

# NOTICE OF MEETING

Notice is hereby given that a meeting of

**MidCoast**Council

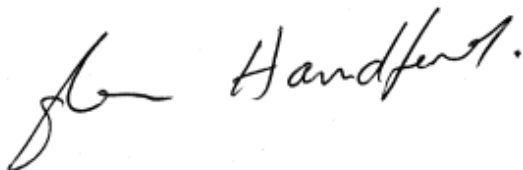
## DEVELOPMENT CONTROL UNIT

**Will be held at the Administration Centre, 4 Breese Parade, Forster**

**12 APRIL 2017 AT 2.00PM**

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

1. Declaration of Pecuniary or Conflicts of Interest (nature of Interest to be Disclosed)
2. Apologies
3. Confirmation of Minutes
4. Matters Arising from Minutes
5. Address from the Public Gallery
6. Matters for Information
7. Close of Meeting



**Glenn Handford**  
**INTERIM GENERAL MANAGER**

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**CONSIDERATION OF OFFICERS' REPORTS:**

**DIRECTOR PLANNING & NATURAL SYSTEMS**

**1 DA-110-2017 DEMOLITION OF DWELLING, ADDITION TO EXISTING CARPARK - STAGED**

**Report Author** Petula Bowden- Senior Town Planner

**File No. / ECM Index** 10/2017/DA

**Date of Meeting** 12 April 2017

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**DETAILS**

Date Received: 30 August 2016

Applicant: Mark Anthony Harley

Owner: Chatham Glen Pty Ltd

Land: Lot 158 DP 13754 and Lot 2 DP 783985  
43 Bruntnell Street and 16 Oxley Street Taree

Area: 4376m<sup>2</sup>

Zoning: B6 Enterprise Corridor and R1 Residential - Greater Taree Local Environmental Plan 2010

**SUMMARY OF REPORT**

- This development application proposes demolition of an existing dwelling house and the expansion of an existing car park associated with a hotel.
- The application was notified between 5 September 2016 and 23 September 2016 and a total of three (3) submissions objecting to the proposal were received.

**SUMMARY OF RECOMMENDATION**

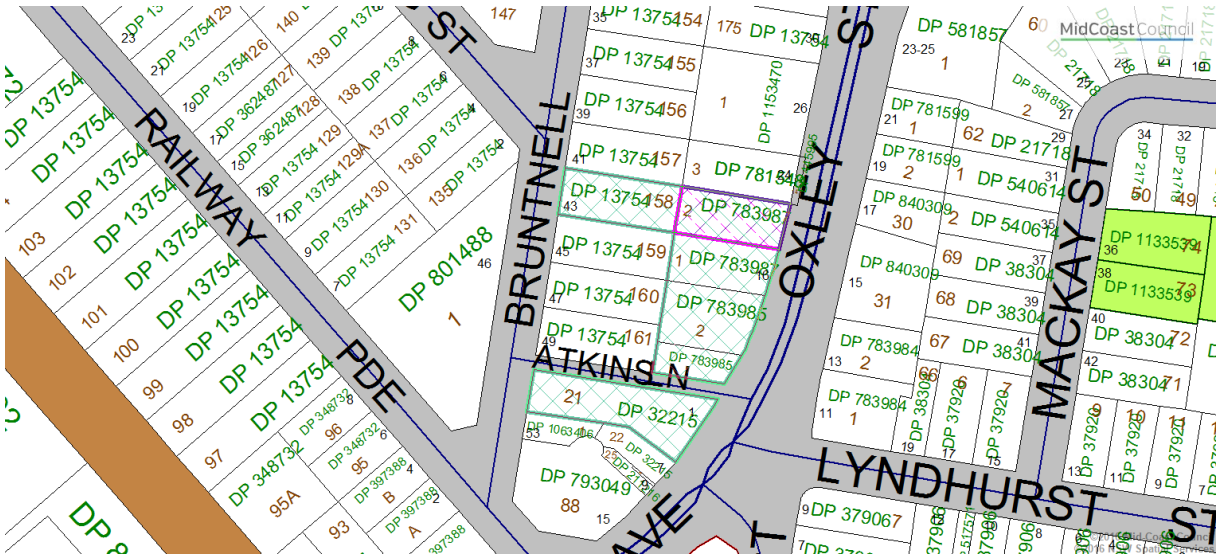
That Development Application 110/2017/DA for the Demolition of a Dwelling and Addition to Existing Car Park (Staged) on Lot 158 DP 13754 and Lot 1 DP 783985, No. 43 Bruntnell Street and 16 Oxley Street Taree, be approved subject to conditions.

**FINANCIAL/RESOURCE IMPLICATIONS**

Nil.

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## SUBJECT SITE AND LOCALITY



The Manning Hotel and Motel comprises several properties fronting Oxley Street Taree as shown above. The works the subject of this application are proposed to be carried out on Lot 2 DP 783987 and Lot 158 DP 13754 [the site].

Lot 158 has access to Bruntnell Street and has a dwelling house which is proposed to be demolished to facilitate the car park expansion.

The lots are both rectangular in shape and slope to Oxley Street. There is no significant vegetation on the site.

### Existing Development

The site currently contains the Manning River Hotel Motel and Bottle Shop. The development on the site has a combined floor area of some 900 m<sup>2</sup> along with a 28 space car park.

Access to the site is currently gained from both a driveway crossing to the front section of the hotel along with the formal car park driveway which also serves as an exit driveway for bottle shop patrons.



## PROPOSAL

This application seeks to expand the exiting car parking area associated with the Manning River Hotel onto adjoining land at the rear of the site (No. 43 Bruntnell Street). A 28 space carpark is proposed to be expanded to 48 spaces in Stage1 (additional 20), and 62 at Stage 2 (additional 14).



Stage 1 will include the demolition of the existing dwelling house. Stage 2 will include the access opening to Bruntnell Street for both incoming and outgoing vehicles and patrons.

## SITE DESCRIPTION

The subject site is located at the intersection of Atkins Lane and Oxley Street Cundletown and has an area of 3364m<sup>2</sup>. The site currently contains the Manning River Hotel, Bottleshop and Motel and has vehicular access provided from Oxley Street. A car park comprising 28 spaces is located to the north of the site to service the hotel and bottleshop.

The site slopes to Oxley Street. When combined with Lot 43 (1012m<sup>2</sup>) the site area will increase to 4376m<sup>2</sup>. Lot 43 currently contains a single storey dwelling house and associated outbuildings. The dwelling is constructed of weatherboard and tile and has access to Bruntnell Street. A church is situated directly opposite the site. There is no significant vegetation on 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.***

### **Greater Taree Local Environmental Plan 2010 (GTLEP 2010)**

The subject site is zoned R1 Residential and B6 Enterprise Corridor pursuant to Greater Taree Local Environmental Plan 2010 [LEP]. A car park is development permissible with the consent of Council in both of these zones. The LEP defines a car park to mean:

*'a building or place primarily used for the purpose of parking motor vehicles, including any maneuvering space and access thereto, whether operated for gain or not.'*

The car park expansion is proposed across the R1 zoned land. The proposal is permissible in this zone and considered to be consistent with the zone objectives.

### **State Environmental Planning Policy**

There are no State Environmental Planning Policies that apply to this site or development proposal.

### **Draft Local Environmental Plan**

There are no draft EPI's that apply to this site.

### **Greater Taree Development Control Plan 2010**

Greater Taree DCP 2010 commenced on 25 June 2010 and applies to this development.

The following sections of Greater Taree DCP 2010 apply to the proposal and are addressed within this report:

#### **Part G –Carparking**

The following Performance Criteria apply to the proposed development:

Performance Criteria	Comment
Wherever practical a minimum 3m set back to the street alignment will be applied in commercial areas.	The proposed car park is to be located on residential zoned land.
Combined entry/exit driveways are to have a minimum width of 6m and singular driveways (separate entry/exit ways) are to have a minimum width of 4m, unless otherwise specified.	The driveway is proposed to have a width of 6m.
Hardstand areas should be minimised, but where used shall be concrete or bitumen and, where soil conditions and vehicular traffic permit, be substantially constructed using semi-pervious materials.	The carpark is to be constructed of concrete and appropriately drained.
The design must incorporate rational circulation pattern.	The carpark proposes 90° angle spaces with a centre isle as per the existing layout.
Entrance/exit facilities must be capable of accommodating peak loads.	The proposed additional exist is specifically to relieve the Oxley Street entrance/exit during peak periods.

Parking, access lanes and manoeuvrability areas shall be constructed, paved and drained in accordance with Council's standards. Parking spaces shall be permanently and clearly identified.	A condition of development consent will require construction and marking in accordance with Council standards.
Parking area surfaces shall be constructed in bitumen or concrete, however the use of alternative and permeable surface treatments is encouraged where soil conditions and vehicular traffic permit.	Parking areas are to be constructed of concrete.
Landscaping is encouraged in car parking areas in order to improve the appearance of the parking area and provide shade. Landscaping should not restrict entry and exit sight lines, nor result in the parking area being difficult to recognise from the street.	Landscaping will be provided on the northern boundary of the site in Bruntnell Street as an extension of the existing landscape garden.
Unless otherwise specified all vehicles must enter and leave the site in a forward direction.	The layout of the carpark is such that vehicles can enter and exit in a forward direction.
Adequate space for the manoeuvring of vehicles, particularly rigid and articulated heavy vehicles (where necessary), is to be provided. A manoeuvre width no less than twice the length of the longest vehicle using the facility is recommended.	The proposed car park layout ensures safe manoeuvring for vehicles. The car park extension at Stage 2 will facilitate through-movement of delivery vehicles.
The design should minimize the potential for vehicular/ pedestrian conflict and should provide a pedestrian connection between the car park and the development.	There is adequate separation between parking lanes to facilitate pedestrian movements.
Parking bays for disabled people are to be provided at the rate of 1 space per 50 car parking spaces and located to allow safe and convenient access to a development. Note: A maximum grade of 1:14 should be provided on all pedestrian ramps used by the disabled.	Disabled car parking spaces are provided near to the Hotel entrance.

**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**

An established hotel known as the Manning Hotel exists on the subject site. The site is located on the former Pacific highway, now known as Oxley Street. The site is surrounded by commercial development of an eclectic nature and includes, a cinema, carwash, car sales yard and bakery. The proposed car park extension is not considered inconsistent with the character of the locality.

### **Site Design and Internal Layout**

The carpark is being designed as an extension to the existing car park and will be identical in terms of layout of spaces. The parking spaces are to be positioned at right angles to the side boundaries with an entry/exist provided onto Bruntnell Street in Stage 2. The layout of the development will facilitate through movements of vehicles at Stage 2, reducing movements onto Oxley Street.

### **Visual Impact**

The proposed car park will have an impact on the streetscape in Bruntnell Street due to the demolition of the dwelling at No.43. This impact is not considered significant as the current streetscape is punctuated by the car yard on the corner of Bruntnell Street and Railway Parade and the church grounds opposite, as well as the rear entrance to the adjoining motel.

### **Access, Transport and Traffic**

Access arrangements to the car park are considered appropriate. Car spaces are proposed in an orderly manner with appropriate size and separation.

The proposed car park is considered necessary to negate the need for patron parking on the nearby street. The hotel currently has a licence that allows 460 patrons inside the building and 308 outside of the building. The expanded car park will facilitate the orderly arrangement of on-site car parking and safer manoeuvring into and out of the site.

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

The site is considered suitable for the proposed use in that it allows for a logical extension of the car park, does not require the removal of any vegetation and can be adequately drained.

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

The application was notified to adjoining property owners between 5 September 2016 and 23 September 2017 and a total of three (3) submissions objecting to the proposal were received. The issues raised on the submissions are summarised and addressed as follows:

<b>Issue</b>	<b>Comment</b>
Noise and disturbance from vehicles and patrons in carpark	Site fencing, landscaping and pavement treatment will ensure that vehicular noise is kept to a minimum and within acceptable levels for a residential area. The expansion of the carpark itself is not likely to increase noise levels emanating from the hotel, nor increase the number of vehicles entering the space.
Devaluation of property	There is no evidence to suggest that the carpark expansion will negatively impact on property values in the area.



Security of adjoining residences	The expansion of the carpark will not impact on the security of the adjoining residences. The site will be fenced and dimly lit with bollard lighting to ensure the safety of users.
Additional traffic on Bruntnell Street	Any additional traffic on Bruntnell Street would likely be residents of the locality entering and exiting the site through a more direct access point. This local street can adequately cater for the additional demand.
Vehicle lights spilling onto neighbouring properties	Vehicles will exit the premises in a forward direction onto either Oxley Street or Bruntnell Street. Headlight spill onto adjoining properties is likely to be negligible given the location of site fencing and carpark orientation. Significant existing street and premises lighting already exists in the vicinity.
Littering in the area	There is no causal link between the extension to the carpark and additional littering in the vicinity of the hotel.

**e) The Public Interest**

The proposed car park is considered to be in the public interest, allowing for a more logical and appropriate development with improved access safety to users. The development can be carried out and managed to ensure minimal impact to the public and the environment.

**CONCLUSION**

The proposal complies with all relevant assessment criteria and it is considered that the development will not have any adverse impacts on the adjoining premises or the character of the locality.

**RECOMMENDATION**

That Development Application 110/2017/DA for the Demolition of a Dwelling and Addition to Existing Car Park (Staged) on Lot 158 DP 13754 and Lot 1 DP 783985, No. 43 Bruntnell Street and 16 Oxley Street Taree, be approved subject to the following conditions:

**General Requirements**

*The following conditions of consent are general conditions applying to the development.*

1. The development is to be carried out in accordance with the details submitted with application **110/2017/DA** and the stamped plans (as amended by the following conditions).
2. Provision being made within the site for a turning area to accommodate a large rigid truck in accordance with the design guidelines of Austroads.

3. The submission to the Accredited Certifier of lighting design drawings for the carpark. The design shall be prepared in accordance with the requirements of AS/NZS 1158 and AS 4282-1997, including the provision of current best practice energy efficient lighting and be approved by the Accredited Certifier.
4. All work required to be carried out within a Public Road Reserve must be separately approved by Council under Section 138 of the Roads Act, 1993. Such works include road openings, temporary work zones (which may involve use of parking spaces), road / kerb & gutter / footway and, driveway crossings.

A separate application must be submitted to and approved by Council. Driveway applications require design approval prior to the issue of a Construction Certificate.

5. A drainage design indicating all engineering details relevant to collection and disposal of stormwater is to be approved by Council in accordance with Section 68 of the Local Government Act, 1993. Details are to include existing site levels, finished levels, pipeline sizes and grades. All stormwater is to be disposed of by a drainage system to Council's drainage network.

A separate application must be made to Council accompanied by the appropriate form and fee.

6. On-site detention must be provided within the development in accordance with Council's on-site detention guidelines. The guidelines require stormwater detention facilities to be provided within the site, which will limit discharge to pre-development levels.

The design must be prepared by a registered surveyor or practicing engineer. The design must be approved by Council, with the appropriate fee in accordance with section 68 of the Local Government Act 1993. The design is to be approved prior to the issue of a Construction Certificate.

The design must incorporate the following:

- a. Downpipe sizes and locations to carry design storm event as per AUSPEC requirement,
- b. Overland flow routes (including design of swales) to carry the difference between the design storm event and the 1% AEP (100 year ARI) storm events,
- c. Any BASIX tanks must have capacity for, and be capable of providing sufficient head to discharge, the design storm event without overflowing to the ground,

Note: AUSPEC requirement for design storm event is 20% AEP (5 year ARI) residential area and 10% AEP (10 year ARI) for industrial area.

7. Plans of the carpark, prepared in accordance with AS 2890.1 Parking Facilities Part 1: Off-street car parking, must be submitted to Council.
8. Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work, must be undertaken by a person who carries on a business of such removal work in accordance with a licence issued under the provisions of Clause 318 of the Occupational Health and Safety Regulation 2001.
  - a. The person having the benefit of the consent must provide the Principal Certifying Authority with a copy of a signed contract before any development pursuant to the consent commences.

