

# Central Coast

## Local Planning Panel

Central Coast  
Local Planning Panel Meeting  
Business Paper  
**15 February 2024**



# Meeting Notice

**The Local Planning Panel Meeting  
of Central Coast  
will be held remotely - online,  
Thursday 15 February 2024 at 2.00 pm,  
for the transaction of the business listed below:**

<b>1</b>	<b>Procedural Items</b>	
1.1	Disclosures of Interest .....	3
<b>2</b>	<b>Confirmation of Minutes of Previous Meetings</b>	
2.1	Confirmation of Minutes of Previous Meeting .....	4
<b>3</b>	<b>Planning Reports</b>	
3.1	DA/4112/2022 - 15 Allfield Road WOY WOY .....	28
<b>4</b>	<b>Planning Reports- Outside of Public Meeting</b>	
4.1	Land and Environment Court Proceedings Class 1 - Case 2023/00065846 - Appeal of Deemed Refusal - Central Coast Council ats CCS Design Pty Ltd - DA/3337/2022 - 16 Sydney Avenue Umina Beach .....	84
<b>5</b>	<b>Reports</b>	
5.1	Supplementary Report - DA/60589/2020 - Dwelling House and Garage - 129 Alan Street, Niagara Park .....	85
5.2	DA/1436/2023 - 52-54 Fishermans Parade, Daleys Point - Alterations & Additions .....	152

Donna Rygate  
**Chairperson**

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

**Central Coast**  
Local Planning Panel

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15 February 2024 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 Services

**Central Coast**  
Local Planning Panel

15 February 2024 Local Planning Panel Meeting

Reference: F2020/02502 - D15995528

Author: Lisa Martin, Civic Support Officer Civic Support

### Summary







*The Minutes of the following Meeting 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 30 November 2023***
- ***Local Planning Panel Meeting held on 7 December 2023***
- ***Local Planning Panel Meeting held on 14 December 2023***

### Recommendation

***That the minutes of the previous Local Planning Panel Meeting held on 30 November 2023, 7 December 2023 and 14 December 2023 which was endorsed by the Chair of that meeting, are submitted for noting.***

### Attachments

- |   |   |           |
|---|---|-----------|
| 1   | MINUTES - Local Planning Panel - 30 November 2023 | D15975675 |
| 2   | MINUTES - Local Planning Panel - 7 December 2023  | D15981299 |
| 3   | MINUTES - Local Planning Panel - 14 December 2023 | D15991866 |





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**Local Planning Panel**

**Minutes of the**  
**Local Planning Panel Meeting**  
**Held Remotely - Online**  
**on 30 November 2023**

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**Panel Members**

Chairperson	Kara Krason
Panel Experts	Grant Christmas Sue Francis
Community Representative/s	Tony Tuxworth

**Central Coast Council Staff Attendance**

Ailsa Prendergast	Section Manager, Residential Assessments
Amy Magurren	Senior Development Planner, Residential Assessments
Shannon Turkington	Unit Manager, Strategic Planning
Rachelle Hardaker	Senior Strategic Planner, Local Planning and Policy
Scott Duncan	Section Manager, Local Planning and Policy
Robert Eyre	Principal Development Planner, Residential Assessments
Lisa Martin	Civic Support Officer

The Chairperson, Kara Krason, declared the meeting open at 2:04pm.

The Chair read an acknowledgement of Country statement.

**Apologies**

***The Panel noted that no apologies had been received.***

Minutes of the Local Planning Panel Meeting 30 November 2023 contd

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**PROCEDURAL ITEMS**

**1.1 Disclosures of Interest**

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*Panel Members confirmed that there were no conflicts of interest identified.*

**CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

**2.1 Confirmation of Minutes of Previous Meeting**

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*The minutes of the previous Local Planning Panel Meeting held on 9 November 2023, which were endorsed by the Chair of that meeting, were noted.*

The Local Planning Panel meeting concluded at 3:20pm.

**Minutes of the Local Planning Panel Meeting 30 November 2023 contd**

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**PLANNING PROPOSAL**

**3.1 Planning Proposal - 310 Terrigal Drive, Terrigal**

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The Central Coast Local Planning Panel considered the report on the matter, additional background technical reports provided by Council and the material presented in the briefing meeting. The Panel's role in this matter is to provide advice, which is as follows:

- 1 The Panel does not consider the planning proposal to have strategic or site specific merit.
- 2 There is a lack of strategic justification for the proposed increase in height and yield on the subject site. There is no precinct or local strategy to indicate the appropriateness of the site and the surrounding area for increased development capacity. In the absence of such a strategy the planning proposal has no contextual planning justification and is not supported.
- 3 The Panel considers the planning proposal fails the site specific merit test for the following reasons:-
  - A. The site shape and dimensions constrain future development.
  - B. The traffic access to the site on a busy intersection is constrained and access to the site results in the loss of significant and sensitive vegetation.
  - C. The density proposed would conflict with the ecological sensitivity of the site together with the potential bushfire and flooding risk.
  - D. Surrounding development is predominantly single storey and two storey form and the proposed 32 metre tower would be anomalous.
  - E. The site is not considered a gateway site to Terrigal.
- 4 While the Panel's advice is that it does not support the planning proposal for the reasons provided above, should the Council decide to proceed with the planning proposal a maximum size for the retail use should be nominated, because as currently drafted the whole development could potentially become a retail use.

**PLANNING REPORTS- OUTSIDE OF PUBLIC MEETING**

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Minutes of the Local Planning Panel Meeting 30 November 2023 contd

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**3.2 Land and Environment Court Proceedings Class 1 - Case 2023/00155034 - Appeal of Refusal - Central Coast Council ats Kyle Bay Holdings Pty Ltd - DA/578/2021 16 Bayview Avenue The Entrance**

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- Council Recommendation**
- 1 *That the Local Planning Panel note the receipt of a Class 1 appeal in the Land and Environment Court to the refusal of Development Application DA/578/2021.*
  - 2 *In accordance with Section 2.20(8) of the Environmental Planning and Assessment Act 1979, the Local Planning Panel delegate to appropriate Council officers the ability to give legal instruction to Council's external legal counsel at any upcoming proceedings relating to the appeal, including any conciliation conference in accordance with Section 34 of the Land and Environment Court Act 1979.*

**Panel Decision**      **This matter is to be referred to the Chair of the relevant Panel who refused the application. A decision on the Council recommendation is deferred to the relevant Chair/Panel.**

**REPORTS**

**4.1 Operation of the Local Planning Panel in 2024**

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**Council Recommendation**      *That the Central Coast Local Planning Panel note the information in the report and adopt the proposed schedule of meeting dates for 2024, noting that additional meetings can be called by the Chair as required, depending on workload and application volume.*

**Panel Decision**      **Noted**

**4.2 DA/1144/2023 - 18 Wagstaffe Ave, Wagstaffe - Demolition of existing Heritage Dwelling**

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**Site Orientation**      Yes

**Relevant Considerations**      As per Council assessment report

**Material Considered**

- Documentation with application
- Council assessment report

**Minutes of the Local Planning Panel Meeting 30 November 2023 contd**

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- Supplementary Mem dated 29 November 2023
- Submissions

**Council Recommendation** *Approval*

- Panel Decision**
- 1 The Local Planning Panel grant development consent to DA/1144/2023 – 18 Wagstaffe Avenue, Wagstaffe – Demolition of existing heritage listed dwelling subject to the conditions detailed in the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.**
  - 2 The Panel recommends that Council's Strategic Planning unit be advised of this decision as it relates to removal of a heritage item.**
  - 3 That Council advise those who made written submissions of the Panel's decision.**

- Reasons**
- 1 The proposal is satisfactory having regard for the relevant environmental planning instruments, plans and policies.
  - 2 There are no significant issues or impacts identified with the proposal under Section 4.15 of the Environmental Planning and Assessment act 1979.

**Votes** The decision was unanimous

**4.3 DA/796/2023 - 3 Wilkie-King Ave Saratoga - Alterations and Additions to an Existing Dwelling**

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**Site Orientation** Yes

**Relevant Considerations** As per Council assessment report

- Material Considered**
- Documentation with application
  - Council assessment report
  - Supplementary Memo 30 November 2023

**Council Recommendation** *Approval*

Minutes of the Local Planning Panel Meeting 30 November 2023 contd

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**Panel Decision**

The Local Planning Panel is satisfied that the applicant's written request under clause 4.6 of the Gosford Local Environmental Plan 2022 seeking to justify a contravention of clause 4.3 Height of Buildings development standard has adequately addressed and demonstrated that:

- a. compliance with the standard is unreasonable and unnecessary in the circumstances of the case; and
- b. there are sufficient environmental planning grounds to justify the contravention.

Further, the Panel consider that 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 development standard and the objectives for development within the R2 Low Density Residential zone in which the development is proposed to be carried out.

- 1 The Local Planning Panel assume 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 Central Coast Local Environmental Plan 2022, in accordance with the provisions of clause 55 of the Environmental Planning and Assessment Regulation 2021.
- 2 The Local Planning Panel grant development consent to Development Application DA/796/2023 on Lot 3 DP 221372, for 3 Wilkie-King Ave Saratoga, subject to the conditions as detailed in the schedule to the report and having regard to the matters for consideration detailed in section 4.15 of the environmental Planning and Assessment Act and other relevant issues.

**Reasons**

- 1 The proposed development is considered to be satisfactory with all relevant planning policies including the objectives of GLEP 2014 and GDCP 2013.
- 2 The proposed development will not have unreasonable impacts on the streetscape, residential amenity of neighbouring properties or the surrounding locality.

**Votes**

The decision was unanimous

Minutes of the Local Planning Panel Meeting 30 November 2023 contd

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4.4 DA/1922/2022 - Assessment Report - 121 Ocean Parade, BLUE BAY

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**Site Orientation** Yes

**Relevant Considerations** As per Council assessment report

**Material Considered**

- Documentation with application
- Council assessment report
- Briefing Report dated 28 November 2023
- Supplementary Memo dated 29 November 2023
- Email regarding lift dated 30 November 2023

**Council Recommendation** Approval

**Panel Decision**

1 The Local Planning Panel is satisfied that the applicant's written request under clause 4.6 of the Wyong Local Environmental Plan 2013 seeking to justify a contravention of clause 4.4 Floor Space Ratio development standard has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable and unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

Further, the Panel consider 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 R1 General Residential zone in which the development is proposed to be carried out.

- 2 That the Local Planning Panel grant consent to DA/1922/2022 – 121 Ocean Parade, Blue Bay – Demolition and Residential Flat Building subject to the conditions detailed in the report including additional new condition below, and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.

**New Condition – Lift**

Minutes of the Local Planning Panel Meeting 30 November 2023 contd

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**The lift must not exceed the approved maximum building height of RL26.17 certification is to be provided by a registered surveyor confirming this prior to the issue of an occupation certificate.**

**3 That Council advise those who made written submissions of the Panel's decision.**

**Reasons**

- 1 The proposed development is considered to be satisfactory with all relevant planning policies including the objectives of WLEP 2013 and WDCP 2013.
- 2 The proposed development will not have unreasonable impacts on the streetscape, residential amenity of neighbouring properties or the surrounding locality.

**Votes**

The decision was unanimous





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**Local Planning Panel****Minutes of the  
Supplementary Local Planning Panel  
Held Remotely - Online  
on 07 December 2023**

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**Panel Members**

Chairperson	Jason Perica
Panel Experts	Greg Flynn Stacey Brodbeck
Community Representative/s	Lynette Hunt

**Central Coast Council Staff Attendance**

Dr Alice Howe	Director Environment and Planning
Emily Goodworth	Section Manager Employment and Urban Release
Ailsa Prendergast	Section Manager, Residential Assessments
Karen Hanratty	Senior Development Planner, Residential Assessments
Rebecca Samways	Development Planner, Employment and Urban Release
Lisa Martin	Civic Support Office / Meeting Support Officer

The Chairperson, Jason Perica declared the meeting open at 2.00pm 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 had been received.***

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**Minutes of the Supplementary Local Planning Panel 07 December 2023 contd**

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**PROCEDURAL ITEMS****1.1 Disclosures of Interest**

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*That Panel Members confirmed that there were no conflicts of interest identified.*

**Public Forum**

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The following people addressed the Panel:

**Item 2.1 – DA/733/2023 - 22 Melba Road, Woy Woy - Staged Development Consisting of Demolition of Existing Primary Dwelling, Construction of Three Multi Dwelling Units, Change of Use of Existing Secondary Dwelling to a Fourth Multi Dwelling Unit and Strata Subdivision**

- 1 Francis Wiffen – For the recommendation
- 2 Rebecca & Sebastian Tauni (applicant) – Against the recommendation

**Item 2.2 – DA/4365/2022 - 31 Burrawang Street Ettalong Beach - Multi-Dwelling housing (3 Units) & Demolition of Existing Structures**

- 1 Stephen Martlew – Against the recommendation
- 2 Francis Wiffen – Against the recommendation
- 3 Alister Knight – Against the recommendation
- 4 Pranav Vase – Architect of ELK Designs (applicant) – For the recommendation

The Local Planning Panel public meeting closed at 3.05pm. The Panel moved into deliberation from 3:10pm.

