



## **Notice of Development Control Unit Meeting**

**to be held at the Council Chambers  
4 Breese Parade, Forster**

**16 November 2017 at 2pm**

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

1. Acknowledgement of Traditional Custodians
2. Declaration of Pecuniary or Conflicts of Interest (nature of interest to be disclosed)
3. Apologies
4. Confirmation of Minutes
5. Matters arising from Minutes
6. Addresses from the Public Gallery
7. Consideration of Officers' reports
8. Close of meeting

A handwritten signature in black ink, which appears to read 'Glenn Handford'.

Glenn Handford  
**General Manager**

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## **CONSIDERATION OF OFFICERS' REPORTS:**

### **DIRECTOR PLANNING & NATURAL SYSTEMS**

#### **1 283-2017DA - SHED AND USE OF FENCE - MITCHELLS ISLAND**

**Report Author** Adam Dean, District Building Surveyor

**File No. / ECM Index** 283/2017/DA

**Date of Meeting** 16 November 2017

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#### **DETAILS**

Date Received: 12 January 2017

Applicant: T & L Hill

Owner: T & L Hill

Land: 22 Surbiton Place, Mitchells Island

Property Key: 21342

Zoning: RU1 - Primary Production, GTLEP 2010

#### **SUMMARY OF REPORT**

- The land is occupied by an oyster processing facility and a manager's residence which is currently under construction.
- The proposal is for the use/ retention of an unlawfully erected boundary fence and attached metal pipe storage structure, extension of the boundary fence and metal pipe storage structure and construction of a shed.
- Proposed shed does not comply with side boundary setback or ridge height requirements of Council's DCP.
- Three (3) submissions were received from adjoining landowners.
- The site is adjacent to the Butter Factory and Wharf which is a Local Heritage Item.

#### **SUMMARY OF RECOMMENDATION**

The proposed development application be approved subject to conditions.

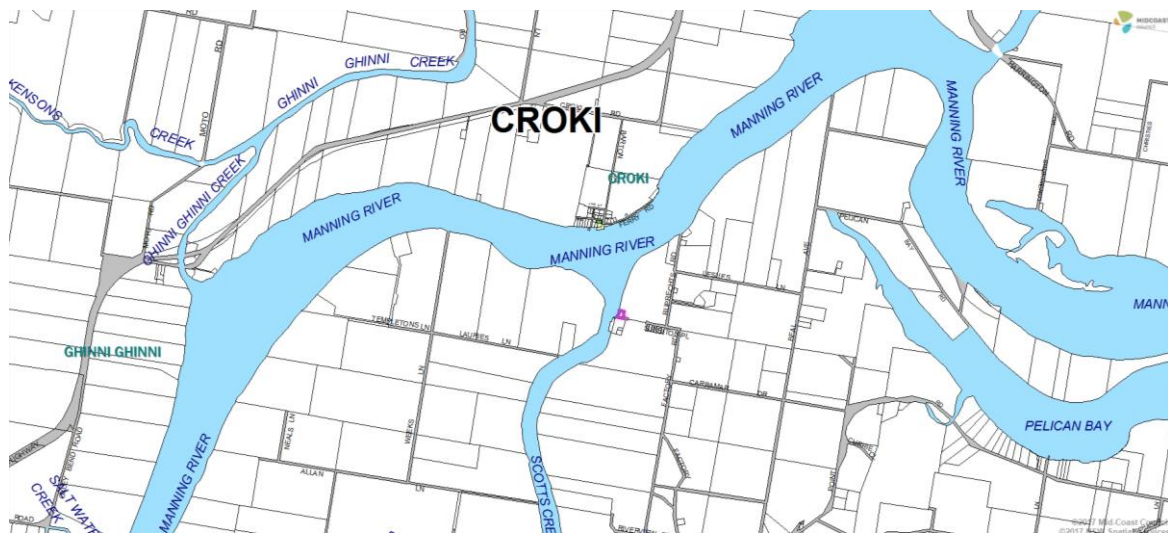
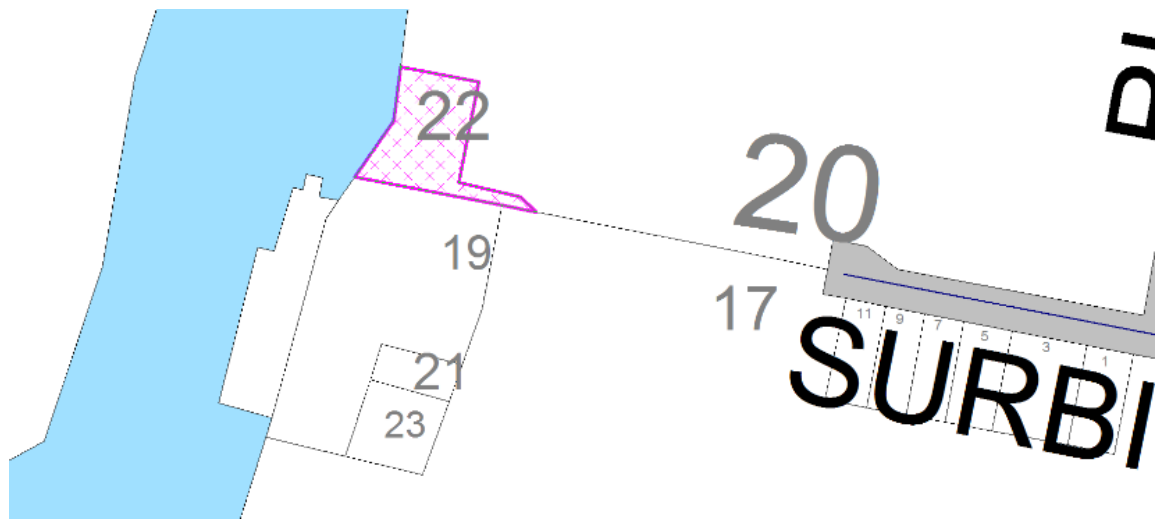
#### **FINANCIAL/RESOURCE IMPLICATIONS**

Cost of defending any appeal against Council's decision.

#### **LEGAL IMPLICATIONS**

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

**SUBJECT SITE AND LOCALITY**



**BACKGROUND**

The site has previously been used for oyster processing.

A summary of previous approvals is shown below:

Approval no.	Descriptions	Determination	Date
196/1996/D	Oyster processing shed and septic tank	Approved	21.8.1996
403/1996/B	Oyster processing shed and septic tank	Approved	2.10.1996
670/2009/DA	Dwelling – managers residence	Approved	18.06.2010
670/2009/DA/A	Dwelling – managers residence	Approved	09.12.2014

Following receipt, the application was notified to adjoining landowners and a preliminary assessment was undertaken by Council staff. Following completion of the notification process the applicant was invited to respond to the three (3) submissions received and various matters raised by Council staff.

On 19 June 2017 amended plans and reports were received. This report is an assessment of the amended plans and reports.

## **SITE DESCRIPTION**

The subject site is located at the end of a shared access of the end of Surbiton Place. The site backs on to Scotts Creek and is used as an oyster farming business. The site is occupied by oyster farming infrastructure including processing areas, large machinery shed and boat storage, depuration plant, jetties and loading areas.

## **PROPOSAL**

In July 2017 Council staff received a complaint from the owner of 19 Surbiton Place that a 25m long metal boundary fence and attached pipe storage structure had been erected along the common boundary with 22 Surbiton Place. The fence is approximately 2.7m high with the pipe storage structure extending around 500mm above the fence. A photograph of the fence taken from within 22 Surbiton Place follows.

The proposal seeks consent for:

- Retention of the metal boundary fence.
- Lower the height of the pipe storage structure to the height of the fence.
- Extend length of fence and pipe storage structure.
- See drawings in Attachment B.
- Erect a new storage shed for plant and materials used for the oyster farming operations.



Site of proposed shed, unlawful boundary fence, pipe storage structure and Butter Factory beyond.

## **ASSESSMENT**

## SECTION 79C MATTERS FOR CONSIDERATION -

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**

Having regard for the matters for consideration detailed in Section 79C(1) of the *Environmental Planning & Assessment Act 1979*, the following is a summary of the evaluation of the proposal pursuant to the provisions of the relevant clauses of the Greater Taree Local Environmental Plan 2010.

#### **Zone: RU1 Primary Production**

<b>LEP Requirement</b>	<b>Summary of Requirement</b>	<b>Complies</b>
<b>5.10 – Heritage Conservation</b>	<i>To conserve the heritage significance of heritage items including associated fabric, setting and views</i>	Yes Conditioned
<b>7.1 – Acid Sulfate Soils</b>	<i>To ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</i>	Yes
<b>7.2 – Flood Planning</b>	<i>To minimise the flood risk to life and property.</i>	Yes

### **DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS**

The following is a summary of the evaluation of the proposal pursuant to the provisions of any Draft Environmental Planning Instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority.

#### **Draft Coastal Management SEPP**

The Coastal Management SEPP will replace SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection) and ensure that future coastal development is appropriate and sensitive to the coastal environment. The proposed development is not inconsistent with the aims of the policy.

### **STATE ENVIRONMENTAL PLANNING POLICIES (SEPP's), AND OTHER STATE GUIDELINES & POLICIES**

Having regard for the matters for consideration detailed in Section 79C(1) of the *Environmental Planning & Assessment Act 1979*, the following is a summary of the evaluation of the proposal pursuant to the provisions of relevant State policies.



State Policy	Requirement	Complies
SEPP 71 - Coastal Protection	To consider matters listed in Clause 8 of the Policy.	Yes

### **GREATER TAREE DEVELOPMENT CONTROL PLAN 2010**

Having regard for the matters for consideration detailed in Section 79C(1) of the Environmental Planning & Assessment Act 1979, the following is a summary of the evaluation of the proposal pursuant to the relevant provisions of the Greater Taree Development Control Plan 2010.

Development Control Requirement	Requirement	Complies
<b>J3.1 – Ancillary Structures and Outbuildings</b>	Maximum wall height 4.5m	Yes
	Roof height 7m	No
	Side setback 10m	No
	Maximum floor area 500m <sup>2</sup> .	Yes
	Buildings to have pitched roofs within 15 – 25 degrees	Yes

#### **Clause J3.1 – Ancillary Structures and Outbuildings provides:**

*“The roof height is not to exceed 7m at any given point” and “Enclosed ancillary structures and outbuildings are to be setback 10m to the side boundaries”.*

Clause J3.1 provides the following relevant objectives on ridge height and side boundary setbacks:

*To minimise the visibility of ancillary structures and outbuildings from the street, adjoining properties and public spaces;*

*To ensure that the appearance of ancillary structures and outbuildings is of a high quality and where appropriate integrates with the streetscape;*

*To ensure ancillary structures and outbuildings are compatible in height, bulk and scale with the existing or proposed development on site in the rural locality.*

#### Comment:

The proposed shed has a ridge height of 7.364m and is setback 1m from the southern side property boundary.

The proposed variations are considered acceptable from an environmental planning viewpoint for the following reasons:

- The shed cladding is corrugated and complimentary to the adjacent buildings.
- The colour is to be dark grey which makes it visually recessive.
- It is in keeping with the character of the area (noting the deletion of the gable fronted dormer windows).
- There is no other suitable location on the land for the proposed shed.
- It is lower in scale than the Butter Factory and therefore will not dominate it.

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

The proposal is unlikely to have any significant detrimental environmental, social or economic impact.

#### **Views**

A condition is recommended to require the unlawful fence to be altered so that it does not extend forward of the Butter Factory. Thereby ensuring views from Scotts Creek are maintained.

### **Visual Impact**

The materials and colours of the fence and shed have been considered by Council's Heritage Officer with various recommendations being made with regards to metal sheet profile and colours. These recommendations have been agreed to by the applicant and are included as conditions of consent.

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

The site is currently used for oyster farming activities. The proposed development supports this existing activity.

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

The original application was notified to adjoining owners in accordance with Council's Policy from 12/01/2017 to 30/01/2017. The notification generated three (3) submissions objecting to the development with the majority of the concerns relating to heritage impacts.

On 19 June 2017 amended plans, a flood report and heritage impact assessment were received.

The heritage impact assessment was referred to Council's Heritage advisor who recommended that:

- The dormer windows be deleted from the shed.
- The shed cladding be corrugated and dark grey.
- The metal fence be painted dark grey on both sides.
- The metal fence must not extend past the north western corner of the Butter Factory.

The issues raised in submissions and responses to those issues are detailed below:

<b>Submission</b>	<b>Comment</b>
Colour of new structure whether reflective or non-reflective materials.	The proposed shed colour is dark grey.
The dormer windows to have non-reflective glass.	The dormer windows no longer form part of the application.
No engineering details supplied in the submission for slab, reo and thickness along with details of wind loads for proposed shed and built boundary wall.	Engineering details for the shed will be required as necessary at construction certificate stage.  Engineering certification for the boundary fence forms part of the application.
No engineering details to encase the main drain currently running under the proposed shed site.	This is a matter for consideration at Construction Certificate stage.
Require an undertaking that the pipes currently stored along our fence line will be removed.	Council cannot dictate where pipes are stored on the site.
<b>Submission</b>	<b>Comment</b>

<p>In total we are in grave doubt regarding the quality of the development as a building in accordance with the described dimensions would cost more than the \$22,000 indicated.</p> <p>Our concerns about the proposal building is the quality of the building, the wind loading and the possibility of debris flying onto our paddocks and injuring our cattle.</p>	<p>The value of works has been revised by the applicant to \$43,549.30.</p> <p>The 'quality' of the construction will be considered as part of the Construction Certificate assessment.</p>
<p>The structure is not a fence, it is an industrial steel storage and stacking facility over 25 metres long, 1 metre wide.</p>	<p>Agreed.</p>
<p>The racking system is higher than the windows on our Butter Factory</p>	<p>The amended application proposes to reduce the height of the "racking system" to the height of the fence.</p>
<p>The proposed shed will be twice as high as the fence and only 1m from the boundary.</p>	<p>The proposed location and design of the shed has been considered earlier in this report.</p>
<p>The view of the Butter Factory to and from Croki is now obstructed by the illegal structure affecting the heritage aspect of the site.</p>	<p>The impact on views to the Butter Factory have been considered by Council's Heritage Officer and have been found to be satisfactory subject to the fence not extending past the north western corner of the Butter Factory.</p>
<p>We also believe that the approval for the shed should not be granted as the site is being used for a purpose that was not approved in the original DA. The shed is being constructed because the space originally approved for oyster production is being used for other purposes.</p> <p>The site and oyster production facility have now been taken over for domestic residential purposes.</p> <p>A great deal of development has taken place that is in breach of the original DA and has negatively affected our amenity and the heritage value of the Butter Factory.</p>	<p>A portion of the approved oyster processing shed is presently being used unlawfully as a manager's residence. This is expected to cease upon completion of the construction of the approved managers residence.</p> <p>The portion of the existing shed that is being occupied is not of sufficient size or design to accommodate the vehicles, goods and equipment that are to be stored in the new shed.</p> <p>The objection does not specify what unauthorised development has occurred. Except for the residential occupation of the shed the land use appears to be occurring in accordance with the consents granted.</p>
<p>The material and size of the structure (fence) has a negative impact on the heritage listing of the Butter Factory.</p>	<p>Council's Heritage Officer has considered this matter and advised that the structure is satisfactory subject to fence being painted dark grey on both sides.</p>
<p>The property is listed as primary production aquaculture as oyster farming. Currently is housing a family of 5 living at this address as permanent residents.</p>	<p>The unlawful occupation of the existing oyster processing shed is expected to cease upon completion of the construction of the approved managers residence.</p>

<b>Submission</b>	<b>Comment</b>
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The application has been made under the impression that “oyster farming” is being operated. However the owner does not work in the industry but is instead working as a builder’s labourer.	An operative oyster farming operation exists on the land.
There has been a DA on the said property for a further demountable dwelling on the northern side for additional manager’s office. The site plan does not reflect the large shed which is attached to the “office area” which has been extended without Council approval during the last 3 years.	The plans adequately depict the proposal for which consent is being sought.

**e) *The Public Interest***

The proposed development supports the existing primary industry on the land and is consistent with the objectives of the zone. It also provides social and economic benefits for the area. Accordingly the proposal is considered to be in the public interest.

**CONCLUSION**

The proposal is permissible on the land and is consistent with the objectives of the Greater Taree DCP. It supports the primary industry on the land and poses minimal environmental impacts. Furthermore it does not detrimentally affect the heritage significance of the adjoining heritage item.

**RECOMMENDATION**

It is recommended that Development Application 283/2017/DA for Use of Fence, Construction of new Shed on Lot 1 DP 842861 be approved in accordance with the conditions of consent contained in Annexure A.

## ANNEXURES

A: Conditions of Consent

### General Requirements

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

#### 1. Development in accordance with approved plans

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

Plan type/Supporting Document	Plan No. & version	Prepared by	Dated
Site plan and cross sections	1, 2 and 3 of 3	-	-
Elevations	A02	WR	11/01/2017

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

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

#### 2. Compliance with National Construction Code Series- Building Code of Australia

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

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

#### 3. Support for neighbouring buildings

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 one expense:

- a) protect and support the adjoining premises from possible damage from the excavation, and
- b) where necessary, underpin the adjoining premises to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to this condition not applying.

**Reason:** To protect development on adjoining premises. Prescribed condition under the *Environmental Planning and Assessment Regulation 2000*.

### Prior to the Issue of the Construction Certificate

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

#### 4. Flooding

A detailed report from a suitably qualified and practicing engineer must be submitted to council, certifying that the proposed shed has been designed to be capable of withstanding all flooding conditions, including impact of standing water on foundations, forces of flowing water during a 1% flood, debris loading and buoyancy forces.

For the assessment purpose the 1% AEP flood level and velocity are assumed to be RL 3.5m AHD and 0.10 m/s.

**Reason:** Public safety.

#### 5. Heritage

The Construction Certificate drawings shall show:

- a) The deletion of the gable fronted dormer windows from the shed.
- b) The shed cladding being corrugated.
- c) The shed colour being dark grey.
- d) The boundary fence and metal pipe storage structure being painted dark grey.
- e) The boundary fence not extending in a westerly direction, past the north western corner of the butter factory building located at 19 Surbiton Place, Mitchells Island.

**Reason:** Heritage conservation. To minimise the visual impact of the development on the adjacent Heritage Item (Butter Factory buildings and wharf).

### **Prior to the Commencement of Work**

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

#### **6. Construction certificate required**

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

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

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

#### **7. Notification of commencement and appointment of principal certifying authority**

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

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

#### **8. Installation of erosion & sediment control measures**

Prior to the commencement of work, erosion and sediment controls must be in place in accordance with Great Lakes Council Erosion and Sediment Control Policy and "*The Blue Book – Managing Urban Stormwater (MUS): Soils and Construction*" (Landcom). In particular, the following erosion and sediment control measures must be installed:

- a) Silt fence or sediment barrier.
- b) Temporary driveway from the edge of road to the building site.
- c) Temporary downpipes immediately upon installation of the roof covering.

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

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

## 9. Toilet facilities - unsewered areas

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

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

## 10. Site construction sign

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

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

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

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

## Conditions to be satisfied during Development Work

*The following conditions of consent must be complied with during any development work.*

## 11. Construction times

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

Monday to Friday, from 7 am to 6 pm.

Saturday, from 8 am to 1 pm.

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

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

## 12. Flooding

The minimum floor level of proposed shed is to be RL 2.10 metres AHD. Certification from a Registered Surveyor confirming that the minimum floor level has been achieved must be submitted to the Principal Certifying Authority when the shed reaches floor level stage.

**Note:** Framework associated with the building is not to be erected until such time as the floor level certification is received.

**Reason:** Protection of property.

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

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

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

**Prior to Issue of the Occupation Certificate**

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

**14. Works to be completed**

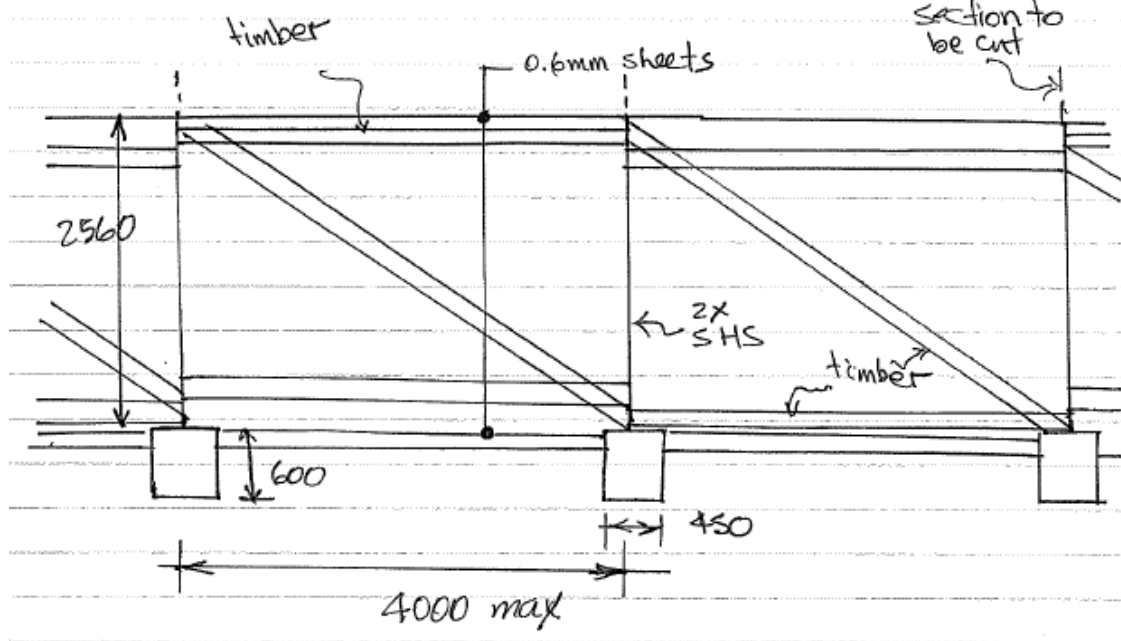
The building/structure or part thereof must not be occupied or used until an occupation certificate has been issued in respect of the building or part.

