

Central Coast

Local Planning Panel

Central Coast
Local Planning Panel Meeting
Business Paper
09 June 2022



Meeting Notice

The Local Planning Panel Meeting of Central Coast

will be held remotely - online,
Thursday 9 June 2022 at 2.00 pm,
for the transaction of the business listed below:

1 Procedural Items

1.1 Disclosures of Interest.....3

2 Confirmation of Minutes of Previous Meetings

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3 Planning Reports

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place9

Jason Perica
Chairperson

Agenda Version History

Version	Date published	Details
2	08/06/2022	Version 2 of agenda published to include 5 pages (pgs.33 to 37) and subsequent repagination of agenda, to correctly reflect the report content. These pages were, inadvertently, not included during the finalisation of the agenda papers, but were part of the finalised report.
1	02/06/2022	Agenda published

Item No: 1.1
Title: Disclosures of Interest
Department: Governance

Central Coast
Local Planning Panel

26 May 2022 Local Planning Panel Meeting

Reference: F2020/02502 - D14205789

The NSW Local Planning Panel Code of Conduct states that all panel members must sign a declaration of interest in relation to each matter on the agenda before or at the beginning of each meeting.

Recommendation

That Panel Members now confirm that they have signed a declaration of interest in relation to each matter on the agenda for this meeting and will take any management measures identified.

Item No: 2.1
Title: Confirmation of Minutes of Previous Meeting
Department: Corporate Affairs

Central Coast
Local Planning Panel

9 June 2022 Local Planning Panel Meeting

Reference: F2020/02502 - D15186530

Author: Rachel Callachor, Meeting Support Officer

Summary

The Minutes of the following Meetings of the Local Planning Panel, which have been endorsed by the Chair of that meeting, are submitted for noting:

- ***Local Planning Panel Meeting held on 26 May 2022***

Recommendation

That the minutes of the previous Local Planning Panel Meeting held on 26 May 2022 which were endorsed by the Chair of that meeting, are submitted for noting.

Attachments

1   MINUTES - Local Planning Panel - 26 May 2022 D15181439



Local Planning Panel
Minutes of the
Local Planning Panel Meeting
Held Remotely - Online
on 26 May 2022

Panel Members

Chairperson	Kara Krason
Panel Experts	Greg Flynn Stephen Leathley
Community Representative/s	Paul Dignam

Central Coast Council Staff Attendance

Alice Howe	Director Environment and Planning (arrived at 2.10pm)
Andrew Roach	Unit Manager Development Assessment
Emily Goodworth	Section Manager Development Assessment North
Salli Pendergast	Principal Development Planner Development Assessment North
Rachel Callachor	Meeting Support Officer

The Chairperson, Kara Krason, declared the meeting open at 2:04pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

The Chair read an acknowledgement of country statement.

Apologies

The Panel noted that no apologies have been received.

1.1 Disclosures of Interest

The Panel noted that declaration forms had been received and no conflicts had been identified.

2.1 Confirmation of Minutes of Previous Meeting

The minutes of the previous Local Planning Panel Meeting held on 21 April 2022 which were endorsed by the Chair of that meeting, were submitted for noting.

Minutes of the Local Planning Panel Meeting 26 May 2022 contd

Public Forum

The following people addressed the Panel:

Item 3.1 - DA 52083/2017(C) Section 8.2 Review - 5-7 Church St, Terrigal

- 1 Michael Leavey, Michael Leavey Consulting - on behalf of objector
- 2 Doug Sneddon, Doug Sneddon Planning - on behalf of applicant
- 3 John Aspinall, Urbaine Architecture - on behalf of applicant

Following the conclusion of the public meeting, having also applied and has been granted permission by the Panel Chair, Mr Sneddon addressed the Panel members and Council assessment staff in private on legal matters. This was strictly to address confidential material relating to legal advice from the applicant only, all other aspects of the application were addressed in the time allowed to the applicant, in the course of the public meeting.

This is a provision of the Department of Planning and Environment Planning Panel reforms, which include amendments to the *Local Planning Panel Directions – Operational Procedures*, which include:

** allow, at the chair's discretion, applicants to attend a briefing, along with council staff, to explain complex matters or present confidential or commercially sensitive material*

3.1 DA 52083/2017(C) Section 8.2 Review - 5-7 Church St, Terrigal

Site Inspected Yes

Relevant Considerations As per Council assessment report

Material Considered

- Documentation with application
- Council assessment report
- Supplementary information distributed 25 and 26 May 2022, including copies of Planning Reports and documents as follows:
 - * DA Assessment Report - DA/52083/2017 (extracted from the Business Paper of the Ordinary Council Meeting of 10 December 2018).
 - * DA Assessment Report - Section 8.2 Review of that original DA determination.
 - * DA Assessment Report - DA 52083/2017 Part 4 for the Section 4.55 Modification Application (LPP Agenda item 3.1 of 24 Jun 2021 meeting) which is the original decision of the subject application at today's meeting.

Minutes of the Local Planning Panel Meeting 26 May 2022 contd

- * Development Consent and Assessment Report - DA/41598/2011, granted 24 May 2012.
 - * Development Consent and Assessment Report - DA/46725/2014, granted 16 April 2015
 - * Development Consent and Assessment Report - DA/35693/2008 granted 20 January 2009.
 - * Development Assessment Report – DA 49519/2016 granted 20 April 2017.
 - * Confidential document - Peter Tomasetti SC legal advice in response to Reason 1 provided by the Council/LPP for the refusal of DA 52083/2017 - Part 4
- Public submissions: 42 submissions received (first notification) and 31 submissions received (amended plans second notification)

Council Recommendation

Refusal

Panel Decision

- 1 The Local Planning Panel reviewed the previous decision to refuse Development Application DA/52083/2017/C at 5 & 7 Church Street, Terrigal – as per the Section 8.2 application for review of determination, and reaffirmed the Refusal subject to the reasons outlined below and having regard to the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.**
- 2 That Council advise those who made written submissions of the Panel's decision.**

Reasons

- 1 The modified development proposal is not substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all).
- 2 The modified development proposal results in unreasonable adverse impacts as a result of non-compliance with GLEP and GDCP planning controls.
- 3 The modified development proposal is considered unsuitable for the site as a result of non-compliance with GLEP and GDCP planning controls.

Minutes of the Local Planning Panel Meeting 26 May 2022 contd

- 4 The modified development proposal has not suitably responded to the concerns raised in submissions and is not in the public interest.

Additional reason for refusal:

- 5 The Panel considers there is no compelling reason in the current section 8.2 review application to support approval of the modification. The proposed non-compliances with the Gosford LEP 2014, SEPP65 and Gosford DCP 2013 would constitute an undesirable precedent for future development and threaten the achievement of the strategic planning objectives for the desired future character of the retail core of the Terrigal Village Centre area bounded by Kurrawyba Avenue, Church Street, Campbell Crescent and Terrigal Esplanade.

Votes The decision was unanimous

The Local Planning Panel public meeting closed at 2:43pm. The Panel moved into deliberation from 3:30pm, which concluded at 4:35pm.

Item No: 3.1
Title: DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place

Department: Environment and Planning

9 June 2022 Local Planning Panel Meeting

Reference: DA/63207/2021 - D15124548
 Author: Neil Skeates, Senior Building Surveyor
 Manager: Wayne Herd, Section Manager, Building Assessment and Certification
 Andrew Roach, Unit Manager Development Assessment
 Executive: Alice Howe, Director Environment and Planning

Summary

An application has been received for *Demolition of Existing Dwelling House and Swimming Pool, a New Dwelling, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place*. The application has been examined having regard to the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements with the issues requiring attention and consideration being addressed in the report. The application is recommended for approval.

The application is referred to the Local Planning Panel for determination because:

- The application proposes a variation to a development standard contained within an Environmental Planning Instrument of greater than 10%. The application proposes a maximum height of 10.56m, which is a 24.2% variation to the 8.5m height requirement; and
- The application has attracted 15 unique submissions.

Applicant	Mr Tim Shelley
Owner	Christopher John Hajje
Application No	DA/63207/2021
Description of Land	Lot 109, DP16577, 1 Yumbool Close, Forresters Beach
Proposed Development	Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place.
Site Area	917 m ²
Zoning	R2 - Low Density Residential
Existing Use	Dwelling House
Employment Generation	Yes
Estimated Value	\$693,000.00

- 3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)
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Recommendation

- 1 ***The Local Planning Panel agrees that the applicant's Clause 4.6 written request demonstrates that compliance with the Height of Buildings development standard is unnecessary in the circumstances of the case because of the minimal environmental impact that would result from non-compliance with the Height of Buildings standard.***

Compliance with the Height of Buildings development standard would be unreasonable in the circumstances of the case because of the steep sloping nature of the block. Compliance would not allow the three-storey dwelling house, secondary dwelling, swimming pool and front fence as currently proposed, and that there are sufficient environmental planning grounds to justify varying that development standard.

Further, the Panel considers that the proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development within the R2 Low Density Residential zone in which the development is proposed to be carried out.

- 2 ***That the Local Planning Panel assumes the concurrence of the Secretary of the Department of Planning to permit the non-compliance with the development standard under Clause 4.6 of the Gosford Local Environmental Plan 2014, in accordance with the provisions of Clause 64 of the Environmental Planning and Assessment Regulation 2000.***
- 3 ***That the Local Planning Panel grants development consent to DA/63207/2021 – 1 Yumbool Close, FORRESTERS BEACH NSW to construct a single dwelling house over three levels, secondary dwelling, swimming pool and front fence subject to appropriate conditions as detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979 and other relevant issues.***
- 4 ***Those who made a submission be notified of the outcome of the development application.***

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

Key Issues

- The current dwelling house is two-storey whereas the proposal adds an additional third level in the design. There is community objection to the additional height. It is noted that the locality has many examples of such buildings.
- The height exceeds the Gosford LEP 2014 and Development Control Plan 2013 height limit of 8.5m (to a maximum height of 10.56m).
- There are 15 unique objections plus 1 additional second comment, thus 16 separate documents total.

Precis:

Proposed Development	Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place.
Permissibility and Zoning	<p>The subject site is zoned R2 - Low Density Residential under the provisions of Gosford Local Environmental Plan 2014 (Gosford LEP 2014).</p> <p>The proposed development is defined as a 'dwelling house' and 'secondary dwelling' which is defined under the Gosford LEP 2014 as:</p> <p><i>'dwelling house'</i> means – a building containing only one dwelling.</p> <p><i>'secondary dwelling'</i> means a self-contained dwelling that—</p> <p>(a) is established in conjunction with another dwelling (the principal dwelling), and</p> <p>(b) is on the same lot of land as the principal dwelling, and</p> <p>(c) is located within, or is attached to, or is separate from, the principal dwelling.</p> <p>The use is permissible with consent.</p>
Relevant Legislation	<p>The following planning policies and control documents are relevant to the development and were considered as part of the assessment.</p> <ul style="list-style-type: none"> • Environment Planning and Assessment Act 1979 – section 4.15 (EP&A Act) • Gosford Local Environmental Plan 2014 (GLEP 2014) • Draft Central Coast Local Environmental Plan 2018 (Draft CCLEP 2018) • Gosford Development Control Plan 2013 • Chapter 3.1 "Dwelling Houses, Secondary Dwellings and Ancillary Development" (Gosford DCP 2013)
Current Use	Dwelling House

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

Integrated Development	No.
Submissions	The development application was notified (in accordance with the provisions of the Gosford Development Control Plan 2013) from 14 October 2021 until 4 November 2021 with subsequently amended plans re-notified from 9 March 2022 until 31 March 2022. 15 unique author submissions were received with one objector adding additional comments.

Variations to Policies

Gosford Local Environmental Plan 2014

Clause	4.3 (2)
Standard	Height limit of 8.5m.
Departure basis	The proposal seeks a maximum height of 10.56m consisting mostly of the upper storey. This represents a variation of 2.06m or 24.2 % at the highest point.

Chapter 3.1. Dwelling Houses, Secondary Dwellings and Ancillary Structures of Gosford Development Control Plan 2013

Clause	3.1.2.1
Planning Control	Height limit of 8.5m
Departure basis	The proposal seeks a maximum height of 10.56m consisting mostly of the upper storey. This represents a variation of 2.06m or 24.2 % at the highest point.

The Site

The site is identified as Lot 109 DP 16577, No. 1 Yumbool Close, Forresters Beach (Figure 1).

The site has been partially levelled at the front before falling steeply from behind the parking area to a previously filled rear yard. The site is on a local high point located on a "Y" road junction before Yumbool Close falls steeply downwards whilst the other higher road (North Scenic Road) continues up the hillside. There is some vegetation along the rear boundary line with the rear neighbour being lower by more than 1m.

Access to the proposed dwelling will be from the northern side of the existing traffic islands at the "Y" junction, in a similar position to the current driveway with the internal driveway turning into an additional under croft "carport" parking area creating an aggregate of four parking spaces on site.

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

The subject site is zoned *R2 - Low Density Residential* under the provisions of *Gosford Local Environmental Plan 2014 (Gosford LEP 2014)* (Figure 2).

The site is mapped as bushfire prone land. The application is supported by a Bushfire Assessment Report, reference 211493, prepared by Building Code & Bushfire Hazard Solutions Pty Limited and dated 4 March 2022. The report was referred to the NSW RFS for comment and the application was supported. The report concludes the bushfire attack level (BAL) design specification for the development to be BAL 29, as outlined in *AS3959 – 2018 Construction in Bushfire-prone Areas* and the NSW RFS's *Planning for Bushfire Protection 2019*. The recommendations of this report are supported and are included in the proposed conditions of development consent.



Figure 1: Aerial photograph of subject site with the site etched in blue.