Minutes of the Supplementary Local Planning Panel 07 December 2023 contd

PLANNING REPORTS

2.1 DA/733/2023 - 22 Melba Road, Woy Woy - Staged Development Consisting of Demolition of Existing Primary Dwelling, Construction of Three Multi Dwelling Units, Change of Use of Existing Secondary Dwelling to a Fourth Multi Dwelling Unit and Strata Subdivision

**Relevant Considerations** As per Council assessment report

**Material Considered**

- Documentation with application
- Council assessment report
- Submissions

**Council Recommendation** Refusal

**Panel Decision**

- 1 That the Local Planning Panel refuse the application DA/733/2023 at Lot 44 DP 13501, 22 Melba Road, WOY WOY for Staged Development consisting of Demolition of Existing Primary Dwelling, Construction of three Multi Dwelling Units, Change of Use of Existing Secondary Dwelling to a fourth Multi Dwelling Unit and Strata Subdivision subject to the reasons for refusal as detailed in the Council staff Assessment Report to the Panel, excluding recommended reason no. 1, after having regard to the matters for consideration detailed in 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** As the application has been refused, the reasons for the decision are included in the reasons of the decision itself. The Panel agreed with the issues of concern with the application, as outlined in the assessment report.

The applicant's representative(s) at the Panel meeting requested that the Panel approve revised plans of an alternative scheme, which they considered addressed all concerns outlined in staff assessment report. In the alternative, it was requested the proposal be deferred to allow such amended plans to be considered and assessed.

The Panel was bound to consider the application before, it, and it was noted Council staff had not accepted amended plans as a formal amendment to the application, so no full and proper

**Minutes of the Supplementary Local Planning Panel 07 December 2023 contd**

assessment of the amended proposal was before the Panel. Despite this, when considering whether determination of the proposal should be deferred to allow the amended plans to be accepted, it was clear to the Panel that the revised plans did not address all the issues outlined in the assessment report. A more fundamental approach to site planning and its development was required. Accordingly, the Panel did not support deferral of the determination for consideration of the amended plans.

The Panel also heard and understood concerns raised by the applicant's representatives regarding processing issues related to the DA. However, this did not alter fundamental concerns with the proposal and the Panel's decision.

**Votes** The decision was unanimous

**2.2 DA/4365/2022 - 31 Burrawang Street Ettalong Beach - Multi-Dwelling housing (3 Units) & Demolition of Existing Structures**

**Relevant Considerations** As per Council assessment report

**Material Considered**

- Documentation with application
- Council assessment report
- Submissions

**Council Recommendation** Approval

**Panel Decision**

**1** ***That the Local Planning Panel grant consent to DA/4365/2022 - Lot 491 DP 10570, 31 Burrawang Street ETTALONG BEACH - Multi-Dwelling housing (3 Units) & Demolition of Existing Structures subject to the conditions detailed in this report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979, with the following changes***

***Insert a new condition 2.9 to state:***

***"Submit to Council for its written approval, amended Architectural and Landscape Plans that must be updated to include the following information:***

***a) Relocate the stormwater system and stormwater pits***

Minutes of the Supplementary Local Planning Panel 07 December 2023 contd

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to the centre of the access driveway and reshape the driveway, to maximise the width of the side boundary landscape strip and meet the requirements of Australian Standards AS2890 for vehicle manoeuvring.

- b) Remove the kerb at the boundary edge of the access driveway to enable more width for landscaping.
- c) Provide additional landscaping within the landscape strip.
- d) Reduce the height of the front courtyard fence to Unit 1 to a maximum 1.2 metres.
- e) Provide a minimum pot size of 75 litres (advanced specimens) for the two (2) street trees and all other proposed canopy trees within the site."

The above plans, after their approval, must be included in documentation associated with the approval of the Construction Certificate.

**2 Amend the following recommended conditions, as required in order to address the required changes to the proposal detailed in new condition 2.9 (as above).**

- Condition 2.7 parts b, d, e, f;
- Condition 6.5;
- Condition 6.17; and
- Condition 9.1.

**Reasons**

The Panel is satisfied with the following:

- The provisions of the following State Environmental Planning Policies have been considered and satisfied:
  - i) *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
  - ii) Chapter 4, section 4.6(4) of the *State Environmental Planning Policy (Resilience and Hazards) 2021*
- The provisions of clause 7.1 Acid Sulfate Soils and 7.6 Essential Services of *Central Coast Local Environmental Plan 2022* have been considered and satisfied.
- The proposed development is consistent with the zone objectives as set out in the *Central Coast Local Environmental Plan 2022*.
- The relevant provisions of the environmental planning instruments, plans and policies that apply to the development have been considered in the assessment of the application.

**Minutes of the Supplementary Local Planning Panel 07 December 2023 contd**

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- The proposed development is considered satisfactory having regard for the matters for consideration provided in section 4.15 of the EP&A Act.
- Subject to the imposition of appropriate conditions, the proposed development is not expected to have any adverse environmental, social or economic impact.

While the Panel had some concerns with the form of the development, the Panel noted the proposal was largely compliant with applicable standards and controls, and non-compliances, where they existed, did not warrant refusal of the proposal.

In terms of the new condition to require reduction in height of the fence surrounding the front private open space of Unit 1 to 1.2m (new Condition 2.9(d)), the majority of the Panel was of the opinion this was reasonable and warranted given front private open space (albeit partial private open space in this instance) is not in accordance with the DCP controls, the DCP control for front fencing height is a maximum of 1.2m and landscaping could provide reasonable privacy mitigation. The applicant's representative verbally agreed to this change at the Panel meeting. Greg Flynn dissented to new Condition 2.9(d) for privacy reasons and resultant amenity issues on the private open space of unit 1.

**Votes**

The decision (apart from the terms of one new condition) was unanimous.



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**Local Planning Panel**

**Minutes of the**  
**Local Planning Panel Meeting**  
**Held Remotely - Online**  
**on 14 December 2023**

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**Panel Members**

Chairperson	Donna Rygate
Panel Experts	Greg Flynn Louise Munday
Community Representative/s	Scott McGrath

**Central Coast Council Staff Attendance**

Dr Alice Howe	Director Environment and Planning
Emily Goodworth	Section Manager, Employment and Urban Release
Ailsa Prendergast	Section Manager, Residential Assessments
Amy Magurren	Senior Development Planner, Residential Assessments
Ryan Lennox	Senior Development Planner, Employment and Urban Release
Karen Hanratty	Senior Development Planner, Residential Assessments
Lisa Martin	Civic Support Officer

The Chairperson, Donna Rygate declared the meeting open at 2:00pm and advised in accordance with the Code of Meeting Practice that the meeting was being recorded.

The Chair read an acknowledgement of country statement.

**Apologies**

***The Panel noted that no apologies had been received.***

Minutes of the Local Planning Panel Meeting 14 December 2023 contd

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**PROCEDURAL ITEMS**

**1.1 Disclosures of Interest**

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*Panel Members confirmed that there were no conflicts of interest identified.*

**CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

**2.1 Confirmation of Minutes of Previous Meeting**

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*The Panel noted that Local Planning Panel Meetings held on 30 November 2023 and 7 December 2023 are expected to be submitted for noting at the first LPP meeting in 2024.*

**Public Forum**

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The following people addressed the Panel:

**Item 3.1 – DA/1680/2021 - 17 Burns Road, Ourimbah - Four into Two Lot Subdivision and Construction of Dwelling House and 10 Room Boarding House**

- 1 Sandra Menendez – FOR the recommendation
- 2 Martin Menendez – FOR the recommendation

The Local Planning Panel public meeting closed at 2:12pm.

The Panel moved into deliberation from 2:19pm.



Minutes of the Local Planning Panel Meeting 14 December 2023 contd

PLANNING REPORTS

3.1 DA/1680/2021 - 17 Burns Road, Ourimbah - Four into Two Lot Subdivision and Construction of Dwelling House and 10 Room Boarding House

Site Inspected	Yes
Relevant Considerations	As per Council assessment report
Material Considered	<ul style="list-style-type: none"> <li>• Documentation with application</li> <li>• Council assessment report</li> <li>• Submissions</li> <li>• Supplementary Memo</li> </ul>
Council Recommendation	Refusal
Panel Decision	<p><b>1 That the Local Planning Panel refuse the application DA/1680/2021 – 17 Burns Road, Ourimbah - subject to the reasons for refusal listed below and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.</b></p> <p><b>3 That Council advise those who made written submissions of the Panel's decision.</b></p> <p><b>4 That Council advise relevant external authorities of the Panel's decision.</b></p>
Reasons	<ol style="list-style-type: none"> <li>1. Owners consent from all parties to reducing the width of the 5m wide 'right-of-carriageway' over Lot 10 and Lot 11 DP875531 has not been provided.</li> <li>2. The Panel is not satisfied that the development proposal complies with the flood planning provisions of Clause 5.21 - Flood Planning of <i>Wyang Local Environmental Plan 2013</i>.</li> <li>3. The Panel is not satisfied that the development proposal complies with the essential service provisions of Clause 7.9 – Essential Services of <i>Wyang Local Environmental Plan 2013</i>.</li> <li>4. The proposal is not consistent with the objectives for the R2 Low Density Residential zone under <i>Wyang Local Environmental Plan 2013</i>.</li> <li>5. There is insufficient information accompanying the</li> </ol>

Minutes of the Local Planning Panel Meeting 14 December 2023 contd

application to adequately address the relevant provisions of Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*.

6. The site is not suitable for the proposed development.
7. The proposed development is not considered to be in the public interest.

**Votes** The decision was unanimous

3.2 DA/1057/2023 - 1 Anthony Cres, Killcare - Alterations and Additions to an Existing Dwelling

**Site Inspected** Yes

**Relevant Considerations** As per Council assessment report

**Material Considered**

- Documentation with application
- Council assessment report
- Submissions
- Supplementary Memo dated 13 December 2023
- Supplementary Memo dated 14 December 2023

**Council Recommendation** Approval

**Panel Decision**

**1** *The Panel is satisfied that the applicant's clause 4.6 written request adequately 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 the non-compliance with the Height of Buildings 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 zone in which the development is proposed to be carried out.*

**2** *That the Local Planning Panel grant consent to DA/1057/2023 – 1 Anthony Crescent, Killcare for*

Minutes of the Local Planning Panel Meeting 14 December 2023 contd

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***alterations and additions to an existing dwelling subject to the conditions 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.***

**3     *The Local Planning Panel assume 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 Central Coast Local Environmental Plan 2022, in accordance with the provisions of clause 55 of the Environmental Planning and Assessment Regulation 2021.***

**4     *That Council advise those who made written submissions of the Panel's decision.***

**Reasons**

- 1     The Panel is satisfied that the proposed development is satisfactory having regard to the matters for consideration provided in Section 4.15 of the Environmental Planning and Assessment Act 1979.
- 2     The Panel is satisfied that the development is consistent with section 4.14(1) of the EP&A 1979 and the application meets the requirements of Planning for Bushfire Protection 2019, subject to compliance with the general terms of approval provided by the NSW RFS.
- 3     The Panel is satisfied that the provisions of the following State Environmental Planning Policies have been considered and met:
  - a.   State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
  - b.   Chapter 4, Section 4.6(4) of the State Environmental Planning Policy (Resilience and Hazards) 2021.
- 4     Assessment of the application has concluded the proposed development is permitted within the current R2 – Low Density Residential zone under the provisions of the Central Coast Local Environmental Plan 2022 and meets the objectives for the zone.
- 5     Assessment of the application has concluded the proposed development meets the objectives related to the building

**Minutes of the Local Planning Panel Meeting 14 December 2023 contd**

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height development standard contained in Central Coast Local Environmental Plan 2022.

- 6 Assessment of the application has concluded the requirements of clauses 4.6 (3) and (4) of Central Coast Local Environmental Plan 2022 have been satisfied and that variation to the maximum building height provisions of the Central Coast Local Environmental Plan 2022 is warranted.
- 7 The Panel is satisfied that the provisions of clause 4.6(4) have been met and has concluded that:
  - a. The applicant's written request for a variation to development standards (height) adequately addresses the matters required to be addressed under clause 4.6(3) of the Central Coast Local Environmental Plan 2022.
  - b. The development is in the public interest because it is consistent with the objectives for development in the zone.
  - c. The concurrence of the Secretary can be assumed.
- 8 The Panel is satisfied that the provisions of clause 7.1 Acid Sulfate Soils and 7.6 Essential Services of Central Coast Local Environmental Plan 2022 have been considered and met.
- 9 The Panel is satisfied that the proposed development is consistent with the zone objectives as set out in the Central Coast Local Environmental Plan 2022.
- 10 The Panel is satisfied that the relevant provisions of the environmental planning instruments, plans and policies that apply to the development have been considered in the assessment of the application.
- 11 Subject to the imposition of appropriate conditions, the proposed development is not expected to have any adverse environmental, social or economic impact.