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





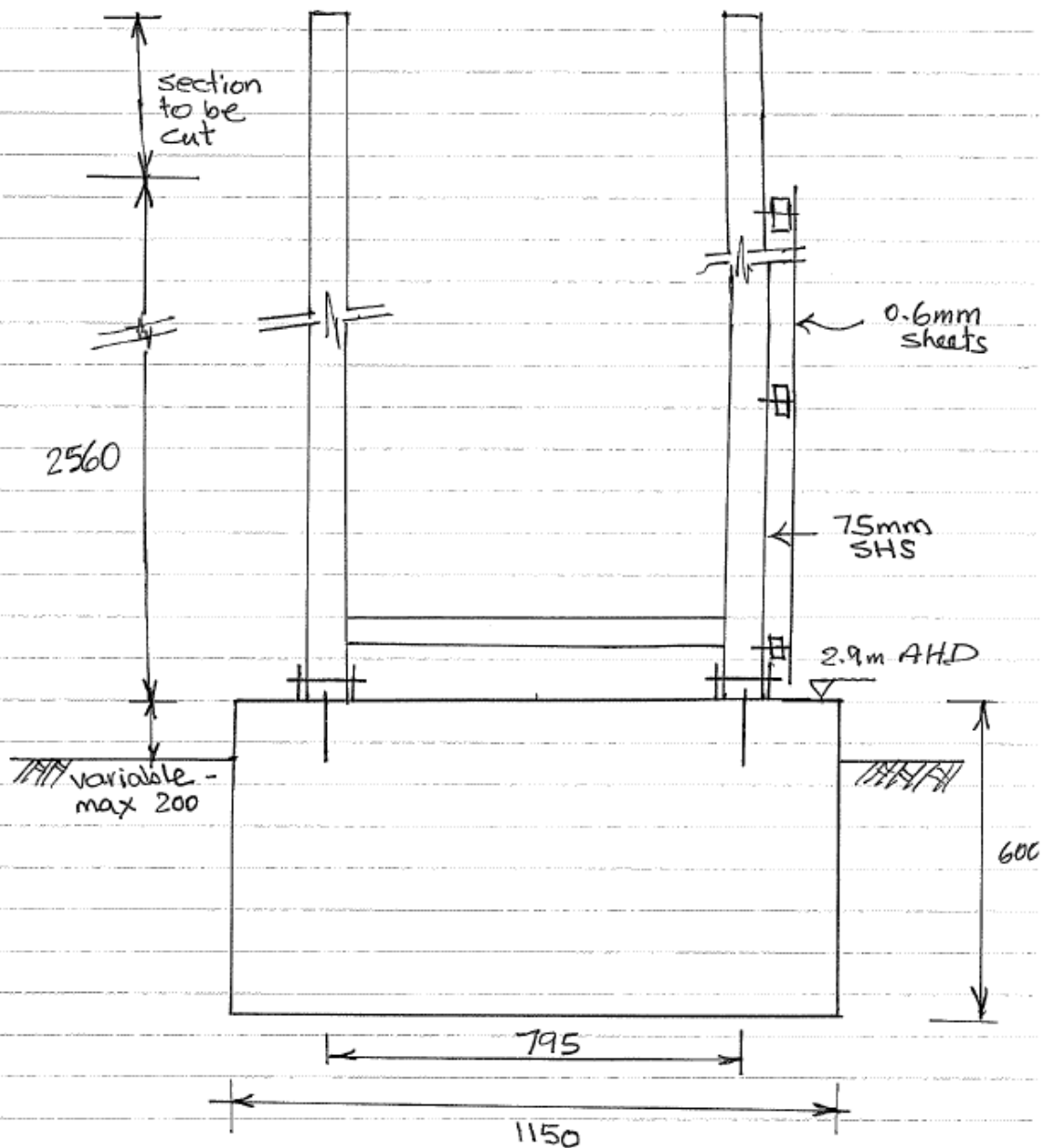
8077  
14/6/17



Elevation - fence (NTS)  
(constructed)

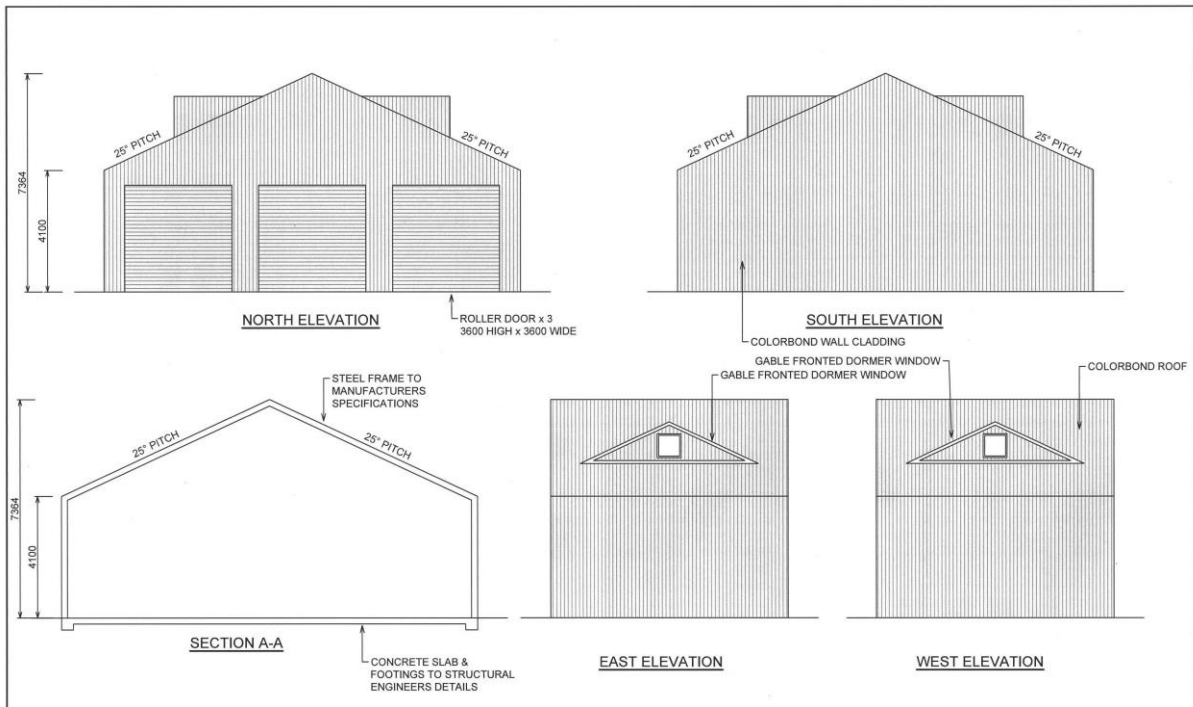
8077

14/6/17



3 of 3

cross section through fence support (NTS  
(Constructed))



## 2 482-2017DA - DEMOLITION OF TWO STOREY DWELLING - HARRINGTON

Report Author Adam Dean, Building Surveyor

File No. / ECM Index 482/2017/DA

Date of Meeting 16 November 2017

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### DETAILS

Date Received: 30 May 2017

Applicant: Tony Dove Drafting

Owner: Mr G Bower

Land: Lot A DP 365106 - No. 7 Church Street, Harrington

Property Key: 2856

Zoning: R1 General Residential, GTLEP 2010

### SUMMARY OF REPORT

- The proposal is for the demolition of an existing dwelling and erection of a two storey dwelling.
- The first notification generated two (2) submissions from the owners of the adjoining property at No. 9 Church Street. Following receipt of amended plans, the application was renotified to all adjoining landowners and another two (2) submissions were received from No. 9 Church Street.

### SUMMARY OF RECOMMENDATION

The proposed development application be approved subject to conditions.

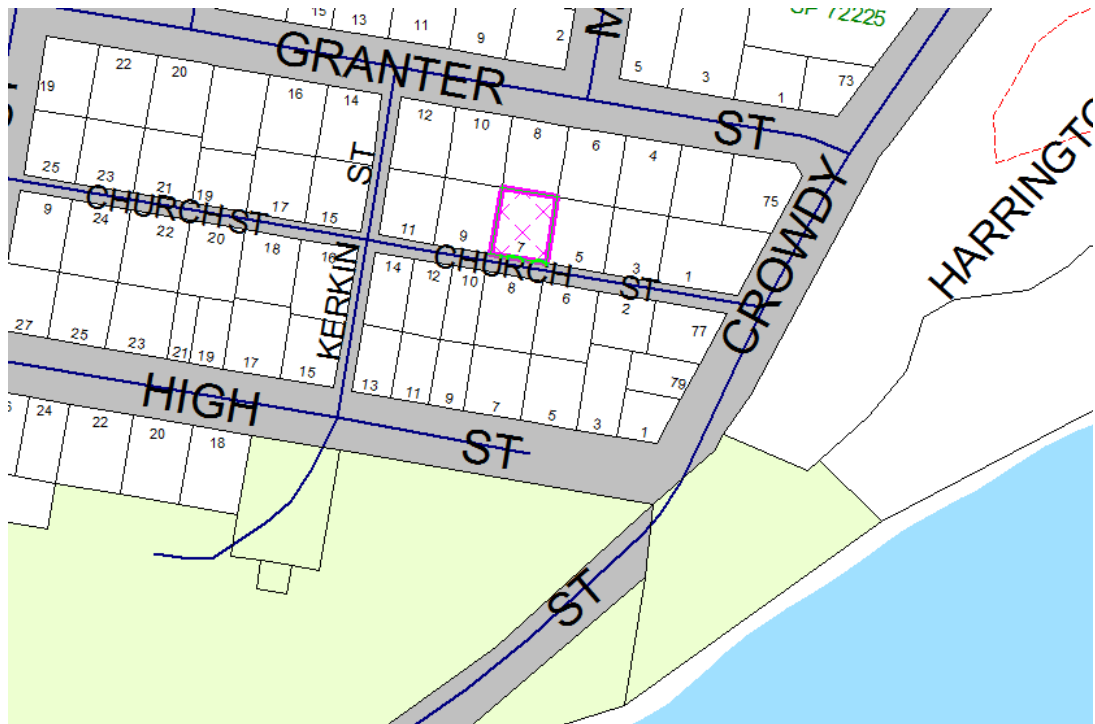
### FINANCIAL/RESOURCE IMPLICATIONS

Cost of defending any appeal against Council's decision.

### LEGAL IMPLICATIONS

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

## SUBJECT SITE AND LOCALITY



## BACKGROUND

- 30/05/2017 Development Application received for demolition of dwelling and erection of a two storey dwelling.
- 31/05/2017 Application notified to eight (8) adjoining properties.
- 16/06/2017 Notification period ends. Two (2) submissions from the owners of the adjoining property at No. 9 Church Street were received.
- 12/07/2017 Council staff met with the submitters at No. 9 Church Street to discuss concerns. The inspection focused principally on privacy, bulk and scale and view loss.
- 24/08/2017 Amended plans received and notified to all adjoining landowners.
- 11/09/2017 Notification period ends. A further two (2) submissions from the previous submitters were received.

## SITE DESCRIPTION

The subject site is located on the northern side of Church Street Harrington. The land is almost square in shape being 20.12m wide by 25.145m deep, it has a cross fall of 13% from the south western front corner to the north eastern rear corner. The site is accessed from Church Street which is a one way street.

## PROPOSAL

The application is for the demolition of the existing dwelling and erection of a two (2) storey dwelling with attached single garage and carport.

Excavation up to 750mm and an associated retaining wall is proposed in the south western corner of the site. The excavation will allow the dwelling to be "cut" into the site thereby reducing height and bulk related impacts.

## ASSESSMENT

### SECTION 79C MATTERS FOR CONSIDERATION -

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**

Having regard for the matters for consideration detailed in Section 79C(1) of the *Environmental Planning & Assessment Act 1979*, the following is a summary of the evaluation of the proposal pursuant to the provisions of the relevant clauses of the Greater Taree Local Environmental Plan 2010.

#### **Zone: R1 General Residential**

<b>LEP Requirement</b>	<b>Summary of Requirement</b>	<b>Complies</b>
<b>4.3 – Height of Buildings</b>	<i>To ensure that the height of the building is appropriate for the site and compliments the streetscape character</i>	Yes
<b>4.4 – Floor Space Ratio</b>	<i>The floor space ratio is not to exceed 0.6:1. To ensure that the density, bulk and scale of development integrates with the streetscape and character of the area.</i>	Yes
<b>7.1 – Acid Sulfate Soils</b>	<i>To ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</i>	Yes

### **DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS**

The following is a summary of the evaluation of the proposal pursuant to the provisions of any Draft Environmental Planning Instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority.

#### **Draft Coastal Management SEPP**

The Coastal Management SEPP will replace SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection) and ensure that future coastal development is appropriate and sensitive to the coastal environment. The proposed development is not inconsistent with the aims of the policy.

### **STATE ENVIRONMENTAL PLANNING POLICIES (SEPP's), AND OTHER STATE GUIDELINES & POLICIES**

Having regard for the matters for consideration detailed in Section 79C(1) of the *Environmental Planning & Assessment Act 1979*, the following is a summary of the evaluation of the proposal pursuant to the provisions of relevant State policies.

<b>State Policy</b>	<b>Requirement</b>	<b>Complies</b>
<b>SEPP (BASIX)</b>	<i>To encourage sustainable residential development.</i>	Yes
<b>SEPP 71 - Coastal Protection</b>	<i>To consider matters listed in Clause 8 of the Policy.</i>	Yes

### **GREATER TAREE DEVELOPMENT CONTROL PLAN 2010**

Having regard for the matters for consideration detailed in Section 79C(1) of the Environmental Planning & Assessment Act 1979, the following is a summary of the evaluation of the proposal pursuant to the relevant provisions of the Greater Taree Development Control Plan 2010.

<b>Development Control Requirement</b>	<b>Requirement</b>	<b>Complies</b>
<b>H2 Primary Residential Requirements</b>		
<b>2.1 Site Coverage and Lot Requirements</b>	<i>Maximum site coverage is 65%</i>	Yes
<b>2.3 Building Height</b>	<i>8.5m building height &amp; 2 storeys maximum</i>	Yes
	<i>From natural ground level – max 1m to the lower floor level</i>	Yes
	<i>Max height to the point of intersection of wall and eaves lines is to be 6m above corresponding lowest storey.</i>	Yes
<b>2.4 Car Parking and Access</b>	<i>Parking areas and driveways allow for safe and efficient vehicle movement.</i>	Yes
	<i>Long straight driveways to be avoided.</i>	Yes
	<i>Hardstand areas minimised</i>	Yes
	<i>Garages and driveways do not dominate the street façade.</i>	Yes
<b>2.5 Private Open Space</b>	<i>Provide ground floor private open space directly linked to living area.</i>	Yes
	<i>Gradient not steeper than 1:10</i>	Yes
	<i>One principal living area faces north.</i>	Yes
	<i>POS adequately screened for privacy from adjacent dwellings and passers-by.</i>	Yes
<b>2.6 Solar Access and Overshadowing</b>	<i>Living spaces and private open space maximise northern or eastern sunlight</i>	Yes
	<i>Minimum 3 hours solar access between 9am and 3p on 21 June to at least 50% of the dwelling and adjoining dwellings private open space and to the principal living, dining, family and rumpus rooms of the proposed dwelling.</i>	Yes. Noting that the proposal does not overshadow the dwelling windows or POS of the adjoining properties.
<b>2.7 Acoustic and Visual Privacy</b>	<i>All opposing windows less than 3m apart on adjacent lots are offset.</i>	Yes



<b>Development Control Requirement</b>	<b>Requirement</b>	<b>Complies</b>
	<i>Overlooking of ground level private open spaces and living areas from upper levels minimised, for example through the use of setbacks, level changes, landscaping and/ or pergolas</i>	Yes
<b>2.8 Views</b>	<i>Achieve view sharing and minimise view loss through appropriate and well considered design.</i>	Yes
<b>2.9 Safety, Security and Entrances</b>	<i>Building is designed to face the street. At least one habitable room window overlooks the street. Front entrance is easily identified.</i>	Yes
	<i>Separate and covered pedestrian entry provided.</i>	Yes
<b>H3 Controls for Specific Forms of Residential Accommodation</b>		
<b>3.1 One and Two Storey Single Detached Dwellings</b>	<i>In line with the neighbour that most closely meets the 5m front setback requirement.</i>	Yes
	<i>Minimum 1600mm side setback</i>	Yes
	<i>Two (2) off street car parking spaces</i>	Yes

**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 site is located within 'Old Harrington'. The topography of the immediate area is best described as hilly. The subdivision pattern is irregular, lots vary markedly in size and shape. Development within the visual curtilage reflects trends at the time of construction. The built form varies from modest early 20<sup>th</sup> century timber clad, metal roofed fishing cottages through to two storey brick and tile dwellings.

Older single storey development is typically very close to the street while newer two storey developments are setback further. Landscaping is limited with the exception of No. 9 Church Street where extensive landscaping has been undertaken.

It is noted that the site is not within a heritage conservation area nor are there any heritage buildings within the visual curtilage.

Council has not adopted a character statement for the area.

For a new development to be visually compatible with its context and setting, it should contain, or at least respond to, the essential elements that make up the character of the surrounding environment. The most important contributor to character is the relationship of built form to surrounding space, a relationship that is created by building height, setbacks and landscaping.

The proposed development's height, setbacks and landscaping are consistent with surrounding development.

Although unnecessary from a context and setting viewpoint, it is worth noting that the design also draws on the architectural style and materials of the surrounding area employing:

- Weatherboard cladding

- A masonry sub floor
- Timber posts
- A single garage and a carport rather than a double garage
- A low pitched sheet metal roof
- Unroofed timber deck

Accordingly the proposal is considered acceptable from a context and setting viewpoint.

**Views**

To quantify the impact on views, reference is made to the Land and Environment Court (LEC) decision in *Tenacity Consulting v Warringah (2004)*. In this decision the Court used a four step assessment to determine the application based on view sharing principals.

Below is a summary of the impacts of the proposal on views from No. 9 Church Street who made a submission raising loss of views as a concern.

<p><b>Step 1 – Views to be affected</b></p> <p><i>Water views are valued more highly than land views. Iconic views (egg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.</i></p>
<p><b>Comment</b></p> <p>The owners of No. 9 Church Street have raised concern regarding view loss from their dining room and two (2) living room windows. Photographs of the views currently enjoyed from the windows of No. 9 Church Street can be found at Attachment B to this report. All photographs are taken from a standing position. No views are available from a seated position.</p> <p><u>Dining room</u>  Glimpse of distant ocean to the east just behind roof hip.  Glimpse of distant ocean to south east just forward of roof hip.  Coastal vegetation to east and north east.</p> <p><u>Living room (southern window)</u>  Glimpse of distant ocean to the south east just behind roof hip.  Coastal vegetation to east and north east.</p> <p><u>Living room (northern window)</u>  Glimpse of distant ocean to the south east just behind roof hip.  Coastal vegetation to east.  Minor glimpse of coastal vegetation to north east gained due to tree removal on development site.</p>
<p><b>Step 2 – From what part of the property are views obtained</b></p> <p><i>For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.</i></p>
<p><b>Comment</b></p> <p>The views are obtained from a standing position in the dining and living room across the eastern side boundary.</p>
<p><b>Step 3 – Extent of the impact</b></p>

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

**Comment**

Dining room

Glimpse of distant ocean to the east just behind roof hip – lost.

Glimpse of distant ocean to south east just forward of roof hip – lost.

Coastal vegetation to east and north east – lost.

Living room (southern window)

Glimpse of distant ocean to the south east just behind roof hip – lost.

Coastal vegetation to east and north east – lost.

Living room (northern window)

Glimpse of distant ocean to the south east just behind roof hip – lost.

Coastal vegetation to east – lost.

Minor glimpse of coastal vegetation to north east – gained due to tree removal on development site.

**Step 4 – Reasonableness of the proposal**

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

**Comment**

The proposal is wholly compliant with all of the planning controls (height, FSR, setbacks etc.) that impact on views. Council staff have discussed alternate designs with the applicant, including the objector's idea that the new dwelling have a "roof elevation of less than RL 19.2m". It was determined that no revised design exists that could provide the applicant with the same development potential and amenity while reducing the view impact proposed.

**Privacy (Visual)**

The proposed dwelling has been carefully designed to ensure a reasonable level of privacy is achieved for the future residents of the dwelling and adjoining residents. In this regard it is noted:

- The windows to “high use” rooms such as lounge, kitchen and dining are all orientated to the front and rear boundaries.
- “Low use”, infrequently used rooms are located on the side boundaries and are setback 2.2m from the boundary, 0.6m further than the required 1.6m.
- The western side boundary windows are translucent and/ or highlight, do not overlook principal private open space and are 7.2m from the “high use” living room and dining room windows at No. 9 Church Street.
- The “high use” terrace has a privacy screen on the side elevation.

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

The site is zoned residential. Its principle constraint is the cross fall of 13% from the south western front corner to the north eastern rear corner. The design has sensitively responded to this constraint by partially excavating the house into the site rather than setting the ground floor level at the site’s highpoint.

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

The original application was notified to adjoining owners in accordance with Council’s Policy. The notification generated two (2) submissions, one (1) from each of the owners of the adjoining property at No. 9 Church Street, Harrington. Council staff subsequently met with the submitters at their property. The concerns of the submitters were raised with the applicant who on 24/08/2017 submitted amended plans. The amended plans demonstrate:

- Increase in ground and first floor front setbacks
- Increase in western side boundary setback from 1.6m to 2.2m
- Reduction in site coverage to 36%
- Reduction in roof pitch from 7.5 degrees to 6 degrees
- Maximum height of building has been lowered by 825mm
- The maximum height of the western side wall has been lowered by 550mm
- The maximum height of the eastern wall has been lowered by 140mm
- Ground floor levels have been reduced by up to 300mm
- First floor levels have been lowered by up to 360mm
- Retaining wall on the western boundary has been relocated 750mm to the east
- Number of windows on western elevation has been reduced from 9 to 6. The amount of glazing, in surface area, has been reduced by 50%
- Rainwater tank removed from front yard and placed alongside house.

The amended plans were notified to all previously notified landowners. A further two (2) submissions from the previous submitters were received.

The issues raised in the further submissions and those raised in the original submissions (where still relevant) are summarised below:

Issue	Response
The height of the fence between our property and No. 7 is 1400mm not 1800mm as shown on the plans.	The fence is 1400mm high. It isn't necessary to have the plans amended to reflect the fence height as the fence height is irrelevant.
Improper size of standard design vehicle shown.	The vehicle shown on the drawings is indicative only.
No accurate detail as to what vegetation along the common boundary, if any, is to be retained. It appears from the plan that it will all be removed.	Development consent is not required for tree removal. The application is not required to show vegetation removal. Given the scope of the proposed works, it is likely that the vegetation will be removed.
Planting information as to species, height, location, maintenance and how these will be achieved.	Council's DCP does not require planting details to accompany the development application.
There is no room for screening plants along the western side of the house.	The western elevation windows do not represent unreasonable overlooking impact. Screening plants are not required along the western side of the house.
No drainage details on the top side of the proposed retaining wall adjoining our property. Overland flow from behind the retaining wall could flood our garage.	It is unlikely that overland flow would flood the garage. Retaining wall construction details including drainage will be considered at Construction Certificate stage.
The setback is shown as 6000 yet a porch it roof and support structure are all within that setback.	Agreed.
Significant loss of views	See discussion above.
To help with view retention, the dwelling should be moved east and downslope, be part single storey, have a roof elevation of less than RL19.2 with a ridge running east west.	The submitter's design idea has been raised with the applicant. The applicant has advised that given the slope of the land and need for the driveway area to drain to the street, a part 1 and 2 storey building cannot be contained below RL 19.2.
Windows on the western side of the proposal can all be opened and therefore there is no way privacy can be assured.	The windows have been designed to minimise overlooking. The separation distance between the two dwellings is 7.2m and the windows serve low use rooms being bedrooms, bathrooms and a walk in robe. Furthermore windows are translucent or highlight windows where necessary.
The driver's line of sight shown on the plan is limited to 3m which is totally inadequate for a vehicle reversing onto this narrow street.	Vehicles reversing from the garage and carport will be able to see vehicles in Church Street.

