the DA file.

4. Development consent must not be granted for development that contravenes a development standard unless:
(a) the consent authority is satisfied that:
   i. the applicant’s written request has adequately addressed the matters required to be
demonstrated by subclause (3), and
   ii. the proposed development will be in the public interest because it is consistent with
the objectives of the particular standard and the objectives for development within
the zone in which the development is proposed to be carried out, and
(b) the concurrence of the Director-General has been obtained.

Comment: It is considered that the applicants written request has adequately addressed the
matters required to be demonstrated by subclause (3).

The proposed development will be in the public interest as it is consistent with the objectives of
the height development standard and the objectives of the RU5 zone.

The Director General’s office has previously advised Council that concurrence may be assumed
detailed in Planning Circular PS 08-003. A copy of the letter advising this and a copy of the
circular is on file for the viewing of the Development Control Unit (DCU).

5. In deciding whether to grant concurrence, the Director-General must consider:

(a) whether contravention of the development standard raises any matter of significance for
state or regional environmental planning, and
(b) the public benefit of maintaining the development standard, and
(c) any other matters required to be taken into consideration by the Director-General before
granting concurrence.

Comment: The Director General’s office has previously advised Council that concurrence
may be assumed as detailed in Planning Circular PS 08-003. A copy of the letter advising this and a copy of the
circular is on file for the viewing of the Development Control Unit (DCU).

6. Not relevant to application.

7. After determining a development application made pursuant to this clause, the consent
authority must keep a record of its assessment of the factors required to be addressed in the
applicant’s written request referred to in subclause (3).

8. Not relevant to application.

State Environmental Planning Policy

State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71) applies to all land within
the coastal zone as defined in the Coastal Protection Act 1979 and accordingly applies to the subject
site to the extent of requiring Council to consider the matters listed in Clause 8 of the Policy. In this
regard, the proposal is considered acceptable in relation to the scenic qualities of the coast, given that
the height of the dwelling is consistent with others in the locality.

Great Lakes Development Control Plan

5.4 General Building Design

Objectives

• To provide a high quality design of new residential development that responds to the
environment in which it is located.
Controls

1. Garages and carports must have a minimum 500mm setback from the front building line of the dwelling for which it is provided.
2. Garages and carports and open car parking spaces must be setback at least 6 metres from the front property boundary.

Comment:

The proposed garage and carport are not setback 500mm from front face of dwelling; however as the front property boundary runs on an angle the appearance of the garage and carport will look to be further setback from the front boundary. In addition as the site is steep it is difficult to push the garage further back on the site.

5.6 Building Heights

Objectives

- To provide additional guidance in applying the maximum height of buildings as shown in the Great Lakes LEP Height of Buildings Maps.
- To maintain a low scale building form which responds to the topography of the site to avoid buildings dominating the streetscape or landscape setting.

Height controls

1. The maximum height permitted may not be achievable in all instances due to site limitations.
2. The floor level of the upper most habitable floor, including decks or verandahs, is to be no more than 5.1 metres above ground level on sites with slopes greater than 1:6.
3. The exposed sub-floor of any building should be minimised wherever possible.
4. Where a development may impinge upon significant views, solar access, privacy or a streetscape, Council may require height profiles to be erected prior to notification or exhibition.

Comment:

As the floor height of the first floor deck and a rear bedroom will be approximately 6 metres above the ground level the requirements under Section 5.6 of Councils Development Control Plan (DCP) have been exceeded. The height requirements for habitable floor levels, including decks, in Councils DCP are a maximum 5.1 metres above ground level. Given that the proposal is located on a very steep site and as it is considered that the DCP objective, see below, has been addressed it is considered that a variation to the DCP is supported.

Councils objective under Section 5.6 of the DCP states, “To maintain a low scale building form which responds to the topography of the site to avoid buildings dominating the streetscape or landscape setting”.

Setbacks

5.5.1 Objectives

- To ensure residential buildings have sufficient separation to provide privacy, solar access, landscaping opportunities and amenity for occupants.

5.5.2.1 Front Setback Controls

1. A residential building must be setback from its primary road frontage a sufficient distance to ensure safe access and egress from the lot and amenity to residents of the site.
2. Where there are existing neighbouring houses within 40 metres, the front setback should be an average of the front setbacks of the nearest two neighbouring houses, with the same primary road frontage.

3. Garages, carports and open car parking spaces must be setback at least 6 metres from the front property boundary.

**Additional Front Setback Controls Excluding Site Specific Controls**

1. Where there are no neighbouring houses the minimum setback from the primary road frontage will vary:
   a. 4.5 metres minimum setbacks on allotments less than 900m$^2$; and
   b. 6 metres minimum setbacks on allotments greater than 900m$^2$.

**Comment:**

The proposed setback of 5 metres minimum to the front of the dwelling and a minimum 5.8 metres to the front of the carport is considered consistent with the character of the village, particularly when the historic setback to dwellings for the village was 4.5 metres therefore many precedents have been set.

**5.5.2.5 Side and Rear Setback Controls**

1. The minimum side and rear setbacks vary with building height, so a lower building can be closer to the side boundary than a taller one. On sloping sites the side and rear setbacks are calculated for the maximum wall height at the side of the building.

2. The minimum side and rear setback increases on a sliding scale once the building wall height is greater than 3.8 metres.

**Comment:**

The eastern side setback is proposed at 1.410 metres and the required setback using the DCP formula is 1.675 metres, therefore is a minor non-compliance.

The western side setback proposed is 1.055 metres minimum and the required setback is 1.675 metres, therefore is a minor encroachment.

As both the western and eastern side elevations have articulation, including a step in the wall, it is considered the proposed minor variations of 265mm and 620mm are acceptable.

**b) The likely impacts of development including environmental impacts on both natural and built environments and social/economic impacts in the locality**

**Context and Setting**

It is considered that the proposed two (2) storey dwelling results in a development which is consistent with the surrounding locality.

**Site Design and Internal Layout**

The design of the development has taken into account the steep site constraints. Many similar two (2) storey dwellings exist in the Smiths Lake area with elevated sub floors. This is a result of trying to achieve compliant vehicular access grades and yet still maintain a reasonable relationship to natural ground levels. It is considered that in this instance the design has achieved a desirable outcome.

**Views**

Lake and coastal views are available from the proposed dwelling to the south east of the site.
Concern has been expressed that the view and outlook available of the lake from private vantage points will be detrimentally affected. One (1) submission has been made relating to loss of view and outlook. Views available from the outlook of No. 61 Patsys Flat Road will be examined.

To quantify the impact on view I refer to the Land and Environment Court Decision in Tenacity Consulting v Warringah (2004). In this decision the court used a four step assessment to determine the application based on view sharing principals.

This assessment will estimate the impact of the plan of the development proposal.

**The first step is the assessment of views to be affected.**
Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

**The second step is to consider from what part of the property the views are obtained.**
For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

**The third step is to assess the extent of the impact.**
This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

**The fourth step is to assess the reasonableness of the proposal that is causing the impact.**
A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

**No. 61 Patsys Flat Road**
Following a submission from No. 61 Patsys Flat Road profiles were requested so that the neighbours could more accurately assess the level of impact imposed on their view. As no new submission was received by the owners of No. 61, following the notification of the profiles, several attempts were made to contact the neighbours to discuss their assessment of the notified profiles. Unfortunately whilst out on site a neighbour informed Council staff that the owners of No. 61 Patsys Flat Road were overseas and would be away for a further six (6) weeks.

As no contact could be made with the owners of No. 61 photos were taken from the ground floor verandah of the view to the lake; however as access could not be gained an accurate assessment of the first floor and even ground floor view, within the dwelling could not be made. Therefore some assumptions will be made during the following assessment.

**No. 61 Patsys Flat Road is located directly across the road from the subject site.** A standing and seated lake view is available from both ground and first floor level.

The view is available from ground and first floor south facing rooms. There is a distant filtered lake view from the ground floor deck, with some existing trees located within the view corridor. Photos of the view are available on the development application file for perusal.
As the proposed roof of the dwelling will range from 2.71 metres above the level of the road, at its highest point, and 460mm above the road at its lowest point, it is considered that the presentation of the development to the street is consistent with a modest single storey dwelling. In addition the skillion roof design is considered to allow for reasonable view sharing.

There will be a portion of lake view from the ground floor living areas and ground floor verandah obscured. It is considered that there will still be some lake views from front yard, when standing in front of dwelling. As the first floor is more elevated it would be envisaged that views of the lake will still be available; however as mentioned access could not be achieved.

In terms of height controls the development proposal does not comply with Council's DCP and LEP requirements. The development is approximately 460mm above the maximum permitted by the LEP controls; however this non-compliance is located to the rear of the residence which does not have an impact on the view. The front elevation has a maximum height above ground level of 5.5 metres, which is 3 metres under the height requirements.

When comparing ridge heights to the neighbouring dwelling to the west, the proposed dwelling will be 920mm higher. However; as the proposed roof is a skillion there will still be a large portion of the proposed roof at the same level, or lower, than the adjoining dwelling, refer to annexure B.

In summary it is thought that the proposal is of a reasonable height in the context and setting of the site particularly with regard to its impact on the streetscape and views.

**Privacy (Aural and Visual)**

Given the residential locality, and as many of the existing dwellings have large elevated decks with outlooks to the lake, it is considered that the level of impact on privacy is reasonable for the setting. Whilst no objections to privacy loss have been raised the applicant has proposed that a privacy screen be erected on the eastern side of the first floor deck.

**Overshadowing**

Given the orientation and topography of the site there is overshadowing to the rear property; however shadow diagrams indicate that the minimum solar access to internal and outdoor living areas will meet the DCP requirements.

**Visual Impact**

Given that the development is consistent with the surrounding locality, it is considered that the visual impact is not unreasonable with regard to the existing natural and built environment.

**Cumulative Impacts**

Given the steep nature of the site, which exacerbates the height issues, and given that the development is consistent with the character of the village it is considered that the minor variation in this instance will not lead to cumulative impacts for future developments.

**c) The Suitability of the Site for the Development**

The subject site is bushfire prone which results in conditions being imposed in the development consent with regard to construction complying with the relevant bushfire protection requirements.

**d) Any Submissions Made in Accordance with the Act or Regulations**

The application was notified to adjoining owners in accordance with Council's Policy and one (1) submission was received. The submission referred to the following issues:

1. The height of the development should be kept to align with other recently built houses No. 52, 54 and 60.
Comment: The proposed maximum ridge height is 31.310 metres. When compared with other dwellings on the low side of the street the following was determined:

No. 50 Maximum Ridge Height - RL 34.07m (Therefore 2.76 metres above proposal)
No. 52 Maximum Ridge Height - RL 30.63m (Therefore 680mm lower than proposal)
No. 54 Maximum Ridge Height - RL 30.39m (Therefore 920mm lower than proposal)
No. 54A (Proposed) Maximum Ridge Height - RL 31.310m
No. 58 is currently vacant
No. 60 has dual frontage and is constructed to face the lower section of Patsys Flat Road therefore does not present to the same street frontage and is not felt to be relevant to the streetscape assessment.

Assessment of the surrounding heights determines that the proposal is not out of character with the height of the surrounding streetscape. It is also apparent that when looking at the design of the proposal that the average height of the proposal in the middle of the roof is RL 30.310m which is lower than the surrounding ridge heights as referenced above. This is a clear indication that by running the angle of the roof across the site that view sharing has been considered.

2. Should the proposal go ahead it will block our view to the lake from ground floor and about 60% from top floor. We wonder if profiles could be erected?

Comment: Firstly profiles have been erected; however unfortunately the neighbours are currently overseas and have not been available to view the profiles.

Assessment of the view from the ground floor front balcony and ground level in front of the dwelling indicates that there will be view loss; however there will still be some lake views available and views of the distant mountains beyond the lake. (Refer to photos taken from the site on file).

3. The proposed flue, indicating venting smoke. In the winter we would have smoke coming directly at us.

Comment: Assessment of the approximate distance from the proposed dwelling to the residence across the street at No. 61 indicates a distance of around 30 metres. This distance would ensure that compliance with the relevant Australian Standards and Constriction Code requirements would be easily achieved. In addition conditions of consent would be imposed stipulating that any solid fuel heating appliance meets the requirement of AS 4012 "Method for Determination of Power Output and Efficiency" and AS 4013 "Method for Determination of Flu Gas Emissions". These conditions will ensure that the impact as a result of smoke omissions is compliant with the standards.

The proposal was referred to Mid Coast Water with conditions to be imposed.

e) The Public Interest

Approval of the development application would not create negative implications with regard to the public.

CONCLUSION:

It is concluded that the application for a two (2) storey dwelling resulting in a maximum 8.96 metres overall height is considered acceptable upon this site. Clause 4.6 of the GLLEP "Exceptions to Development Standards" has been considered and it is found that the proposal meets the objectives of Clause 4.3 "Height of Buildings" standards as well as satisfying the overall objectives of the RU5 zone. In addition it is considered that the design and height of the proposal has attempted to allow for view sharing and is consistent with the surrounding locality and the character of the village.
RECOMMENDATION:

That Development Application No. 322/2016, for a two storey dwelling located at Lot 71 DP 1168879, 54A Patsys Flat Road, Smiths Lake be approved subject to conditions of consent.

GENERAL CONDITIONS

1. Development in accordance with approved plans

The development must be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

<table>
<thead>
<tr>
<th>Plan type/Supporting Document</th>
<th>Plan No. &amp; version</th>
<th>Prepared by</th>
<th>Dated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cover Sheet</td>
<td>A1.1</td>
<td>Ian Sercombe Architect</td>
<td>11/02/16</td>
</tr>
<tr>
<td>BASIX</td>
<td>A1.2</td>
<td>Ian Sercombe Architect</td>
<td>11/02/16</td>
</tr>
<tr>
<td>Landscape</td>
<td>A1.3</td>
<td>Ian Sercombe Architect</td>
<td>11/02/16</td>
</tr>
<tr>
<td>Site-Roof Plan</td>
<td>A2.1</td>
<td>Ian Sercombe Architect</td>
<td>11/02/16</td>
</tr>
<tr>
<td>Ground Floor Plan</td>
<td>A2.2</td>
<td>Ian Sercombe Architect</td>
<td>11/02/16</td>
</tr>
<tr>
<td>Lower Floor Plan</td>
<td>A2.3</td>
<td>Ian Sercombe Architect</td>
<td>11/02/16</td>
</tr>
<tr>
<td>Elevations</td>
<td>A3.1</td>
<td>Ian Sercombe Architect</td>
<td>11/02/16</td>
</tr>
<tr>
<td>Elevations</td>
<td>A3.2</td>
<td>Ian Sercombe Architect</td>
<td>11/02/16</td>
</tr>
<tr>
<td>Sections</td>
<td>A3.3</td>
<td>Ian Sercombe Architect</td>
<td>11/02/16</td>
</tr>
<tr>
<td>Driveway Plan</td>
<td>SK.1</td>
<td>Ian Sercombe Architect</td>
<td>19/01/16</td>
</tr>
</tbody>
</table>

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

Reason: Information and to ensure compliance.

2. Compliance with National Construction Code Series- Building Code of Australia

All building work must be carried out in accordance with the requirements of the National Construction Code Series - Building Code of Australia as in force on the date the application for the relevant construction certificate or complying development certificate was made.

Reason: Prescribed condition under the Environmental Planning & Assessment Regulation 2000.

3. Insurance requirements under Home Building Act 1989

Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates has been given documentary evidence or written notice of the following information:

a) in the case of work for which a principal contractor is required to be appointed:
   i) the name and licence number of the principal contractor, and
   ii) if the contractor is required to have a contract of insurance for any authorised works, a Statement of Cover with the name of the insurer by which the work is insured under Part 6 of that Act.

b) in the case of work to be done by an owner-builder:
   i) the name of the owner-builder, and
ii) if the owner-builder is required to hold an owner-builder permit under that Act, the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates has been given the notice of the updated information.

**Reason:** Prescribed condition under the *Environmental Planning & Assessment Regulation 2000.*

4. **Notification of Home Building Act 1989 requirements**

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

a) in the case of work for which a principal contractor is required to be appointed:
   i) the name and licence number of the principal contractor, and
   ii) the name of the insurer by which the work is insured under Part 6 of that Act,

b) in the case of work to be done by an owner-builder:
   i) the name of the owner-builder, and
   ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

**Reason:** Prescribed condition under the *Environmental Planning & Assessment Regulation 2000.*

5. **Adjustment to utility services**

All adjustments to existing utility services made necessary by the development are to be undertaken at no cost to Council.

**Reason:** To ensure utility services remain in serviceable operation.

6. **Incorporated Approvals**

The following approvals are granted under Section 78A of *Environmental Planning and Assessment Act 1979* as part of this development consent:

**Incorporated Approvals under Section 68 of the Local Government Act 1993**

a) Installing a domestic oil or solid fuel heating appliance, other than a portable appliance

Note: These works must be carried out to the satisfaction of Council and cannot be assessed for the purpose of compliance, or otherwise deemed acceptable by a private certifier.

**Reason:** To ensure work is carried out in accordance with the determination and other statutory requirements
PRIOR TO THE ISSUE OF A SUBDIVISION CONSTRUCTION CERTIFICATE

The following conditions must be complied with prior to the issue of any subdivision construction certificate:

7. Bond required to guarantee against damage to public land

Prior to the issue of a construction certificate, a Damage Bond Application form together with payment of a bond in the amount of $2000 and an administration fee of $320 must be submitted to Council. The bond is payable for the purpose of funding repairs to any damage that may result to Council assets from activities/works associated with the construction of the development and to ensure compliance with Council standards and specifications.

A final inspection will be carried out by the responsible Council officer and the bond (minus any fees required for additional inspections) will be considered for refund:

a) once all works, including landscaping, driveway construction, turfing, etc, have been completed, and
b) following issue of an occupation certificate by the certifying authority.

The damage bond is reviewed periodically and therefore the fee and bond amount payable will be determined from Council’s current fees and charges document at the time of lodgement of the damage bond.

Reason: Protection of public assets.

8. Structural details

Prior to the issue of a construction certificate, structural drawings prepared by a suitably qualified and experienced structural engineer must be submitted to and approved by the certifying authority. The plans must include details for:

a) All reinforced concrete floor slabs and/or beams or raft slab (having due regard to the possible differential settlement of the cut and fill areas).
b) Footings of the proposed structure.
c) Structural steel beams/columns.

Reason: To ensure structural stability and safety.

9. Plans of retaining walls and drainage

Prior to the issue of a construction certificate plans and specifications of retaining walls or other approved methods of preventing the movement of soil, where excavation or fill exceeds 600mm above or below the existing ground level, must be submitted to and approved by the certifying authority. Adequate provision must be made for drainage in the design of the structures.

Reason: To ensure site stability and safety.

10. MidCoast Water approval

Prior to the issue of a construction certificate, a Certificate of compliance from MidCoast Water, stating that satisfactory arrangements have been made and all payments finalised for the
provision of water supply and sewerage to the development, must be submitted to the certifying authority.

**Reason:** To ensure suitable water and sewage disposal is provided to the development.

11. **Construction of buildings in bushfire-prone areas**

Prior to the issue of a construction certificate, plans and specifications detailing the construction of the building to Bushfire Attack Level 19 (**BAL 19**) as defined in *Australian Standard AS 3959: Construction of buildings in bushfire-prone areas and section A3.7 Addendum Appendix 3 of “Planning for Bush Fire Protection”* must be submitted to and approved by the certifying authority.

**Reason:** To ensure the development complies with bush fire construction standards.

12. **Erosion and sediment control plan**

Prior to the issue of a construction certificate, an erosion and sediment control plan prepared by a suitably qualified person in accordance with *“The Blue Book – Managing Urban Stormwater (MUS): Soils and Construction”* (Landcom) must be submitted to and approved by the certifying authority. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices including catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams, and sedimentation basins.

**Reason:** To protect the environment from the effects of erosion and sedimentation.

13. **Building materials, finishes and colours**

Prior to the issue of a construction certificate, a detailed schedule of external materials, finishes and colours must be submitted to and approved by the certifying authority. All external building materials must be in neutral, recessive, non-reflective colours and finishes, which harmonise with the colours of the character of the locality.

**Reason:** To maintain visual amenity to the street and surrounding properties.

14. **Preparation of a final landscape plan**

A landscape plan and schedule, shall be submitted to the certifying authority for approval prior to the issue of a Construction Certificate. The plan shall clearly show:

a) The location of the approved dwelling, and associated features such as driveways, paths, rain-gardens and utilities.

b) The locations of all trees that are to be retained; comprising the trees identified in these conditions.

c) The proposed protection measures to be deployed to protect trees to be retained from harm and impacts associated with the development (eg. protection fencing, exclusion areas, hand-installation of stormwater and sewer connections in the critical root zone of trees to be retained, etc).

d) The use of predominantly native flora species that grow in coastal locations and littoral rainforests in the Smiths Lake locality.

e) Details of plant species to be used in landscaping including quantities, densities and height and spread at maturity.

f) Details of planting locations.
g) Details of planting procedure and maintenance.

h) The planting of at least four (4) appropriate local native tree species (such as Tuckeroo, Cheese Tree, etc), particularly on site boundaries to assist soften the development and provide urban habitat for wildlife.

Reason: To provide landscaping to the subject land for local amenity and to partially compensate for the removal of trees from the land.

PRIOR TO THE COMMENCEMENT OF ANY WORK ASSOCIATED WITH THIS CONSENT

The following conditions must be satisfied prior to the commencement of any building construction or subdivision work:

15. Construction certificate required

Prior to the commencement of any building or subdivision construction work (including excavation), a construction certificate must be issued by a certifying authority.

Enquiries regarding the issue of a construction certificate can be made to Council’s Customer Service Centre on 6591 7222.

Reason: Statutory requirement under the Environmental Planning and Assessment Act 1979.

16. Notification of commencement and appointment of principal certifying authority

Prior to the commencement of any building or subdivision construction work (including excavation), the person having the benefit of the development consent must appoint a principal certifying authority and give at least two (2) days notice to Council, in writing, of the persons intention to commence construction work.

Reason: Statutory requirement under the Environmental Planning and Assessment Act 1979.

17. Site access

Public access to the site and building works, materials and equipment on the site is to be restricted, when building work is not in progress or the site is unoccupied. The public safety provisions must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.

Reason: To ensure public health and safety during the construction of the development.

18. Pollution prevention sign

Council’s "PREVENT POLLUTION" sign must be erected and maintained in a prominent position at the frontage of the property so that it is clearly visible to the public for the duration of construction work.

Council’s PREVENT POLLUTION sign can be purchased at Council’s Customer Enquiry Counter at the Forster, Tea Gardens and Stroud administration buildings.

Reason: To increase industry and community awareness of developer’s obligations to prevent pollution and to assist in ensuring compliance with the statutory provisions of the Protection of the Environment Operations Act 1997.
19. Toilet facilities - sewered areas

Prior to the commencement of work, toilet facilities must be provided at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a standard flushing toilet connected to a public sewer.

Reason: To maintain public health.

20. Site construction sign

Prior to the commencement of work, a sign or signs must be erected in a prominent position at the frontage to the site.

a) showing the name, address and telephone number of the principal certifying authority for the work, and

b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

c) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

Reason: Prescribed condition under the Environmental Planning and Assessment Regulation 2000.

21. Erosion & sediment measures in accordance with approved plans

Prior to the commencement of work, erosion and sediment controls must be installed in accordance with the approved erosion and sediment control plan and must be maintained for the duration of the project.

Reason: To protect the environment from the effects of erosion and sedimentation.

CONDITIONS TO BE SATISFIED DURING DEVELOPMENT WORK

The following conditions must be complied with during any development work:

22. Construction times

Construction and/or demolition works, including deliveries on or to the site must not unreasonably interfere with the amenity of the neighbourhood and must occur only in accordance with the following:

Monday to Friday, from 7 am to 6 pm.