- b. Any such contract must indicate whether any bonded asbestos material or friable asbestos material will be removed and if so, must specify the landfill site (that may lawfully receive asbestos) to which the material is to be delivered for disposal.
  - 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.
9. All demolition or construction works, which require the use of footpath area in front of the premises, is to be carried out to ensure minimum interference with pedestrian and vehicular movements. Appropriate traffic control measures are to be undertaken during the works and details of these measures are to be submitted.
10. All demolition work carried out with respect to the development is to be carried out in accordance with the requirements of AS 2601-2001 - The Demolition of Structures.
11. That five (5) working days (i.e. Monday to Friday exclusive of public holidays) prior to the commencement of any demolition work, notice in writing is to be given to the Council. Such written notice is to include:
- a. The date when demolition will commence;
  - b. Details of the name, address and business hours contact telephone number of the demolisher, contractor or developer;
  - c. The licence number of the demolisher, and relevant WorkCover licenses, and;
  - d. Copies of the demolisher's current public liability/risk insurance policy indicating a minimum cover of \$10,000,000.00.

Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover "Demolition License" AND a current WorkCover" Class 2 (Restricted) Asbestos Licence".

Demolition works are restricted as follows:

- a. Monday to Friday inclusive: 7:00am - 5:00pm
  - b. Saturdays: 8.00am-12noon
  - c. Sundays and Public Holidays: No work
12. Erect site fencing to a minimum height of 1.8m complying with WorkCover Guidelines, to exclude public access to the site throughout the demolition. The fencing must be erected before the commencement of any demolition work and maintained. The site shall be maintained in a clean and orderly condition during demolition works.
13. Erosion and sedimentation controls shall be in place prior to the commencement of demolition works and shall be maintained throughout the demolition of the building.
14. Soil erosion and sediment control measures are to be provided on the development site in accordance with Council's Development Control Plan 2010.

15. Council must be provided with photographic evidence of any existing damage to Council infrastructure fronting or adjacent to the development site. Otherwise any damage is assumed to be related to the development and must be rectified in accordance with Council's current standards at no cost to Council.
16. All adjustments to existing utility services made necessary by the development are to be undertaken by the developer at no cost to Council.
17. A galvanised steel non-flexible kerb adaptor, in accordance with Council's Standard Drawing SD 03, must be used for all stormwater connections to the kerb including any existing connections. The kerb adaptor must be set flush with the top of the kerb.
18. A commercial driveway crossing is to be provided by the applicant at the Bruntnell Street vehicle entry location point at no cost to Council in accordance with the approved driveway application and Council Standard Drawings. The driveway must accommodate the turning movements of a large rigid truck.
19. The redundant layback and vehicular crossing at No. 43 Bruntnell Street must be removed and replaced with kerb and gutter to Council's standard. The verge must be restored with topsoil and turf.
20. Parking areas, access lanes and vehicle movement areas are to be constructed, drained and concreted, bitumen sealed or alternatively constructed to a similar standard surface (but not gravel) with the parking spaces permanently and clearly identified.
21. The approved On-site Detention System must be constructed and the following requirements are to be satisfied:
  - a. Works-as-executed details obtained by the person responsible for the design and supervision are to be submitted to verify the storage has been constructed in accordance with the design requirements, and that floor levels are above the minimum required. Any significant variations must be supported by amended calculations.
  - b. Verification that an appropriate '88B Restriction as to User' or transfer granting easement (in accordance with Council's standard wording) has been placed on the title of the land describing the facility clearly and that it is not to be varied in any way without the consent of Council.
22. All lighting shall be designed so as to ensure that glare does not adversely impact upon any adjoining property.

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## **ATTACHMENTS**

- A: Submissions.  
B: Development Plans.

Attachments A & B have been circulated in hard copy to the Administrator 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.

## **2 DA-121-2017 - DUAL OCCUPANCY (TWO-STOREY) ATTACHED - HIGH ST BLACKHEAD**

**Report Author** Petula Bowden Senior Town Planner

**File No. / ECM Index** DA 121/2017

**Date of Meeting** 12 April 2017

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### **DETAILS**

Date Received: 13 September 2016

Applicant: JAL Architectural draft + design

Owner: David and Susan Cushway

Land: Lot 21 DP 263415 No. 26 High Street Blackhead

Area: 740m<sup>2</sup>

Zoning: R1 Residential GTLEP 2010

### **SUMMARY OF REPORT**

- Development application for an attached two-storey dual-occupancy.
- The application was twice notified to all adjoining landowners. Three submissions were received at each notification.
- Amended plans were received in response to initial concerns, and the building set back.
- The development complies with Greater Taree Local Environmental Plan 2010 and seeks approval for some minor variations to Development Control Plan 2010.

### **SUMMARY OF RECOMMENDATION**

It is recommended that Development Application 121/2017/DA for an attached two-story dual occupancy on Lot 21 DP 263415 be approved.

### **FINANCIAL/RESOURCE IMPLICATIONS**

Cost of defending any appeal against Council's decision.

### **LEGAL IMPLICATIONS**

The applicant has the right to appeal against Council's decision.

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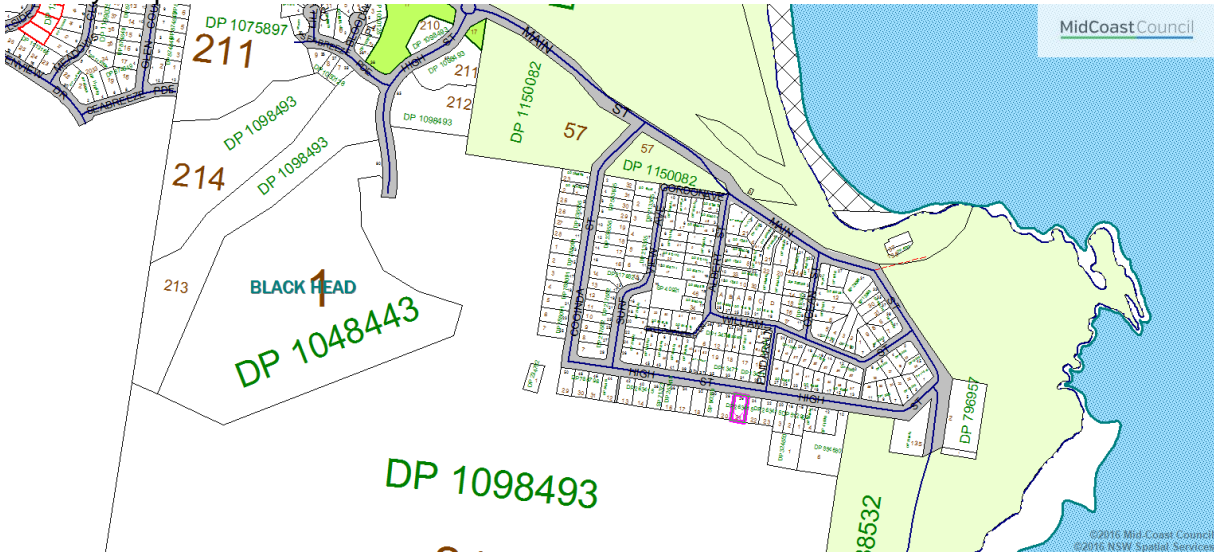
## SUBJECT SITE AND LOCALITY

The subject site is located in the elevated southern portion of the coastal village of Blackhead. Access to the site is directly available from High Street.

Subject Site



Locality Map



## PROPOSAL

The subject application proposes a two-storey attached dual occupancy. The development proposes 2 x3 bedroom dwellings with attached garages as in-fill development on a vacant lot in Blackhead.

## SITE DESCRIPTION

Lot 21 DP 263415 is known as No. 26 High Street Blackhead and has a land area of 740m<sup>2</sup>. The lot is rectangular in shape and is orientated north-south on High Street with a slight cross-fall gradient to the south-east. Land to the rear of the site is vacant, however residential development exists on all other adjoining and adjacent lots. Low scale exotic vegetation exists on the land.

## 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.***

### **State Environmental Planning Policy (SEPP) 71**

SEPP 71 seeks to protect and manage the natural, cultural, recreational and economic attributes of the State's mapped coastal zone. The proposed development is located within the State's mapped coastal zone and therefore the Policy applies. The policy seeks to protect the unique features of the NSW coastal environment by ensuring:

- development in the NSW coastal zone is appropriate and suitably located;
- there is a consistent strategic approach to coastal planning and management; and
- there is a clear assessment framework for development proposed within the Coastal Zone.

The development is not contrary to the aims of the Policy as the scale of the development is very minor in relation to the Policy's intended aims and any potential impacts can be mitigated through conditions.

### **Coastal Zone Management Plan**

The Greater Taree Coastal Zone Management Plan (September 2015) applies to the site. There are no specific actions required for the subject lot. The coastal hazard lines in that Plan do not apply to the subject lot.

### **Greater Taree Local Environmental Plan 2010 (GTLEP 2010)**

The subject site is zoned R1 Residential pursuant to GTLEP 2010. This zone permits dual occupancy development with consent. A dual occupancy (attached) is defined to mean:

*'2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.'*

Within the R1 the objectives for all development are

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

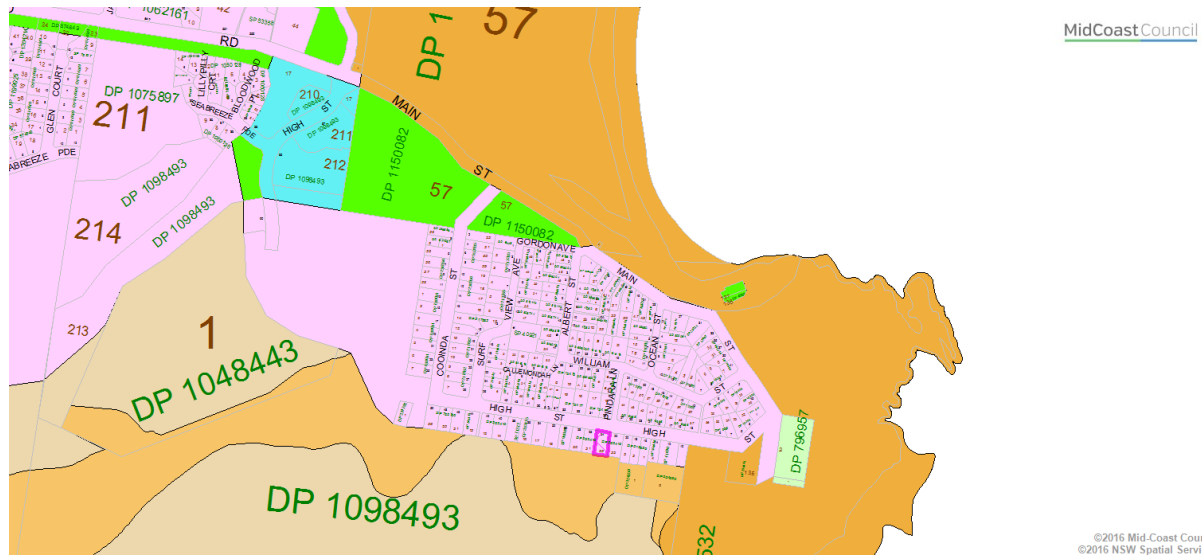
The proposed dual occupancy is considered, where relevant, to achieve these objectives.

### **Principal Development Standards**

Clause 4.3 of the LEP requires that the height of a building is appropriate for the site and that such height complements the streetscape of the area in which the building is constructed.

The maximum height set by this clause for the subject site is 8.5m. The proposed building has a height of 8.2m. While adjoining dwellings are of lesser height, being single-storey, there are numerous two-storey developments in the street with a similar height.

Clause 4.4 of the LEP requires that the density, bulk and scale of the development is appropriate for the site and integrates with the streetscape and character of the area. The maximum floor space ratio for a building in this area is 0.6:1. The proposed development has a floor space ratio of 0.49:1. The height, site coverage, floor space ratio and setbacks of the proposal result in a development consistent with the built form character of the area.



Extract from Greater Taree LEP 2010 Land Zoning map

**NSW Coastal Policy 1997**

The NSW Coastal Policy applies to the site as it is located within the NSW Coastal Zone. The development is not contrary to the aims of the Policy as the scale of the development is minor in relation to the Policy’s intended aims to protect the foreshore and the State’s coastal assets and any potential impacts can be mitigated through conditions of consent.

**Development Control Plan 2010**

As an attached dual occupancy development the proposal is assessed having regard to the provisions of Part H Residential Development of the DCP. The relevant objectives and performance criteria of this Part are addressed below:

Part H Controls for all Residential Development	Performance Criteria	Proposal Compliance
Site coverage	65%	33%
Building Height	1. In areas mapped as having a permitted building height of 8m or 8.5m, development shall contain not more than two storeys at any given point.	Two-storey- complies



	<p>2. In areas mapped as having a permitted building height of 8m or 8.5m, the maximum height to the point of intersection of wall and eaves lines is to be 6m above the corresponding lowest storey at any point along the line of external walls.</p>	Complies
Carparking and access	<p>1. Garages and driveways do not dominate the street facade of the development.</p> <p>2. Long straight driveways are to be avoided.</p> <p>3. Hardstand areas should be minimised and, where soil conditions permit, be substantially constructed using semi-pervious materials to reduce water run-off and increase soil absorption.</p> <p>4. Driveways in all cases are to be at least 3m wide and include an internal radius of 4m at the point where there is a change in direction.</p>	<p>The overhang of the first floor balcony above the garages reduces the potential for visual dominance of the garages in the streetscape.</p> <p>Driveway length is 6.5m to the property boundary.</p> <p>Front setback and rear yard pervious areas provide adequate area for stormwater absorption.</p> <p>A 3m wide driveway is proposed for each dwelling.</p>
Private Open Space	<p>1. Each dwelling shall be provided with quality, useable private open space (POS)</p> <p>2. The POS area of each dwelling is to have a principal private open space (PPOS) directly connected to a living zone of the dwelling.</p> <p>3. Sunlight must reach at least 50% of the POS of both the subject dwelling and of any adjoining dwelling, for not less than 3 hours between 9:00am and 3:00pm on 21 June. POS that has a southerly orientation (shaded by the</p>	<p>The dwellings have allocation of open space of 139m<sup>2</sup> and 157m<sup>2</sup> respectively.</p> <p>Open space areas of 27m<sup>2</sup> are proposed adjacent to the first floor living areas. A dividing cavity brick wall with timber cladding provides privacy between dwellings in this area.</p> <p>As north facing, the private open space area on the first floor will receive optimal sunlight. The rear yard to each dwelling, despite having areas of</p>