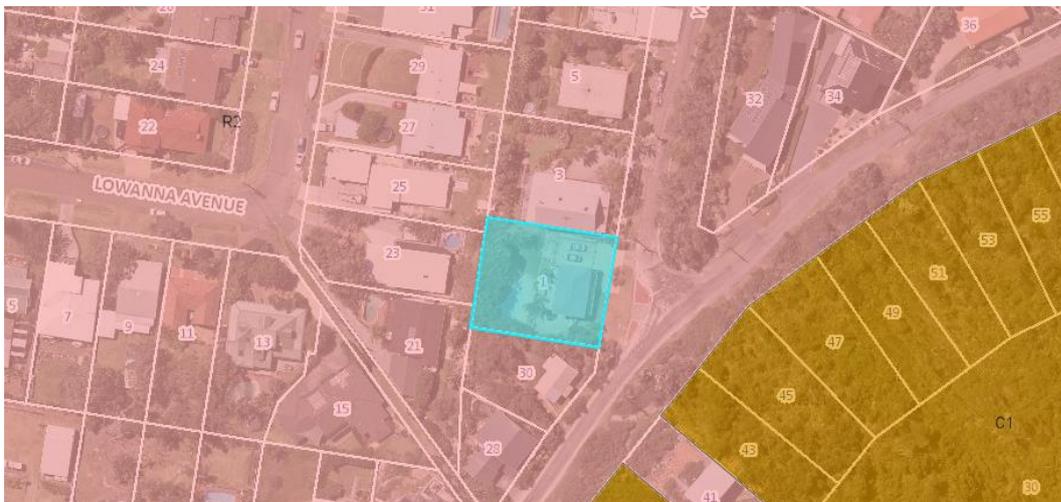


Figure 2: Aerial photograph of subject site with zoning overlay included.

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

Surrounding Development

The subject site is surrounded on its north, south and west sides by existing R2 – low density zoned residential allotments, generally containing a mixture of older style single and two storey dwellings, some with open subfloors. To the east is mostly vegetated vacant land zoned C1 National Parks and Nature Reserves.



Figure 3: Front elevation of existing dwelling house.



Figure 4: R.H.S. neighbour (north).

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Figure 5: L.H.S. neighbour (south).



Figure 6: R.H.S. neighbour towards rear of their dwelling house.

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)



Figure 7: Subject site rear yard (1 of 2 south side).



3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

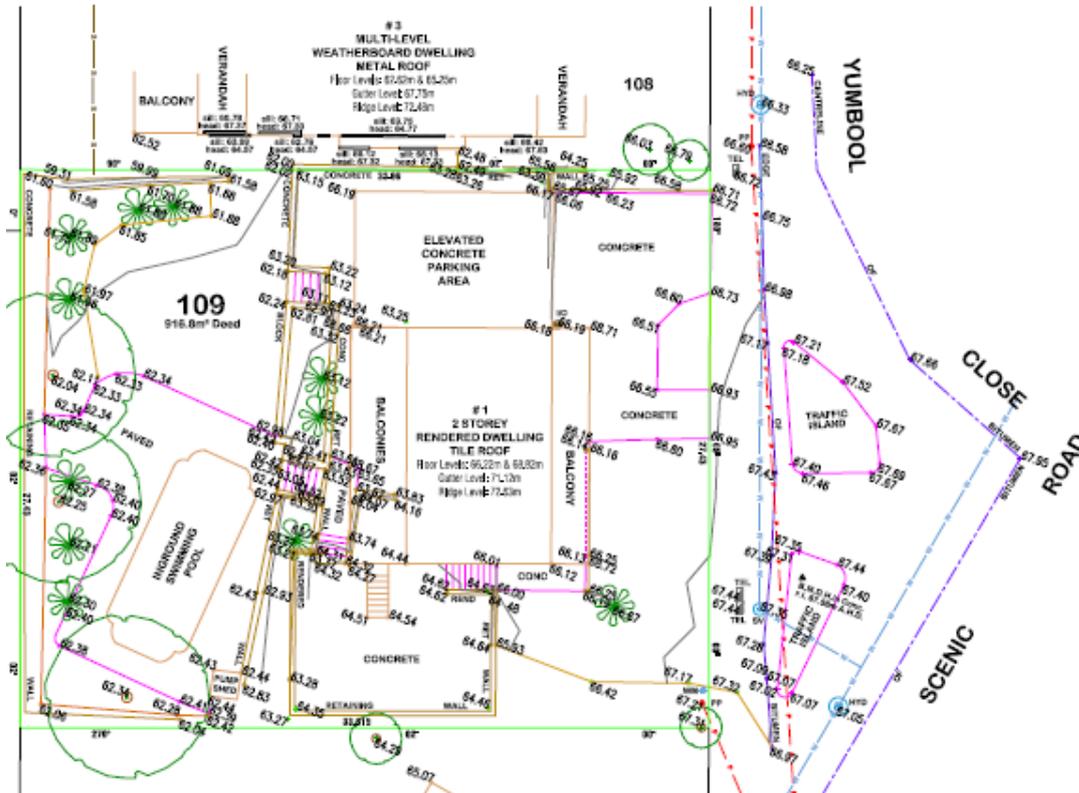
**Figure 8: Subject site rear yard (2 of 2 north side).
The Proposed Development**

The application comprises construction of a new four-bedroom dwelling over three levels and a secondary dwelling located to the eastern side of the building with two-bedrooms on the mid-level, a laundry and storage area being underneath and verandah being on the topmost level. A fire wall is proposed internally to separate both occupancies.

The garage and entrance to the dwelling is orientated towards the north side of the lot with internal access to the extra two parking spaces. A new swimming pool will be constructed in the rear yard replacing the existing swimming pool. A new open style timber front fence is proposed along the boundary line.



Figure 9: Photomontage of proposed dwelling from Yumbool Close.



3.1 DA/63207/2021 - 1 Yumbool Close Forrester's Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

Figure 10: Detailing the site survey report.

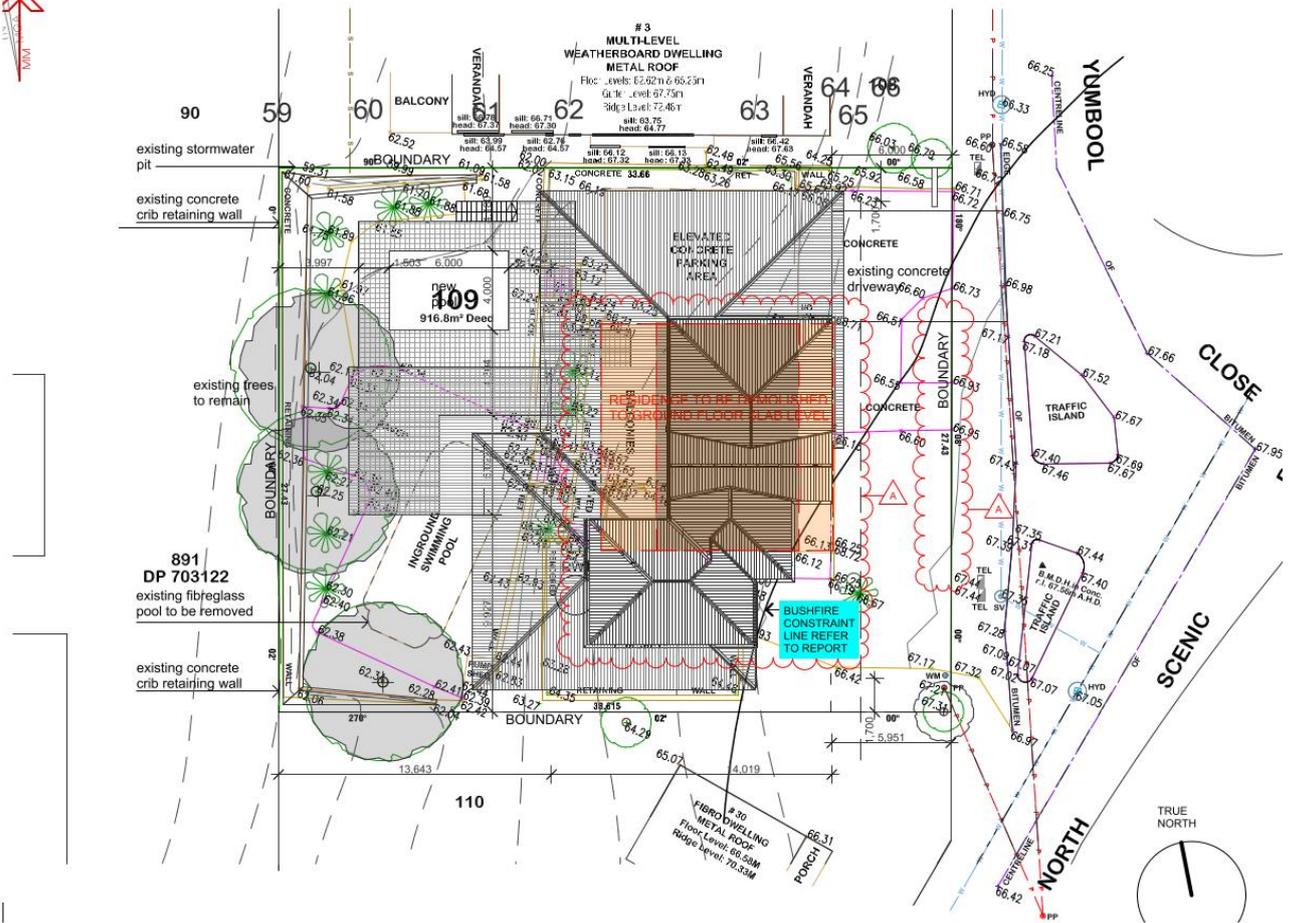
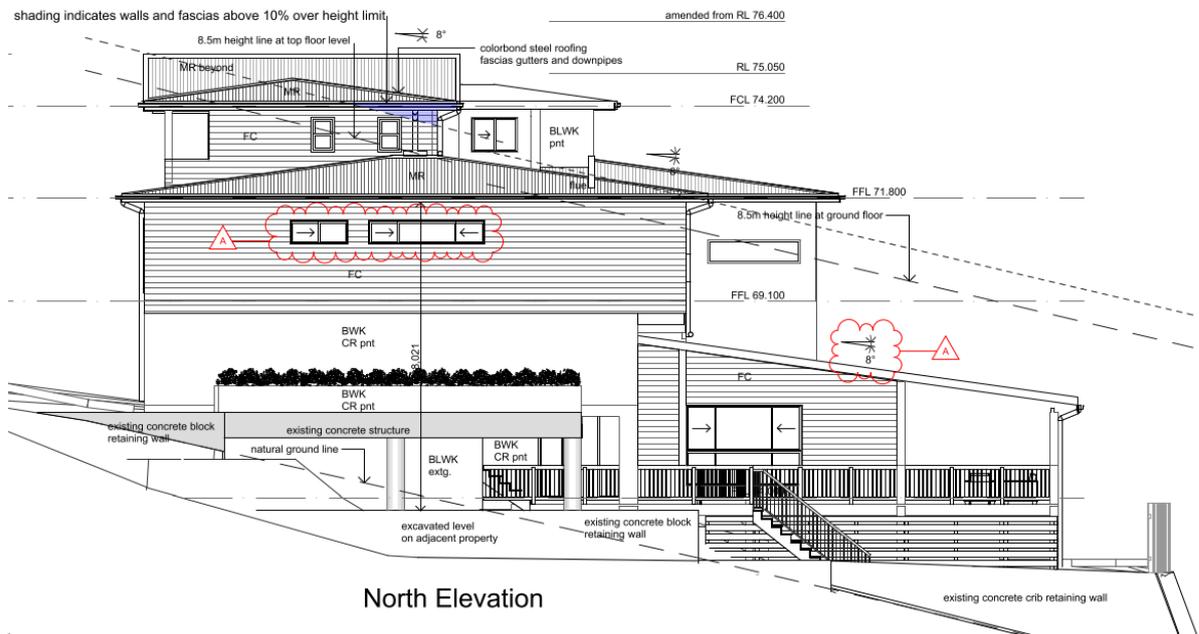


Figure 11: Detailing the proposed site plan.



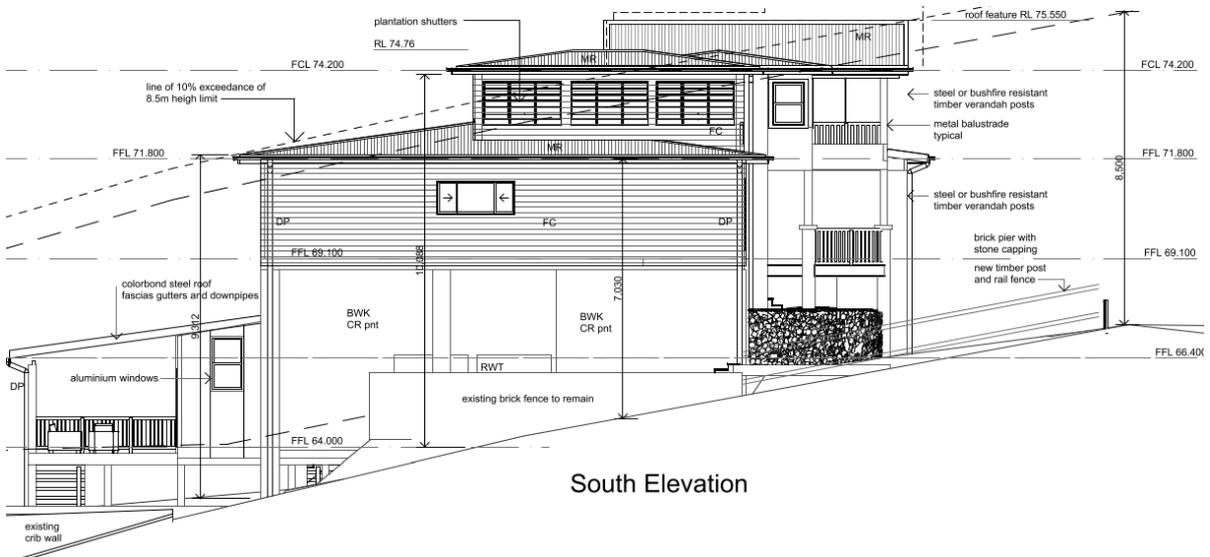
Figure 12: Detailing the east (street) elevation.

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)



North Elevation

Figure 13: Detailing the proposed north side elevation.



South Elevation

Figure 14: Detailing the proposed south side elevation.

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)



Figure 15: Detailing the proposed west (rear) elevation.

ASSESSMENT:

Having regard for the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements, the assessment has identified the following key issues.

State Environmental Planning Policy No 71 – Coastal Protection

State Environmental Planning Policy No 71 (Coastal Protection) (SEPP 71) was repealed on 3 April 2018 when the *State Environmental Planning Policy (Coastal Management) 2018* (SEPP Coastal Management) came into effect. The savings and transitional provisions contained within SEPP Coastal Management state the SEPP 71 provisions continue to apply if a development application is lodged and not finally determined prior to the commencement of SEPP Coastal Management.