Saturday, from 8 am to 1 pm.

No construction and/or demolition work, including deliveries are to take place on Sundays or Public Holidays.

Reason: To maintain amenity during construction of the development.
23. Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a suitable waste bin/enclosure. Building materials must be delivered directly onto the property. Footpaths, road reserves and public reserves must be maintained clear of rubbish, building materials and other items at all times.

**Reason:** To ensure that materials and waste do not adversely affect traffic or pedestrian safety and amenity.

24. Maintenance of sediment and erosion control measures

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

**Reason:** To protect the environment from the effects of erosion and sedimentation.

25. Survey of building location

A survey certificate prepared by a registered surveyor must be submitted to the certifying authority at the following stages of the development:

- a) Prior to the construction of footings or first completed floor slab showing the area of land, building under construction and boundary setbacks.
- b) Upon completion of the roof timbers, before roofing is laid, indicating the ridge height to AHD.

**Reason:** To ensure compliance with the approved plans.

26. Installation and Compliance of Solid Fuel Heater

Installation of a Solid Fuel Heating appliance is to be carried out by a licensed builder or qualified contractor, being a person who holds a licence in the appropriate category (Solid Fuel Heaters) from the Department of Fair Trading. The solid fuel heater is to be compliant with the following:

- a) The Solid Fuel Heating appliance is to be installed in accordance with AS 2918 "Domestic Solid Fuel Burning Appliances - Installation - 2001" and manufacturer's specifications, in particular for the distance to internal walls and roofing members. Any opening created is to be adequately weatherproofed. The related building work must not reduce the structural strength of the subject building. The installation is not to adversely affect the fire protection required for the subject building.


**Reason:** To ensure that the solid fuel heater is installed in the correct manor and so that it does not reduce fire safety to the building.

27. Utilities with regard to bushfire protection

Electricity and gas services are to comply with section 4.1.3 of ‘Planning for Bush Fire Protection 2006’. All above ground water and gas service pipes external to the building are required to be metal, including and up to any taps.
Reason: To ensure compliance is achieved with Planning for Bushfire Protection.

28. Landscaping with regard to bushfire protection

Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

Reason: To ensure compliance with Planning for Bushfire Protection 2006.

29. Tree removal

Only those four (4) trees that are identified to be removed (ie. identified as "trees to be removed") on the plan entitled Landscape, prepared by Ian Sercombe Architects, dated 11 Feb 2016 and submitted with the development application shall be removed for the construction of the approved development.

All other trees on the land shall be protected from harm during the approved construction and subsequently managed in accordance with the relevant statutory controls.

Reason: To manage the removal of trees for the approved development.

30. Procedure for the removal of trees

During the physical removal of the approved trees to be removed, the following shall be adopted at all times:

- Tree removal shall be conducted by licensed and qualified arborists or tree removal contractors.
- Tree removal personnel shall inspect the crown, foliage and trunks of trees that require removal immediately prior to any felling to investigate the presence of Koalas. If a Koala is detected, the tree and no other surrounding trees shall be cleared until the animal has dispersed of its own free will from the area.
- Removal of approved trees shall be conducted using dismantling and lowering only (or other appropriately sensitive techniques) and in a manner that protects trees that are to be retained on and adjacent to the land.
- Removal of approved trees shall be conducted in a manner that avoids the movement of machinery in the root zones of trees that are to be retained.
- Any damage to trees that are to be retained during the construction of the dwelling shall be reported immediately to Council's Tree Management Officer. Remediation or repair actions identified by this officer shall be conducted on the land to assist minimise the harm associated with any such damage.

Trees and vegetation removed from the subject land shall be commercially re-used (logs or mulch), used in site landscaping (as mulch or edging or cover for terrestrial fauna) or retained and utilised by the occupier of the lot for the purpose of fuel for internal wood combustion heaters or stoves. Windrowing and pile-burning shall be avoided, except with the consent of the NSW Rural Fire Service.

Reason: To protect significant trees and minimise the impacts of the development on native vegetation.
31. **Management of Trees to be retained**

The construction of the approved dwelling (and associated works) shall be conducted in a manner that avoids impact, harm or removal of trees that (as required in these conditions) are to be retained. Stockpiles, machinery and equipment shall not be used or placed in the root zones of trees that are to be retained. Landform modification (cut/ fill) shall not occur in the primary root zones of trees that are to be retained.

Those trees that are identified to be retained as specified in these conditions shall be protected from direct and indirect harm associated with any aspect of the approved construction.

No trees outside the area of the subject land (other than those identified in these conditions) shall be harmed or removed without the written approval of Council. This includes trees within the Council roadside verge fronting the Lot.

Retained trees shall be managed in accordance with the relevant instruments and legislation.

Reason: To protect trees that are to be retained.

32. **Trees to be retained to be protected by fencing**

Prior to the commencement of work, trees that are to be retained must be protected by a fence(s) so as to minimise disturbance to existing ground conditions within the drip-line of such trees. The fence must be constructed:

- with a minimum height of 1.2 metres,
- outside the drip-line of the tree,
- of steel star pickets at a maximum distance of 2 metres between pickets with orange barrier mesh, or similar, attached to the outside of the fence and continuing around its perimeter to enclose the tree.

The fence must be maintained for the duration of the site clearing, preparation and construction works and signs must be erected to clearly identify the area as a restricted access zone.

Reason: To ensure the health and safety of trees during the construction of the development.

33. **Support for neighbouring buildings**

If an excavation extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person’s own expense:

- a) protect and support the adjoining premises from possible damage from the excavation, and
- b) where necessary, underpin the adjoining premises to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to this condition not applying.

Reason: Prescribed condition under the *Environmental Planning and Assessment Regulation 2000.*
34. Aboriginal heritage

This consent does not authorise the harming of an Aboriginal object or place. Under the National Parks and Wildlife Act 1974, it is the responsibility of all persons to ensure that harm does not occur to an Aboriginal object or place. If an Aboriginal object is found, whilst undertaking development work, all work must stop and the NSW Office of Environment and Heritage notified. All directions of the Office of Environment and Heritage must be complied with at all times.

**Reason**: To protect Aboriginal heritage.

35. Asset Protection Zone (APZ)

At the commencement of building works and in perpetuity, the entire property must be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of ‘Planning for Bush Fire Protection 2006’ and the NSW Rural Fire Service’s document ‘Standard for asset protection zones.

**Reason**: To provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions must be satisfied prior to any occupation or use of the building:

36. Sealed driveway in accordance with approved Driveways Level Application

Prior to the issue of a final occupation certificate, a driveway must be constructed from the edge of the road formation to the property boundary in accordance with the approved Driveway Levels Application. Written confirmation from Council must be obtained stating that the constructed driveway is to Councils’ satisfaction.

**Reason**: To ensure suitable vehicular access to the development.

37. Internal driveway in accordance with the approved plans

Prior to the issue of a final occupation certificate, a driveway must be constructed from the property boundary to the proposed car spaces in accordance with the approved plans.

**Reason**: To ensure suitable vehicular access is provided to the development.

38. Compliance of Raingarden to Plans

Prior to the issue of any occupation certificate, written certification by the builder or plumber is to be submitted to the certifying authority that construction levels and drainage lines have been installed in accordance with the approved stormwater drainage plans and conditions.

**Reason**: To ensure compliance with Council's water quality objectives and comply with the Water Sensitive Design section of the Great Lakes Development Control Plan and ensure that the raingarden is constructed in accordance with approved plans and standards and conditions of consent.
39. **Raingarden Maintenance**

Prior to issue of any occupation certificate a permanent notice identifying the location of the raingarden is to be displayed in the metre box or other visible locations on the property.

The raingarden shall be maintained by the owner in perpetuity including free draining filter media and approved plant species and densities (including the removal of weeds) and protection from erosion and scour within the raingarden.

**Reason:** To ensure that ongoing compliance with the Water Sensitive Design section of the Great Lakes Development Control Plan.

40. **Works to be completed**

The building/structure or part thereof must not be occupied or used until an interim occupation/final occupation certificate has been issued in respect of the building or part.

**Reason:** To ensure compliance with the development consent and statutory requirements.

41. **BASIX Compliance**

Prior to the issue of a final occupation certificate, all of the required commitments listed in the BASIX certificate must be fulfilled.

**Reason:** Prescribed condition under the *Environmental Planning and Assessment Regulation 2000*.

42. **House numbering**

Prior to the issue of a final occupation certificate, the street number must be displayed at the main driveway entrance approved for the property. The street number for this property is 54A.

**Reason:** To ensure proper identification of buildings.

43. **Certification of Compliance of Solid Fuel Heater**

Prior to the issue of an occupation certificate the installer of the solid fuel heater is to provide a certificate indicating that the solid fuel heater has been installed in accordance with

a) AS 2918 "Domestic Solid Fuel Burning Appliances - Installation - 2001" and manufacturer's specifications; and


The Solid Fuel Heating appliance must bear an AS 4013 compliance plate prior to the issue of an occupation certificate.

**Reason:** To ensure that the solid fuel heater is installed in the correct manor and so that it does not reduce fire safety to the building.
44. Implementation of the Approved Final Landscape Plan

The Registered Proprietor of the land, or their agents, shall fully implement all of the required actions outlined in the approved final landscape plan as per the instructions set-out in that plan. The final occupation certificate shall not be issued until such time as the required landscaping set-out in the final landscaping plan has been appropriately established.

**Reason:** To appropriately conduct landscaping on the subject land.

45. Removal of Asparagus Fern

The Registered Proprietor of the land, or their agents, shall fully suppress and control the occurrences of Asparagus Fern on the subject land. Weed control techniques shall be best management practice and coordinated in a manner that protects native vegetation on the subject land. The final occupation certificate shall not be issued until such time as it can be demonstrated that the land is clear of Asparagus Fern.

**Reason:** To reduce the incidence of noxious weeds on the land.

ONGOING USE

46. Maintenance and Operation of Solid Fuel Heater

The solid fuel heater must be maintained and operated in the following manner:

a) Only aged, dry hardwood is permitted to be burnt in the wood heater.

b) Firewood must be stored undercover in a dry ventilated area; freshly cut wood needs to be stored for at least 8–12 months prior to burning.

c) The wood heater must not be permitted to smoulder overnight; sufficient air must be provided in the wood heater to maintain a flame.

d) The chimney must be cleaned at regular intervals so as to prevent creosote build-up.

**Reason:** To protect the health and amenity of the adjoining premises.
ANNEXURES:

A: Site-Roof Plan and Elevations.
B: Plan of front elevation showing relationship to road level.
C: Survey Plan showing profile locations.
PES - DA-335/2016 - Cafe & Farmgate - The Bucketts Way Booral

Index: DA-335/2016 PK36500
Author: Development Assessment Planner - Steve Andrews
Ordinary Meeting: 25 May 2016

DETAILS:

Date Received: 24 February 2016
Applicant: C Dalrymple-Hutchinson
Owner: Mr P & Mrs K Hutchinson
Land: Lot 11 DP 1118759, 1895 The Bucketts Way, Booral
Area: 303.6 ha
Property Key: 36500
Zoning: RU2 - Rural Landscape, GLLEP 2014

SUMMARY OF REPORT:

- Development Application No. 335/2016 lodged seeking consent for a concept proposal for a café and farm-gate shop.
- Application notified to neighbouring property owners in accordance with Council's Policy and one (1) submission was received.
- Concept proposal generally considered to be consistent with the various relevant planning controls subject to conditions.

SUMMARY OF RECOMMENDATION:

Deferred commencement development consent be issued for the concept proposal.

FINANCIAL/RESOURCE IMPLICATIONS:

Cost of defending any appeal against Council's decision.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

A decision for approval subject to conditions or refusal may lead to an appeal to the Land and Environment Court requiring legal representation.

LIST OF ANNEXURES:

A: Plans of proposed development.
LIST OF ATTACHMENTS:

Nil.
SUBJECT SITE AND LOCALITY:
BACKGROUND:

The proposed concept was considered by Council's Development Assessment Panel (DAP) on 24 February 2016. The Panel advised the owner and their planning consultant of the various relevant planning matters that would be considered by Council with the assessment of a development application. In accordance with standard DAP procedures; no advice was given as to the likely success of a future development application.

CONCEPT PROPOSAL:

Construct a single storey building comprised of a café (with kitchen) and a sub-ordinate use (farm-gate shop) to the eastern side of the site, approximately midway along the Bucketts Road frontage and to the southern side of Double Creek. Access to proposed on-site parking will be provided via a connection from The Bucketts Way to a closed section of the former main road (now Blueberry Lane). The applicant also seeks to connect the closed northern section of Blueberry Lane to The Bucketts Way.

The café will seat approximately 30 people. The use will be conducted by the owner's family and may employ 2 to 3 staff. The use will operate 7 days per week, 7.00am to 8.00pm. The sub-ordinate farm-gate shop will sell items produced on the property including eggs, vegetables, jams, condiments and craft. An accessible toilet will be provided within the floor plan suitable for use by a person with a disability. On-site parking will be provided for up to twenty (20) vehicles including two (2) spaces that will be suitable for use by persons with a disability.

The proposed building has a rectangular footprint of 12.0m x 20.0m, will be constructed of lightweight materials, externally clad with corrugated iron to the pitched gable-ended roof two sides and rear and with timber boarding to the front elevation. The building will have an overall height of approximately 4.65 metres. Two (2) existing trees may require to be removed depending on the final location of the proposed development.

No signage is included with the proposed concept. An appropriate condition is included in this report's recommendation.

SITE DESCRIPTION:

The large rural site is located to the western side of The Bucketts Way just south of Maytoms Lane Booral. The topography of the site is undulating, generally cleared to the eastern side and crossed by two significant creeks (Double Creek and Brewers Creek) that flow in as easterly direction via Cromarty Creek to the Karuah River.

The site is accessed via a connection from The Bucketts Way to a closed section of the former main road (now Blueberry Lane).

The site is currently used for agricultural activities including poultry farming and is occupied by various associated farm buildings and a dwelling house.

REPORT:

The following matters listed under Section 79C of the Environmental Planning and Assessment Act, 1979, are relevant in considering this application:
The provisions of any environmental planning instrument; any proposed instrument that is or has been the subject of public consultation and which have been notified to the consent authority; any DCP; any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F; any matters prescribed by the regulations; any coastal zone management plan that apply to the development application on the subject land.

Environmental Planning and Assessment Act 1979 (EPAA 1979)

The subject site is mapped as bush fire prone and in accordance with Section 79BA of the EPAA 1979 the application is to be assessed having regard to the provisions of the publication ‘Planning for Bushfire Protection 2006’. In this regard the proposed development is located in an area of the site that is generally comprised of cleared pastures with the exception of riparian vegetation that lines the banks of adjacent Double Creek and Brewers Creek. ‘Planning for Bush Fire Protection 2006’ generally applies to residential development and development classed as Special Fire Protection Purposes. The proposed development is neither of the above types however Part 4.3.1 references the aims and objectives of the publication and in this regard the proposed development is considered satisfactory given the nature of the proposed use and the proximity and nature of adjacent vegetation. A bushfire assessment is recommended for submission in accordance with the conditions of this report's recommended deferred commencement consent.

The applicant has not nominated that the proposed concept is for Integrated Development under Section 91 of the EPAA 1979 in respect to Section 138 of the Roads Act 1993 and Section 91 of the Water Management Act 2000. Accordingly, the applicant will be required by recommended condition of consent to separately apply to the Department of Primary Industries -Water (DPI Water) for that authorities’ respective approval. Notwithstanding, the subject application was referred to those authorities for comment and they both have no objection subject to conditions, with the RMS opposed to the proposed reconnection of Blueberry Lane to The Bucketts Way. Their conditions are included in this report's recommendation.

Local Government Act 1993 (LGA 1993)

The development application also seeks approval under Section 68 Part C5, to install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility and Part F4 to install a domestic oil or solid fuel heating appliance, other than a portable appliance. The development application is conceptual and does not include any further details of either matter however the issues can be satisfactorily addressed by this report's recommended deferred conditions of development consent.

Great Lakes Local Environmental Plan 2014 (GLLEP 2014)

The following consideration addresses the relevant provisions of the Plan.

Part 1.2 -Aims of the Plan
The relevant aims of the Plan are to protect and enhance the environmental, scenic and landscaped assets of the area and to facilitate the orderly and sustainable economic development of land. The proposed development is considered to be consistent with these aims.

Part 2 - Land use table
The site is located in a RU2 - Rural Landscape Zone and the proposed uses (café and sub-ordinate farm-gate shop) are considered to be permissible in the zone with development consent. The relevant objectives of the zone are to encourage sustainable primary industry production by maintaining and enhancing the natural resource base, to maintain the rural landscape character of the land, to provide for a range of compatible land uses, including extensive agriculture, to provide for rural tourism in association the primary industry capability of the land and to secure a future for agriculture in the area by minimising the fragmentation of rural land and loss of potential agricultural productivity. The proposed development is considered to be consistent with the relevant objectives of the zone.
Part 4 - Principal development standards
This Part identifies various numerical development standards for proposed development. The relevant development standards are:

4.3 - Height of building - The relevant objectives of the standard are to ensure the scale of proposed buildings is compatible with the existing environmental character and the desired future character of the locality. The proposed development has an overall height of approximately 4.65 metres, below the desired maximum of 8.5 metres. The proposed single storey building is not considered to unreasonably impact on the residential amenity relationship with neighbouring properties and accordingly is considered to be consistent with the relevant objectives for building height.

4.4 - Floor space ratio - The relevant objectives of the standard are to ensure the scale of proposed development is compatible with the existing environmental character of the locality. The desired maximum floor space ratio in the RU2 zone is 0.4:1.00. The proposed development and all other existing calculable building floor areas on the site are well less than the maximum given the site has an area of 303.6ha. The proposed development is considered to be consistent with the relevant objectives for floor space ratio.

Part 7 - Additional local provisions

7.2 - Earthworks - The objective of this provision is to ensure that earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses and features of the surrounding land. The proposed development includes limited excavation works to construct the development and install services. Issues of soil erosion, sedimentation and drainage impacts will be managed during and after construction and appropriate conditions are included in this report's recommendation. Accordingly, the proposed development will be consistent with the objective of this clause.

7.3 - Flood planning - The relevant objectives of this clause are to minimise the flood risk to life and property, to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change and to avoid significant adverse impacts on flood behaviour and the environment. The information available to Council in regards to flooding at this location is limited. The mapping for the predicted 2060 1% AEP flood however, does show that Double Creek is affected by this event and that the limit of flood would be approximately R.L 10.0m AHD. In this regard a condition is included in the recommended deferred commencement consent to nominate the reduced level to AHD for the floor level of the proposed building. Accordingly, the proposed development would be consistent with the objectives of this Part.

7.5 - Stormwater Management - The objective of this clause is to minimise the environmental impacts of stormwater on the site and adjoining properties, native bushland, groundwater, wetlands and receiving waters. Given the rural locality the proposed development would capture all roof water for reuse and any other surface water would be managed to achieve the objective of this Part. Appropriate conditions are included in this report's recommendation.

7.7 - Riparian Land and Watercourses - The objectives of this clause are to protect and maintain the water quality, the bed and bank stability, the aquatic and riparian habitats and the ecological processes within watercourses and riparian areas. The proposed development is located on land that contains an identified watercourse in accordance with the Watercourse Map. The proposed development is considered to be consistent with the objectives of this clause having regard to the matters listed for consideration in subclauses 3 and 4.
7.21 - Essential services - This clause requires that development consent must not be granted to
development unless the Council is satisfied that essential services (i.e. water, electricity,
sewage, stormwater drainage and road access) are available or that adequate arrangements
have been made to make them available. Given the rural locality, the proposed development
has access to all relevant necessary services subject to the conditions contained in this
report's recommendation.

State Environmental Planning Policy (Rural Lands) 2008
All development being undertaken on land within a rural or environmental land use zone must be
considered against the 'rural planning principles' contained within Clauses 7 of the SEPP. The site is
zoned RU2 – Rural Landscape under the Policy. The proposed development is considered to be
consistent with the rural planning principles and the aims of the Policy.

Development Control Plan 2014 (DCP 2014)
The aims of the Plan are to ensure good quality, sustainable development outcomes that maintain a
high level of environmental amenity. The Plan is designed to allow flexibility in the application of its
controls where strict compliance is considered unreasonable or unnecessary provided the relevant
objectives of the Plan have been achieved. The Plan generally applies to residential development and
to commercial and business uses in urban areas.

The proposed use will complement the desired character of this rural locality and support rural tourism
in the area.

The relevant provisions of the Plan are discussed as follows:

Part 3 Character Statements - The proposed development is considered to be contextually
appropriate in this rural locality, it will support local tourism and it will not adversely impact on the
natural environment to a significant extent.

Part 4 Environmental Considerations - The proposed development will not have any significant
ecological impacts nor will it be exposed to any natural or man-made hazards to a significant extent
subject to the conditions included in this report's recommendation. Effluent disposal will be in
accordance with Council's requirements. The relationship between the proposed use and the existing
poultry sheds on the subject site requires the applicant's consideration and is not a matter for
Council's determination.

Part 10 Car Parking, Access, Alternative and Active Transport - The relevant objectives are to ensure
that there is adequate and safe provision for access, manoeuvring and parking on site, to restrict
vehicular access to buildings in a manner that is compatible with pedestrian movements and safety, to
integrate vehicular access and parking facilities without compromising street character or landscaping
and to provide an adequate level of on-site parking based on anticipated occupancy rates and
proximity to alternate and active transport.

This Part prescribes 1 parking space per 24m² of retail/shop gross floor area and 1 parking space per
3 seats in a café. The retail/shop has a gross floor area of 90m², generating a demand for 3.75,
rounded 4.0 parking spaces. The concept proposal indicates that seating for approximately 30 people
will be provided and this equates to 10 parking spaces, thereby totalling approximately 14 parking
spaces, including 1 space suitable for use by a person with a disability. The accommodation together
with manoeuvring can be readily achieved on site with safe access from Blueberry Lane, subject to
the conditions contained in this report's recommendation. Accordingly, the relevant objectives of this
Part can be achieved.
Part 11 Water Sensitive Design - The relevant objectives are to reduce the consumption of potable water, to reduce waste water discharge into the receiving environment, to harvest wastewater and stormwater runoff where appropriate. Given the rural locality the proposed development would capture all roof water for reuse and any other surface water would be managed to achieve the objective of this Part. Accordingly, the proposed development would achieve the relevant objectives of this Part subject to the conditions included in this report's recommendation.

Part 13 Landscaping and Open Space
The objectives of this Part are to encourage design outcomes that respond to the topography of the site, provide for retention of vegetation where appropriate and maintain a low density setting and open character derived from the spaces and landscaping between buildings and the street.

The proposed development would sit in a rural context with riparian vegetation bordering the adjacent watercourses. Accordingly, the proposed development would achieve the objectives of this Part subject to the conditions included in this report's recommendation.

Part 14 Waste Management - The relevant objectives of this Part are to encourage sustainable waste management that includes re-use and recycling of commercial waste. The proposed use would require the provision of suitable waste management facilities, details of which are required as a condition of this report's recommendation. Accordingly, the proposed development would be consistent with the relevant objectives of this Part.

Erosion and Sediment Control Policy
The aim of this policy is to minimise erosion and sedimentation in catchments, resulting from the disturbance of the soil surface associated with building works, changes in land use, the installation of services and road construction and maintenance. This is to ensure that potential pollutants are not directed to natural and artificial water bodies.

The construction works associated with the proposed development can be managed to ensure that erosion and sediment control measures comply with the aims and requirements of the Policy thereby protecting the water quality of neighbouring natural and artificial water bodies. Appropriate conditions of consent are included in this report's recommendation.