	<p>dwelling and/or adjacent dwelling) may require an increase in its area to compensate for the shaded POS.</p> <p>4. At least one principal living area of a dwelling must face predominantly north.</p> <p>5. The POS shall be adequately screened for privacy from adjacent dwellings and passers-by.</p> <p>6. Any dwellings which cannot be provided with private open space at ground level (i.e. residential flat buildings, shop top housing) shall instead be provided with a balcony.</p> <p>7. Part of the private open space should be capable of enabling an extension of the function of the dwelling for relaxation and recreation, and be directly accessible from the living area of a dwelling. Its location should take into account: outlook, natural features, continuity with open space and the location of adjoining dwellings. Its orientation should provide for maximum year round use.</p> <p>8. Planting should not obscure or obstruct dwelling entries, adjoining public space, paths or streets in a way that reduces actual or perceived personal safety.</p>	<p>64m2 and 84m2 are south facing and will receive minimal sunlight in winter. This is considered acceptable given the alternate open space area at the first floor.</p> <p>First floor balcony provides northfacing open space.</p> <p>Given that the private open space is located on the first level balcony to achieve views over Blackhead and faces the street, privacy from public areas and adjacent neighbours is not achieved. This is considered acceptable as adequate alternate open space is provided at the rear.</p> <p>The first floor balcony achieves this objective.</p> <p>The proposal will achieve this objective.</p> <p>Landscaping is proposed to achieve screening to adjoining dwellings and reinforce the entry to the units.</p> <p>The proposal will achieve this objective.</p>
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	<p>9. Proposed tree locations and species are to be selected so as not to adversely impact upon the amenity of adjoining properties or interfere with adjoining structures.</p>	
Solar Access and Overshadowing	<p>1. All new dwellings are to be designed to ensure that the predominant living spaces and the key private open space maximises northern or eastern sun.</p> <p>2. The proposed development is to demonstrate that a minimum of 3 hours solar access is achieved between 9:00am and 3:00pm on 21 June to at least 50% of the private open space and to the principle living, dining, family and rumpus room(s) of the proposed dwelling and the adjoining dwellings/properties. Where this cannot be achieved, applicants are to demonstrate that the design maximises solar access.</p> <p>3. Buildings must be sited and/or designed to avoid overshadowing on adjoining properties should be addressed, including, but not limited to, increasing setbacks, articulation, variations in roof forms and/or reducing building bulk or minimising height.</p>	<p>The primary living space within each dwelling receives optimal solar access.</p> <p>The first floor balcony areas achieve this objective.</p> <p>The development overshadows adjoining properties to the degree detailed in the section 'areas of non compliance'.</p>
Acoustic and Visual Privacy	<p>1. Windows and balconies should be designed and oriented to minimise overlooking of main living areas and private open space. Effective design is preferred to the use of screening devices, high sills or obscured glass.</p> <p>2. Dwellings are to be sited and designed to limit the potential for noise transmission to the living and sleeping areas of adjacent dwellings.</p>	<p>Overlooking to adjoining residences is limited through the minimal number of windows on the east and west elevations and the raised sill heights of kitchen and living room windows where potential for overlooking is most available.</p> <p>Minimal bedroom windows on the adjoining residences and the projection of the building slightly forward of those adjacent limits potential for noise</p>

	<p>3. Where landscape plantings can assist in visual privacy, evergreens must be used and they must be of a size that will visually screen the noise source within 3 years.</p> <p>4. A minimum line-of-sight separation of 3m is required between parking areas/streets and all bedroom windows.</p> <p>5. Where any wall openings of adjacent dwellings are opposite each other, a minimum separation of 3m is required.</p> <p>6. All opposing windows and doors on adjacent lots must be offset</p> <p>7. Overlooking of ground level private open spaces, from upper levels is to be avoided, for example through the use of setbacks, level changes, landscaping and/or pergolas.</p> <p>8. Overlooking between units is to be avoided, for example through dividing fins, louvers and other design detail.</p> <p>9. The windows and doors of proposed dwellings that provide direct view into the living area/bedroom windows of an adjoining dwelling should:</p> <ul style="list-style-type: none"> <li>• Be located out of alignment with the windows of adjoining dwellings, or</li> <li>• Have fixed obscure glazing to a minimum height of 1.7m above floor level, or</li> <li>• Use another form of screening to the satisfaction of Council.</li> </ul> <p>10. The outlook from a proposed dwelling into the private open space of another dwelling does not require screening where:</p>	<p>transmission.</p> <p>Landscaping of the development is intended to ensure a suitable level of visual and acoustic amenity.</p> <p>Achieved.</p> <p>Existing building setbacks and development design achieve this objective.</p> <p>Achieved.</p> <p>Achieved.</p> <p>The offsetting of the dwellings at the rear enables privacy protection to both dwellings in the rear yard.</p> <p>There are no proposed windows or doors that have direct view to neighbouring properties.</p> <p>Windows with potential for overlooking into private open space of adjoining dwellings</p>
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	<ul style="list-style-type: none"> <li>• Windows are in bathrooms, toilets, laundries, storage rooms or other non habitable rooms.</li> <li>• Windows have a minimum sill height of 1.5m above floor level or translucent glazing to a minimum height of 1.5m above floor level.</li> <li>• Windows and balconies of upper level dwellings are purpose-designed to prevent overlooking of more than 50% of the private open space of a low-level or neighbouring dwelling.</li> </ul>	comprise the Living Kitchen windows to both units. These windows have been designed with a raised sill height to minimise overlooking opportunities.
Views	Provision of a view analysis as a component of a site analysis to indicate that a proposed development reflects the desirability of protecting known views and the principles of view sharing. The view analysis of surrounding development is required to indicate the position of the proposal on its site, the location of adjoining buildings and the degree of view loss, if any, resulting from the proposal.	The proposed development does not impinge upon the views currently available to any adjoining property.
Safety, security and entrances	<ol style="list-style-type: none"> <li>1. Buildings are designed to face the street, with at least one habitable room window which can overlook streets and other public areas to provide casual surveillance of the public domain.</li> <li>2. The site layout should ensure that the front entrance to a dwelling is easily identified by visitors and emergency services through design and conspicuous house numbering and that adequate privacy is maintained between individual entrances.</li> <li>3. Separate and covered pedestrian entry should be provided to each dwelling. In the case of dual occupancy, entries should be either oriented to the street and/or separated from driveways and communal areas by a transition zone (e.g. a porch or front verandah).</li> </ol>	<p>The living room of each dwelling faces the street to provide casual surveillance.</p> <p>The front entrance to each dwelling is to the side of the building. To reinforce the location of the entrance a landscaped paved pathway leads to the front doors. Oversized house numbering identifies the dwellings and is visible from the street.</p> <p>This design objective is achieved in this modern and innovative approach to dual occupancy development.</p>

	<p>4. Front fences, garages and landscaping elements are to be designed not to obstruct casual surveillance to and from the dwelling to permit safe access by residents and visitors to the dwelling.</p> <p>5. Lighting to the exterior is to be provided to enhance the amenity and security around the dwelling, however, light spill must not adversely impact on adjoining properties.</p> <p>6. Buildings should be detailed or articulated in a manner that identifies the entry and expresses individual dwellings to the street frontage where possible.</p>	<p>The primary living areas provide street-side surveillance to the development.</p> <p>This requirement can be achieved through conditions of consent.</p> <p>The side pathway adjacent to the recessed garage doors creates a distinct identity for the development in the streetscape.</p>
<b>Controls specific to Dual Occupancy</b>		
Minimum lot size	1. Development for the purposes of dual occupancy requires a minimum land size of 750m <sup>2</sup> excluding the area of any battle-axe handle	The subject lot has an area of 740m <sup>2</sup> . Variation to this standard is required and discussed under the heading 'areas of non compliance'.
Setbacks	<p>1. The minimum primary frontage setback is 5m. However, where adjacent residential development is closer to the front boundary, Council may consider a setback equal to that of whichever neighbouring dwelling/building most closely meets the requested setback. Where adjacent development is set further back than the minimum requirement, Council may require a greater setback than the minimum permissible.</p> <p>2. Second storey development is to be set back a minimum of 1600mm from side and rear boundaries.</p>	<p>The development is proposed to be set back 10.5m at ground level and 6.5m at first floor level from the front property boundary. The immediately adjoining dwellings have setbacks of 11.4 and 12m respectively.</p> <p>2.6m and 2.8m side setbacks apply to the development in the forward section of the site, coming down to 1.6m at the rear.</p>
Car parking	<p>1. Car parking is to be provided on-site at the rate of:</p> <ul style="list-style-type: none"> <li>• 1 space for each 1 and 2 bedroom dwelling</li> <li>• 2 spaces for each 3 or more bedroom dwelling</li> </ul>	Each of the 3 storey dwelling proposes 2 garaged car parking spaces.

	<p>2. Garages and carports should not occupy more than 50% of the site frontage and where dwellings are side by side facing the street, are to be flanked by one principal habitable room facing the street. Departure from this requirement may only be permitted for allotments with a width of less than 15.5m, where it can be demonstrated that:</p> <p>a) The extent of the departure is very minor and does not adversely impact on the streetscape, safety and security of the dwellings or the sense of address for the dwellings.</p> <p>3. Consideration may be given to permitting reversing movements from dwellings on lots not having frontage to a main road only where a garage faces the street and there is a maximum reversing distance of 10m to the carriageway.</p>	<p>The rectangular shape of the site and design of the dwellings allows for the garages at ground floor with living areas behind and above.</p> <p>The subject site has a frontage of 20m and a depth of 37m. The design of the dwellings is similar to other development in the street.</p> <p>There is adequate site distance to enable vehicles to safely reverse from garaged spaces across the 10.5m to the property boundary (from front face of garage) and the further 5.4m to the kerb. Adjoining developments have in excess of 16.8 reversing distances.</p>
Private Open Space	<p>1. A minimum of 80m<sup>2</sup> of private open space is to be provided to each dwelling.</p> <p>2. For the purpose of calculating the 80m<sup>2</sup> all open space is to have a minimum dimension of 4m, contain a level area with dimensions of 6m x 4m, and is to be directly accessible from the living area of each dwelling. Where areas have a dimension less than 4m it will not be included in the 80m<sup>2</sup> requirements.</p>	Both dwellings both exceed the minimum open space requirements.

The subject proposal seeks to develop a two- storey dual occupancy on a 740m<sup>2</sup> site at Blackhead. The development largely complies with the development control criteria for dual occupancies. The only areas of non-compliance are considered minor and are discussed below.

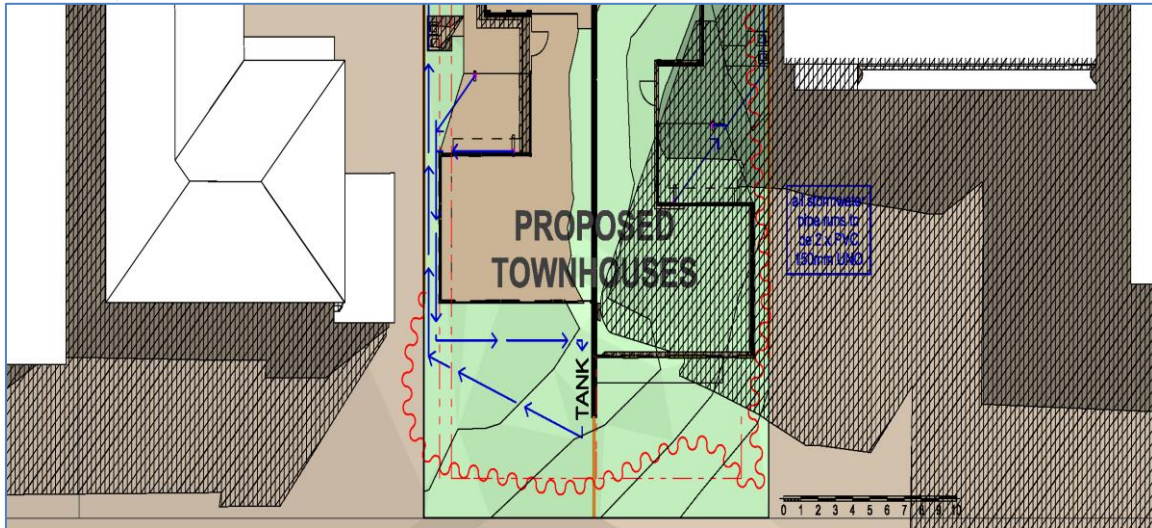
The areas of non-compliance are:


- Overshadowing of adjoining properties

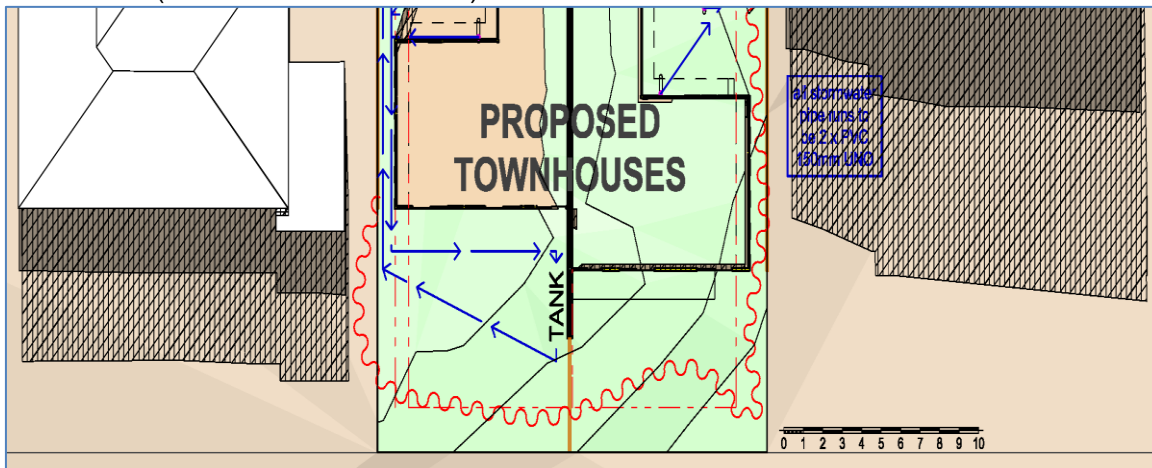
The subject proposal is proposed on a north-south oriented allotment, which results in shadows being cast across the sides and rear of adjoining development. The Shadow diagrams prepared however indicate that the impact of overshadowing of the properties to the east and west is minimal.

The existing situation of overshadowing created by the dwellings on the adjoining lots is provided below:

9:00am (March  - June  )

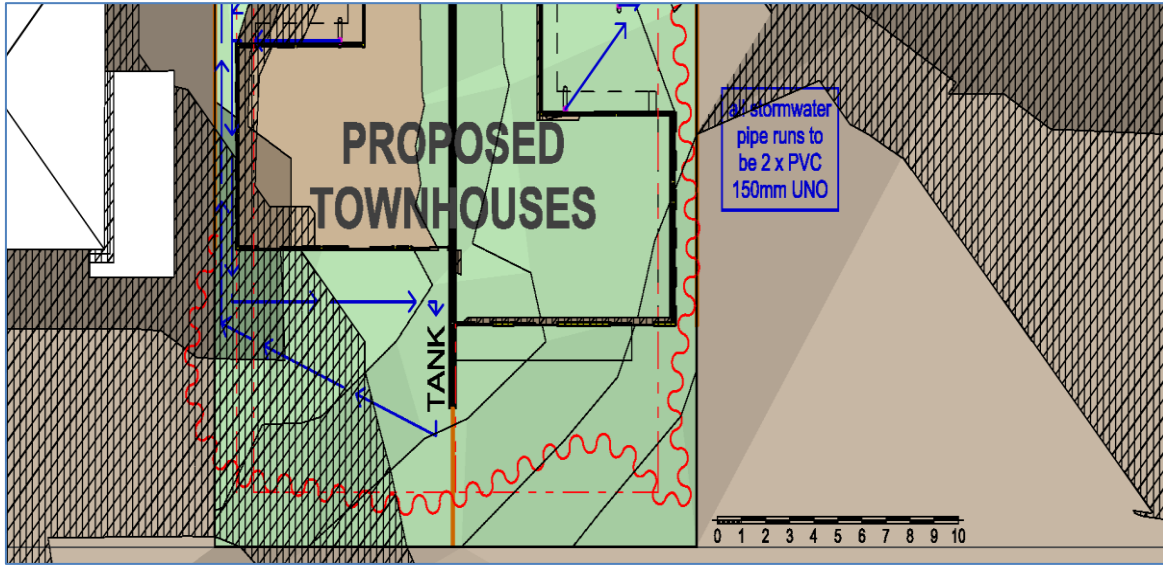


12:00 Noon (March  - June  )