**Votes**

The decision was unanimous

Minutes of the Local Planning Panel Meeting 14 December 2023 contd

3.3 DA/1776/2022 - 23 Bangalow Street Ettalong Beach - Dual Occupancy and Demolition of Existing Dwelling (Section 8.2 Review)

<b>Site Inspected</b>	Yes
<b>Relevant Considerations</b>	As per Council assessment report
<b>Material Considered</b>	<ul style="list-style-type: none"> <li>• Documentation with application</li> <li>• Council assessment report</li> <li>• Submissions</li> </ul>
<b>Council Recommendation</b>	Approval
<b>Panel Decision</b>	<p><b>1 That the Local Planning Panel grant consent to DA/1776/2022 - Lot 187 DP10057, 23 Bangalow Street, Ettalong Beach - Dual Occupancy and Demolition of Existing Dwelling (Section 8.2 Review) subject to the conditions detailed in the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.</b></p> <p><b>2 That Council advise those who made written submissions of the Panel's decision.</b></p>
<b>Reasons</b>	<p>This application has been assessed under the heads of consideration of Section 4.15 of the <i>Environmental Planning and Assessment Act 1979</i> and all relevant instruments and policies.</p> <ul style="list-style-type: none"> <li>• The Panel is satisfied that the provisions of the following State Environmental Planning Policies have been considered and met: <ul style="list-style-type: none"> <li>i. <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i></li> <li>ii. Chapter 4, section 4.6(4) of the <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i></li> </ul> </li> <li>• The Panel is satisfied that the provisions of clause 7.1 Acid Sulfate Soils and 7.6 Essential Services of <i>Central Coast Local Environmental Plan 2022</i> have been considered and met.</li> <li>• The Panel is satisfied that the relevant provisions of the environmental planning instruments, plans and policies that apply to the development have been considered in the assessment of the application.</li> </ul>

**Minutes of the Local Planning Panel Meeting 14 December 2023 contd**

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- The design of the proposed development has been amended to address the reasons for its previous refusal.
- The Panel is satisfied that the proposed development is satisfactory having regard to the matters for consideration provided in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
- The proposed development is not expected to have any adverse social or economic impact.

**Votes** The decision was unanimous

**PLANNING REPORTS- OUTSIDE OF PUBLIC MEETING**

**4.1 Land and Environment Court Proceedings Class 1 - Case 2023/00196863 - Appeal of Deemed Refusal - Central Coast Council ats MKY Enterprises - DA/609/2023 213 Pollock Avenue, Wyong**

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**Council Recommendation** Information to be noted.

- Panel Decision**
- 1 That the Local Planning Panel note the receipt of a Class 1 appeal in the Land and Environment Court to the deemed refusal of Development Application DA/609/2023.**
  - 2 The Panel does not wish to give specific direction in the matter and notes that Council will proceed as deemed appropriate in accordance with its applicable powers and delegations.**

**Votes** The decision was unanimous

**4.2 Land and Environment Court Proceedings Class 1 - Case 2023/00338122 - Appeal of Refusal - Central Coast Council ats Richard Cusumano - DA/1062/2022 - 176 Gertrude Street, Gosford**

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**Council Recommendation** Information to be noted.

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Minutes of the Local Planning Panel Meeting 14 December 2023 contd

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- Panel Decision**
- 1** *That the Local Planning Panel note the receipt of a Class 1 appeal in the Land and Environment Court to the refusal of Development Application DA/1062/2022.*
  - 2** *The Panel does not wish to give specific direction in the matter and notes that Council will proceed as deemed appropriate in accordance with its applicable powers and delegations.*

**Votes** The decision was unanimous

**Item No:** 3.1  
**Title:** DA/4112/2022 – 15 Allfield Street Woy Woy -  
Demolition and construction of Multi Dwelling Housing  
(4 Dwellings)  
**Department:** Environment and Planning

**Central Coast**  
Local Planning Panel

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### Local Planning Panel Meeting

**Reference:** DA/4112/2022 – D16019576  
**Author:** Helena Miller, MG Planning (Development Planner Consultant)  
**Unit Manager:** Andrew Roach, Unit Manager. Development Assessment  
**Executive:** Alice Howe, Director Environment and Planning

### Summary

An application has been received for the demolition of an existing dwelling house, ancillary structure and tree removal and the construction of Multi Dwelling Housing (consisting of 4 x townhouses) at 15 Allfield Road, Woy Woy. 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 this report.

The application is required to be forwarded to the Local Planning Panel for determination as a result of submissions. Eleven unique submissions were received during the notification period.

The application is recommended for approval, subject to conditions.

(Please note that the application assessment has been undertaken by a planning consultant on behalf of Council).

<b>Applicant</b>	NM Nagarajan
<b>Owner</b>	Ms Janice Green
<b>Application No</b>	DA/4112/2022
<b>Description of Land</b>	15 Allfield Road, Woy Woy - Lot 67 DP 6846
<b>Proposed Development</b>	Demolition and construction of Multi Dwelling Housing consisting of 4 x 4 bedroom 2 storey townhouses, parking for 7 cars, associated works and subdivision
<b>Site Area</b>	923.20m <sup>2</sup>
<b>Zoning</b>	R1 General Residential under CCLEP 2022
<b>Existing Use</b>	Dwelling house
<b>Employment Generation</b>	No
<b>Estimated Value</b>	\$1,314,500



### Recommendation

- 1 That the Local Planning Panel grant consent to DA/4112/2022 – 15 Allfield Road, Woy Woy – Lot 67 DP 6846 subject to the attached conditions and having regard to the matters for consideration detailed in 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.**

### Key Issues

- Non-compliance with *Chapter 2.2 Dual Occupancy & Multi Dwelling Housing* of the *Central Coast Development Control Plan 2022* in regard to width of private open space and the provision of three hours of solar access to 50% of the private open space on 21 June, and
- Matters raised in public submissions, including privacy concerns.

### Precis:

<b>Proposed Development</b>	Demolition and construction of Multi Dwelling Housing consisting of 4 x 4 bedroom 2 storey townhouses, parking for 7 cars, associated works and subdivision
<b>Permissibility and Zoning</b>	The subject site is zoned R1 General Residential under the provisions of <i>Central Coast Local Environmental Plan 2022</i> . The proposed development is defined as multi dwelling housing which is permissible in the zone with consent.
<b>Current Use</b>	Dwelling house
<b>Integrated Development</b>	No
<b>Submissions</b>	11 submissions

### Variations to Policies

<b>Clause</b>	CCDCP 2022 – Part 2.2.7.3 (Private Open Space Areas)
<b>Standard</b>	Private open space of minimum of 45m <sup>2</sup> with minimum dimension of 4.5m
<b>Departure basis</b>	Achieves minimum of 45m <sup>2</sup> for all townhouses however does not achieve minimum 4.5m dimension as follows: Unit 1: 2.38m <b>(2.12m or 47.2% variation)</b> Unit 2: 4.06m <b>(0.48m or 10.07% variation)</b> Unit 3: 3.8m <b>(0.7m or 16% variation)</b> Unit 4: 4.5m – complies

<b>Clause</b>	CCDCP 2022 – Part 2.2.7.5 (Sunlight Access)
<b>Standard</b>	On 21 June 50% of POS to receive at least 3 hours of direct sunlight between 9am and 3pm
<b>Departure basis</b>	Does not achieve for Unit 1 as follows: Unit 1: receives 2 hours of solar access to > 50% of POS between 12 – 1pm and 1pm and 2pm on 21 June only

### The Site and Surrounding Development

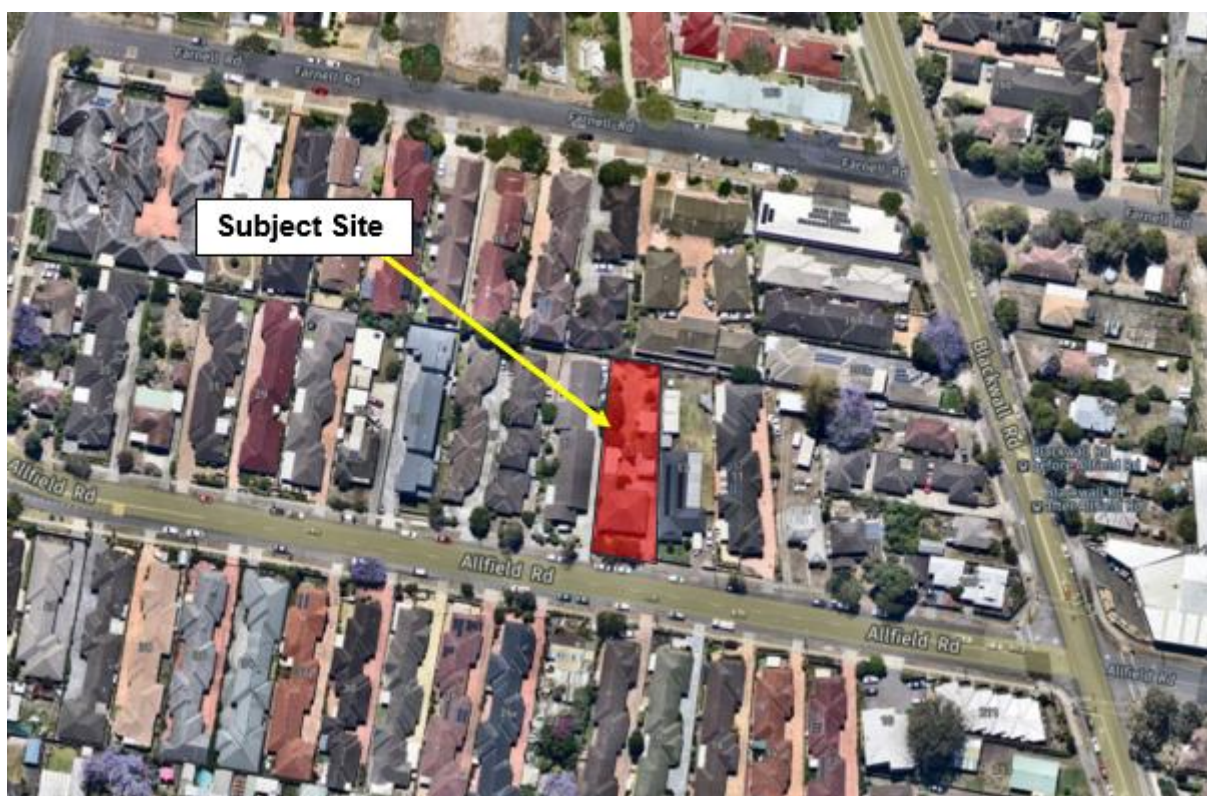
The site is legally described as Lot 67 DP 6846 and known as 15 Allfield Road, Woy Woy. It is located on the northern side of the street between the intersections of Allfield Road and Edward Street (west) and Blackwall Road (east) (Figures 1 and 2).

The site is regular in shape with a width of 18.29m at the front and 14.625m at the rear (north). It has an average depth of 56.37m and an area of 923.20m<sup>2</sup>. It currently contains a single storey dwelling and three outbuildings. The existing structure is predominantly brick with the outbuildings being a mix of fibro-cement and cladding.

The site topography is generally flat with a slight fall (300mm) from front to the back (north) of the site.

Adjoining development comprises multi dwelling development and detached dwellings with a mix of single and two storey dwellings.

The site is not identified as being "bushfire prone land" on Council's bushfire maps.



**Figure 1 – Site locality plan**

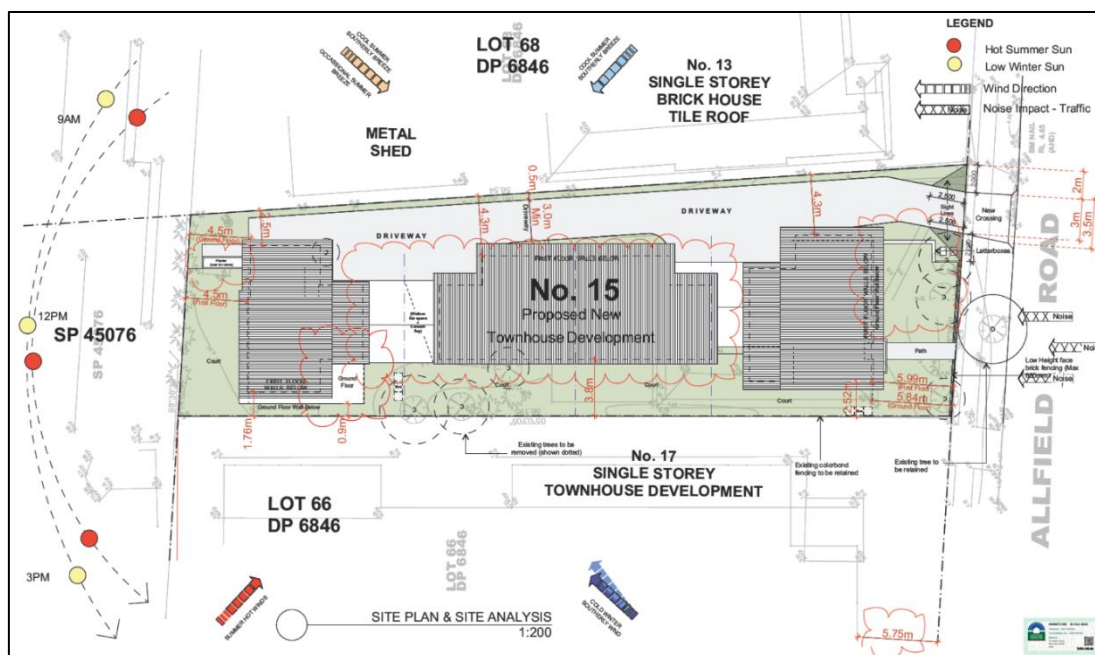


**Figure 2 – Site as viewed from Allfield Road looking north**

### The Proposed Development

The application seeks development consent for the redevelopment of the subject site including (Figures 3-8):

- Demolition of all existing structures
- Construction of 4 x 4 bedroom 2-storey townhouses
- 6 x car parking spaces plus 1 x visitor space
- Vehicular access via a driveway that would run along the eastern site boundary, and
- Landscaping and services.