Issue	Response
Bulk and scale of façade	The bulk and scale of the façade is compatible with surrounding built form. The dwelling is partially excavated into the site, the land falls away from Church Street and the ground floor level, external wall height, ridge height, side and front boundary setbacks all fully comply with the requirements of DCP 2010 that control bulk and scale. It is also noted that a see through carport is proposed which serves to further lighten the dwelling.
Solar access impacts	The shadow diagrams indicate that the proposal will not impact on either the windows or principal private open space of No. 9 Church Street.
Incompatibility of proposal with existing development in area.	See discussion above.
Decrease in property value.	Changes in property value are not a matter for consideration under Section 79C.
Vegetation to screen the development should not have to be provided within the neighbouring property.	The development does not propose to, nor is it required to provide screen planting.
The rainwater tank pump could cause significant noise impacts.	The tank pump is at the base of a retaining wall, below natural ground level and approximately 5m from the neighbour's property. The pump will not cause significant noise impacts.
The roof will cause glare impacts	Metal deck roofing is common place and some glare impacts particularly in residential zones are to be expected. Any glare impacts that occur will be inconsequential noting that they will only occur in the morning, they will lessen as the roof weathers and the roof will have a medium to dark colour with a solar absorption between 0.475 to 0.700.
A new statement of environmental effects does not accompany the amended plans.	A new Statement of Environmental Effects is not required.
A new BASIX certificate does not accompany the amended plans.	An amended BASIX certificate accompanies the amended plans.
Concerns regarding the cladding and its fire rating.	The fire rating of the cladding is matter for consideration at Construction Certificate stage. It is noted that the cladding is more than 900mm from the boundary.

Issue	Response
What assurances are there that the development will be built at or below specified levels.	A condition is recommended requiring the submission of a surveyor's report to confirm that the development is constructed to approved levels.

**e) *The Public Interest***

Approval of the Development Application would not create unacceptable implications with regard to the public.

**CONCLUSION**

Approval of the proposal will result in the loss of distant ocean views from the adjacent dwelling. However an assessment of view loss against the Land and Environment Court Planning Principle - Views Tenacity Consulting Vs Warringah Council (2004), indicates that the view loss is acceptable in this instance. The view loss is distant ocean views across side boundaries. The proposed dwelling is compliant with Council Planning Controls and the applicant has made design changes to minimise impacts of the development on the locality.

The dwelling has been carefully designed, the outcome being a modest dwelling that respects the constraints of the site and its context and setting.

The proposal is not inconsistent with the objectives of Council's DCP.

**RECOMMENDATION**

It is recommended that Development Application 482/2017/DA for Demolition and Two Storey Dwelling on Lot A DP 365106, No. 7 Church Street, Harrington be approved in accordance with the conditions of consent contained in Annexure A.

## ANNEXURES

A: Conditions of Consent

### General Requirements

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

#### 1. Development in accordance with approved plans

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

Plan type/Supporting Document	Plan No. & version	Prepared by	Dated
Plans	15015-S0 – 15015-S16 Issue B	Tony Dove	29/5/2017
Plan	15015-S9 Issue A	Tony Dove	18/8/2017

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

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

#### 2. Compliance with National Construction Code Series - Building Code of Australia

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

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

#### 3. Notification of *Home Building Act 1989* requirements

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

- a) in the case of work for which a principal contractor is required to be appointed:
  - i) the name and licence number of the principal contractor, and
  - ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- b) in the case of work to be done by an owner-builder:
  - i) the name of the owner-builder, and
  - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

#### 4. Adjustment to utility services



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

**Reason:** To ensure utility services remain in a serviceable condition.

## **5. Support for neighbouring buildings**

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 one expense:

- a) protect and support the adjoining premises from possible damage from the excavation, and
- b) where necessary, underpin the adjoining premises to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to this condition not applying.

**Reason:** To protect development on adjoining premises. Prescribed condition under the Environmental Planning and Assessment Regulation 2000.

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

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

## **6. BASIX Certificate**

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

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

### **Prior to the Commencement of Work**

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

## **7. Construction certificate required**

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

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

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

## **8. Notification of commencement and appointment of principal certifying authority**

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

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

#### **9. Site access**

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

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

#### **10. Installation of erosion & sediment control measures**

Prior to the commencement of work, Soil erosion and sediment control measures are to be provided on the development site in accordance with Council's Development Control Plan 2010 and "*The Blue Book – Managing Urban Stormwater (MUS): Soils and Construction*" (Landcom). In particular, the following erosion and sediment control measures must be installed:

- a) Silt fence or sediment barrier.
- b) Temporary driveway from the edge of road to the building site.
- c) Temporary downpipes immediately upon installation of the roof covering.

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

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

#### **11. Toilet facilities - sewerred areas**

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

**Reason:** To maintain public health.

#### **12. Site construction sign**

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

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

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

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

#### **Conditions to be satisfied during Development Work**

*The following conditions of consent must be complied with during any development work.*

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### **13. Construction times**

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

Monday to Friday, from 7 am to 6 pm.

Saturday, from 8 am to 1 pm.

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

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

### **14. Builders rubbish to be contained on site**

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

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

### **15. Maintenance of sediment and erosion control measures**

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

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

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

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

### **16. Works to be completed**

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

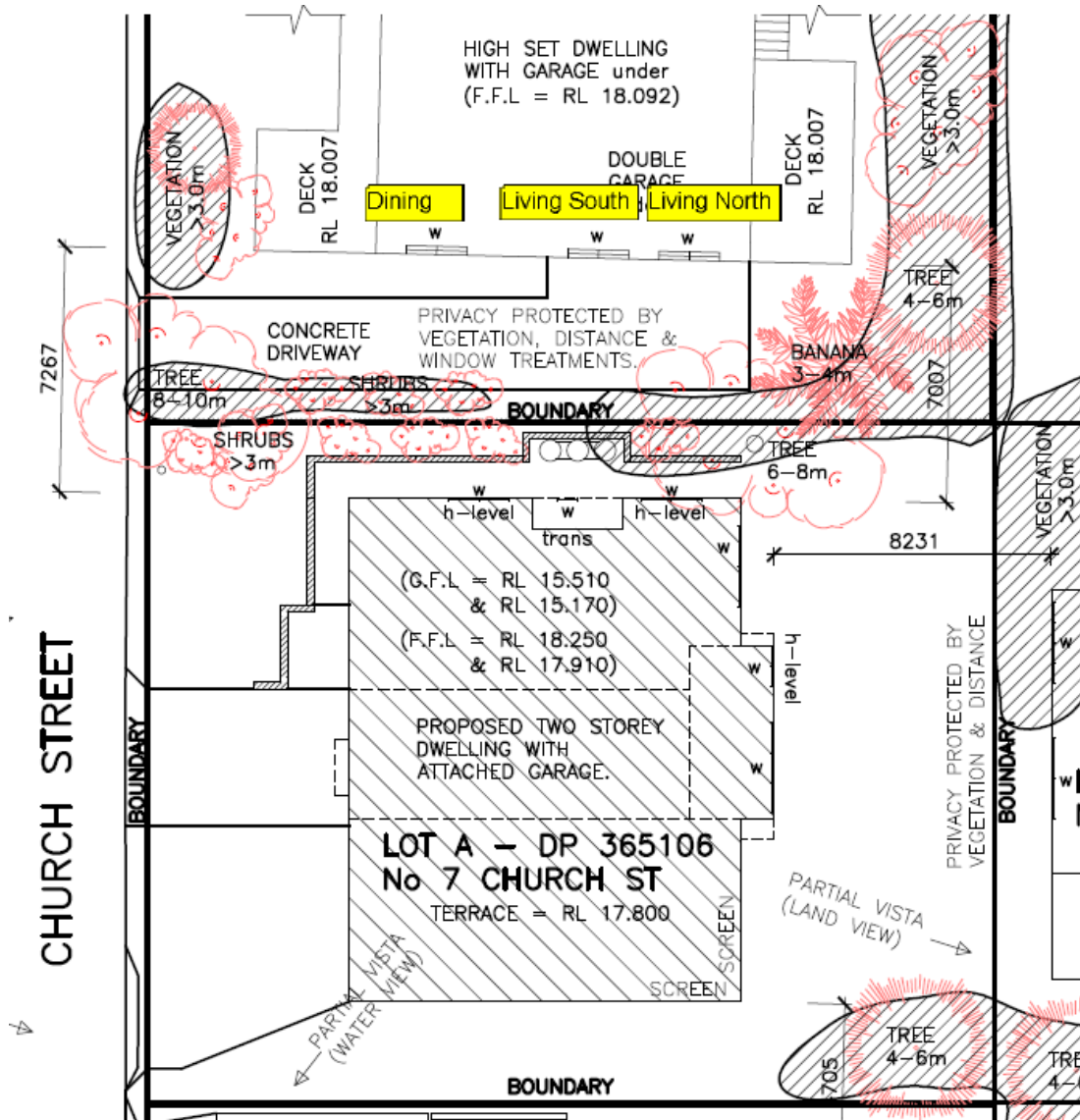
**Reason:** To ensure compliance with the development consent and statutory requirements.

### **17. BASIX Compliance**

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

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

B: Photographs from No. 9 Church Street



Diningroom window



Livingroom window (southernmost)



Livingroom window (southernmost)



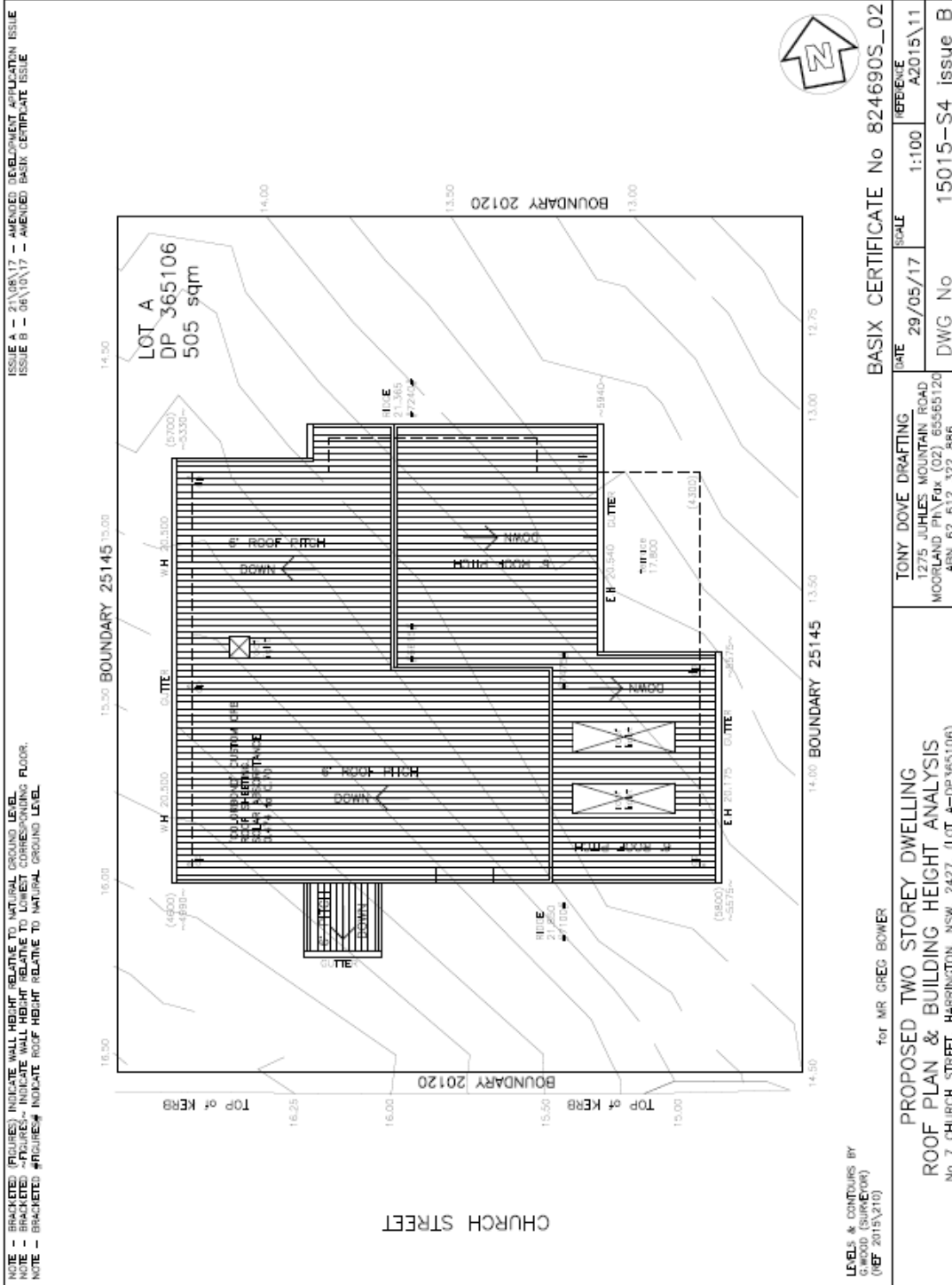
Livingroom window (northernmost)















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**3 DA-464-2017 - SEVEN LOT SUBDIVISION - FAILFORD ROAD, FAILFORD**  
**Report Author Steve Andrews, Assessment Planner**  
**File No. / ECM Index DA 464/2017/PK 25791**  
**Date of Meeting 16 November 2017**

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## **DETAILS**

Date Received: 7 April 2017  
Applicant: Lidbury, Summers & Whiteman  
Owner: Mr E Tipton  
Land: Lot 2 DP1009278, 408 Failford Road, Failford  
Property Key: 25791  
Zoning: R5 - Large Lot Residential  
E3 - Environmental Management, GLLEP 2014

## **SUMMARY OF REPORT**

- Development Application seeking consent for the subdivision of the site in two (2) stages.
- Application notified to neighbouring property owners in accordance with Council's Policy and submissions were received from nine (9) neighbouring properties and a petition with signatories from the owners of eleven (11) neighbouring properties, seven (7) of which had lodged separate submissions.
- Proposed development generally considered to be consistent with the various relevant planning controls.

## **SUMMARY OF RECOMMENDATION**

The proposed development application be approved subject to conditions

## **FINANCIAL/RESOURCE IMPLICATIONS**

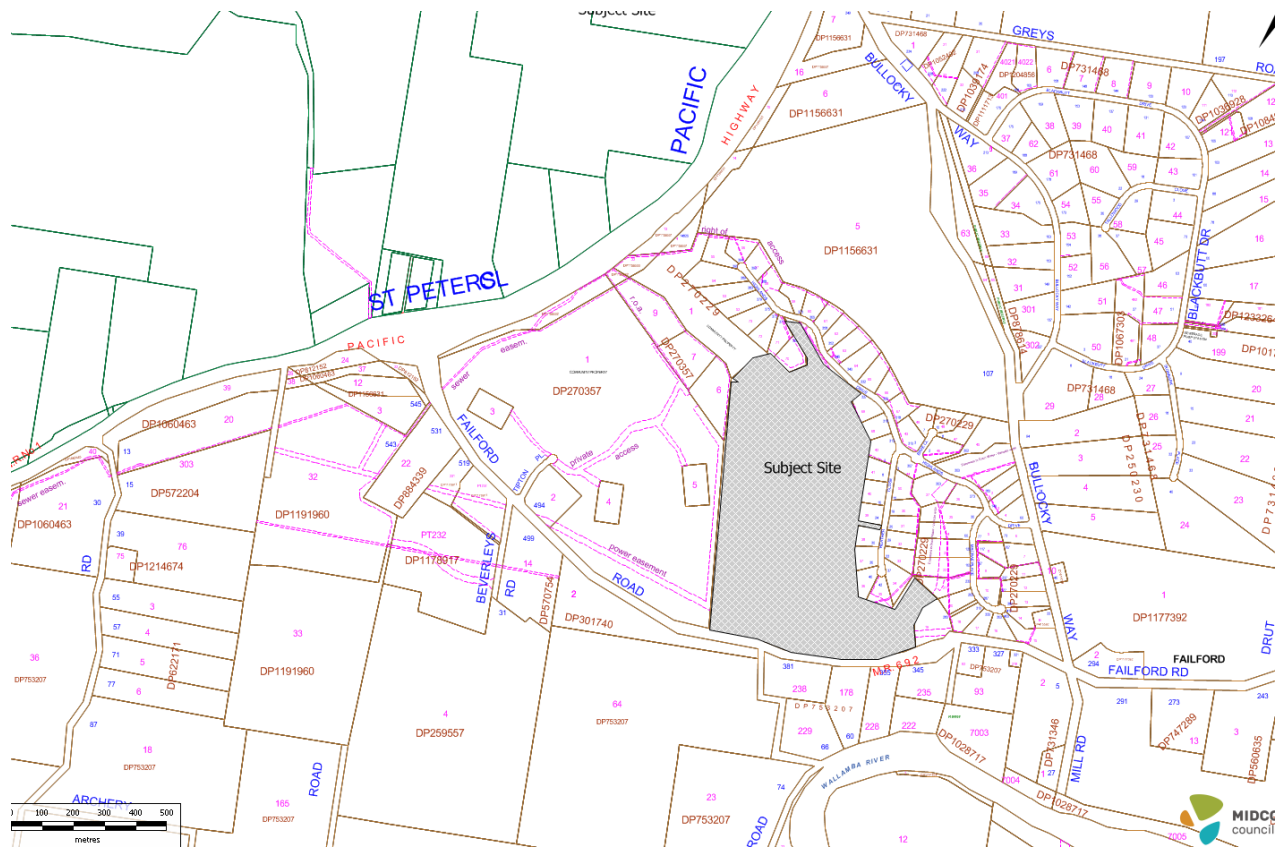
Cost of defending any appeal against Council's decision.

## **LEGAL IMPLICATIONS**

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

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## SUBJECT SITE AND LOCALITY



## BACKGROUND

DA 746/1999 - Development consent was granted 11 March 1999 for the three (3) lot rural subdivision of the then Lot 2 DP830075 by Torrens Title. That subdivision created the subject current Lot 2 DP1009278 that has an area of 44.28ha. It also created the adjoining lot 3 DP1009278 that had frontage to Failford Road and also Bullocky Way. Lot 3 was subsequently subdivided by Community Title to create the 'Highlands' housing estate (ref. DP270229).

## SITE DESCRIPTION

The site is located to the northern side of Failford Road and adjoining the western side of the Highlands Housing Estate. The site is currently accessed from Failford Road. The topography of the site is undulating and heavily vegetated areas are located in the E3 zoned land generally down the centre of the site. An existing approved dwelling house and ancillary buildings are located to the south western corner of the current site. The eastern part of the site have been previously used for motorcycle events and includes track areas, spectator mound, an amenities building and serviced by power and water.

## PROPOSAL

To subdivide the existing site in two (2) stages. Firstly to create two (2) lots by Torrens Title whereby the R5 zoned generally cleared land adjoining the western side of the existing Highlands Estate (proposed lot 21) is excised, then to subdivide that R5 zoned land by Community Title into six (6) rural residential lots and one (1) community lot (access handle), with access from Heather Place that then connects to Bullocky Way via Highlands Drive. Building envelopes are shown on the plans with proposed lot 2 containing two alternative envelopes. The applicant has confirmed that these are alternatives, not enabling the erection of two (2) dwelling houses on the proposed lot. Clarification of this is included in the conditions contained in this report's recommendation.

The proposed western lot 20 will contain both areas of R5 and E3 zoned land that will later be subject of further development application for subdivision to isolate the two (2) areas of zoned land. An ecological protective covenant will be created over the E3 zoned areas of proposed lot 20.

Refer to Annexure B for a set of the proposed plans for the development.

## ASSESSMENT

### SECTION 79BA – BUSHFIRE PRONE LAND

The site is bushfire prone and in accordance with Section 79BA and 91 of the EPAA1979 and Section 100B of the Rural Fires Act 1997, the application is for Integrated Development and requires a bushfire safety authority to be issued by the Rural Fire Service (RFS). The application was referred to the RFS and they have issued a bushfire safety authority subject to conditions. Those conditions are included in this report's recommendation.

### SECTION 79C MATTERS FOR CONSIDERATION

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

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

### GREAT LAKES LOCAL ENVIRONMENTAL PLAN 2014

Having regard for the matters for consideration detailed in Section 79C(1) of the *Environmental Planning & Assessment Act 1979*, the following is a summary of the evaluation of the proposal pursuant to the provisions of the relevant clauses of the Great Lakes Local Environmental Plan 2014.

LEP Requirement (by clauses)	Objectives/Requirements	Complies
<b>1.2 Aims of the Plan</b>	The relevant aims of the Plan are to protect and enhance the environmental, scenic and landscaped assets of the area and to facilitate the orderly and sustainable economic development of land. The proposed development is considered to be consistent with these aims.	Yes
<b>2.1 Land Use Zones &amp; Land Use Tables</b>	The existing site has a split zoning of R5 - Large Lot Residential and E3 - Environmental Management. The proposed development subdivides the existing site under Torrens Title into two (2) lots (Stage 1). The western lot is comprised of both zones, the eastern lot is zoned R5 and is the subject of Stage 2 of the proposed development, a seven (7) lot Community Title subdivision.	Yes

<b>LEP Requirement (by clauses)</b>	<b>Objectives/Requirements</b>	<b>Complies</b>
	<p>Subdivision in both zones is a permissible form of development with development consent. It is noted that the proposed subdivision does not diminish the area of the E3 zoned land that has area of less than 40ha.</p> <p>The relevant objectives for development in the R5 zone are to provide residential housing in a rural setting whilst preserving and minimising impacts on environmentally sensitive locations and scenic quality, to ensure that large residential lots do not hinder the proper and orderly development of urban areas, to ensure that development in the area does not unreasonably increase the demand for public services or public facilities, to minimise conflict between land uses within the zone and in adjoining zones and to enable development that has minimal environmental and visual impact and is compatible with residential land uses within the zone. The proposed development is considered to be consistent with the relevant objectives of the zone.</p> <p>The relevant objectives of the E3 zone are to protect, manage and restore areas with special aesthetic values and to provide for a limited range of development that does not have an adverse effect on those values. The proposed development is considered to be consistent with the relevant objectives of the E3 zone.</p>	
<b>2.6 Subdivision</b>	Development consent is required for the subdivision of land.	Yes
<b>4.1 Minimum Subdivision Lot Size</b>	<p>The relevant objectives of the development standard are to control the density of subdivision in accordance with the character of the location, site constraints and available services, facilities and infrastructure and to ensure lots are of a sufficient size and shape to accommodate future development permissible in the zone.</p> <p>The minimum lot size in the R5 zone is 10,000 m<sup>2</sup> (or 1ha). Stage 1 creates a lot 21 in the R5 zone with an area of 7.399ha and each of the proposed residential lots in Stage 2 are also compliant. In accordance with the clause 4.1AA of GLLEP 2014 the proposed lot comprising association property lot (the access) is excluded from a minimum lot size.</p> <p>The western lot created in Stage 1 (ie lot 20) has an area of 36.88ha, retains the split zoning</p>	Yes



LEP Requirement (by clauses)	Objectives/Requirements	Complies
	of that lot and does not diminish the area of the land in each of those zones. The Stage 1 outcome is therefore not inconsistent with the provisions of this clause.	
<b>7.1- Acid Sulphate Soils</b>	<p>The objective of the clause is to ensure that development does not disturb, expose or drain acid sulphate soils and cause environmental damage. The Acid Sulphate Soils Planning Map identifies the site generally as class 5 land, with a small area of land to the southern end of the site as class 2 land.</p> <p>The requirements of the class 5 land relates to works within 500 metres of adjacent classes which are likely to lower the water-table below 1.0 metre AHD on the adjacent land. The proposed development and future building development would not impact on groundwater levels on adjacent classes of land and therefore unlikely to give rise to potential acid sulphate soils.</p> <p>The requirements of the class 2 land relates to works below the natural ground surface by which the water-table is likely to be lowered. The proposed development does not include works in the class 2 land.</p> <p>Accordingly, the proposed development is considered to be consistent with the objective of the clause.</p>	Yes
<b>7.2 - Earthwork</b>	The objective of this provision is to ensure that earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses and features of the surrounding land. The proposed development includes limited excavation works to construct the development and install services. Issues of soil erosion, sedimentation and drainage impacts will be managed during and after construction and appropriate conditions could be included in a favourable determination of this application. Accordingly, the proposed development will be consistent with the objective of this clause.	Yes (Condition)

<b>LEP Requirement (by clauses)</b>	<b>Objectives/Requirements</b>	<b>Complies</b>
<b>7.3 - Flood Planning</b>	The relevant objectives of this clause are to minimise the flood risk to life and property, to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change and to avoid significant adverse impacts on flood behaviour and the environment. That part of the site that is in the Stage 2 residential subdivision is potentially flood affected on the lower fringe areas and not within proximity to proposed building envelopes or paths of escape.	Yes
<b>7.5 - Stormwater Management</b>	The objective of this clause is to minimise the environmental impacts of stormwater on the site and adjoining properties, native bushland, groundwater, wetlands and receiving waters. The proposed development will manage stormwater disposal in accordance Council's requirements including its Water Sensitive Design Strategy and future residential development will be similarly designed to comply as well as with SEPP Basix.	Yes
<b>7.7 - Riparian Land and Watercourses</b>	<p>The objectives of this clause are to protect and maintain the water quality, the bed and bank stability, the aquatic and riparian habitats and the ecological processes within watercourses and riparian areas identified on the Watercourse Map.</p> <p>The proposed development is located on land that contains an existing watercourse in the adjoining E3 zoned land that is not a recognised watercourse in accordance with the Watercourse Map. Notwithstanding, the proposed development is considered to be consistent with the objectives of this clause having regard to the matters listed for consideration in subclauses 3 and 4.</p>	Yes
<b>7.21 - Essential services</b>	This clause requires that development consent must not be granted to development unless the Council is satisfied that essential services (ie water, electricity, sewage, stormwater drainage and road access) are available or that adequate arrangements have been made to make them available. All proposed lots will have access to necessary services including reticulated water and sewer subject to the conditions contained in this report's recommendation.	Yes (Condition)

**STATE ENVIRONMENTAL PLANNING POLICIES (SEPP's), AND OTHER STATE GUIDELINES & POLICIES**

Having regard for the matters for consideration detailed in Section 79C(1) of the Environmental Planning & Assessment Act 1979, the following is a summary of the evaluation of the proposal pursuant to the provisions of relevant State policies.