Roof Surface Water Disposal Policy
The objective of this Policy is to reduce the effect of surplus stormwater run-off from new developments onto adjacent land and Council's drainage system. The proposed development collects roof water in a tank for re-use. Overflow from the tank and surface stormwater will be managed to achieve the objective of the Policy. Appropriate conditions of consent are included in this report's recommendation.

b) The likely impacts of development including environmental impacts on both natural and built environments and social/economic impacts in the locality

Context and Setting
The proposed concept relates positively with the regional and local context and maintains a reasonable relationship with the character, height and scale of neighbouring rural development.

Site Design and Internal Layout
The site design, including its configuration, size and its proximity to the main road are considered suitable for the proposed development.

The internal layout of the proposed building has been suitably designed to enable the proposed use.
Views
The proposed development does not unreasonably impact on views and outlooks from neighbouring properties.

Privacy (Aural and Visual)
The proposed development has been designed to reasonably address the privacy relationship with the neighbouring properties.

Overshadowing
The proposed development does not cast unreasonable shadowing on neighbouring properties.

Visual Impact
The proposal does not detract from the visual qualities of the neighbouring properties, the locality or the streetscape.

Access and Traffic
Safe access to the proposed development is from The Bucketts Way via Blueberry Lane which is bitumen seal with open swale drains either side of the carriageway. The proposed reconnection of the northern end of Blueberry Lane to The Bucketts Way is not supported by the RMS and Council's professional staff however this is not fatal to the determination of this application.

It appears that the development will be situated in approximately the same area as an existing stormwater piped drainage line that runs underneath the old Bucketts Way. This issue should be investigated and addressed by the applicant as required by the conditions of this report's recommendation.

Flora and Fauna
The proposed concept does not create any significant adverse ecological impact.

Precedent and Cumulative Impacts
The proposed concept, subject to the recommended conditions, does not set an undesirable precedent for future development in this rural locality. The proposal is considered to be consistent with the current planning requirements for the area.

Section 94 Contributions
Non-residential development generates a requirement for a Section 94 contribution under Great Lakes Wide Section 94 Plan 2007 in the sum of $30.00 to fund the Council's Headquarters Building. Also a Section 94 contribution is required in relation to Council's Rural Roads Section 94 Plan for the Stroud area in respect to the number of increased trips associated with the proposed development. The increase in traffic is based on the floor area of the café only and discounted due to seasonal usage, in accordance with the Section 94 Plan, to $3,012.70. The farmgate component of the approved development is not considered to generate additional traffic, capturing only passing trade.

c) The Suitability of the Site for the Development
The topography, site area and configuration of the site are suitable for the proposed concept. Environmental issues are limited and satisfactorily addressed in the proposed design. Adequate utility services are available and the site is not susceptible to any natural hazards to a significant extent.

Accordingly, the site is considered to be suitable for the proposed development.
d) Any Submissions Made in Accordance with the Act or Regulations

The application was notified to neighbouring property owners in accordance with Council’s Policy and one (1) submission was received. The submission refers to the following issues:

1. Lack of information including site plan with setbacks from the boundaries and the creek, lack of detail on elevations and floor plan including windows and doors and external finishes, no details of car parking (location of parking spaces, manoeuvring, access and construction). This is contrary to Schedule 1 of the Environmental Planning and Assessment Regulation 2000 that establishes the information requirements for a development application.

**Comment:** The subject application contains suitable information to enable assessment of the proposed concept. The questionable deficiencies in the detail of the documents submitted, as referred to by the objector in terms of Schedule 1 of the Environmental Planning and Assessment Regulation 2000, can be satisfactorily addressed by conditions of a deferred commencement development consent.

2. The proposed café and farm gate shop uses are not defined in GLLEP 2014.

**Comment:** A café is a use permissible in the RU2 - Rural Landscape zone (ref. definition 'restaurants or cafes'). The farm gate use is considered to be sub-ordinate to the principle use as a café and therefore similarly permissible in the zone with development consent.

3. No details provided as to proximity to Double Creek and potential flood impacts. A flood study should be required.

**Comment:** The exact distance and level of the proposed development in respect to Double Creek is not provided with the concept plans. That information can be satisfactorily addressed by conditions of a deferred commencement development consent.

4. The development is within approximately 150 metres of the existing chicken sheds on the site and no assessment of potential odour and dust impacts has been provided.

**Comment:** The relationship between the proposed use and the existing poultry sheds on the subject site requires the applicant's consideration and is not a matter for Council's determination.

5. There are a number of buildings on the site contrary to the application indicating there is no existing development. The neighbour suggests that Council will be investigating the legality of the buildings on the site with assessment of the subject application.

**Comment:** The submitted Statement of Environmental Effects indicates that there are no existing developments on the site. It would appear that the applicant is referring to the site of the proposed building. It is obvious that other buildings occupy the property including the approved residence, poultry sheds and various farm buildings and structures.

6. No details are provided as to the provision of water and sewer services, including size and location of water storage tank and submission of an on-site effluent disposal report.

**Comment:** The location of the proposed water storage tank and on-site sewage disposal system is not indicated on the concept plans. That information can be satisfactorily addressed by conditions of a deferred commencement development consent.

7. Lack of information in respect to the reconnection of northern end of Blueberry Lane to The Bucketts Way including alignment of the road at the intersection, structural adequacy of the existing bridge over Double Creek. The proposed connection is unnecessary and will create traffic impacts.
Comment: The level of detail suggested by the objector has not been included with this concept proposal other than an indication of the road connection on an aerial photo and road level photos. The traffic safety concerns with respect to the road reconnection are supported by the RMS and Council's professional staff and accordingly this aspect of the proposed development should be deleted, as addressed by a condition of this report's recommendation.

e) The Public Interest

The proposed development is consistent with the relevant planning controls for this rural locality and will not detract from the character of the existing streetscape, nor will it undermine any of the social or economic values of the site or surrounding area. The proposal is considered to be consistent with the objectives of the relevant zone and will not have an unreasonable impact upon any neighbouring properties.

Accordingly, approval of the proposed concept would not be contrary to the public interest.

CONCLUSION:

The proposed concept is considered to be suitable for the site and this rural locality having regard to current planning controls and maintains a reasonable relationship with neighbouring properties.

The plans currently submitted with the Development Application are conceptual and suitable for approval by way of a deferred commencement development consent.

RECOMMENDATION:

It is recommended that DA 335/2016 for the erection of a café and farm gate shop on Lot 11 DP1118759, 1895 The Bucketts Way, Booral be approved by way of a deferred commencement development consent on the basis of and subject to compliance with the following conditions:

DEFERRED COMMENCEMENT CONDITION

A. In accordance with Section 80(3) of the Environmental Planning and Assessment Act, 1979, this is a deferred commencement consent. The consent will not operate until evidence, as specified in the following deferred commencement conditions, has been submitted to and approved by the consent authority and written notice given under Section 100(4)(b) of the Environmental Planning and Assessment Regulation 2000 that the deferred commencement conditions have been satisfied and the date from which the consent operates:

a) Site plan drawn to scale indicating:
   • all existing buildings, proposed buildings, associated works and their uses with set-out dimensions of the proposed development with respect to the boundaries of the site and Double Creek.
   • site boundary dimensions, site area and north point.
   • existing vegetation and trees on the land and those trees proposed for removal.
   • existing and proposed levels of the land in relation to buildings and roads.
   • the location and uses of buildings on sites adjoining the land.

b) Elevations and sections of the proposed development drawn to scale and indicating external finishes, heights and proposed finished ground levels. The proposed floor level of the building should be indicated to Australian Height Datum having regard to a potential flood event of the adjacent creeks.

c) Details to scale and dimensioned of proposed parking arrangements, entry and exit points for vehicles, turning paths and pavement finishes. Vehicular access, parking and manoeuvring must be in accordance with Australian Standard AS/NZS 2890.1: Parking facilities: Off-street car parking and suitable parking for use by persons with a disability.
d) Detailed plan of proposed landscaping including plant types, height and maturity and details of any tree removal.

e) Details of proposed stormwater collection and disposal from proposed roofs and ground surface areas including calculations and a design that demonstrates how Council's water sensitive design requirements contained in Development Control Plan 2014 Part 11 can be achieved. A S3QM Certificate is to be submitted showing treatment calculations.

f) A Statement of Environmental Effects indicating how the environmental impacts of the development have been identified, what steps are to be taken to protect the environment or to lessen the expected harm to the environment and the proposed measures to address the potential threat of a bush fire having regard to the aims and objectives of the Rural Fire Service publication 'Planning for Bush Fire Protection 2006'.

g) Details of the proposed heating appliance having regard to the provisions of Section 68 of the Local Government Act 1993.

h) A comprehensive wastewater management report prepared by a suitably qualified professional with demonstrated experience in effluent disposal matters. The wastewater management report should provide a comprehensive site and soil assessment process in addition to presenting design assumptions/calculations and a conceptual design for the proposed sewage management system. The wastewater report must describe and assess the site and soil characteristics in sufficient detail to allow Council to identify the key constraints that must be addressed in the design of the OSMS. The wastewater management report must clearly then explain how the adopted system design overcomes the nominated constraints.

The wastewater management report must include, but not limited to the following information:

GENERAL CONDITIONS

1. Development in accordance with approved plans

The development must be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

<table>
<thead>
<tr>
<th>Plan type/Supporting Document</th>
<th>Plan No. &amp; version</th>
<th>Prepared by</th>
<th>Dated</th>
</tr>
</thead>
<tbody>
<tr>
<td>To be advised</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

**Reason:** Information and to ensure compliance.

2. Road reconnection

All reference to the proposed connection of Blueberry Lane (north) to The Bucketts Way being deleted from the approved development.

**Reason:** To ensure an appropriate standard of public safety is maintained.

3. Compliance with Building Code of Australia

All building work must be carried out in accordance with the requirements of the *Building Code of Australia* as in force on the date the application for the relevant construction certificate or complying development certificate was made.
**Reason**: Prescribed condition under the *Environmental Planning & Assessment Regulation 2000*.

4. **Separate application required for advertising structures**

A separate development application must be submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures, other than those approved in this consent or permitted as exempt development. Advertising signage should meet the criteria contained in Section 3.2.5 of the Department of Planning's *Transport Corridor Advertising and Signage Guidelines (July 2007)* - Illumination and reflectance. Advertising signs shall not have/use:

- Flashing lights or messages.
- Electronically changeable messages, unless in accordance with Department of Planning's *Transport Corridor Advertising and Signage Guidelines (July 2007)*.
- Animated display, moving parts or simulated movement.
- Complex displays that hold a driver's attention beyond "glance appreciation".
- Displays resembling traffic signs or signals, or giving instruction to traffic by using words such as 'halt' of 'stop'.
- A method of illumination that distracts or dazzles.

**Reason**: To ensure reasonable standards of public safety and to limit the visual impact of advertising signs.

5. **Staffing**

The proposed use is to be operated by the owner's family and possibly up to three (3) employees.

**Reason**: To limit the scale of the proposed use to the potential capacity of the approved development.

6. **Adjustment to utility services**

All adjustments to existing utility services made necessary by the development are to be undertaken at no cost to Council.

**Reason**: To ensure utility services remain in service.

7. **Water Supply**

   a) The water supplied to the cafe must consistently meet the requirements of the National Health and Medical Research Council 'Australian Drinking Water Guidelines' (2011) and any subsequent amendments to the guidelines.

   b) A quality Assurance Program in accordance with the NSW Department of Health Guidelines and the National Health and Medical Research Council- 'Australian Drinking Water Guidelines' (2011) (prepared by a suitably qualified person who has experience in water treatment) must be submitted to NSW Health for approval. Written confirmation must be provided to Council which demonstrates that the quality Assurance Program has been submitted to and approved by NSW Health prior to the issue of an Occupation Certificate. The plan shall include but not be limited to maintenance and inspection regimes, disinfection procedures and details of any barriers implemented to protect raw and stored water.
The microbial quality of the water provided to the premises must be monitored at least monthly by testing for the organism Escherichia coli (E. coli). Water samples must be tested at a laboratory accredited by the National Association of Testing Authorities (NATA) and copies of records must be kept at the premises.

d) The chemical and physical quality of the water must be tested at least annually. Water samples must be tested at a laboratory accredited by the National Association of Testing Authorities (NATA) and copies of records must be kept at the premises.

Reason: To ensure satisfactory standards of public health.

8. Road Safety

Advance warning signs indicating the upcoming Blueberry Lane intersection shall be provided on The Bucketts Way on both the northbound and southbound approaches to the intersection, to the satisfaction of Roads and Maritime.

Reason: To ensure advanced warning is given to motorists given the current 90km/hr speed zone.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions must be complied with prior to the issue of any Construction Certificate:

9. Structural details

Prior to the issue of a construction certificate, structural drawings prepared by a suitably qualified and experienced structural engineer must be submitted to and approved by the certifying authority. The plans must include details for:

a) All reinforced concrete floor slabs and/or beams or raft slab (having due regard to the possible differential settlement of the cut and fill areas).

b) Footings of the proposed structure.

c) Any structural steel beams/columns.

Reason: To ensure structural stability and safety.

10. Erosion and sediment control plan

Prior to the issue of a construction certificate, an erosion and sediment control plan prepared by a suitably qualified person in accordance with “The Blue Book – Managing Urban Stormwater (MUS): Soils and Construction” (Landcom) must be submitted to and approved by the certifying authority. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices including catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams, and sedimentation basins.

Reason: To protect the environment from the effects of erosion and sedimentation.

11. Access and facilities for people with disabilities

Prior to the issue of a construction certificate, plans and specifications detailing access to and within the development and facilities for persons with disabilities must be submitted to and approved by the certifying authority. The development must be in accordance with Australian Standard AS 1428.1 - Design for access and mobility and Part D3 of the Building Code of Australia.
Reason: To ensure the development provides equitable and dignified access and facilities for people with disabilities.

12. Long Service Levy

Prior to the issue of a construction certificate, a Long Service Levy must be paid to the Long Service Payments Corporation. The amount payable is currently based on 0.35% of the cost of the work. This is a State Government levy and is subject to change.

These payments may be made at Council’s Customer Service Centres. Cheques must be made payable to Great Lakes Council.

Reason: Statutory requirement.

13. Driveway levels application

Prior to the issue of a construction certificate, a Driveway Levels Application must be submitted to Council for approval. A Driveway Levels Application Form must be completed and submitted to Council together with the application fee and all required plans and specifications.

Driveways must be constructed by a qualified/licensed contractor at no cost to Council in accordance with the driveway levels and construction standards issued by Council.

Reason: To ensure works within Council’s road reserve are constructed to a suitable standard for public safety.

14. Driveway details

Plans and specifications detailing vehicular access from the site boundary to the proposed car space(s) must be submitted to and approved by the certifying authority. Vehicular access must have an impervious finish and be in accordance with AS/NZS 2890.1-2004: Parking facilities, Part 1: Off-street car parking. 1. Plans must include the following items:

a) pavement description;
b) site conditions affecting the access;
c) existing and design levels;
d) longitudinal section from the road centreline to the car space(s);
e) drainage (open drains, pipes, etc.), including calculations and catchment details;
f) along the critical edge of the vehicle travel path.

Reason: To ensure suitable vehicular access is provided to the development.

15. Car parking

Prior to the issue of a construction certificate, plans and specifications detailing access, parking and manoeuvring on the site must be submitted to and approved by the certifying authority. Vehicular access, parking and manoeuvring must be in accordance with Australian Standard AS/NZS 2890.1: Parking facilities: Off-street car parking. Plans must include the following items:

a) Pavement description;
b) Site conditions affecting the access;
c) Existing and design levels;
d) Longitudinal section from the road centreline to the car space(s);
e) Cross sections at appropriate intervals, with a maximum separation of 15 metres.
f) Drainage (pipes, pits, on-site detention, etc.).
g) A physical barrier across the full road frontage of the property suitable to prevent vehicular access at locations other than the approved driveways.
h) Accessible car parking space/s designed in accordance with Australian Standard AS/NZS 2890.6: Parking facilities - Off-street parking for people with disabilities;

i) Turning paths.

j) Turning paths; and

k) Line-marking and signs.

The engineering plans and specifications must be designed by a qualified practising civil engineer. The civil engineer must be a corporate member of the Institution of Engineers Australia or must be eligible to become a corporate member and have appropriate experience and competence in the related field.

**Reason:** To ensure suitable vehicular access and manoeuvrability is provided within the development.

16. **Bond required to guarantee against damage to public land**

Prior to the issue of a construction certificate, a Damage Bond Application form together with payment of a bond in the amount of $2000 and an administration fee of $310.50 must be submitted to Council. The bond is payable for the purpose of funding repairs to any damage that may result to Council assets from activities/works associated with the construction of the development and to ensure compliance with Council standards and specifications.

A final inspection will be carried out by the responsible Council officer and the bond (minus any fees required for additional inspections) will be considered for refund:

a) once all works, including landscaping, driveway construction, turfing, etc, have been completed, and

b) following issue of an occupation certificate by the certifying authority.

The damage bond is reviewed periodically and therefore the fee and bond amount payable will be determined from Council’s current fees and charges document at the time of lodgement of the damage bond.

**Reason:** Protection of public assets.

17. **Food premises fitout**

Prior to the issue of a construction certificate, plans and specifications for the fit-out of the food premises must be submitted to and approved by the certifying authority. The food premises must be constructed to comply with the requirements of the Food Act 2003, the Food Standards Code and the Australian Standard AS 4674: Design, construction and fit-out of food premises and include the following details:

a) A hand washing basin that is of an adequate size to allow hands and arms to be easily cleaned must be installed in all parts of the premises where open food is handled. Small domestic type hand wash basins are not adequate in commercial situations. The hand wash basins must be in addition to any wash-up sinks.

b) Hot and cold water to the hand wash basins must be delivered through a hands free mixer tap. The hand basins must be provided with liquid soap and single-use towels at all times.

c) All cupboards, benches and shelving must be constructed of materials that are smooth, impervious to moisture and able to be easily cleaned. Particular attention must be made to the underside of the benches to ensure that they are constructed so they are impervious and can be easily cleaned.

d) Ceiling, wall and floor finishes in the food premises must comply with Australian Standard AS 4674: Design, construction and fit-out of food premises.
e) Ceiling lights must be either installed flush with the ceiling surface or designed free from any features (such as ledges) that would harbour dirt, dust or insects or make the fitting difficult to clean.

f) Coving must be installed at the intersection of floors with walls in the food premises in accordance with Australian Standard AS 4674: Design, construction and fit-out of food premises. Coving must be integral to the surface finish of both floor and wall and installed in such a manner as to form a continuous uninterrupted surface.

g) Either a floor waste with a solids trap and stand alone tap or a cleaners sink (sluice sink) must be provided. Cleaners sinks must be provided with an adequate supply of hot and cold water and be located away from food preparation areas.

h) A minimum of a single bowl sink and a commercial grade dishwasher or double bowl sink shall be provided and shall be connected to a continuous supply of hot and cold water. The pot size of the sink must be adequate in size to effectively clean and sanitise the largest item of equipment.

Reason: To ensure public health and safety.

18. S94 contributions

Prior to the issue of a construction certificate, a monetary contribution must be paid to Council in accordance with Section 94 of the Environmental Planning and Assessment Act 1979. The services and facilities for which the contributions are levied and the respective amounts payable under each of the relevant plans are set out in the following table:

<table>
<thead>
<tr>
<th>Contributions Plan</th>
<th>Facility</th>
<th>quantity</th>
<th>unit</th>
<th>rate</th>
<th>amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Great Lakes Wide</td>
<td>Headquarters</td>
<td>$30,000</td>
<td>$1 non res</td>
<td>@</td>
<td>$0.001</td>
</tr>
<tr>
<td>Rural Roads (Stroud)</td>
<td>Rural Roads</td>
<td>3.6 trips</td>
<td>@</td>
<td>$836.86</td>
<td>$3012.70</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>Total</strong> =</td>
</tr>
</tbody>
</table>

Contribution rates are subject to indexation. The rates shown above are applicable until 30 June following the date of consent. Payment made after 30 June will be at the indexed rates applicable at that time.

The Contributions Plan and the Standard Schedule for Section 94 Plans may be viewed on Council’s web site or at Council’s offices at Breese Parade, Forster.

Reason: Statutory requirement to be paid towards the provision or improvement of facilities and services.

PRIOR TO THE COMMENCEMENT OF ANY WORK ASSOCIATED WITH THIS CONSENT

The following conditions must be satisfied prior to the commencement of any building construction work:

19. Other Public Authority Approvals

Approval of other Public Authorities including the Department of Primary Industries - Water is to be obtained prior to the commencement of the building works.

Reason: To ensure that the requirements of other public authorities are met.
20. **Construction certificate required**

Prior to the commencement of any building construction work (including excavation), a construction certificate must be issued by a certifying authority.

Enquiries regarding the issue of a construction certificate can be made to Council’s Customer Service Centre on 6591 7222.

**Reason:** Statutory requirement under the *Environmental Planning and Assessment Act 1979*.

21. **Notification of commencement and appointment of principal certifying authority**

Prior to the commencement of any building construction work (including excavation), the person having the benefit of the development consent must appoint a principal certifying authority and give at least two (2) days notice to Council, in writing, of the person’s intention to commence construction work.

**Reason:** Statutory requirement under the *Environmental Planning and Assessment Act 1979*.

22. **Site access**

Public access to the site and building works, materials and equipment on the site is to be restricted, when building work is not in progress or the site is unoccupied. The public safety provisions must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.

**Reason:** To ensure public health and safety during the construction of the development.

23. **Erosion & sediment measures in accordance with approved plans**

Prior to the commencement of work, erosion and sediment controls must be installed in accordance with the approved erosion and sediment control plan and must be maintained for the duration of the project.

**Reason:** To protect the environment from the effects of erosion and sedimentation.

24. **Pollution prevention sign**

Council’s “PREVENT POLLUTION” sign must be erected and maintained in a prominent position at the frontage of the property so that it is clearly visible to the public for the duration of construction work.

Council’s PREVENT POLLUTION sign can be purchased at Council’s Customer Enquiry Counter at the Forster, Tea Gardens and Stroud administration buildings.

**Reason:** To increase industry and community awareness of developer's obligations to prevent pollution and to assist in ensuring compliance with the statutory provisions of the *Protection of the Environment Operations Act 1997*.

25. **Toilet facilities - unsewered areas**

Prior to the commencement of work, toilet facilities must be provided at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a toilet connected to an accredited sewage management system approved by the Council.

**Reason:** To maintain the public health and the natural environment.
26. **Site construction sign**

Prior to the commencement of work, a sign or signs must be erected in a prominent position at the frontage to the site.

- a) showing the name, address and telephone number of the principal certifying authority for the work, and
- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- c) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

*Reason:* Prescribed condition under the *Environmental Planning and Assessment Regulation 2000.*

27. **Waste management plan**

Prior to the commencement of work, a waste management plan prepared in accordance with the requirements of Council’s Waste Management Policy must be submitted to and approved by the certifying authority.

*Reason:* To ensure adequate and appropriate management of waste and recycling.

**CONDITIONS TO BE SATISFIED DURING DEVELOPMENT WORK**

The following conditions must be complied with during any development work:

28. **Construction times**

Construction and/or demolition works, including deliveries on or to the site must not unreasonably interfere with the amenity of the neighbourhood and must occur only in accordance with the following:

- Monday to Friday, from 7 am to 6 pm.
- Saturday, from 8 am to 1 pm.
- No construction and/or demolition work, including deliveries are to take place on Sundays or Public Holidays.

*Reason:* To maintain amenity during construction of the development.