The provisions of SEPP 71 require Council (or the Local Planning Panel) to consider the Aims and Objectives of the SEPP No 71 together with the matters for consideration listed in Clause 8 of the SEPP 71 when determining an application within the Coastal Zone. The Coastal Zone is an area defined on maps issued by the NSW Department of Planning & Environment and the subject property falls within this zone.

The relevant matters have been considered in the assessment of this application. The application is considered consistent with the stated aims and objectives.

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

State Environmental Planning Policy (Resilience and Natural Hazards) 2021

Whilst the savings and transitional provisions of SEPP Coastal Management apply, the proposed development has also been considered against the provisions of SEPP (Resilience and Natural Hazards) 2021, which include the provisions of the former SEPP Coastal Management, and is considered satisfactory.

State Environmental Planning Policy (Building sustainability Index) BASIX 2004

A compliant BASIX certificate achieving the NSW Government’s energy efficiency targets has been provided in support of the application.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 (savings provisions are applied) aim to better encourage home owners, social housing providers and developers to invest and create new affordable rental housing to meet the needs of our growing population and existing residents.

The table below summarizes the main requirements of the SEPP relevant to secondary dwellings.

Development Standard	Required	Proposed	Compliance
Clause 20 Land to which Division applies	Zone R1, R2, R3 or R4	R2	Yes
Clause 21 Development to which Division applies - secondary dwellings	<ul style="list-style-type: none"> • established in conjunction with principal dwelling; • on the same lot as principal dwelling; and • located within, attached to or separate from principal dwelling. 	In conjunction as attached to principle dwelling	Yes
Clause 22(3) Development may be carried out with consent	a) total floor area of principal and secondary dwelling is no more than maximum floor area allowed for a dwelling house on the land under another EPI. b) total floor area no more than 60m ²	GELP 2014 allows 20 % of the dwelling house which on this site is allowing up to 72.3 m ² of secondary dwelling which accommodates the laundry and store room area below. N/A	Yes N/A
Clause 22(4) Consent authority must not refuse consent on following grounds:	a)(ii) site area is at least 450m ² b) no additional parking	917 m ² 2 spaces	Yes Yes
Clause 24 No subdivision A consent authority must not consent to a development application that would result in subdivision.	Property title to remain as approved.	No subdivision	Yes

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

Gosford Local Environmental Plan 2014 - Permissibility

The subject site is zoned *R2 - Low Density Residential* under the provisions of *Gosford LEP 2014*.

The proposed development is best defined as a 'dwelling house' and 'secondary dwelling', which are defined under the Gosford LEP 2014 as:

'dwelling house' means – a building containing only one dwelling.

'secondary dwelling' means a self-contained dwelling that—

- (a) is established in conjunction with another dwelling (the principal dwelling), and*
- (b) is on the same lot of land as the principal dwelling, and*
- (c) is located within, or is attached to, or is separate from, the principal dwelling.*

The use is permissible with consent.

The development is permissible in the zone, with development consent.

Gosford Local Environmental Plan 2014 – Objectives of Zone

The Objectives of the *R2 - Low Density Residential* zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that development is compatible with the desired future character of the zone.
- To encourage best practice in the design of low-density residential development.
- To promote ecologically, socially and economically sustainable development and the need for, and value of, biodiversity in Gosford.
- To ensure that non-residential land uses do not adversely affect residential amenity or place demands on services beyond the level reasonably required for low-density housing.

In this instance, it is considered that the proposal is consistent with the stated objectives of the zone. The proposal provides for a form of residential development that is consistent with the emerging development in the locality, is appropriately designed, does not have an adverse economic, environmental or social impact, nor places inappropriate demands on services in the locality.

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

In this regard, the proposal seeks a maximum overall height of 10.56m in lieu of the 8.5m mapped maximum height limit applicable to the allotment, resulting in a variation of 24.2 %.

Clause 4.6 (3) of Gosford LEP 2014 requires consideration of the following:

'Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating –

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.'

and Clause 4.6 (4) of Gosford LEP 2014 requires consideration of the following:

'Development consent must not be granted for development that contravenes a development standard unless—

(a) the consent authority is satisfied that—

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Planning Secretary has been obtained.'

The applicant has provided a detailed request to vary the mapped height development standard by the proposed 24.2 %. In requesting the variation, the applicant has provided the following matters in support of the proposal: -

'The objectives of Clause 4.6 of Gosford LEP 2014 (GLEP) are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

To this end and in accordance with Clause 4.6(3), this submission requests and seeks to justify a variation to the development standard contained in Clause 4.3 of GLEP 2014, specifically the 8.5m height limit referenced under Clause 4.3 of GLEP which applies to the subject land. The submission seeks approval for a variation to the development standard as it applies to the proposed additions on the following basis:

- 1. Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;*
- 2. There are sufficient environmental planning grounds to justify contravening the development standard;*
- 3. The proposed development will be in the public interest on the basis it is consistent with the objectives of the particular standard and the objectives for development within the R2 Low Density Residential zone in which the development is proposed to be carried out; and*
- 4. Departure from the standard on this occasion will achieve a better built outcome for and from the proposed development, will not raise any matter of significance for state or regional environmental planning and no particular public benefit will be served by maintaining the standard.*

This submission should be read in conjunction with the Statement of Environmental Effects (SoEE) prepared by Tim Shelley Planning for the proposed development and the plans prepared by AB3D (dated 16/8/21) submitted with the development application.

In reviewing the proposed variation, consideration of the Residential R2 Low Density Residential Zone objectives is also considered necessary. Residential R2 Low Density Residential Zone objectives are as follows:

- To provide for the housing needs of the community within a low-density residential environment.*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- To ensure that development is compatible with the desired future character of the zone.*
- To encourage best practice in the design of low-density residential development.*
- To promote ecologically, socially and economically sustainable development and the need for, and value of, biodiversity in Gosford.*
- To ensure that non-residential land uses do not adversely affect residential amenity or place demands on services beyond the level reasonably required for low-density housing.*

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

In considering these zone objectives, the following points are considered relevant:

- Dwelling Houses are permissible within the zone and satisfies the zone objective in terms of the provision of low-density residential development.
- The proposed dwelling design is considered in keeping with the existing and desired future character of the area.
- The design of the dwelling incorporates suitable architectural design elements and incorporates sustainable design features.

The Gosford LEP 2014 sets out six objectives pertaining to the building height development standard. The objectives are contained within clause 4.3 (1) (a) to (f). These objectives are replicated below and commentary in respect to compliance or otherwise with each objective in relation to the proposed development:

a) to establish maximum height limits for buildings,

The proposed height of the building, whilst exceeding the numerical height limit, is consistent to numerous other dwellings within the vicinity on this steep coastal hillside locality.

b) to permit building heights that encourage high quality urban form,

The design is of a high-quality urban form with visual interest and high functionality to the occupants.

c) to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight,

The only practical impact is on the southern neighbour who does receive sufficient solar access with very little impact on public land with existing vegetation already impacting the road reserve area.

d) to nominate heights that will provide an appropriate transition in built form and land use intensity,

The site is the equal highest on the road area and provides transitions to the higher still upslope buildings to the north east of the site.

e) to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area.

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

No impacts occur.

- f) to protect public open space from excessive overshadowing and to allow views to identify natural topographical features.

Impact on public space is minimal and still allows the coastal dunes to be observed and upper hillside to be observed from expected vantage points.

In terms of the proposed design, it is noted that the height exceedance is predominately halfway up the wall on the upper storey on the front elevation and is of similar appearance in height of other buildings in the suburb. The upper storey is well setback from both side boundaries. The proposal meets the relevant zone objectives and does not cause view loss impacts to the adjoining properties.'

It is considered that the development, as proposed, would be consistent with the height and scale of other dwellings within the immediate area. In addition, the development would not impose any unreasonable level of detrimental impact on the amenity of residents in nearby dwellings. The sloping nature of the site contributes to the difficulty in complying with the height controls whilst achieve maximum site development with a secondary dwelling and control site coverage.

Having regard to the site factors, minimal impact on the character of the area and that of the residents, the applicants request to vary the height development standard is considered reasonable and therefore supported.

Draft Central Coast Local Environmental Plan 2018 (Draft CCLEP 2018)

The *Draft Central Coast Local Environmental Plan 2018* (Draft CCLEP 2018) was exhibited until 27 February 2018 and is anticipated to be gazette mid-2022. Under the provisions of the draft LEP the subject site retains its *R2 - Low Density Residential* zoning, with dwelling houses remaining permissible with consent.

Gosford Development Control Plan 2013 Chapter 2.1 – Character

The site is located within the *Forresters Beach 3: Prominent Open Hillsides* Character Area.

The new development does not dominate the landscape setting and offers improved standards of scenic-and-urban design quality are achieved by the dwelling. The swimming pool and retaining walls are below street level on the side and rear of the dwelling footprint would otherwise visibly compromise the desired leafy hillside character.

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

The design avoids disturbing natural slopes by use of low-impact construction such as suspended floors and retaining the existing subfloor area and slab rather than new extensive cut-and-fill. Avoidance of the appearance of a continuous wall of development along any street or hillside is controlled by locating buildings behind front setbacks that appear similar to their surrounding properties and providing at least one wide side setback and stepping the shape of front and rear facades.

Minimisation of the scale and bulk of the building is achieved by stepping floor-levels to follow natural slopes and by using irregular floorplans to create well-articulated forms. The front and rear facades that are taller than neighbouring dwellings are screened by balconies, verandahs, stepped forms and extra setbacks. The amended roof design is gently-pitched to minimise the height of ridges, and flanked by wide eaves to disguise the scale of exterior walls.

Minimisation of the scale of prominent facades by using extensive windows and verandahs plus a variety of materials and finishes rather than expanses of plain masonry has occurred. The dwelling displays a traditional "street address" with verandahs or decks and living rooms or front doors that are visible from the roadway. There are no wide garages that would visually-dominate any front façade or block views from dwellings to the street. The location and screening of balconies or decks maintain the existing levels of privacy and amenity that are enjoyed by neighbouring dwellings. The suburb has many examples of similar scale and style buildings on steep sites.

Gosford Development Control Plan 2013 Chapter 3.1 – Dwelling Houses, Secondary Dwellings & Ancillary Structures

An analysis of the key requirements of Gosford DCP 2013 Chapter 3.1 is set out in the table below:

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

Development Standard	Description	Required	Proposed	Compliance with Controls	Compliance with Objectives
3.1.2.1 - Building Height	Maximum building height required	8.5 m	10.562 m	No - see comments below	Yes - see comments below
	Number of storeys required	2 (+ 1 more on a steep site)	2 +1	Yes	Yes
	Building height Outbuildings and Detached Ancillary Development required			n/a	n/a
3.1.2.2 - Site Coverage	Site coverage required	40 %	19.8 %	Yes	Yes
3.1.2.3 - Floor Space Ratio	FSR required	0.50:1	0.49:1	Yes	Yes
3.1.3.1a - Front Setback	Front setback where site area greater than 300m ² required	Average of the two adjoining dwellings (6 m)	6 m	Yes	Yes

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

Development Standard	Description	Required	Proposed	Compliance with Controls	Compliance with Objectives
	Front setback to a classified road required			n/a	n/a
	Front setback where site area up to 300m ² required			n/a	n/a
	Front setback for garage and carport required	1.0 m behind the front setback (7.0 m)	6.0 m	No - see comments below	Yes - see comments below
3.1.3.1b - Rear Setback	Rear setback to private allotment required	3.0 m / 6.0 m	3.997 m (swimming pool deck) / (cabana)	Yes	Yes - see comments below
	Rear setback to parallel road or public reserve required			n/a	n/a
	Rear setback within coastal hazard area required			n/a	n/a
3.1.3.1c - Side Setback	Side setback for lots greater than 12.5m wide required	Mid: North 2.025 m, South 2.297 m. Upper: North 2.375 m, South: 2.103 m.	Mid: North 2.158 m, South 1.700 m. Upper: North 8.152 m, South 3.912 m.	No - see comments below	Yes - see comments below
	Side setback for lots up to 12.5m wide required			n/a	n/a
	Side setback for lots less than 8m wide required			n/a	n/a
	Side setback for carports required			n/a	n/a
3.1.3.3.1 - Primary Road Articulation for dwelling houses	Articulation zone setback required			n/a	n/a
	Articulation zone total area required			n/a	n/a
	Articulation zone elevations required	10 m	<10 m	Yes	Yes
3.1.3.3.2 - Garage Door Articulation	Garage door articulation zone required	6.0 m	6.0 m	Yes	Yes
3.1.4.1 - Views				Yes	Yes
3.1.4.2 - Visual Privacy				Yes	Yes

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

Development Standard	Description	Required	Proposed	Compliance with Controls	Compliance with Objectives
3.1.4.3 - Private Open Space Areas	Private open space for lots less than 10m wide required			n/a	n/a
	Private open space for lots greater than 10m wide required	24 m2	>24 m2	Yes	Yes
	Private open space dimension required	3 m	>3 m	Yes	Yes
	Private open space gradient required	1:50	1:50	Yes	Yes
3.1.5 - Car Parking and Access	Number of car spaces required	2	2 +	Yes	Yes
	Car space measurements required	6 m x 6 m	6 m +	Yes	Yes
	Driveway width required	4.5 m or as per VAC officer	As per VAC approval	Yes	Yes
3.1.6.1 - Earthworks	Earthworks maximum depth required	1.0 m / 3.0 m	< 1.0 m / <3.0 (mostly existing)	Yes	Yes
	Earthworks maximum fill required	1.0 m	1.0 m (mostly existing)	Yes	Yes
3.1.6.2 - Retaining Walls and Structural Support				Yes	Yes
3.1.6.3 - Drainage				Yes - see comments below	Yes
3.1.7.4 - Swimming Pools				Yes	Yes
3.1.7.5 - Fencing	Height of fencing to primary road required	1.2 m	1.2 m open style timber design	Yes	Yes
	Height of side and rear fencing required			n/a	n/a
	Setback and openings of front fencing required	25 %	25 % or greater	Yes	Yes
	Minimum opening of fencing on flood control lot required			n/a	n/a
3.1.8.3 - Private Open Spaces - Secondary Dwellings	Private open space area required	16 m2	15.953 m2	No - see comments below	Yes - see comments below
	Private open space dimension required	3.0 m	3.0 m	Yes	Yes
	Private open space gradient required	1:50	1:50 (verandah)	Yes	Yes

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

Clause 3.1.2.1 Building Height

The applicant seeks a variation to the proposed maximum height of the dwelling. In this regard, the proposal seeks a maximum overall height of 10.56m in lieu of the 8.5m mapped maximum height limit applicable to the allotment. The variation proposed is 24.2 %.