**Figure 3 – Site plan**



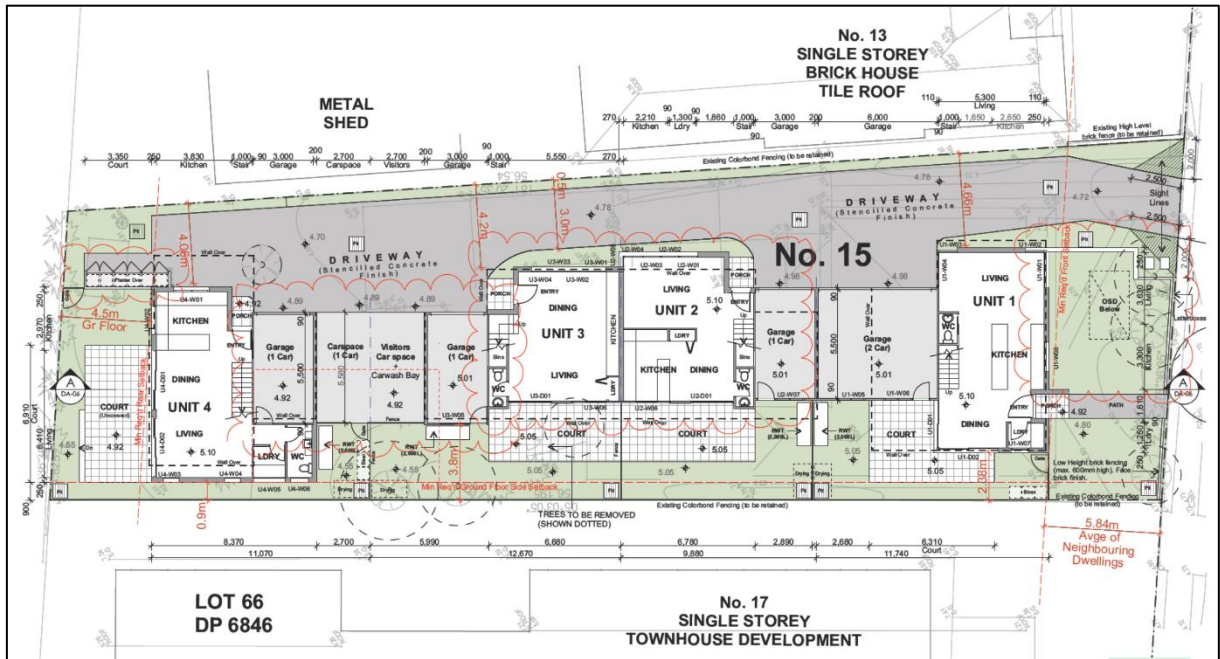


Figure 4 – Ground floor plan

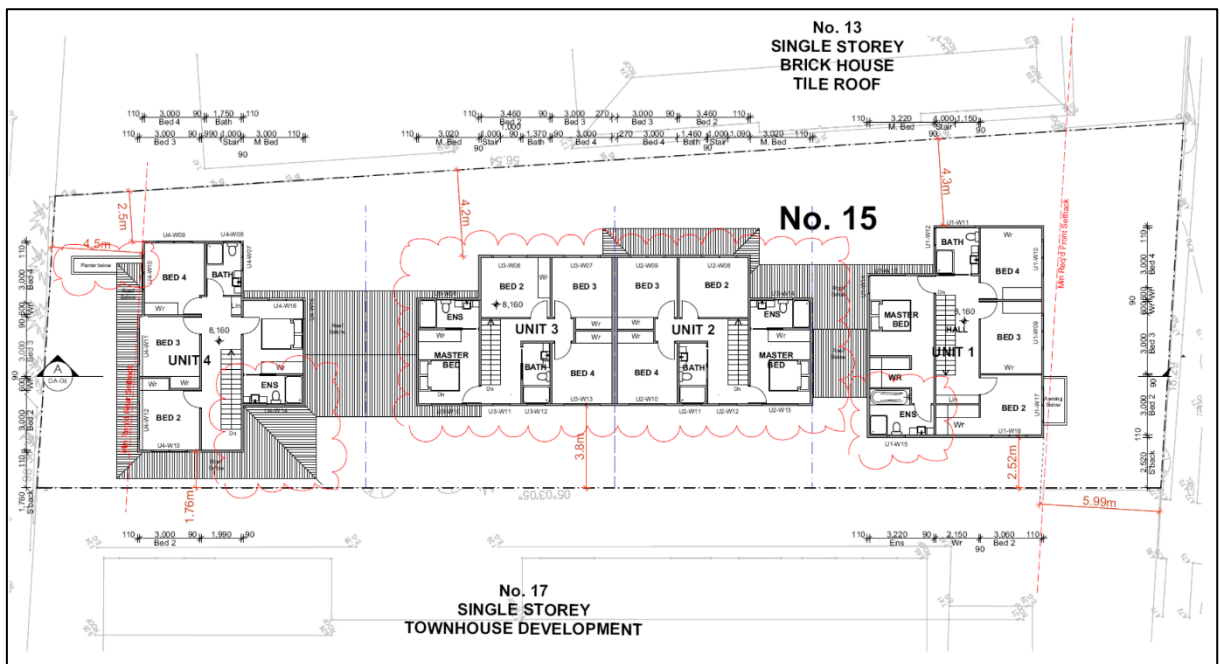
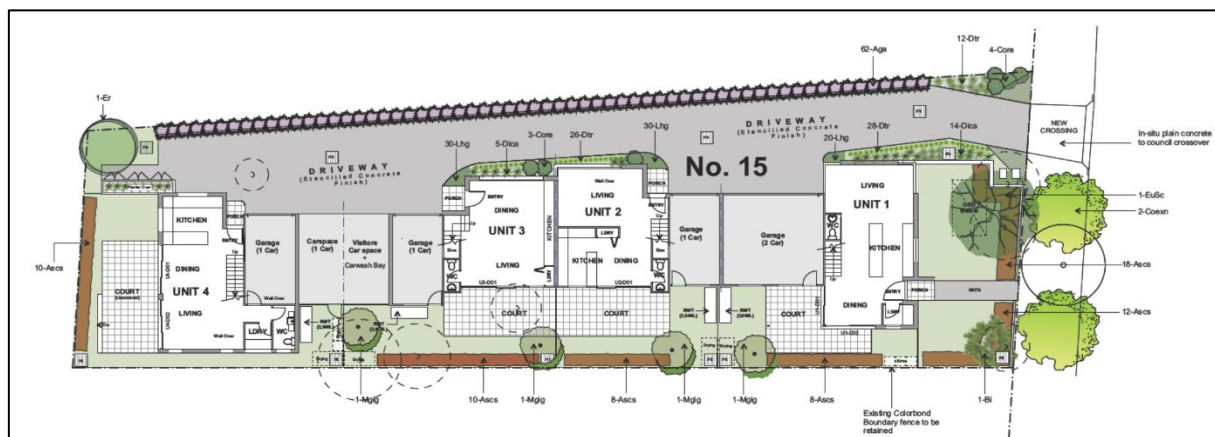


Figure 5 – First floor plan



## Relevant Background

The application was lodged on 1 November 2022.

Following preliminary assessment, a request for additional information letter (RFI) was issued by Council on 1 May 2023 requesting that the applicant address issues in relation to non-compliances with *Central Coast Development Control Plan 2022* (CCDCP 2022) in relation to:

- visitor parking,
- side and rear setbacks, and
- minimum private open space (POS) area and dimensions.

Amended plans were submitted dated 9 May 2023 attempting to ameliorate the abovementioned issues.

A further RFI request was issued on 11 August 2023 identifying the abovementioned non-compliances in addition to inadequate information with regard to the front setback, solar access, building height and finished levels, fencing, driveway surface, landscaping and bin storage areas. A second set of amended plans was submitted on 16 August 2023.

On 25 August 2023 a third (and final) RFI was issued by Council noting that:

- A visitor parking space was proposed in the front setback, which was not supported,
- Three of the four units did not achieve the minimum POS dimension of 4.5m
- Only Unit 4 achieves three hours of sunlight to 50% of POS on 21 June, and
- Bin space was required for three bins per unit and should not require bins to be wheeled through units.

The RFI noted that overall the variations to the POS, carparking and solar access controls are indicative of the proposal being an overdevelopment of the site and accordingly recommended that the proposal be redesigned to remove one of the dwellings to provide sufficient room on-site for full compliance.

On 3 October 2023 a third set of amended plans were submitted by the applicant seeking to address the final RFI. Amendments to the plans include:

- Inclusion of a visitor parking space behind the building line
- Inclusion of bin storage spaces, and
- Information to demonstrate that three of the four units achieve three hours of solar access to 50% of POS on 21 June.

The proposed 4 x 4 bedroom townhouse development was retained.

In accordance with CCDCP 2022 – Part 1.2.2.10, Control (c), the final set of amended plans were not renotified and readvertised as they were not considered to result in any additional impacts on the surrounding properties or the public domain.

**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, Council's policies and Section 10.7 Certificate details, the assessment has identified the following key issues, which are elaborated upon for the Panel's information. Any tables relating to plans or policies are provided as an attachment.

**Environmental Planning and Assessment Regulation 2021 (Demolition)**

With regard to demolition of works as part of a development application, clause 61 of the *Environmental Planning and Assessment Regulation 2021* provides additional matters that the consent authority must consider:

- (1) *In determining a development application for the demolition of a building, the consent authority must consider the Australian Standard AS 2601—2001: The Demolition of Structures.*

Comment: The works will be covered by the Australian Standard AS 2601-2001 and is conditioned for compliance as per draft conditions.

A waste management plan has been submitted and accepted. The Panel can be satisfied that the necessary demolition works required to facilitate the addition of the proposed lift will occur in accordance with AS2601-2001.

**State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

The application is supported by an updated BASIX certificate (dated 5 October 2023), which confirms that the proposal will meet the NSW Government's requirements for sustainability, if built in accordance with the commitments outlined in the certificate.

Accordingly, the proposal is considered to be consistent with the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* subject to an appropriate condition of consent requiring compliance with the submitted BASIX certificate.

**State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)**

The Resilience and Hazards SEPP came into force on 1 March 2022 and replaced *State Environmental Planning Policy No. 55 Remediation of Land* and *State Environmental Planning Policy (Coastal Management) 2018*; however the provisions remain generally consistent.

Chapter 2 – Coastal Management

In relation to coastal management matters, Part 2.2 of the Resilience and Hazards SEPP requires that a consent authority consider the aims and objectives of the SEPP when determining a development application within the Coastal Management Areas. The subject land falls with the

'coastal environment area' under the SEPP. Consent cannot be granted in this area unless the consent authority has considered whether the development will have an adverse impact on:

- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
- (b) *coastal environmental values and natural coastal processes,*
- (c) *the water quality of the marine estate (within the meaning of the (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (f) *Aboriginal cultural heritage, practices and places,*
- (g) *the use of the surf zone.*

The proposal will not impact any of these matters. Further the consent authority must be satisfied that:

- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or*
- (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

The proposal satisfies these requirements and will not result in any adverse impacts upon the coastal environment area. Accordingly it is considered that the requirements under Part 2.2 of the Resilience and Hazards SEPP have been satisfied.

#### Chapter 4 – Remediation of Land

In relation to contamination, Chapter 4 of the Resilience and Hazards SEPP applies across NSW and requires that, prior to the granting of consent, a consent authority must give consideration as to whether the land, the subject of a development application, is contaminated and if so whether it can and will be made suitable for the proposed use. The current and historical use of the subject land is for domestic residential purposes and there are no known previous uses that would render the site contaminated or unsuitable for the proposed use. As such, the Panel can be satisfied that the proposed multi dwelling housing development is acceptable with regard to the provisions in Chapter 4 of the Resilience and Hazards SEPP.



**State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)**

Clause 2.48 of Transport and Infrastructure SEPP specifies the following:

- (1) *This section applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—*
  - (a) *the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
  - (b) *development carried out—*
    - (i) *within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
    - (ii) *immediately adjacent to an electricity substation, or*
    - (iii) *within 5m of an exposed overhead electricity power line,*
- (2) *Before determining a development application (or an application for modification of a consent) for development to which this section applies, the consent authority must—*
  - (a) *give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and*
  - (b) *take into consideration any response to the notice that is received within 21 days after the notice is given*

An electricity distribution pole is located on the road reserve adjoining the front boundary of the subject site. As such, consultation with Ausgrid was sought under clause 2.48(2) of the SEPP. Ausgrid raised no objections to the proposed development.

The proposal is therefore acceptable with regard to the provisions in clause 2.48 of the Transport and Infrastructure SEPP.

**Central Coast Local Environmental Plan 2022 (CCLEP 2022) - Permissibility**

The subject site is zoned *R1 General Residential* under the provisions for *Central Coast Local Environmental Plan 2022* (CCLEP 2022). The proposed land use is consistent with the CCLEP 2022 definition of multi dwelling housing, being:

***multi dwelling housing*** means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

Development for the purposes of multi dwelling housing is permissible with consent in the R1 zone.

**Central Coast Local Environmental Plan 2022 (CCLEP 2022) - Zone Objectives**

The objectives of the R1 General Residential zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To promote best practice in the design of multi dwelling housing and other similar types of development.*
- *To ensure that non-residential uses do not adversely affect residential amenity or place unreasonable demands on services.*

The proposed development is consistent with these objectives as it will assist in meeting the housing needs of the community within a medium density residential environment. Further it will contribute to the provision of a variety of housing and densities. The development represents good quality design and will ensure an appropriate level of amenity for neighbouring development as well as for the future residents.