29. **Construction dust suppression**

All necessary works must be undertaken to control dust pollution from the site. These works must include, but are not limited to:

- a) restricting topsoil removal;
- b) regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion;
- c) alter or cease construction work during periods of high wind;
- d) erect green or black shadecloth mesh or similar products, 1.8m high around the perimeter of the site and around every level of the building under construction.

*Reason:* To maintain amenity during construction of the development.
30. Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a suitable waste bin/enclosure. Building materials must be delivered directly onto the property. Footpaths, road reserves and public reserves must be maintained clear of rubbish, building materials and other items at all times.

Reason: To ensure that materials and waste do not adversely affect traffic or pedestrian safety and amenity.

31. Maintenance of sediment and erosion control measures

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

Reason: To protect the environment from the effects of erosion and sedimentation.

32. Compliance with waste management plan

During demolition and/or construction of the development, waste disposal must be carried out in accordance with the approved waste management plan.

Reason: To ensure waste is minimised and recovered for recycling where possible.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions must be satisfied prior to any occupation or use of the building:

33. Works to be completed

The building/structure or part thereof must not be occupied or used until an interim occupation/final occupation certificate has been issued in respect of the building or part.

Reason: To ensure compliance with the development consent and statutory requirements.

34. Site to be landscaped

Prior to the issue of a final occupation certificate, the site must be landscaped in accordance with the approved landscape plan.

Reason: To ensure compliance with the development consent and to maintain amenity.

35. Completion of car parking areas and provision of signs

Prior to the issue of an occupation certificate, the car parking areas must be constructed in accordance with the approved plans and be fully line-marked. Signs must be erected clearly indicating the availability of off-street parking and the location of entry/exit points, visible from both the street and the subject site.

Reason: To ensure that adequate parking facilities for the development are provided on site.

36. Rainwater tank

Prior to the issue of a final occupation certificate, rainwater tank/tank-stand installations must be structurally sound and in accordance with manufacturers details. Overflow from the tank must be connected to the existing stormwater system, or disposed of in a manner that does not cause nuisance to neighbouring properties or degradation of land.
Reason: To ensure rainwater tanks stands are structurally adequate and overflow from the tank is discharged in a proper manner that protects adjoining properties.

37. **Sealed driveway in accordance with approved Driveways Level Application**

Prior to the issue of a final occupation certificate, a driveway must be constructed from the edge of the road formation to the property boundary in accordance with the approved Driveway Levels Application. A certificate of compliance must be obtained from Council certifying that the driveway has been constructed to comply with the approved driveway application.

Reason: To ensure suitable vehicular access to the development.

38. **Internal driveway in accordance with the approved plans**

Prior to the issue of a final occupation certificate, a driveway must be constructed from the property boundary to the proposed car spaces in accordance with the approved plans.

Reason: To ensure suitable vehicular access is provided to the development.

39. **Mechanical Ventilation**

Should mechanical ventilation be installed, a certificate from a mechanical ventilation engineer stating that the exhaust system complies with Australian/New Zealand Standard AS/NZS 1668.1 and Australian Standard AS 1668.2 must be provided to Council prior to the issue of an Occupation Certificate.

Reason: To ensure satisfactory standards of public health.

40. **Final Inspection of Food Premises**

Prior to the issue of an Occupation Certificate, details of the food business must be notified to Council.

Reason: To ensure satisfactory standards of public health.

41. **Health inspection**

Prior to the issue of an occupation certificate, a final inspection of the premises must be undertaken by Council’s Environmental Health Officer.

Reason: To ensure public health and safety.

**ONGOING USE**

The following conditions must be satisfied during the ongoing use of the development:

42. **Hours of operation**

The hours of operation of the business are restricted to the times set out in the following table:

<table>
<thead>
<tr>
<th>Period</th>
<th>Start Time</th>
<th>Finish Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday to Sunday</td>
<td>7.00 am</td>
<td>8.00 pm</td>
</tr>
</tbody>
</table>

Any alteration to the above hours of operation will require the further consent of Council.

Reason: To protect the amenity of adjoining premises.
43. **Seating capacity**

The café is restricted to seating for up to thirty (30) patrons at any time. In accordance with Clause 98D of the *Environmental Planning and Assessment Regulation 2000*, a sign must be displayed in a prominent position in the building stating the maximum number of persons that are permitted in the building.

**Reason:** Statutory requirement and to protect the amenity of adjoining premises.

44. **Ongoing maintenance of food premises**

The food premises must at all times comply with the requirements of the *Food Act 2003*, the Food Standards Code and *Australian Standard 4674 - 2004 Design, construction and fit-out of food premises*.

**Reason:** To maintain public health and safety.

45. **Noise**

Noise associated with the premises including all associated mechanical plant and equipment must not be a source of “offensive noise” at the nearest affected premises:

"offensive noise" is defined under the *Protection of the Environment Operations Act 1997* as noise:

a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
   i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
   ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or

b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulation.

**Reason:** To maintain acoustic amenity to adjoining properties.
ANNEXURES:

A: Plans of proposed development.

Figure 4: Google images. Satellite, access points and approximate position of Farm Gate and Cafe, not to scale.
DETAILS:

Date Received: 24 March 2016
Applicant: BTS Networks Pty Ltd
Owner: MidCoast Water
Land: Lot 200 DP 1158752, 14-16 Bulahdelah Way, Bulahdelah
  Area: 8.07ha
  Property Key: 38692
  Zoning: RU2 Rural Landscape, GLLEP 2014

SUMMARY OF REPORT:

- Development Application lodged on 24 March 2016 for construction of a Digital TV transmission tower.
- Application notified to neighbouring landowners with one (1) submission received.

SUMMARY OF RECOMMENDATION:

It is recommended that Development Application No. 378/2016 for the installation of a Digital TV transmission tower on Lot 200 DP 1158752, 14-16 Bulahdelah Way, Bulahdelah be approved subject to the conditions contained in the recommendation to this report.

FINANCIAL/RESOURCE IMPLICATIONS:

Cost of defending any appeal against Council's decision.

POLICY IMPLICATIONS:

Compliance with Council Policies.

LEGAL IMPLICATIONS:

The applicant has the right to appeal against Council's decision.

LIST OF ANNEXURES:

A: Plan of the proposed transmission tower.
LIST OF ATTACHMENTS:

Nil.
SUBJECT SITE AND LOCALITY:

[Map of the area with labeled points and measurements]

PROPOSAL:

The applicant is seeking the consent of Council to install a Digital TV transmission tower on the subject site. The tower is to be located in close proximity to the MidCoast water tanks that are installed on the site. Details of the tower are:

- Install a 30m high tower.
- A 3 x 3m equipment shelter to house the new antennas and transmitters.
- The tower site will be secured by a 2.4m high wire mesh fence with lockable gates.
- The equipment shelter will be secured by a locked door with remote 24 hour security monitoring.

The tower will allow the site to receive TV signals from Cabbage Tree Mountain and Mount Sugarloaf and retransmit them into the Bulahdelah community to enable free-to-air digital television.

The facility will not be manned and will require routine personnel attendance for maintenance of approximately twice per year.

In support of the application the applicant has advised:

“The township of Bulahdelah has been identified as having areas of deficient digital TV reception. To improve the digital TV reception in Bulahdelah and the surrounding area, Regional Broadcasting Australia wish to build a 30m tower that will accommodate the required antennas.… 

By choosing to locate the tower at an existing infrastructure site (Midcoast Water Reservoir Site) and utilise existing services such as power and access road, the development is limited to the construction of a new tower and shelter as opposed to the establishment of a completely new site.”

A plan of the proposed development is contained in Annexure 'A' to this report.
SITE DESCRIPTION:

The site is located on the eastern side of The Pacific Highway, Bulahdelah at the foot of the Bulahdelah (Alum) mountain. The site is the MidCoast Water Reservoir site. There are two (2) large concrete water reservoirs located on the site. The area around the water tanks is cleared and the proposal will not require removal of any trees or vegetation.

REPORT:

The following matters listed under Section 79C of the Environmental Planning and Assessment Act, 1979, are relevant in considering this application:

a) The provisions of any environmental planning instrument; any proposed instrument that is or has been the subject of public consultation and which have been notified to the consent authority; any DCP; any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F; any matters prescribed by the regulations; any coastal zone management plan that apply to the development application on the subject land.

Great Lakes Local Environmental Plan 2014 (GLLEP 2014)

Part 1.2 - Aims of the Plan

The relevant aims of the Plan are to protect and enhance the environmental, scenic and landscaped assets of the area, to ensure that proposed development has regard to the capability of the land so that the risk of degradation is minimised and to facilitate the orderly and sustainable economic development of land. The proposed development is considered to be consistent with these aims.

Part 2 - Land use table

The site is zoned RU2 Rural Landscape. The proposal is permissible in the zone with development consent. The relevant objectives of the zone are to maintain the rural landscape character of the land, provide for a range of compatible land uses, secure a future for agriculture in the area by minimising the fragmentation of rural land and loss of potential agricultural productivity. The proposed development is considered to be consistent with these objectives. The structure is to be installed on an existing asphalt paved area. The proposal will not fragment rural land and there will be no loss of potential agricultural productivity due to the proposed development. The structure is to be installed in an area that already has two (2) large concrete water reservoirs and as such it is considered that the proposal will not create a detrimental impact on the rural landscape character of the land.

Part 5 - Miscellaneous provisions

5.10 - Heritage conservation - The objectives of this clause are to conserve the environmental heritage of Great Lakes, to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views, to conserve archaeological sites, to conserve Aboriginal objects and Aboriginal places of heritage significance.

The site is located within a Heritage Conservation area. A search of the Office of Environment & Heritage, Aboriginal Heritage Information Management Systems (AHIMS) has shown that there are no Aboriginal sites recorded in or near the above location, or that no Aboriginal places have been declared in or near the location. However, an AHIMS search with a radius of 50 metres has revealed that there are two (2) Aboriginal sites recorded in or near the location and one (1) Aboriginal place has been declared in or near the location.

The applicant submitted a ‘Statement of Heritage Impact’ in support of the Development Application. The statement concluded:
"The location, design and construction of the tower installation will not have any impact on the Bulahdelah Mountain heritage conservation area."

The 'Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales' Clause 7.5 'Is the activity a low impact activity for which there is a defence in the Regulation?' states:

"The National Parks and Wildlife Regulation removes the need to follow the due diligence process if you are carrying out a specifically defined low impact activity. As a result, you are not required to follow this code or any other due diligence process if your activity is listed below. It is important to note that this defence does not apply to situations where you already know there is an Aboriginal object. This defence does not authorise harm to known Aboriginal objects."

The relevant Section of Clause 80B of the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales, for the proposed development reads as follows:

"(4) For the purpose of this clause, land is disturbed if it has been the subject of human activity that has changed the land's surface, being changes that remain clear and observable."

Examples are given of activities that may have disturbed land. For the purpose of this development application the following activities have occurred where the tower is to be constructed:

- Construction of roads, trails and tracks,
- Clearing of vegetation,
- Construction of buildings and the erection of other structures,
- Construction or installation of utilities and other similar services.

In accordance with the Due Diligence Code the activities that have occurred on this area of the site results in there being no requirement to go through the due diligence process. The Code does note that the proposed development should proceed with caution, and if Aboriginal objects are later found when carrying out the activity, work must be ceased and the Office of Environment and Heritage notified.

A condition has been included in the recommendation to this report enforcing the requirements of the Code.

The application was also referred to Council's Heritage Advisory Officer who notes that an assessment of the visual impact that may be experienced from the existing heritage items and conservation area was undertaken in the applicant's Statement of Heritage Impact. It is noted that the tower will be somewhat visible in the distance however this is mitigated by:

- The tower is highly transparent, being that it is of a galvanised (grey colour) lightweight steel structure with mainly open sections providing a minimum visual obstruction, the galvanised finish to the steel of the tower will reflects the surround colours.

A condition has been included in the recommendation to this report that the tower not be painted white or light colours.

Part 7 - Additional local provisions

7.2 - Earthworks - The objective of this provision is to ensure that earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses and features of the surrounding land. The proposed development includes limited excavation works to construct the development. Accordingly, the proposed development will be consistent with the objective of this clause.
State Environmental Planning Policy (Infrastructure) 2007

The aim of this Policy is to facilitate the effective delivery of infrastructure across the State by:

a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and
b) providing greater flexibility in the location of infrastructure and service facilities, and
c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and
d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and
e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and
f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing.

A telecommunications facility is defined in SEPP Infrastructure as

"(a) any part of the infrastructure of a telecommunications network, or
(b) any line, cable, optical fibre, equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole, or other structure in connection with a telecommunications network."

Telecommunications facilities are defined in the NSW Department of Planning NSW Telecommunications Facilities Guideline including broadband as:

"Telecommunications facilities provide for transmission of voice, data, image, graphic and video information between or among points by wire, cable, optical fibre, microwave, radio, satellite or similar facilities."

SEPP Infrastructure applies to the proposed Digital TV tower. In accordance with Clause 115 of SEPP Infrastructure development for the purpose of telecommunications facilities may be carried out by any person with consent on any land.

b) The likely impacts of development including environmental impacts on both natural and built environments and social/economic impacts in the locality

Context and Setting

The proposal is considered to be satisfactory having regard to its relationship to the local context. The site has been chosen as there is existing infrastructure (MidCoast Water Reservoir). Location of the proposed development on this site, where there is existing infrastructure results in minimal impact.

Visual Impact

It is acknowledged that the structure will be visible from the surrounding area. However, the structure itself is considered to be highly transparent, being of a grey colour galvanised lightweight steel structure with mainly open sections providing a minimum visual structure. These types of structures are common place on our landscapes and they provide much wanted technology for communities.

Access, Transport and Traffic

Access to the site is via an existing access road which is parallel to the southbound carriageway of the Pacific Highway. No concerns have been raised in regard to access to the site.

Utilities
The new tower and associated equipment will use existing power connected to the MidCoast Water electrical equipment shelter. Water and sewerage services are not required as the site will be unmanned.

**Cumulative Impacts**

The proposal, subject to the recommended conditions, is generally considered to be satisfactory having regard to the potential to create or contribute to undesirable cumulative impacts.

c) **The Suitability of the Site for the Development**

The site is considered to be suitable for the development. The site is not subject to flooding, or any other natural hazards, with the exception of bushfire.

The applicant submitted a bushfire report which is compliant with Planning for Bushfire for a structure that is not habitable.

The development is also considered to be compatible with the surrounding land use.

d) **Any Submissions Made in Accordance with the Act or Regulations**

The application was notified to adjoining owners in accordance with Council’s Policy and one (1) submission was received. The submissions referred to the following issues:

1) Concern that the location of the tower is situated on the west side of the alum Mountain. The location will result in a disruption of the mountain view from the town and will be visually unappealing. I have been given information that the whole town will not be covered with the signal from this site. Alum Mountain is an iconic attraction for the Bulahdelah township, its national beauty should not be spoilt by a construction in front of it. It would be irresponsible for Council to approve the construction when there are other sites available.

**Comment:**

It is acknowledged that the tower will be visible from the surrounding area and that it is located in front of the mountain. However, as discussed in this report the tower is considered to be highly transparent, being of a grey colour galvanised lightweight steel structure with mainly open sections providing a minimum visual structure. These types of structures are common place on our landscapes and they provide much wanted technology for communities. A condition has been included in the recommendation to this report stating that the tower must not be painted white or a light colour.

I am unable to comment on the assertion that the whole town will not be covered with the signal from this site. However, the applicant has noted that:

- There was no suitable alternate location on the property for the tower due to the lower elevation elsewhere.
- To locate elsewhere would reduce the potential height of the installation and would make the installation ineffective.
- In order to maximise efficiency of the installation the tower must be on the highest ground level possible.

e) **The Public Interest**

The public interest has been considered throughout the assessment of this application and it is considered that approval of this application is not against the public interest. It is understood that the proposal has the support of the Bulahdelah community so that the area can receive free-to-air digital television.
CONCLUSION:

The proposal has been assessed in accordance with Section 79c of the Environmental Planning and Assessment Act and is considered an acceptable development.

RECOMMENDATION:

It is recommended that Development Application No. 378/2016 for the installation of a Digital TV transmission tower on Lot 200 DP 1158752, 14-16 Bulahdelah Way, Bulahdelah be approved subject to the following:

GENERAL CONDITIONS

1. Development in accordance with approved plans

The development must be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

<table>
<thead>
<tr>
<th>Plan type/Supporting Document</th>
<th>Plan No. &amp; version</th>
<th>Prepared by</th>
<th>Dated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compound Layout and Location diagram</td>
<td>35415TS</td>
<td>North Point Surveys</td>
<td>08/03/2016</td>
</tr>
<tr>
<td>Topographical Survey</td>
<td>35415TS</td>
<td>North Point Surveys</td>
<td>08/03/2016</td>
</tr>
<tr>
<td>Site Layout</td>
<td>BUL-BP2126-02</td>
<td>BTS Networks</td>
<td>26/02/2016</td>
</tr>
<tr>
<td>Compound Layout</td>
<td>BUL-BP2126-03</td>
<td>BTS Networks</td>
<td>26/02/2016</td>
</tr>
<tr>
<td>Site Elevation</td>
<td>BUL0BP2126-04</td>
<td>BTS Networks</td>
<td>11/12/2015</td>
</tr>
</tbody>
</table>

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

Reason: Information and to ensure compliance.

2. Compliance with National Construction Code Series - Building Code of Australia

All building work must be carried out in accordance with the requirements of the National Construction Code Series - Building Code of Australia as in force on the date the application for the relevant construction certificate or complying development certificate was made.

Reason: Prescribed condition under the Environmental Planning & Assessment Regulation 2000.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions must be complied with prior to the issue of any Construction Certificate:

3. Airspace

Prior to the issue of a construction certificate a report is to be provided to Council:

a) Showing compliance with any relevant site and height requirements specified by the Civil Aviation Regulations 1988 and the Airports (Protection of Airspace) Regulations 1996 of the Commonwealth, and
b) Showing that it does not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 30 kilometres of the proposed development and reported to the Civil Aviation Safety Authority of Australia.

Reason: To ensure compliance with regulations.

4. Section 94 Contributions

Prior to the issue of a construction certificate, a monetary contribution must be paid to Council in accordance with Section 94 of the Environmental Planning and Assessment Act 1979. The services and facilities for which the contributions are levied and the respective amounts payable under each of the relevant plans are set out in the following table:

<table>
<thead>
<tr>
<th>Contributions Plan</th>
<th>Facility</th>
<th>quantity</th>
<th>unit</th>
<th>rate</th>
<th>amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Great Lakes Wide</td>
<td>Headquarters Building</td>
<td>$150,000</td>
<td>$1 non res</td>
<td>$0.001</td>
<td>$150.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>$150.00</strong></td>
</tr>
</tbody>
</table>

Contribution rates are subject to indexation. The rates shown above are applicable until 30 June following the date of consent. Payment made after 30 June will be at the indexed rates applicable at that time.

The Contributions Plan and the Standard Schedule for Section 94 Plans may be viewed on Council’s web site or at Council’s offices at Breese Parade, Forster.

Reason: Statutory requirement to be paid towards the provision or improvement of facilities and services.

5. Compliance with bush fire assessment report

Prior to the issue of a construction certificate, plans and specifications detailing bush fire construction requirements must be submitted to and approved by the certifying authority. The development must be in accordance with the bush fire assessment report referenced DDA-CERT BP 2126-01 prepared by Digital Distribution Australia Pty Ltd and dated 18 March 2016.

Reason: To improve bush fire safety.

PRIOR TO THE COMMENCEMENT OF ANY WORK ASSOCIATED WITH THIS CONSENT

The following conditions must be satisfied prior to the commencement of any building construction or subdivision work:

6. Construction certificate required

Prior to the commencement of any building or subdivision construction work (including excavation), a construction certificate must be issued by a certifying authority.

Enquiries regarding the issue of a construction certificate can be made to Council’s Customer Service Centre on 6591 7222.

Reason: Statutory requirement under the Environmental Planning and Assessment Act 1979.
7. Notification of commencement and appointment of principal certifying authority

Prior to the commencement of any building or subdivision construction work (including excavation), the person having the benefit of the development consent must appoint a principal certifying authority and give at least two (2) days notice to Council, in writing, of the persons intention to commence construction work.

**Reason:** Statutory requirement under the *Environmental Planning and Assessment Act 1979*.

8. Toilet facilities - unsewered areas

Prior to the commencement of work, toilet facilities must be provided at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a toilet connected to an accredited sewage management system approved by the Council.

**Reason:** To maintain the public health and the natural environment.

9. Site construction sign

Prior to the commencement of work, a sign or signs must be erected in a prominent position at the frontage to the site.

a) showing the name, address and telephone number of the principal certifying authority for the work, and

b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

c) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

**Reason:** Prescribed condition under the *Environmental Planning and Assessment Regulation 2000*.

**CONDITIONS TO BE SATISFIED DURING DEVELOPMENT WORK**

The following conditions must be complied with during any development work:

10. Aboriginal heritage

This consent does not authorise the harming of an Aboriginal object or place. Under the National Parks and Wildlife Act 1974, it is the responsibility of all persons to ensure that harm does not occur to an Aboriginal object or place. If an Aboriginal object is found, whilst undertaking development work, all work must stop and the NSW Office of Environment and Heritage notified. All directions of the Office of Environment and Heritage must be complied with at all times.

**Reason:** To protect Aboriginal heritage.

**ONGOING USE**

The following conditions must be satisfied during the ongoing use of the development:

11. Asset protection zone (APZ)
A 10 m asset protection zone, measured from the outer wall of the building, must be maintained in perpetuity in accordance with the requirements of *Planning for Bush Fire Protection* and the NSW Rural Fire Service document ‘*Standards for asset protection zones*’.

**Reason:** To improve bush fire safety.

### 12. Colour

The tower must not be painted white or light colours.

**Reason:** To ensure that the tower is transparent and provides minimum visual impact.
ANNEXURES:

A: Plan of the proposed transmission tower
DETAILS:
Date Received: 17 February 2016
Applicant: Nategan Pty Ltd
Owner: Nategan Pty Ltd
Land: Lot 9 DP 21456, No 66 Newman Avenue Blueys Beach
Area: 543.8m²
Property Key: 9197
Zoning: R2 Low Density Residential, GLLEP 2014

SUMMARY OF REPORT:
- Development application 506/2010 for alterations and additions to an existing dwelling at 66 Newman Avenue Blueys Beach approved by Council in 2014.
- A section 96 modification of consent with amended plans for the alteration of the existing dwelling roofline was submitted on 17 February 2016.
- Following neighbour notification, a submission in the form of objection was received on 25 March 2016.
- Assessment of the proposed design completed and report prepared to Council.

SUMMARY OF RECOMMENDATION:
It is recommended that the application for proposed works on the existing dwelling which includes the construction of a new roof and minor changes to the roof of the previously approved additions be approved subject to conditions.

FINANCIAL/RESOURCE IMPLICATIONS:
A decision for approval subject to conditions or refusal may lead to an appeal to the Land and Environment Court with inherent cost implications.

POLICY IMPLICATIONS:
Nil.

LEGAL IMPLICATIONS:
A decision for approval subject to conditions or refusal may lead to an appeal to the Land and Environment Court requiring legal representation.
LIST OF ANNEXURES:
Nil.

LIST OF ATTACHMENTS:
Nil.
SUBJECT SITE AND LOCALITY:
BACKGROUND:

Development Application No 506/2010 was submitted to Council on 10 May 2010. The application proposed substantial structural alterations and major additions to an existing residence located approximately 4.1 metres from the eastern boundary of the allotment adjoining Blueys Beach Reserve.

The subject property is located in a coastal hazard area, and subject to the 2060 hazard line of the Blueys/Boomerang Coastal Process and Hazard Definition Study, placing the property within the Zone of Reduced Foundation Capacity (ZRFC).