An assessment of the building height has been carried out under the Gosford LEP 2014 (previously in this report).

In summary, the proposed development will be consistent with the height of other buildings on the hillside. The proposal meets the relevant zone objectives and does not cause view loss impacts or an unreasonable level of overshadowing to the adjoining properties.

It is considered the applicant's request to vary the development standard would be consistent to the height and scale of other dwellings within the area. In addition, the development would not impose any unreasonable level of detrimental impact on the amenity of residents in nearby dwellings. It has been concluded the steepness of the site contribute to the difficulty in complying with the height controls and comparisons to the height and scale of other dwellings along the hillside provide justification to vary them.

Gosford Development Control Plan 2013 Chapter 6.3 Erosion Sedimentation Control

Appropriate siltation control are included in the proposed development consent.

Gosford Development Control Plan 2013 Chapter 6.4 Geotechnical Requirements for Development Applications

The property is assessed as being only partially in a "*Category 2 -Medium Hazard Area*" for potential landslip hazard as defined within tables M1 and M2 of the document with the majority being in a *Low Hazard Area*. The implications of Category 2 are that a 'Class 2' geotechnical report *may* be required. Upon completion of the development a 'post development report' as defined within Chapter 6.4 of the Gosford DCP 2013, is *not* required but foundation inspections during works is required to confirm that foundations are suitable and works have been carried out in accordance with all provided geotechnical advice.

The application has been accompanied by a geotechnical investigation and slope stability assessment prepared by D. Katauskas, reference 1382, dated 31 January 2022. The report considers the extent of excavation and foundation support for the dwelling. The report is sufficient given the site is barely in the medium hazard area and there is limited new excavation on site given the existing lower slab is to be retained.

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

Gosford Development Control Plan 2013 Chapter 7.2 Waste Management

A Waste Management Plan has been submitted in support of the proposed development.

The Likely Impacts of the Development

Built Environment

Given the position of the proposed dwelling and garage on the allotment and comparison of bulk and scale with other dwellings, the proposal is considered to be suitable with regard to the context and setting of the subject site and is considered to be in keeping with the character of the area where there is a high degree of difference in height from adjacent lots and street to street.

A thorough assessment of the proposed development's impact on the built environment has been undertaken in terms of compliance with Gosford LEP 2014 and Gosford DCP 2013. It is considered, on balance, that the potential impacts are reasonable.

Natural Environment

The proposal involves some minor excavation given the site's sloping topography and retention of the subfloor. Whilst there is some impact upon the natural environment, this is considered to be reasonable as the main bulk of excavation is limited and is relatively concealed by the proposed works. Accordingly, the proposal is considered satisfactory in relation to impacts on the natural environment.

Submission made in accordance with this Act or Regulations

The application was notified (in accordance with the provisions of the Gosford DCP 2013 on two occasions:

- from 14 October 2021 until 4 November 2021; and
- amended plans were received and the application was re-notified from 9 March 2022 until 31 March 2022.

Fifteen unique author submissions were received with one objector adding additional comments.

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

The key issues raised in submissions, with relevant comments, are below:

ISSUE: More transparency is required from the applicant. Design is too big and imposing for the site and is four storeys high.

Comment - The applicant has provided Council with all the necessary information to consider the application with relevant application information being available on Council's website for community access as part of the usual notification process. The design generally meets the bulk and scale controls, except for the height control which has been considered elsewhere in the report against the relevant controls.

The area features many dwelling houses of a similar height and scale on sloped sites. The proposed development does present a generally complying height at the front façade when viewed from the public street. The proposed height non-compliance can be considered and varied under certain circumstances (Clauses 4.3 / 4.6 of the Gosford LEP 2014). The proposal is not four storeys high but does feature several subfloor areas.

ISSUE: What does the "A" mean on the amended plans from the re-notification period?

Comment - The "A" is accompanied by red "clouding" which denotes the amended height numbers and areas of design change from the originally submitted plan set. Further, dotted lines represent the original plan set outline.

ISSUE: Concern the proposal is out of character and streetscape and will create a precedent for future development. Concern the house will be a "party house" or short stay holiday let and will cause traffic delays and noise issues. Size is of commercial purposes. Not in accordance with the objectives of the zone.

Comment - The proposal is not considered to be out of character as the character clause of this report with the character statement covers a very large portion of this suburb. The streetscape is highly varied and features a high and low side of the street further altering the apparent variety of housing stock. The proposal does fit with the streetscape with similar setbacks and will likely be an option for future style of dwelling houses given current design trends. There is no reference to short term holiday let in the application, if that was to be a future use, would need to be the subject of further applications to Council as necessary. There is only a very minor increase in traffic from the secondary dwelling on the site which is a permissible use with the existing dwelling house traffic already existing. The application is not for commercial use and will have a condition of consent imposed preventing commercial use. The objectives of the zone are considered under the objectives part of this report.

ISSUE: Concern over dual occupancy or Bed and Breakfast. Garages are near the intersection. Too close to north and south side boundaries and solar access impacts.

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

No access information for the granny flat and may impact on privacy and noise. No geotechnical engineering report publicly available and slip across the road and on site driveway subsidence. Concern over storm water infrastructure in the street.

Comment - The application is not for a dual occupancy or a bed and breakfast development. The application is for a dwelling and secondary dwelling. If any development is undertaken outside of that which is approved on a site, it would be subject to investigated and compliance by the relevant compliance team within Council.

The lot has a dwelling entitlement and access is available to a public read. The driveway is as far away from the intersection as possible with the initially proposed second access now deleted from the plans. Council's vehicle access crossing officer has inspected the site and supports the current proposal. The northern neighbour is not impacted by the solar access at all. The southern neighbour has sufficient solar access as per the shadow diagrams. Access to and from the secondary dwelling is via a front door facing the road and is no closer than many other front doors on everyday dwellings and is an acceptable low impact. Council does not routinely make geotechnical reports available to the public. The owner is entitled to discharge stormwater to the public road reserve. The proposal will install a total of 12,000 litres of rainwater tank capacity which is not insignificant. The geotechnical report contains recommendations that will protect the works as much as another from public land failure.

ISSUE: Concern over release of the Geotechnical report close to the close date of notification and content of the report and internet searches by author for information.

Comment - Geotechnical engineering reports and mapping are not generally published as they are highly technical and subject to misinterpretation. Upon becoming aware a submission was concerned about not being able to access the report, the report was published.

It is noted that the proposal seeks to retain the existing slab and subfloor and will require very little new excavation into natural ground level.

Councils DCP identifies, at Chapter 6.4, four categories of landslip risk:

- Category 1 – Low Hazard
- Category 2 – Medium Hazard
- Category 3 – High Hazard
- Category 4 – Immediate High Hazard

A very small proportion of the site (along the southern boundary of the property) is identified as being Category 2 - medium hazard' (see Figure 17, following page).

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

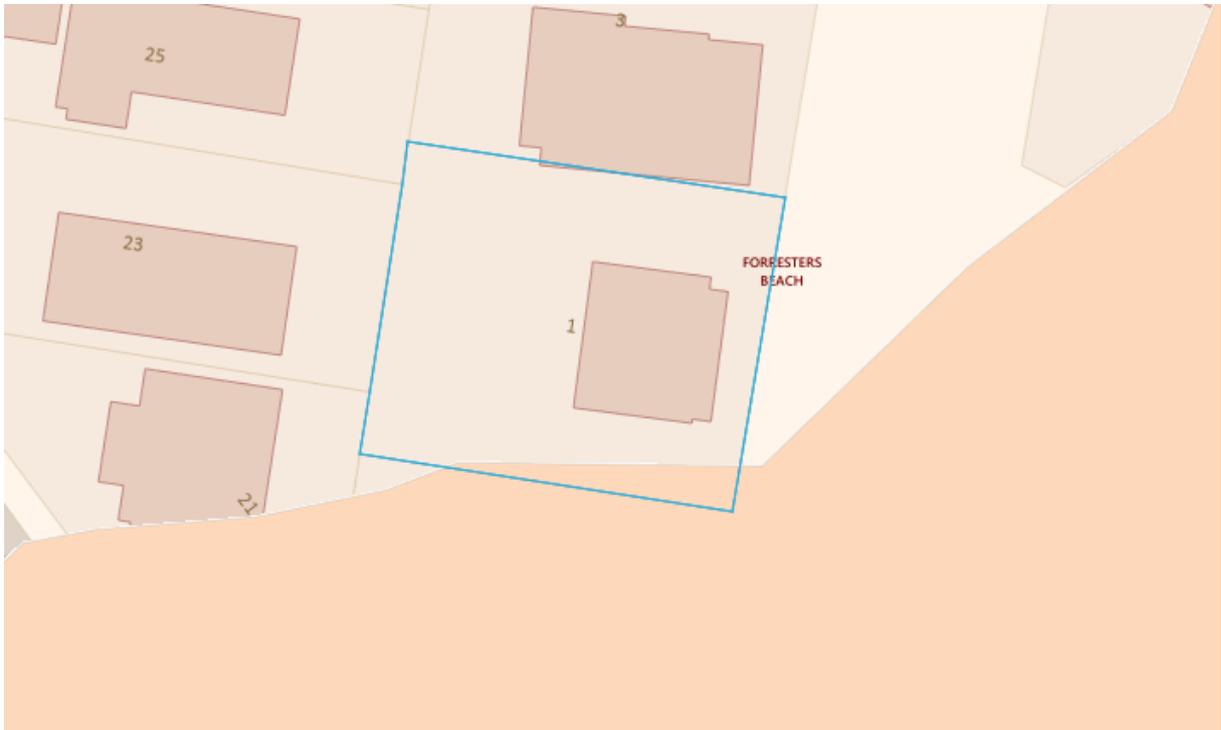


Figure 17: Southern portion of the property identified as medium hazard for landslip

As per Council's DCP 2013, Chapter 6.4, a report is not mandatory sites identified as low or medium hazard (category 1 or 2). However, in this instance Council staff requested that a geotechnical assessment be prepared.

A Geotechnical Assessment & Risk Analysis has been undertaken by a suitably qualified Geotechnical Engineer. The report concludes that there are no significant hazards to the construction identified, and that any that arise during construction can be readily resolved.

ISSUE: Not consistent with the objectives of the zone. There are no environmental planning grounds for the height variations.

Comment - The works are consistent with the R2 zone objectives as discussed elsewhere in this report. The consideration of the environmental planning grounds for the height variations are also discussed elsewhere in this report.

ISSUE: Concern regarding the lack of floor plans on public exhibition and request for those plans to be made available and they Geotech report was uploaded without notice.

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

Comment - Floor plans are not provided to neighbours or made public for security and privacy reasons. All appropriate documents were available as part of the usual notification process.

ISSUE: Survey plan is inadequate. Has a Clause 4.6 been provided and amended BASIX been received and request the BASIX be re-notified. Structural engineering is of concern for existing subfloor. Concern is raised about the placement of air conditioning units.

Comment - The survey plan is sufficient and similar to that which Council receives as a matter of daily business. A Clause 4.6 variation application has been submitted and the BASIX assessment is sufficient. Further re-notification of documents/plans is not required nor necessary.

A condition of consent is recommended for the provision of a structural engineering assessment for the new and imposed loads. It is unreasonable to require details of acoustic housing for domestic air conditioning units. In an urban setting some noise is unavoidable although there is enough space to locate units sufficiently far from boundaries to reduce impacts (currently more than 5m from the south side boundary).

Internal Consultation

VAC	Supported with conditions numbers 2.6, 5.6 & 6.6
Water and Sewer	Supported subject to condition 2.7

External Consultation

NSW Rural Fire Service	Supported subject to conditions 2.5, 3.12, 4.16, 4.17 & 6.5
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Other Matters for Consideration:

Acid Sulfate Soils

A review of Council's records identifies that the site may be subject to acid sulfate soils. The subject site has been identified as a Class 5 area, which means acid sulfate soils are not typically on site but may be located within 500m. As such, it is considered that the provisions of an acid sulfate soils management plan is not required.

Bushfire

The subject site is mapped as being bushfire affected.

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

A report prepared by a Bushfire Planning & Design (BPAD) Certified Practitioner bushfire consultant has been included with the application.

Removal of Trees

No trees are to be removed.

Development Contribution Plan

The subject site is located within Central Coast Regional Section 7.12 Development Contribution Plan 2019, where secondary dwelling developments are subject to Section 7.12 contributions. The applicable contribution amount was calculated and is proposed to be imposed as a standard condition of consent requiring the contribution to be paid prior to the issue of any Construction Certificate.

Water and Sewer Contributions

The proposed development will be subject to Water & Sewer Contributions for the secondary dwelling via a *Section 307* Certificate and has is proposed to be imposed as a condition of consent, with contributions to be paid before the issue of the Construction Certificate.

Ecologically Sustainable Principles:

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible, is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

The Public Interest

The proposed development is seen to be in the public interest by providing assurance that the subject land can be developed in proportion to its site characteristics.

Conclusion:

The development application has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and all relevant instruments and polices. The proposed development is considered suitable for the site despite the listed variations.

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place (contd)

The proposal is therefore recommended for approval pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*.