#### **Central Coast Local Environmental Plan 2022 (CCLEP 2022) - Clause 4.3 Height of Buildings**

Clause 4.3(2) of CCLEP 2022 provides that the height of any building on the subject land is not to exceed 11.5m in accordance with the Height of Buildings map.

The proposed development has a maximum height of 8.049m (RL12.85) and therefore complies with the maximum building height in clause 4.3(2) of the CCLEP 2022.

#### **Central Coast Local Environmental Plan 2022 (CCLEP 2022) - Clause 4.4 and 4.4A Floor Space Ratio**

Clause 4.4(2) of CCLEP 2022 provides that any building on the subject land is not to exceed any relevant floor space ratio (FSR) specified on the FSR map. In accordance with the FSR map, the subject land has a maximum FSR of 0.5:1.

The proposed development as amended has an FSR of 0.49:1 (453.79m<sup>2</sup> gross floor area as measured) and therefore complies with the development standard.

Note: The subject site is affected by clause 4.4A – (Exceptions to floor space ratio — general). In particular, clause 4.4A(5)(c) provides an FSR exception of 0.6:1 for the subject site in certain circumstances. Notwithstanding this, as the proposal complies with the 0.5:1 FSR applicable under clause 4.4(2), the exception in clause 4.4A is not relevant in this circumstance.

#### **Central Coast Local Environmental Plan 2022 (CCLEP 2022) - Clause 5.21 Flood Planning**

The site is identified as being affected by the *Woy Woy Peninsula Flood Study* and is therefore subject to the imposition of a minimum floor level.

Council's Flood Engineer has reviewed the application and noted that the site is not affected by the 1% Annual Exceedance Probability (AEP) flood level and that the Probable Maximum Flood is 4.63m AHD on the rear neighbouring site across the lane. Accordingly the proposed floor level of 5.10m AHD is considered acceptable and no flood condition is required.

**Central Coast Local Environmental Plan 2022 (CCLEP 2022) - Clause 7.1 Acid Sulfate Soils**

The site is mapped as Class 3 acid sulfate soils (ASS). The site is located at approximately RL4.92 to RL5.01 with minimal excavation required for the establishment of footings, with no works more than 1m below natural ground level. Accordingly it is considered that the works are not likely to impact acid sulfate soils and are acceptable with regard to the provisions in clause 7.1.

Notwithstanding standard conditions of consent are included to ensure any unexpected finds in respect of acid sulfate soils will be appropriately managed.

**Central Coast Local Environmental Plan 2022 (CCLEP 2022) - Clause 7.6 Essential Services**

Clause 7.6 requires the consent authority to be satisfied that essential services such as water, sewer, electricity, stormwater drainage, waste and road access can be adequately provided to the development. The site is serviced by the existing electrical, telecommunication, waste, water and sewerage services. Council's Development and Water and Sewer Engineers have assessed the proposal and advised that the proposal is acceptable in relation to the provision of stormwater drainage, road access, water, and sewerage services, subject to conditions of consent. The Panel can therefore be satisfied that the proposal is acceptable with regard to the provisions in clause 7.6.

**Central Coast Development Control Plan 2022 (CCDCP 2022)**

CCDCP 2022 provides objectives, design criteria and design guidance on how development proposals can achieve good design and planning practice.

Chapter 2.2 Dual Occupancy and Multi Dwelling Housing

The relevant provisions of Chapter 2.2 have been considered in the assessment of the application as summarised in the table below:

Clause	Required	Proposal	Complies	Compliance with objectives
<b>2.2.3.1 Height</b>	Max height LEP = 11.5m	Max height – 8.049m	Yes	Yes
	Max 3 storeys	Max 2 storeys	Yes	Yes
<b>2.2.4.2 Floor Space Ratio</b>	0.6:1	0.49:1	Yes	Yes
<b>2.2.4.3 Site Coverage</b>	Min. 25% soft landscaping	29%	Yes	Yes
<b>2.2.5 Building Setbacks</b>	<b>Front</b> setback – average of nearest two houses having the same primary road frontage being 5.83m	Ground – 5.84m 1 <sup>st</sup> floor – 5.99m	Yes	Yes
	<b>Side</b> setbacks – for any part of the building	<u>Unit 1</u> Ground – 2.38m	Yes	Yes

Clause	Required	Proposal	Complies	Compliance with objectives
	<p>with a height of up to 4.5m – 0.9m</p> <p>For any part of the building with a height of more than 4.5m – 0.9m plus 1/4 of the height of the building above 4.5m.</p>	<p>1<sup>st</sup> floor -2.52m</p> <p><u>Unit 2</u> Garage – 3.8m Ground – 4.9m 1<sup>st</sup> floor – 3.8m</p> <p><u>Unit 3</u> Ground – 4.9m 1<sup>st</sup> floor – 3.8m</p> <p><u>Unit 4</u> Ground – 0.9m 1<sup>st</sup> floor – 1.76m</p>	<p>Yes</p> <p>Yes Yes</p> <p>Yes Yes</p> <p>Yes Yes (1.74m required)</p>	
	<b>Rear</b> setback – 4.5m	4.5m	Yes	Yes
<b>2.2.6.1 Articulation</b>	<p>Unbroken lengths of wall not to exceed 10m in length and 3m in height</p> <p>Garages are to be located behind the front setback</p>	<p>There are no blank walls longer than 10m</p> <p>Garages are located within the site and hidden from view</p>	<p>Yes</p> <p>Yes</p>	<p>Yes</p> <p>Yes</p>
<b>2.2.6.2 Roof Elements</b>	Roof design does not detract from the architectural merit of the building and maintains the privacy of adjoining sites	<p>The roof form is varied and provides visual interest</p> <p>Privacy of adjoining sites not impacted</p>	<p>Yes</p> <p>Yes</p>	<p>Yes</p> <p>Yes</p>
<b>2.2.6.3 Residential address</b>	<p>Ensure that the street can be seen from windows of regularly occupied rooms, as well as from upper storey balconies and private terraces or courtyards at ground level</p> <p>Street number and building access easily identified from the street</p>	<p>The street can be clearly viewed from Unit 1</p> <p>Street number and access clearly identified on street frontage.</p>	<p>Yes</p> <p>Yes</p>	<p>Yes</p> <p>Yes</p>
<b>2.2.6.4 Design Integration</b>	To ensure that building elements are integrated into the overall building form and façade design	The proposal demonstrates a high level of architectural merit	Yes	Yes
<b>2.2.7.1 Views</b>	Facilitate view sharing outcome	There are no significant public or private views identified in this assessment that would be impacted by the proposed development.	N/A	N/A

Clause	Required	Proposal	Complies	Compliance with objectives
<b>2.2.7.2 Privacy</b>	<p>Maintain reasonable levels of privacy both internally and externally</p> <p>Maximise outlook and views from living rooms and POS</p> <p>Protect the privacy of residents both within dwellings and POS</p>	<p>Reasonable levels of privacy are achieved both internal and externally. The proposed development provides for living areas on the ground floor with bedrooms above. This will limit adverse privacy impacts. Further proposed setbacks will minimise potential overlooking. To the east 13 Allfield Road has a defensive façade fronting the site with private open space oriented to the north and east and buffered from the site by an existing large shed at the rear of the dwelling adjoining western boundary. To the west, 17 Allfield is similarly not sensitive to privacy impacts with the common vehicular access driveway separating the dwellings from the subject site. To the north the site abuts the rear of villa homes / town house development fronting Farnell Drive. These dwelling have POS areas adjacent to the shared boundary therefore is it considered appropriate that upper level windows in Unit 4 i.e. windows W-10, W-11 and W-12 be treated with fixed privacy screens or sill heights above 1.5m to limit any potential privacy impacts. A condition of consent to this effect is proposed.</p>	Yes – As conditioned	Yes - As conditioned
<b>2.2.7.3 Private Open Space</b>	<p>POS for each dwelling to be min. 45m<sup>2</sup> with minimum dimension of 4.5m</p> <p>May be provided in up to 2 locations</p> <p>Ground level courtyards not in front setback</p>	<p>Unit 1 – 31.52m<sup>2</sup> Unit 2 – 47.61m<sup>2</sup> Unit 3 – 32.61m<sup>2</sup> Unit 4 - 51.60m<sup>2</sup> with min. 4.5m</p> <p>Unit 1 – 45.21m<sup>2</sup> (min dimension 2.38m) Unit 2 – 47.61m<sup>2</sup> Unit 3 – 55.47m<sup>2</sup> (min dimension 3.8m) Unit 4 – 68.78m<sup>2</sup> if space less than 4.5m dimension included.</p>	<p><b>No</b> Yes <b>No</b> Yes</p> <p>47.2% variation</p> <p>15.6% variation</p>	<p>Yes –</p> <p>While non-compliant reasonable level and quality of POS provided</p>

Clause	Required	Proposal	Complies	Compliance with objectives
<b>2.2.7.5 Sunlight Access</b>	Solar access for min 3 hours in living rooms and 50% of POS between 9am and 3pm on 21 June  Sunlight retained to existing neighbours on 21 June	Living – All units comply  POS – Units 2-4 comply POS – Unit 1 achieves 2 hours	Yes  Yes <b>No</b>	Yes – While POS to Unit 1 is non-compliant achieving 2 hours it is considered that this is acceptable given living complies and overall level of amenity provided.
<b>2.2.8.1 Car parking</b>	At least one of the required resident's spaces to be enclosed in garage  Visitor parking to be provided at rate of 1 space per 5 units  Comply with the requirements of Chapter 2.13 being 1.5 spaces per dwelling	Unit 1 – 2 spaces (garaged) Unit 2 – 1 space (garage) Unit 3 – 1 space (garage) Unit 4 – 2 spaces (1 garage)  1 x visitor space  6 spaces provided	Yes  Yes  Yes	Yes
<b>2.2.8.2 Access design</b>	Plain concrete driveways and open parking not supported.	Stencilled concrete proposed	Yes	Yes
	Vehicle access is permitted from laneway but not pedestrian, mail or garage collection.	N/A	N/A	
	Garages not to dominate building elevation.	No garages visible from the street	Yes	Yes
	Driveways to be offset by 2m at side boundary and taper to 0.5m. Offset areas to be landscaped.	Driveway offset 2.0m as required	Yes	Yes
	Minimum pavement width = 3m	Min. 3.0m pavement width proposed	Yes	Yes
	Subdivision of dual occupancy into battle-axe to have 3.5m access available.	N/A	N/A	
	Basement access to have minimal visual impact.	N/A	N/A	

Clause	Required	Proposal	Complies	Compliance with objectives
	Basement may extend up to 1m above ground level.	N/A	N/A	
<b>2.2.9.1 Earthworks</b>	Excavation must not exceed a maximum depth measured from existing ground level of 1m if less than 1m, from a boundary of 3m if greater than 1m	No excavation greater than 1m is proposed	Yes	Yes
<b>2.2.9.2 Retaining walls</b>	No more than 600mm wide within 1m of the boundary	No retaining walls proposed	N/A	
<b>2.2.10 Landscaping</b>	Landscaping to contribute to the amenity and character of the area	Landscape plan provided and is considered to meet the objectives of the controls	Yes	Yes
<b>2.2.10.2 Street trees</b>	2 street trees provided per 15m of frontage	2 street trees proposed.	Yes	Yes
<b>2.2.10.3 Deep Soil</b>	50% of soft landscaping to be capable of deep soil	Landscape plan provided. All landscape area deep soil.	Yes	Yes
<b>2.2.10.4 Fencing</b>	Meets the requirements of privacy and security	Front fence 600mm have been provided and is considered acceptable. Otherwise existing colorbond fencing to be retained.	Yes	Yes
<b>2.2.11 Building Services</b>	Adequate available services to cater for the residents needs	All services are available to the property	Yes	Yes
<b>2.2.11.2 Civil works</b>	Kerb and guttering and foot paving to be provided where possible and reasonable	Council's Development Engineer has imposed a condition to require replacement kerb and guttering	Yes – As conditioned	Yes
<b>2.2.11.3 Stormwater management</b>	Stormwater management plan to be provided.	A stormwater management plan has been submitted with the application which complies with relevant requirements	Yes	Yes
	Stormwater to be disposed of via gravity fed system into drainage easement or the street.	Complies. Site drains to the street.	Yes	Yes
	Evidence of agreement of downstream easement to be provided when proposed	N/A	N/A	
<b>2.2.11.4 Garbage and waste services</b>	To comply with Chapter 2.14 Waste Management	Waste management plan has been provided to support the application. 3 x bins per dwelling are proposed. Bin storage for Units 1 and 4 are	Yes	Yes

Clause	Required	Proposal	Complies	Compliance with objectives
		within the courtyard areas with gates to the street/driveway. Bins for Units 2 and 3 are to be located at the end of the driveway in a bin storage area. Clear paths of travel are available.		

The non-compliances with provisions of Chapter 2.2 Dual Occupancy and Multi Dwelling Housing area discussed in further detail below.

#### 2.2.7.3 Private Open Space and 2.2.7.5 Sunlight

As noted above the proposal does not comply with Part 2.2.7.3 of CCDCP 2022, which requires a minimum area of 45m<sup>2</sup> of POS be provided for each dwelling with a minimum dimension of 4.5m. Further, the POS for Unit 1 does not comply with the requirement for a minimum of 50% of the POS to receive three hours of sunlight on 21 June.