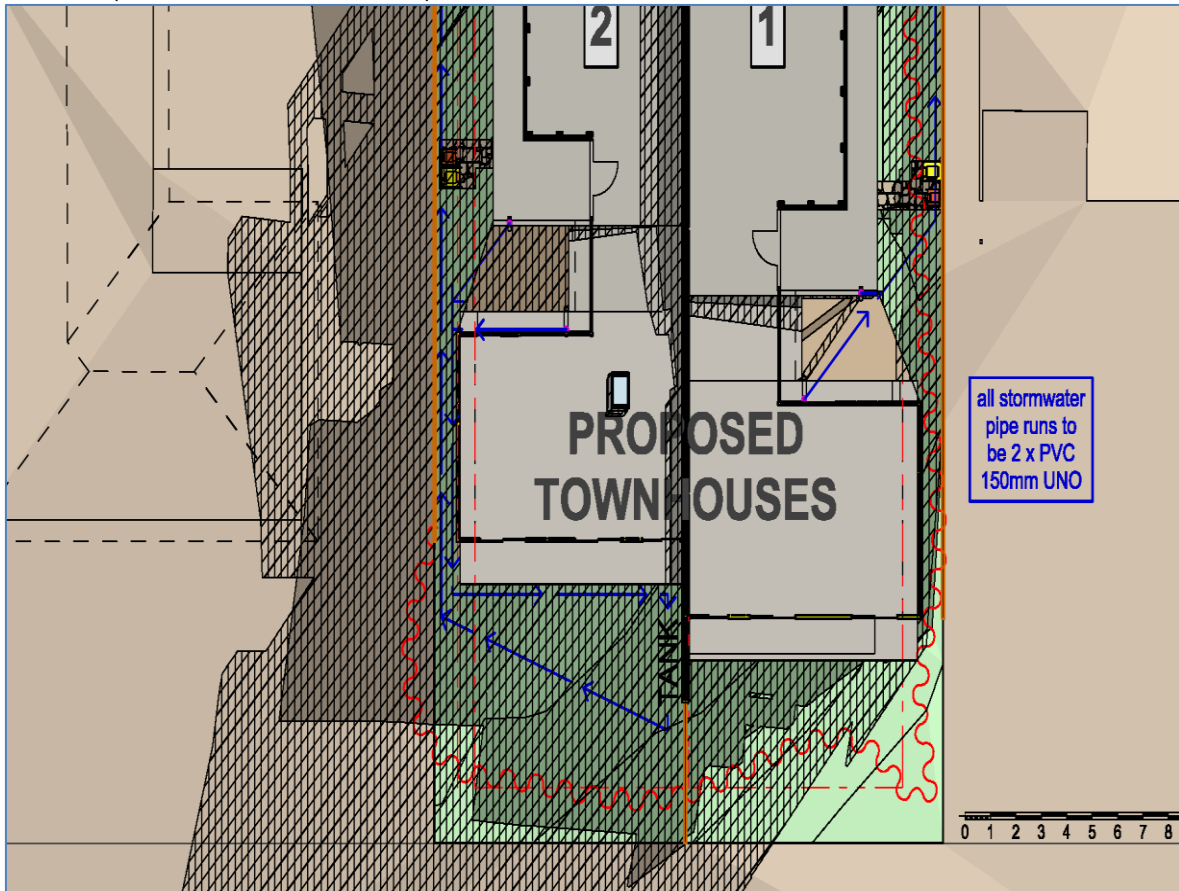
3:00 pm(March  - June  )




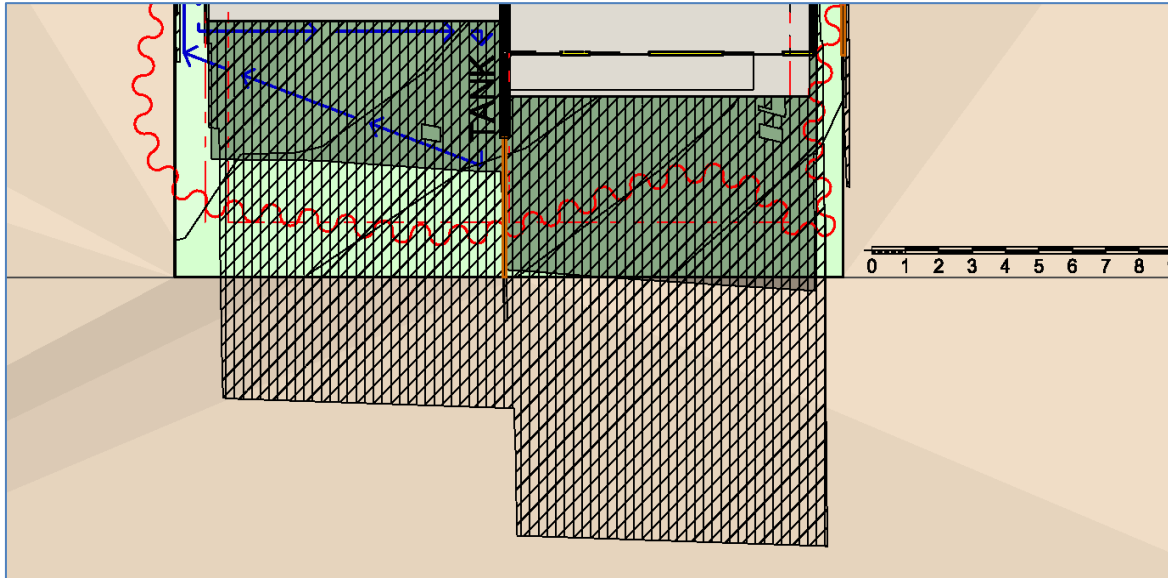
It is evident that the current adjoining dwellings have a significant existing overshadowing impact on their rear yards, particularly in June.



The impact of the proposed dual occupancy upon the adjoining dwellings is depicted below.

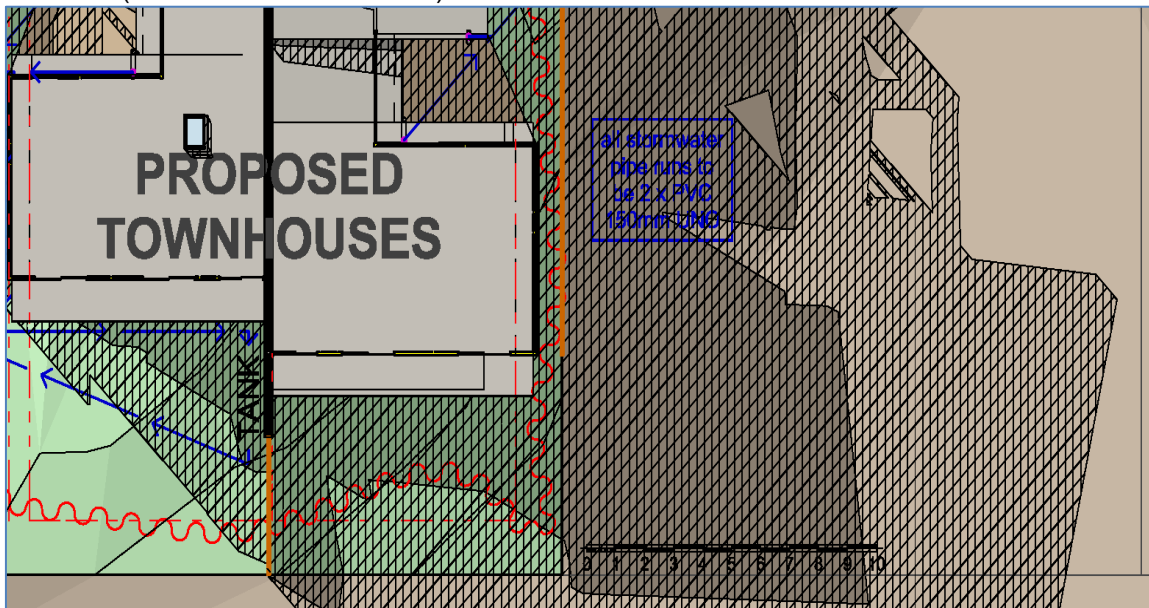
9:00 am(March  - June  )



12:00 Noon (March  - June  )



3:00 PM (March  - June  )



Given the reciprocal overshadowing of sites it is considered that the impact of the dual occupancy on the solar access of adjoining dwellings is acceptable.

- Minimum lot size

The minimum lot size specified in DCP 2010 for dual occupancies to occur on residential land is 750m<sup>2</sup>. This performance criteria is varied only when it can be demonstrated that regardless of the lot not meeting the 750m<sup>2</sup>, that the development can be carried out in a manner that achieves satisfactory compliance with the other performance criteria in the DCP.

Minor variations are sought to certain aspects of the development however are not considered to be generated by the reduced lot size. The lot size variation is in the order of 1.3 % of the required 750m<sup>2</sup> and considered reasonable.

- Setback (front boundary)

The front setback complies with the prescriptive criteria of 5m, however remains some 0.9m(west no.28) and 1.5m(east no.24) forward of the adjoining dwellings at ground level and some 4.9m(west no.28) and 5.5m (east no.24) forward of the adjoining dwellings at first floor level.

This variation is not considered significant in terms of detrimental impact on the streetscape in that a variation of setbacks currently exists and the proposed position will reinforce the staggered setback character in the street.

The arbitrary yellow line on the map extract below depicts the variance in setbacks already on High Street.



The proposed setback, which was increased 1.5m further to address issues raised in the first neighbour notification period, is considered appropriate as it has no adverse impact on the amenity of adjoining properties and will not detract from the character of the streetscape.

- Garages dominating site frontage

While the proposed garages are the primary feature of the development at ground level, given the projection of the first floor level the garages are considered to be a subservient component of the architecture of the building. Indeed the balcony, supporting columns and staggered pitched rooflines are the principle elements in the appearance of the development.

The perspectives below depict the presence of the garages in the street elevation.



North-east perspective.

- Excessive reversing distance

The reversing distance, whilst not compliant with the maximum 10m to the carriageway ( 15.9m) due to the increased verge, is not inconsistent with other dwellings in the street and is considered appropriate given the nature of the street and the location of the site.

**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 subject lot is vacant and is located within an existing residential area. The proposed dwellings have a footprint and scale consistent with development in the area. The Blackhead village is experiencing significant re-development in the form of replacement dwellings or alterations to modernise existing residences. The proposal will not adversely impact on the coastal setting and will contribute to the infill of this streetscape.

***Site Design and Amenity***

The site design is consistent with development of the type proposed. The development seeks to comply with all requirements to ensure that the amenity of neighbouring properties is maintained.

***Views***

The proposed development does not impact on the views available to neighbouring properties.

***Privacy (Aural and Visual)***

The proposal has been designed to ensure that the privacy of adjoining developments is maintained. The siting of the development, internal configuration and the positioning of windows ensures that neighbours will not be adversely impacted by the proposal.

***Utilities***

All required utilities are available to this site.

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

The proposed development is considered to be suitable on the subject lot. The use is consistent with the zoning of the land and maximises its development potential. The site is conducive to the development in that it has no constraining attributes.

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

The application was notified to adjoining owners in accordance with Council's Policy between 14 September and 5 October 2016 and three (3) submissions were received. Following amendments to the proposal to address concerns raised in these submissions the application was again notified between 28 November and 16 December 2016. At the close of this notification period another three (3) submissions were received.

Issues raised in the submissions are summarised and addressed below.

<b>Issue Raised</b>	<b>Response</b>
Overdevelopment of the site - unreasonable scale	The development complies with the height, floor space ratio and setback requirements and as such is not considered to be of a bulk and scale that would warrant its refusal.
Imposing visual presence	The development is not considered to have an overbearing presence in the streetscape as it has a scale somewhat similar to other nearby developments. The development complies with the height (8.2m), FSR (0.49:1) and site coverage (33%) performance criteria.
Undersized block	The lot is some 98.7% of the required DCP lot size for dual occupancy development. This variation is considered minor and of little consequence in the overall outcome of the sites development.
Domination of facade by garages	The garages are the primary feature of the ground floor level, but are considered subservient architectural features of the development due to being recessed.
Setback inconsistent with adjoining dwellings- unreasonable impact on streetscape	While the setback is inconsistent with the immediately adjoining dwellings it is not inconsistent with other development in the streetscape, which exhibits a large degree of variance in setback from the carriageway.
No need for dual driveways	The dual driveways provide a clear distinction to unit occupants in terms of area available for vehicle manoeuvring. A single driveway would be wider at the building façade, likely have a greater visual impact and reduce opportunities for front setback landscaping.
Overshadowing of adjoining residences	The overshadowing impacts are considered acceptable given the orientation of the site. Diagrams provided in this report demonstrate the minimal overshadowing of the adjoining developments.
Impact on privacy to adjoining dwellings	The development is not considered to create any adverse impact on the privacy of adjoining dwellings. Windows have been offset, sill heights raised and landscaping proposed to reduce opportunities for potential loss of amenity.
Unacceptable impact on private open space of adjoining residences	The primary areas of private open space on the immediately adjoining properties is in the rear of the sites. The photograph below depicts the rear yard areas. It is not considered that the amenity of these areas will be impacted as the living areas of the development are proposed at ground level or at the front of the site.





Reduced solar access to adjoining residences	As demonstrated above the reduction of solar access to adjoining properties is minimal and mutual.
Unacceptable impact on acoustic and visual privacy of adjoining residences	There are no aspects of the proposed development that are considered conducive to a reduction in amenity to adjoining residences.
Development on an undersized lot will create a precedent	The proposal is not considered to create precedent for dual occupancies on lots less than 750m <sup>2</sup> except where those developments also can demonstrate acceptable development on the undersized lot. In this instance the 1.3% variation is considered negligible and the development as a whole is considered appropriate on the site.
Development will devalue other properties	There is no evidence to suggest that dual occupancy development devalues properties in the vicinity.
Amended Design	The amended design provided made the following changes in response to concerns of neighbours: <ul style="list-style-type: none"> <li>• Increased setback to 6.5m</li> <li>• Placement of timber screen to delineate entrance to dwellings</li> </ul>
Development does not accord with Crime Prevention through Environmental Design (CPTeD) principles	The considered use and design of fencing and landscaping, the design of the development to overlook the public space to the north and the clear delineation between units reinforces the principles of crime prevention through environmental design.

**e) The Public Interest**

The proposed development provides additional residential accommodation options in the area. The development is not considered to be contrary to the public interest.

**CONCLUSION**

The impacts of the proposed development are considered to be acceptable under S79C of the EP&A Act 1979. The development largely complies with Council's LEP 2010 and DCP 2010. Where variations to performance criteria is sought they are considered to be suitably justified. On balance the development has merit and considered acceptable.

**RECOMMENDATION**

Development Application 121/2017/DA is recommended for approval subject to the conditions outlined below.

**GENERAL CONDITIONS**

The following conditions of consent are general conditions applying to the development.

1. All building works must be carried out in accordance with the provisions of the Building Code of Australia.
2. If the development involves an excavation that 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.

**Prior to the Issue of the Construction Certificate**

3. The applicant is to make a contribution to Council in accordance with section 94 of the *Environmental Planning and Assessment Act 1979* in accordance with the *Greater Taree Section 94 Contributions Plan 2016*.

Hallidays Point

Local facilities	\$7640.55
Greater Taree facilities	\$3370.79
<b>Total</b>	<b>\$11,011.34</b>

Contribution Plans may be inspected on Council's website [www.midcoast.nsw.gov.au](http://www.midcoast.nsw.gov.au).

**Timing of Payment**

- a) For development involving subdivision – the contribution must be paid prior to the release of the subdivision certificate (linen plan).

- b) For development not involving subdivision, but where a construction certificate is required, the contribution must be paid prior to the release of the construction certificate.
- c) For works authorised under a complying development certificate, the contributions are to be paid prior to any work authorised by the certificate commences, as required by clause 136L of the *Environmental Planning and Assessment Regulation 2000*.
- d) For Heavy Haulage the contribution must be paid within 28 days after the end of March, June, September and December each year over the life of the development. The applicant must submit to Council independently verified tonnage returns of the material hauled over the preceding quarter when each payment to Council is made.

### **Indexing**

- a) The contribution rate in “*Greater Taree Section 94 Contributions Plan 2016*” will be adjusted annually in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.
- b) If the contribution rate is adjusted between the dates on which this consent is granted and payment of the contribution, then the total figure payable in this condition will be indexed and calculated according to the then current contribution rate.