The development application was approved by Council on 22 May 2014 granting consent for the alterations and additions to an existing dwelling.

The current section 96 application to modify the development consent was lodged with Council on 17 February 2016.

PROPOSAL:

The current development application is a modification of a previously approved consent for alterations to an existing dwelling and major additions. The Applicant now proposes to alter the roofline of the existing single storey dwelling and minor changes to the roof design of the approved additions under Section 96 of the Environmental Planning and Assessment Act.

Council has previously approved substantial structural alterations and major additions to the existing residence, in which the owner proposed to keep the roofline of the existing dwelling. The applicant now seeks to modernise the roofline of the existing single storey dwelling by re-roofing the structure to match the previously approved additions to the rear of the dwelling.

A minor change to the roof design of the yet to be constructed dwelling addition has been included to match the roofing design to allow consistency throughout the structure.

The proposed changes to the roof design can be compared to current approved plans as follows:

<table>
<thead>
<tr>
<th>Current approved plans</th>
<th>Proposed amended plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single storey</td>
<td>Single storey</td>
</tr>
<tr>
<td>Skillion roof sloping east to west - 3° pitch.</td>
<td>Split skillion roof. Half skillion roof sloping from the centre of the roof south to north (lower section) - 5° pitch. Half skillion sloping from the centre of the roof north to south (higher section) incorporating high set glazing panels - 15° pitch.</td>
</tr>
<tr>
<td>Separate awning over eastern facing rear doors onto existing timber deck.</td>
<td>Separate awning over rear deck deleted.</td>
</tr>
<tr>
<td>Awning extends 1500mm out from external wall.</td>
<td>Extended eave 1500mm out from external wall incorporated into the amended roof design for lower section of skillion sloping south to north.</td>
</tr>
<tr>
<td>Awning is 5.7m in length and 200mm in depth.</td>
<td>Proposed eave overhang is 7.3m in length, and 600mm perceived depth (when viewed from adjacent property perspective facing south).</td>
</tr>
<tr>
<td>Awning height is 3.0m above existing ground level (viewed from adjacent</td>
<td>Eave overhang ranges from 3.6m in height (highest part of skillion in centre of roof) down to</td>
</tr>
</tbody>
</table>
SITE DESCRIPTION:

The site is rectangular in shape, having a 12.81 metre frontage to Newman Avenue in the west and to Blueys Beach in the east. The allotment has a depth of 42.67 metres. Existing on site is a partly elevated brick cavity and brick veneer dwelling with a flat metal roof. Attached to the rear of the dwelling is a metal garage structure. The site slopes approximately 3.5 metres from the highpoint along the eastern boundary to the low side along Newman Avenue.

REPORT:

The following matters listed under Section 79C of the Environmental Planning and Assessment Act, 1979, are relevant in considering this application:

a) The provisions of any environmental planning instrument; any proposed instrument that is or has been the subject of public consultation and which have been notified to the consent authority; any DCP; any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F; any matters prescribed by the regulations; any coastal zone management plan that apply to the development application on the subject land.

Great Lakes Local Environmental Plan 2014 (GLLEP 2014)

The site is subject to the provisions of Great Lakes Local Environmental Plan 2014 (LEP). The land is zoned R2 - Low Density Residential under the provisions of the LEP.

Dwelling houses are permissible in the R2 zone with the consent of Council. Clause 2.3 of the LEP states, that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

Zone R2 Low Density Residential

1 Objectives of zone

• To provide for the housing needs of the community within a low density residential environment.
• To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The LEP Mapping for the locality specifies that the maximum height controls for the locality are 8.5 metres with a maximum floor space ratio of 0.5:1.

Comment:

The proposed new roof will result in a maximum height for the dwelling of 7.0 metres. The floor space ratio for the dwelling complies, and will not change from the previous Council approval granted in 2014.

Therefore the proposed dwelling additions will achieve compliance with the LEP height and floor space ratio requirements.
It is also considered that the proposed development meets the objectives of the subject R2 zone.

**State Environmental Planning Policy**

SEPP 71 applies to all land within the Coastal Zone as defined by the Coastal Protection Act. As this land is situated within one (1) kilometre of the coast the SEPP applies to the subject site to the extent of requiring Council to consider the matters listed within Clause 8 of the Policy.

Matters listed for consideration under clause 8 of the SEPP have been examined and the following matters thought to be relevant in the instance of this development;

**Clause 2**

(e) to ensure that the visual amenity of the coast is protected.

(k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area.

**Clause 8**

(d) The suitability of development given its type, location and design and its relationship with the surrounding area.

**Comment:**

As the new roof design for the single storey portion of the dwelling will be lower than the roofs of existing dwelling to the north and comparable to the dwelling on the south located, it is considered that the type, bulk, scale and size of the development is appropriate for the location.

In relation to coastal hazard considerations, the previous report to Council reviewed the development application and concluded that the alterations and additions proposal was suitable based on the premises that the old and proposed structures may be structurally interdependent. The new section would be engineered with coastal hazards considered, and the existing dwelling would remain with only minor works, therefore not requiring piering through the zone of reduced foundation capacity.

The new roof design will be lightweight sheet metal material. The sectional drawing and supporting documents state that the existing footings will be utilised for the proposed new roofline.

Council has considered the likely impact of coastal hazard for the proposed roofline amendment to the previously approved dwelling alteration and additions, and the proposal is suitable with no net increase in risk.
**NSW Coastal Policy 1997**

The 1997 NSW Coastal Policy is a Government Policy, which is a prescribed matter pursuant to Section 79C of the Environmental Planning and Assessment Act 1979. This requires Council to consider the relevant objectives and strategic actions of the policy when assessing development applications.

The objectives and strategic actions of the policy have been reviewed in regard to this application and the development proposal is considered to achieve the relevant objectives and strategic actions of the policy.

**Coastal Design Guidelines for NSW**

The Coastal Design Guidelines seek to compliment the Coastal Policy and SEPP 71 and give guidance in the design of buildings within the village zone. The Coastal Design Guidelines state, that new development is to be appropriate to the predominant form and scale of surrounding development.

In this regard the proposed dwelling additions are considered to be consistent with surrounding developments and will result in a blending in with the built environment when viewed from the coast.

**Development Control Plan**

**Environmental Hazards**

The matter of sea level rise and the impact on the footing of the existing dwelling and also on the proposed new building works has been discussed in detail below the heading of SEPP No 71.

**General Building Design**

In relation to visual amenity as a result of the additions, it is considered that the new roof (with eave overhang 1500mm from the external wall) will not detract from the visual amenity, when viewed from the beach. There are numerous other existing dwellings along Newman Avenue which are larger than the proposal roof.

**Rear Boundary Setback**

Council requires a rear boundary setback of three (3) metres for buildings up to 3.8 metres in height. The Applicant is not proposing to increase the existing footprint of the dwelling for the existing structure. The approved plans show the external wall of the dwelling 4.1 metres from the boundary, with a 2.7 metre setback from the approved awning to the rear boundary.

The amended plans for Council's consideration still retain a 2.7 metre setback from the closest edge of the roof eave to the rear boundary (as the eave acts as an awning over the rear glass doors).

**Amended D.C.P clause (Foreshore setback)**

Council’s previous policy (Foreshores of Boomerang and Blueys Beaches) that required dwellings erected on the first row of lots adjacent to Boomerang Beach and Blueys Beach shall be located at a minimum 15 metre setback from the eastern boundary has been replaced by amendments to the current Council DCP which replaced the general 1.5metre setback requirements with newly adopted hazard lines for which development is now assessed against.

The portion of the dwelling proposed to be re-roofed was erected prior to both the current D.C.P and previous Council Foreshore Policy. As no increase in footprint of total floor space is proposed as part of the application for a new roof design, the application to amend the development consent may be considered by Council.

---

b) **The likely impacts of development including environmental impacts on both natural and built environments and social/economic impacts in the locality**
Context and Setting

The proposed alteration and addition is considered to fit comfortably into the existing streetscape along Newman Avenue as the existing dwelling portion will remain single storey. The new roof design will finish 600mm lower on the south-east corner than the existing roof, and 800mm lower on the north-east corner.

The mid-section of the new skillion roof incorporating north facing glazing panels will be 900mm higher than the existing roof design (see diagram below).

Site Design and Internal Layout

The site design and internal layout of the proposed dwelling is considered to be reasonable and without significant impact on adjoining premises.

Views

Subject property
Extensive coastal views are available from the existing dwelling. The views are to the east with expansive Pacific Ocean views. The amended roof design will not change the layout of the existing dwelling, nor provide any increased view potential for the subject property.

Adjacent property to the north
During the second neighbour notification period, Council received a submission of objection relating solely to the potential loss of view by the owner of the adjacent property located to the north-east (64 Newman Avenue) if the development application modification were to be approved by Council.

The objection stated that the amended roofline design would potentially impact on south-eastern views (ocean and headland) from 64 Newman Avenue, Blueys Beach. The objectors states that any extension of the existing roof eave will impact on current views.

To quantify the impact on view, I refer to the Land and Environment Court Decision Tenacity Consulting v Warringah (2004). In this decision the court used a four step assessment to determine the application based on view sharing principals.

This assessment will estimate the impact of the development proposal.
Tenacity Principles

The first step is the assessment of views to be affected.
Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

The second step is to consider from what part of the property the views are obtained.
For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

The third step is to assess the extent of the impact.
This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

The fourth step is to assess the reasonableness of the proposal that is causing the impact.
A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

View Assessment

The property which is subject of the current development modification application (66 Newman Avenue) and the adjacent property to the north owned by the objector (64 Newman Avenue) are both orientated to face east towards the Pacific Ocean.

The existing dwelling at 64 Newman Avenue is a two (2) storey design with a living area and large rear deck on the eastern elevation upper storey adjacent to the rear property boundary. The rear deck (R.L 21.75 A.H.D) currently provides both seated and standing views to the east to the ocean, and south east of the ocean and headland at the southern end of Blueys Beach. The ground storey contains windows facing east towards the rear property boundary and ocean.

East
The views from both storeys of 64 Newman Avenue to the direct east will be unaffected by the proposed modification application to change the roofline. This was confirmed with a site inspection by Council.

South East
The view to the south east from 64 Newman Avenue is gained by looking over the side boundary of the adjacent property, and over the top of the existing dwelling at 66 Newman Avenue.
The assessment of potential loss of view from the upper storey of 64 Newman Avenue has been assessed using the following:

- Finished floor level of balcony at 64 Newman Avenue = R.L 21.75
- Highest point of proposed rear eave at 66 Newman Avenue = R.L 22.32

Therefore the finished height of the proposed rear roof eave over the existing timber deck at 66 Newman Avenue would be 0.57 metres above the existing floor level of the neighbouring property.

The difference in height of 0.57m between floor level of the upper storey of the objector to the highest point of the roof overhang the would allow persons (both standing and sitting) on the rear balcony on 64 Newman Avenue to look over the top of the proposed awning to the south-east.

Only very minor view loss would occur, with the majority of the south-east and all of the easterly views to the ocean completely unaffected.

The roof eave extension over rear doors of 66 Newman Avenue is cantilevered (no posts to block view), and will only slightly impede any south-east view from the objectors rear balcony when compared with the already approved 1500mm wide separate awning. It is worth noting that the existing dwelling at the subject site has a current eave width of 600mm, so in total the eave width to be constructed is effectively an 1100mm increase.

It is the opinion of Council staff that the potential loss of view impact on 64 Newman Avenue is negligible when assessed against the available expansive views remaining to the south-east and unaffected views to the direct east. The roofline eave design of the amended dwelling addition plans is considered reasonable.
Privacy (Aural and Visual)
The dwelling additions are not considered to create an unreasonable increased level of impact on the privacy or amenity of the surrounding properties, particularly as the design of the development is in keeping with the residential setting.

Visual Impact
The design of the replacement roof is considered consistent with the residential character of the locality, and does not pose a negative visual impact when viewed from the streetscape, adjoining properties or the adjoining coastal land.

Utilities
Utilities including water, sewer, electricity and telephone are available to the site.

Flora and Fauna
Nil vegetation proposed to be removed as part of this modification.

Climate Change
No impact on proposed modification to roof design.

Cumulative Impacts
Council has historically considered the surrounding built form when assessing developments reasonableness with regard to view sharing and streetscape impacts. Given the proposed additions result in the development being lower than the adjoining dwelling to the north, of similar finished height to the adjacent building to the south, and as the dwelling will be approximately two (2) metres lower than the maximum 8.5 metre height limit for the locality, it is not considered that approval of the development application will result in negative cumulative impacts.

c) The Suitability of the Site for the Development
The subject site is located in a coastal erosion hazard zone, and during the initial assessment of the development application (prior to the modification application), the proposal was referred to Council's Investigations Engineer for comment. The subsequent development consent was granted with extensive conditions relating to the construction of new elements of the proposal, and limiting re-development of the existing dwelling to only minor alterations and cosmetic works (see Council meeting report for DA 506/2010 dated 22 May 2014).

The current application before Council to modify a previous granted consent only involves the removal of an existing light weight sheet roof, and replacing the roof with a modern design to match the approved dwelling addition to the rear of the property. As the application does not propose any additional floor area, and will remain single storey using the existing dwelling footings, Council considers the site suitable for the proposal.

d) Any Submissions Made in Accordance with the Act or Regulations
The application was notified to adjoining owners in accordance with Council's Policy and one (1) submission was received. The submission referred to the following issues:

1. Potential loss of view to south-east.

An objection was lodged stating that the roofline extension toward the east would impact on views to the southeast from 64 Newman Avenue.
Comment:

This aspect has been discussed at length elsewhere in the report under the heading of "Views".

e) The Public Interest

There is nothing in the public interest that would prevent consent from being issued in this instance.

CONCLUSION:

The application proposes to modify previously approved dwelling additions by amending the single storey roof design dwelling which complies with the height and design requirements of Council's DCP and LEP.

The potential view loss to the adjacent property at 64 Newman Avenue is considered negligible when assessed against the available expansive views remaining to the south-east and unaffected views to the direct east available to the property. The roofline eave design of the amended dwelling addition plans is considered reasonable, and the structure will remain single storey.

Whilst it is often an unfortunate result of development in coastal areas that some properties are affected by view loss, it is also difficult to maintain these existing views when the requirements allow for two (2) storey dwellings.

The proposal in question is not inconsistent with the existing built environment, with regard to bulk and scale it is considered that the application should be supported subject to conditions of consent.

RECOMMENDATION:

It is recommended that Development Application No 506/2010A to modify the consent for alterations to the roofline of the existing dwelling at Lot 9, Section A, DP 21465, No 66 Newman Avenue Blueys Beach, is approved subject to the following modification:

Replace condition 1 of DA 506/2010 approved on 22 May 2014 with the following:

1. Development in accordance with approved plans

The development must be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

<table>
<thead>
<tr>
<th>Plan type/Supporting Document</th>
<th>Plan No. &amp; version</th>
<th>Prepared by</th>
<th>Dated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amended plans - site, floor plans, elevations and section</td>
<td>Not supplied</td>
<td>Scott Bradley and Associates</td>
<td>February 2016</td>
</tr>
</tbody>
</table>

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

Reason: Information and to ensure compliance.
SUMMARY OF REPORT:
This report lists and provides an update on matters currently before the Land and Environment Court.

SUMMARY OF RECOMMENDATION:
It is recommended that the information be noted.

FINANCIAL/RESOURCE IMPLICATIONS:
Indicated in Annexure 'A'.

POLICY IMPLICATIONS:
Nil.

LEGAL IMPLICATIONS:
Indicated in Annexure 'A'.

LIST OF ANNEXURES:
A: List of matters currently before the Land and Environment Court.

LIST OF ATTACHMENTS:
Nil.

REPORT:
This report lists and provides an update on matters currently before the Land and Environment Court.

RECOMMENDATION:
It is recommended that the information be noted.
## LIST OF MATTERS BEFORE THE LAND & ENVIRONMENT COURT

<table>
<thead>
<tr>
<th>DA NO.</th>
<th>LOCATION</th>
<th>PROPOSAL</th>
<th>STATUS OF DA</th>
<th>NATURE OF APPEAL</th>
<th>CURRENT STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>DA-269/2015</td>
<td>Lot 4 Sec N DP8287 - 10 Myall Street, Pindimar.</td>
<td>Tourist &amp; Visitor Accommodation - Motel.</td>
<td>DA Refused on 24 November 2015.</td>
<td>Class 1 Appeal Appeal against refusal of Development Application.</td>
<td>Statement of facts and contentions filed with Land &amp; Environment Court 13 January 2016. Section 34 conciliation conference held on 25 February 2016. At the conference, Council’s experts indicated that it would be necessary for additional information to be provided by the applicant in relation to wastewater, ecology, tree removal and bushfire prior a final position in relation to the proposal. It was also indicated that having regard for the fact that there was no dwelling entitlement for the site, Council would not be able to ascertain its final position in relation to the proposal, until such time as this information was forthcoming and a design was finalised. The applicants Barrister requested an adjournment to enable the applicant to have regard to the comments of the Council experts and to decide whether they wished to provide additional information through the Section 34 conference process, or to terminate the conference and proceed straight to a hearing.</td>
</tr>
</tbody>
</table>
The commissioner adjourned the
conference to a telephone callover on 3
March 2016.

At the telephone callover the Applicant
requested a further 2 week adjournment
to carry out investigations designed to
address Council’s concerns.

The Commissioner adjourned the
matter to a Telephone Callover on 17
March 2016 but also directed the parties
to do an eCourt to reserve a hearing
date in late May in case the matter isn’t
resolved. The parties have lodged an
eCourt requesting a hearing date be
reserved on 6 – 8 June 2016.

On 22 March 2016, the Commissioner
made the following directions:

1. The s.34 Conference is terminated
2. The Court notes that the parties
consent to Commissioner Pearson
hearing and determining the
proceedings under section 34(4)(b)
of the Land and Environment Court
3. The Court confirms the hearing
dates of 6, 7 and 8 June 2016 for a
Section 34(4)(b) Hearing.
4. The Court makes directions in
accordance with the timetable
agreed by the parties as follows:-
1. By 1 April 2016, the Applicant is
to provide Council with his
proposed amended plans.
<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2. By <strong>15 April 2016</strong>, the Applicant is to provide Council with any supplementary information to support the amended plans.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. By <strong>20 April 2016</strong>, a motion to rely upon an amended development application is to be returnable before Commissioner Pearson.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. By <strong>6 May 2016</strong>, the respondent is to file and serve any amended statement of facts and contentions.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. The experts, grouped in areas of expertise, are to confer in accordance with the requirements of Division 2 of Pt 31 of the Uniform Civil Procedure Rules and the Expert Witness Code of Conduct in Schedule 7 of the Uniform Civil Procedure Rules and are to file and serve their joint report by <strong>25 May 2016</strong>.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. By <strong>23 May 2016</strong>, the respondent consent authority is to file and serve a bundle of documents.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. By <strong>23 May 2016</strong>, the respondent consent authority is to file and serve draft conditions of consent (in both hard copy and electronic form).</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. By <strong>30 May 2016</strong>, the respondent consent authority is to file and serve a notice of objectors who wish to give</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
9. By **30 May 2016**, the applicant for consent is to file and serve its draft conditions in response (in both hard copy and electronic form).

The Applicant has provided the amended plans and revised reports and leave was granted for the Applicant to rely on those plans and information. The Court also made an Order for the Applicant to pay Council’s costs thrown away as a result of the amended plans.

Council is currently preparing its amended statement of facts and contentions based on the amended plans.

| DA-415/2015 | Lot 380 DP753168, Lot 7362 DP1128839 and Lot 7063 DP1054279 - John Holland Park Forster, Pacific Palms Foreshore Reserve/Jetty and Boat Beach Seal Rocks | Parasailing Tours - Forster, Pacific Palms and Seal Rocks | DA approved by Council at its Strategic Meeting held on 10 November 2015. Class 4 Appeal (Summons/Judicial Review) seeks to declare development consent DA415/2015 determined by Council as void, invalid and of no effect. | Matter was listed on 15 April 2016, and the Court adjourned the proceedings until 13 May 2016 to enable the parties an opportunity to negotiate some possible amendments to the Consent. A meeting was held between the parties on 28 April 2016. The Applicant is to provide some draft conditions for the Council and Mr Parmenter to consider |
SUMMARY OF REPORT:

Consents which have been issued for April 2016 under authority delegated by Council on 14 June 1994 are contained in Annexure "A".

Should any Councillor have a query regarding the attached Annexure, please contact the Director Planning & Environmental Services, so that the appropriate documentation may be brought to the meeting for clarification.

SUMMARY OF RECOMMENDATION:

It is recommended that the information be noted.

FINANCIAL/RESOURCE IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

Nil.

LIST OF ANNEXURES:

A: Consents issued for the month of April 2016.

LIST OF ATTACHMENTS:

Nil.

REPORT:

Consents which have been issued for April 2016 under authority delegated by Council on 14 June 1994 are contained in Annexure "A".

Should any Councillor have a query regarding the attached Annexure, please contact the Director Planning & Environmental Services, so that the appropriate documentation may be brought to the meeting for clarification.