Attachments

1	Redacted Plans for LPP 1 Yumbool Close FORRESTERS BEACH DA/63207/2021	Provided Under Separate Cover	D15154589
2	Statement of Environmental Effects Rev C May 2022, DA63207/2021, H1 Yumbool Close FORRESTERS BEACH	Provided Under Separate Cover	D15165122
3	Clause 4.6 to GLEP Height Rev B May 2022 DA63207/2021, H1 Yumbool Close FORRESTERS BEACH		D15165119
4	BASIX Certificate 1 Yumbool Close, Forresters Beach DA/63207/2021		D15154590
5	Proposed Conditions Summary DA/63207/2021, H1 Yumbool Close FORRESTERS BEACH		D15165145

CLAUSE 4.6 SUBMISSION EXCEPTION TO DEVELOPMENT STANDARD FOR HEIGHT UNDER GOSFORD LEP 2014

New Dwelling-house and Secondary Dwelling

Property:

Lot 109 DP 16577
No. 1 Yumbool Close, Forresters Beach

Applicant:

Tim Shelley Planning

Date:

May 2022

Prepared by:

tim shelley planning

phone: 0409 306186

email: tim@tsplanning.com.au

postal address: PO Box 3165 Erina NSW 2250

CLAUSE 4.6 SUBMISSION

SUMMARY

APPLICANT:	Tim Shelley Planning
PROPOSAL:	New dwelling-house and secondary dwelling
PROPERTY:	Lot 109 DP 16577 No. 1 Yumbool Close, Forresters Beach
RELEVANT DEVELOPMENT STANDARD:	Clause 4.3 Gosford LEP 2014 – Height of Buildings

INTRODUCTION

The objectives of Clause 4.6 of Gosford LEP 2014 (GLEP) are as follows:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

To this end and in accordance with Clause 4.6(3), this submission requests and seeks to justify a variation to the development standard contained in Clause 4.3 of GLEP 2014, specifically the 8.5m height limit referenced under Clause 4.3 of GLEP which applies to the subject land. The submission seeks approval for a variation to the development standard as it applies to the proposed additions on the following basis:

1. Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
2. There are sufficient environmental planning grounds to justify contravening the development standard;
3. The proposed development will be in the public interest on the basis it is consistent with the objectives of the particular standard and the objectives for development within the R2 Low Density Residential zone in which the development is proposed to be carried out; and
4. Departure from the standard on this occasion will achieve a better built outcome for and from the proposed development, will not raise any matter of significance for state or regional environmental planning and no particular public benefit will be served by maintaining the standard.

This submission should be read in conjunction with the updated Statement of Environmental Effects (SoEE) Rev C dated 9/5/22 prepared by Tim Shelley Planning for the proposed development and the amended plans prepared by AB3D dated 5/5/22 submitted since lodgement of the DA.

THE DEVELOPMENT STANDARD TO WHICH THE REQUEST RELATES

Clause 4.3 – Height of Buildings

Clause 4.3 (2) of the GLEP states:

The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Building Map.

As shown on Figure 1 on the following page, the applicable Height of Building (HoB) map identifies the site as being within Category I, which has a height limit of **8.5 metres**.

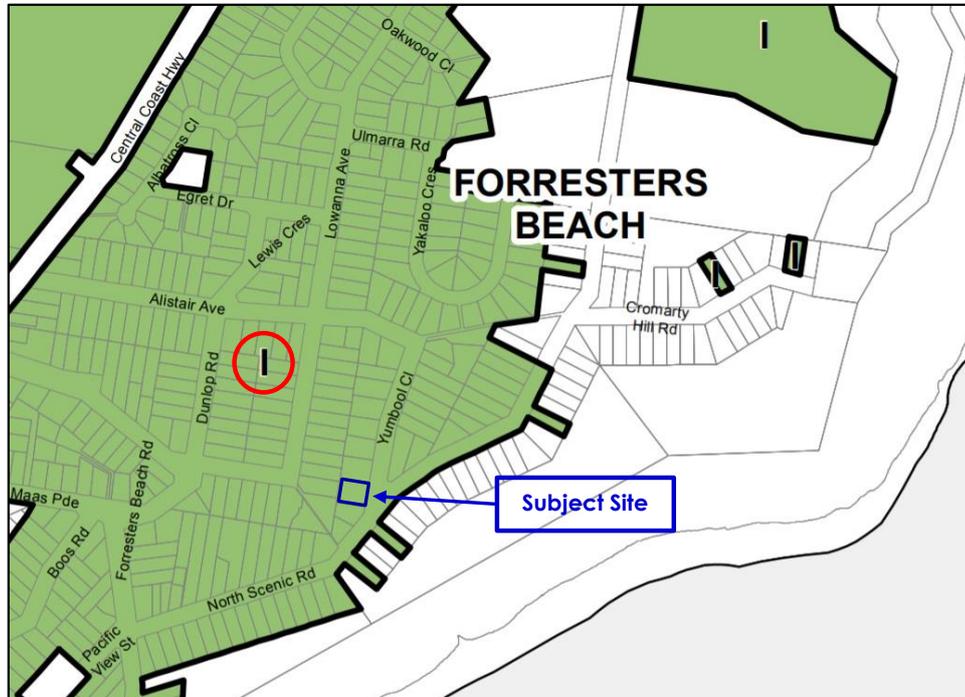


Figure 1 – Extract from Gosford LEP 2014 Building Height Map

THE OBJECTIVES OF THE DEVELOPMENT STANDARD

As indicated under Clause 4.3(1), the objectives of the development standard are:

- to establish maximum height limits for buildings,
- to permit building heights that encourage high quality urban form,
- to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight,
- to nominate heights that will provide an appropriate transition in built form and land use intensity,
- to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area,
- to protect public open space from excessive overshadowing and to allow views to identify natural topographical features.

THE NATURE OF THE DEPARTURE FROM THE DEVELOPMENT STANDARD

As shown on the extract of the plans prepared by AB3D provided as Figure 2 on the following page, the maximum height of the new dwelling-house is 10.56m, which exceeds the 8.5 metre maximum height by 2.06m. This equates to a variation of 24.2%.

The proposed variation from the 8.5 metre development standard is assessed below against the accepted "5 Part Test" for the assessment of a development standard variation established by the NSW Land and Environment Court in *Wehbe v Pittwater Council* [2007] NSW LEC 82. While *Wehbe* related to objections made pursuant to *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1), the analysis can be of assistance and hence applied to variations made under clause 4.6 (see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 at [61] and [62]).

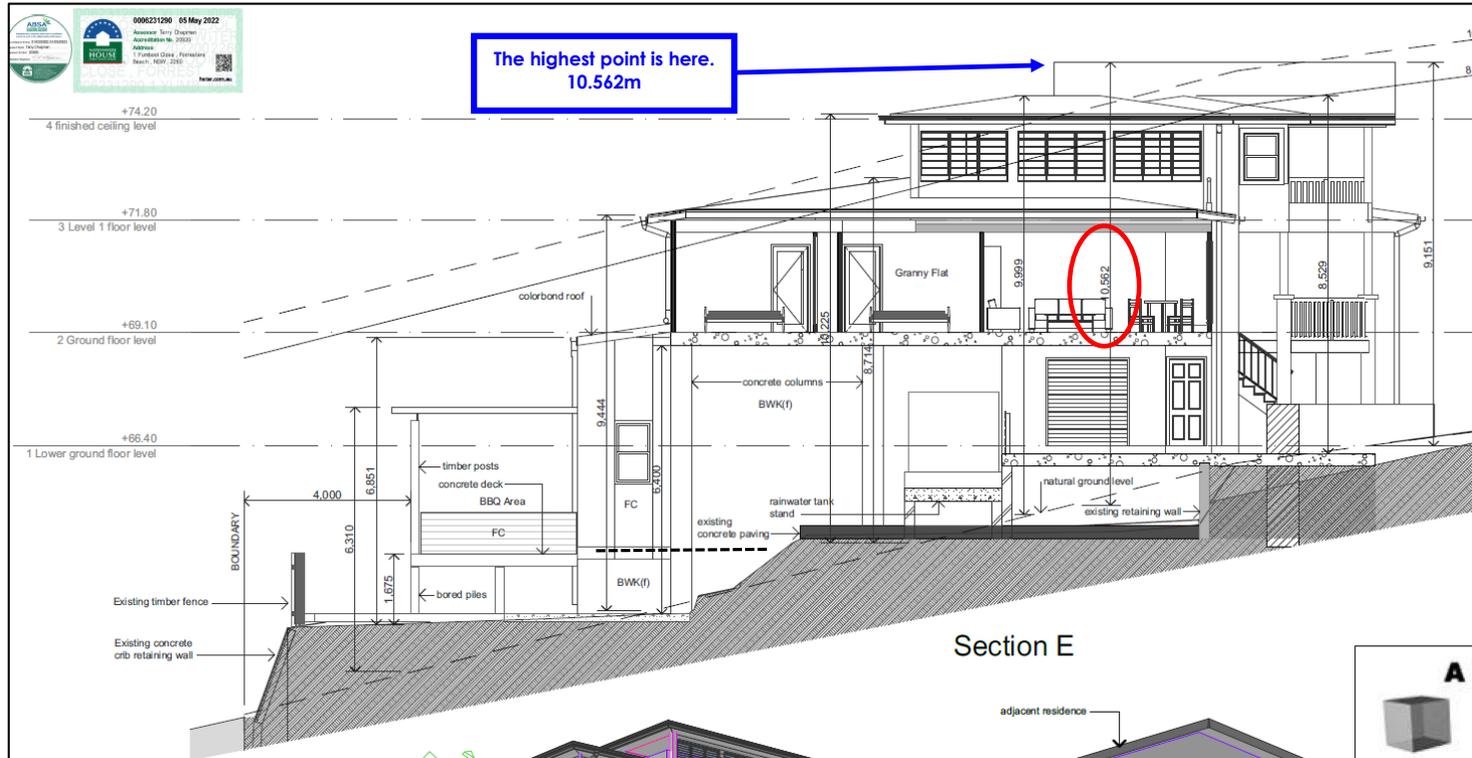


Figure 7 – Excerpt of sheet DA 15 showing maximum height encroachment

In his decision in *Wehbe v Pittwater*, Chief Justice Preston expressed the view that there are five "tests" in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy. These tests are reasonable to consider in the request to vary the 8.5 metre development standard in this instance as follows:

Test 1 the objectives of the standard are achieved notwithstanding non-compliance with the standard;

The objectives behind the building height control are identified in Clause 4.3(2) of the GLEP. The consistency of the proposed development with each of those objectives and the justification to demonstrate that strict compliance with the height control would be both unreasonable and unnecessary in this instance are discussed below.

(a) to establish maximum height limits for buildings.

- Noted.

(b) to permit building heights that encourage high quality urban form.

- The proposed development has incorporated a range of materials and design features synonymous with coastal architecture that combine to minimise bulk and scale and add significant visual interest and articulation. These include materials and design features such as:
 - a gently pitched gable steel roof with wide eaves and two prominent roof features on the top floor;
 - balconies, recesses and changes to the roof profile;
 - rendered brickwork, fibre-cement weatherboard cladding and lightweight metal roofing;
 - aluminium door and window frames; and
 - powder-coated aluminium privacy/sun screens, louvres.

The incorporation of these features, in combination with the retention of major trees on the site, new fencing and upgraded landscaping, result in a high-quality built-form outcome to ensure the proposed development is entirely consistent with the desired future and emerging character of the surrounding area.

(c) to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight,

- Overshadowing of the property to the south will be satisfactory, with the shadow diagrams provided as part of the architectural plans indicating that overshadowing of the rear yard is non-existent by 12 noon on 21st June (in fact earlier), such that the private open space of that property will continue to enjoy over 3 hours (closer to 4 hours) of solar access following construction of the proposed development, in full compliance with the requirements of section 3.1.4.4(b) Chapter 3.1 of the DCP.

Likewise, the shadow diagrams indicate that overshadowing of the property to the west is extremely limited due to distance and slope, whilst no overshadowing of any public area will result from the proposed development.

(d) to nominate heights that will provide an appropriate transition in built form and land use intensity,

- The 8.5m building height is a standard (or generic) height limit essentially applicable to all R2 zones across the former Gosford LGA regardless of the significant differences in slope and topography of the various suburbs and localities across the former Gosford LGA and hence also regardless of the difficulty in achieving, or complying, with this height limit as a result.

In this regard, it is easier to comply with this height limit in suburbs such as Woy Woy or Umina Beach where the topography is flat and poses not constraint or challenge to dwelling design. Conversely, it is much more difficult to design dwelling-houses that are compliant with this height limit in suburbs such as Forresters Beach (or say Copacabana) where the topography is steeper and much more challenging.

As such, it is considered that the 8.5 height limit is not necessarily a reasonable limit to apply in suburbs such as Forresters Beach where topography is generally steeper. Furthermore, given that the floor space ratio (FSR) applicable in Forresters Beach of 0.5:1 is also a generic standard which applies essentially across all R2 zoned land in the former Gosford LGA, the topography in Forresters Beach makes it more difficult to achieve this generic FSR than in other suburbs such as Woy Woy or Umina Beach. Rather, there should be either a greater height limit in R2 zones in suburbs with steeper topography to achieve the allowable FSR or a higher FSR to allow the floor space to be spread across a larger floor plate to reduce the height and make this FSR easier to achieve.

Either way, it is apparent that the generic height and FSR limits applied across the R2 zones are not appropriate to all sites, are not always proportionate to (or commensurate with) one another or do not represent an equitable standard on a steeper site, as is the case in this particular instance.

As a result, it is considered that in achieving a compliant FSR – as this development does – there is a need to acknowledge that the height limit is not necessarily appropriate and therefore needs to be varied in appropriate circumstances such as this one, where the proposed development still represents an appropriate built form and also achieves a low-density outcome, consistent with the zoning and the intention of the height and FSR limits.

(e) to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area,

- The proposed dwelling-house does not impede any views from adjoining properties to south or north, as the predominant views are obtained to the east. Furthermore, no views are available from the dwelling on property to the west (fronting Lowanna Avenue) across or towards the subject property due to the significant drop in land level that completely precludes the opportunity for any views whatsoever in this direction. Rather, the orientation of and hence views from this property are entirely to the west over Tumby Valley, not to the east. As such, no impact by way of view loss will result from the proposed development.

In addition and as can be clearly seen from the elevations, the new dwelling house responds to the slope and natural topography of the land by stepping down the site and incorporating living areas and bedrooms on different levels which significantly reduces the overall height, bulk and scale of the proposed development.

(f) to protect public open space from excessive overshadowing and to allow views to identify natural topographical features.

- As demonstrated by the shadow diagrams, the proposed development results no overshadowing of any public open space. Furthermore, due to the location of the proposed dwelling-house on the land (and those surrounding), its position slightly below the level of the road and the substantial size of the property and those surrounding (which has created large separation distances between residences), the proposed development is unlikely to restrict any existing views or lead to any additional loss of views of any natural topographical features from surrounding areas.