**Please contact Council’s Customer Service staff to confirm the amount payable, prior to payment.**

4. All work required to be carried out within a Public Road Reserve must be separately approved by Council under Section 138 of the Roads Act, 1993. Such works include road openings, temporary work zones (which may involve use of parking spaces), road / kerb & gutter / footway and, driveway crossings.

A separate application must be submitted to and approved by Council. Driveway applications require design approval prior to the issue of a Construction Certificate.

5. A drainage design indicating all engineering details relevant to collection and disposal of stormwater is to be approved by Council in accordance with Section 68 of the Local Government Act, 1993. Details are to include existing site levels, finished levels, pipeline sizes and grades. All stormwater is to be disposed of by a drainage system to Council’s drainage network.

A separate application must be made to Council accompanied by the appropriate form and fee.

6. On-site detention must be provided within the development in accordance with Council’s on-site detention guidelines. The guidelines require stormwater detention facilities to be provided within the site, which will limit discharge to pre-development levels.

The design must be prepared by a registered surveyor or practicing engineer. The design must be approved by Council, with the appropriate fee in accordance with section 68 of the Local Government Act 1993. The design is to be approved prior to the issue of a Construction Certificate.

The design must incorporate the following:

- a. Downpipe sizes and locations to carry design storm event as per AUSPEC requirement,
- b. Overland flow routes (including design of swales) to carry the difference between the design storm event and the 1% AEP (100 year ARI) storm events,



- c. Any BASIX tanks must have capacity for, and be capable of providing sufficient head to discharge, the design storm event without overflowing to the ground,

Note: AUSPEC requirement for design storm event is 20% AEP (5 year ARI) residential area and 10% AEP (10 year ARI) for industrial area.

7. Suitable detailed design drawings for all retaining wall structures on the site are to be provided for the approval of the Accredited Certifier. Such design drawings are to be prepared by a suitably qualified Registered Structural Engineer in accordance with the requirements of AS 4678-2002 Earth Retaining Structures. All retaining walls must be contained wholly within the property and designed so as to accommodate possible surcharge loading from vehicles or structural improvements within the adjoining property.

### **Prior to Commencement of Works**

*The following conditions of consent must be complied with prior to any works commencing on the development site.*

8. A Construction Certificate is to be issued by an Accredited Certifier prior to commencement of any construction works. The application for this Certificate is to satisfy all of the requirements of the *Environmental Planning and Assessment Regulation 2000*.
9. Soil erosion and sediment control measures are to be provided on the development site in accordance with Council's Development Control Plan 2010.
10. Toilet facilities for employees must be provided in accordance with Work Cover NSW requirements. Details can be found on [workcover.nsw.gov.au](http://workcover.nsw.gov.au).
11. 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 to be done by the holder of a contractor licence under that Act, the name and licence number of the contractor, and the name of the insurer by whom the work is insured under Part 6 of that Act.
  - b. In the case of work to be done by the holder of an owner-builder permit under that Act, the name and permit number of the owner-builder.

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.

12. Council must be provided with photographic evidence of any existing damage to Council infrastructure fronting or adjacent to the development site. Otherwise any damage is assumed to be related to the development and must be rectified in accordance with Council's current standards at no cost to Council.
13. Signage is required to be erected in a prominent position on any work site on which building or demolition work is being carried out. The signage shall indicate:

- a. The name, address and telephone number of the principal certifying authority for the work; and
- b. The name of the principal contractor and a telephone number at which that person may be contacted outside of working hours; and
- c. That unauthorised entry to the work site is prohibited.

The sign is to be removed when the work has been completed.

14. A suitable hoarding or safety fence between the work site and the public place is to be provided in accordance with Work Cover Authority requirements. The required hoarding/fencing is to remain in place during the construction phase of the development. Should the hoarding/fencing be required to be provided within the road reserve area, approval from Council under the Roads Act 1993 as the Roads Authority is required to be obtained prior to its erection.

### **During Construction Works**

*The following conditions of consent must be complied with during the construction stage of the development.*

15. A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
16. All possible and practical steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like during the demolition, excavation and building works.
17. All adjustments to existing utility services made necessary by the development are to be undertaken by the developer at no cost to Council.
18. A galvanised steel non-flexible kerb adaptor, in accordance with Council's Standard Drawing SD 03, must be used for all stormwater connections to the kerb including any existing connections. The kerb adaptor must be set flush with the top of the kerb.

### **Prior to Issue of the Occupation Certificate**

*The following conditions of consent shall be complied with prior to the issue of an Occupation Certificate.*

19. The building shall be completed in accordance with the relevant provisions and requirements of the Building Code of Australia.
20. An application for an Occupation Certificate must be submitted to and approved by the Principal Certifying Authority prior to occupation of the building.
21. A driveway crossing must be provided by the applicant at all approved vehicle entry location points at no cost to Council in accordance with the approved driveway application and Council Standard Drawings. The layback must be constructed in plain reinforced concrete.

22. Parking areas, access lanes and vehicle movement areas must be constructed, drained and concreted, bitumen sealed or alternatively constructed to a similar standard surface (but not gravel) with the parking spaces permanently and clearly identified.
  23. Downpipes and the associated stormwater disposal system including overflow from rainwater tanks installed in conjunction to the development must be suitably connected to the on-site stormwater detention connection point immediately after the guttering is positioned in order to prevent erosion of the site from roof water runoff. The site stormwater connection point must be connected to Council's kerb and gutter drainage system using a galvanised steel non-flexible kerb adaptor set flush with the top of the kerb, in accordance with Council's standard drawing.
  24. The approved On-site Detention System must be constructed and the following requirements are to be satisfied:
    - a. Works-as-executed details obtained by the person responsible for the design and supervision are to be submitted to verify the storage has been constructed in accordance with the design requirements, and that floor levels are above the minimum required. Any significant variations must be supported by amended calculations.
    - b. Verification that an appropriate '88B Restriction as to User' or transfer granting easement (in accordance with Council's standard wording) has been placed on the title of the land describing the facility clearly and that it is not to be varied in any way without the consent of Council.
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## **ATTACHMENTS**

- A: First notification - submissions
- B: Second notification - submissions
- C: Development Plans

Attachments A, B & C have been circulated in hard copy to the Administrator 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.

**3 DA-2016-2523 - TWO LOT SUBDIVISION - 6 WRIGHT CLOSE, GLOUCESTER**

**Report Author** Aaron Kelly, Urban and Regional Planner

**File No. / ECM Index** DA 2016/2523

**Date of Meeting** 12 April 2017

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**DETAILS**

Date Received: 2 December 2016

Applicant: Calco Surveyors Pty Ltd

Owner: G. Vuggiralla

Land: 6 Wright Close, Gloucester

Area: 2.415 Hectares

Zoning: R5 Large Lot Residential (GLEP 2010)

**SUMMARY OF REPORT**

- Development application for a two (2) lot subdivision within the R5 Large Lot Residential Zone.
- The application was notified with one submission being received.
- The proposal requires Council to release a restriction on the land which prohibits subdivision of the land.
- The development complies with Gloucester Local Environmental Plan 2010 and Development Control Plan 2010.

**SUMMARY OF RECOMMENDATION**

That the Development Application be approved.

**FINANCIAL/RESOURCE IMPLICATIONS**

Cost of defending any appeal against Council's decision.

**LEGAL IMPLICATIONS**

The applicant has the right to appeal against Council's decision.

**BACKGROUND**

Gloucester Shire Council at its meeting of 29 March 2012 considered an application (DA2012/2127) for the two lot subdivision of land known as Lot 29 DP 1072350, 6 Wright Close, Gloucester. The application was recommended for approval. Council resolved to not release a restriction on the land prohibiting subdivision of the land, resulting in the application being refused.

Gloucester Shire Council at its meeting of 27 June 2012 considered an application for review of its decision to refuse to release the restriction. Council resolved to:

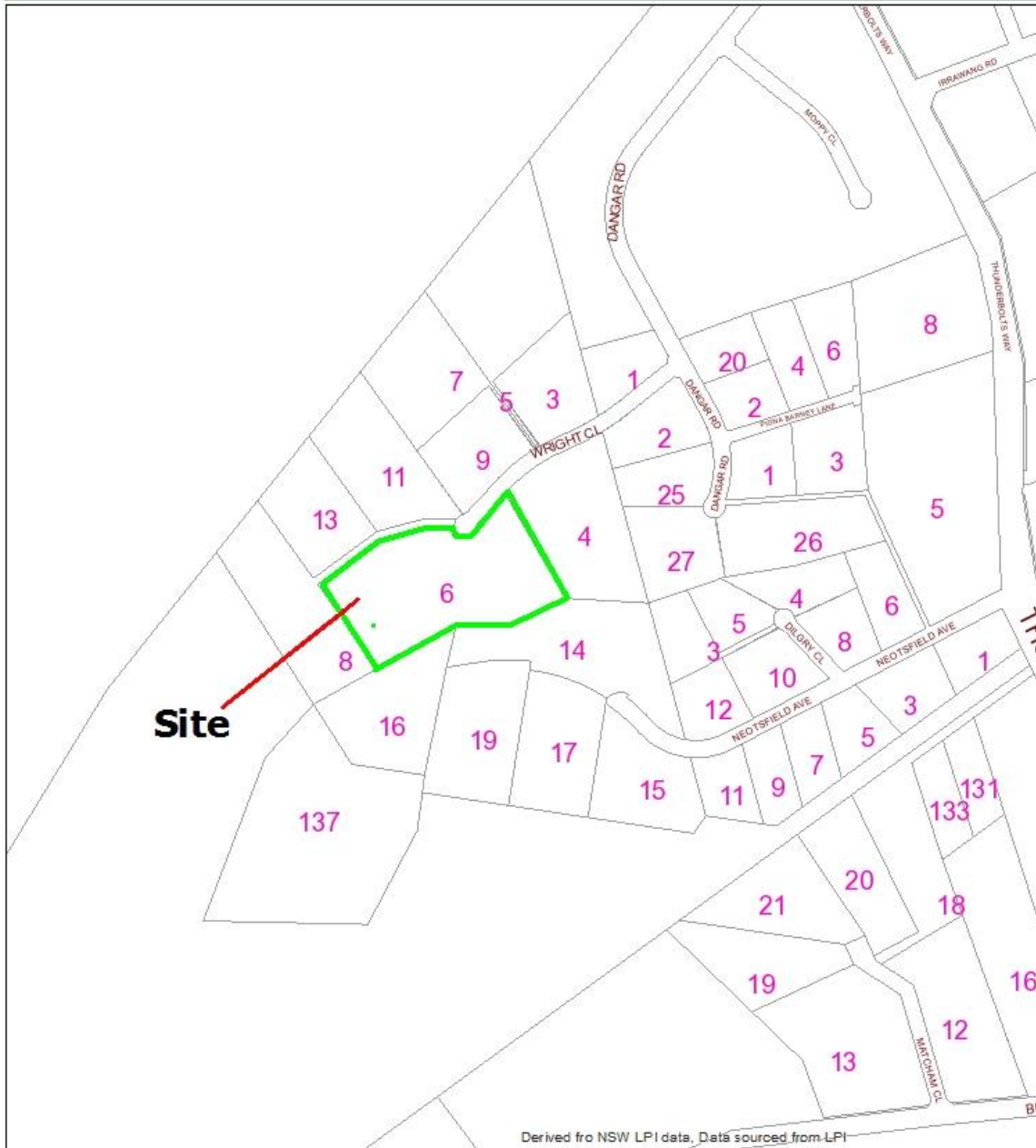
*'not vary the Restrictions on the User affecting Lot 29 DP 1072350, 6 Wright Close Gloucester and refuse to agree to vary the decision in regard to DA 2012/2127'.*

No reasons were given for the decision to refuse to release the restriction.


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# SUBJECT SITE AND LOCALITY

Date: Wednesday, January 18, 2017



0 115 230 460 Meters



**MidCoast Council**  
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Map Exported from Dekho

## PROPOSAL

This is an Application seeking a consent to subdivide the subject allotment into two (2) lots.

A subdivision proposal plan submitted with the Application nominates the lots as proposed Lots 291 and 292. The subdivision can be summarised in the following table:

Lot No.	Area	Frontage to Wright Close
291	1.26 hectares	14 metres
292	1.16 hectares	65 metres

Proposed Lot 291 will contain the existing low set brick residence and associated driveway gaining access to Wright Close. Proposed Lot 292 will also gain access to Wright Close and has a levelled site for a future dwelling.

## SITE DESCRIPTION

The site is an existing Large Lot Residential (R5) Zoned parcel located at the head of a cul-de-sac known as Wright Close. A brick dwelling exists on the western portion of the lot. The site slightly falls away to the south and is mostly cleared of vegetation. A number of drainage gullies from upstream properties traverse 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.***

### ***Gloucester Local Environmental Plan 2010 (GLEP 2010)***

#### *Lot Size and Dimensions*

The minimum lot size for the subject site under the provisions of the *Gloucester Local Environmental Plan 2010* Minimum Lot Size Map is 4,000 square metres. The land parcel areas of both proposed lots as part of the subject Application are well in excess of this area, both lots having a land parcel area of more than one (1) hectare.

The dimensions of the proposed lots are considered to be acceptable in that both lots contain building footprint areas capable of meeting the minimum side, rear and front setback requirements catered for in the *Building Setback Guidelines* in the Gloucester Shire Council Development Control Plan 2010, despite being somewhat restricted due to a number of drainage gullies that traverse the site.

#### *Objectives of the R5 large Lot Residential Zone*

The proposed subdivision is in accord with the Objectives of the Large Lot Residential Zone. The existing subdivision pattern of the locality is of lots less than 1 hectare in area. The proposed subdivision is consistent with the prevailing subdivision character of the area. The proposed subdivision will allow for the establishment of a dwelling on proposed Lot 292 with minimal impact on the scenic and environmental qualities of the area.

Clause 1.9A Suspension of covenants, agreements and instruments

The land is burdened by a covenant that restricts further subdivision of the land for residential purposes. The restriction benefits other allotments within the original subdivision and Council is the authority, empowered to vary, release or modify the restriction.

Clause 1.9A of the LEP states that:

- (1) *For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, 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.*
- (2) *This clause does not apply:*
- (a) to a covenant imposed by the Council or that the Council requires to be imposed, or.....'*

As Council is the authority, empowered to vary, release or modify the restriction, it is considered that the covenant does apply in consideration of the application. It is therefore necessary to determine whether the restriction should be varied, released or modified.

The restriction was registered on the land in 2004. The Gloucester Local Environmental Plan 2000 (GLEP 2000) was the relevant local planning instrument in force at this time.

In 2010 GLEP 2000 was repealed with gazettal of Gloucester Local Environmental Plan 2010 (GLEP 2010). Under GLEP 2010 the land was zoned R5 Large Lot Residential and a minimum lot size development standard of 4000m<sup>2</sup> was applied to the land. The new zoning of the land recognised the strategic value of the land for further subdivision due to its proximity to infrastructure and services.

Accordingly, subdivision of the land as proposed is permissible with consent under the provisions of GLEP 2010.

It is therefore considered appropriate that the restriction on subdivision of the land be released and consideration for any subdivision be made in keeping with the provisions of the GLEP 2010 and the Environmental Planning and Assessment Act 1979.

***Gloucester DCP 2010 – Subdivision of Land Development Guidelines***

The proposed subdivision is generally consistent with provisions of the Gloucester Shire Council Development Control Plan 2010 and the objectives of the Subdivision of Land Development Guidelines contained therein.

The proposal is considered to be sensitive to topography and natural features with minimal impacts on the environment. Both lots will have acceptable access to services and adequate provision for stormwater drainage. Minimal works will be required as a result of the proposal.

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

***Views***

It is not considered that an additional allotment creating an additional opportunity for a new dwelling on the site, located further to the east of the existing dwelling, will impede views and vistas from existing residences in the Meadows Estate.



### ***Access, Transport and Traffic***

The subject proposal for one (1) additional lot will have minimal effects on transport and traffic within the Meadows Estate and surrounding road network.