State Policy	Objectives/Requirements	Complies
<b>SEPP 44 – Koala Habitat Protection</b>	The Plan applies to the subject site however there is no evidence of regular Koala activity on the land although there are suitable food trees that may support potential Koala habitat. The proposed development is not considered to adversely impact on that potential Koala habitat.	Yes
<b>SEPP(Rural Lands) 2008</b>	All development being undertaken on land within a rural residential or environmental land use zone must be considered against the 'rural planning principles' and the 'rural subdivision principles' contained within Clauses 7 and 8 of the SEPP. Furthermore, the Council is required to consider the matters listed in Clause 10 of the SEPP prior to the determination of a development application for a rural subdivision or a rural dwelling in a rural zone, rural residential zone (including R5 zone) or an environmental protection zone (including E3 zone). The site consists of both R5 and E3 zoned land and therefore the Policy applies to the proposed development. The proposed subdivision is considered to be consistent with the rural planning principles, the rural subdivision principles and the desired outcomes having regard to the matters listed for consideration in Clause 10. Accordingly, the proposed development is considered to achieve the aims of the Policy.	Yes

**DEVELOPMENT CONTROL PLAN 2014**

Having regard for the matters for consideration detailed in Section 79C(1) of the Environmental Planning & Assessment Act 1979, the following is a summary of the evaluation of the proposal pursuant to the relevant provisions of the Great Lakes Development Control Plan 2014.

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

Development Control Requirement	Objectives/Requirements	Complies
<b>3 Character Statements</b>	The proposed development is considered to be contextually appropriate having regard to DCP 2014 character statements and the desired character of this locality that is expressed in the objectives of R5 and E3 zones under GLLLEP 2014.	Yes
<b>4 Environmental Considerations</b>	The proposed development will not have a significant adverse impact on local ecology, adequate planned facilities will be provided for the management of sewage and the proposed development is not impacted by any natural event to a significant extent.	Yes
<b>9 Subdivision</b>	<p>The proposed development is considered to be consistent with the relevant objectives and requirements of this Part and facilitates the planned outcome of the existing R5 and E3 zones.</p> <p>In accordance with Part 9.6 a draft Community Management Statement, based on the Community Land Development Act 1989, was submitted with this development application that sets out the binding terms of management on the community association, each subsidiary body within the community scheme and each person who is a proprietor, lessee, occupier or mortgagee in possession of a community lot within the community scheme. The document will also be addressed in a condition of this report's recommendation.</p>	Yes (Condition)

Development Control Requirement	Objectives/Requirements	Complies
<b>11 Water Sensitive Design</b>	<p>The relevant objectives are to reduce the consumption of potable water, to reduce waste water discharge into the receiving environment, to harvest wastewater and urban stormwater runoff where appropriate. The proposed stormwater management system is consistent with Council's requirements including its Water Sensitive Design Strategy. Future residential development will be designed to similarly comply as well as with SEPP Basix. The proposed outcome is considered satisfactory in achieving stormwater quality targets and meeting the objectives of this Part.</p>	Yes
<b>12 Tree &amp; Vegetation Preservation</b>	<p>The objectives of this Part are to specify those species to which GLEP 2014 (clause 5.9) apply, to ensure consideration is given to trees and native vegetation with proposed development, to minimise the loss of trees and vegetation that are healthy and contribute to the amenity and aesthetic value of a locality and to balance the removal of trees and vegetation with the planting of suitable local indigenous species.</p> <p>The proposed development will require the limited removal of vegetation on the R5 residential zoned land and will retain and protect more significant vegetation and habitat on the E3 environmental zoned land. A condition is recommended to reduce the area of proposed Stage 2 Lot 7 with adjustment of its rear boundary thereby preserving riparian habitat and habitat of a threatened flora species in that locality and that would then be included with similar land in the adjoining E3 environmental zone.</p>	Yes (Condition)

<b>Development Control Requirement</b>	<b>Objectives/Requirements</b>	<b>Complies</b>
<b>13 Landscaping and Open Space</b>	<p>The objectives of this Part are to encourage design outcomes that respond to the topography of the site, provide for retention of vegetation where appropriate and maintain a low density setting and open character derived from the spaces and landscaping between buildings and the street.</p> <p>The proposed development has been designed to provide appropriately sized and located potential landscaped areas that will contribute to the residential amenity of each proposed Stage 2 lot and to the locality.</p>	Yes
<b>14 Waste</b>	<p>The relevant objectives of this Part are to encourage sustainable waste management that includes re-use and recycling of commercial waste. A waste management plan will be required as a condition of this report's recommendation that addresses this issue.</p>	Yes (Condition)
<b>16 Site Specific Development Controls -</b>	<p>The detail of this Part will be discussed below.</p>	

#### Part 16 Site Specific Development Controls

It should again be noted that the aims of DCP 2014 are to ensure good quality, sustainable development outcomes that maintain a high level of environmental amenity. The Plan is designed to allow flexibility in the application of its controls where strict compliance is considered unreasonable or unnecessary provided the relevant objectives of the Plan have been achieved.

With this in mind Part 16 contains matters for consideration in respect to proposed development on the Tipton's Land at Failford and stipulates objectives and controls for the subdivision of land and the protection of environmentally sensitive areas of the subject land. The Part includes a subdivision concept plan in support of the current zoning of the site and the subdivision of the site consistent with that of the proposed development.

- Part 16.26.1 - Development Principles - The proposed development is generally consistent with the objectives, the subdivision concept plan and details provided in this Part subject to conditions that are included in this report's recommendation. The initial Torrens Title subdivision excises the R5 zoned land to the eastern side of the site (proposed lot 21) from the R5 and E3 zoned areas of land to the western side of the site (proposed lot 20). This outcome will then allow the later Community Title subdivision of proposed lot 20, in accordance with the concept in this Part.

- Part 16.26.2 - Subdivision - The proposed development is generally consistent with the relevant objectives and controls in this Part subject to conditions that are included in this report's recommendation. It is noted that the current zoning and development controls under GLEP 2014 now dictate the planned outcome for the site and supersede those non-statutory discretionary controls indicated in this Part, in terms of lot yield outcome (GLEP 2014 R5 zone minimum lot size of 10,000m<sup>2</sup> (1ha) can yield up to 6 residential lots, with areas of between 10,000m<sup>2</sup> to 16,140m<sup>2</sup>, from proposed lot 21 as well as 3190m<sup>2</sup> of association land - access).

Boundary setbacks comply with the minimum requirements of DCP 2014 with the exception of the proposed building envelope to lot 5, to the southern end of the proposed access, that is approximately 12 metres from the road frontage in lieu of 18 metres. The variation of approximately 6.0 metres is considered satisfactory having regard to the objectives of Part 16.26.2 of DCP 2014.
- Part 16.26.3 - Access - The relevant objectives of this Part are to ensure all-weather access to all proposed lots whilst minimising impacts on vegetation, on watercourses and by dust nuisance to landowners. The proposed 4.0 metres wide sealed access road off Heather Close is considered to be consistent with the relevant objectives and controls provided in this Part subject to conditions that are included in this report's recommendation
- Part 16.26.4 - Effluent Disposal - Since lodgement of this development application and in consultation with Council and MidCoast Water all proposed lots will be connected to the MidCoast Water sewage system. The proposed outcome is considered satisfactory having regard the relevant objectives and controls in this Part subject to conditions that are included in this report's recommendation.
- Part 16.26.5 - Development - The proposed development is consistent with the relevant objectives and controls provided in this Part subject to conditions that are included in this report's recommendation. The plans submitted for the proposed development, in accordance with the provisions of Part 16.26.2, provide suitably sized and located areas for potential residential development.
- Part 16.26.6 - Landscaping - The proposed development has suitably sized areas that will enable landscaping of future building development to compliment the current landscaped character of this semi-rural locality. In accordance with the controls for this Part landscape design plans should be required by condition of consent to be submitted with the application for a subdivision construction certificate.
- Part 16.26.7 - Conservation Measures - The proposed development is consistent with the relevant objectives and controls provided in this Part. The proposed development would ensure the continued environmental management of the sensitive E3 zone land, within the proposed western lot 20. Suitable measures are proposed to minimise the potential impacts on the E3 zoned land by the proposed R5 zoned residential subdivision of proposed lot 21. Appropriate conditions are included in this report's recommendation to confirm suitable conservation measures.
- Part 16.26.8 - Management Measures - In accordance with this Part and Part 9.6 of DCP 2014 a draft Community Management Statement, based on the Community Land Development Act 1989, was submitted with this development application. The document sets out the binding terms of management on the community association, each subsidiary body within the community scheme and each person who is a proprietor, lessee, occupier or mortgagee in possession of a community lot within the community scheme. An appropriate condition is included in this report's recommendation requiring a final document to be submitted to Council for public record prior to the release of the Subdivision Certificate.

In terms of Aboriginal heritage, an Aboriginal Heritage Information Management System (AHIMS) search for the site did not identify any Aboriginal places or sites on the land or adjoining areas. Notwithstanding, an appropriate condition is included in this report's recommendation that draws the applicant's attention to this issue and to proceed with caution.

**Council Policies**

Council Policy	Objectives/Requirements	Complies
<p><b>Great Lakes Council Erosion and Sediment Control Policy</b></p>	<p>The aim of this policy is to minimise erosion and sedimentation in catchments, resulting from the disturbance of the soil surface associated with building works, changes in land use and urban development, the installation of services and road construction and maintenance. This is to ensure that potential pollutants are not directed to natural and artificial water bodies.</p> <p>The construction works associated with the proposed development should be managed to ensure that erosion and sediment control measures comply with the aims and requirements of the Policy thereby protecting the water quality of neighbouring natural and artificial water bodies. Appropriate conditions of consent are included in this report's recommendation.</p>	<p>Yes (Condition)</p>

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

**Context and Setting**

The proposed development is considered to be contextually appropriate having regard to DCP 2014 character statements and the desired character of this locality that is expressed in the objectives of R5 and E3 zones under GLLLEP 2014.

**Site Design**

The proposed site designs are considered suitable having regard to their intended permissible future use.

**Utilities**

The proposed development has access to all relevant necessary services subject to the conditions contained in this report's recommendation.



### ***Cumulative Impacts***

Approval of the proposed development does not establish an undesirable precedent for further development in this locality and achieves the desired planning outcome consistent with the R5 and E3 zones under GLLEP 2014 and the relevant provisions of DCP 2014.

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

The proposed development is not considered to unreasonably impact on the privacy relationship with neighbouring similar development.

### ***Visual Impact***

The proposed development is not considered to visually detract from the rural residential character of the locality.

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

The topography, configuration and context of each proposed lot is considered suitable for their proposed use. Environmental issues are limited and satisfactorily addressed in the proposed design and adequate utility services will be available.

The site is bush fire prone and in that regard the RFS have issued a Bushfire Safety Authority, the requirements of which are included in this report's recommendation. The site is not susceptible to any other natural hazards to a significant extent.

Accordingly, the site is considered to be suitable for the proposed development.

### ***Section 94 Contribution Plans***

The proposed development generates a requirement for a Section 94 contribution in accordance with Council's Section 94 Contribution Plans. Appropriate condition is included in this report's recommendation.

### ***Section 88B Instrument Impacts***

The proposed development, if approved, will require the creation of Section 88B Instruments to address the bushfire restrictions recommended by the RFS and the requirements of Council's Senior Ecologist. Appropriate conditions are included in this report's recommendation.

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

The application was notified to neighbouring property owners in accordance with Council's Policy and submissions were received from the owners of nine (9) neighbouring properties and a petition with signatories from the owners of eleven (11) neighbouring properties, seven (7) of which had also lodged separate objections. The submissions referred to the following issues:

#### **1. Council's Development Control Plan 2014 (DCP2014)**

- The proposed development is not consistent with the DCP 2014 planned outcomes.

#### **Comment:**

DCP 2014 is an objective based planning assessment document that allows flexibility in the application of its controls where strict compliance is considered unreasonable or unnecessary provided the relevant objectives of the Plan have been achieved. Assessment of the relevant provisions of DCP 2014 was addressed previously under the heading *Development Control Plan 2014 (DCP 2014)*.

The proposed development outcome is generally consistent with the discretionary provisions of DCP 2014 however the current statutory provisions of GLLEP 2014 override/supersede the discretionary provisions of DCP 2014 in terms of lot yield outcome. DCP 2014 suggests that five (5) lots could be achieved from the existing site, including the existing dwelling house and the Association property. GLLEP 2014 stipulates a statutory minimum lot size of 10,000m<sup>2</sup> (1ha) in the R5 zone and 40ha in the E3 zone. Based on the statutory lot size controls the existing site can yield up to 8 lots ie. proposed lot 20 containing the existing dwelling house, six (6) Community Title residential lots, with areas of between 10,000m<sup>2</sup> to 16,140m<sup>2</sup>, from proposed lot 21 as well as 3190m<sup>2</sup> of association land - access. The proposed outcome is considered satisfactory having regard to the relevant objectives of Part 16.26.2 of DCP 2014.

Boundary setbacks comply with the minimum requirements of DCP 2014 with the exception of the proposed building envelope to lot 5, to the southern end of the proposed access, that is approximately 12 metres from the road frontage in lieu of 18 metres. The variation of approximately 6.0 metres is considered satisfactory having regard to the relevant objectives of Part 16.26.2 of DCP 2014.

## 2. Highlands Estate Community Title Scheme

- The residents of the proposed development will unfairly benefit from the strata management fees paid by the existing Estate's residents in respect to maintenance and insurance of the existing estate.
- The proposed Community Management Statement may differ to that of the Highlands Estate and permit businesses, uses and the construction of facilities that will adversely impact on the amenity of Highlands Estate residents.
- Seek Council to define the common western boundary between the proposed lot 21 and the existing Highlands Estate DP270229.
- Seek Council to ensure that existing by-laws 5.1.20 and 5.1.21 contained in the Community Management Statement for Highlands Estate, that relate to road traffic noise, are included in the proposed Community Management Statement.
- Seek Council to require in the proposed Community Management Statement similar provisions to those in by-laws 1.4 and 3.2.1 contained in the Community Management Statement for Highlands Estate that recognise the responsibility for existing fencing and perimeter fencing, to provide an equitable basis for the management of each Estate.
- That the future owners of the proposed development contribute to the maintenance of the public road verges in the Highlands Estate.

### **Comment:** (on each above dot point)

- No comment on unfair benefit other than to note that the each Community Management Statement although generally similar will operate independently of each other and that there will be common access over existing public roads.
- Both the Highlands Estate and the proposed Community Management Statements are similar in respect to the operating of uses other than residential, it is stated that no business, trading or home occupation is to operate on any lot without approval from the respective Community Association and the consent of the Council. Similarly the construction of facilities would be subject to the by-laws of each Community Management Statement and be subject to Council consent other than facilities that may be exempt development under State legislation.
- Determination of separating boundaries will be by survey and the erection of dividing fences. Both Highlands Estate and the proposed Community Management Statements contain similar provisions in respect to dividing fences and reference to the Dividing Fences Act 1991, legislation not administered by Council.

- The existing by-laws 5.1.20 and 5.1.21 contained in the Community Management Statement for Highlands Estate dated 4 September 2000, refer to traffic noise and compliance with the Environmental Planning Authorities draft traffic noise guidelines. The proposed Community Management Statement is silent in this regard and the inclusion of a similar requirement is not supported.
- By-laws 1.4 and 3.2.1 in the Highlands Estate Community Management Statement requires the Community Association to be responsible for the condition of the Common Property, the bushfire trails and fencing. Similarly in the proposed Community Management Statement, the Community Association is ultimately responsible for the maintenance of the bushfire measures. The proposed Community Management Statement contains provision in respect to dividing fences and reference to the Dividing Fences Act 1991, legislation not administered by Council.
- The care and maintenance of Community Property (access handle) in the proposed development will be the responsibility of the future Community Association. Care and maintenance of the public road verges in the Highlands Estate will remain on a voluntary basis and not considered a matter to be included in the proposed Community Management Statement.

### **3. Access**

- Understand that access handle was created to allow only emergency vehicle access and passage of fauna.
- Seek legal evidence of Council's previous decision to permit the access handle and thereby provide access to proposed lot 21.
- Seek Council to identify the liability of the Highlands Estate owners regarding the proposed access.
- Seek Council advice if Highlands Estate is capable of erecting a fence on its boundary between the proposed access handle and existing lots 38 and 39.
- Seek Council to ensure that the Community Scheme and the private access are named to ensure adequate identification and differentiation from the Highlands Estate.
- Limited width of handle restricts two way traffic especially large vehicles during and after construction.
- Road design restricts larger vehicles during and after construction from turning, therefore need for reversing and raises safety issues and noise.
- Access by heavy vehicles including service vehicles will degrade existing and proposed roads, grass verges and limit access by garbage trucks resulting in bins being placed to the Heather Close frontage. Who will be responsible for maintaining these assets?
- The owners of lots 38 and 39, on either side of the proposed access, have maintained the access handle for many years.
- Highlands Estate road system should only serve existing Highlands Estate rural enclave.
- The proposed outcome will detract from the scenic quality of the existing neighbouring development.
- Access should be from Tipton Place and/or Failford Road.

**Comment:** (on each above dot point)

- The 10.0 metres wide access handle that serves proposed lot 20 was created with the registration of DP270229 on 4 September 2000 that established the original Highlands Estate and on the later expansion of the Estate to include the Heather Close residential lots, with the registration of amended DP270229 on 12 July 2002. Proposed lot 20 when rezoned to R5 acknowledged the access handle to Heather Close and did not require any other access alternative to lot 20 as it was bordered by E3 zoned land to the south and east. Therefore, the intention was to allow future access to the subdivided rezoned R5 land to the west of Heather Place, in accordance with the provisions of DCP 2014 Chapter 16.26 Tipton's Land Failford.
- Having regard to the comments in the previous dot point, the suggestion of Council obtaining legal advice is not supported.
- Having regard to the comments above the owners of the Highlands Estate should obtain their own legal advice in respect to their liability regarding the proposed access.
- Fencing could be erected on the boundary between the proposed access handle and lots 38 and 39 subject to the provisions of both the Highlands Estate and proposed Community Management Statements and the requirements of the Dividing Fences Act 1991. It should be noted that fencing of both separating boundaries should be limited to a height of 1.2m where forward of the buildings on each of lots 38 and 39 and no fencing within 2.5 metres of the front boundary of lots 38 and 39. Council approval would not normally be required for boundary fencing.
- The issues of naming and differentiation between the Highlands Estate and the proposed development are not considered to be relevant planning issues.
- The proposed 4.0 metres wide sealed road with passing bays within the 10.0 metres wide access handle, that serves the proposed six (6) residential lots, is considered satisfactory and enables two way traffic and the entry and exit of large vehicles including garbage and RFS trucks. The access design is also consistent with the requirements of the RFS that are included in this report's recommendation.
- The proposed access design will enable safe forward entry and exit for all vehicles including garbage service trucks both during and after construction works. The potential issue of unreasonable noise has been addressed by an appropriate condition of this report's recommendation.
- Heather Close and connecting roads to Bullocky Way are Council owned public roads, the care and maintenance the responsibility of the Council. The access handle from Heather Close to the six (6) residential lots in Stage 2 is within the proposed Community Lot with the care and maintenance the responsibility of the Community Association. The scale of the proposed development is unlikely to create a significant impact on the condition of the access roads and adjoining areas. Garbage trucks will be able to access and service the frontages of each of the six (6) proposed Stage 2 residential lots. Accordingly, the concerns expressed by the neighbours are not supported.
- Past maintenance of the access handle by the owners of lots 38 and 39 is noted.
- The Highlands Estate road system is a Council public road system and is capable of serving both the existing estate and its future expansion.
- The proposed development and subsequent housing and rural residential uses will be consistent with that of the properties in the Highlands Estate and not considered to detract from the environmental character of the locality.

- DP270229 that created the original estate prohibited direct access from Failford Road or Bullocky Way to adjoining residential lots other than via Highlands Drive. Access from Tipton Place is not considered appropriate given the private ownership of land that Tipton Place serves, the distance and E3 Environmental zoning of land between respective locations, the objective to minimise disturbance of vegetation and soils and the susceptibility to bushfire and flooding of the separating land.

#### 4. Traffic

- Increased traffic and delays during and after construction, including during the night, will create noise, dust and congestion on existing Highlands Estate road system, downgrade the road surface which the Council maintains, raise safety concerns for pedestrians and motorists, including limited visibility with western sun during late afternoon when children are returning home, and will impact on displaced fauna.
- A Construction Traffic Management Plan should be submitted to Council during each of the proposed stages.

#### Comment:

- A Construction Traffic Management Plan as required by recommended condition of development consent would satisfactorily address traffic associated construction management issues. Future development of each proposed lot would be less likely to occur at the same time and considered not to create a potential conflict in use with neighbouring properties. Concerns as to noise, dust and construction times are addressed by the recommended conditions of this report. The resultant impacts of the development in respect to the condition of the road will not be significant given the limited scale of the proposed development and its future use. The concern for resident safety is not supported given the orientation of the existing and proposed road network. In respect to possible impacts on displaced fauna Council's Senior Ecologist is satisfied that with the proposed outcome subject to conditions including a reduction in size of proposed Lot 7, by adjustment of its rear boundary, thereby preserving recognised riparian habitats and the habitat of a threatened flora species.
- A Construction Traffic Management Plan is required by recommended condition of development consent to be submitted for approval prior to the commencement of works.