For the reasons outlined above, the objectives of the standard are achieved notwithstanding the non-compliance and therefore Wehbe test 1 is satisfied.

Test 1 is of most assistance in this matter in establishing that compliance with a development standard is unreasonable or unnecessary and that "the objectives of the standard are achieved notwithstanding non-compliance with the standard". The remainder of the Tests have little if any relevance to this variation request as indicated as follows:

Test 2 The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary

Not applicable. The underlying objective of the standard is relevant and has been achieved, as discussed in detail above.

Test 3 The underlying object or purpose of the standard would not be defeated or thwarted if compliance was required.

Not applicable.

Test 4 The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.

From a review of many dwelling-houses in the surrounding area (see photographs in Attachment 1), it appears that the height limit has been varied on many occasions, thereby providing evidence that the standard has been regularly abandoned, particularly in this locality. On this basis and in the particular circumstances of this case, there is extensive justification for granting a consent departing from the standard in this particular instance as well.

Test 5 The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Not applicable. The rationale for the R2 zoning of this property and the surrounding area appears sound. As such, the existence and applicability of this zoning is not in question as part of this request and not deemed to be inappropriate.

THE ENVIRONMENTAL PLANNING GROUNDS WHICH JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARDS IN CLAUSE 4.3 OF GLEP 2014

In response to Clause 4.6(3)(b), sufficient environmental planning grounds exist to justify departure from the development standard on this occasion as follows:

1. The proposed variations are entirely consistent with, or achieve, the objectives of the development standard identified in Clause 4.3(1) as discussed in detail above.
2. By actually contravening – or not complying with – the 8.5m development standard in this instance, an improved outcome is actually achieved. In this regard, to lower the height of the existing dwelling to comply with the 8.5m height requirement, would require substantial increases to the size of the existing building footprint to accommodate the proposed increase in floor space proposed and in turn, necessitate further excavation, earthworks and general disturbance of the site and local environment, which would in fact be contrary to the R2 zone objectives. This would also require a reduction in the existing setbacks which are all either compliant with or in excess of the requirements of the R2 zone and which would in fact lead to a greater adverse impact on privacy and overshadowing of adjoining properties.

This fact is further demonstrated by sheet no. DA17 of the amended plans, which graphically demonstrates how the floor plan and bulk of the building would be expanded further across the site and closer to the boundaries of adjoining properties if the same compliant floor space ratio was contained within a lower building and the potential additional impacts resulting from same. These impacts include:

- the building being 2m higher at the back;
- greater extent of shadows over adjoining properties to the south and west;
- loss of ventilation to the dwelling itself and potentially to the property to the south due to a longer building adjacent to the boundary;
- a bulkier building with a bigger floorplate;
- a loss of landscaped area on the site; and
- private open space being closer to neighbours.

Therefore, by allowing an increased height and minimising the building footprint (as well as retaining and re-using the existing concrete slab and foundations for the garage and dwelling), an improved built-form outcome and lesser impact on the environment and adjoining properties actually results.

3. The proposed development is compliant with all other standards and design requirements pertaining to dwellings in the R2 zone in Gosford DCP 2013 Chapter 3.1, as indicated in the DCP Compliance Table provided as a separate Appendix to SoEE. In this regard, the proposed dwelling-house meets (and many cases exceeds) all setbacks, provides satisfactory carparking and private open space (for both the dwelling and the secondary dwelling), is well under the maximum site coverage (in fact less than half of that allowable) and results in no adverse impacts on adjoining properties, all of which indicates that the proposed development is of an appropriate size, height, bulk and scale and directly proportionate (or commensurate) with the size and constraints of the site.
4. The encroachments only apply to small sections of the dwelling-house and essentially only comprise roof structures or the top section of the upper floor, with the majority of the dwelling-house being within the 8.5 metre height limit (see height plane on the elevations in the submitted plans).
5. The variation is essentially unavoidable due to the slope of the land and is contained to the front half (or top section) of the dwelling, where its impact is minimal and where the drop in the level of the road assists in reducing the apparent height of the structure.
6. The encroachments don't result in any adverse impact on any existing dwellings or on adjoining or nearby properties either by way of view loss, overshadowing, or overlooking and privacy due to:
 - the size and position of the subject property;
 - the extensive fall of the land (particularly to the west) such that no-one to the rear enjoys any views to the east; the fact there are no dwellings on the opposite side of the road, but rather a cliff (such that the height of the dwelling does not create any overlooking or impact on the streetscape);
 - the screening provided by the existing large trees along the rear (western) boundary which is to be retained;
 - the extent of vegetation on the property immediately to the south; and
 - the large roof of the dwelling-house on the property to the immediate north which includes only one window (see photographs in the SoEE).
7. The height of the building is consistent with the R2 zone objectives that allows dwellings up to 3 storeys where appropriate, noting that this dwelling house is essentially only two-storeys (and even one-storey) for the greater part.

8. Further to the above point, the overall height of the building is consistent with the height of many dwelling houses – particularly many constructed in the recent past – in the immediate vicinity which are 3-storey in nature and of similar (or even greater height) than the dwelling-house proposed. This is clearly shown in the photo-montage provided in Attachment 1.

THE PUBLIC INTEREST, CONSISTENCY WITH THE OBJECTIVES OF THE DEVELOPMENT STANDARD IN CLAUSE 4.3(2) AND THE OBJECTIVES FOR DEVELOPMENT WITHIN THE RS LOW DENSITY RESIDENTIAL ZONE

As discussed in detail in the preceding section of this submission, the proposed development is consistent with the relevant objectives of the development standard requested to be varied. In addition, the proposed development is consistent with the relevant objectives of the R2 zone as follows:

- *To provide for the housing needs of the community within a low-density residential environment.*
- *The proposed development involves replacement of an existing low-density dwelling-house with a new dwelling-house, as well as the provision of additional affordable accommodation to the rental market and therefore is consistent with this objective.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *As discussed extensively above, the proposed development is unlikely to have any adverse impact on the amenity of surrounding low-density residences by way of view loss, overshadowing or diminished privacy.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *Not applicable, as the use is residential in nature.*
- *To ensure that development is compatible with the desired future character of the zone.*
- *The façade of dwelling-house incorporates large windows and a range of materials and various articulations, verandahs and design features to avoid repetition in the external appearance. The upper floor balconies on the eastern side of the dwelling have also been setback a considerable distance from the side boundaries and orientated towards the east to limit any impact on the privacy of adjoining dwellings to the north or south. The incorporation of these features, in combination with the retention of major trees on the site, new fencing and upgraded landscaping, result in a high-quality built-form outcome to ensure the proposed development is entirely consistent with the desired future and emerging character of the surrounding area, (which falls within the "Forresters Beach 3: Open Woodland Hillside" area of the Forresters Beach Character Statement under Chapter 2.1 of Gosford DCP 2013). Extensive further discussion as to how the proposed development is consistent with the desired future character identified for this area is provided within section 4.4.1 of the SoEE.*
- *To encourage best practice in the design of low-density residential development.*
- *To promote ecologically, socially and economically sustainable development and the need for, and value of, biodiversity in Gosford.*

- The proposed development will limit excavation and minimise impact on the environment and hence promote more sustainable development, thereby achieving both these objectives (which operate in tandem). This will occur via retention of the existing slab beneath the dwelling, the suspended slab and associated piers and underground rainwater tank to the north of the dwelling, and the existing concrete block and crib retaining walls in the rear yard and along the side boundaries. The proposed development will also utilise industry best-practice construction practices and site management techniques which are both environmentally responsible and sustainable, including soil and erosion controls, use of non-corrosion or residue causing materials and recycled or environmentally-sourced timber, cladding and other materials where possible.

Further to the above point, retaining/re-using the existing excavation avoids excavating further and deeper into the site, which would cause issues with water ingress and trigger the need for further waterproofing and other preventative measures which are both costly and potentially damaging to the structure.

- *To ensure that non-residential land uses do not adversely affect residential amenity or place demands on services beyond the level reasonably required for low-density housing.*
- Not applicable, as the use is residential in nature.

CONCLUSION

It is clear from the above discussion that the variation proposed to the height limit referenced under clause 4(3) of Gosford LEP 2014 will have little adverse impact on surrounding properties; meets the underlying objectives behind the 8.5 metre height limit; satisfies the objectives of the R2 zone; and results in a better built-form outcome being achieved. On this basis, the encroachment and variation requested is clearly justified.

The proposed variation is therefore consistent with Clause 4.6 of the GLEP, which provides an appropriate degree of flexibility in the application of development standards to permit a particular development where warranted. To this end, the preceding submission satisfies the considerations requiring assessment in sub-clause (3) and demonstrates as follows:

1. strict compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
2. there are sufficient environmental planning grounds to justify contravening the development standard;
3. the proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives of the R2 zone in which the development is proposed to be carried out; and
4. departure from the standard on this occasion will achieve an improved built form outcome, have a negligible impact on any surrounding residences or properties and will not raise any matter of significance for state or regional environmental planning.

Therefore, the request for a departure from the development standard in relation to the maximum height of buildings referenced under Clause 4.3 of Gosford LEP 2014 to permit the proposed development is considered worthy of support.

Tim Shelley
Director – Tim Shelley Planning



Bachelor Urban and Regional Planning, University of New England

ATTACHMENT

PHOTOMONTAGE OF DWELLING-HOUSES IN SURROUNDING AREA THAT EXCEED THE 8.5M HEIGHT LIMIT AND/OR ARE 3-STOREYS IN HEIGHT



34 North Scenic Rd



22 North Scenic Rd



12 North Scenic Rd



8 North Scenic Rd



4/4A North Scenic Rd



1 South Scenic Rd

3.1

DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place

Attachment 3

Clause 4.6 to GLEP Height Rev B May 2022 DA63207/2021, H1 Yumbool Close FORRESTERS BEACH



3 South Scenic Rd



9 South Scenic Rd



15 South Scenic Rd



17 South Scenic Rd



61A Forresters Beach Rd



16 Yumbool Cl

BASIX[®]Certificate

Building Sustainability Index www.basix.nsw.gov.au

Multi Dwelling

Certificate number: 1203618M_02

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Definitions" dated 10/09/2020 published by the Department. This document is available at www.basix.nsw.gov.au

This certificate is a revision of certificate number 1203618M lodged with the consent authority or certifier on 20 August 2021 with application DA63207/2021.

It is the responsibility of the applicant to verify with the consent authority that the original, or any revised certificate, complies with the requirements of Schedule 1 Clause 2A, 4A or 6A of the Environmental Planning and Assessment Regulation 2000

Secretary

Date of issue: Thursday, 05 May 2022

To be valid, this certificate must be lodged within 3 months of the date of issue.



Planning,
Industry &
Environment

Project summary		
Project name	Hajje Forresters_02	
Street address	1 Yumbool Close Forresters Beach 2260	
Local Government Area	Central Coast Council	
Plan type and plan number	deposited 16577	
Lot no.	109	
Section no.	-	
No. of residential flat buildings	0	
No. of units in residential flat buildings	0	
No. of multi-dwelling houses	2	
No. of single dwelling houses	0	
Project score		
Water	✓ 56	Target 40
Thermal Comfort	✓ Pass	Target Pass
Energy	✓ 62	Target 50

Certificate Prepared by
Name / Company Name: Ab3d Building Design
ABN (if applicable): 50205429182

Description of project

Project address	
Project name	Hajje Forresters_02
Street address	1 Yumbool Close Forresters Beach 2260
Local Government Area	Central Coast Council
Plan type and plan number	deposited 16577
Lot no.	109
Section no.	-
Project type	
No. of residential flat buildings	0
No. of units in residential flat buildings	0
No. of multi-dwelling houses	2
No. of single dwelling houses	0
Site details	
Site area (m ²)	916.8
Roof area (m ²)	448.1
Non-residential floor area (m ²)	0.0
Residential car spaces	6
Non-residential car spaces	0

Common area landscape	
Common area lawn (m ²)	0.0
Common area garden (m ²)	0.0
Area of indigenous or low water use species (m ²)	0.0
Assessor details	
Assessor number	20920
Certificate number	0006231290
Climate zone	15
Ceiling fan in at least one bedroom	No
Ceiling fan in at least one living room or other conditioned area	No
Project score	
Water	✔ 56 Target 40
Thermal Comfort	✔ Pass Target Pass
Energy	✔ 62 Target 50

Description of project

The tables below describe the dwellings and common areas within the project

Multi-dwelling houses

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
1	4 or more bedrooms	295.33	333.03	198.7	331.66
Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
2	2	55.6	4.4	99.3	15.83

No common areas specified.

Schedule of BASIX commitments

1. Commitments for multi-dwelling houses

(a) Dwellings

- (i) Water
- (ii) Energy
- (iii) Thermal Comfort

2. Commitments for single dwelling houses

3. Commitments for common areas and central systems/facilities for the development (non-building specific)

- (i) Water
- (ii) Energy

Schedule of BASIX commitments

The commitments set out below regulate how the proposed development is to be carried out. It is a condition of any development consent granted, or complying development certificate issued, for the proposed development, that BASIX commitments be complied with.