RECOMMENDATION:

It is recommended that the information be noted.
ANNEXURES:

A. Consents issued for the month of April 2016.

<table>
<thead>
<tr>
<th>DA Number</th>
<th>Names</th>
<th>Address</th>
<th>Suburb</th>
<th>Description</th>
<th>Value of Works</th>
<th>Decision Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>DA-144/2016</td>
<td>Mr A J Clarke</td>
<td>14 Monterra Avenue</td>
<td>HAWKS NEST</td>
<td>Erect a detached shed</td>
<td>$16,340.00</td>
<td>DEFERRED</td>
</tr>
<tr>
<td>DA-176/2016/A</td>
<td>Mr R B Harkins</td>
<td>9-15 Timbertop Avenue</td>
<td>FORSTER</td>
<td>Dwelling</td>
<td>$232,469.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-197/2008</td>
<td>Mr A A Fife</td>
<td>16 Lethbridge Road</td>
<td>ELIZABETH BEACH</td>
<td>2nd Floor Addition</td>
<td>$58,000.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-219/2016</td>
<td>TEA GARDENS FARMS PTY LTD</td>
<td>Lot 104 Bundabah Road</td>
<td>BUNDABAH</td>
<td>Upgrade Access Road from Jetty to Dwelling</td>
<td>$150,000.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-236/2016</td>
<td>Mrs A L Albury</td>
<td>151 Forest Glen Road</td>
<td>LIMEBURNERS CREEK</td>
<td>New carport &amp; veranda and alterations and additions of a sun room</td>
<td>$55,412.25</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-240/2016</td>
<td>Mr T G Davies</td>
<td>2A Orange Grove</td>
<td>SMITHS LAKE</td>
<td>Erect a kit home and use of existing garage</td>
<td>$76,000.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-264/2016</td>
<td>Mr G M Smit</td>
<td>41 Eastslope Way</td>
<td>NORTH ARM COVE</td>
<td>Single storey dwelling</td>
<td>$220,000.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-266/2016</td>
<td>Mr K J Black and Mrs M Black</td>
<td>27 Thomas Road</td>
<td>SEAL ROCKS</td>
<td>Dwelling</td>
<td>$150,000.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-267/2016</td>
<td>RGR DESIGN</td>
<td>110 Macintosh Street</td>
<td>FORSTER</td>
<td>Three attached single storey dwellings on a three lot strata subdivision</td>
<td>$598,200.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-289/2016</td>
<td>Mrs M Radas</td>
<td>40 Coonabarabran Road</td>
<td>COOMBA PARK</td>
<td>Single dwelling</td>
<td>$120,000.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-303/2016</td>
<td>Mr D J Wood</td>
<td>29 Lake Street</td>
<td>FORSTER</td>
<td>New residential flat building comprising one ground floor unit, two second floor units and three double storey townhouses and strata subdivision</td>
<td>$1,091,172.91</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-306/2016</td>
<td>Ms E Mierzecka-Pain</td>
<td>7 Illawarra Crescent</td>
<td>COOMBA PARK</td>
<td>Dwelling</td>
<td>$177,448.57</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-309/2016</td>
<td>Mr G J Duncan</td>
<td>19 Stroud Street</td>
<td>BULAHDELAH</td>
<td>Build a garage</td>
<td>$32,000.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-313/2016</td>
<td>RGR DESIGN</td>
<td>4 Wirrama Circuit</td>
<td>FORSTER</td>
<td>Dwelling and swimming pool</td>
<td>$355,817.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-314/2016</td>
<td>Mr B Johnson</td>
<td>22 Whinbrel Drive</td>
<td>NERONG</td>
<td>Garage</td>
<td>$16,742.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-324/2016</td>
<td>Mr B Smith</td>
<td>15 Manara Crescent</td>
<td>FORSTER</td>
<td>Dwelling and retaining walls</td>
<td>$323,297.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-326/2016</td>
<td>Ms H Blackburn</td>
<td>110 Taree Street</td>
<td>TUNCURRY</td>
<td>Alterations and additions to existing dwelling</td>
<td>$20,625.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-336/2016</td>
<td>Mr G J Snape</td>
<td>332 Pindimar Road</td>
<td>PINDIMAR</td>
<td>Storage Shed</td>
<td>$28,200.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-337/2016</td>
<td>MID COAST HOME</td>
<td>6 Eloaura Crescent</td>
<td>FORSTER</td>
<td>Colourbond patio to rear of house</td>
<td>$12,000.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>IMPROVEMENTS</td>
<td></td>
<td>8 Simmsville Road</td>
<td>STRoud</td>
<td>Dwelling</td>
<td>$405,321.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-348/2016</td>
<td>Mr K R Mudford and Mrs C R Mudford</td>
<td>8 Simmsville Road</td>
<td>STRoud</td>
<td>Dwelling</td>
<td>$405,321.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-357/2016</td>
<td>Mr W L Jones</td>
<td>53 Gams Road</td>
<td>TEA GARDENS</td>
<td>Sunroom / Pergola</td>
<td>$70,000.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-363/2016</td>
<td>Mr J C Walker and Mrs J Walker</td>
<td>3 Ampal Place</td>
<td>BLUEYS BEACH</td>
<td>Attach a patio to existing dwelling</td>
<td>$17,200.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-368/2016</td>
<td>Mr M J Cook</td>
<td>89 Macwood Road</td>
<td>SMITHS LAKE</td>
<td>Shed</td>
<td>$8,934.00</td>
<td>APPROVED</td>
</tr>
</tbody>
</table>
### DECISIONS BY DELEGATED AUTHORITY APRIL 2016

<table>
<thead>
<tr>
<th>DA Number</th>
<th>Names</th>
<th>Address</th>
<th>Suburb</th>
<th>Description</th>
<th>Value of Works</th>
<th>Decision Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>DA-369/2016</td>
<td>Mr A Evans</td>
<td>265 Glen Ayr Road</td>
<td>GIRVAN</td>
<td>Rural shed</td>
<td>$120,000.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-375/2016</td>
<td>Mr G R Riordan</td>
<td>39 Coonabarabran Road</td>
<td>COOMBA PARK</td>
<td>Weatherboard dwelling</td>
<td>$109,077.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-380/2016</td>
<td>CLEARWATER POOLS</td>
<td>203 Buranee Road</td>
<td>COOMBA PARK</td>
<td>Swimming pool</td>
<td>$48,700.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-388/2016</td>
<td>Mr N S Vale</td>
<td>9 Carramatta Close</td>
<td>BOOMERANG BEACH</td>
<td>Demolition of house and garage</td>
<td>$20,000.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-392/2016</td>
<td>Mr K J Bartholomew and Mrs J B Russell</td>
<td>85 Cowper Street</td>
<td>STROUD</td>
<td>Swimming pool and associated safety barriers</td>
<td>$20,310.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-399/2016</td>
<td>WALLIS LAKE FISHERMANS CO OP</td>
<td>Lot 7312 Point Road</td>
<td>TUNCURRY</td>
<td>Demolition of timber fishing shack</td>
<td>$1,000.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-405/2016</td>
<td>MID COAST HOME IMPROVEMENTS</td>
<td>22 Short Street</td>
<td>FORSTER</td>
<td>Carport</td>
<td>$7,000.00</td>
<td>APPROVED</td>
</tr>
<tr>
<td>DA-413/2016</td>
<td>Mr P James</td>
<td>42-44 Myall Street</td>
<td>PINDIMAR</td>
<td>Shed</td>
<td>$45,450.00</td>
<td>APPROVED</td>
</tr>
</tbody>
</table>
SUMMARY OF REPORT:

This report provides a summary of the Penalty Infringement Notices issued by Council Regulatory Officers during the month of April 2016.

SUMMARY OF RECOMMENDATION:

It is recommended that the information be noted.

FINANCIAL/RESOURCE IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

Nil.

LIST OF ANNEXURES:

Nil.

LIST OF ATTACHMENTS:

Nil.

REPORT:

During the month of April 2016, 101 verbal warnings and 116 penalty infringement notices were issued.

These were issued for the following reasons:

<table>
<thead>
<tr>
<th>OFFENCE</th>
<th>FINE ($)</th>
<th>TOTAL NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Park longer than permitted</td>
<td>$106.00</td>
<td>50</td>
</tr>
<tr>
<td>Stop in parking area for disabled</td>
<td>$531.00</td>
<td>11</td>
</tr>
<tr>
<td>Stop on / across driveway / access to / from land</td>
<td>$106.00</td>
<td>1</td>
</tr>
<tr>
<td>Disobey ‘No Stopping’ sign</td>
<td>$248.00</td>
<td>5</td>
</tr>
<tr>
<td>Violation</td>
<td>Fine</td>
<td>Count</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------</td>
<td>--------</td>
<td>-------</td>
</tr>
<tr>
<td>Use more parking bays than necessary</td>
<td>$106.00</td>
<td>1</td>
</tr>
<tr>
<td>Not parallel parked in direction of travel</td>
<td>$177.00</td>
<td>1</td>
</tr>
<tr>
<td>Not position rear of vehicle correctly</td>
<td>$106.00</td>
<td>1</td>
</tr>
<tr>
<td>Stop in bus zone (School Zone) - <strong>Loss of 2 demerit points</strong></td>
<td>$319.00</td>
<td>1</td>
</tr>
<tr>
<td>Disobey 'No Stopping' Sign - School Zone - <strong>Loss of 2 demerit points</strong></td>
<td>$319.00</td>
<td>2</td>
</tr>
<tr>
<td>Disobey 'No Parking' Sign - School Zone - <strong>Loss of 2 demerit points</strong></td>
<td>$177.00</td>
<td>1</td>
</tr>
<tr>
<td>Stop in Bus Zone (not clearway or transit bus lane)</td>
<td>$248.00</td>
<td>3</td>
</tr>
<tr>
<td>Obstruct access to ramp/passageway/path</td>
<td>$106.00</td>
<td>1</td>
</tr>
<tr>
<td>Fail to comply with Terms of Notice erected by Council (driving/park/use of vehicle) to vehicle</td>
<td>$110.00</td>
<td>26</td>
</tr>
<tr>
<td>Deposit litter from vehicle - individual</td>
<td>$250.00</td>
<td>1</td>
</tr>
<tr>
<td>Abandon motor vehicle</td>
<td>$550.00</td>
<td>1</td>
</tr>
<tr>
<td>Companion animal not registered as required not dangerous/menacing/restricted dog</td>
<td>$275.00</td>
<td>2</td>
</tr>
<tr>
<td>Not notify change in registration or identification information - not dangerous/restricted dog</td>
<td>$165.00</td>
<td>1</td>
</tr>
<tr>
<td>Owner of Dog which rushes at/attacks/bites/harasses/chases any person/animal</td>
<td>$550.00</td>
<td>2</td>
</tr>
<tr>
<td>Not angle as on parking control sign rear to kerb</td>
<td>$106.00</td>
<td>4</td>
</tr>
<tr>
<td>Stop on traffic island</td>
<td>$106.00</td>
<td>1</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>116</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cautions Issued</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dogs: 29</td>
</tr>
<tr>
<td>Street/Parking: 22</td>
</tr>
<tr>
<td>Campers: 27</td>
</tr>
<tr>
<td>Signs: 2</td>
</tr>
<tr>
<td>Overgrown: 21</td>
</tr>
</tbody>
</table>

The following is provided for Council's further information:

- Owner of Dog which rushes at/attacks/bites/harasses/chases any person/animal - two (2) dogs attacked another dog in Forster Keys Elizabeth Reserve, both dogs declared menacing.
- Owner of Dog which rushes at/attacks/bites/harasses/chases any person/animal - dog attacked male on Macintosh Street, Forster, Notice of Intention to Declare Dog Dangerous issued.

**RECOMMENDATION:**

It is recommended that the information be noted.
SUMMARY OF REPORT:

Council has called for quotations for the supply, installation, and 12 months of maintenance of a compaction system at the new Tuncurry Waste Transfer Station. Quotations close following the deadline for the completion of Council reports. This report advises that a late confidential report will be provided for the May Ordinary Meeting of Council for consideration of the quotations.

SUMMARY OF RECOMMENDATION:

That Council accept the late report in regard to the quotations received for the supply, installation, and 12 months of maintenance of a compaction system at the new Tuncurry Waste Transfer Station.

FINANCIAL/RESOURCE IMPLICATIONS:

The supply and installation of the waste compaction system are included in the costs of establishing the Tuncurry Waste Transfer Station project.

POLICY IMPLICATIONS:

This procurement process is being conducted in accordance with Council's Procurement Policy.

LEGAL IMPLICATIONS:

Local Government Procurement's Vendor Panel has been utilised for seeking quotations. Local Government Procurement is listed as a 'prescribed person' for the purposes of section 55(3) of the Local Government Act. This enables Council to seek quotes from contracts which have been established through a tender process conducted by LGP, even though the value of the purchase may be above $150,000. As such, Council will be requested to accept a quotation, rather than a tender.

LIST OF ANNEXURES:

Nil.

LIST OF ATTACHMENTS:

Nil

REPORT:

A contractor has recently been appointed by Council for the construction of the Tuncurry Waste Transfer Station and Community Recycling Centre. It is important to appoint a supplier of the
compactor as soon as possible to ensure the installation process is taken into account prior to construction commencing.

Quotations have been sought via Local Government Procurement's panel contract for 'Mobile Garbage Bins, Industrial Containers & Bins, Static Compactors, Associated Products and Services (NPN1.11-2)'.

Quotations close following the deadline for the completion of Council reports. This report advises that a late confidential report will be provided for the May Ordinary Meeting of Council for consideration of the quotations.

RECOMMENDATION:

That Council accept the late report in regard to the quotations received for the supply, installation, and 12 months of maintenance of a compaction system at the new Tuncurry Waste Transfer Station.

RECOMMENDATION:

That Council accept the late report in regard to the quotations received for the supply, installation, and 12 months of maintenance of a compaction system at the new Tuncurry Waste Transfer Station.
SUMMARY OF REPORT:

Council has received correspondence from the Myall Quays Community Association requesting that Council consider dedication of the Community Association property fronting Admiralty Avenue, Tea Gardens.

The portion of Association property in question is part Lot 1 DP270100 and is approximately 4 metres wide containing street trees, street furniture, concrete footpath and kerb and guttering.

SUMMARY OF RECOMMENDATION:

It is recommended that:

1. Council accept dedication of part Lot 1 DP270100 that fronts Admiralty Avenue, Tea Gardens and the small section that fronts the Boston Street road reserve.
2. Approval be given to the Common Seal of Council being affixed to all necessary transfers and documents.

FINANCIAL/RESOURCE IMPLICATIONS:

Nil. The applicant is responsible for all costs associated with the dedication process. However, there will be ongoing costs in regards to the maintenance of the footpath and other fixtures.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

The transfer will need to comply with the statutory process for the dedication of community land.

LIST OF ANNEXURES:

A: Letter from the Myall Quays Community Association

LIST OF ATTACHMENTS:

Nil.

REPORT:

The Myall Quays Community Association has requested that Council consider accepting dedication of the Community Association nature strip section of Admiralty Avenue, Tea Gardens. The section in question runs from Boston Street road reserve along the eastern side of Admiralty Avenue fronting...
approximately 22 lots and consists of the concrete footpath, street furniture, street trees and kerb and guttering

As indicated in the correspondence, only 22 lots out of 220 lots in the Myall Quays development front Community Association property and all other properties front directly onto Council dedicated road reserve.

It is reasonable to expect that road related infrastructure such as kerb and gutter / concrete footpath that adjoins Admiralty Avenue are dedicated to Council and come under care and control of Council. This also provides uniformity of ownership for residents in the area and the community in general.

Transferring Community Land is quite a complex process so Council has obtained preliminary advice and quotations for both legal fees and survey / plan lodgement fees. The Myall Quays Community Association considered these fees and have agreed to pay the costs for the transfer process.

As there is no cost to Council in the transfer process it is reasonable to accept dedication of the Community Land to rectify this anomaly.

RECOMMENDATION:

It is recommended that:

1. Council accept dedication of part Lot 1 DP270100 that fronts Admiralty Avenue, Tea Gardens and the small section that fronts the Boston Street road reserve.
2. Approval be given to the Common Seal of Council being affixed to all necessary transfers and documents.
ANNEXURES:

A: Letter from the Myall Quays Community Association

As the Secretary for the MQCA DP 270100, I write on behalf of the Myall Quays Community Association regarding a section of Community Association property. This section is part of Lot 1 DP 270100 which runs along Admiralty Avenue Tea Gardens.

This particular section of community association property consists of the footpath and nature strip (otherwise referred to as the ‘Residential Streetscape’) and affronts 22 lots extending south from Boston Street along the eastern side of Admiralty Ave.

There is a map attached on the last page showing all of Lot 1 Community Association property shaded in Green, the thin green shaded area along Admiralty Ave being the particular section that I refer to and the subject of this letter.

Prior to and for some time after the demise of Crighton Properties as the developer of this estate, very few residents really understood what land was council (GLC) and what land was community owned. The Architectural & Landscape Guidelines as part of the Management Statement refers to all the footpaths and nature strips throughout the various Precincts and Neighbourhood Associations, as being community association property. This is evidenced below on page 3 in the extract taken from the Myall Quays Architectural & Landscape Guidelines.

This statement has caused some confusion because it is misleading. The fact is that only 22 lots out of the total of 220 lots are actually afforded by Community Association property as part of the residential streetscape, all other residential streetscapes consisting of the road, kerb & guttering, footpaths and nature strips throughout Myall Quays estate, belong to GLC.

There is no information to support/explain just why this one small part of the Myall Quays Estate was developed with the residential streetscape being included as community association property, particularly when this approach was not applied to or adopted for the other four (4) of the five (5) Precinct and Neighbourhood associations contained within the whole of DP 270100.

This then begs the question why, and to what end does this benefit anyone? Apart from the confusion it causes some residents, and also some council workers on a few occasions in the past I might add, this quite unusual situation is best described as less than ideal.
To achieve uniform aesthetics in the streetscape across the entire estate becomes somewhat difficult when the rules are different for some residents at one end of the street than those of residents at the other end and opposite sides of the same street, this simply does not make sense.

It would be fair to assume that GLC are in a stronger position to effectively deal with residents that choose to ignore the regulations applicable to the preservation of the various streetscape elements as part of a public road, than that of the community association when that part of the streetscape is designated community property. The executive even with the support of the managing agents are somewhat a toothless tiger in dealing with most breaches of any guidelines. The whole process of resolution is long winded and rarely achieves a positive result within 12 to 18 months resulting in these matters festering on in the meantime.

One logical solution, which would achieve uniformity throughout the whole of the Myall Quays estate and which we believe would be in the long term interests of all parties, would be for GLC to agree to dedicate this portion of lot 1 along Admiralty Ave as public road, thus bringing this small section of streetscape into line with the rest of Myall Quays as well as the whole area in general.

To this end, we would hope that GLC can see merit in adopting such a solution and would very much appreciate that council explore the viability of this option further.

Yours sincerely,

Ron Green
Secretary
MQCA DP270100

0412 721 683

rongs@band.com
COMMUNITY PROPERTY

3.1 RESIDENTIAL STREETSCAPE

To assist in achieving the image of a consistent well maintained frontage to each residential lot, all footpaths fronting lots which entitle the owners to be included in the Community Association will be set aside as Community Property and these footpaths will be referred to as the Residential Streetscape.

The Residential Streetscape will be maintained by the Community Association. No buildings, structures or the like shall be constructed on this land and no landscaping can be disturbed without the consent of the Executive Committee.

Much attention has been paid in the site planning at Mysil Quays and to the retention, where possible, of existing vegetation and/or the replanting of a wide range of native trees and shrubs to encourage native birds and animals to recolonise the neighbourhood. Therefore, it is of utmost importance to the Estate that this philosophy is understood and carried through to the individual residences so that a unified aesthetic environment will result.

The Residential Streetscape will set the standard and character for the entire subdivision. It has been designed:

• To provide a considerably maintained streetscape which will ensure the entrance to each individual home-site will enhance any dwelling built on any lot.
• To evoke the feelings of living in a residential “resort”, emphasised by the careful selection of hard elements and plant materials.
• To provide a living streetscape which will attract native birds and animals the whole community can enjoy and interact with.
• To enhance and protect the capital appreciation of all proprietors in the development.

The profile of the residential streetscape consists of a footpath which has a minimum width of 4 metres, part of which may be paved for pedestrian and bicycle use. This area will be landscaped with street trees, ornamental trees and shrubs and specially selected street furniture. These various landscaping elements will be maintained by the Community Association.

3.2 RESIDENTIAL ROADS

All roads within the estate will remain the property of Great Lakes Council. It is Great Lakes Council’s responsibility to repair, maintain and reconstruct (when required) the road surface and kerbs in accordance with the standards provided in the initial construction.

3.3 LIGHTING

Street lighting selected to enhance and reinforce the theme of the estate will be installed by Orion Energy and maintained by Great Lakes Council. This lighting is intended to be a feature at night and an embellishment to the streetscape.
SUMMARY OF REPORT:

This report presents the Quarterly Budget Review Statement (QBRS) for the period to 31 March 2016 to Council for consideration, as required by Clause 230(1) of the Local Government Act 1993.

SUMMARY OF RECOMMENDATION:

That the Quarterly Budget Review Statement for the period to 31 March 2016 be noted and the budget variations proposed, including transfers to and from reserves be approved.

FINANCIAL/RESOURCE IMPLICATIONS:

After the completion of the March 2016 QBRS Council’s projected budget result remains as a balanced budget. There are variations across the budget and the major variations are outlined in the report but the overall position remains unchanged from the previous reviews due to a transfer to the Quarantine Reserve.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

Nil.

LIST OF ANNEXURES:

Nil.

LIST OF ATTACHMENTS:

A: March 2016 Budget Review by Sub Programs
B: March 2016 Budget Review by CSP Key Directions & Sub Program
C: March 2016 Budget Review Income and Expenditure Statement
D: March 2016 Capital Budget Statement
E: March 2016 Budget Review Contracts & Other Expenses

Due to its large size, Attachments A to E have been circulated in hard copy to Councillors and Senior Staff only as a paper conservation measure. However, these Attachments are publicly available on Council’s Website, copies are available at Council offices and copies are available on request.
REPORT:

This report presents the Quarterly Budget Review Statement (QBRS) for the period to 31 March 2016 to Council for consideration, as required by Clause 230(1) of the Local Government Act 1993.

The Quarterly Budget Review Statements (Attachments A to E) for the quarter ended 31 March 2016 provide information on Council’s projected financial position to the year ending 30 June 2016.

The headline projected financial position remains as a balanced budget for 2015/2016, following completion of the March QBRS. However there are variations that have occurred across the whole organisational budget and a transfer is proposed to the Quarantine Reserve as there is a nett saving projected. The details of the variations are discussed below.

The overall financial position of Council summarised by Key Direction is set out below.

<table>
<thead>
<tr>
<th>General Fund</th>
<th>Original Budget $</th>
<th>Revised Budget March 2016 $</th>
<th>Rec. Changes March 2016 QBRS $</th>
<th>Projected Budget at Year End $</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Our Environment</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Op. Expend.</td>
<td>16,537,668</td>
<td>21,762,382</td>
<td>(147,276)</td>
<td>21,615,106</td>
</tr>
<tr>
<td>Cap. Expend</td>
<td>8,409,264</td>
<td>11,418,420</td>
<td>(3,452,350)</td>
<td>7,966,070</td>
</tr>
<tr>
<td>Cap. Income</td>
<td>(7,683,015)</td>
<td>(13,486,076)</td>
<td>3,851,252</td>
<td>(9,634,824)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>1,793,544</td>
<td>1,861,846</td>
<td>55,454</td>
<td>1,917,300</td>
</tr>
<tr>
<td><strong>Stronger Local Economies</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Op. Expend.</td>
<td>10,697,695</td>
<td>11,111,928</td>
<td>(443,093)</td>
<td>10,668,835</td>
</tr>
<tr>
<td>Op. Income</td>
<td>(40,448,263)</td>
<td>(40,690,478)</td>
<td>(94,383)</td>
<td>(40,784,861)</td>
</tr>
<tr>
<td>Cap. Expend</td>
<td>555,553</td>
<td>822,461</td>
<td>176,000</td>
<td>998,461</td>
</tr>
<tr>
<td>Cap. Income</td>
<td>(1,007,025)</td>
<td>(1,576,373)</td>
<td>(135,771)</td>
<td>(1,712,144)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>(30,202,040)</td>
<td>(30,332,462)</td>
<td>(497,247)</td>
<td>(30,829,709)</td>
</tr>
<tr>
<td><strong>Vibrant &amp; Connected Communities</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cap. Expend</td>
<td>7,606,672</td>
<td>6,305,522</td>
<td>591,954</td>
<td>6,897,476</td>
</tr>
<tr>
<td>Cap. Income</td>
<td>(8,036,840)</td>
<td>(5,848,248)</td>
<td>(568,668)</td>
<td>(6,416,916)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>9,316,743</td>
<td>9,088,251</td>
<td>209,809</td>
<td>9,298,060</td>
</tr>
<tr>
<td><strong>Local Leadership</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Op. Expend.</td>
<td>26,124,896</td>
<td>26,874,133</td>
<td>141,411</td>
<td>27,015,544</td>
</tr>
<tr>
<td>Op. Income</td>
<td>(8,777,637)</td>
<td>(12,302,341)</td>
<td>(748,198)</td>
<td>(13,050,539)</td>
</tr>
<tr>
<td>Cap. Expend</td>
<td>19,950,721</td>
<td>31,432,915</td>
<td>(2,210,103)</td>
<td>29,222,812</td>
</tr>
<tr>
<td>Cap. Income</td>
<td>(18,206,227)</td>
<td>(26,622,342)</td>
<td>2,655,516</td>
<td>(23,966,826)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>19,091,753</td>
<td>19,382,365</td>
<td>(161,374)</td>
<td>19,220,991</td>
</tr>
<tr>
<td><strong>(Surplus) / Deficit</strong></td>
<td>0</td>
<td>0</td>
<td>(393,358)</td>
<td>(393,358)</td>
</tr>
</tbody>
</table>
The Revised Budget December 2015 column above includes the impact of the 2014/2015 re-votes and the changes to the budget which were approved by Council following consideration of the September and December 2015 Quarterly Budget Reviews.