The proposed units will be provided with POS as follows:

Unit	POS (with min. dimension of 4.5m)	Compliant	POS -total including area with dimension less than 4.5m	Min. dimension	Sunlight hours at 21 June	Compliant
Unit 1	31.53m <sup>2</sup>	No	45.21m <sup>2</sup>	2.38m	2 hours to > 50%	No
Unit 2	47.61m <sup>2</sup>	Yes	47.61m <sup>2</sup>	-	3 hours to > 50%	Yes
Unit 3	32.61m <sup>2</sup>	No	55.47m <sup>2</sup>	3.8m	3 hours to > 50%	Yes
Unit 4	51.60m <sup>2</sup>	Yes	68.78m <sup>2</sup>	-	3 hours to > 50%	Yes

The objectives of Part 2.2.7.3 are as follows:

- *To ensure private open space areas are functional and responsive to the environment, thereby promoting the enjoyment of outdoor living for residents*
- *To ensure private open space areas (in particular balconies) integrate with the overall architectural form and detail of the development*

In relation to sunlight access, the underlying objective of Part 2.2.7.5 is as follows:

- *To facilitate solar access to the living areas and private open space areas of the dwelling and neighbouring dwellings*

Notwithstanding the proposed non-compliances with the numerical controls for Units 1 and 3, it is considered that the proposed areas of POS are functional and will provide a high level of amenity



for future residents. They will promote outdoor living and respond appropriately to the environment. The areas of POS with dimension of less than 4.5m are usable and make a valuable contribution to the overall available outdoor space for the enjoyment of residents. Further, if included in the calculation, the total area of POS exceeds Council requirements. In addition, while the POS of Unit 1 will only receive two hours of sunlight in midwinter, the living area of the unit will achieve full sun and accordingly, it is considered that notwithstanding the non-compliance, a high level of amenity will be available to the unit. Having regard to these matters it is considered that the proposal satisfies the underlying objectives in Parts 2.2.7.3 and 2.2.7.5 in the circumstances and warrants approval.

### Chapter 2.13 Transport and Parking

#### *Part 2.13.3 – Calculation of Car Parking Spaces*

The provisions in this part require a minimum of 1.5 residential car parking spaces per dwelling and 0.2 visitor spaces per dwelling (rounded up to nearest whole number) to be provided on-site. Accordingly the proposal requires six (6) spaces for the proposed dwellings and (one) 1 visitor space. As amended, the proposal complies and is consistent with the minimum on-site parking requirements in this part.

#### *Part 2.13.4 – Development Provisions – Access Design*

Council's Development Engineer has assessed the proposal and advised that it is acceptable with regard to vehicular access (internally and externally) and safety, as it generally complies with the requirements in Australian Standard AS2890.1:2004 (*Parking Facilities – Off-Street Car Parking*). The proposal is therefore acceptable with regard to the provisions in Part 2.13.4.

### Chapter 2.14 Site Waste Management

As required by this chapter, a waste management plan has been submitted with the application in accordance with Council's requirements. Spaces for three bins per unit have been identified. Units 1 and 4 are to have bin storage in the courtyard areas with gates to the street / shared driveway. Units 2 and 3 will share a communal bin storage area at the end of the driveway. This is considered acceptable.

### Chapter 2.17 Character and Scenic Quality

Chapter 2.17 requires consideration of character and scenic quality and identifies the site as being within the Woy Woy 8: Sandyplain Medium Density area as set out in the 'Scenic Value and Character Statements' referenced in Chapter 2.17 of CCDCP 2022.

The existing character of the Woy Woy 8: Sandyplain Medium Density area is as follows:

*A variety of established residential subdivisions on flat land, either surrounding the town centre where a majority of original cottage and mid-century bungalow allotments have been redeveloped for multi-unit housing, or clusters of multi-unit developments on large allotments situated in out-lying areas.*

*Predominantly flanking major roads and local thoroughfares, redevelopments are visually prominent, and have substantially altered the traditional garden suburb character, defined by individually-designed single storey dwellings that are modestly-scaled timber-frame buildings surrounded by private gardens supporting copses and corridors of woodland remnants and planted trees.*

*In conjunction with multi-unit development, piecemeal widening of street pavements incorporates kerbing and sometimes footpaths, replacing former wide grassed verges that previously supported shady street trees or woodland remnants.*

*Multi-unit developments occur either as continuous ribbons of townhouses and villas, or as clusters of one or two sites interspersed by surviving cottages. Universally of brick and tile construction, development varies in age, style and scale from two storey town houses and flats located close to the town centre and station, to newer one and two storey villa developments that are scattered widely. Occurring as rows of attached dwellings, new developments predominantly incorporate "gun-barrel" building forms where dwellings are set close to neighbouring buildings, flanked by narrow private courtyards and extensive paved driveways. By contrast to traditional bungalows, building forms extending into traditional "back yard" areas appear long and bulky.*

*Surrounding new developments, the limited space retained for gardens is predominantly allocated as small private courtyards that are often narrow paved areas, without shade trees, and surrounded by tall walls. Landscaping predominantly occurs along street frontages and driveways as narrow fringes of ground covers plus small flowering shrubs.*

The desired future character of the Woy Woy 8: Sandyplain Medium Density area is as follows:

*These areas should remain medium-density residential neighbourhoods where improved standards of amenity and urban design quality are achieved by new low-rise multi-unit developments that reflect features of the traditional mid-Twentieth Century bungalows which remain distinctive elements of the Woy Woy Peninsula's identity.*

*Surround each multi-unit development with leafy gardens that conserve existing visually-prominent trees, particularly along back fences and street frontages or verges, as well as providing space for new shady trees and shrubs planted as backdrops to new buildings. Maintain the informal qualities of existing wide grassy street verges and conserve existing shady street trees. Plant a combination of trees and shrubs around courtyards as well as along all property boundaries, and use hedges or fences that are low or see-through rather than tall and opaque in order to complement the informal character of existing garden frontages.*

*Ensure that new multi-unit developments complement the siting, form and scale of surviving traditional bungalows on nearby properties. Maintain street setbacks that are similar to surrounding properties, and minimise the extent of hard-paved surfaces. Avoid the appearance of long and continuous buildings facing any front or side boundary. Step*

*the shape and height of all visible facades, provide at least one wide landscaped setback that varies in width, and line driveways with avenues of trees and shrubs.*

*Reflect the modest scale of traditional mid-Twentieth Century bungalows, for example by dividing new developments into individual dwelling pavilions with a varied form or orientation, separated by verandahs or parking structures and landscaped courtyards. Any facades that are taller or longer than neighbouring buildings should be screened by a combination of extra setbacks and balconies or verandahs. Roofs should be gently-pitched to minimise the height of ridges, and flanked by wide eaves that disguise the scale and bulk of exterior walls. Parking is preferable in open carports or part-basements, rather than in wide garages that would accentuate building bulk or dominate visible facades.*

*In order to complement the scale and design character of traditional bungalows, a "light-weight appearance" is preferable for all visible facades, incorporating walls of windows that are shaded by framed balconies or verandahs plus exterior sunscreens, painted finishes and some sheet or board cladding rather than extensive plain masonry. Where facades face a street, a laneway or a driveway, provide a traditional "street address" with visible verandahs, living rooms and front doors.*

*Screen driveways, terraces, courtyards and balconies to protect the privacy and amenity of neighbouring dwellings.*

The proposed development will achieve a high level of amenity for future residents and is consistent with the scale and design of existing development in the area. Nine new and native trees are proposed to be planted on site, in addition to two new street trees as part of the development, following the removal of seven existing ornamental trees. Accordingly, the proposal is consistent with the development objectives for the land use. The proposed street setback is consistent with the existing established setback and the proposed materials and finishes represent a lightweight form as required and vehicle accommodation will not dominate the street facade. Accordingly it is considered that the proposal is consistent with the desired future character for the area.

### Chapter 3.1 Floodplain Management and Water Cycle Management

A civil design report (including stormwater drainage, water cycle management plan and erosion and sediment control plan) has been submitted with the application and reviewed by Council's Development Engineer. The proposal meets Council's requirements subject to the imposition of recommended conditions of consent.

### Chapter 3.5 Tree and Vegetation Management

The proposal seeks consent for the removal of 7 x trees on site to accommodate the development. Trees to be removed consist of planted ornamentals such as Olive, Callistemon, Mango and Tecoma. Planting of nine new trees is proposed on-site, in addition to two new street trees. Council's Tree Management Officer has advised that the proposed tree removals are acceptable (subject to a condition requiring the replacement trees to be planted prior to Occupation

Certificate), and has supported the provision of two new street trees to be planted, which comprise Dwarf Yellow Bloodwoods. Accordingly, it is considered that the proposal is consistent with the objectives in Chapter 3.5.

#### Chapter 3.7 Geotechnical Requirements

The site is not located within an area mapped as being impacted by landslip. Accordingly, Chapter 3.7 does not apply.

#### **Likely Impacts of the Development:**

##### Built Environment, Context and Setting

The subject site is zoned R1 General Residential and is surrounded by a mix of one and two storey single dwellings and multi dwelling house developments.

A thorough assessment of the impacts of the proposed development on the built environment has been undertaken having regard to the provisions of CCLEP 2022 and CCDCP 2022. Despite non-compliance with the POS and sunlight access to POS requirements of CCDCP 2022, it is considered that the proposal will not have an unreasonable impact on the character or amenity of the area. Further the proposed built form is considered to be acceptable in the context of the area and will provide a high level of amenity to future residents including in relation to provision of POS and sunlight access.

The proposal will not result in any adverse amenity impacts to adjoining development in respect of overshadowing, privacy, noise, or views and demonstrates a high level of architectural design and materials and finishes. The proposal presents well to the street and will fit positively into the streetscape.

##### Access and Transport

The proposal provides parking and access in accordance with Council's requirements. Council's Transport and Traffic Engineer has reviewed the application and confirmed that the estimated additional trip generation from the proposed development is very low and will have no negative impacts on traffic operations. Further, the proposed driveway satisfies required sight distances along both directions of Allfield Road and complies with requirements of AS2890.1:2004. Accordingly, it is considered that it is acceptable from an access and transport perspective.

##### Natural Environment

The subject site does not contain any threatened species or habitat. There will be no significant impact upon the natural environment as a result of the proposal.

### Suitability of the Site for the Development:

The subject site is zoned R1 General Housing which permits multi-dwelling housing with development consent. The proposal complies with all relevant provisions of CCLEP 2022 and generally complies with the provisions of CCDCP 2022 as outlined within this report. The proposal represents a form and scale of development that is consistent with existing development in the area and the desired future character. It will not result in any adverse impacts to adjacent land and will provide appropriate amenity to the future residents. Accordingly, it is considered that the proposal is suitable for the site.

### Whether the Proposal Fits in the Locality

As outlined in the above assessment it is considered that the proposal fits in the locality and demonstrates a high quality built form and landscape character. It will not give rise to any adverse impacts on the locality or neighbouring development.

### Any Submission made in Accordance with this Act or Regulations:

Section 4.15(1)(d) of the *Environmental Planning and Assessment Act 1979* requires consideration of any submissions received during the notification period.

The proposal was formally advertised and notified in accordance with the requirements of *CCDCP 2022 – Chapter 1.2: Notification of Development Proposals* between 20 January 2023 and 13 February 2023. In accordance with *CCDCP 2022 – Part 1.2.2.10, Control (c)*, the amendments noted in the 'Chronology of Development Application' section at the beginning of this report were not re-notified and re-advertised as they were not considered to result in any additional impacts on the surrounding properties or the public domain.

A total of 11 submission were received in the form of unique submissions. The issues raised in submissions are summarized below:

Issue	Response
No visitor parking	Amended plans submitted which provide for 1 x visitor car parking space in compliance with Chapter 2.13 of the CCDCP 2022.
Tree removal / lack of arborist report	Council's Tree Management Officer has advised that the removal of non-native existing trees on site is acceptable having regard to proposed replacement plantings, which include native species of canopy trees varying between 8m and 18m in mature height.
Impact on services	All required services are available to the site and Council's engineers have not raised any issues in this regard.
Not in the public interest	The proposal has been assessed as being in the public interest as outlined throughout this report.
Non-compliant setbacks (side and rear)	As amended, the proposal complies with Council's setback controls.
Private open space non-compliant with area and minimum dimension	Noted- this issue has been addressed in detail throughout this report. In summary it is concluded that notwithstanding the non-compliance, appropriate and functional private open space will be provided for use by the future residents.
Traffic impacts	Council's Traffic Engineer has advised that the traffic impact of the proposal will be minimal and can readily be accommodated within the local road network
Noise impacts	The proposed 4 x townhouses are not considered likely to result in any significant adverse noise impacts being entirely consistent with the zoning of

Issue	Response
	the site and surrounding development. A condition of consent is imposed to ensure construction noise does not exceed standards or compliant construction hours enforced within the municipality while the development is being carried out.
Light spill	Concern has been raised by 13 Allfield Road in respect of light spill from headlights. While some impact may result it is considered that this is minimal given the residential nature, and generally low scale, of the proposed use. The existing high colorbond fence (to be retained) on site will block headlight spill as vehicles enter and exit the proposed garages / parking spaces. A condition is imposed to ensure outdoor lighting is compliant with Australian Standards.
Shadow impact / lack of shadow diagrams	Amended plans include hourly shadow diagrams which indicate that the proposal will not result in any unacceptable shadow impacts, and is compliant with Council's DCP in terms of overshadowing of adjoining properties.
Privacy impacts	As addressed throughout this report the proposed development provides for living areas on the ground floor with bedrooms above. This will limit adverse privacy impacts. Further proposed setbacks will minimise potential overlooking. To the east 13 Allfield Road has a defensive façade fronting the site with private open space oriented to the north and east and buffered from the site by an existing larger shed at the rear of the dwelling going to western boundary. To the west 17 Allfield is similarly not sensitive to privacy impacts with the vehicular access driveway separating the dwellings from the subject site. To the north the site abuts the rear of villa homes / town house development fronting Farnell Drive. These dwelling have POS areas adjacent to the shared boundary therefore it is considered appropriate that upper levels windows in Unit 4 windows W-10, W-11 and W-12 be treated with fixed privacy screens or sill heights above 1.5m to limit any potential privacy impacts. A condition of consent to this effect is recommended.
FSR to be calculated	The FSR of the amended proposal has been calculated and is 0.49:1 where a maximum of 0.5-0.6:1 is permissible
Overdevelopment of the site	Having regard to the above assessment it is considered that the proposal does not represent an overdevelopment of the site.
Should be single storey villas	Proposed use and height permissible on site and generally consistent with planning controls.
13 Allfield Road requests double glazing to prevent noise impacts	As outlined above it is considered that the proposal will not result in adverse noise impacts. Any such impacts will be consistent with that expected from the proposed low – medium density residential use.
13 Allfield Road seeks to ensure no damage to fence	Proposal provides for retention of the existing fence on site.
Impact of increased impervious area	Proposal consistent with Council controls providing greater than 25% landscape area.