1. Commitments for multi-dwelling houses

(a) Dwellings

(i) Water	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must comply with the commitments listed below in carrying out the development of a dwelling listed in a table below.			
(b) The applicant must plant indigenous or low water use species of vegetation throughout the area of land specified for the dwelling in the "Indigenous species" column of the table below, as private landscaping for that dwelling. (This area of indigenous vegetation is to be contained within the "Area of garden and lawn" for the dwelling specified in the "Description of Project" table).	✓	✓	
(c) If a rating is specified in the table below for a fixture or appliance to be installed in the dwelling, the applicant must ensure that each such fixture and appliance meets the rating specified for it.		✓	✓
(d) The applicant must install an on demand hot water recirculation system which regulates all hot water use throughout the dwelling, where indicated for a dwelling in the "HW recirculation or diversion" column of the table below.		✓	✓
(e) The applicant must install:			
(aa) a hot water diversion system to all showers, kitchen sinks and all basins in the dwelling, where indicated for a dwelling in the "HW recirculation or diversion" column of the table below; and		✓	✓
(bb) a separate diversion tank (or tanks) connected to the hot water diversion systems of at least 100 litres. The applicant must connect the hot water diversion tank to all toilets in the dwelling.		✓	✓
(e) The applicant must not install a private swimming pool or spa for the dwelling, with a volume exceeding that specified for it in the table below.	✓	✓	
(f) If specified in the table, that pool or spa (or both) must have a pool cover or shading (or both).		✓	
(g) The pool or spa must be located as specified in the table.	✓	✓	
(h) The applicant must install, for the dwelling, each alternative water supply system, with the specified size, listed for that dwelling in the table below. Each system must be configured to collect run-off from the areas specified (excluding any area which supplies any other alternative water supply system), and to divert overflow as specified. Each system must be connected as specified.	✓	✓	✓

DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place

Attachment 4**BASIX Certificate 1 Yumbool Close, Forresters Beach DA/63207/2021**

Dwelling no.	Fixtures					Appliances		Individual pool				Individual spa		
	All shower-heads	All toilet flushing systems	All kitchen taps	All bathroom taps	HW recirculation or diversion	All clothes washers	All dish-washers	Volume (max volume)	Pool cover	Pool location	Pool shaded	Volume (max volume)	Spa cover	Spa shaded
1	4 star (> 6 but <= 7.5 L/min)	5 star	5 star	5 star	no	-	-	36.0	yes	outdoors	no	-	-	-
All other dwellings	4 star (> 6 but <= 7.5 L/min)	5 star	5 star	5 star	no	-	-	-	-	-	-	-	-	-

Alternative water source								
Dwelling no.	Alternative water supply systems	Size	Configuration	Landscape connection	Toilet connection (s)	Laundry connection	Pool top-up	Spa top-up
1	individual water tank (no. 1)	Tank size (min) 5000.0 litres	To collect run-off from at least: 226.0 square metres of roof area; 0.0 square metres of impervious area; 0.0 square metres of garden and lawn area; and 0.0 square metres of planter box area.	yes	yes	yes	yes	-
All other dwellings	individual water tank (no. 2)	Tank size (min) 5000.0 litres	To collect run-off from at least: 226.0 square metres of roof area; 0.0 square metres of impervious area; 0.0 square metres of garden and lawn area; and 0.0 square metres of planter box area.	yes	yes	yes	-	-

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must comply with the commitments listed below in carrying out the development of a dwelling listed in a table below.			

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(b) The applicant must install each hot water system specified for the dwelling in the table below, so that the dwelling's hot water is supplied by that system. If the table specifies a central hot water system for the dwelling, then the applicant must connect that central system to the dwelling, so that the dwelling's hot water is supplied by that central system.	✓	✓	✓
(c) The applicant must install, in each bathroom, kitchen and laundry of the dwelling, the ventilation system specified for that room in the table below. Each such ventilation system must have the operation control specified for it in the table.		✓	✓
(d) The applicant must install the cooling and heating system/s specified for the dwelling under the "Living areas" and "Bedroom areas" headings of the "Cooling" and "Heating" columns in the table below, in/for at least 1 living/bedroom area of the dwelling. If no cooling or heating system is specified in the table for "Living areas" or "Bedroom areas", then no systems may be installed in any such areas. If the term "zoned" is specified beside an air conditioning system, then the system must provide for day/night zoning between living areas and bedrooms.		✓	✓
(e) This commitment applies to each room or area of the dwelling which is referred to in a heading to the "Artificial lighting" column of the table below (but only to the extent specified for that room or area). The applicant must ensure that the "primary type of artificial lighting" for each such room in the dwelling is fluorescent lighting or light emitting diode (LED) lighting. If the term "dedicated" is specified for a particular room or area, then the light fittings in that room or area must only be capable of being used for fluorescent lighting or light emitting diode (LED) lighting.		✓	✓
(f) This commitment applies to each room or area of the dwelling which is referred to in a heading to the "Natural lighting" column of the table below (but only to the extent specified for that room or area). The applicant must ensure that each such room or area is fitted with a window and/or skylight.	✓	✓	✓
(g) This commitment applies if the applicant installs a water heating system for the dwelling's pool or spa. The applicant must: (aa) install the system specified for the pool in the "Individual Pool" column of the table below (or alternatively must not install any system for the pool). If specified, the applicant must install a timer, to control the pool's pump; and (bb) install the system specified for the spa in the "Individual Spa" column of the table below (or alternatively must not install any system for the spa). If specified, the applicant must install a timer to control the spa's pump.		✓ ✓	
(h) The applicant must install in the dwelling: (aa) the kitchen cook-top and oven specified for that dwelling in the "Appliances & other efficiency measures" column of the table below; (bb) each appliance for which a rating is specified for that dwelling in the "Appliances & other efficiency measures" column of the table, and ensure that the appliance has that minimum rating; and (cc) any clothes drying line specified for the dwelling in the "Appliances & other efficiency measures" column of the table.		✓ ✓ ✓	✓
(i) If specified in the table, the applicant must carry out the development so that each refrigerator space in the dwelling is "well ventilated".		✓	
(j) The applicant must install the photovoltaic system specified for the dwelling under the "Photovoltaic system" heading of the "Alternative energy" column of the table below, and connect the system to that dwelling's electrical system.	✓	✓	✓

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Attachment 4**BASIX Certificate 1 Yumbool Close, Forresters Beach DA/63207/2021**

	Hot water		Bathroom ventilation system		Kitchen ventilation system		Laundry ventilation system	
Dwelling no.	Hot water system	Each bathroom	Operation control	Each kitchen	Operation control	Each laundry	Operation control	
1	solar (electric boosted) 31 to 35 STCs	individual fan, ducted to façade or roof	manual switch on/off	individual fan, ducted to façade or roof	manual switch on/off	individual fan, ducted to façade or roof	manual switch on/off	
All other dwellings	electric instantaneous	individual fan, ducted to façade or roof	manual switch on/off	individual fan, ducted to façade or roof	manual switch on/off	individual fan, ducted to façade or roof	manual switch on/off	

	Cooling		Heating		Artificial lighting					Natural lighting		
Dwelling no.	living areas	bedroom areas	living areas	bedroom areas	No. of bedrooms &/or study	No. of living &/or dining rooms	Each kitchen	All bathrooms/toilets	Each laundry	All hallways	No. of bathrooms &/or toilets	Main kitchen
1	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3	3 (dedicated)	yes	yes	yes	yes	0	-			
All other dwellings	3-phase airconditioning EER 3.0 - 3.5	ceiling fans	3-phase airconditioning EER 3.0 - 3.5	-	2	1 (dedicated)	yes	yes	yes	yes	0	-

	Individual pool		Individual spa		Appliances & other efficiency measures							
Dwelling no.	Pool heating system	Timer	Spa heating system	Timer	Kitchen cooktop/oven	Refrigerator	Well ventilated fridge space	Dishwasher	Clothes washer	Clothes dryer	Indoor or sheltered clothes drying line	Private outdoor or unsheltered clothes drying line
1	no heating	yes	-	-	gas cooktop & electric oven	-	yes	-	-	-	no	yes
All other dwellings	-	-	-	-	gas cooktop & electric oven	-	yes	-	-	-	no	yes

		Alternative energy		
Dwelling no.		Photovoltaic system (min rated electrical output in peak kW)		
1		3.0		
All other dwellings		-		

(iii) Thermal Comfort	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must attach the certificate referred to under "Assessor details" on the front page of this BASIX certificate (the "Assessor Certificate") to the development application and construction certificate application for the proposed development (or, if the applicant is applying for a complying development certificate for the proposed development, to that application). The applicant must also attach the Assessor Certificate to the application for a final occupation certificate for the proposed development.			
(b) The Assessor Certificate must have been issued by an Accredited Assessor in accordance with the Thermal Comfort Protocol.			
(c) The details of the proposed development on the Assessor Certificate must be consistent with the details shown in this BASIX Certificate, including the details shown in the "Thermal Loads" table below.			
(d) The applicant must show on the plans accompanying the development application for the proposed development, all matters which the Thermal Comfort Protocol requires to be shown on those plans. Those plans must bear a stamp of endorsement from the Accredited Assessor, to certify that this is the case.	✓		
(e) The applicant must show on the plans accompanying the application for a construction certificate (or complying development certificate, if applicable), all thermal performance specifications set out in the Assessor Certificate, and all aspects of the proposed development which were used to calculate those specifications.		✓	
(f) The applicant must construct the development in accordance with all thermal performance specifications set out in the Assessor Certificate, and in accordance with those aspects of the development application or application for a complying development certificate which were used to calculate those specifications.		✓	✓
(g) Where there is an in-slab heating or cooling system, the applicant must: (aa) Install insulation with an R-value of not less than 1.0 around the vertical edges of the perimeter of the slab; or (bb) On a suspended floor, install insulation with an R-value of not less than 1.0 underneath the slab and around the vertical edges of the perimeter of the slab.	✓	✓	✓
(h) The applicant must construct the floors and walls of the development in accordance with the specifications listed in the table below.	✓	✓	✓

Thermal loads		
Dwelling no.	Area adjusted heating load (in mJ/m ² /yr)	Area adjusted cooling load (in mJ/m ² /yr)
1	54.7	15.6
All other dwellings	56.0	20.5

Construction of floors and walls					
Dwelling no.	Concrete slab on ground(m ²)	Suspended floor with open subfloor (m ²)	Suspended floor with enclosed subfloor (m ²)	Suspended floor above garage (m ²)	Primarily rammed earth or mudbrick walls
1	69	52	46	56	No
All other dwellings	-	49	11	-	No

3. Commitments for common areas and central systems/facilities for the development (non-building specific)

(b) Common areas and central systems/facilities

(i) Water	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a showerhead, toilet, tap or clothes washer into a common area, then that item must meet the specifications listed for it in the table.		✓	✓
(b) The applicant must install (or ensure that the development is serviced by) the alternative water supply system(s) specified in the "Central systems" column of the table below. In each case, the system must be sized, be configured, and be connected, as specified in the table.	✓	✓	✓
(c) A swimming pool or spa listed in the table must not have a volume (in kLs) greater than that specified for the pool or spa in the table.	✓	✓	
(d) A pool or spa listed in the table must have a cover or shading if specified for the pool or spa in the table.		✓	
(e) The applicant must install each fire sprinkler system listed in the table so that the system is configured as specified in the table.		✓	✓
(f) The applicant must ensure that the central cooling system for a cooling tower is configured as specified in the table.		✓	✓

Common area	Showerheads rating	Toilets rating	Taps rating	Clothes washers rating
All common areas	no common facility	no common facility	no common facility	no common laundry facility

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a ventilation system to service a common area specified in the table below, then that ventilation system must be of the type specified for that common area, and must meet the efficiency measure specified.		✓	✓
(b) In carrying out the development, the applicant must install, as the "primary type of artificial lighting" for each common area specified in the table below, the lighting specified for that common area. This lighting must meet the efficiency measure specified. The applicant must also install a centralised lighting control system or Building Management System (BMS) for the common area, where specified.		✓	✓
(c) The applicant must install the systems and fixtures specified in the "Central energy systems" column of the table below. In each case, the system or fixture must be of the type, and meet the specifications, listed for it in the table.	✓	✓	✓

Central energy systems	Type	Specification
Alternative energy supply	Photovoltaic system	Rated electrical output (min): 3.0 peak kW

Notes

1. In these commitments, "applicant" means the person carrying out the development.
2. The applicant must identify each dwelling, building and common area listed in this certificate, on the plans accompanying any development application, and on the plans and specifications accompanying the application for a construction certificate / complying development certificate, for the proposed development, using the same identifying letter or reference as is given to that dwelling, building or common area in this certificate.
3. This note applies if the proposed development involves the erection of a building for both residential and non-residential purposes (or the change of use of a building for both residential and non-residential purposes). Commitments in this certificate which are specified to apply to a "common area" of a building or the development, apply only to that part of the building or development to be used for residential purposes.
4. If this certificate lists a central system as a commitment for a dwelling or building, and that system will also service any other dwelling or building within the development, then that system need only be installed once (even if it is separately listed as a commitment for that other dwelling or building).
5. If a star or other rating is specified in a commitment, this is a minimum rating.
6. All alternative water systems to be installed under these commitments (if any), must be installed in accordance with the requirements of all applicable regulatory authorities. NOTE: NSW Health does not recommend that stormwater, recycled water or private dam water be used to irrigate edible plants which are consumed raw, or that rainwater be used for human consumption in areas with potable water supply.

Legend

1. Commitments identified with a "✔" in the "Show on DA plans" column must be shown on the plans accompanying the development application for the proposed development (if a development application is to be lodged for the proposed development).
2. Commitments identified with a "✔" in the "Show on CC/CDC plans and specs" column must be shown in the plans and specifications accompanying the application for a construction certificate / complying development certificate for the proposed development.
3. Commitments identified with a "✔" in the "Certifier check" column must be certified by a certifying authority as having been fulfilled. (Note: a certifying authority must not issue an occupation certificate (either interim or final) for a building listed in this certificate, or for any part of such a building, unless it is satisfied that each of the commitments whose fulfilment it is required to monitor in relation to the building or part, has been fulfilled).

1. PARAMETERS OF THIS CONSENT

1.1 Approved Plans and Supporting Documents

Implement the development substantially in accordance with the plans and supporting documents listed below as submitted by the applicant and to which is affixed a Council stamp "*Development Consent*" unless modified by any following condition.

Architectural Plans by: AB3D Building Design

Drawing	Description	Sheets	Issue	Date
C & B Hajje	Plans	12	B	5/05/2022
Southern Section and View	Site analysis plan &	2	-	5/05/2022

Supporting Documentation:

Title	Prepared by	Date
Bushfire Assessment Report	Building Code & bushfire Hazard Solutions Pty Limited, reference 211493	4th March 2022
NSW RFS Report	Reference DA20220312006025-Original-1	4 May 2022
BASIX Certificate Number 1203618M_02	Ab3d Building Design	05 May 2022
Geotechnical Report	D. Katauskas, reference 1382	31 January 2022

- 1.2 Carry out all building works in accordance with the National Construction Code Series, Building Code of Australia, Volume 1 and 2 as appropriate.
- 1.3 Comply with all commitments listed in the BASIX Certificate for the development as required under clause 97A of the Environmental Planning and Assessment Regulation 2000.