#### 5. Proposed Lot 5 configuration

- The tapering configuration of the proposed lot at the rear of 42 Heather Close could lead to a use that would be detrimental to the environment (flora and fauna), bush fire safety, stormwater management, exposure to flooding and the amenity of the existing adjoining property. Suggestion to rezone to E3 or impose restrictions for use.
- The configuration of the proposed lot is not in keeping with the boundaries of the Highland Estate.

#### Comment: (on each above dot point)

- The tapering land forms part of proposed lot 5 and is distant from the proposed building envelope on that lot. The tapering land would therefore be suitable as managed open space associated with the use of this rural residential lot. The proposed main sewer line crosses this part of lot 5 land. The suggestion to further reduce the use of this portion of land is not supported.
- The configuration of the proposed lot 5 is not considered to be detrimental to its use or the rural residential character of the locality.

## 6. Loss of Privacy

- To residents either side of access handle in respect to traffic noise, rear yard visual privacy.
- Generally in respect to the semi-rural amenity of residents of Highland Estate.

**Comment:** (on each above dot point)

- The originally recognised access handle will serve six (6) rural residential lots and separates lots 38 and 39 in Highlands Estate. The dwelling houses on lots 38 and 39 have been setback approximately 20.0m and 17.5m, respectively, from the side boundary common with the access handle. Given the recognition of the access handle on the Highlands Estate Community Plan, the limited number of proposed lots to be served and the location of the developments on lots 38 and 39, concerns of unreasonable traffic noise and visual privacy are not supported.
- The existing rural residential amenity of the Highlands Estate is not considered to be adversely impacted on given the limited scale and size of the proposed development that is comparable with that of the Highlands Estate and the existing topography.

## 7. Development separation distances

Proximity of building envelopes on proposed lots 5 and 6 to each other and from existing development on 40 Heather Close. Sufficient space exists to permit a set-out more suitable to a semi-rural area.

**Comment:**

Proposed building envelopes on lots 5 and 6 have been designed, given the constraints of the existing sewage easement that runs centrally through both proposed lots, in accordance with DCP 2014 in respect to size (minimum 1,000m<sup>2</sup>) and generally with larger proposed setbacks from side and rear boundaries. DCP 2014 seeks a minimum of 5.0m setback compared to the proposed rear setback of 20.0m (the boundary common with 40 Heather Close) and between 5.0m (lot 5) and 7.0m (lot 6) from the boundary between the two (2) proposed lots.

The existing dwelling house on 40 Heather Close is located approximately 18.0m from the its rear boundary that is common to proposed lots 5 and 6 and within that setback there is existing vegetation. The building separation distance between the existing dwelling house on 40 Heather Close and the proposed building envelopes on lot 5 and 6 would therefore be a minimum of approximately 38.0m. The proposed setbacks are consistent with those of existing development in the Highlands Estate and having regard to the existing topography the concerns of the neighbour are not supported.

## 8. On-site sewage management

Proposed lots 2, 3, 4 and 7 rely on on-site sewage management systems and should be connected to the extension of the existing reticulated sewage system having regard to heavy rain events, potential flooding, stormwater runoff, poor ground absorption, health, visual impact, odours and potential pollution of the nearby creek that feeds the Wallamba River. The proposed outcome will devalue the Estate.

**Comment:** Since lodgement of this development application and in consultation with Council and MidCoast Water all proposed lots will be connected to the MidCoast Water sewage system. Accordingly, the concerns of the neighbours have been satisfactorily addressed.

## 9. Loss of Outlook

The proposed development will adversely impact on the rural outlook enjoyed by existing residents of neighbouring properties.

**Comment:** Given the size of each proposed lot (generally larger than the neighbouring lots in the Highlands Estate) the location of neighbouring dwelling houses, the proposed building envelopes, the existing topography and the existing vegetation, the outlook from the neighbouring lots is not considered to be unreasonably affected.

## 10. Stormwater run-off

Increased runoff could be directed to neighbouring properties and the adjacent creek and could potentially contaminate the creek.

**Comment:** The proposed development will manage stormwater disposal in accordance Council's requirements including its Water Sensitive Design Strategy and future residential development will be designed to similarly comply as well as with SEPP Basix. The outcome of which is not considered to increase runoff or potentially contaminate the neighbouring creek. Accordingly, the concerns of the neighbours are not supported.

## 11. Domestic Cats

Seek Council to ensure that existing by-law 5.1.7 contained in the Community Management Statement for Highlands Estate, that relates to confinement of domestic cats, is included in the proposed Community Management Statement.

**Comment:** DCP 2014 part 16.26.7 requires all domestic cats to be confined to dwellings or buildings associated with the dwellings on private lots between dusk and dawn. This requirement should be included in Part 4 'Keeping of Animals' of the proposed Community Management Statement and an appropriate condition is included in this report's recommendation.

## 12. Great Lakes DCP 2014

The conservation measures relating to the development of land to the eastern side of Bullocky Way (ref. part 16.8.3 pages 59 and 60) should be included in the proposed Community Management Statement so as to maintain and improve the population densities and movement of fauna.

**Comment:** The conservation measures referred to above do not apply to the Highlands Estate or the proposed development. The conservation measures in part 16.26.7 of DCP2014 apply to the Highlands Estate and the subject site and in that regard the proposed development is considered to be consistent with the objectives of part 16.26.7 having regard to the relevant controls in the part.

## 13. Determination of Development Application

Should be by elected Council not an Administrator.

**Comment:** Determination of the development application now rests with the Council.

## 14. Council Notification

Notification should include all Highlands Estate residents and should have been for three (3) months not sixteen (16) days.

**Comment:** Council's notification of neighbours occurred on 18 April 2017 and included all properties surrounding the site including those properties to the western side and southern end of Heather Close. The notification period for submissions was 16 days from the 18 April 2017 after which Council could determine the development application. Neighbours were able to lodge a submission that would be considered by Council up until the development application was determined. As previously indicated the notification to neighbouring property owners in accordance with Council's Policy resulted in written submissions from the owners of nine (9) neighbouring properties and a petition with signatories from the owners of eleven (11) neighbouring properties, seven (7) of which had also lodged separate objections. Accordingly, the neighbours have had a lengthy period in which to make a submission and notify other more distant properties.

#### **15. Public Interest**

The proposed development is not in the public interest, being primarily the interests of the owners of the lots in the Highlands Estate.

**Comment:** Refer to item (e) below. Accordingly the neighbours' opinion is not supported

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

The proposed development is generally consistent with the relevant planning controls for the locality and will not detract from the semi-rural character of this locality, nor will it undermine any of the social or economic values of the site or surrounding area.

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

#### **CONCLUSION**

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

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

#### **RECOMMENDATION**

It is recommended that development consent be granted to DA 464/2017 for the subdivision of Lot 2 DP 1009278, 408 Failford Road, Failford subject to compliance with the conditions referred to in Annexure A.



## ANNEXURES

### A. Conditions of Consent.

#### GENERAL CONDITIONS

##### 1. Development in accordance with approved plans

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

Plan type/Supporting Document	Plan No.	Prepared by	Dated
Proposed Subdivision of Lot 2 DP1009278 - Stage 1	Sheet 1 of 1 - Issue A	Lidbury, Summers & Whiteman	8/12/16
Proposed Subdivision of Lot 2 DP1009278 - Stage 2	Sheet 2 of 2 - Issue B	Lidbury, Summers & Whiteman	16/08/17
Water Sensitive Design Strategy for Proposed Subdivision, Lot 2 DP1009278 Heather Close Failford	Issue 1	Lidbury, Summers & Whiteman	March 2017

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

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

##### 2. Staging of Approved Development

The development must be implemented in accordance with the following stages:

Stage 1 - Subdivide under Torrens Title the existing lot 2 DP1009278 into two (2) lots (ie. proposed lots 20 and 21) as indicated in the approved plans.

Stage 2 - Subdivide under Community Title the proposed lot 21 into six (6) residential lots and one (1) community lot (road access) as indicated in the approved plans.

**Reason:** To ensure the development is carried out in accordance with the proposed stages.

##### 3. Building envelopes

The two (2) building envelopes on proposed Stage 2 lot 2 are alternatives only given the configuration of the lot and are not to be interpreted as permitting two (2) dwelling houses on the lot.

**Reason:** To clarify the interpretation of the approved plans.

##### 4. Adjustment to utility services

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

**Reason:** To ensure that the costs associated with any adjustment to utility services are borne by the developer.

##### 5. Tree Clearing for the Stage 2 Subdivision to be Avoided or Minimised

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The Registered Proprietor shall use their best endeavours to ensure that tree clearing for any activity associated with the formation or construction of the approved subdivision is avoided or strictly minimised.

In Stage 1, no trees on the land are to be cleared or harmed.

In Stage 2, only trees within approved road or services footprints are approved for removal.

All other trees on the subject land shall be retained and protected from harm during subdivision formation work.

In relation to the methods of removal for the trees approved for removal in this consent, the following procedures shall be adopted:

- Tree removal shall be conducted by licensed and qualified tree removal contractors only.
- Tree removal contractors shall inspect the crown, foliage and trunks of trees that are to be removed immediately prior to any felling to investigate the presence of koalas or other native vertebrate non-flying fauna. If such wildlife is detected, the tree shall not be cleared until the animal has dispersed of its own free will from the area
- Removal of approved trees shall be conducted using appropriate soft-drop felling techniques away from trees that are to be retained on the land
- Removal of approved trees shall be conducted in a manner that avoids the movement of heavy machinery in the root zones of trees that are to be retained on the land
- Trees removed from the site shall not be disposed of by pile-burning unless such burning is conducted with the approval of the Rural Fire Service. All useable trees should be salvaged for re-use either in log form or as woodchip mulch for landscaping, erosion control, humic layers in restoration or replanting areas or in bushland rehabilitation. Non-salvageable material, such as roots and stumps, may be disposed of by the Registered Proprietor in an approved form at sites nominated by Council

**Reason:** To minimise the loss of trees and habitat for amenity and biodiversity purposes.

## **6. Stormwater Quality Management Treatment measures**

The development is to contain grassed swales adjacent to road shoulders 1m wide at the base, 0.25m deep with 1:4 sides and a minimum 0.5% grade.

**Reason:** To ensure the suitable management of stormwater quality.

## **7. Construction and inspection of stormwater treatment measures (Swales)**

Engage a suitably qualified stormwater engineer to inspect each swale during construction. Verify compliance with the approved plans including finished levels (works as executed) and grass establishment.

Submit signed works as executed drawings confirming that the asset has been constructed to comply with development consent conditions.

**Reason:** To ensure that the bioretention is constructed in accordance with approved plans, standards and conditions of consent.

## PRIOR TO THE ISSUE OF A SUBDIVISION CONSTRUCTION CERTIFICATE

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

### 8. Engineering construction plans for stage 2

Prior to the issue of a subdivision construction certificate for stage 2, engineering construction plans and specifications must be submitted to and approved by the certifying authority. The plans must include details of the works listed in the table below in accordance with Council's current design and construction manuals and specifications. All works must include the adjustment and/or relocation of services as necessary to the requirements of the appropriate service authorities.

Required work	Specification of work
Full width road construction	Full width road and drainage construction for all proposed roads on the approved plan in accordance with section 4.1.3 and 4.2.7 of "Planning For Bushfire Protection 2006" and Council design standards.
Service conduits	Service conduits to each of the proposed new allotments laid in strict accordance with the service authorities' requirements.
Estate sign and/or structure	Council will not accept ownership or responsibility for the sign or structure. Council will need to be satisfied that a Plan is in place that will provide for ongoing maintenance of the sign and/or structure. Council reserves the right to assess the condition of the sign or structure and also its relevance at intervals of 5 years. The Estate name will not be recognised by Council as part of a property address.
Culverts required across drainage channels, passing bays or streams	The culvert must be designed to ensure that peak flow rates for the 1% AEP storm event are not affected.
Tree disposal	Details of the means of tree disposal are to be submitted for Council's approval prior to the commencement of subdivision works.

**Reason:** To ensure works within Council's Road Reserve are constructed to a suitable standard for public safety.

### 9. MidCoast Water approval

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

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

### 10. Traffic management plan

Prior to the issue of a subdivision construction certificate for stage 2, a traffic management plan including measures to be employed to control traffic (inclusive of construction vehicles) during construction of the subdivision must be submitted to and approved by the certifying authority. The traffic control plan must be designed in accordance with the requirements of the Roads and Traffic Authority's Manual, *Traffic Control at Work Sites Version 2*, and Australian Standard AS 1742.3: *Manual of uniform traffic control devices - Traffic control for works on roads*.

The plan must incorporate measures to ensure that motorists using the road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site.

The traffic control plan must be prepared by an accredited person trained in the use of the current version of *RTA Traffic Control at Work Sites manual*.

The approved Construction traffic management plan must be implemented prior to the commencement of work.

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

#### **11. Erosion and sediment control plan**

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

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

#### **12. Bond required to guarantee against damage to public land**

Prior to the issue of a subdivision construction certificate, a Damage Bond Application form together with payment of a bond in the amount of \$4000 and a non-refundable administration fee of \$320 must be submitted to Council. The bond is payable for the purpose of funding repairs to any damage that may result to Council assets from activities/works associated with the construction of the development and to ensure compliance with Council standards and specifications.

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

- a) once all works, including landscaping, turfing etc, have been completed, and
- b) following issue of a subdivision certificate.

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

**Reason:** Protection of public assets.

#### **13. On-site sewage management system - Section 68 application**

Prior to the issue of a subdivision construction certificate, an application under Section 68 of the *Local Government Act 1993* to install sewerage ejection pump stations must be obtained from Council.

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

#### **14. Stormwater Quality Management Concept and Treatment measures**

Submit final engineering plans and specifications for the stormwater management system, for approval by MidCoast Council prior to the issue of a subdivision construction certificate. Engineering plans are to be designed in accordance with the approved Water Sensitive Design Strategy for Proposed Subdivision, Lot 2 DP1009278 Heather Close, Failford and include:

- Grassed swales adjacent to road shoulders 1m wide at the base, 0.25m deep with 1:4 sides and a minimum 0.5% grade.

Swales are to be designed in accordance with Water by Design (2006), 'Water Sensitive Urban Design – Technical Design Guidelines for South East Queensland', South East Queensland Healthy Waterways Partnership including the completion of the 'Swale Design Assessment Checklist'.

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

#### **15. Water Sensitive Design Maintenance Plan**

Submit, prior to the issue of a subdivision construction certificate, a Water Sensitive Design operation and maintenance plan for the final approved Water Sensitive Design Strategy for Proposed Subdivision. The maintenance plan must include but not be limited to:

- a) the location and nature of stormwater management structures such as pits, pipes, swales and other drainage works
- b) requirements for inspection, monitoring and maintenance including the frequency of these activities during the establishment and operational phases
- c) identification of responsibilities for maintenance including a reporting protocol and checklists.

**Reason:** To ensure water quality measures installed on the site can be adequately maintained.

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

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

#### **16. Site access**

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

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

#### **17. Erosion & sediment measures in accordance with approved plans**

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

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

## **18. Pollution prevention sign**

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

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

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

## **19. Toilet facilities - sewerred areas**

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

**Reason:** To maintain public health.

## **20. Site construction sign**

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

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

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

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

## **21. Waste management plan**

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

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

## **CONDITIONS TO BE SATISFIED DURING DEVELOPMENT WORK**

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

### **22. Wash-down of Subdivision Construction Machinery**

In order to minimise the risk of plant pathogens and weed propagules, all site machinery introduced to the subject land for any purpose associated with the formation or construction of the approved subdivision shall be adequately washed down prior to their introduction to the subject land. Such machinery shall be demonstrably free of soil and vegetative material prior to their introduction to the subject land.

**Reason:** To ensure risks of introduction of plant pathogens or diseases are minimised.

### **23. Construction times**

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

Monday to Friday, from 7 am to 6 pm.

Saturday, from 8 am to 1 pm.

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

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

### **24. Construction dust suppression**

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

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

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

### **25. Builders rubbish to be contained on site**

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

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

### **26. Burning of felled trees prohibited**

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

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

### **27. Compliance with waste management plan**

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

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

## 28. Aboriginal heritage

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

**Reason:** To protect Aboriginal heritage.

## 29. Noise

Noise associated with the execution of the proposed development including all associated mechanical plant and equipment must not be a source of "offensive noise" at the nearest affected premises:

"offensive noise" is defined under the *Protection of the Environment Operations Act 1997* as noise:

- a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
  - i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
  - ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or
- b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulation.

**Reason:** To maintain acoustic amenity to adjoining properties.

## 30. Construction of stormwater treatment measures

Construct the stormwater management system so that it is consistent with final approved Water Sensitive Design Strategy for Proposed Subdivision and the approved engineering design and all other consent conditions.

Protect swales with erosion and sediment control measures during construction.

**Reason:** To ensure that the swales are constructed in accordance with approved plans, standards and conditions of consent.

## PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

The following conditions must be satisfied prior to the issue of a subdivision certificate:

### 31. Stage 1 and 2 - Minor amendment of proposed lot boundaries

The subdivision shall be undertaken in accordance with the plan entitled "*Plan of proposed subdivision of Lot 2 DP1009278 Failford Road, Failford Stage 2*", prepared by Lidbury, Summers & Whiteman, Issue B and dated 16/08/17 (as referred to in Condition 1 of this consent), except for the following amendment for ecological purposes:

- Amend the rear boundary of Lot 7 (and the Lot boundaries for Lots 20 and 21) to comply with the plan titled "*Plan of Amended Lot Boundary and Significant Trees*", prepared by Mat Bell and dated 24/10/2017 whilst ensuring that the area of Lot 7 is not less than 10,000m<sup>2</sup> (1Ha). This amendment is required to preserve riparian habitats and the habitat of a threatened flora species.

**Reason:** To ensure riparian areas and threatened species habitats are better protected.



### 32. Fencing Plan for the E3 zoned land

The Registered Proprietor shall engage a Registered Surveyor to prepare a fencing plan to identify the proposed locations and styles of fencing to enclose and protect the lands zoned E3 in the Great Lakes LEP 2014 and the amended northern portion of Lot 7 (as amended in this consent). The fencing plan shall be submitted to Council for review and approval. Fencing shall be designed in a manner that minimises impacts on existing trees and native vegetation.

**Reason:** To protect the E3 zoned land for conservation purposes.

### 33. Conservation mechanisms for E3-zoned land

Prior to the issuing of the Subdivision Certificate for Stage 1 and in respect to parts of the land of Lot 20 (and thus pertaining to those relevant parts of Lot 2 DP1009278 Failford Road, Failford):

- The Registered Proprietor shall take all necessary steps to ensure restrictions on the use of land or public positive covenants pursuant to the provisions of either s88B or s88E of the *Conveyancing Act 1919* to the following effect are established and are recorded in the Register kept under the *Real Property Act 1900*:
  - 1) Restrictions as to Use shall be established on all lands zoned E3 in the Great Lakes LEP 2014 and the amended northern portion of Lot 7 (as amended in this consent) requiring that these areas:
    - a. Shall be permanently protected as a conservation area, and
    - b. Shall be protected from any activity that causes or is likely to cause clearing or harm to native vegetation or wildlife habitat, and
    - c. Shall be protected from impacts associated with development.
  - 2) Public Positive Covenants shall be established on all lands zoned E3 in the Great Lakes LEP 2014 and the amended northern portion of Lot 7 (as amended in this consent) such that, unless the activities are conducted in accordance with an approved conservation management plan approved by Council:
    - a. No development shall be carried out, and
    - b. No asset protection zone shall be established, and
    - c. No clearing or harm to any local native plants or native vegetation shall be caused, and
    - d. No recreational use of trail bikes or vehicles shall be undertaken, and
    - e. No grazing stock or exotic animal shall be kept or introduced, and
    - f. No excavation, modification, filling or physical work on the land or any watercourses shall be undertaken, and
    - g. No stockpiling or accumulation of materials shall occur, and
    - h. No timber, including fallen timber or forest products, shall be removed or harvested, and
    - i. No internal fence-lines shall be established.
  - 3) Public Positive Covenants shall be established that ensure that those actions required by the "*Conservation Management Plan*" that is incorporated into the Development Consent are promptly carried out on the area zoned E3 in the Great Lakes LEP 2014 and the amended northern portion of Lot 7 (as amended in this consent).
  - 4) Public Positive Covenants shall be established such that a permanent fence (of a style approved by Council) is erected and maintained in perpetuity in a manner

that protects the area of the land that is zoned E3 in the Great Lakes LEP 2014 and the amended northern portion of Lot 7 (as amended in this consent) and in accordance with the approved Fencing Plan.

The MidCoast Council is the prescribed authority for the purposes of Division 4, Part 6 of the *Conveyancing Act 1919*, and is to have the benefit of the Restrictions and the Public Positive Covenants.

The Registered Proprietor of the land shall have registered by the Registrar-General a plan as a deposited plan showing that part of the land of Proposed Lots 1 and 20 comprising the area identified in this Condition and which plan is to identify the area affected by the Restrictions as to Use and Public Positive Covenant such that on its registration, these instruments are executed on the appropriate title(s).

**Reason:** To protect ecologically significant vegetation within the land.

#### **34. Conservation Management Plan to be Prepared**

Prior to the issuing of a Subdivision Certificate for Stage 1, the Registered Proprietor shall engage a qualified ecological consultant to prepare a "*Conservation Management Plan*" for the lands zoned E3 in the Great Lakes LEP 2014 and the amended northern portion of Lot 7 (as amended in this consent). The *Conservation Management Plan* shall be to the written satisfaction of and approved by Council's Senior Ecologist.

The *Conservation Management Plan* shall be prepared with the over-riding principle of conserving and restoring the integrity, habitats, natural processes/ functions and biodiversity of the land and protecting the habitats from direct and indirect threats.

The *Conservation Management Plan* shall contain maps and information pertaining to issues, actions, responsibilities and timing. It shall be written in a style that is clear, explicit and able to be practically implemented and it shall exclude subjective or unquantified statements.

It shall demonstrably contain the following structure and content:

- "*Background and Conservation Mechanism*" shall include an introduction, objectives, background information and details of the conditions protecting the area.
- "*Baseline Information*" shall include a summary as a baseline of the known vegetation, biodiversity and threatened species of the area, including pest and weed distribution and density information and details of areas requiring active revegetation.
- "*Action Plan*" shall document the means of native vegetation and habitat conservation, restoration and regeneration. This section shall identify the actions to be implemented to:
  - Describe the occurrence, monitor, control and eradicate invasive environmental weeds, weeds of national significance and noxious weeds
  - Monitor and control/ preclude stock and exotic fauna species and free-ranging domestic fauna
  - Identify, monitor and implement adequate bushfire regimes with respect to bushfire intervals and thresholds (and exclusion if required)
  - Describe the need for, alignment of and design of any maintenance tracks and trails that are required
  - Identify, monitor and implement practical measures to prevent pollution, ecological degradation and impacts
  - Protect the area from unauthorised human access

- Revegetate cleared areas and restore functional native vegetation to modified areas
- Install nesting boxes and logs and other habitat furniture
- “*Monitoring*” shall clearly set-out and report on the details, frequency, reporting, funding, milestones and performance targets. It shall define a monitoring program for the integrity and condition of the vegetation
- “*Administration*” shall clearly set-out details of the administration, responsibilities, timing and funding, including plan evaluation and review

**Reason:** To protect and manage ecologically significant vegetation.

### 35. Stage 2 Subdivision Building Envelopes and the protection of significant trees

In respect to certain parts of the land of proposed lots (and thus pertaining to those relevant parts of Lot 2 DP1009278 Failford Road, Failford):

- The Registered Proprietor shall take all necessary steps to ensure restrictions on the use of land or public positive covenants pursuant to the provisions of either s88B or s88E of the *Conveyancing Act 1919* to the following effect are established and are recorded in the Register kept under the *Real Property Act 1900*:
  - 1) A Restriction as to Use to create building envelopes in accordance with the "*Plan of proposed subdivision of Lot 2 DP1009278 Failford Road, Failford Stage 2*", prepared by Lidbury, Summers & Whiteman, Issue B and dated 16/08/17.
  - 2) A Public Positive Covenant to protect trees considered to be significant trees as identified on the plan titled "*Plan of Amended Lot Boundary and Significant Trees*", prepared by Mat Bell and dated 24/10/2017 such that: The Registered Proprietor must not harm or remove significant trees, either directly or indirectly and shall actively protect significant trees. Removal of any significant tree is permitted only with the written consent of Council.