Having regard to the above it is considered that the majority of issues raised in the submissions have been addressed in the amended scheme. Any outstanding concerns are not considered sufficient to warrant refusal of the application and/or have been assessed as satisfactory.

### Submissions from Public Authorities

<b>Ausgrid</b>	Consultation was sought from Ausgrid under clause 2.48 of SEPP (Transport and Infrastructure) 2021. No objections were raised.
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### Internal Consultation

<b>Traffic and Transport Engineer</b>	Supported without conditions.
<b>Development Engineer</b>	Supported subject to conditions.
<b>Tree Assessment Officer</b>	Supported subject to conditions.
<b>Water and Sewer</b>	Supported subject to conditions.

### Ecologically Sustainable Principles:

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

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and 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.

### Climate Change:

The potential impacts of climate change on the proposed development have been considered by Council as part of the assessment. This assessment has included consideration of matters such as sea level rise, potential for more intense and /or frequent extreme weather conditions including storm events, bushfire, drought, flood and coastal erosion, as well as how the proposed development may cope, combat and withstand these potential impacts. The proposed development is considered satisfactory in relation to climate change.

### The Public Interest:

The proposal will provide an appropriate form of development consistent with the site zoning and relevant planning controls and objectives and the desired future character of the area. It will also provide additional housing supply and choice in a development that provides a high level of amenity to future residents as well as preserving the existing amenity of neighbouring development. Accordingly, it is considered to be in the public interest.

**Other Matters for Consideration:**Section 7.11 and 7.12 Contributions

The subject site is located within the area covered by the following contribution plans:

- Contribution Plan No. 31 Peninsula – including contributions for drainage, roadworks, open space and recreation and community facilities and services, and
- Central Coast Regional Section 7.12 Development Contributions Plan 2019 – 1% levy for public cycleway

The applicable contribution amount has been calculated and an appropriate condition of consent recommended.

Water and Sewer Contributions

A water and sewer developer charge is also levied upon development under the *Water Management Act 2000*. The applicable charge has been calculated and an appropriate condition of consent recommended.

Political Donations

During assessment of the subject application there were no political donations declared by the applicant, applicant's consultants, owner, objectors and or residents.

**Conclusion:**

This application has been assessed under the heads of consideration of Section 4.15 of the *Environmental Planning and Assessment Act 1979* and all relevant instruments and policies.

Following a thorough assessment of the relevant planning controls and the key issues identified in this report which have been resolved satisfactorily through amendments to the proposal, it is considered that the application can be supported, noting that:







1. The Panel can be satisfied that the provisions in the following State Environmental Planning Policies have been considered and are satisfied:
  - i) *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
  - ii) Chapters 2 (Coastal Management) and 4 (Remediation of Land) of *State Environmental Planning Policy (Resilience and Hazards) 2021*
  - iii) *State Environmental Planning Policy (Transport and Infrastructure) 2021*
2. The Panel can be satisfied that the provisions in clause 7.1 (Acid Sulfate Soils) and 7.6 (Essential Services) of *Central Coast Local Environmental Plan 2022* have been considered and satisfied.



3. The Panel can be satisfied that the proposal is permissible in the land use zone, upholds the zone objectives, and complies with the relevant development standards in Part 4 of the *Central Coast Local Environmental Plan 2022*.
4. The Panel can be satisfied that, as amended and conditioned, the proposal upholds the objectives of the *Central Coast Development Control Plan 2022*.
5. The Panel can be satisfied that the relevant provisions of the environmental planning instruments, plans and policies that apply to the development have been considered in the assessment of the application.
6. The Panel can be satisfied that the proposal, as amended and conditioned, will not have any non-compliant or unreasonable adverse impacts upon the amenity of the neighbouring properties or the locality.
7. The Panel can be satisfied that the proposed development is considered satisfactory having regard for the matters for consideration provided in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

As such, the application is recommended for approval in accordance with Section 4.16 of the *Environmental Planning and Assessment Act, 1979*, subject to recommended conditions detailed in Attachment 1.

### **Attachments**

- |  |  |           |
|--|--|-----------|
| <b>1</b>  | Draft Conditions - 15 Allfield Road, WOY WOY NSW 2256 - DA/4112/2022       | D16019761 |
|           |  |           |
| <b>2</b>  | Survey Plan - 15 Allfield Road WOY WOY 2256 - DA/4112/2022                 | D15475848 |
|           |  |           |
| <b>3</b>  | Architectural and Landscape Plans - Revision D - 15 Allfield Road, WOY WOY | D15889507 |
|           | - DA/4112/2022   |           |

**PROPOSED CONDITIONS**

**Location:** 15 Allfield Road, WOY WOY NSW 2256  
 Lot 67 DP 6846  
**Application No:** DA/4112/2022  
**Proposed Development:** Demolition and Multi Dwelling Housing (4 Dwellings)

**1.PARAMETERS OF THIS CONSENT****Approved Plans and Supporting Documentation**

- 1.1 Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Issue No.	Plan Title	Drawn By	Dated
DA-01	D	Site Plan & Site Analysis	Shobha Designs	5/10/2023
DA-02	D	Ground Floor Plan	Shobha Designs	5/10/2023
DA-03	D	First Floor Plan	Shobha Designs	5/10/2023
DA-04	D	Roof Plan	Shobha Designs	5/10/2023
DA-05	D	East Elevation	Shobha Designs	5/10/2023
DA-06	D	Elevation & Section	Shobha Designs	5/10/2023
DA-10	D	Schedule of External Materials	Shobha Designs	5/10/2023
DA-12	D	Demolition Plan	Shobha Designs	5/10/2023
DA-14	D	Landscape Plan - 1	Shobha Designs	5/10/2023
DA-15	D	Landscape Plan - 2	Shobha Designs	5/10/2023
DA-16	D	Landscape Plan - 3	Shobha Designs	5/10/2023

Document Title	Revision No.	Prepared by	Dated
Driveway Profile (Drawing No.	A	TFF Consulting	6/12/2022

22106/08)			
Driveway Profile (Drawing No. 22106/09)	A	TFF Consulting	6/12/2022
Driveway Profile (Drawing No. 22106/10)	A	TFF Consulting	6/12/2022
Driveway Profile (Drawing No. 22106/11)	A	TFF Consulting	6/12/2022
Drawing Index & Locality Plan (Job No. 22011, Sheet No. C100)	B	Infanite Engineering Group	6/12/2022
Siteworks Plan (Job No. 22011, Sheet No. C201)	B	Infanite Engineering Group	6/12/2022
Erosion and Sediment Control Plan and Details (Job No. 22011, Sheet No. C310)	B	Infanite Engineering Group	6/12/2022
Waste Management Plan	N/A	Mr Murthy	Not referenced
BASIX Certificate (Certificate No. 1357795M_02)	1357795M_02	NSW Dept. of Planning and Environment	5/10/2023

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

**Note:** an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

- 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 detailed in the BASIX Certificate listed in this development consent as required under Section 75 *Environmental Planning and Assessment Regulation 2021*.

## 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. Submit an application to Council under section 305 of the Water Management Act 2000 for a section 306 Requirements Letter. The Application form can be found on Council's website [centralcoast.nsw.gov.au](http://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 e.g. prior to

construction certificate, subdivision works certificate, occupation certificate and/or subdivision certificate.

- 2.3. Obtain a Roads Act Works Approval by submitting an application to Council for a Section 138 Roads Act Works Approval for all works required within the road reserve. The application is to be lodged using an *Application for Subdivision Works Certificate or Construction Certificate, Roads Act Works Approval and other Development related Civil Works* form.

The application is to be accompanied by detailed design drawings, reports and other documentation prepared by a suitably experienced qualified professional in accordance with Council's *Civil Works Specifications*.

Fees, in accordance with Council's Fees and Charges, will be invoiced to the applicant following lodgement of the application. Fees must be paid prior to Council commencing assessment of the application.

Design drawings, reports and documentation will be required to address the following works within the road reserve:

- a) Construction of a residential vehicle access crossing including construction of a gutter crossing and road pavement adjacent to the gutter crossing.
- b) Removal of all redundant vehicle gutter crossings / laybacks and replacement with kerb.
- c) Removal of all redundant vehicular access crossings. The road verge/footway formation is to be reinstated and stabilised with topsoil and turf from top of kerb to property boundary. Concrete path to be constructed if required.
- d) Construction of any works required to transition new works into existing infrastructure and the surrounding land formation.
- e) Construction of a storm water drainage connection from the development site to Council's storm water drainage system within the road reserve.

The section 138 Roads Act Works Approval must be issued by Council and all conditions of that approval must be addressed prior to occupying and commencing any works in the road reserve.

- 2.4. Submit to Council a dilapidation report detailing the condition of all Council assets within the vicinity of the development. The report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, street trees, street signs, street lights or any other Council assets in the vicinity of the development. The dilapidation report will be required to be submitted to Council prior to the issue of the Section 138 Roads Act Works approval or the issue of any construction certificate for works on the site. The dilapidation report may be updated with the approval of Council prior to the commencement of works. The report will be used by Council to establish damage to Council's assets resulting from the development works.
- 2.5. Submit to the Registered Certifier responsible for issuing the construction certificate for works within the development site detailed design drawings and design reports for the following engineering works:

- a) Construction of driveways, ramps and car parking areas in accordance with the requirements of the current edition Australian Standard AS/NZS 2890: Parking Facilities and other applicable Australian Standards.
- b) Construction of a stormwater detention system. Design in accordance with Central Coast DCP 2022 Chapter 3.1 Water Cycle Management and Council's *Civil Works Specifications*. The stormwater detention system must limit post development peak flows from the proposed development to less than or equal to predevelopment peak flows for all storms events up to and including the 1% Annual Exceedance Probability (AEP) storm event. A runoff routing model/method must be used. An on-site stormwater detention report including an operation and maintenance plan must accompany the design. On-site stormwater detention is not permitted within private courtyards, drainage easements, and / or secondary flow paths.
- c) Construction of nutrient and pollution control measures. Design in accordance with Central Coast DCP 2022 Chapter 3.1 Water Cycle Management. A nutrient and pollution control report including an operation and maintenance plan must accompany the design
- d) Construction of on-site stormwater retention measures. Design in accordance with Central Coast DCP 2022 Chapter 3.1 Water Cycle Management. A report detailing the method of stormwater harvesting, sizing of retention tanks for re-use on the site and an operation and maintenance plan must accompany the design
- e) Construction stormwater drainage collection and piping of all stormwater runoff from areas within the site via an on-site stormwater detention facility to the approved connection with Council's drainage system located in Allfield Rd.
- f) Construction of retaining walls (if required). Retaining wall design must not conflict with existing or proposed services or utilities. Retaining walls designs for wall greater than 600mm in height must be certified by a registered practising Civil or Structural engineer as being in accordance with Australian Standards.

Detailed design drawings and design reports acceptable to the Registered Certifier must be included in the Construction Certificate documentation.

- 2.6. In accordance with Clause 4.17(1)(g) of the *Environmental Planning and Assessment Act 1979* the approved plans and the Construction Certificate plans and specifications must detail the following amendments prior to the issue of any Construction Certificate:
  - a) The upper level windows of Unit 4 i.e. windows W-10, W-11 and W-12 must be treated with fixed privacy screens or have sill heights greater than 1.5m to mitigate privacy impacts on the neighbouring properties.
- 2.7. No activity is to be carried out on-site until the Construction Certificate has been issued, other than:
  - 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.

- 2.8. Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:
- location and materials for protective fencing and hoardings to the perimeter on the site
  - provisions for public safety
  - pedestrian and vehicular site access points and construction activity zones
  - details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site
  - protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
  - details of any bulk earthworks to be carried out
  - location of site storage areas and sheds
  - equipment used to carry out all works
  - a garbage container with a tight-fitting lid
  - dust, noise and vibration control measures
  - location of temporary toilets.