2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

- 2.1 All conditions under this section must be met prior to the issue of any Construction Certificate.
- 2.2 Pay to Council a contribution amount of **\$1,000.00**, that may require adjustment at time of payment, in accordance with the Central Coast Regional Section 7.12 Development Contribution Plan 2019.

The total amount to be paid must be indexed each quarter in accordance with the Consumer Price Index (All Groups index) for Sydney issued by the Australian Statistician as outlined in the contribution plan.

Contact Council's Contributions Planner on 1300 463 954 for an up-to-date contribution payment amount.

Any Construction Certificate must not be issued until the developer has provided the Certifier with a copy of a receipt issued by Council that verifies the contributions have been paid. A copy of this receipt must accompany the documents submitted by the principal certifier to Council under Clause 104/Clause 160(2) of the *Environmental Planning and Assessment Regulation 2000*.

A copy of the Contribution Plan may be inspected at the offices of Central Coast Council, 49 Mann Street Gosford, or 2 Hely Street Wyong or on Council's website:

[Development Contributions - former Gosford LGA](#)

3.1

DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place

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2.3 No activity is to be carried out on-site until the Construction Certificate has been issued, other than:

CH

- a. Site investigation for the preparation of the construction, and / or
- b. Implementation of environmental protection measures, such as erosion control and the like that are required by this consent
- c. Demolition

2.4 Submit to the Registered Certifier a report prepared by a suitably qualified Registered Structural Engineer providing certification that the existing structure is capable of accepting all anticipated live and dead loads imposed by the proposed addition. The report is to include any recommendations on the structural upgrade of the existing structure.

2.5 Assessment of the development against the provisions of Planning for Bush Fire Protection (2019) (NSW) has determined a Bush Fire Attack level (BAL) of 29.
Submit to the Registered Certifier for approval construction details showing that the development complies with this Bush Fire Attack Level (BAL) as prescribed by Australian Standard AS 3959-2018: Construction of buildings in bush fire prone areas and (where applicable) the additional measures contained within section 7.5.2 – 'NSW State variations to AS3959' of Planning for Bush Fire Protection (2019) (NSW).

2.6 The lower storey is to have internal access from the lobby area to the rumpus room via an internal door.

2.7 Submit to Council as the Roads Authority an application for a vehicle access crossing including payment of the application fee.

2.8 Submit an application to Council under section 305 of the Water Management Act 2000 for a section 307 certificate of compliance. The Application form can be found on Council's website centralcoast.nsw.gov.au. Early application is recommended.

The section 305 application will result in a section 306 letter of requirements which must be obtained prior to the issue of any Construction Certificate. The requirements letter will outline which requirements must be met prior to each development milestone eg. prior to construction certificate, subdivision works certificate, occupation certificate and/or subdivision certificate.

3. PRIOR TO COMMENCEMENT OF ANY WORKS

3.1 All conditions under this section must be met prior to the commencement of any works.

3.2 Appoint a Principal Certifier for the building work:

- a. The Principal Certifier (if not Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than two (2) days before the building work commences.
- b. Submit to Council a Notice of Commencement of Building Work form giving at least two (2) days' notice of the intention to commence building work. The forms can be found on Council's website: www.centralcoast.nsw.gov.au

3.1

DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place

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3.3

Erect a sign in a prominent position on any work site on which building, subdivision or demolition work is being carried out. The sign must indicate:

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- a. The name, address and telephone number of the Principal Certifier for the work; and
- b. The name of the principal contractor and a telephone number at which that person can be contacted outside of working hours; and
- c. That unauthorised entry to the work site is prohibited
- d. Remove the sign when the work has been completed.

3.4

Submit both a Plumbing and Drainage Inspection Application, with the relevant fee, and a Plumbing and Drainage Notice of Work in accordance with the Plumbing and Drainage Act 2011 (to be provided by licensed plumber). These documents can be found on Council's website at: www.centralcoast.nsw.gov.au

Contact Council prior to submitting these forms to confirm the relevant fees.

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage). This condition does not apply to swimming pool plumbing that does not physically connect / break into the sewer system.

3.5

Provide and maintain a garbage receptacle at the work site until the works are completed. The garbage receptacle must have a tight fitting lid and be suitable for food scraps and papers.

3.6

Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- a. erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- b. diverting uncontaminated run-off around cleared or disturbed areas, and
- c. preventing the tracking of sediment by vehicles onto roads, and
- d. stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot

3.7

Disconnect, seal and make safe all existing site services prior to the commencement of any demolition on the site. Sewer and water services must be disconnected by a licensed plumber and drainer with a Start Work Docket submitted to Council's Plumbing and Drainage Inspector as the Water and Sewer Authority.

3.8

Provide certification to the Principal Certifier that the structural engineer's details have been prepared in accordance with the recommendations of the geotechnical report(s) listed as supporting documentation in this development consent.

3.9

Erect a temporary hoarding or temporary construction site fence between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works, if the works:

- a. could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
- b. could cause damage to adjoining lands by falling objects, or
- c. involve the enclosure of a public place or part of a public place

Note 1: A structure on public land or on or over a public road requires the prior approval of the relevant authority under the [Local Government Act 1993](#) or the [Roads Act 1993](#), respectively.

Note 2: The [Work Health and Safety Act 2011](#) and [Work Health and Safety Regulation 2011](#) contain provisions relating to scaffolds, hoardings and other temporary structures.

3.1

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- 3.10** Provide or make available toilet facilities at the work site before works begin and maintain the facilities until the works are completed at a ratio of one toilet plus one additional toilet for every twenty (20) persons employed at the site. **CH**

Each toilet must:

- a. be a standard flushing toilet connected to a public sewer, or
- b. have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- c. be a temporary chemical closet approved under the *Local Government Act 1993*

- 3.11** Undertake any demolition involving asbestos in accordance with the *Work Health and Safety Act 2011*.

The person having the benefit of this consent must ensure that the removal of:

- a. more than 10m² of non-friable asbestos or asbestos containing material is carried out by a licensed non-friable (Class B) or a friable (Class A) asbestos removalist, and
- b. friable asbestos of any quantity is removed by a licensed removalist with a friable (Class A) asbestos removal licence

The licensed asbestos removalist must give notice to the regulator before work commences in accordance with Clause 466 of the *Work Health and Safety Regulation 2011*.

- 3.12** From the start of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire property must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019. When establishing and maintaining an IPA the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;
- tree canopies should be separated by 2 to 5m;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover;
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

4. DURING WORKS

- 4.1** All conditions under this section must be met during works.
- 4.2** Carry out construction or demolition works during the construction phase of the development only between the hours as follows:
- 7.00am and 5.00pm Monday to Saturday

No construction or demolition works associated with the development are permitted to be carried out at any time on a Sunday or a public holiday.

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4.3 During the construction phase of the development, if any Aboriginal object (including evidence of habitation or remains), is discovered during the course of the work:

CH

- a. All excavation or disturbance of the area must stop immediately in that area, and
- b. The Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the National Parks and Wildlife Act 1974.

Note: If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the National Parks and Wildlife Act 1974.

- 4.4** Implement and maintain all erosion and sediment control measures at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
- 4.5** Keep a copy of the stamped approved plans on-site for the duration of site works and make the plans available upon request to either the Principal Certifier or an officer of Council.
- 4.6** Notify Council when plumbing and drainage work will be ready for inspection(s) and make the work accessible for inspection in accordance with the Plumbing and Drainage Act 2011.

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).

- 4.7** Place all building materials, plant and equipment on the site of the development during the construction phase of the development so as to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure. Further, no construction work is permitted to be carried out within the road reserve unless the works are associated with a separate approval issued under the provisions of the *Roads Act 1993*.
- 4.8** Re-use, recycle or dispose of all building materials in accordance with the Waste Management Plan submitted with the subject application.
- 4.9** Erect or install prior to the swimming pool being filled with water all the required swimming pool safety barriers and gates in accordance with the approved plans and specifications and the provisions of the *Swimming Pools Act 1992*, *Swimming Pools Regulations 2018* and Australian Standard AS 1926.1-2012 including the display of an approved sign regarding pool safety and resuscitation techniques that contains all of the following information:
 - "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL"
 - "POOL GATES MUST BE KEPT CLOSED AT ALL TIMES"
 - "KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900mm CLEAR OF THE POOL FENCE AT ALL TIMES" and
 - A simple flow sequence (which may be the flow sequence depicted in the Cardiopulmonary Resuscitation Guideline) containing details of resuscitation techniques (for infants, children and adults)
- 4.10** Do not fill the swimming pool with water until the common boundary fence forming part of the pool enclosure has been installed with a minimum height of 1.8 metres when measured inside the pool enclosure in accordance with the provisions of Australian Standard AS 1926.1 2012. The maintenance and effectiveness of the fence is the responsibility of the pool owner whilst ever the pool exists.

Alternatively, the pool must be fully enclosed by swimming pool safety fencing complying with the provisions of Australian Standard AS 1926.1-2012 in lieu of any boundary fencing.

- 4.11** Dispose filter backwash and overflow to the sewer. The sewer connection must be completed prior to the filling of the pool with water and in a manner that will not cause a nuisance, or where sewer is not available, the disposal of filter backwash must be discharged into a rubble absorption trench to the satisfaction of the Principal Certifier.

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4.12 Demolish all buildings and / or building components in a safe and systematic manner in accordance with Australian Standard AS 2601-2001: *The demolition of structures*. Waste materials must be disposed of at a waste management facility. **CH**

4.13 No fill other than that as indicated within the approved plans is permitted to be placed upon the site.

4.14 Implement all recommendations of the geotechnical report(s) listed as supporting documentation in this development consent.

4.15 After major excavation works and before footings / piers are placed a currently insured geotechnical engineer must inspect the foundation materials and provide written certification to the principle certifier that the foundations are as per the report recommendations and are safe / serviceable.

4.16 The provision of water, electricity and gas must comply with the following in accordance with Table 7.4a of Planning for Bush Fire Protection 2019:

- reticulated water is to be provided to the development where available;
- all above-ground water service pipes external to the building are metal, including and up to any taps;
- where practicable, electrical transmission lines are underground;
- where overhead, electrical transmission lines are proposed as follows:
 - a) lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
 - b) no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used;
- all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
- connections to and from gas cylinders are metal;
- polymer sheathed flexible gas supply - lines are not used; and
- Above-ground gas service pipes are metal, including and up to any outlets.

4.17 Landscaping within the required asset protection zone must comply with Appendix 4 of Planning for Bush Fire Protection 2019. In this regard, the following principles are to be incorporated:

- A minimum 1 metre wide area, suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;
- Planting is limited in the immediate vicinity of the building;
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
- Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do not touch or overhang buildings;
- Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

5. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE

5.1 All conditions under this section must be met prior to the issue of any Occupation Certificate.

3.1

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- 5.2 Submit a Certificate of Compliance for all plumbing and drainage work and a Sewer Service Diagram showing sanitary drainage work (to be provided by licensed plumber) in accordance with the Plumbing and Drainage Act 2011.

CH

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).

- 5.3 Provide mail receptacles appropriately numbered for each dwelling unit in the development, as well as for the managing body, in consultation with Australia Post.
- 5.4 Contact Council's Land Information Officer or email ask@centralcoast.nsw.gov.au for allocation of a street address for the Secondary Dwelling.
- 5.5 Install a rainwater tank with a minimum capacity of 2,000 litres for the swimming pool and a separate 2,000 litres for the secondary dwelling. For the principle dwelling an additional 8,000 litres is required. The site total of 12,000 litres can be split across two or three tanks. The tanks should be fitted with suitable plumbing connections to collect rainwater from all of roof area as detailed within the approved development plans. The required rainwater tanks are to be installed in accordance with the requirements of the National Plumbing and Drainage Code Australian Standard AS 3500 and must be provided with first flow diversion devices fixed to all inflows and a functioning pressure pump plumbed to service all WC's, at least one out door garden tap located within 10 metres of the swimming pool water's edge and the washing machine cold water tap plus any other taps as per the BASIX certificate. The required tank must be controlled in order that supplemental flow from domestic mains does not take place until the capacity of the tank has been reduced to 20%. All overflow must be connected via piped drainage line to street kerb outlet or street water table / a legal allotment drainage line where available.
- 5.6 No roof water is to be directed to the rear of the lot via the former gentlemen's agreement.
- 5.7 Construct the vehicle access crossing in accordance with the vehicle access crossing Notice of Determination issued by Council.

6. ONGOING OPERATION

- 6.1 Operate and maintain all external lighting so as not to impact on any adjoining property.
- 6.2 Do not adapt or use the non-habitable garage or outbuilding for residential, commercial or industrial purposes.
- 6.3 Do not let, adapt or use the principle dwelling for separate occupation in two or more parts.
- 6.4 Insulate and / or isolate the motor, filter, pump and all sound producing equipment or fitting associated with or forming part of the pool filtering system so as not to create an offensive noise to the occupants of the adjoining premises as defined in the *Protection of the Environment Operations Act 1997*.

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6.5

Into perpetuity to ensure ongoing protection from the impact of bush fires, the entire property must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019. When establishing and maintaining an IPA the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;
- tree canopies should be separated by 2 to 5m;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover;
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

6.6

Do not change the location of the Vehicle Access Crossing without prior written approval from Council.

7. PENALTIES

7.1

Failure to comply with this development consent and any condition of this consent may be a criminal offence. Failure to comply with other environmental laws may also be a criminal offence.

Where there is any breach Council may without any further warning:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

Warnings as to Potential Maximum Penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and / or custodial sentences for serious offences.

ADVISORY NOTES

- Discharge of sediment from a site may be determined to be a pollution event under provisions of the *Protection of the Environment Operations Act 1997*. Enforcement action may commence where sediment movement produces a pollution event.
- The following public authorities may have separate requirements in the following aspects:
 - a. Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments
 - b. Jemena Asset Management for any change or alteration to the gas line infrastructure
 - c. Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements
 - d. Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure
 - e. Central Coast Council in respect to the location of water, sewerage and drainage services
- Carry out all work under this Consent in accordance with SafeWork NSW requirements including the *Workplace Health and Safety Act 2011 No 10* and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.

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Attachment 5**Proposed Conditions Summary DA/63207/2021 H1 Yumbool Close FORRESTERS**

- Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

- Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.

- Install and maintain backflow prevention device(s) in accordance with Council's WS4.0 Backflow Prevention Containment Policy. This policy can be found on Council's website: www.centralcoast.nsw.gov.au

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).

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