The MidCoast Council is the prescribed authority for the purposes of Division 4, Part 6 of the *Conveyancing Act 1919*, and is to have the benefit of the Restrictions. A Draft Plan and Instrument shall be provided to Council for its review and approval.

The Registered Proprietor of the land shall have registered by the Registrar-General a plan as a deposited plan showing that part of the land of comprising the area identified in this Condition and which plan is to identify the area affected by the Restrictions as to Use and Public Positive Covenant such that on its registration, these instruments are executed on the appropriate title(s).

**Reason:** To protect important trees and threatened species habitats.

### 36. Plan of subdivision

An application for a subdivision certificate must be made on the approved form and must be accompanied by the subdivision certificate fees, in accordance with Council's adopted schedule of fees and charges. Seven (7) copies of the plan of subdivision must 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 and the location of the current R5/E3 zone boundary must be indicated on one copy of the plan.

**Reason:** To ensure adequate identification of boundaries and the location of structures and the existing R5/E3 zone boundary.

### 37. Street name application

Prior to the issue of a subdivision certificate, a separate application for the naming of each new road must be submitted on Council's 'New Roads Name Application' form, together with

payment of all associated fees. The street names must be approved by Council and shown on the plans submitted with the application for subdivision certificate.

**Reason:** To ensure adequate identification of new streets.

#### **38. Domestic Cats**

The proposed Community Management Statement shall include in Part 4 'Keeping of Animals' a provision that requires all domestic cats to be confined to dwellings or buildings associated with the dwellings on private lots between dusk and dawn.

**Reason:** To limit the predatory activity of domestic cats.

#### **39. Management statements**

Prior to the issue of a subdivision certificate, the community management and any neighbourhood and/or precinct plans must be submitted to Council for record purposes. The Community Association is to be responsible for the control, management, operation and maintenance of Association property, including conservation areas, perimeter fencing where proposed.

**Reason:** To ensure that Council's records are complete in respect to the approved development and that any special Council requirements are referred to in the documents.

#### **40. Erection of street signs**

Prior to the issue of a subdivision certificate, street signs for the approved street names must be installed at no cost to Council.

**Reason:** To ensure properties can be easily identified.

#### **41. Completion of works**

Prior to the issue of a subdivision certificate, all roads, drainage and civil works, required by this development consent and associated construction certificate, must be completed. Works must include the restoration, replacement and/or reconstruction of any damage caused to surrounding public infrastructure, including damage to road pavements along any haulage routes used for the construction of the subdivision.

**Reason:** To ensure civil works are appropriately constructed.

#### **42. Electricity supply certificate**

Prior to the issue of a subdivision certificate, a certificate of compliance from the electricity supply authority must be submitted to Council stating that satisfactory arrangements have been made for the provision of electricity supply throughout the subdivision.

**Reason:** To ensure that utility services have been provided to the newly created lots.

**43. Telephone supply certificate**

Prior to the issue of a subdivision certificate, a certificate of compliance from the telephone supply authority must be submitted to Council stating that satisfactory arrangements have been made for the provision of telephone supply throughout the subdivision.

**Reason:** To ensure that utility services have been provided to the newly created lots.

**44. Water and sewer supply certificate**

Prior to the issue of a subdivision certificate, a certificate of compliance from MidCoast Water must be submitted to Council stating that satisfactory arrangements have been made for the provision of water supply and sewerage to the development.

**Reason:** To ensure that utility services have been provided to the newly created lots.

**45. Section 94 contributions**

Prior to the issue of a subdivision certificate for Stage 1, 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:

Contributions Plan	Facility	quantity	unit	rate	amount
Great Lakes Wide	Library Bookstock	2.4	persons @	\$78.75 =	<b>\$189.00</b>
Great Lakes Wide	Headquarters Building	2.4	persons @	\$472.81 =	<b>\$1,134.74</b>
Great Lakes Wide	s94 Admin	2.4	persons @	\$216.92 =	<b>\$520.61</b>
Great Lakes Wide	Rural Fire Fighting	2.4	persons @	\$675.08 =	<b>\$1,620.19</b>
Forster District	Major Roads Inner Zone	9	1-way trips @	\$684.30 =	<b>\$6,158.70</b>
Forster District	Aquatic Centre	2.4	persons @	\$310.17 =	<b>\$744.41</b>
Forster District	Surf Life Saving	2.4	persons @	\$91.48 =	<b>\$219.55</b>
Forster District	Open Space	2.4	persons @	\$1,483.35 =	<b>\$3,560.04</b>
Forster District	Library Facility	2.4	persons @	\$513.26 =	<b>\$1,231.82</b>
Forster District	Community Facilities	2.4	persons @	\$560.25 =	<b>\$1,344.60</b>
				<b>Total</b>	<b>= \$16,723.66</b>

Contribution rates are subject to indexation. The rates shown above are applicable until 30 June 2018 following the date of consent. Payment made after 30 June 2018 will be at the indexed rates applicable at that time.

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

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

#### 46. Section 94 contributions

Prior to the issue of a subdivision certificate for Stage 2, 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:

Contributions Plan	Facility	quantity	unit	rate	amount
Great Lakes Wide	Library Bookstock	12	persons @	\$78.75 =	<b>\$945.00</b>
Great Lakes Wide	Headquarters Building	12	persons @	\$472.81 =	<b>\$5,673.72</b>
Great Lakes Wide	s94 Admin	12	persons @	\$216.92 =	<b>\$2,603.04</b>
Great Lakes Wide	Rural Fire Fighting	12	persons @	\$675.08 =	<b>\$8,100.96</b>
Forster District	Major Roads Inner Zone	45	1-way trips @	\$684.30 =	<b>\$30,793.50</b>
Forster District	Aquatic Centre	12	persons @	\$310.17 =	<b>\$3,722.04</b>
Forster District	Surf Life Saving	12	persons @	\$91.48 =	<b>\$1,097.76</b>
Forster District	Open Space	12	persons @	\$1,483.35 =	<b>\$17,800.20</b>
Forster District	Library Facility	12	persons @	\$513.26 =	<b>\$6,159.12</b>
Forster District	Community Facilities	12	persons @	\$560.25 =	<b>\$6,723.00</b>
				<b>Total</b>	<b>= \$83,618.34</b>

Contribution rates are subject to indexation. The rates shown above are applicable until 30 June 2018 following the date of consent. Payment made after 30 June 2018 will be at the indexed rates applicable at that time.

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

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

#### 47. Plan of subdivision and Section 88B Instrument

An instrument created under Section 88B of the *Conveyancing Act 1919* must be submitted with the application for a subdivision certificate. The final plan of subdivision and accompanying Section 88B Instrument must provide for the items listed in the following table:

Item for inclusion in Plan of Subdivision and/or Section 88B Instrument	Details of Item
Dwelling envelope	Restrictions to limit the erection of dwellings to the nominated dwelling envelope.
Effluent disposal area	Restrictions to limit any development, other than effluent disposal systems and associated works, to the nominated effluent disposal areas.
Easement for services for access handle	The creation of suitable easements for services over the access handle of proposed Lot 1.
Easement for services	The creation of suitable easements where applicable for services over the proposed lots.
Easement for electricity	The creation of any necessary easements for electricity purposes as required by the electricity supply authority.

**Reason:** To ensure the proper management of land.

#### 48. Works-as-executed plans

Prior to the issue of a subdivision certificate, works-as-executed plans, certified by a suitably qualified engineer or a registered surveyor, must be submitted to Council. Where the design is carried out utilising computer aided design (CAD), all CAD computer files must be provided on compact disc (CD) with the final drawings. The CAD files must include all lot and road boundaries, lot numbers and easements. The data must be supplied in accordance with the requirements of Council's GIS Officer.

Where development involves filling of flood prone land, an additional copy of the works-as-executed plan relating to earthworks and final plan of subdivision must be submitted detailing the 1% annual exceedance probability (AEP) flood contour.

**Reason:** To provide Council with accurate records of civil works.

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

Prior to the issue of a subdivision certificate, the sewerage ejection pump stations must be completed in accordance with the approved plans and current specifications and standards.

The system must not to be used and/or operated until it has been inspected by a Council Officer and an approval to operate the system has been issued.

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

### ONGOING USE

#### 50. Actions to give effect to Instruments or Restrictions required in this Consent

In order to give effect to executed s88B and s88E restrictions and instruments in this consent, for all lands zoned E3 in the Great Lakes LEP 2014 and the amended northern portion of Lot 7 (as amended in this consent) such areas:

- a. Shall be permanently protected as a conservation area, and
- b. Shall be protected from any activity that causes or is likely to cause clearing or harm to native vegetation or wildlife habitat, and
- c. Shall be protected from impacts associated with development, and
- d. No development shall be carried out, and
- e. No asset protection zone shall be established, and
- f. No clearing or harm to any local native plants or native vegetation shall be caused, and
- g. No recreational use of trail bikes or vehicles shall be undertaken, and
- h. No grazing stock or exotic animal shall be kept or introduced, and
- i. No excavation, modification, filling or physical work on the land or any watercourses shall be undertaken, and
- j. No stockpiling or accumulation of materials shall occur, and
- k. No timber, including fallen timber or forest products, shall be removed or harvested, and
- l. No internal fence-lines shall be established.

All of those actions required by the “*Conservation Management Plan*” that is incorporated into the Development Consent must be promptly carried out in accordance with the timing set-out in that Plan.

A permanent fence (of a style approved by Council) shall be erected and maintained in perpetuity in a manner that protects the area of the land that is zoned E3 in the Great Lakes LEP 2014 and the amended northern portion of Lot 7 (as amended in this consent) in accordance with the details in the approved Fencing Plan.

No buildings shall be erected on the area of Lots 2 - 7 unless such buildings are confined to the area of the adopted building envelopes required in this consent.

Significant trees identified in this consent must not be harmed or removed, either directly or indirectly, and must be actively protected by the Registered Proprietor on land on which those trees occur. Significant trees must not be removed or harmed without the written consent of Council.

**Reason:** To protect ecologically significant vegetation within the land.

#### **51. Maintenance of stormwater treatment measures**

Maintain the stormwater treatment in accordance with the approved Water Sensitive Design Maintenance Plan for the life of the development.

Submit an annual report to Council detailing maintenance activities undertaken in accordance with the approved Water Sensitive Design Maintenance Plan.

**Reason:** To ensure ongoing functioning of the stormwater treatment system so that the development complies with water quality objectives in perpetuity.

### **OTHER AGENCY CONDITIONS**

#### **52. Rural Fire Service requirements**

The development must be carried out in compliance with the following conditions detailed in the Bush Fire Safety Authority, reference No.D17/1266, dated 13 October 2017.

#### **Asset Protection Zones**



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

1. At the issue of subdivision certificate and in perpetuity, the land surrounding the existing dwelling(s) on proposed Lot 20, to a distance of 30 metres, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
2. At the registration of the community title plan for stage 2, a restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed on all lots within stage 2 of the subdivision which specifies that the proposed lots shall be managed, in perpetuity, as an asset protection zone (APZ) as outlined within Schedule 1 Bushfire Protection Measures of the Bushfire Protection Assessment report, prepared by Travers Bushfire and Ecology, dated August 2017, in accordance with section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
3. At the registration of the community title plan for stage 2, all lots within stage 2 of the subdivision shall be managed as an asset protection zone (APZ) as outlined within Schedule 1 Bushfire Protection Measures of the Bushfire Protection Assessment report, prepared by Travers Bushfire and Ecology, dated August 2017.

The asset protection zones shall be managed in accordance with section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

### **Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following condition shall apply:

4. Water and electricity services for stage 2, are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

### **Access**

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

5. Community title development internal access roads shall comply with section 4.1.3 and 4.2.7 of 'Planning for Bush Fire Protection 2006'.

## **Design and Construction**

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

6. The existing building on proposed Lot 20 is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

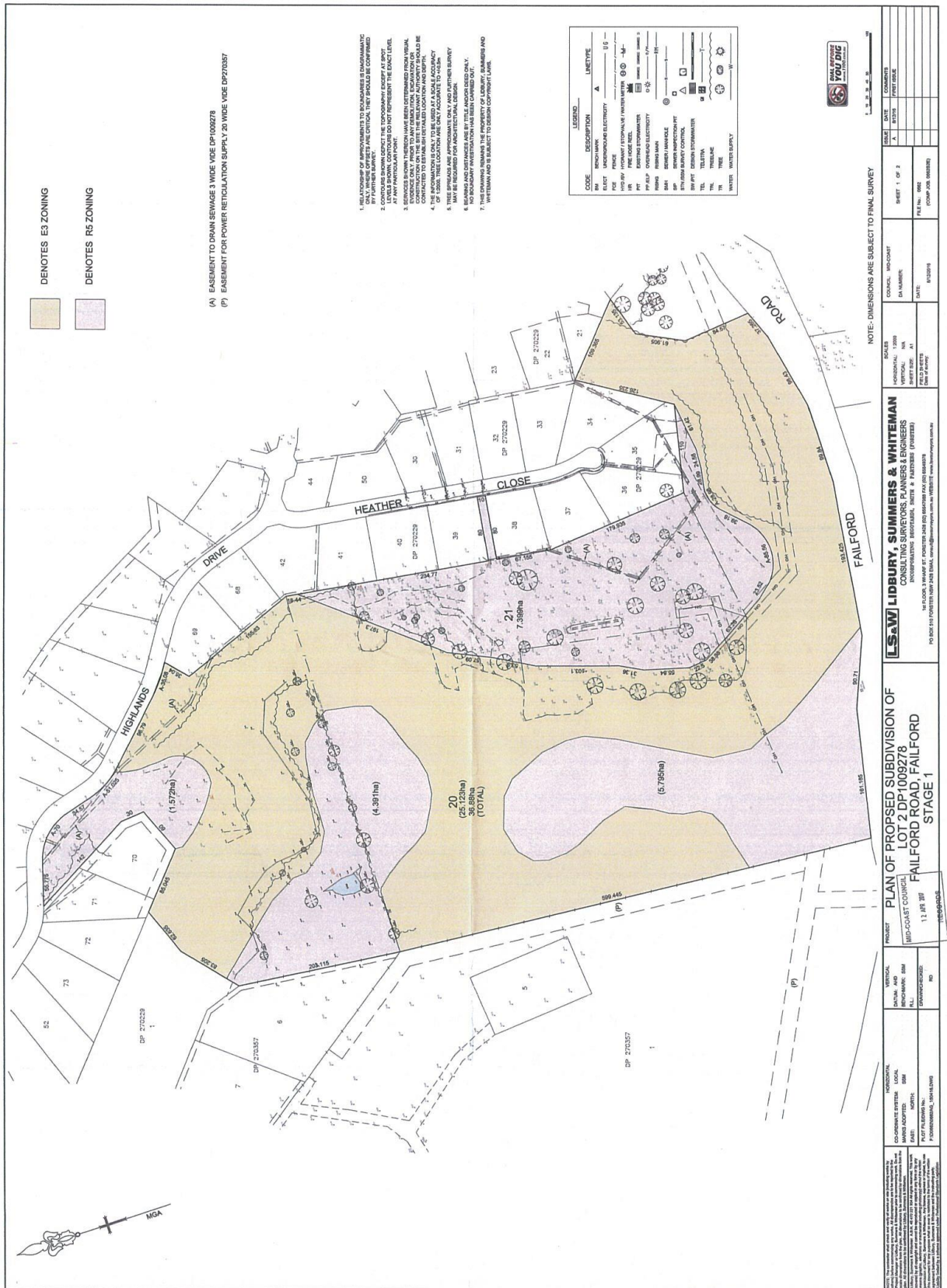
## **Landscaping**

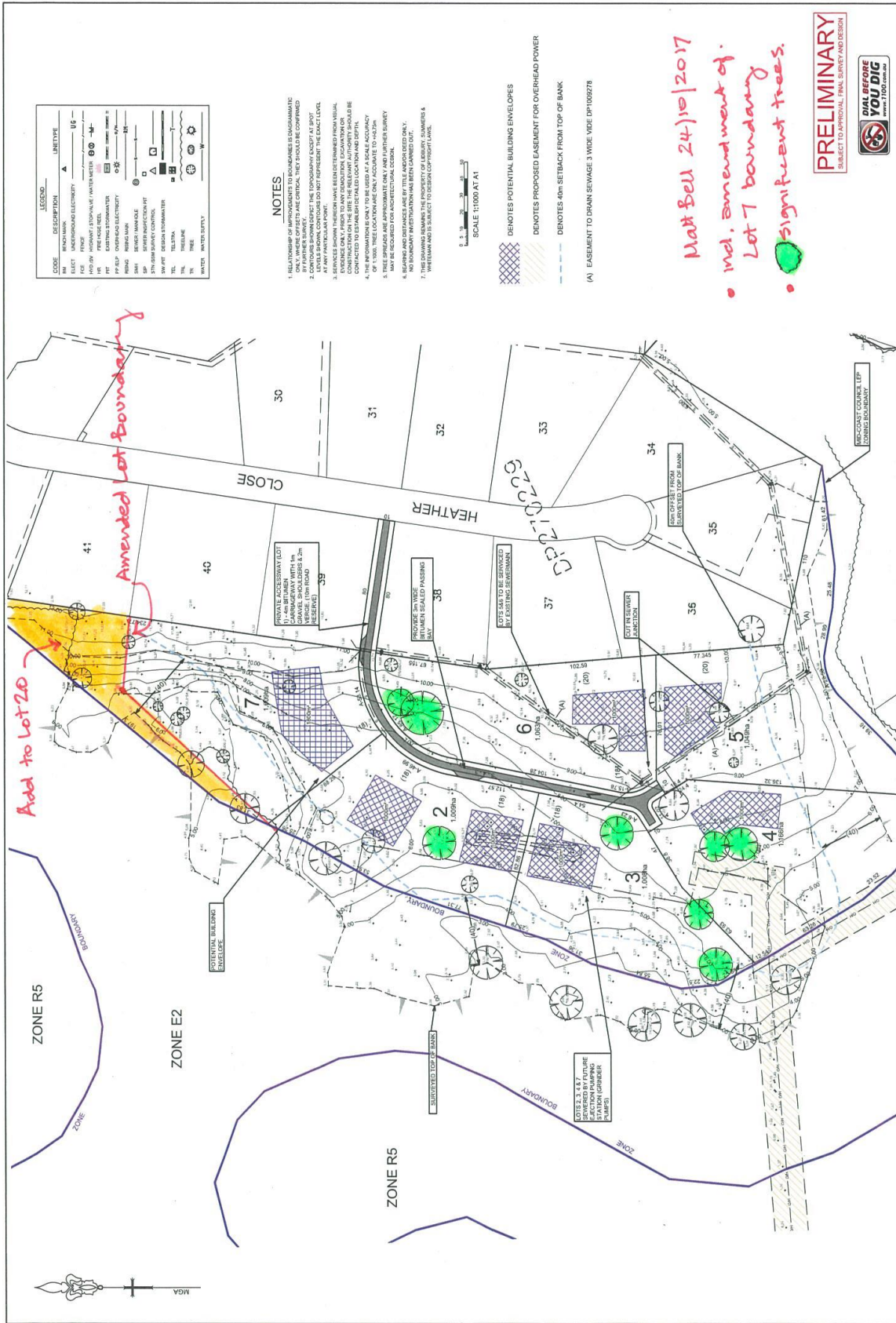
7. The community management statement shall include a requirement that all future landscaping on community lots shall comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

Details from an appropriately qualified Bushfire Consultant (BPAD) accredited with the Fire Protection Association demonstrating compliance with the above conditions, must be submitted to the certifying authority prior to the issue of a Subdivision Certificate.

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

B. Proposed plans for the development.





*Handwritten notes:*

- Matt Bell 24/10/2017
- incl. amendment of Lot 7 boundary
- significant trees.

<b>PROJECT</b> NATIONAL DATA AND BENCHMARKS STATEMENTS REQUIRED BH		<b>SCALE</b> HORIZONTAL: 1:1000 VERTICAL: N/A FIELD SHEETS: 23/01/16 DATE OF SURVEY: 23/01/16		<b>CLIENT</b> PROJECT NO: 1009278 SHEET 2 OF 2 DATE: 10/12/2016 (COMP. JOB: 1009278)		<b>COMMENTS</b> A. EASEMENT TO DRAIN SEWERAGE B. EASEMENT TO DRAIN SEWERAGE C. EASEMENT TO DRAIN SEWERAGE	
<b>PROPOSED SUBDIVISION OF LOT 2 DP1009278 FAILROAD ROAD, FAILROAD STAGE 2</b>				<b>LS&amp;W LIBBURY, SUMMERS &amp; WHITEMAN</b> CONSULTING SURVEYORS, PLANNERS & ENGINEERS INCORPORATING ARCHITECTURE, SURVEY & FURNITURE (PTY) LTD 1/5 GARDENS ROAD, GARDENS, GARDENS (PTY) LTD PO BOX 110 GARDENS ROAD, GARDENS, GARDENS (PTY) LTD GARDENS, GARDENS (PTY) LTD			

#### **4 192-2014-DA-B MODIFICATION OF CONSENT - TAREE MOTORCYCLE CLUB - PAMPOOLAH**

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

**File No. / ECM Index** 192/2014/DA/B

**Date of Meeting** 16 November 2017

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#### **DETAILS**

Date Received: 24 November 2016

Applicant: Barry Evans and Assoc.

Owner: Taree Motorcycle Club Inc.

Land: Lot 8 DP 229417 No. 328 Old Bar Road, Pampoolah

Zoning: RU 1 Primary Production, GTLEP 2010

#### **SUMMARY OF REPORT**

- Application for modification of a development consent for the use of the Taree Motorcycle Track.
- The application seeks to delete Condition 3 which outlines the type of race meeting, frequency per year, number of participants and times for events.
- The application was notified and 17 submissions were received- 8 in support and 9 objecting.

#### **SUMMARY OF RECOMMENDATION**

It is recommended that Condition 3 be amended to provide flexibility and set parameters for the frequency and intensity of the motorcycle track use.

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

Cost of defending any appeal against Council's decision.

#### **LEGAL IMPLICATIONS**

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

#### **ANNEXURES**

A: Supporting Information - 24 April 2017

B: Supporting information - 25 May 2017

C: Supporting information - 15 June 2017

D: Letter from Motorcycling New South Wales (MNSW)

#### **ATTACHMENTS**

A: Modification Document

Attachment A has been circulated in hard copy to the Councillors and Senior Staff, however this Attachment is publicly available on Council's website.



## BACKGROUND

The site has been used as a motorcycle track since the 1960's. All development on the site since then has related to this use.