### ***Utilities***

The Application has satisfactory connection to utilities.

### ***Drainage***

The site slightly falls to the south away from Wright Close to a drainage gully which traverses the site approximately ten (10) metres from the southern boundary.

Existing drainage gullies on the land provide for the conveyance of water from upstream properties, notably No. 11 and No. 13 Wright Close.

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

There are no site constraints or hazards that would prevent subdivision of the land as proposed. The land is afforded with suitable access and availability to necessary infrastructure. Subdivision of the land as proposed is in keeping with the existing subdivision pattern of the locality.

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

The application was notified to adjoining owners in accordance with Council's Policy with one submission being received.

The submission was an objection to the proposal based on Council's previous decisions in relation to releasing the restriction on the land and seeks Council to uphold the restriction as to user restricting further subdivision of the land.

In relation to the submission it is considered that if it is found that restriction applying to the land should not prevent subdivision in keeping with relevant planning legislation.

### ***e) The Public Interest***

Development of land in keeping with the strategic plans and directions of Council is not contrary to the public interest.

## **CONCLUSION**

The impacts of the proposed development are considered to be acceptable under S79C of the EP&A Act 1979. The development is compliant with Council's LEP 2010 and DCP 2010. The proposed subdivision is in keeping with the existing subdivision pattern of the locality and is considered acceptable.

## **RECOMMENDATION**

It is recommended that:

1. Council release the restriction on Lot 29 DP 1072350, 6 Wright Close Gloucester that restricts further subdivision of the land for residential purposes.

- That Development Application No. 2016/2523 for a one (1) into two (2) lot Large Lot Residential Subdivision on Lot 29 DP 1072350, 6 Wright Close, Gloucester be approved subject to the following conditions:

## GENERAL CONDITIONS

### Development is to be in accordance with approved plans

- The development is to be implemented generally in accordance with the plans and supporting documents endorsed with the Council stamp, dated 17 October 2016 and authorised signature, and set out in the following table except where modified by any conditions of this consent.

Plan Title	Drawing No.	Prepared by	Dated
Proposed Subdivision of Lot 29 DP1072350 Wright Close - Gloucester	Job No.: 3301 Drawing No.: DWG3301_DA	CalCo Surveyors Pty Ltd	10 October 2016

In the event of any inconsistency between conditions of this development consent and the plans/ supporting documents referred to above, the conditions of this development consent prevail.

**Reason:** To ensure the development is completed in accordance with conditions of consent and approved plans.

### Consent Granted For Works within the Road Reserve

- This development consent includes the works within the road reserve set out in the table below. The work must be carried out in accordance with the standard specified in the column opposite the work. All works are to include the adjustment and/or relocation of services as necessary to the requirements of the appropriate service authorities.

Work	Standard to be provided
Driveways Rural – sealed roads	Council standard application form for consent for works on Public Land must be submitted to Council and approval given before any works may commence. <b>Application to undertake works on Public Land</b> In accordance with “Residential Vehicle Crossings – Standard Rural Vehicle Crossings”.

**Reason:** To ensure compliance with the Roads Act 1993.

### 3. Removal of the restriction of further subdivision

The Registered Proprietor of the land shall ensure that the Restriction on the use of land numbered 8 on the S88B instrument that applies to the subject lot 29 is removed.

Details are to be submitted for approval with the application for a subdivision certificate.

**Reason:** To ensure that future landowners are not encumbered by a restriction that is not contrary to current legislation.

## PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

### Plan of Subdivision and Section 88B Instrument requirements

4. A Section 88B Instrument and 1 copy are to be submitted with the application for a subdivision certificate. The final plan of subdivision and accompanying Section 88B Instrument are to provide for the items listed in the following table:

Item for inclusion in Plan of Subdivision and/or Section 88B Instrument	Details of Item
Inter-allotment Drainage Easement	Easements at variable widths for the drainage of water to provide cover over each and every inter-allotment drainage gully traversing the site.

**Reason:** To ensure adequate details are included in the Section 88B Instrument.

### Rural road number to be displayed

5. An application for a rural road number request is to be submitted to Council, together with the relevant fee, for each lot created. The proponent must permanently display the road number adjacent to the approved access of the lot/s. The application shall be submitted prior to the release of the plan of subdivision.

**Reason:** In accordance with the requirements of the Geographical Names Board New South Wales Address Policy.

### Construction of residential driveways

6. The developer is to construct, where not existing, a driveway entrance from the unsealed carriageway of Phillips Road in to the property boundary of the new proposed Lot 292 as part of the subdivision prior to release of the subdivision certificate.

**Reason:** To provide appropriate access to each new lot in accordance with Council standards.

### Guarantee against damage to public land

7. The proponent will be held responsible for the repair of any damage to roads, footpaths, driveway crossovers, stormwater drains or other assets caused as a result of construction works under this consent. Such damage is to be repaired prior to the release of the subdivision certificate.

**Reason:** To provide Council guarantee and to make the developer liable for any damage to public land.

### Plan of Subdivision

8. An application for a Subdivision Certificate must be made on the approved form. The Subdivision Certificate fees, in accordance with Council's adopted schedule of fees and charges, must accompany such application. Seven (7) copies of the plan of subdivision are to be submitted with the application for a subdivision certificate. The location of all buildings and/or other permanent improvements including fences and internal access driveways/roads must be indicated on 1 of the copies.

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

### **Electricity Supply Certificate**

9. Written evidence from an electricity supply authority is to be submitted with the application for a subdivision certificate stating that satisfactory arrangements have been made for the provision of electricity supply throughout the subdivision.

**Reason:** To ensure that all new lots as part of the subdivision have adequate provision for access to electricity.

### **Telephone Supply Certificate**

10. Written evidence from Telstra is to be submitted with the application for a subdivision certificate stating that satisfactory arrangements have been made for the provision of telephone supply throughout the subdivision.

**Reason:** To ensure that all new lots as part of the new subdivision have adequate provision of access to telecommunications.

### **OTHER AGENCY CONDITIONS**

Nil.

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### **ATTACHMENTS**

- A: Plan of Subdivision.  
B: Section 88B Instrument for DP 1072350.

Attachments A and B have been circulated in hard copy to the Administrator 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.

**4 DA 827/2006 - CONCRETE BATCHING PLANT S96AA MODIFICATION -  
BULLOCKY WAY FAILFORD**

**Report Author** David Pirie, Senior Assessment Planner

**File No. / ECM Index** DA 827/2006/B & PK 37513

**Date of Meeting** 12 April 2017

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**DETAILS**

Date Received: 5 November 2015

Applicant: Great Lakes Aggregates Pty Ltd

Owner: Great Lakes Aggregates Pty Ltd

Land: 107 Bullocky Way, Failford (Lot 5 DP 1156631)

Area: 49.37 hectares (ha)

Property Key: 37513

Zoning: RU2 Rural Landscape, GLLEP 2014

**SUMMARY OF REPORT**

1. The Land and Environment Court granted conditional consent on 28 September 2007 to Development Application No. (DA) 827/2006 for the construction and operation of a concrete batching plant and demolition of an existing workshop building within the bounds of an existing quarry. The development application is classified as 'designated development' and 'integrated development' under the Environmental Planning and Assessment Act, 1979, as amended (EP& A Act).
2. The subject application is for a modification of development consent DA 827/2006 pursuant to Section 96AA of the EP& A Act. Two (2) previous modifications have been made under Section 96AA of the EP& A Act and have been approved by Council.

Eight (8) public submissions and a petition containing 57 signatories were received as a result of the application being advertised and notified in accordance with the relevant legislation and Council policy. Issues raised in objections predominantly relate to traffic, noise and dust pollution from the site. It is considered that the proposal will not substantially increase traffic movements associated with the increased premixed concrete production nor significantly increase noise or dust.

3. The application proposes modification to Condition 3 and Condition 20 of the consent. In response to concerns raised by Council and objectors, the applicant revised the modification proposed to Condition 3 of the consent to limit the amount of premixed concrete to 30,000m<sup>3</sup> per annum while retaining the limit on the total annual output of all products from the subject land at 150,000 tonnes.

4. The NSW Environment and Protection Authority (EPA) has advised that it raises no objection to the proposed modification to Condition 20 of the consent to remove the requirement to monitor noise at premises owned by the quarry or where a private agreement is in place. This is consistent with existing EPA standard requirements for quarry licenses. Noise monitoring can still be undertaken in accordance with the Environment Protection Licence for the quarry and at any residential property if the EPA determines it is required. The EPA has advised conditions to amend the General Terms of Approval provided with the original consent and for which a variation in the Environment Protection Licence for the site will be required.

#### **SUMMARY OF RECOMMENDATION**

Approval for the modification of Condition 3 and Condition 20 of the consent. Imposition of additional conditions as required by the NSW Environment Protection Authority.

#### **FINANCIAL/RESOURCE IMPLICATIONS**

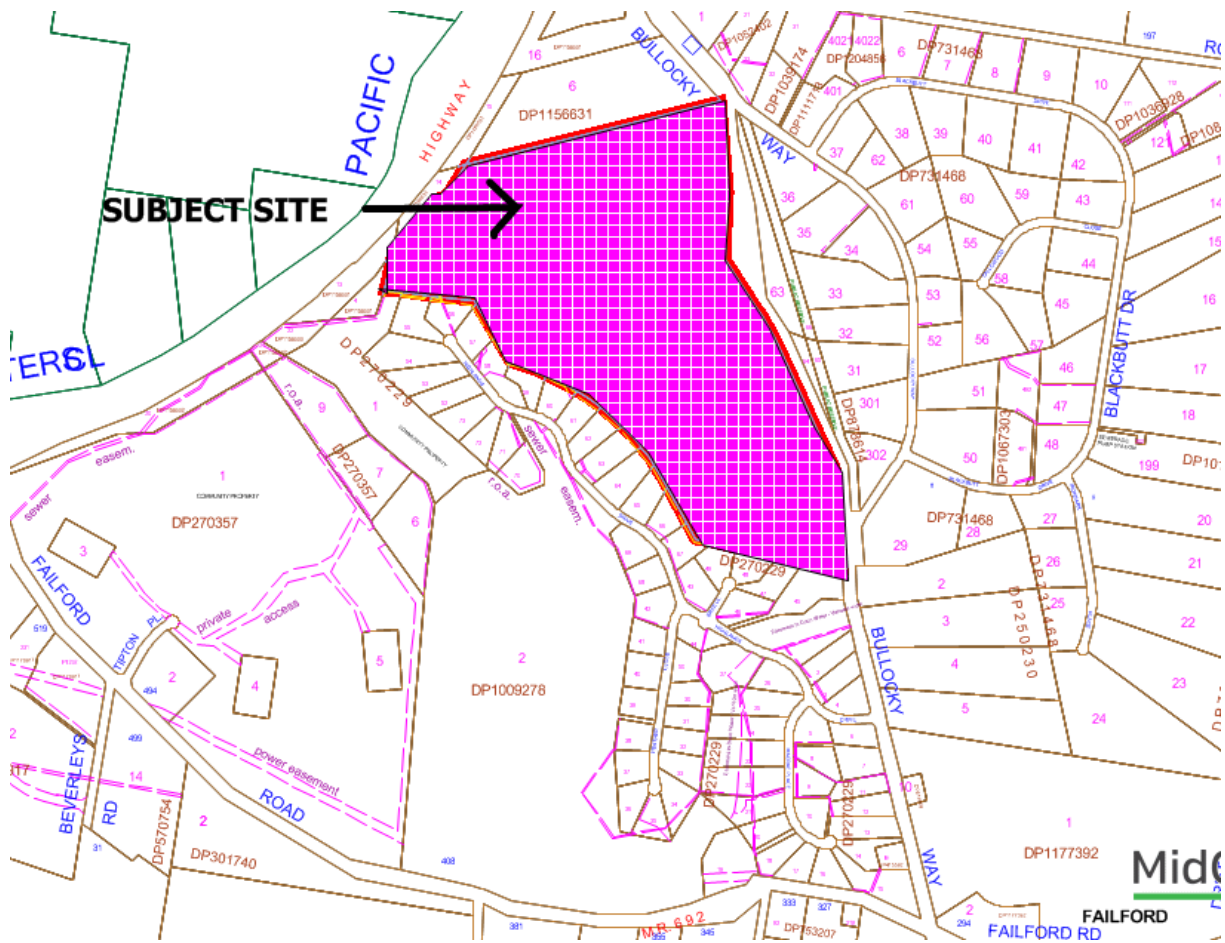
If the application is refused, there may be costs and resource implications associated with any legal proceedings that are commenced.

#### **LEGAL IMPLICATIONS**

As with any determination of a development application, the applicant will have appeal rights if it is dissatisfied with the determination. The Council must consider the application on its merits, despite any risk of legal proceedings being commenced.

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## SUBJECT SITE AND LOCALITY



## BACKGROUND

The Land and Environment Court granted conditional consent on 28 September 2007, to DA 827/2006 for the construction and operation of a concrete batching plant and demolition of an existing workshop building within the bounds of an existing quarry. The development application was classified as 'designated development' and 'integrated development' under the Environmental Planning and Assessment Act, 1979, as amended (EP& A Act).

The consent has been previously modified twice as follows:

- The consent was modified by Council approval at its meeting on 21 October 2008, in accordance with Section 96AA of EP& A Act. The modification involved staging and modifying the approved plans to include independent siting of the workshop and the concrete batching plant, as well as an additional silo area. In addition, the modification included the deletion of Condition 42 relating to a damage bond for Council infrastructure.
- The consent was modified by Council approval at its Development Control Unit Meeting on 16 February 2012, in accordance with Section 96AA of EP& A Act. Condition 6 of the consent was modified to allow truck access to and from the site by trucks via Bullocky Way to the north of the site in the event that access cannot be gained to the Pacific Highway, via Failford Road, due to flooding of Failford Road.



On 4 November 2015, a further application to modify the consent was received, which is the subject of this report. The application proposed to modify Condition 3 of the consent to remove the annual limit on the amount of premixed concrete produced (15,000m<sup>3</sup>) while retaining the 150,000 tonnes total output of all products (rock, gravel, sand, concrete, etc) from the site.

The application was originally incorrectly lodged as a Section 96 (1A) modification instead of Section 96AA (1) application i.e. modification of a consent for designated development granted by the Land and Environment Court. Subsequently additional fees were provided by the applicant and notice of the application was published in the Great Lakes Advocate and notice given to original objectors and the NSW Land and Environment Court in accordance with the Environmental Planning and Assessment Regulation 2000, as well as notice given of the application to adjoining land owners in accordance with Council Policy.

The application was also referred to the Department of Primary Industries Water and the NSW Environment Protection Authority as the original application was considered integrated development under the Water Management Act 2000 and the Protection of the Environment Operations Act 1997. The application was also referred to NSW Roads and Maritime Services for comment.

Eight (8) public submissions and a petition containing 57 signatories were received as a result of the application being advertised and notified in accordance with the relevant legislation and Council policy.

The applicant was advised by letter dated 24 June 2017 of Council concerns relating to the removal of the 15,000m<sup>3</sup> cap on premixed concrete product, in particular:

- Increase in truck movements, especially if the quarry were to cease operations and premixed concrete were to be the total output from the site.
- Increase in truck movements due to additional concrete additives being delivered to the site, and a greater number of deliveries from the site due to the smaller transporting capacity of concrete agitator trucks compared to trucks transporting aggregate.
- Change from the existing travel patterns of employees and visitors, as well as deliveries (in) and product (out).

The applicant by letter dated 30 August 2016 requested that the modification to Condition 3 be amended to limit the amount of premixed concrete to be 30,000m<sup>3</sup>. In addition responses were provided on behalf of the applicant by R W Corkery and Company, Geological and Environmental Consultants and Spectrum Acoustics addressing traffic and noise issues. The application was not further notified or advertised as it was considered that the amendment to Condition 3 represented a reduction in scale of the original proposal but was referred back to the NSW Environment Protection Authority with the additional traffic and noise information provided by the applicant.