The major changes recommended following completion of the Budget Review for the last quarter include:

<table>
<thead>
<tr>
<th>Additional Costs / Decreased Revenue</th>
<th>$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Superannuation Expense - nett adjustment after review of Defined benefit &amp; accumulation scheme contributions</td>
<td>19,662</td>
</tr>
<tr>
<td>Parks &amp; Recreation Asset Management Planning - to provide for assistance to complete Asset Management Plans for Parks &amp; Recreation assets</td>
<td>100,000</td>
</tr>
<tr>
<td>Marine Drive Foreshore Improvement Works - Council requested that additional allocation be included in consideration of March QBR</td>
<td>50,000</td>
</tr>
<tr>
<td>North Tuncurry Grandstand - variation in contract price to undertake additional essential work</td>
<td>30,000</td>
</tr>
<tr>
<td>Parks &amp; Recreation - Servicing Public Amenities - amend budgets to reflect actual expenditure. Original budgets insufficient arising from restructure of Parks &amp; Recreation budgets.</td>
<td>56,725</td>
</tr>
<tr>
<td>Parks &amp; Recreation - Mowing - amend budgets to reflect actual expenditure. Original budgets insufficient arising from restructure of Parks &amp; Recreation budgets.</td>
<td>81,810</td>
</tr>
<tr>
<td>Wharves, Jetties &amp; Boat Ramps - repairs to Tea Gardens Wharf following damage arising from boat colliding with the wharf with force. Ability to claim under insurance policy being investigated.</td>
<td>31,167</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Reduced Costs / Increased Revenue</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries - Governance / Corporate Services - saving from vacancy for Corporate Reporting Officer</td>
<td>(50,000)</td>
</tr>
<tr>
<td>Workers Compensation Premium - premium savings after changes to premium calculation method</td>
<td>(389,789)</td>
</tr>
<tr>
<td>Rates Revenue - nett additional revenue as a result of additional rates levied, pension rebates provided for and debt recovery costs allocated to assessments</td>
<td>(13,261)</td>
</tr>
<tr>
<td>Pension Rebate Subsidy - additional subsidy to be received from growth of rebates provided (Council is reimbursed 45% of the amount written off)</td>
<td>(17,760)</td>
</tr>
<tr>
<td>Interest on Investments - additional revenue to be received from invested funds</td>
<td>(50,000)</td>
</tr>
<tr>
<td>Section 603 Certificate Income - increased activity in the property market is translating into more applications for certificates</td>
<td>(8,000)</td>
</tr>
<tr>
<td>Electricity Expenses - Savings across the organisation</td>
<td>(25,804)</td>
</tr>
<tr>
<td>Street Lighting Expenses - budget allocation reviewed against actual expenditure</td>
<td>(52,420)</td>
</tr>
<tr>
<td>Street Lighting Subsidy - Additional subsidy expected to be received following review of previous subsidy.</td>
<td>(11,000)</td>
</tr>
<tr>
<td>Salaries - Savings in Engineering salaries due to delay in engaging replacement staff following resignations</td>
<td>(85,900)</td>
</tr>
<tr>
<td>Engineering Income - additional administration fees for bonds, subdivision certificates and fees</td>
<td>(33,000)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Off-Setting Adjustments</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Elected Members - Conferences &amp; Seminars</td>
<td>2,500</td>
</tr>
<tr>
<td>Elected Members - Training</td>
<td>(2,500)</td>
</tr>
</tbody>
</table>
There are numerous other changes occurring at the natural account and activity level within the budget which essentially balance out. These changes are in keeping with Council's budget management policy which provides discretion for budget owners to manage the operational aspects of the budgets.

The original adopted budget result for 2015/2016 was forecast to be a balanced budget. This included a transfer from the Quarantine Reserve of $214,692 and an additional $32,000 was also allocated towards the grandstand project at Harry Elliott Oval in Tuncurry. As such the balanced budget result was built on transfers from the Quarantine Reserve of $246,692. The September QBR showed a surplus result of $252,658 and this amount was transferred to the Quarantine Reserve which maintained a balanced budget result. The result of the December 2015 Quarterly Budget Review was a deficit result of $240,898. At the completion of the March 2016 QBR the projected result for 2015/2016 is a surplus of $393,358.

In keeping with Council's usual practice it is proposed that this surplus result be covered by a transfer to the Quarantine Reserve and that the adjustment to the various budgets be approved.

<table>
<thead>
<tr>
<th>Transaction</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transfer to Organisational Development Reserve</td>
<td>$50,000</td>
</tr>
<tr>
<td>Organisational Development (Project 2172) - Consultancy Expenses</td>
<td>($50,000)</td>
</tr>
<tr>
<td>Merger Proposal Expenses (Project 2944)</td>
<td>$100,000</td>
</tr>
<tr>
<td>Transfer from Quarantine Reserve</td>
<td>($100,000)</td>
</tr>
<tr>
<td>Transfer to Future Land Development Reserve</td>
<td>$195,000</td>
</tr>
<tr>
<td>Proceeds from Sale of Stroud Baby Health Centre</td>
<td>($195,000)</td>
</tr>
<tr>
<td>Transfer to Information Technology Reserve</td>
<td>$196,000</td>
</tr>
<tr>
<td>GEAC Consultancies (Project 4320)</td>
<td>($55,000)</td>
</tr>
<tr>
<td>Dataworks Peripherals Consultancies (Project 4322)</td>
<td>($71,000)</td>
</tr>
<tr>
<td>Computer Equipment Capital Expenditure</td>
<td>($70,000)</td>
</tr>
<tr>
<td>Payment of Accrued Leave Entitlements - Retirements</td>
<td>$138,925</td>
</tr>
<tr>
<td>Transfer from ELE Reserve</td>
<td>($138,925)</td>
</tr>
<tr>
<td>Forster Boat Harbour Facilities Upgrade</td>
<td>$326,253</td>
</tr>
<tr>
<td>Loan Income Utilised</td>
<td>($200,000)</td>
</tr>
<tr>
<td>Transfer from Forster Boat Harbour Reserve</td>
<td>($126,253)</td>
</tr>
</tbody>
</table>
## Responsible Accounting Officer’s Statement

The following statement is made in accordance with Clause 203(2) of the Local Government (General) Regulation 2005.

It is my opinion that the Quarterly Budget Review Statement for Great Lakes Council for the quarter ended 31 March 2016 indicates Council's projected financial position at 30 June 2016 will be satisfactory at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

<table>
<thead>
<tr>
<th>SIGNED:</th>
<th>DATE: 16 May 2016</th>
</tr>
</thead>
</table>
| Phil Brennan  
Responsible Accounting Officer  
Great Lakes Council | |

**RECOMMENDATION:**

That the Quarterly Budget Review Statement for the period to 31 March 2016 be noted and the budget variations proposed, including transfers to and from reserves be approved.
SUMMARY OF REPORT:
At the Ordinary meeting of Council on 26 April 2016, Council approved this distribution of $23,800 to 21 applicants under the Community Grants Program. Council also requested that the Grants Committee reconvene to consider the distribution of the remainder of the Grants budget of $7,500. The Grants Committee met on Tuesday 10 May 2016 and this report summarises the final recommended distribution of the Grants budget.

SUMMARY OF RECOMMENDATION:
That pursuant to Section 356(1) of the Local Government Act 1993; Great Lakes Council grant financial assistance totalling $31,365 to the 24 groups and organisations listed in this report for the amounts and purposes listed.

FINANCIAL/RESOURCE IMPLICATIONS:
Council allocated $36,800 in the 2015/16 Budget for Community Grants. Grants of $31,356 are recommended by the Grants Committee for 2015/1/2016. $200 has been spent on advertising and $5,300 has already been allocated to community groups by resolution of Council as follows:

- $3,000 Rotary Club (Opera by the Lake) - Redirection of Australia Day funding
- $1,800 Myall River Action Group
- $500 Stroud Brickthrowing Committee

POLICY IMPLICATIONS:
Nil.

LEGAL IMPLICATIONS:
Section 356(1) of the Local Government Act 1993 sets out the requirements for councils when providing financial assistance to others, (including charity, community and sporting organisations and private individuals).

LIST OF ANNEXURES:
Nil.

LIST OF ATTACHMENTS:
Nil.
REPORT:

At the Ordinary meeting of Council on 26 April 2016, Council considered and approved the recommendations from the Grants Committee in relation to the applications received for assistance for community projects under the Community Grants program 2015/2016.

In addition, Council requested that the Grants Committee reconvene to consider
- An application for financial assistance received outside of the funding round from the Hawks Nest - Tea Gardens Progress Association in relation to costs incurred in hosting the Grey and Thespian Mardi Gras during Seniors’ Week
- Distribution of $7,500 that remained in the budget.

The Grants Committee met on Tuesday 10 May 2016.

The Committee recommends that the request from the Hawks Nest - Tea Gardens Progress Association be refused, and that the previously recommended list of successful applicants be amended as follows:

RECOMMENDED FOR FUNDING

<table>
<thead>
<tr>
<th>Applicant Organisation</th>
<th>Project</th>
<th>Short Description</th>
<th>Amount Requested</th>
<th>Recommended Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bunyah Public Hall</td>
<td>Community Defibrillator &amp; special paediatric pad pack</td>
<td>Purchase of life-saving equipment. Bunyah is located 1 hour from ambulance and rescue helicopter services. There is difficulty in locating rural properties even with GPS which has led to delays in emergency assistance in the past. No mobile phone coverage available. This equipment is vital for saving lives</td>
<td>$2,000</td>
<td>$1,500</td>
</tr>
<tr>
<td>Coolongolook/Wootton Action Group Inc</td>
<td>Cedar Park Community Recreation and River Access</td>
<td>Create picnic area at Cedar Park on the Coolongolook River for locals and visitors</td>
<td>$1,835</td>
<td>$1,000</td>
</tr>
<tr>
<td>Coomba Aquatic Club Inc</td>
<td>Hard Surface footpath for people with disabilities to move between the Gazebo and Jetty/Launching Ramp</td>
<td>The rigging, jetty and launching ramp at the Aquatic Club are 40 m from the main seated area, the gazebo. The gazebo is 5 metres higher, which means moving between the two is a short walk up or down a grassy slope, increasing the risk of a slip or fall. Funding required to pave the pathway to meet accessibility standards</td>
<td>$2,000</td>
<td>$1,500</td>
</tr>
<tr>
<td>Break Thru People Solutions</td>
<td>Community Food Bank</td>
<td>Purchase of refrigeration and freezer whitegoods and storage to enhance provision of food to people in need</td>
<td>$2,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Friends of Great Lakes Library Services (FOGLLS)</td>
<td>Better Reading for Bulahdelah and Stroud</td>
<td>Fund Literacy Tutor training course for volunteers in Stroud and Bulahdelah, including face-to-face workshop and online facilitation for up to 20 hours</td>
<td>$1,500</td>
<td>$1,000</td>
</tr>
<tr>
<td>Great Lakes Mental Health Family and Friends Support Group</td>
<td>Support for Mental Health Carers in the Great Lakes</td>
<td>Run Mental Health Education and Information Day for 50 carers to access locally-based mental health-related education, Music Therapy Day to actively support people as they strive to improve their health. Art Therapy Day to creatively improve physical, mental and emotional</td>
<td>$2,000</td>
<td>$1,500</td>
</tr>
<tr>
<td>Organisation</td>
<td>Project/Activity</td>
<td>Description</td>
<td>Funding</td>
<td></td>
</tr>
<tr>
<td>--------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------</td>
<td>---------</td>
<td></td>
</tr>
<tr>
<td>Coomba &amp; District Progress Association</td>
<td>ASHOW activities</td>
<td>AHSOW is a program for primary-age children focusing on building community pride, life skills, self-confidence and esteem. Funding for weekly activities - professional coaches</td>
<td>$2,000</td>
<td></td>
</tr>
<tr>
<td>Pacific Palms P&amp;C Association, PP Public School</td>
<td>P&amp;C Community Noticeboard</td>
<td>Provision of custom-made stainless steel outdoor community noticeboard to replace existing dangerous old one</td>
<td>$2,000</td>
<td></td>
</tr>
<tr>
<td>Great Lakes FM</td>
<td>A second Audio Codec Unit for Outside Broadcasting</td>
<td>Build on previous purchase of an Audio Codec Unit for outside broadcasts by purchasing a second unit for GLFM Base to improve quality of broadcast</td>
<td>$2,000</td>
<td></td>
</tr>
<tr>
<td>Myall Coast Chamber of Commerce &amp; Tourism</td>
<td>Myall Street Furniture</td>
<td>Install street furniture in Myall Street, Tea Gardens shopping precinct. Furniture will be constructed by the Tea Gardens Men's Shed</td>
<td>$2,000</td>
<td></td>
</tr>
<tr>
<td>Coolongolook &amp; District Memorial Hall S355 Committee</td>
<td>Out on Display - honouring local WWI and WWII Diggers</td>
<td>Expanding the range and public presentation of WWI and WWII photos and information at the community memorial hall which was built and dedicated for the purpose of honouring those local diggers who died in the world and subsequent wars</td>
<td>$765</td>
<td></td>
</tr>
<tr>
<td>Stroud Rodeo Association Inc</td>
<td>Stroud Rodeo Association Facility Safety Upgrade</td>
<td>Improve and upgrade the much-needed safety aspects of facility and grounds (arena fencing and reinforce barrier fence between livestock and spectators) in order to run first-class events</td>
<td>$2,000</td>
<td></td>
</tr>
<tr>
<td>Alesco Senior College</td>
<td>Alesco Senior School - iPad project</td>
<td>Provision of iPads for students. Alesco school assists students who have disengaged from mainstream schooling (due to bullying, adverse home situation etc) to achieve an HSC qualification</td>
<td>$2,000</td>
<td></td>
</tr>
<tr>
<td>Forster Arts &amp; Crafts</td>
<td>50th Anniversary of Forster Arts &amp; Crafts</td>
<td>Host function to celebrate 50th anniversary, hold special displays during August 2016, coordinate production of a wall hanging made by members to commemorate 50th anniversary</td>
<td>$1,200</td>
<td></td>
</tr>
<tr>
<td>Great Lakes Historical Society</td>
<td>Community Participation at the Museum</td>
<td>Purchase of new computer and printer to enhance community participation to allow family history research, volunteers to research out-of-town requests for assistance, assist local school children with research, projects &amp; learning local culture</td>
<td>$2,000</td>
<td></td>
</tr>
<tr>
<td>Myall Coast Little Athletics</td>
<td>Scissor Mats</td>
<td>Provision of safety scissor mats for U9 and U10 age groups to enable skill development for high jump to comply with Little Athletics NSW Policy</td>
<td>$1,800</td>
<td></td>
</tr>
<tr>
<td>Great Lakes Australian Filipino Society Inc</td>
<td>GLAS inc Get Together</td>
<td>Multicultural celebration get together in December 2016</td>
<td>$1,790</td>
<td></td>
</tr>
<tr>
<td>Applicant Organisation</td>
<td>Project</td>
<td>Short Description</td>
<td>Amount Requested</td>
<td></td>
</tr>
<tr>
<td>-----------------------------------------------</td>
<td>------------------------------------</td>
<td>------------------------------------------------------------------------------------</td>
<td>------------------</td>
<td></td>
</tr>
<tr>
<td>Great Lakes Band</td>
<td>Gazebo purchase</td>
<td>Purchase a large and small gazebo with pegs and ropes, and two feather flags, required to provide sun protection when the band is playing at outdoor events</td>
<td>$1,000</td>
<td></td>
</tr>
<tr>
<td>Great Lakes FM</td>
<td>Additional Funds for Solar Panels</td>
<td>Provision of solar panels to reduce power costs (currently 12.5% of total expenses)</td>
<td>$2,000</td>
<td></td>
</tr>
<tr>
<td>Tea Gardens Hawks Nest Preschool</td>
<td>Storage Shelving</td>
<td>Shelving for new storage room</td>
<td>$2,000</td>
<td></td>
</tr>
<tr>
<td>Great Lakes and Manning Stroke Recovery Club</td>
<td>Coach Trip</td>
<td>Enable members with post-stroke disabilities to attend a weekend away trip. These people typically cannot travel with mainstream tours or transport options due to their disabilities. This trip will cater to their special needs</td>
<td>$2,000</td>
<td></td>
</tr>
<tr>
<td>Bulahdelah Chamber of Commerce &amp; Tourism</td>
<td>Pool Surveillance</td>
<td>Installation of CCTV camera and infrastructure at Bulahdelah Community Pool to manage anti-social behaviour</td>
<td>$1,100</td>
<td></td>
</tr>
<tr>
<td>Great Lakes Art Society</td>
<td>Collagraph Printmaking</td>
<td>Purchase small printing press and run classes in collagraph printmaking at Forster Gallery</td>
<td>$2,000</td>
<td></td>
</tr>
<tr>
<td>Tea Gardens Hawks Nest Family Research Inc</td>
<td>Update Equipment</td>
<td>Provision of new chairs. Existing chairs were donated in 2002 and need replacing</td>
<td>$1,000</td>
<td></td>
</tr>
</tbody>
</table>

The Grants Committee also recommend the donation of $2,000 to the Forster Tuncurry Women's Refuge.

The following is a list of the applications received which the Grants Committee deemed to be UNSUCCESSFUL.

<table>
<thead>
<tr>
<th>Applicant Organisation</th>
<th>Project</th>
<th>Short Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forster Tuncurry Bodyboard Association</td>
<td>Boogie Youth Development Clinics 2016</td>
<td>Provision of education, motivation, inspiration, community building and support for indigenous and youth at risk, via surf coaching lessons. Youth learn surf awareness, real-life rescue techniques, community development</td>
<td>$2,000</td>
</tr>
<tr>
<td>Tobwabba Aboriginal Medical Service</td>
<td>Tobwabba Koori Kids Breakfast Club</td>
<td>Supply breakfast for Koori children to improve concentration in class and manage obesity rates</td>
<td>$2,000</td>
</tr>
<tr>
<td>Manning Valley Neighbourhood Services</td>
<td>Migrants Stay Safe in the Water</td>
<td>Target groups of adult migrants living in the Great Lakes to provide practical skills and theoretical knowledge on keeping safe in the water</td>
<td>$1,840</td>
</tr>
<tr>
<td>Forster Keys Progress &amp; Ratepayers Association</td>
<td>Forster Keys Family Fun Day and Car Show</td>
<td>Assistance with Insurance Costs for annual event which includes rides, markets, car show, boat show, dog show, music, dancing and exhibition speedboat racing</td>
<td>$2,000</td>
</tr>
<tr>
<td>Organisation</td>
<td>Project/Proposal</td>
<td>Description</td>
<td>Budget</td>
</tr>
<tr>
<td>--------------</td>
<td>-----------------</td>
<td>-------------</td>
<td>--------</td>
</tr>
<tr>
<td>Hawks Nest Tea Gardens Progress Association</td>
<td>Renovation of Hawks Nest Scout Hall</td>
<td>Partnership with Progress Association and Manning District Scouts to renovate and upgrade old Scout Hall and bring it up to acceptable safety standards. Will provide activities for younger people and work will be done by volunteers</td>
<td>$2,000</td>
</tr>
<tr>
<td>Forster Neighbourhood Centre</td>
<td>Better Reading Better Communities</td>
<td>Provision of education and cultural support to Aboriginal Students (years 5 &amp; 6) who are making the transition to high school</td>
<td>$2,000</td>
</tr>
<tr>
<td>Hawks Nest Bridge Club</td>
<td>Building a clubhouse for Hawks Nest Bridge Club</td>
<td>Provision of whitegoods for new clubhouse tea room (fridge, microwave, dishwasher)</td>
<td>$1,980</td>
</tr>
<tr>
<td>Pacific Palms Surf Life Saving Club</td>
<td>Purchase of two portable UHF 2-way radios</td>
<td>During rescues and other emergencies, communication between lifesaving Personnel is vital for the safety of the public and lifesavers. Upgrade of existing 2-way radios is urgently required</td>
<td>$1,677</td>
</tr>
<tr>
<td>Voci Stupende</td>
<td>Voci Stupende visits Tuncurry</td>
<td>Recital in Tuncurry on Sunday 8 May, provides performance opportunity for young singers and accompanists and gives the GL Community the chance to hear a calibre of fine performance without travelling to Sydney</td>
<td>$1,650</td>
</tr>
<tr>
<td>Forster Surf Life Saving Club</td>
<td>Forster Surf Club Awareness Schools</td>
<td>Coordination and running of Surf Awareness schools during school holidays to improve knowledge of residents and visitors of risks associated with beaches. Purchase of high visibility rash shirts for volunteers</td>
<td>$2,000</td>
</tr>
<tr>
<td>Forster Tuncurry Church of Christ</td>
<td>Community Playgroup</td>
<td>Provide safe space for young families in the community for social interaction</td>
<td>$2,000</td>
</tr>
<tr>
<td>Tea Gardens Hawks Nest Men's Shed</td>
<td>Restoration of Model Droughter</td>
<td>Complete restoration of existing model in dire need of repair. To be displayed on Waterfront for educational and historic purposes, become a tourist attraction</td>
<td>$1,600</td>
</tr>
<tr>
<td>Tea Gardens Hawks Nest Surf Lifesaving Club</td>
<td>Nipper Surf Board Purchase</td>
<td>Purchase additional Nipper Soft Boards for training junior members' Board riding skills - essential for surf rescues</td>
<td>$2,000</td>
</tr>
<tr>
<td>Wootton Hall Committee</td>
<td>Community Gymnasium</td>
<td>Establish small community gymnasium in Wotton to conduct group fitness activities (yoga, pilates, tai chi, etc) to improve the health and wellbeing of the community</td>
<td>$1,800</td>
</tr>
<tr>
<td>Uniting Church Tea Gardens</td>
<td>Regravelling of existing car park</td>
<td>Upgrade car park by correcting slope to improve drainage, and replace gravel</td>
<td>$2,000</td>
</tr>
<tr>
<td>Pink Ladies</td>
<td>Equipment</td>
<td>Fund raising for equipment for the hospital. Also support other organisations like surf life saving clubs</td>
<td>Any amount</td>
</tr>
</tbody>
</table>

It is recommended that these organisations be encouraged to apply in future funding rounds, and also be advised of alternative funding sources, such as the forthcoming ClubGRANTS program.
RECOMMENDATION:

That pursuant to Section 356(1) of the Local Government Act 1993; Great Lakes Council grant financial assistance totalling $31,365 to the 24 groups and organisations listed in this report for the amounts and purposes listed.
SUMMARY OF REPORT:

Council’s Investment report as at 30 April 2016 is provided in accordance with Part 9, Division 5, Section 212 Local Government (General) Regulations 2005.

SUMMARY OF RECOMMENDATION:

That the report be received and noted.

FINANCIAL/RESOURCE IMPLICATIONS:

Interest received to the month ending 30 April 2016 was $1,131,752 with a further $410,523 accrued in respect to the current financial period, totalling $1,542,275 for the year to date.

POLICY IMPLICATIONS:

Nil

LEGAL IMPLICATIONS:

Nil

LIST OF ANNEXURES:

A: Investments held as at 30 April 2016
B: Monthly Interest Comparison
C: Responsible Accounting Officer Certificate

LIST OF ATTACHMENTS:

Nil.

REPORT:

Pursuant to Part 9, Division 5, Section 212, Local Government (General) Regulations 2005 Clause 1(a) attached (Annexure A) are details of all money that Council has invested in accordance with Section 625 of the Local Government Act 1993.

Council’s investments as at 30 April 2016 amounted to $53,439,643. It should be noted that the amount currently invested represents all Council’s external and internal restrictions (i.e. grants, Section 94 funds, loans, crown reserves, etc) as well as cash flow requirements of which a detailed summary is included in Council’s Investment Policy to the 30 June 2015.