A summary of previous approvals is shown below:

<b>Approval no.</b>	<b>Descriptions</b>	<b>Determination</b>	<b>Date</b>
BA 107/73	toilet block		
BA 1114/84	awning		
BA 491/83	amenities block		
BA 864/82	amenities block		
DA 545/1993	motorcycle and car show	Approved	19/1/1994
DA 192/2014	Facility Upgrade	Approved	25/9/2014
S 84/2014	OSSM Upgrade	Approved	19/12/2014
DA 192/2014/A	Facility Upgrade	Withdrawn	26/4/2016
DA 170/2015	Earthen Mound	Approved	14/11/2014

## PROPOSAL

The subject proposal seeks to modify DA 192/2014 pursuant to S96(1) of the Environmental Planning and Assessment Act 1979.

DA 192/2014 consented to a Facility Upgrade at the Taree Motorcycle Club and established parameters around the events held at the track, particularly in regard to the number, time, and frequency of events and the number of persons permitted on the site during these events.

The current proposal seeks to modify this consent by deleting condition no.3 from the development approval.

Condition No.3 currently reads:

<b>MEETING</b>	<b>HELD</b>	<b>Gate Opening Times</b>	<b>Racing Times</b>	<b>Maximum No. of Persons (including competitors)</b>
<b>Club Meetings</b>	1 per month (First Sunday)	7.30 am – 6 pm	10 am – 4 pm	150
<b>Open Meetings</b>	2-3 per year (Saturday or Sunday)			
<i>Tri Series</i>	1 per year Day	7.30 am – 6 pm	10 am – 4 pm	350
<i>Taree Twilight/Night Race</i>	1 per year Day/Night	7.30 am – 11 pm	12 noon – 10 pm	3000
<i>Troy Bayliss Classic</i>	1 per year Day/Night	6.30 am – 11 pm	10 am – 9 pm	6000
<b>Championship Meetings</b>	2-3 Day event	7.30 am – 6 pm	10 am – 4 pm	700

In total the club has approval to conduct events on up to 23 days per year.

Deleting condition No. 3 will have the effect of relieving the motorcycle club of the current restrictions around the operation of the track.

## HISTORY

The Taree Motorcycle Club was formed in the 1940's and operated from Taree Showgrounds and later at the Old Bar Aerodrome.

The Club purchased land at 328 Old Bar Road, Pampoolah in 1961 and constructed the track in its current location in 1961. It is one of the only remaining oil tracks in NSW and offers a unique racing experience for competitors.

Since this time the Club has continuously operated, holding club, championship and larger special events such as the former January Meeting run in conjunction with the Aquatic Festival, and more recently the Troy Bayliss Classic.

Late last year Council Officers met with representatives of the Club as they were seeking greater flexibility for the tracks use and to increase the number of events per year.

During these discussions Council indicated a preparedness to consider a modification application to modify the consent. The subject modification application was lodged on 24 November 2016.

It was suggested to the applicant that should they wish to exceed 18 events (over more than 23 days in a calendar year) that it is likely an acoustic report would be required to address any additional noise impact. Alternatively, if the Club could provide evidence that they regularly held more than 18 events per year (therein establishing existing use rights in excess of the current frequency of operation) prior to the date the consent was granted, the report may not be required.

During assessment of the proposal a number of meetings were held with the applicant. The Club indicated during this time that they are required to obtain permits from their governing body for each event. In order to establish the frequency and intensity of track use at or about 2009-2013 these permits were requested to be provided.

## ASSESSMENT

As the subject proposal seeks to modify an existing development consent the relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are those pursuant to s96.

The application was lodged under s96(1) which provides for modifications involving minor error, misdescription or miscalculation.

It is considered that the proposal to delete condition 3 of the consent is not the correction of an error. Accordingly the application has therefore been assessed pursuant to the provisions of s96(2) which allows for a consent to be modified if:

- a) *the development to which the consent as modified relates is substantially the same development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

Comment: It is considered that deleting Condition No. 3 would result in a development with an intensity of use substantially different from that currently being carried out on the site. Modification of this condition could however occur so long as it established a use substantially the same as was consented to in 2014.

- b) *The relevant Minister, public authority or approval body in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

Comment: na



c) The development has been notified and,

Comment: The development was notified as outlined below in this report.

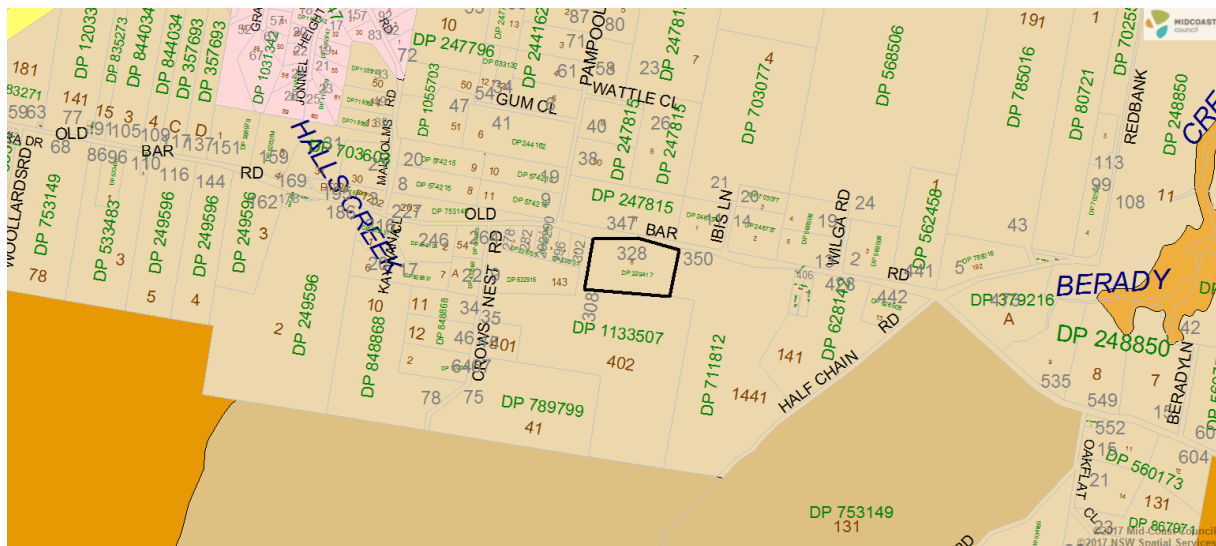
d) Any submissions have been considered.

Comment: The submissions received during the notification period have been considered in the assessment of the modification proposal.

### **GREATER TAREE LOCAL ENVIRONMENTAL PLAN 2010**

Having regard for the matters for consideration detailed in Section 79C(1) of the *Environmental Planning & Assessment Act 1979*, the following is a summary of the evaluation of the proposal pursuant to the provisions of the relevant clauses of the Greater Taree Local Environmental Plan 2010.

The site is zoned RU1 Primary Production under Greater Taree LEP 2010.



Under the previous planning instrument the land was zoned 1(b1) Rural Valley Agriculture under Greater Taree LEP 1995. On 12 May 1998 Council confirmed 'existing consent rights' for the use of the site by the Motorcycle Club.

The development on the site is characterised as Recreation Facility (Major) – this form of development is prohibited in the RU1 zone under the current LEP.

The use of land RU1 land for the purpose of a recreation facility became prohibited development on 23 June 2010 when the current LEP came into force.

The (existing use rights) provisions of the EP&A Act 1979 allow for the motorcycle track to operate lawfully as an existing use. The Regulations to the Act however require development consent to be obtained for any enlargement, expansion or intensification of that existing use.

During discussions with the applicant it was revealed that the historical operation of the track was somewhat irregular year to year. This resulted in an agreement to obtain copies of event permits for the period of 2009-2013 to establish the frequency and intensity of the use and establish a baseline for the operation of the track.

Condition No. 3 of DA consent 192/2014 was imposed specifically to set a baseline for the existing use in terms of the frequency and intensity of the use.

## S96 MODIFICATION APPLICATION

In November 2016 Council received the subject application seeking to delete Condition No. 3 from the existing DA 192/2014. The application was accompanied by an extensive document which sought to support the proposal. This document sought to allow for unrestricted use of the motorcycle track at the clubs discretion, and expansion of use to include coaching and practice days, including a minikana program.

A copy of this document is provided as *Attachment A - Modification Document*

In December 2016 Council wrote to the applicant requesting that details of the use of the track prior to June 2010, as this was the date when the current LEP came into force, and the date at which the use became prohibited. Understanding the nature and intensity of the use of the track at this time would assist Council in establishing the nature of the 'existing use rights' applicable to the track.

Further it was requested that any proposed use of the track beyond the limits of the existing use rights would require submission of environmental reports to address the additional impacts of the use.

Finally, a revised Statement of Environmental Effects which provides an assessment of the development in terms of it being substantially the same development as that originally approved was requested.

Additional requests for this information were made on 3 February 2017, 6 March 2017, and 3 April 2017. Written responses from the applicant dated 24 April, 25 May and 15 June 2017 all failed to provide the required information. These documents are provided as *Annexures A - C*.

On 22 September 2017 the applicant submitted to Council a letter from the Administration Manager of Motorcycling New South Wales (MNSW) attesting to the accuracy of a table of events and permits issued by MNSW for the year 2013. Such table is provided as *Annexure D*.

A summary of the content of the table of events is provided below.

Event/ Activity	Frequency
Press Day	2
National Open	3
Club	9
School	1
Recreational Ride	7
Working Bee	1 (no permit required- no motorcycling)
Demonstration	1
Total	24

As the information provided is considered to largely reflect the level of activity consented to in Condition No.3 the provisions of the EPA Regulation mentioned above are not considered relevant to this assessment.

The modification of Condition 3 to delete it from the development consent is likely to have an adverse impact on the amenity of the neighbouring properties. The restriction of the use of the track to the number of events as held in 2013 would however result in an acceptable frequency of use.

Accordingly it is considered that limiting the total number of day on which the track can be used for motorcycling to the same number as established as the 'existing use rights' of the track to 23 is reasonable. The table below outlines the nature of events considered acceptable under the limits of the existing use of the site.

<b>MEETING</b>	<b>HELD</b>	<b>Gate Opening Times</b>	<b>Racing Times</b>	<b>Maximum No. of Persons (including competitors)</b>
<i>Troy Bayliss Classic</i>	<i>2 days /year Day-Night</i>	<i>6.30 am – 11 pm</i>	<i>10 am - 10 pm</i>	<i>6000</i>
<i>Taree Race Twilight/Night</i>	<i>1 day/ year Day-Night</i>	<i>7.30 am – 11 pm</i>	<i>12noon-10 pm</i>	<i>3000</i>
<b>Other Meetings</b>	<i>Day events</i>	<i>6.30 am – 7 pm</i>	<i>10 am -5 pm</i>	<i>1500</i>

With the exception of the Troy Bayliss Classic and the Twilight meeting, increased flexibility has been provided in categorising all other activities as 'Other Meetings, and allowing gate opening, racing and participant numbers to be modified to accommodate the largest current event.

### **SUBMISSIONS MADE IN ACCORDANCE WITH THE ACT OR REGULATIONS**

The application was notified to adjoining owners and advertised in the local press in accordance with Council's Policy from 28 June 2017 to 12 July 2017. A total of 17 submissions were received. Of these eight (8) were in support of the proposal and nine (9) were in objection to the proposal. Issues raised in submissions and responses to those issues are detailed below:

<b>Issue</b>	<b>Response</b>
No factual historic detail of the use prior to 2013 provided	The nature of the existing use rights of the development are unable to be substantiated in the absence of this information, however given the submission of figures for 2013 it is reasonable to allow this intensity of development at the track.
Application is for enlargement, intensification, and expansion of the use	The Regulations to the EPA Act allow for intensification of an existing use under certain circumstances.
Not the same development	The deletion of Condition No.3 would result in unrestricted use of the track which would likely result in an activity different to that for which consent is currently granted. Limiting the frequency of the use of the track to no more than 23 events would however restrict use of the facility to within satisfactory levels.
Intentionally concealing the track history	This claim is unable to be substantiated. Copies of permits obtained from Motorcycling Australia have been provided for 2013.
Club does not comply with terms of consent; Non-compliant use of the track in 2015 (8 club days and 5 mid-week rides)	Non-compliance with the consent conditions has been ongoing and remains under compliance investigation by Council.
Increased operation would result in excessive smells, dust and noise	It is likely that the overall impact of the increased operation of the track would be to increase the exposure of nearby residents to odours, noise and dust. A proposal to increase the frequency of use of the track beyond a level akin to that established under the existing use rights would be required to provide an acoustic assessment to ensure satisfactory amenity for residents in the vicinity.

Issue	Response
The site is not the correct location for the track moving forward.	The track has existing use rights as a motorcycle track of a particular nature. Intensified or expanded use of the track may warrant an alternate location, however this is not proposed in this application.
Council has conducted recent noise monitoring which shows that the track operates at levels above acceptable for health	Council Noise monitoring of the track was carried out most recently in January 2017 in the context of the Troy Bayliss Classic. The maximum level recorded was 88dB. Adjoining property owners were contacted at this time and advised that the event was run in an acceptable manner. Motorcycling Australia's General Competition Rules publication recommends a maximum limit of 115 decibels.
<p>Acoustic report is required for continuation of the use of the track</p> <p>Installation of the earthen mound constructed in 2014 has caused invasion of privacy and does not mitigate noise, light spill or dust.</p> <p>Sound wall barrier and screen planting along the western facing barrier is required</p> <p>Speakers facing neighbouring properties should be disconnected</p> <p>Issue has gone on for 5 years</p>	<p>If an increase to the intensity/frequency of use is made an Acoustic Report will be required along with any relevant and effective noise mitigation measures.</p> <p>The historic nature of the use and the limited conditions surrounding use of the track has resulted in unanticipated externalities. More recent consents have sought to formalise the use and provide restrictions around its operation and impacts.</p>
<p>The following comments were made in support of the proposed amendment to delete Condition No.3</p> <ul style="list-style-type: none"> <li>• Enjoy watching the racing</li> <li>• Club generates tourism for the Manning Valley</li> <li>• Has produced a number of sports stars</li> <li>• Keeps children off the streets</li> <li>• Longevity of the club depends on it operating as it did prior to 2013</li> <li>• A regular program allows the club to continue</li> <li>• Only 3 oil based tracks in Australia</li> <li>• C.3 does not allow the flexibility needed to reschedule cancelled events</li> <li>• The circuit historically has been used whenever needed</li> <li>• Can't currently run the usual number of events</li> </ul> <p>Restrictions are detrimental to junior riders</p>	<p>The benefit of the track to the community and to the area in terms of ongoing tourism is not in question.</p> <p>The applicant seeks to, in deleting C.3, allow the unfettered ongoing operation of the track without regard to the historic intensity/frequency of the use.</p> <p>This intensity/frequency of use has been assessed on the basis of the information verified by MNSW.</p>

**e) The Public Interest**

Given the lengthy history of the operation of the motorcycle club on the site, the contribution that it makes to the recreational and sporting infrastructure in the area and the limited use of the site, its ongoing use is considered to be in the public interest.

While the environmental and amenity impacts of the operation of the track are acknowledged, it is considered that through limiting the number of days of operation, the management of the track during events and the number of participant/spectators permitted at any one time will contain these impacts to within acceptable levels in keeping with the developments existing use rights.

**CONCLUSION**

In providing details of the number of events for which permits were issued during 2013 the application has satisfactorily addressed the provisions of s96(2) of the Environmental planning and Assessment Act 1979, specifically in demonstrating that the development as modified would be substantially the same development as that originally consented to.

The modification of Condition 3 to delete it from the development consent is likely to have an adverse impact on the amenity of the neighbouring properties. The restriction of the use of the track to the number of events as held in 2013 would however result in an acceptable frequency of use. The application is therefore recommended to be approved subject to the amendment to condition No. 3

**RECOMMENDATION**

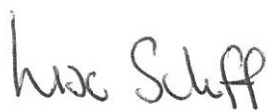
It is recommended that Development Application 192/2014/DA/B for Modification of Development Consent for the Taree Motorcycle Club on Lot 8 DP 229417 ( No. 328 Old Bar Road Pampoolah) be approved subject to Condition No. 3 being amended as follows:

- 1.
- 3. A total of 23 motorcycling events can be held in any one calendar year and may include the following:

<b>MEETING</b>	<b>HELD</b>	<b>Gate Opening Times</b>	<b>Racing Times</b>	<b>Maximum No. of Persons (including competitors)</b>
<i>Troy Bayliss Classic</i>	<i>2 days /year Day /Night</i>	<i>6.30 am – 11 pm</i>	<i>10 am - 10 pm</i>	<i>6000</i>
<i>Taree Twilight/Night Race</i>	<i>1 day/ year Day/Night</i>	<i>7.30 am – 11 pm</i>	<i>12 noon - 10 pm</i>	<i>3000</i>
<b>Other Meetings</b>	<i>Day event</i>	<i>6.30 am – 7 pm</i>	<i>10 am – 5 pm</i>	<i>1500</i>

Activity in the site for the purpose of working bees and track maintenance can be carried out on any day between the hours of 7am and 5pm.

- 2. That all other conditions of consent remain valid and applicable.



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

## ANNEXURES

A: Supporting Information - 24 April 2017

<b>Barry Evans &amp; Associates</b>	
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Suite 2A Bridgepoint Building 1-5 Manning Street, Tuncurry P.O. Box 50, Tuncurry N.S.W. 2428	Phone: (02) 6555 3789 Mobile: 0412 827 868 Fax: (02) 6555 3791
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Council Ref: 192/2014/DA/B

Bruce Moore  
Manager Development and Assessment  
MidCoast Council (Manning Region)  
Pulteney Street  
Taree NSW 2430

24 April 2017

Dear Bruce

**RE: MODIFICATION of DEVELOPMENT CONSENT APPLICATION (DA 192/2014)  
TAREE MOTORCYCLE CLUB COMPLEX  
LOT 8 DP: 229417  
No. 328 OLD BAR ROAD, PAMPOOLAH**

 We submit the following as additional to, and to be read in conjunction with, the modification of development consent application submitted on 24 November 2016. 

Consent subject to conditions was granted for Taree Motorcycle Club's (TMC) Development Application (DA) 192/2014 on 25 September 2014 for a 'facility upgrade' which included a new canteen, amenities, viewing platform, race control tower and the use of a second driveway and parking area.

The Modification of Development Consent Application submitted to Council on 24 November 2016 sought to modify the consent by deletion of Condition No. 3 relating to the tabled events approved to be held on site.

While we applied for deletion of Condition of Consent No. 3 in the modification application, with reference to Council's emails dated 22 December 2016 and 6 March 2017 and to two meetings with Council on 3 and 10 February 2017, it is noted that Council has requested we amend that modification application and provide further information.

As noted in the modification document:

The Taree Motorcycle Club (TMC) complex has been classified by Greater Taree City Council (GTCC) as a recreation facility (major);

The reason for the proposed deletion was to allow TMC to operate in a manner comparable to which it had in the past and to afford the Club the opportunity to develop and advance successfully into the future;

The Club always has had flexibility and it continues to require this; and,

The restrictions resulting from the imposition of Condition No. 3 have detrimentally affected the primary function of this major recreation facility.

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For over half a century, the Club had unlimited use of the track and, while it was not practical to do so, the track had the potential to be used every day of each year.

During the time prior to, and at the time of, determination of development application 192/2014 for a 'facility upgrade', Council's file did not contain significant justification for the imposition of the Condition of Consent No. 3 which imposed major restriction on the use of the complex.

While, we continue to require consent for TMC to operate the complex in a manner comparable to which it had in the past and with flexibility, with reference to Council's 6 March 2017 email, we provide the following information.

Prior to submission of the modification application, we obtained information from Motorcycling New South Wales (MNSW) regarding permits.

The year the DA was submitted (2013) and part of the year (to September 2014) in which the DA was approved are referenced.

The information provided by MNSW prior to our lodgement of the modification application listed:

- twenty-four (24) permits in 2013 and twenty-three (23) of these permits involved the riding of motorcycles,
- eighteen (18) permits by mid-September 2014 and sixteen (16) of these permits involved the riding of motorcycles, and,
- another sixteen (16) permits after the date of approval of DA 192/2014 (25 September) and five (5) of these permits involved the riding of motorcycles.

For Council's information, "press days" at the complex generally involve the riding of motorcycles.

	2013	Listed Permit No.	MNSW or MA Permit involved riding of motorcycles
	January		
1		13/8118	✓
2		13/41623	✓
3		13/41001	✓
	February		
4		13/41105	✓
	March		
5		13/41162	✓
6		13/41199	✓
	April		
7		13/41224	✓
8		13/8510	✓
	May		
9		13/41257	✓
	June		
10		13/41324	✓
11		13/8612	✓
12		13/8639	✓
13		13/8668	✓
14		13/8682	✓
	July		
15		13/41380	✓
16		13/8768	✓
17		13/8792	x
18		13/41426	✓
	August		
	September		
19		13/8953	✓
20		13/41080	✓
	October		
	November		
21		13/9086	✓
22		13/41595	✓
	December		
23		13/9151	✓
24		13/9150	✓

Totals: 24 permits listed with 23 permits involving riding of motorcycles



	2014	Listed Permit No.	MNSW or MA Permit involved riding of motorcycles
	January		
1		14/1056	✓
2		14/1060	✓
3		13/41623	✓
	February		
4		14/51107	✓
5		14/1130	✓
	March		
6		14/51130	✓
7		14/51171	✓
	April		
8		14/51211	✓
	May		
9		14/51244	✓
10		14/1500	✓
11		14/1499	✓
12		14/1498	x
	June		
13		14/51365	✓
	July		
14		14/51391	✓
	August		
15		14/51453	✓
16		14/1906	✓
17		14/1914	x
	September		
18		14/51522	✓

Sub Totals: 18 permits listed with 16 permits involving riding of motorcycles

Note: Information for remainder of year is listed after the date of DA approval

	October		
19		14/51561	✓
20		14/2072	x
21		14/2073	x
22		14/2119	x
	November		
23		14/2154	✓
24		14/2155	x
25		14/51602	✓
26		14/2167	x
27		14/2212	✓
28		14/2168	x
29		14/2169	x
	December		
30		14/2170	✓
31		14/2258	x
32		14/2262	x
33		14/2264	x
34		14/2265	x

Overall Totals: 34 permits listed with 21 permits involving riding of motorcycles

Since submission of the modification application, we have become aware that permit 13/41623 18<sup>th</sup> January 2014 listed in 2013 and permit 13/41623 18 January 2014 listed in 2014 was for the 2014 Troy Bayliss Classic.

Permit 13/41623 has to be deleted from the 2013 list.

We have also become aware that the Australian Senior Dirt Track Championships held in June 2014 had not been listed in 2014.

In 2013, TMC made twenty-three (23) applications for permits to hold activities at the TMC complex, with the intent to hold twenty-two (22) events involving the riding of motorcycles.

In 2014, prior to the approval of DA 192/2014 in late September, TMC made nineteen (19) applications for permits to hold activities at the complex, with the intent to hold seventeen (17) events involving the riding of motorcycles.

By the end of 2014, TMC had made thirty-five (35) applications for permits to hold activities at the TMC complex, with the intent to hold twenty-two (22) events involving the riding of motorcycles.

Condition of Consent No. 3 permits sixteen (16) events to be held annually.

As stated in the modification application, "The fact is that at the time of being issued, the consent (specifically Condition No. 3) did not allow for the utilisation of the track which was already happening and consequently, the consent did not allow for completion of the TMC yearly program".