## **PROPOSAL**

The application proposes modification of Condition 3 and Condition 20 of the consent for the approved development as follows:

- Modification of Condition 3 relating to the annual amount of premixed concrete produced by the concrete batching plant as follows:
3. *The total output of products (rock, gravel, sand, concrete, etc) for the subject land is limited to 150,000 tonnes per annum, of which up to 30,000m<sup>3</sup> per annum may be premixed concrete.*

Modification of Condition 20 relating to noise monitoring as follows:

20. *Noise emissions from the quarry must not exceed an LAeq (15 min) noise emission criteria of 39dB(A) during the day (7am to 6pm), Monday to Saturday, measured at the most affected point within 30m of a residence or other sensitive receiver not owned or controlled by the proponent. Attended noise monitoring must be taken annually beginning 1 January each year, and occur at a time corresponding to usual or busy quarry activities. A report presenting monitoring results, and comparisons with the 39dB(A) LAeq (15min) noise criteria is to be submitted to Council within one month after the completion of the annual noise monitoring. For the purpose of the noise criteria for this condition, 5dB(A) must be added to the measured level if the noise is substantially tonal or impulsive in character.*

## **SITE DESCRIPTION**

The subject land is 49.37 hectares (ha) in size, of which approximately 14.5 ha the site is approved as a hard rock quarry. The quarry area is approximately rectangular in shape and is positioned within the north-eastern corner of the land.

The site access road is a sealed road located off Bullocky Way, approximately 900 metres (m) north of the Failford road and Bullocky Way intersection. Bullocky Way is a bitumen sealed road connecting the Pacific Highway to the north and Failford Road to the south. Bullocky Way also services the Highlands Rural Residential Estate and Failford Heights Rural Residential Estate.

The subject land is bordered on the eastern, southern and western sides by rural - residential land uses with the Pacific Highway bordering the site to the north-west and west. The concrete batching plant and workshop building are located approximately 300m from the nearest dwelling, which is to the south-west of the site.

## **EXTERNAL REFERRAL**

The application was referred to the NSW Environment Protection Authority, Department of Primary Industries Water and NSW Roads and Maritime Services as the original application was classified as designated development and integrated development under the EP& A Act. The following responses were received as a result of the referrals.

### **NSW Environment Protection Authority**

NSW Environment Protection Authority (EPA) has advised by letter dated 27 October 2016 that it notes the public submissions received included concerns regarding potential increase in noise impacts due to truck movements. The EPA has advised that it raises no objection to removing the requirement to monitor noise at premises owned by the quarry or where a private agreement is in place and that this is consistent with existing EPA standard requirements for quarry licenses.

Further the EPA recommends conditions of approval. The proponent holds Environmental Licence No. 2808 (the Licence) under the Protection of the Environment Operations Act 1997 and should Council grant approval to the modification of consent, then the proponent will need to apply for and obtain a variation to the Licence, consistent with the EPA's recommended conditions of consent.

### **Department of Primary Industries Water**

Department of Primary Industries Water has reviewed the application and has advised by letter dated 13 July 2016 that for the purposes of the *Water Management Act 2000*, a controlled activity approval is not required and no further agency assessment is necessary.

## NSW Roads and Maritime Services

NSW Roads and Maritime Services have advised by letter dated 1 June 2016 that no objection is raised to the modification of Condition 3 as it considers that the modification of Condition 3 will have no significant impact on the classified (State) road network.

### REPORT

#### **Section 96 Assessment**

Under the provisions of Section 96AA of the EP&A Act, Council may only agree to the modification of a Court approved development consent if the following criteria have been complied with:

#### ***Substantially the same development***

Condition 3 of the NSW Land and Environment Court consent is reproduced below

3. *The total output of products (rock, gravel, sand, concrete, etc) for the subject land is limited to 150,000 tonnes per annum, of which 15,000m<sup>3</sup> per annum may be premixed concrete product, as detailed in the EIS.*

The application proposes the modification of Condition 3 to increase the total annual amount of premixed concrete produced by the concrete batching plant from 15,000m<sup>3</sup> to 30,000m<sup>3</sup>, without increasing the total production capacity from the site (the quarry and concrete batching plant, being limited to 150,000 tonnes per annum). The proposed modified wording for Condition 3 is as follows:

3. *The total output of products (rock, gravel, sand, concrete, etc) for the subject land is limited to 150,000 tonnes per annum, of which up to 30,000m<sup>3</sup> per annum may be premixed concrete.*

Condition 20 of the NSW Land and Environment Court consent is reproduced below:

20. *Noise monitoring of noise being emitted from the operations of the concrete batching plant and quarry is to be carried out by an independent acoustic engineer engaged by the applicant at its cost, in accordance with NSW EPA Industrial Noise Policy, at the residences on the land known as 358 Highlands Drive (Lot 61 DP 270229), 137 Bullocky Way (Lot 301 DP 878614) 213 Bullocky Way (lot 36 DP 731468) and 222 Bullocky Way within a three month period immediately after the commencement of operations of the concrete batching plant, and again after the first 12 months of operations and each 12 months thereafter. A report presenting monitoring results and comparisons with the 39 dB(A) LAeq, 15 min noise criterion and any noise attenuation recommendations is to be submitted to Council within one month after completion of noise monitoring referred to above. Any recommended noise attenuation measures identified in the report are to be implemented within 4 months from completion of the each monitoring period, unless an alternative period is agreed by the Council. For the purpose of the noise criteria for this condition 5dBA must be added to the measured level if the noise is substantially tonal or impulsive in character.*

The application proposes the modification of Condition 20 to remove noise monitoring at residences owned by the quarry. The proposed modified wording for Condition 20 is as follows:

20. *Noise emissions from the quarry must not exceed an LAeq (15 min) noise emission criteria of 39dB(A) during the day (7am to 6pm), Monday to Saturday, measured at the most affected point within 30m of a residence or other sensitive receiver not owned or controlled by the proponent. Attended noise monitoring must be taken annually beginning 1 January each year, and occur at a time corresponding to usual or busy quarry activities. A report presenting monitoring results, and comparisons with the 39dB(A) LAeq (15min) noise criteria is to be submitted to Council within one month after the completion of the annual noise monitoring. For the purpose of the noise criteria for this condition, 5dB(A) must be added to the measured level if the noise is substantially tonal or impulsive in character.*

The proposed modifications introduce potential impacts relating to noise and air quality associated with increased premixed concrete production and increased truck movements. The application originally sought to remove the quantity restriction of premixed concrete in its entirety from Condition 3, but did not adequately address potential impacts associated with increased truck movements, including the increase in truck movements due to additional concrete additives being delivered to the site and a greater number of deliveries from the site by concrete agitator trucks. The applicant was requested to provide further justification that the proposed modification resulted in substantially the same development and that Council had the power to modify the consent given that the proposed modification to Condition 3 had the potential to substantially alter the development as originally approved, both in qualitative and quantitative terms, especially if quarry operations were to cease with the only output being premixed concrete.

Consequently, the applicant revised the application such that the modification sought to Condition 3 was to increase the amount of premixed concrete produced (currently approved as 15,000m<sup>3</sup>) to 30,000m<sup>3</sup>. The modification to Condition 20, as originally proposed, to undertake noise monitoring from only those residences not under the ownership of Great Lakes Aggregates Pty Ltd, remains the same. Additional information was received from the applicant in relation to vehicle movements by R.W Corkery & Company in their letter dated 29 August 2016 and truck noise emissions from Spectrum Acoustics in their Truck Noise Assessment dated 11 August 2016, Ref: 6200/6644).

It is considered that the revised modification to Condition 3 and the modification to Condition 20 will result in the development being substantially the same development as the development for which consent was originally granted. The development, the subject of the Section 96 application, is considered to be fundamentally and materially the same in degree and character. The proposed modifications only increases the amount of premixed concrete produced at the site by a maximum 15,000m<sup>3</sup> when compared to the Court approved consent. It is considered that this does not alter the overall scale or character of the original development as the same total amount of product output from the site is retained and the increase in truck movements associated with the increased premixed concrete production when considered in context is not significant. Additionally the modification to Condition 20 only removes one noise monitoring point, being a Great Lakes Aggregates owned residential property at 213 Bullocky Way (Lot 36 DP731468). Noise monitoring can still be undertaken in accordance with the Environment Protection Licence for the quarry and at any residential property if the EPA determines it is required.

## **Notification and Submissions**

The application was advertised and notified for a period of 16 days from 7 April 2016 in accordance with requirements of Section 96AA (1)(b) & (c) of the EP&A Act and Clause 118 of the Environmental Planning and Assessment Regulation 2000. Eight (8) public submissions and a petition containing 57 signatories were received as a result of the application being advertised and notified in accordance with the relevant legislation and Council policy. The submissions referred to the following issues, which in accordance with Section 96AA (1)(d) are considered below and also discussed under the relevant heads of consideration in the Section 79C assessment below in the report.

### **1. Noise**

- Any increase in production will lead to an undetermined proportional increase in noise from production, traffic movements and blasting. Therefore noise levels will increase as a result of the modifications proposed to Condition 3.
- The Environmental Protection Licence appears to conflict with the noise monitoring requirements of the development consent.
- The modification seeks to remove from the noise monitoring sites, the residential property (219 Bullocky Way) under the applicant ownership. Levels of compliance should not be determined by current ownership as properties are subject to change of ownership. Future tenants of the property will also be at risk of higher noise levels if monitoring is not taken from the operator's property.
- No changes to the consent should exclude sites owned by the operator without a full review of on-site noise to the most affected residences close by.
- The batching plant will require more raw materials sourced by increased blasting (as well as material obtained off-site). Blasting causes severe vibrations to dwellings and can only have a negative impact to dwelling foundations.
- Consent Condition 20A for an acoustic barrier behind Nos 149, 153 and onwards to the end of Bullocky Way has not been complied with and it is imperative that it is addressed as soon as possible due to detrimental lifestyle effects.

### **Comment**

It should be noted that the total output of the quarry is not changing from that approved by the Land and Environment Court in Condition 3. Therefore an increase in the amount of premixed concrete will reduce the maximum quantity of quarry products, despatched as aggregate, etc, in a proportional amount to their input in the premixed concrete. Accordingly, there will be no increase in blasting associated with the change proposed to Condition 3.

There will be an increase in truck deliveries associated with the increase in imported materials associated with the increase in the production of premixed concrete and also in the capacity and mix of trucks entering and leaving the site. Noise impacts are primarily associated with increased truck movements associated with increasing the cap of premixed concrete to 30,000m<sup>3</sup> per annum by an additional 15,000m<sup>3</sup> and this is discussed under the Section 79C heading "Traffic and Noise" below in the report.

The changes proposed to Condition 20 relating to noise monitoring is consistent with the requirements of the EPA Licence for the quarry which measures noise emissions "at the most affected point within 30m of a residence or other sensitive receiver not owned or controlled by the proponent". Further the NSW EPA has advised "the EPA has no objection to removing the requirement to monitor noise at premises owned by the quarry or where a private agreement is in place. This is consistent with existing EPA standard requirements for quarry licenses".

A Council site inspection has revealed that an acoustic barrier is in place consistent with the requirements of Condition 20A.

## **2. Dust**

- Dust from the current operations is contributing to on-going family health issues. Quarry has a large amount to account for the continuing problem of excess dust, which is more prominent with a north-easterly breeze and would increase with more production, traffic, crushing & general production.
- Any increase in production will result in additional emissions of airborne dust particles and dust contamination to neighbours and associated health problems.
- Unaware of any dust monitoring being conducted and believe it to be at an unacceptable level. On-going dust monitoring from appropriate residences, with reported results should be undertaken.
- Without taking measures to test the quantity and concentration of the dust deposited on residences in the area it would not be safe to approve any changes that could create increased production & therefore more dust.

## **Comment**

Air quality is discussed under the Section 79C heading "Air quality" in this report. The Court approved consent contains conditions for measures to control dust pollution from the site, in particular Conditions 24 and 25 relate to use of an enclosed pneumatic transfer system and alarms to control dust discharges into the atmosphere. It is considered that the proposed modification will not substantially increase dust, as an increase in wet product (pre-mixed concrete) will also result in a decrease in the storage of dry product, though there may be an increase in road dust associated with truck movements. The increase number of truck movements is not considered significant (refer to the Section 79C heading "Traffic and noise" in this report) therefore associated road dust impacts associated with the modification of Condition 3 is considered minimal. The EPA has verbally advised that it has not received complaints about dust from the quarry and does not consider this a major component of the modification sought by the proponent. Notwithstanding, the EPA has recommended conditions that may be included in the consent to be consistent with any variation sought to the EPA licence.

## **3. Scale of development and amenity**

- The application lacks specification and quantified information to justify the modification as being 'small scale'. Such information would include current or planned levels of production, supply and demand, estimated or potential market growth & market share; levels of output required; production capacity of plant; numbers and kind of vehicle movements; and timing data.
- The current level, duration and kind of noise & level of dust associated with the operation of the concrete batching plant and vehicle movement creates a consistent and general loss of amenity to residences and the neighbourhood and therefore any increase in the operation and production of the concrete batching will also result in an increase in noise, duration of noise, increase in vehicle movements in and out of the quarry and an increase in noise, dust pollution and general inconvenience.

- If the limit is removed on the amount of premixed concrete, it will allow up to 62,000 tonnes and therefore the operating hours would not be sufficient to batch that amount and extended hours would be sought, which would not be acceptable.
- Potential for night batching if Great Lakes Aggregates involved in road upgrades on Failford Road and the Pacific Highway and Bullocky Way and the Pacific Highway.
- Lifting of the current restrictions will inevitably result in an increase in noise, dust and vehicle movements all of which will have an adverse effect on health, safety and property values within the local community.

### **Comment**

Following the notification of the application, the scale of the production for premixed concrete has been significantly reduced, so that it only represents an increase by a maximum of 15,000m<sup>3</sup> from that previously approved by the Court. It is considered that this now meets the threshold test as required by Section 96AA as being 'substantially the same development' as originally approved by the Court, subject to the total output of products remaining the same as originally approved. The major impact resulting from the proposed modification is the increase in truck movements, which considered in context will not result in significant detrimental amenity impacts to surrounding residences. As such the impacts associated with the proposal could not be considered sufficient to sustain a claim for loss in property values connected to the proposed modifications. It should also be noted that there is no change proposed to the approved conditions relating to the hours of operation.

### **4. Traffic**

- Removal of limits of pre-mixed concrete production will lead to an undetermined increase in the number of vehicle movements providing raw materials to the site and delivering the finished product from the site. This will result in increased road safety risk and road damage.
- Increase in heavy traffic would compromise the sight distances at the intersection of Highlands Drive and Bullocky Way.

### **Comment**

The application has been amended following its notification and advertising. Consequently the amount of pre-mixed concrete is now proposed to be limited to 30,000m<sup>3</sup>. Refer to the Section 79C heading "Traffic and noise" below for a discussion of road network capacity. Council's Traffic Engineer has advised that sight distances will not be compromised by the increased volume of traffic on Bullocky Way as a result of the proposed modification.

### **5. Public Interest**

- The application is not in the public interest as currently the quarry and concrete batching plant are in breach of conditions of consent relating to vehicle noise and queuing of vehicles prior to 7.30am.

**Comment:**

The process for complaints regarding breaches of consent is not by way of objection to the current application. In accordance with regulatory requirements, the NSW Environment Protection Authority is the appropriate regulatory authority for all pollution from the site including dust and noise. Condition 7B of the consent requires that in the event that a concrete transit mixer or truck does queue at the entrance gate to the site prior to 7.30am, the concrete batching plant operator must refuse to load that concrete transit mixer or load or unload that truck at any time on that day. Additionally, a register must be kept of offending vehicles, which is to be made available for inspection by Council upon request. Accordingly, these matters are dealt with by Council's regulatory compliance officers upon specific written complaints.