The following table provides a summary of movement of Investments for the month of April 2016.
<table>
<thead>
<tr>
<th>Investment Type</th>
<th>Opening Balance</th>
<th>Movement</th>
<th>Closing Balance Fair Value</th>
<th>Portfolio %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Term Deposits</td>
<td>$25,250,000</td>
<td>-$2,000,000</td>
<td>$23,250,000</td>
<td>43.51%</td>
</tr>
<tr>
<td>Managed FRNs &amp; FTDs</td>
<td>$26,042,640</td>
<td>$0</td>
<td>$26,042,640</td>
<td>48.73%</td>
</tr>
<tr>
<td>On Call Deposits</td>
<td>$4,223,863</td>
<td>-$76,860</td>
<td>$4,147,003</td>
<td>7.76%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$55,516,503</strong></td>
<td><strong>-$2,076,860</strong></td>
<td><strong>$53,439,643</strong></td>
<td><strong>100.00%</strong></td>
</tr>
</tbody>
</table>

Whilst Annexure A provides a detailed summary of each investment held by Council, the following table provides an analysis of those investments based on their maturity horizon, the actual amount and percentage invested, the benchmark return and the actual weighted average return for the month.

<table>
<thead>
<tr>
<th>Investment Horizon</th>
<th>Amount Invested</th>
<th>Actual % of Portfolio</th>
<th>Targeted Minimum Return</th>
<th>Weighted Average Monthly Return</th>
<th>Investment</th>
</tr>
</thead>
<tbody>
<tr>
<td>On Call</td>
<td>$4,147,003</td>
<td>7.76%</td>
<td>Cash Rate (2.00%)</td>
<td>2.16%</td>
<td>On Call Accounts</td>
</tr>
<tr>
<td>0-3 Months</td>
<td>$13,250,000</td>
<td>24.79%</td>
<td>BBSW +20-40 (2.46%)</td>
<td>3.16%</td>
<td>Term Deposits, FRNs, FTDs</td>
</tr>
<tr>
<td>3-6 Months</td>
<td>$8,992,640</td>
<td>16.83%</td>
<td>BBSW +30-50 (2.56%)</td>
<td>3.11%</td>
<td>Term Deposits, FRNs, FTDs</td>
</tr>
<tr>
<td>6-12 Months</td>
<td>$4,000,000</td>
<td>7.49%</td>
<td>BBSW +40-60 (2.66%)</td>
<td>4.26%</td>
<td>Term Deposits, FRNs, FTDs</td>
</tr>
<tr>
<td>1-2 Years</td>
<td>$6,300,000</td>
<td>11.79%</td>
<td>BBSW +80-100 (3.06%)</td>
<td>3.72%</td>
<td>Term Deposits, FRNs, FTDs</td>
</tr>
<tr>
<td>Greater</td>
<td>$16,750,000</td>
<td>31.34%</td>
<td>BBSW +100 (3.26%)</td>
<td>3.47%</td>
<td>Term Deposits, FRNs, FTDs</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$53,439,643</strong></td>
<td><strong>100.00%</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Council uses a weighted average when determining the return (interest rate) on investments within any given period. A weighted average calculation takes into account the interest rate applied to each investment and the actual amount of each investment. The greater the amount invested the more weight its interest rate carries.

Council's investment portfolio remains weighted to shorter term investments, however, more floating rate notes have been acquired in recent months. A structural review of Council's portfolio will be undertaken to determine the appropriate mix of investments to obtain the optimum return and security.

The following table provides a break-up of Council's investments into long and short term with their corresponding credit ratings.

<table>
<thead>
<tr>
<th>Long Term Credit Rating</th>
<th>% Of Portfolio</th>
<th>Short Term Credit Rating</th>
<th>% Of Portfolio</th>
</tr>
</thead>
<tbody>
<tr>
<td>AA</td>
<td>11.23%</td>
<td>A1</td>
<td>34.41%</td>
</tr>
<tr>
<td>A</td>
<td>16.37%</td>
<td>A2</td>
<td>26.20%</td>
</tr>
<tr>
<td>BBB &amp; Unrated</td>
<td>3.74%</td>
<td>Unrated</td>
<td>8.05%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>31.34%</strong></td>
<td></td>
<td><strong>68.66%</strong></td>
</tr>
</tbody>
</table>

Long term investments are investments with a maturity of greater than 2 years.
One of the primary goals of any investment portfolio is to ensure that there is suitable diversification in how funds are invested and whilst Council has predominately used Term Deposits in recent years it has been conscious of not over investing with any one institution.

The following table provides a summary of Council's investments dissected into counterparties (organisations), credit ratings, maximum limits for each credit rating as determined in Council's Investment Policy and the current level of exposure with each counterparty.

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Credit Rating</th>
<th>Limit</th>
<th>Actual</th>
</tr>
</thead>
<tbody>
<tr>
<td>NAB</td>
<td>A1/AA</td>
<td>25%</td>
<td>17.79%</td>
</tr>
<tr>
<td>Bank QLD</td>
<td>A2/A+</td>
<td>15%</td>
<td>7.50%</td>
</tr>
<tr>
<td>CBA</td>
<td>A1/AA-</td>
<td>25%</td>
<td>7.34%</td>
</tr>
<tr>
<td>AMP</td>
<td>A1/A+</td>
<td>15%</td>
<td>6.97%</td>
</tr>
<tr>
<td>Bendigo</td>
<td>A2/BBB+</td>
<td>10%</td>
<td>5.61%</td>
</tr>
<tr>
<td>Macquarie Bank</td>
<td>A</td>
<td>15%</td>
<td>5.61%</td>
</tr>
<tr>
<td>CUA</td>
<td>A2/BBB+</td>
<td>10%</td>
<td>3.74%</td>
</tr>
<tr>
<td>Defence Bank</td>
<td>A-2/BBB+</td>
<td>10%</td>
<td>3.74%</td>
</tr>
<tr>
<td>ING</td>
<td>A1/A</td>
<td>15%</td>
<td>3.74%</td>
</tr>
<tr>
<td>ME Bank</td>
<td>A2/BBB</td>
<td>10%</td>
<td>3.74%</td>
</tr>
<tr>
<td>Police Credit Union SA</td>
<td>NR</td>
<td>6%</td>
<td>3.74%</td>
</tr>
<tr>
<td>RaboDirect</td>
<td>A-1/A+</td>
<td>25%</td>
<td>3.74%</td>
</tr>
<tr>
<td>St George</td>
<td>A1/AA-</td>
<td>25%</td>
<td>3.74%</td>
</tr>
<tr>
<td>Suncorp</td>
<td>A1/A+</td>
<td>15%</td>
<td>3.74%</td>
</tr>
<tr>
<td>Newcastle Permanent</td>
<td>BBB+</td>
<td>10%</td>
<td>2.43%</td>
</tr>
<tr>
<td>ANZ</td>
<td>A-1+/AA-</td>
<td>25%</td>
<td>1.87%</td>
</tr>
<tr>
<td>Auswide Bank</td>
<td>A-2/BBB</td>
<td>10%</td>
<td>1.87%</td>
</tr>
<tr>
<td>Bananacoast CU</td>
<td>NR</td>
<td>6%</td>
<td>1.87%</td>
</tr>
<tr>
<td>Credit Suisse</td>
<td>A</td>
<td>15%</td>
<td>1.87%</td>
</tr>
<tr>
<td>Greater</td>
<td>A2/BBB</td>
<td>10%</td>
<td>1.87%</td>
</tr>
<tr>
<td>My State Bank</td>
<td>A-2/BBB</td>
<td>10%</td>
<td>1.87%</td>
</tr>
<tr>
<td>Police Bank</td>
<td>A2/BBB+</td>
<td>10%</td>
<td>1.87%</td>
</tr>
<tr>
<td>Teachers Mutual Bank</td>
<td>A2/BBB+</td>
<td>10%</td>
<td>1.87%</td>
</tr>
<tr>
<td>Westpac</td>
<td>A1/AA-</td>
<td>25%</td>
<td>1.87%</td>
</tr>
</tbody>
</table>

The total interest physically received to the month ending 30 April 2016, was $1,131,752 with a further $410,523 accrued in respect to the current financial period, totalling $1,542,275 for the year to date.

Based on current trends, the return on Council's investment portfolio will exceed budget by approximately $50,000 and this was adjusted in the March Quarterly Review.

**RECOMMENDATION:**

That the report be received and noted.
### ANNEXURES:

**A: Investments held as at 30 April 2016**

<table>
<thead>
<tr>
<th>Security Type</th>
<th>Investment Date</th>
<th>Interest Rate Notes</th>
<th>Fair Value</th>
<th>Maturity Date</th>
<th>Amount Invested</th>
<th>Credit Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>FRN</td>
<td>11/02/2016</td>
<td>BESW +110</td>
<td>$790,000.00</td>
<td>30/04/2017</td>
<td>$1,000,000.00</td>
<td>A/A+</td>
</tr>
<tr>
<td>FRN</td>
<td>24/02/2014</td>
<td>BESW +113</td>
<td>$1,000,000.00</td>
<td>27/05/2017</td>
<td>$1,000,000.00</td>
<td>A,/A</td>
</tr>
<tr>
<td>FRN</td>
<td>24/02/2014</td>
<td>BESW +110</td>
<td>$1,000,000.00</td>
<td>28/05/2017</td>
<td>$1,000,000.00</td>
<td>A,+/A</td>
</tr>
<tr>
<td>FRN</td>
<td>12/01/2013</td>
<td>BESW +130</td>
<td>$1,000,000.00</td>
<td>18/06/2017</td>
<td>$1,000,000.00</td>
<td>A,+/A</td>
</tr>
<tr>
<td>FRN</td>
<td>19/06/2013</td>
<td>BESW +120</td>
<td>$1,000,000.00</td>
<td>18/06/2018</td>
<td>$1,000,000.00</td>
<td>A,+/A</td>
</tr>
<tr>
<td>FRN</td>
<td>18/09/2013</td>
<td>BESW +130</td>
<td>$1,000,000.00</td>
<td>18/09/2018</td>
<td>$1,000,000.00</td>
<td>A,+/A</td>
</tr>
<tr>
<td>FRN</td>
<td>30/09/2011</td>
<td>BESW +170</td>
<td>$1,000,000.00</td>
<td>30/09/2017</td>
<td>$1,000,000.00</td>
<td>A,+/A</td>
</tr>
<tr>
<td>FRN</td>
<td>29/01/2012</td>
<td>BESW +160</td>
<td>$1,000,000.00</td>
<td>30/01/2017</td>
<td>$1,000,000.00</td>
<td>A,+/A</td>
</tr>
<tr>
<td>FRN</td>
<td>30/02/2013</td>
<td>BESW +130</td>
<td>$1,000,000.00</td>
<td>30/02/2018</td>
<td>$1,000,000.00</td>
<td>A,+/A</td>
</tr>
<tr>
<td>FRN</td>
<td>29/02/2014</td>
<td>BESW +130</td>
<td>$1,000,000.00</td>
<td>17/03/2019</td>
<td>$1,000,000.00</td>
<td>A,+/A</td>
</tr>
<tr>
<td>FRN</td>
<td>15/11/2015</td>
<td>BESW +102</td>
<td>$1,000,000.00</td>
<td>15/11/2020</td>
<td>$1,000,000.00</td>
<td>A,+/A</td>
</tr>
<tr>
<td>FRN</td>
<td>26/02/2016</td>
<td>BESW +110</td>
<td>$1,000,000.00</td>
<td>26/02/2021</td>
<td>$1,000,000.00</td>
<td>A,+/A</td>
</tr>
<tr>
<td>FRN</td>
<td>16/11/2016</td>
<td>BESW +108</td>
<td>$1,000,000.00</td>
<td>16/11/2021</td>
<td>$1,000,000.00</td>
<td>A,+/A</td>
</tr>
<tr>
<td>FRN</td>
<td>30/02/2016</td>
<td>BESW +190</td>
<td>$1,000,000.00</td>
<td>30/03/2021</td>
<td>$1,000,000.00</td>
<td>A,+/A</td>
</tr>
<tr>
<td>FRN</td>
<td>07/03/2017</td>
<td>BESW +175</td>
<td>$1,000,000.00</td>
<td>07/03/2022</td>
<td>$1,000,000.00</td>
<td>A,+/A</td>
</tr>
<tr>
<td>FRN</td>
<td>10/04/2017</td>
<td>BESW +175</td>
<td>$1,000,000.00</td>
<td>10/04/2022</td>
<td>$1,000,000.00</td>
<td>A,+/A</td>
</tr>
<tr>
<td>FRN</td>
<td>20/10/2017</td>
<td>BESW +175</td>
<td>$1,000,000.00</td>
<td>23/10/2022</td>
<td>$1,000,000.00</td>
<td>A,+/A</td>
</tr>
<tr>
<td>FRN</td>
<td>27/02/2018</td>
<td>BESW +175</td>
<td>$1,000,000.00</td>
<td>27/02/2023</td>
<td>$1,000,000.00</td>
<td>A,+/A</td>
</tr>
<tr>
<td>FRN</td>
<td>27/03/2019</td>
<td>BESW +175</td>
<td>$1,000,000.00</td>
<td>27/03/2024</td>
<td>$1,000,000.00</td>
<td>A,+/A</td>
</tr>
<tr>
<td>FRN</td>
<td>27/05/2020</td>
<td>BESW +175</td>
<td>$1,000,000.00</td>
<td>27/05/2025</td>
<td>$1,000,000.00</td>
<td>A,+/A</td>
</tr>
<tr>
<td>FRN</td>
<td>12/12/2020</td>
<td>BESW +175</td>
<td>$1,000,000.00</td>
<td>12/12/2026</td>
<td>$1,000,000.00</td>
<td>A,+/A</td>
</tr>
</tbody>
</table>

**Total:** $12,962,840.00
### Floating Term Deposits

<table>
<thead>
<tr>
<th>Date</th>
<th>Rate</th>
<th>Type</th>
<th>Amount Invested</th>
<th>Maturity Date</th>
<th>Bank</th>
<th>Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>19/02/2015</td>
<td>3.2800%</td>
<td>FTD</td>
<td>$1,000,000.00</td>
<td>21/02/2020</td>
<td>ING</td>
<td>A1/AA</td>
</tr>
<tr>
<td>19/02/2015</td>
<td>3.2400%</td>
<td>FTD</td>
<td>$1,000,000.00</td>
<td>19/02/2016</td>
<td>NAB</td>
<td>A1/AA</td>
</tr>
<tr>
<td>11/12/2014</td>
<td>3.6000%</td>
<td>FTD</td>
<td>$1,000,000.00</td>
<td>11/12/2019</td>
<td>NAB</td>
<td>A1/AA</td>
</tr>
<tr>
<td>11/12/2014</td>
<td>3.6000%</td>
<td>FTD</td>
<td>$1,000,000.00</td>
<td>11/12/2019</td>
<td>NAB</td>
<td>A1/AA</td>
</tr>
<tr>
<td>1/12/2015</td>
<td>3.0000%</td>
<td>FTD</td>
<td>$1,000,000.00</td>
<td>1/12/2020</td>
<td>WESTPAC</td>
<td>A1/AA</td>
</tr>
</tbody>
</table>

**Floating Term Deposits**

$5,000,000.00

### On Call Bank Accounts

<table>
<thead>
<tr>
<th>Date</th>
<th>Rate</th>
<th>Type</th>
<th>Amount Invested</th>
<th>Bank</th>
<th>Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>30/04/2016</td>
<td>2.3000%</td>
<td>On call</td>
<td>$2,224,323.05</td>
<td>AMP</td>
<td>A1/A+</td>
</tr>
<tr>
<td>30/04/2016</td>
<td>2.0000%</td>
<td>On call</td>
<td>$1,022,880.23</td>
<td>CBA Business Saver</td>
<td>A1/AA+</td>
</tr>
</tbody>
</table>

**On Call**

$4,147,203.28

### Term Deposits

<table>
<thead>
<tr>
<th>Date</th>
<th>Interest Rate</th>
<th>Security Type</th>
<th>Duration</th>
<th>Amount Invested</th>
<th>Maturity Date</th>
<th>Held With</th>
<th>Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>19/08/2015</td>
<td>2.9000%</td>
<td>Term Deposit</td>
<td>268</td>
<td>$750,000.00</td>
<td>13/06/2016</td>
<td>AMP</td>
<td>A1/A+</td>
</tr>
<tr>
<td>11/03/2016</td>
<td>3.0500%</td>
<td>Term Deposit</td>
<td>140</td>
<td>$1,000,000.00</td>
<td>29/07/2016</td>
<td>ANZ</td>
<td>A-1+/AA-</td>
</tr>
<tr>
<td>19/02/2016</td>
<td>3.0600%</td>
<td>Term Deposit</td>
<td>175</td>
<td>$1,000,000.00</td>
<td>12/06/2016</td>
<td>Auswide Bank Ltd</td>
<td>A-2/BBB</td>
</tr>
<tr>
<td>17/06/2014</td>
<td>4.0200%</td>
<td>Term Deposit</td>
<td>731</td>
<td>$1,000,000.00</td>
<td>17/06/2016</td>
<td>Bananacoast Credit Union</td>
<td>NR</td>
</tr>
<tr>
<td>23/11/2015</td>
<td>2.9500%</td>
<td>Term Deposit</td>
<td>168</td>
<td>$1,000,000.00</td>
<td>6/05/2016</td>
<td>Bank of Queensland</td>
<td>A2/A+</td>
</tr>
<tr>
<td>5/03/2016</td>
<td>3.0500%</td>
<td>Term Deposit</td>
<td>182</td>
<td>$1,000,000.00</td>
<td>5/08/2016</td>
<td>CUJA</td>
<td>A2/BBB+</td>
</tr>
<tr>
<td>1/12/2015</td>
<td>3.0500%</td>
<td>Term Deposit</td>
<td>176</td>
<td>$1,000,000.00</td>
<td>27/05/2016</td>
<td>Defence Bank</td>
<td>A-2/BBB+</td>
</tr>
<tr>
<td>1/12/2015</td>
<td>3.0500%</td>
<td>Term Deposit</td>
<td>185</td>
<td>$1,000,000.00</td>
<td>3/06/2016</td>
<td>Defence Bank</td>
<td>A-2/BBB+</td>
</tr>
<tr>
<td>23/10/2014</td>
<td>5.5400%</td>
<td>Term Deposit</td>
<td>1096</td>
<td>$1,000,000.00</td>
<td>23/10/2017</td>
<td>ING</td>
<td>A1/AA</td>
</tr>
<tr>
<td>10/12/2015</td>
<td>3.0500%</td>
<td>Term Deposit</td>
<td>211</td>
<td>$1,000,000.00</td>
<td>8/07/2016</td>
<td>ME Bank</td>
<td>A2/BBB+</td>
</tr>
<tr>
<td>15/04/2016</td>
<td>3.0500%</td>
<td>Term Deposit</td>
<td>147</td>
<td>$1,000,000.00</td>
<td>9/09/2016</td>
<td>ME Bank</td>
<td>A2/BBB+</td>
</tr>
<tr>
<td>4/03/2016</td>
<td>3.0700%</td>
<td>Term Deposit</td>
<td>168</td>
<td>$1,000,000.00</td>
<td>19/08/2016</td>
<td>My State</td>
<td>A-2/BBB</td>
</tr>
<tr>
<td>Date</td>
<td>Interest Rate</td>
<td>Type</td>
<td>Tenor</td>
<td>Amount</td>
<td>Expiry</td>
<td>institution</td>
<td>Rating</td>
</tr>
<tr>
<td>------------</td>
<td>---------------</td>
<td>-----------</td>
<td>-------</td>
<td>-----------</td>
<td>----------</td>
<td>-------------</td>
<td>--------</td>
</tr>
<tr>
<td>27/11/2015</td>
<td>2.940%</td>
<td>Term Deposit</td>
<td>175</td>
<td>$1,500,000.00</td>
<td>20/05/2016</td>
<td>NAB</td>
<td>A1/AA</td>
</tr>
<tr>
<td>10/12/2015</td>
<td>2.970%</td>
<td>Term Deposit</td>
<td>183</td>
<td>$1,000,000.00</td>
<td>10/06/2016</td>
<td>NAB</td>
<td>A1/AA</td>
</tr>
<tr>
<td>15/01/2016</td>
<td>3.050%</td>
<td>Term Deposit</td>
<td>182</td>
<td>$1,000,000.00</td>
<td>15/07/2016</td>
<td>NAB</td>
<td>A1/AA</td>
</tr>
<tr>
<td>26/02/2016</td>
<td>3.030%</td>
<td>Term Deposit</td>
<td>147</td>
<td>$1,000,000.00</td>
<td>22/07/2016</td>
<td>NAB</td>
<td>A1/AA</td>
</tr>
<tr>
<td>12/02/2016</td>
<td>3.020%</td>
<td>Term Deposit</td>
<td>182</td>
<td>$1,000,000.00</td>
<td>12/08/2016</td>
<td>NAB</td>
<td>A1/AA</td>
</tr>
<tr>
<td>2/06/2014</td>
<td>4.120%</td>
<td>Term Deposit</td>
<td>731</td>
<td>$1,000,000.00</td>
<td>2/06/2016</td>
<td>Police Credit Union SA</td>
<td>NR</td>
</tr>
<tr>
<td>27/02/2015</td>
<td>3.400%</td>
<td>Term Deposit</td>
<td>735</td>
<td>$1,000,000.00</td>
<td>3/03/2017</td>
<td>Police Credit Union SA</td>
<td>NR</td>
</tr>
<tr>
<td>15/02/2015</td>
<td>6.590%</td>
<td>Term Deposit</td>
<td>1095</td>
<td>$1,000,000.00</td>
<td>14/02/2017</td>
<td>RaboDirect</td>
<td>A-1/A+</td>
</tr>
<tr>
<td>11/12/2015</td>
<td>3.000%</td>
<td>Term Deposit</td>
<td>196</td>
<td>$1,000,000.00</td>
<td>24/06/2016</td>
<td>St George</td>
<td>A1/AA-</td>
</tr>
<tr>
<td>4/03/2016</td>
<td>3.000%</td>
<td>Term Deposit</td>
<td>175</td>
<td>$1,000,000.00</td>
<td>26/08/2016</td>
<td>St George</td>
<td>A1/AA-</td>
</tr>
<tr>
<td>9/04/2016</td>
<td>3.050%</td>
<td>Term Deposit</td>
<td>147</td>
<td>$1,000,000.00</td>
<td>2/09/2016</td>
<td>Suncorp</td>
<td>A1/A+</td>
</tr>
</tbody>
</table>

| Term Deposits | $23,250,000.00 |

| TOTAL INVESTMENTS | $53,439,643.28 |
B: Monthly Interest Comparison
Investment Certificate

In accordance with the provisions of the Local Government (General) Regulations, Part 9 Division 5 Clause 212, I certify that Council's Investments have been made in accordance with the Local Government Act 1993, Regulations and Council's Investment Policy.

This certificate is to be read in conjunction with the Investment Report and Annexures for the month of April 2016.

....................................................

Phil Brennan
Responsible Accounting Officer
17 May 2016
CLOSED COUNCIL

17 PESCONF - Acquisition of Lot 36 DP822638 & Lot 230 DP753212 - Minimbah

Index: NS-Catch-WL-Wetland
Author: Manager Natural Systems - Gerard Tuckerman
Ordinary Meeting: 25 May 2016

REASON FOR CONFIDENTIALITY:

This report is CONFIDENTIAL in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:

(c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

It is considered that it would be contrary to the public interest for this matter to be discussed in an open meeting. The disclosure of information such as valuation ranges and negotiated prices prior to acceptance may disadvantage Council in ensuring that only a reasonable price is paid for land and that ratepayers are not impacted by Council having to pay a premium.

Glenn Handford
INTERIM GENERAL MANAGER