The approval or refusal by MNSW or Motorcycling Australia of permit applications allows or disallows the holding of any activity or event by TMC, while the holding of any activity or event is dependent on various other factors.

As detailed in the submitted modification of development consent document:

" ..... the holding of any events planned for the track is dependent on  
i. weather,  
ii. availability of officials,  
iii. other clubs' events, and,  
iv. unforeseen circumstances."

The modification document also contained comment relevant to i), ii), iii) and iv) as listed above.

These four (4) factors have the potential to directly influence the holding of any activity or event.

These factors cannot be controlled by the Club.

As detailed (in part) in the modification document:

"While the holding of any events planned for the track is dependent on weather, availability of officials, other clubs' events and unforeseen circumstances ..... the imposition of Condition No. 3 ensures damaging restriction on the use of the major recreation facility."

Flexibility is of significant importance and TMC requires flexibility to be returned to its use of the complex.

2016 and 2017 (to date) are examples of the importance of flexibility.

The modification document provided information regarding events in 2016 and that 50% of events permitted to be held last year were held and 50% were not held as a direct result of all four (4) of the factors detailed above.

Condition No. 3 restricts the holding of Club events to one (1) per month on the first Sunday of each month.

To date this year, with no flexibility and in compliance with Condition No. 3, while the Troy Bayliss Classic (Open Event) was held in January, due to the wet weather, only one other event (Club) involving the riding of motorcycles has been able to be held.

With no flexibility and in compliance with Condition No. 3, due to the unavailability of officials, the possibility of holding a Club event in the next month (May) is already reduced.

Additionally, the Club requires a review of the 'maximum number of persons (including competitors)' and the 'racing times' as permitted by Condition No. 3.

The use of the complex had always been unrestricted and flexible.

Over a period in excess of five (5) decades, Taree Motorcycle Club had experienced great through to bad years.

Referring to more recently, with the introduction of the Taree Twilight meeting (day/night racing) in 2011, the hosting of the Australian Junior Dirt Track Championships in 2012, the holding of the first Troy Bayliss Classic in 2013 and the hosting of the Australian Senior Dirt Track Championships in 2014, TMC and the use of the track was growing within the parameters of 'existing use' – all prior to the approval of DA 192/2014.

TMC requires Condition of Consent No. 3 to be changed to allow TMC to hold a number of events per year which is comparable to the number of events held in the past and to allow flexibility for the holding of the events at the complex during each year.

Yours faithfully

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Barry Evans

Barry Evans and Associates

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Lee Stewart

B: Supporting information - 25 May 2017

## Barry Evans & Associates

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Council Ref: 192/2014/DA/B

Bruce Moore  
Manager Development and Assessment  
MidCoast Council (Manning Region)  
Pulteney Street  
Taree NSW 2430

25 May 2017

Dear Bruce

**RE: MODIFICATION of DEVELOPMENT CONSENT APPLICATION (DA 192/2014)  
TAREE MOTORCYCLE CLUB COMPLEX  
LOT 8 DP: 229417  
No. 328 OLD BAR ROAD, PAMPOOLAH**

⇒ We submit the following as additional to, and to be read in conjunction with, the modification of development consent application submitted on 24 November 2016 and the information submitted on 24 April 2017. ⇐

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**1. Use of the Complex**

22 December 2016 letter from Council	6 March 2017 email from Council (referring to 3 February meeting)  Note: Meeting on 10 February is relevant	8 May 2017 email from Council (referring to 8 May meeting)
<p>The coming into effect of LEP 2010 on 25 June 2010, wherein the subject site was zoned RU1 Primary Production (previously 1(b1) Rural Valley Agriculture under LEP 1995) had the effect of prohibiting the subject use of the land.</p> <p>As the track was established at such a time that development approval was not required, and has continued to operate since that time, the existing use status of the facility is not in question.</p> <p>What is currently not established is the exact nature of that 'existing use', in terms of the number and type of events being held at the time of the coming into effect of LEP 2010 on 25 June 2010.</p> <p>Accordingly you are requested to provide to Council details of the use prior to 26 June 2010. It is considered that Motorcycling NSW permits would be appropriate to establish the nature and frequency of events over time.</p> <p>Given the level of detail provided in your application is lengthy it may be appropriate to provide Council with an amended statement of environmental effects which.....focuses on the condition to be deleted and addresses.....to what degree it reflects the intensity of the 'existing use'.</p>	<p>The matters outlined in Council's letter of 22 December 2016 were explained. Particular attention was paid to explaining the existing use right provisions and evidence of the activities of the club across 2009-2013 was requested to enable the establishment of such rights. It was agreed that frequency of events of the existing use rights would be the highest number of events held for any of the years 2009-2013.</p>	<p>Further to our discussion today, the application for modification of consent shall address the following: 1. the frequency, nature and duration of events requested to be held at the track</p>

Our comment:

**In the case of the subject complex, use is concerned with the general (lawful) purpose rather than the detailed activities or specific components that contribute to achieving or serving that purpose.**

**Consequently, the nature, exact or otherwise, of the complex's over fifty (50) years of use cannot be characterised or established by the number and type of events being held at a specified time (being a single year or a number of years).**

With regard to Council's interpretation that existing use is established by specific components (ie. number and type and more recently, duration) occurring at specific times (ie. 2010 or 2009 - 2013), over the specific years 2009 to 2013, the highest number of events involving the riding of motorcycle which were applied for and intended to be held by Taree Motorcycle club (TMC), occurred in 2013.

Our 24 April 2017 letter detailed (information similar to that originally included in the modification document prior to Council's suggestion to omit it) that:

- In 2013, TMC made twenty-three (23) applications for permits to hold activities at the TMC complex, with the intent to hold twenty-two (22) events involving the riding of motorcycles.
- In 2014, prior to the approval of DA 192/2014 in late September, TMC made nineteen (19) applications for permits to hold activities at the complex, with the intent to hold seventeen (17) events involving the riding of motorcycles.

By the end of 2014, TMC had made thirty-five (35) applications for permits to hold activities at the TMC complex, with the intent to hold twenty-two (22) events involving the riding of motorcycles.

This identifies the number of events involving the riding of motorcycles in two (2) years only but does not establish the wider and varied use of the complex which had occurred over decades.

A variety of other activities or events had taken place at the complex since 1961 and while these events may not have occurred in 2013 or even between 2009 and 2013 or in 2010, they are other components of the existing use.

To rely on specific numbers, types or duration in specific years, risks diminishing the actual historical general use of the complex.

The TMC complex has been classified by (previous) Greater Taree City Council now MidCoast Council (Manning Region) as a recreation facility (major).

**2. 'Substantially the same' development**

22 December 2016 letter from Council	6 March 2017 email from Council (referring to 3 February meeting)  Note: Meeting on 10 February is relevant	8 May 2017 email from Council (referring to 8 May meeting)
<p>S96 of the EPA Act requires assessment of the proposed modification in terms of whether the modified development is 'substantially the same' as that for which consent was originally granted.</p> <p>Given the level of detail provided in your application is lengthy it may be appropriate to provide Council with an amended statement of environmental effects which addresses the issue of 'substantially the same' development .....</p>	<p>No reference was made to this matter.</p>	<p>Further to our discussion today, the application for modification of consent shall address the following: 2. an assessment of the proposed modification in terms of whether it is 'substantially the same' development, as per the provisions of s96</p>

Our comment:

Consent subject to conditions was granted for a 'facility upgrade' which included a building (containing a new canteen, amenities, viewing platform and race control tower) and the use of a second driveway and parking area.

With reference to DA 192/2014 for a 'facility upgrade' and Council's Development Application Assessment Checklist, Section 79C Evaluation – Any Environmental Planning Instrument, Greater Taree City Council LEP 2010, Council's response to the 'dot point' question, "Is the use permissible in the zone?" was "Ancillary to existing".

The 'facility upgrade' and its use was ancillary to the existing use of the TMC complex as a whole.

The modification application does not seek modification of the approved ancillary 'facility upgrade'.

The built development comprising a building containing a canteen, amenities, viewing platform, race control tower and the use of a second driveway and parking area will remain the same as the built development for which consent was granted.

Subject Condition No. 3 relates to race meetings – when they are held, gate opening times, racing times and maximum number of persons attending – and does not relate to the ancillary 'facility upgrade' (a building containing a new canteen, amenities, viewing platform and race control tower and the use of a second driveway and parking area).

**3. Is Condition No. 3 unreasonable?**

22 December 2016 letter from Council	6 March 2017 email from Council (referring to 3 February meeting)  Note: Meeting on 10 February is relevant	8 May 2017 email from Council (referring to 8 May meeting)
Given the level of detail provided in your application is lengthy it may be appropriate to provide Council with an amended statement of environmental effects which ..... focuses on the condition to be deleted and addresses whether the condition is unreasonable .....	No reference was made to this matter.	Further to our discussion today, the application for modification of consent shall address the following: 3. the condition to be deleted or modified and addresses whether the condition is unreasonable

Our comment:

We applied for deletion of Condition of Consent No. 3 in the modification application.

With reference to Council's letter dated 22 December 2016 and emails dated 6 March and 8 May 2017 (received 11 May) and to three meetings with Council on 3 and 10 February and 8 May 2017, it is noted that Council has requested we amend or modify our application and provide further information.

Prior to imposition of Condition No. 3, for over fifty (50) years, the TMC complex had the potential to be utilised any of three-hundred and sixty-five (365) days a year.

Condition of Consent No. 3 restricted the number of events permitted to be held at the complex to sixteen (16) a year, with restrictions on when the events can be held.

At the time of approval of DA 192/2014 and the imposition of Condition No. 3, the club was utilising the complex for more events than the condition permits and consequently, the consent did not allow for completion of the TMC yearly program even in that year.

While the file does not contain any information that justifies the imposition of a condition, which significantly impedes the overall use of the complex, with the approval of an ancillary development (one building and use of a driveway and parking area), the file does contain comment from Council's Environmental Health Section at the time of approval of the DA that with regard to recent past events, the section had not received noise complaints.

Information previously submitted in the document accompanying the modification application and noted in this letter further demonstrates that Condition No. 3 is unreasonable.

Additionally, a Statement of Environmental Effects (SEE) as prescribed by the *Environmental Planning and Assessment Regulation 2000 (EPA Regulation 2000)* as a document that must accompany a development application and which must indicate matters as detailed in the *EPA Regulation 2000* was not submitted with DA 192/2014.

As we were not required to submit a SEE with the modification application but a description of expected impacts of the modification (as prescribed by *the EPA Regulation 2000*), a SEE was not submitted with the modification.

While we cannot amend a SEE that has not been submitted, the document accompanying the modification application contained a comment regarding expected impacts and contained information regarding minimisation of adverse effects on the natural and built environment.

It is considered that permitting the Club to return to operating in a manner comparable to which it had in the past, unrestricted and with flexibility, would result in less impacts than in the past as the Club has taken, and continues to take, steps to minimise any adverse impacts resulting from its operation.



**4. Does the modification constitute an 'enlargement, expansion or intensification?'**

22 December 2016 letter from Council	6 March 2017 email from Council (referring to 3 February meeting)  Note: Meeting on 10 February is relevant	8 May 2017 email from Council (referring to 8 May meeting)
<p>Your document seeks to have the consent modified to allow for the following:</p> <ul style="list-style-type: none"> <li>▪ Expansion of use to include Coaching and Practice days and a Minikana Program</li> </ul> <p>If the club is seeking to expand the use of the track or indeed intensify its operation beyond the levels to be established for the 'existing use' a Development Application will be required to be submitted for assessment with all relevant accompanying environmental reports.</p>	<p>The matter of the clubs intentions for future intensification/expansion of the track activities above existing use rights was also discussed and it was agreed that any such proposal would require a new Development Application.</p>	<p>Further to our discussion today, the application for modification of consent shall address the following:</p> <p>4. an assessment of the 'existing use' of the premises (based upon the evidence collected) against the proposed changes, and whether such changes constitute an 'enlargement, expansion or intensification of the use'</p>

Our comment:

The modification document does not seek "expansion of use to include Coaching and Practice days" as both coaching and practice days have always taken place at the club and were occurring at the time of submission and at the time of approval of the DA and imposition of Condition No. 3.

While we acknowledge that on page 7 of our modification document, the information provided by the Club did detail that the Club would like to 'expand' its program to include Minikana, the expansion of a program to include this skill developing discipline does not indicate an expansion of existing use as skill developing disciplines were already taking place at the Club.

Since its existence on the Old Bar Road site in 1961, the complex had operated unrestricted for over fifty (50) years. A modification application to delete (or amend) Condition No. 3 and allow TMC to operate in a manner comparable to which it had in the past (and afford the Club the opportunity to develop and advance into the future) does not accurately translate into, and is not an application for, enlargement, expansion or intensification of use.

The evidence requested by Council to be provided to establish the stance Council is taking on 'existing use' is specific event numbers, types and duration in specific years.

That information would indicate that:

In 2013 (the year the ancillary 'facility upgrade' was submitted), TMC made twenty-three (23) applications for permits to hold activities of varying types and duration at the complex.

In 2014 (the year the ancillary 'facility upgrade' was approved), TMC made thirty-five (35) applications for permits to hold activities of varying types and duration at the complex - nineteen (19) applications were made prior to approval of the ancillary development proposal in late September and another sixteen (16) applications in the next three months.

We refer to Council's request for an assessment of the 'existing use' of the premises (based upon the evidence collected) against the proposed changes, and whether such changes constitute an 'enlargement, expansion or intensification of the use'.

As we interpret the use of the complex in more general terms, our assessment would be that 'enlargement, expansion or intensification of the use' is not indicated by the modification proposed but rather a return to how the Club operated in the past.

With regard to Council's reliance on the frequency of events of the existing use rights being the highest number of events held for any of the years 2009-2013, this indicates a significant reduction in use of the complex as compared to that which had always been available to the Club since its existence on the site.

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Development application 192/2014 did not seek approval for the general use of the TMC complex, including the track - the Club already had existing use rights. The DA sought approval for a development which was ancillary to the existing use of the complex - a 'facility upgrade' - which included one building (a new canteen, amenities, viewing platform and race control tower) and the use of a second driveway and parking area.

The modification application did not seek approval for TMC to hold a specific number of events of a specific type for a specific duration and it did not seek enlargement, expansion or intensification of use.

Rather, the application sought to delete Condition of Consent No. 3 to achieve a situation which would allow the Club to operate in a manner comparable to which it had in the past.

What we require is a reasonable solution to the significant detrimental effect that the imposition of Condition No. 3 has had on the use of the TMC complex on Lot 8, No. 328 Old Bar Road, Pampoolah.

At this stage, if Council is unwilling to delete Condition of Consent No. 3 and can only envisage the number of events intended to be held in the year 2013 as indicating the existing use of the complex, the Club has indicated that flexibility is of significant importance and being permitted to hold that number of events involving the riding of motorcycles would be an improvement on the number of events permitted by Condition of Consent No. 3.

It is noted that Council's 6 March 2017 email contained comment that "Council would provide flexibility within the terms of this condition to cater for contingencies within the tracks annual racing program".

We further request the revision of track times and attendance numbers as following:

- Revision of track times  
Club, Tri-Series and Championship events revised to 9:00am - 5:00pm  
Troy Bayliss Classic revised to 9:00am - 10:30pm  
Note: Taree Twilight/Night event is approved at 12 noon – 10:00pm.
- Revision of attendance numbers  
Club events revised to 250  
Championship events revised to 1 500.

As previously noted, the complex has been classified as a 'recreation facility (major)' which is defined in the Greater Taree Local Environmental Plan 2010 Dictionary as meaning a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes theme parks, sports stadiums, showgrounds, racecourses and motor racing tracks.

In conclusion, we request that Council notes that we do not agree that the specific number and the specific type of events or specific activities held in specific years (ie. 2009 – 2013) establishes or characterises the general use of the TMC complex over the decades from 1961 to more recently as a recreation facility (major).

Yours faithfully

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**Barry Evans**

**Barry Evans and Associates**

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**Lee Stewart**

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C: Supporting information - 15 June 2017

**Barry Evans & Associates**

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Council Ref: 192/2014/DA/B

Bruce Moore  
Manager Development and Assessment  
MidCoast Council (Manning Region)  
Pulteney Street  
Taree NSW 2430

15 June 2017

Dear Bruce

**RE: MODIFICATION of DEVELOPMENT CONSENT APPLICATION (DA 192/2014)  
TAREE MOTORCYCLE CLUB COMPLEX  
LOT 8 DP: 229417  
No. 328 OLD BAR ROAD, PAMPOOLAH**

**We submit the following as additional to, and to be read in conjunction with, the modification of development consent application submitted on 24 November 2016 and the information submitted on 24 April and 25 May 2017.**

We made the modification application under the *Environmental Planning and Assessment Act 1979 (EPA Act 1979)* Section 96 (1) Modifications involving minor errors, misdescription or miscalculation.

On page 2 of the modification document, we made the following comment:

The (minor) error or miscalculation originated with information contained in the Taree Motorcycle Club's Activity Statement and the "reproduction" of that information in Condition of Consent No. 3.

Council's requests for further information (since submission of the modification application) include specific details of frequency, nature and duration of events in specific years.

Regardless of Council's focus on this specific information, the fact remains that race days, practice days, coaching days and media days were detailed as conducted in the Club's Activity Statement under 'Activities of the Taree Motor Cycle Club' but only race meetings - not coaching and practice days - were referred to under '1) Club days' and the "reproduction" of this information in Condition of Consent No. 3 meant that with regard to "Club Meetings", only race days (with no flexibility) were included in Condition No. 3.

The condition imposes "racing times" on the Club (and Open and Championship) meetings, confirming that racing events only are approved to be held on site. Coaching and practice days do not involve racing but are essential and have always taken place at the Club. The condition does not allow for this.

Additionally, media days involve the riding of motorcycles, but not racing, and no approval for media days was included in Condition No. 3.

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While the Tri-Series, Taree Twilight, Troy Bayliss Classic (Open meetings) and Championship meetings were included in Condition No. 3 at one (1) of each event per year, it is possible that, for example, the Club could gain approval from the governing body to host more than one Championship meeting in a year, and although within the limitations of existing use, the condition would not allow this.

Under the circumstances, it would seem not only reasonable, but practical, to delete the subject condition.

While we noted in our letter dated 25 May 2017 that the Club has indicated that being permitted to hold the number of events involving the riding of motorcycles as per 2013 would be an improvement on the number of events permitted by Condition of Consent No. 3, the previous imposition of Condition No. 3 on the ancillary development approval and currently, Council's view of existing use as limited to specifics not general purpose, significantly restricts the use of the complex which had always been available since its existence.

Yours faithfully

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**Barry Evans**

**Barry Evans and Associates**

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**Lee Stewart**

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D: Letter from Motorcycling New South Wales (MNSW)



9 Parkes Street Harris Park NSW 2150  
PO Box 9172 Harris Park NSW 2150  
p 02 9635 9177 | f 02 9635 5277

ACN 096 875 526 ABN 20 096 875 526

19th September 2017

Barry Evans  
P.O. Box 50  
Tuncurry NSW 2430

Dear Barry,

This letter is just to confirm the enclosed information was given to you by I, Amy Knop, being the Administration Manager of Motorcycling NSW Ltd. This information is factual and 100% correct.

Should anyone wish to query this, I can be contacted directly on 02 9635 9177 between the hours of 9am – 5 pm Monday – Thursday.

I wish you the best of luck with this endeavor.

Yours Sincerely,

Amy Knop  
Administration Manager  
Motorcycling NSW Ltd.

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Office of  
Communities  
Sport & Recreation

## Barry Evans & Associates

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Council Ref: 192/2014/DA/B

Bruce Moore  
Manager Development and Assessment  
MidCoast Council (Manning Region)  
Pulteney Street  
Taree NSW 2430

14 September 2017

Dear Bruce

**RE: MODIFICATION of DEVELOPMENT CONSENT APPLICATION (DA 192/2014)  
TAREE MOTORCYCLE CLUB COMPLEX  
LOT 8 DP: 229417  
No. 328 OLD BAR ROAD, PAMPOOLAH**

With regard to the above and further to our meeting of 8 September 2017, I advise that in July 2016, Motorcycling New South Wales (MNSW) provided me with information regarding events/activities at Taree Motorcycle Club (TMC) and we utilised the provided information for the modification application.

As requested at our meeting, please find following i) our previously submitted tables now including a description of the events/activities and ii) endorsement by MNSW.



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	2013	Listed Permit No.	MNSW or MA Permit involved riding of motorcycles	Description of event or activity
	January			
1		13/8118	✓	Press Day
2		13/41623	✓	National Open
3		13/41001	✓	National Open
	February			
4		13/41105	✓	Club
	March			
5		13/41162	✓	Club
6		13/41199	✓	Club
	April			
7		13/41224	✓	Club
8		13/8510	✓	School
	May			
9		13/41257	✓	Club
	June			
10		13/41324	✓	Club
11		13/8612	✓	Recreational Ride
12		13/8639	✓	Demonstration
13		13/8668	✓	Recreational Ride
14		13/8682	✓	Recreational Ride
	July			
15		13/41380	✓	Club
16		13/8768	✓	Recreational Ride
17		13/8792	x	Working Bee
18		13/41426	✓	Club
	August			
	September			
19		13/8953	✓	Press Day
20		13/41080	✓	National Open
	October			
	November			
21		13/9086	✓	Recreational Ride
22		13/41595	✓	Club
	December			
23		13/9151	✓	Recreational Ride
24		13/9150	✓	Recreational Ride

Totals: 24 permits listed with 23 permits involving riding of motorcycles

	2014	Listed Permit No.	MNSW or MA Permit involved riding of motorcycles	Description of event or activity
	January			
1		14/1056	✓	Recreational Ride
2		14/1060	✓	Recreational Ride
3		13/41623	✓	National Open
	February			
4		14/51107	✓	Club
5		14/1130	✓	Recreational Ride
	March			
6		14/51130	✓	Club
7		14/51171	✓	Club
	April			
8		14/51211	✓	Club
	May			
9		14/51244	✓	Club
10		14/1500	✓	School
11		14/1499	✓	Recreational Ride
12		14/1498	x	Working Bee
	June			
13		14/51365	✓	Club
	July			
14		14/51391	✓	Club
	August			
15		14/51453	✓	Club
16		14/1906	✓	Recreational Ride
17		14/1914	x	Working Bee
	September			
18		14/51522	✓	Club

Sub Totals: 18 permits listed with 16 permits involving riding of motorcycles

Note: Information for remainder of year is listed after the date of DA approval

	October			
19		14/51561	✓	Club
20		14/2072	x	Working Bee
21		14/2073	x	Working Bee
22		14/2119	x	Working Bee
	November			
23		14/2154	✓	Recreational Ride
24		14/2155	x	Working Bee
25		14/51602	✓	Club
26		14/2167	x	Working Bee
27		14/2212	✓	School
28		14/2168	x	Working Bee
29		14/2169	x	Working Bee
	December			
30		14/2170	✓	Recreational Ride
31		14/2258	x	Working Bee
32		14/2262	x	Working Bee
33		14/2264	x	Working Bee
34		14/2265	x	Working Bee

Overall Totals: 34 permits listed with 21 permits involving riding of motorcycles

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Additionally, in our 24 April letter to Council, we included comment that since submission of the modification application, we had become aware of information that resulted in one (1) permit number being deleted from the 2013 list and one (1) permit number being added to the 2014 list.

If you require any further information, please do not hesitate to contact me.

Yours faithfully

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Barry Evans  
Barry Evans and Associates



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