**Section 79C consideration**

Council in determining a Section 96AA modification must under Section 96 AA (1A) take into consideration relevant matters referred to in Section 79C of the EP& A Act. It is considered that the proposed modifications do not introduce any substantial changes with respect to the original assessment that would preclude approval of the application. The matters of relevance for the consideration of the application are discussed below.

**Traffic and Noise**

The change from quarry materials being extracted from the site to more batched concrete will have a change in the types of vehicles travelling to and from the site. There will be more raw materials for concrete production being delivered to the site to cater for the increase in concrete production and additional concrete delivery trucks travelling from the site (and returning). Council's Traffic Engineer has considered the proposal and has advised that the road network can cater for this change of vehicles and the trucks relating to the concrete batching, subject to replacement of the existing faded and discoloured warning signs of heavy vehicles located on Bullocky Way on both approaches to the intersection of the quarry access road.

The quarry access road off Bullocky Way is "Y" configuration with heavy vehicles travelling to and from the quarry from the south using Failford Road. The access for heavy vehicles to the quarry from Bullocky Way is a left turn into the access road and right turn onto Bullocky Way. The turn into the quarry access road is a sweeping left turn that would not require a major reduction in speed for vehicles to enter the road and therefore vehicles travelling north on Bullocky Way will not be greatly disadvantaged by the heavy vehicles entering the quarry. Heavy vehicles exiting the quarry will turn right from the access road onto Bullocky Way and should they be required to wait, only the vehicles from the quarry will be affected by these delays. This intersection will be operating well under capacity with the proposed volumes listed in the reports provided by the applicant.

The applicant has provided further information in relation to increased truck movements as a result of the changed product and output mix. Potential increases to noise emissions associated with the proposed modification may occur due to these increased truck movements. The application originally sought to remove the quantity restriction of premixed concrete from Condition 3, but did not adequately address potential impacts associated with increased truck movements.

Further information was subsequently submitted which provided that the limit of premixed concrete would be increased from 15,000m<sup>3</sup> per annum to a maximum 30,000m<sup>3</sup> per annum. The increase in vehicle movements associated with the proposal was acknowledged and discussed by R.W Corkery and Company in their letter dated 29 August 2016. Truck noise emissions were assessed by Spectrum Acoustics in their Truck Noise Assessment (dated 11 August 2016, Ref: 6200/6644).



R.W Corkery and Company provide that the maximum number of truck movements for concrete and aggregate products associated with the production of 30,000m<sup>3</sup> per annum would be equivalent to 22,060, which R.W Corkery and Company claim is an increase of 8.5% upon the current theoretical maximum levels. This has been considered by Council's Traffic Engineer and verified as acceptable. When considered in the context of the increase in truck movements per hour (approximately one (1) additional truck movement per hour), the number is not considered to significantly affect the amenity of nearby residences.

The Truck Noise Assessment considers truck noise emissions in accordance with the Department of Environment, Climate Change and Waters NSW Road Noise Policy. The Truck Noise Assessment indicates that there may be up to 600 truck movements per day before the Road Noise Policy criterion is exceeded. Traffic levels associated with the proposed modification would be within the theoretical maximum level of truck movements permitted to achieve compliance with Road Noise Policy.

In relation to the request to alter Condition 20, to remove the requirement to monitor noise at a company owned residence included in this condition (Lot 36 DP731468, 213 Bullocky Way), no concern is raised. The NSW EPA has advised 'the EPA has no objection to removing the requirement to monitor noise at premises owned by the quarry or where a private agreement is in place. This is consistent with existing EPA standard requirements for quarry licenses'.

### **Air Quality/Dust**

It is noted that submissions have included concerns around dust emissions. Considering the existing approved activities on the site, it is not likely that the proposed modification will significantly alter air quality impacts. An increase in concrete production would represent a decrease in quarried aggregate material. The production of a larger quantity of concrete in a controlled environment may reduce potential impacts, as quarrying activities would be required to be decreased.

The site and operations are licensed by the NSW Environment Protection Authority as activities are scheduled under the Protection of the Environment Operations Act 1997. In accordance with regulatory requirements, the NSW Environment Protection Authority is the appropriate regulatory authority for all pollution from the site including dust and noise. To address public concerns and ensure licence conditions are consistent with contemporary standard, the NSW Environment Protection Authority has proposed additional licence conditions in relation to air quality and noise. Consent conditions have been included to require the applicant to modify the Environment Protection Licence prior to being permitted to produce in excess of 15,000m<sup>3</sup> of premixed concrete.

### **CONCLUSION**

The proposal complies with the relevant Section 96AA assessment criteria and it is considered that it will not have any significant adverse impacts upon either the amenity of the nearby residences or the character of the locality.

### **RECOMMENDATION**

It is recommended that the Section 96AA modification of the consent to DA 827/2006 seeking modification of conditions of consent for a concrete batching plant at Lot 5 DP 1156631, 107 Bullocky Way, Failford, be granted in the following manner:

- **Condition 3 amended to read:**

3. The total output of products (rock, gravel, sand, concrete, etc) for the subject land is limited to 150,000 tonnes per annum, of which 30,000m<sup>3</sup> per annum may be premixed concrete product following the applicant applying for and obtaining a variation to the Environment Protection Licence for the site from the NSW Environment Protection Authority.

- **Condition 3A inserted:**

- 3A An audited report shall be provided to Council on an annual basis demonstrating that the thresholds specified in Condition 3 have not been exceeded.

- **Condition 20 amended to read:**

20. Noise emissions from the concrete batch plant and quarry must not exceed an LAeq (15min) noise emission criteria of 39dB(A) during the day, assessed at the most-affected point on or within any residential property boundary (not owned or controlled by the proponent) - or, if that is more than 30 metres from the residence, at the most-affected point within 30 metres of the residence.

Noise monitoring of noise being emitted from the operations of the concrete batch plant and quarry is to be carried out by an independent acoustic engineer engaged by the applicant at its own cost.

Noise monitoring must be undertaken in accordance with the NSW EPA Industrial Noise Policy, on the land known as 358 Highlands Drive (Lot 61 DP 270229), 137 Bullocky Way (Lot 301 DP 878614) and 222 Bullocky Way (Lot 22 DP 1052402). Attended noise monitoring must be undertaken at least once within each calendar year, and a report presenting monitoring results, comparisons with the 39dB(A) LAeq (15min) noise criteria and any noise attenuation recommendations is to be submitted to Council within one (1) month after completion of noise monitoring referred to above.

Any recommended noise attenuation measures identified in the report are to be implemented within four (4) months from completion of each monitoring period, unless an alternative period is agreed to by Council. For the purpose of noise criteria for this condition 5dB(A) must be added to the measured level if the noise is substantially tonal or impulsive in nature.

- **Condition 6A inserted:**

- 6A The existing warning signs of heavy vehicles on Bullocky Way on both approaches to its intersection with the quarry access road, must be replaced at the applicant's expense in consultation with Council's Traffic Engineer.

- **Condition 19A inserted:**

- 19A Prior to the applicant applying for and obtaining a variation to the Environment Protection Licence for the site from the NSW Environment Protection Authority, 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:

Major Roads						
Forster District Inner Zone	10	1-way trips	@	\$674.34	=	<b>\$6,743.44</b>
			<b>Total</b>		=	<b>\$6,743.44</b>

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.

- **Amend relevant 'ADMINISTRATIVE CONDITIONS' In Attachment A - General Terms of Approval for Failford Quarry and Batching Plan by the following:**

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**Attachment A**

In addition to the existing conditions of Environment Protection Licence 2808, conditions of consent that should be considered by Council relating to this modification are shown below.

**1. Location of monitoring/discharge points and areas**

1.1 The following points referred to in the table below are identified in the licence for the purpose of monitoring and/or setting of limits for the emission of pollutants to the air from the point

*Air*

EPA Identification no.	Type of Monitoring Point	Type of Discharge Point	Location Description
X (to be specified in the Environment protection licence)	Dust deposition monitoring		To be specified in the Environment Protection Licence (location reference to be provided by the proponent and agreed to by the EPA, generally SE of the quarry)
Y (to be specified in the Environment protection licence)	Dust deposition monitoring		To be specified in the Environment Protection Licence (location reference to be provided by the proponent and agreed to by the EPA, generally SW of the quarry)

*Meteorological conditions*

EPA Identification no.	Type of Monitoring Point	Location Description
Z (to be specified in the Environment Protection Licence)	Meteorological Station – to determine meteorological conditions for noise monitoring	To be specified in the Environment Protection Licence (location reference to be provided by the proponent and agreed to by the EPA)

*Noise*

EPA Identification no.	Type of Monitoring Point	Location Description
A (to be specified in the Environment protection licence)	Noise monitoring	To be specified in the Environment Protection Licence (location reference to be provided by the proponent and agreed to by the EPA, generally SE of the quarry)
B (to be specified in the Environment protection licence)	Noise monitoring	To be specified in the Environment Protection Licence (location reference to be provided by the proponent and agreed to by the EPA, generally SW of the quarry)

## 2. Noise

2.1. Noise generated at the premises must not exceed the noise limits in the table below.

EPA Identification no.	Limit dB(a) LAeq(15min) Day
A (to be specified in the Environment Protection Licence, generally SE of the quarry)	39
B (to be specified in the Environment Protection Licence, generally SW of the quarry)	39

### Definitions:

- LAeq (15 minute) represents the equivalent continuous (energy average) A-weighted sound pressure level of the noise source measured over a 15-minute period.
- Day is defined as 7 am to 6 pm Monday to Saturday

2.2 The noise limits specified in the condition above apply under all meteorological conditions except the following:

- a) wind speeds greater than 3 metres/second at 10 metres above ground level
- b) stability category F temperature inversion conditions and wind speeds greater than 2 metres/second at 10 metres above ground level; or
- c) Stability category G temperature inversion conditions

2.3 For the purposes of measuring meteorological conditions specified above:

- a) Data recorded by the meteorological station identified as EPA Identification Point <Z> must be used to determine meteorological conditions; and
- b) Temperature inversion conditions (stability category) when determined by the sigma-theta method must be determined in accordance with Part E2 of Appendix E to the NSW Industrial Noise Policy.

2.4 To determine compliance:

- a) With the Leq (15 minute) noise limit in this Noise Limit condition, the noise measurement equipment must be located
  - Approximately on the property boundary, where any dwelling is situated 30 metres or less from the property boundary closest to the premises; or
  - Within 30 metres of a dwelling façade, but not closer than 3m where any dwelling on the property is situated more than 30 metres from the property boundary closest to the premises; or where applicable
  - Within approximately 50 metres of the boundary of a National Park of a Nature Reserve
- b) With the noise limits in this Noise Limit condition, the Noise measurement equipment must be located:
  - At the most affected location where there is no dwelling at the location; or
  - At the most affected point within an areas at a location prescribed by this Noise Limits condition.

2.5 A non-compliance of this Noise Limits condition will still occur where noise generated from the premises in excess of the appropriate limit is measured:

- At a location other than an areas prescribed by this Noise Limits condition; and/or
- At a point other than the most affect point at a location.

2.6 For the purposes of determining the noise generated at the premises the modification factors in Section 4 of the NSW industrial Noise Policy must be applied, as appropriate, to the noise levels measured by the noise monitoring equipment.

2.7 To determine compliance with the noise limit shown in this licence, attended noise monitoring must be undertaken in accordance with the requirements of the "Noise Limits" conditions of this licence:

- a) at locations described in the "Noise Limits" conditions of this licence;
- b) annually beginning 1 January each year;
- c) occur at times of the year when noise levels are expected to be highest, that is, generally winter conditions;
- d) occur at a time corresponding to usual or busy quarry and concrete batching activities; and
- e) occur during each day period as defined in the NSW Industrial Noise Policy.

### 3. Hours of operation

3.1 The following hours of operation are applicable to the premises.

Day	Concrete batching plant	Extraction and processing operations	Delivery of Raw materials
Monday to Friday	7:00am-6:00pm	7:30-am-5:00pm	7:30am-6:00pm
Saturday	7:30am-3pm	None	8:00am-3:00pm
Sunday and public holidays	None	None	None

3.2 The following activities may be conducted at the premises outside the hours specified in the table above

- a) Machinery maintenance;
- b) delivery or dispatch of materials as requested by Police, Fire Brigade or similar authorities; and
- c) emergency work to avoid the loss of lives, property and/or prevent environmental harm

In circumstances outlined in (b) and (c), the licensee must notify affected residents prior to undertaking the activities, or as soon as practical thereafter.

3.3 There must be no queuing of vehicles at the entrance to the premises or on public streets prior to the hours detailed above.

### 4. Dust

4.1. All areas in or on the premises must be maintained in a condition that prevents or minimises the emission of dust to the air.

4.2. Any activity carried out in or on the premises must be carried out by such practical means as to prevent dust or minimise the emission of dust to the air.

4.3. Any plant operated in or on the premises must be operated by such practical means to prevent or minimise dust or other pollutants.

4.4. All trafficable areas and vehicle manoeuvring areas in or on the premises must be maintained, at all times, in a condition that will minimise the emission of dust to the air, or emission from the premises of wind-blown or traffic generated dust.

4.5. Trucks entering and leaving the premises that are carrying loads of dust generating materials must have their loads covered at all times, except during loading and unloading.

4.6 The proponent must take all practicable measures to prevent mud and waste being tracked outside the premises by exiting vehicles.

## 5. Air

### Requirement to monitor concentration of pollutants discharged

5.1. For each monitoring/discharge point of utilisation area specified below (by a point number), the licensee must monitor (by sampling and obtaining results by analysis) the concentration of each pollutant specified in Column 1. The Licensee must use the sampling method, units of measure, and sample frequency, specified opposite in the other columns:

#### POINT X, Y <monitor location to be provided by licensee and agreed to by the EPA>

Pollutant	Units of measure	Frequency	Sampling Method
Particulates	Grams per square metre per month	Monthly	AM-19

5.2. The number and location of monitors must be approved by the EPA prior to installation of the monitoring equipment

## 6. Weather Monitoring

6.1 The meteorological weather station must be maintained so to be capable of continuously monitoring the parameters specified in the conditions below

6.2 For each monitoring point specified in the table below the licensee must monitor (by sampling and obtaining results by analysis) the parameters specified in Column 1. The licensee must use the sampling method, units of measure, averaging period and sample at the frequency, specified in the other columns

#### Point Z <monitor location to be provided by licensee and agreed to by the EPA>

Parameter	Units of Measure	Frequency	Averaging Period	Sampling Method
Air temperature	°C	Continuous	1 hour	AM-4
Wind direction	°	Continuous	15 minute	AM-2 & AM-4
Wind speed	m/s	Continuous	15 minute	AM-2 & AM-4
Sigma theta	°	Continuous	15 minute	AM-2 & AM-4
Rainfall	mm	Continuous	15 minute	AM-4
Relative humidity	%	Continuous	1 hour	AM-4

*Note:* Sampling methods as identified in the table above refer to those outlined in NSW EPA 2001, Approved Methods for the Sampling and Analysis of Air Pollutants in NSW.

6.3. The location of the site chosen for the station and details of equipment, measurement and maintenance / service procedures and schedules to be installed and maintained must be

submitted to the EPA and approved in writing by the EPA before any sampling or analysis is carried out

6.4. The meteorological monitoring station must be calibrated at least once every 12 months. The EPA is to be provided with data on request in a Microsoft Office software compatible format.

## **7. Emergency Response**

7.1 The licensee must maintain, and implement as necessary, a current Pollution Incident Response Management Plan (PIRMP) for the premises. The PIRMP must be developed in accordance with the requirements in Part 5.7A of the *Protection of the Environment Operations (POEO) Act 1997* and POEO regulations. The licensee must keep the incident response plan on the premises at all times. The incident response plan must document systems and procedures to deal with all types of incidents (e.g. spills, explosions or fire) that may occur at the premises or that may be associated with activities that occur at the premises and which are likely to cause harm to the environment. The PIRMP must be tested at least annually or following a pollution incident.

**End**



Lisa Schiff  
**Director**  
**Planning and Natural Systems**