The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

- 2.9. Before the issue of a construction certificate, the applicant is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:
- (a) details the following:
- the contact details of the person(s) removing the waste
  - an estimate of the waste (type and quantity) and whether the waste is expected to be reused, recycled or go to landfill
  - the address of the disposal location(s) where the waste is to be taken.

The applicant must ensure the waste management plan is referred to in the construction site management plan and kept on-site at all times during construction.

- 2.10. Before the issue of a construction certificate, the applicant is to ensure that the person liable pays the long service levy to the Long Service Corporation or Council under section 34 of the *Building and Construction Industry Long Service Payments Act 1986* and provides proof of this payment to the certifier.

- 2.11. Pursuant to Section 7.11 of the *Environmental Planning and Assessment Act 1979*, pay to Council a total contribution amount of **\$48,519.40**, that may require adjustment at

the time of payment, in accordance with the relevant Council Contribution Plans No. 31A, 31B, 31C & 31D - Peninsula.

Roadworks	B	(Key No 789)	\$2,753.35
Open Space - Land	C	(Key No 791)	\$6,860.00
Open Space - Embellishment	C	(Key No 790)	\$21,986.20
Community Facilities - Land	D	(Key No 793)	\$381.35
Community Facilities - Works	D	(Key No 792)	\$7,046.30
Drainage - Land	A	(Key No 787)	\$1,708.00
Drainage - Capital	A	(Key No 788)	\$7,784.20
TOTAL AMOUNT			<b>\$48,519.40</b>

The total amount 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 contributions plan.

Contact Council's Contributions Planner on (02) 4306 7900 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 that the contributions have been paid. A copy of this receipt must accompany the documents submitted by the certifying authority to Council under Section 59 *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

A copy of the Contribution Plan may be inspected at the office of Central Coast Council, 2 Hely Street Wyong or on Council's website.

### 3. PRIOR TO ISSUE OF ANY SUBDIVISION WORKS CERTIFICATE

No Conditions

### 4. PRIOR TO COMMENCEMENT OF ANY WORKS

- 4.1. All conditions under this section must be met prior to the commencement of any works.
- 4.2. Prepare a Construction Traffic and Pedestrian Management Plan (CTPMP) for all activities related to works within the site. The plan must be prepared and implemented only by persons with Roads and Maritime Service accreditation for preparing and implementing traffic management plans at work sites.

The CTPMP must describe the proposed construction works, the traffic impacts on the local area and how these impacts will be addressed.

The CTPMP must address, but not be limited to, the following matters:

- Ingress and egress of construction related vehicles to the development site.
- Details of the various vehicle lengths that will be used during construction and the frequency of these movement.
- Use of swept path diagrams to demonstrate how heavy vehicles enter, circulate and exit the site or Works Zone in a forward direction.
- Deliveries to the site, including loading / unloading materials and requirements for work zones along the road frontage to the development site. A Plan is to be included that shows where vehicles stand to load and unload, where construction plant will stand, location of storage areas for equipment, materials and waste, locations of Work Zones (if required) and location of cranes (if required).
- Works Zones if heavy vehicles cannot enter or exit the site in a forward direction.
- Control of pedestrian and vehicular traffic where pre-construction routes are affected.
- Temporary Road Closures.

Where the plan identifies that the travel paths of pedestrians and vehicular traffic are proposed to be interrupted or diverted for any construction activity related to works inside the development site an application must be made to Council for a Road Occupancy Licence. Implementation of traffic management plans that address interruption or diversion of pedestrian and/or vehicular traffic must only take place following receipt of a Road Occupancy Licence from Council or the Roads and Maritime Service where on a classified road.

Where a dedicated delivery vehicle loading and unloading zone is required along the road frontage of the development site a Works Zone Application must be lodged and approved by Council. A minimum of 3 months is required to allow Traffic Committee endorsement and Council approval.

The Construction Traffic and Pedestrian Management Plan must be reviewed and updated during construction of the development to address any changing site conditions.

A copy of the Construction Traffic and Pedestrian Management Plan must be held on site at all times and be made available to Council upon request.

- 4.3. Submit to Council a completed *Notice of Intention to Commence Subdivision, Roads and Stormwater Drainage Works* form with supporting documentation prior to the commencement of any Subdivision Works Certificate works, Roads Act Works Approval works, or Section 68 Local Government Act Stormwater Drainage Works Approval works. These works are not to commence until a pre-commencement site meeting has been held with Council.



- 4.4. 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](http://www.centralcoast.nsw.gov.au)
- 4.5. 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:
- 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.

## 5.DURING WORKS

- 5.1. All conditions under this section must be met during works.
- 5.2. The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

7.00 am and 5.00 pm on Monday to Saturday.

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

- 5.3. While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

"relic" means any deposit, artefact, object or material evidence that:

- (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
- (b) is of State or local heritage significance; and

"Aboriginal object" means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains. To ensure the protection of objects of potential significance

- 5.4. 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.
- 5.5. 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.
- 5.6. 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*.

## 6. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE

- 6.1. All conditions under this section must be met prior to the issue of any Occupation Certificate.
- 6.2. Prior to issue of an occupation certificate the Registered Certifier must verify that the street trees on the road reserve as per approved Landscape Plan have been planted.

The street trees must not be planted within an authority's underground service easement nor be closer than 3m from a driveway or a power pole.

- 6.3. Obtain the Section 307 Certificate of Compliance under the *Water Management Act 2000* for water and sewer requirements for the development from Central Coast Council as the Water Supply Authority, prior to issue of the Occupation Certificate.

- 6.4. Complete construction of the stormwater management system in accordance with the Stormwater Management Plan and Australian Standard AS 3500.3-*Stormwater drainage systems*. Certification of the construction by a suitably qualified consultant must be provided to the Principal Certifier.
- 6.5. Complete construction of all works within the road reserve in accordance with the Roads Act Works Approval. Completion of works includes the submission and acceptance by Council of all work as executed drawings plus other construction compliance documentation and payment of a maintenance/defects bond to Council in accordance with Council's Fees and Charges.
- 6.6. Repair any damage to Council's infrastructure and road reserve as agreed with Council. Damage not shown in the dilapidation report submitted to Council before the development works had commenced will be assumed to have been caused by the development works unless the Developer can prove otherwise.
- 6.7. Complete the civil engineering works within the development site in accordance with the detailed design drawings and design reports plans within the construction certificate.
- 6.8. Amend the Deposited Plan (DP) for lot 67 DP 6846 to:
  - 1) Include an Instrument under the *Conveyancing Act 1919* for the following restrictive covenants; with Council having the benefit of these covenants and having sole authority to release and modify. Wherever possible, the extent of land affected by these covenants must be defined by bearings and distances shown on the plan. The plan and instrument must:
    - Create a 'Restriction on the use of Land' over all lots containing an on-site stormwater detention system and / or a nutrient / pollution facility restricting any alteration to such facility or the erection of any structure over the facility or the placement of any obstruction over the facility.
  - 2) Include an instrument under the *Conveyancing Act 1919* for the following positive covenants; with Council having the benefit of these covenants and having sole authority to release and modify. Covenant(s) required:
    - a) To ensure on any lot containing on-site stormwater detention system and / or a nutrient / pollution facility that:
      - i. the facility will remain in place and fully operational.
      - ii. the facility is maintained in accordance with the operational and maintenance plan so that it operates in a safe and efficient manner.
      - iii. Council's officers are permitted to enter the land to inspect and repair the facility at the owner's cost.
      - iv. Council is indemnified against all claims of compensation caused by the facility.

Note: Standard wording, acceptable to Council, for covenants can be obtained by contacting Council Subdivision Certificate Officer.

Submit to the Principal Certifier copies of registered title documents showing the restrictive and positive covenants.

- 6.9. Complete Construction of driveways, ramps and car parking areas in accordance with the requirements of the current edition Australian Standard AS/NZS 2890: *Parking Facilities*, other applicable Australian Standards and the detailed designs and design reports within the construction certificate. Certification by a suitably qualified person that construction is complete is to be provided to the Principal Certifier.
- 6.10. 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*.

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

- 6.11. All conditions under this section must be met prior to the issue of any Occupation Certificate.
- 6.12. Prior issue of an occupation certificate the Registered Certifier must verify that all outdoor lighting is installed in compliance with AS/NZS 4282: *Control of the obtrusive effects of outdoor lighting*.

#### 7. PRIOR TO ISSUE OF ANY SUBDIVISION CERTIFICATE

No Conditions

#### 8. PRIOR TO OCCUPATION OF THE MANUFACTURED HOME

No Conditions

#### 9. ONGOING

No Conditions

#### 10. PENALTIES

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;

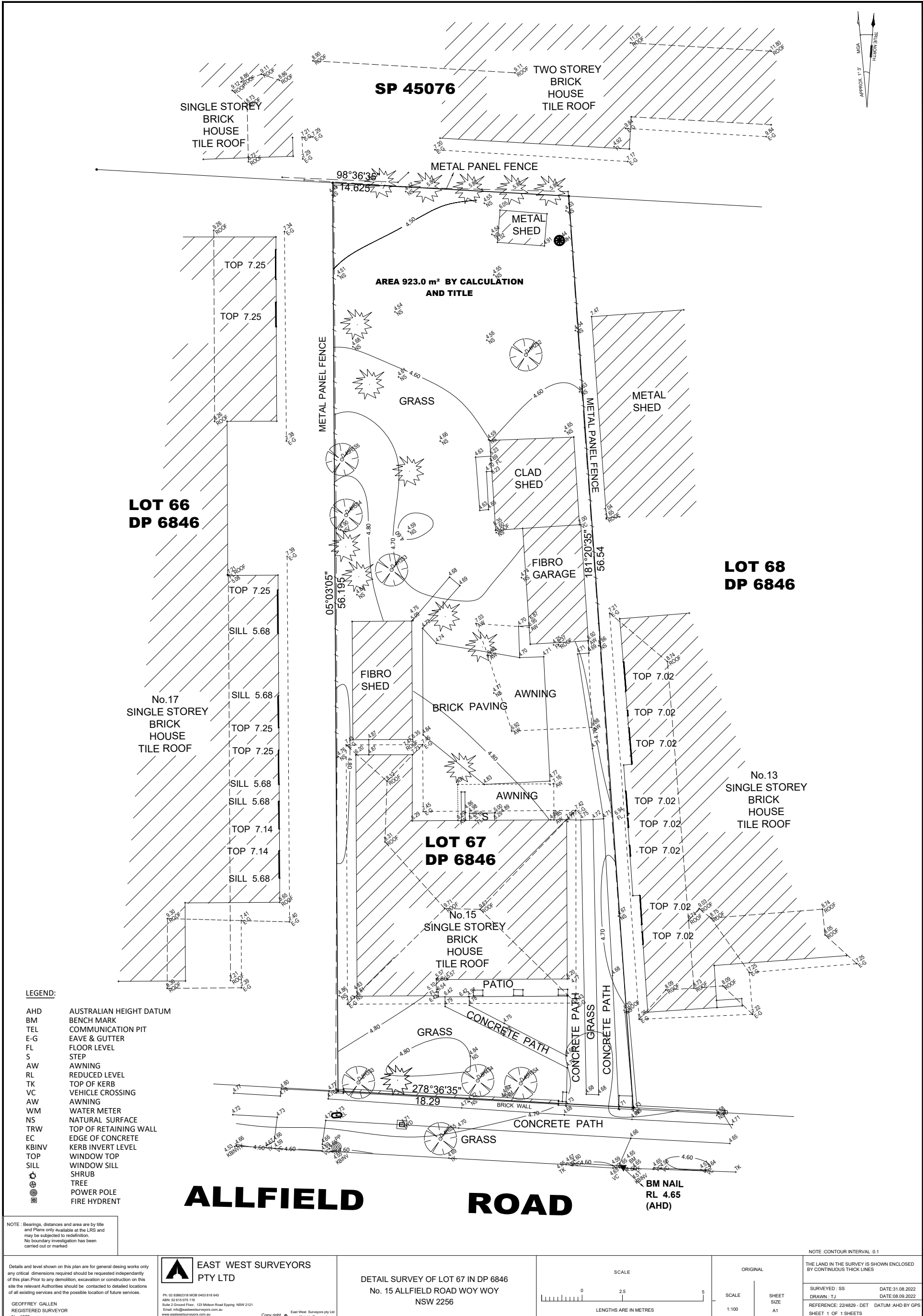
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

**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





AREA STATEMENT	
SITE AREA	= 923 m²
PROPOSED FSR	
PROPOSED GROSS FLOOR AREA (As per LEP Definition)	
UNIT 1	= 128.69m²
UNIT 2	= 105.92m²
UNIT 3	= 100.52m²
UNIT 4	= 114.61m²
TOTAL PROPOSED GFA (FSR = 0.49:1)	= 449.74m²
MAX PERMISSIBLE FSR = 0.53:1	
PROPOSED SITE COVERAGE	
TOTAL PROPOSED SOFT LANDSCAPED AREA (29% of Site Area)	= 268.39m²
MIN REQUIRED SOFT LANDSCAPED AREA = 25% OF SITE AREA	
PROPOSED PRIVATE OPEN SPACE	
UNIT 1	= 45.00m² (2.38m-5.04m width)
UNIT 2	= 48.63m² (4.62m-5.04m width)
UNIT 3	= 55.56m² (3.8m-4.92m width)
UNIT 4	= 60.69m² (4.5m - 5.2m width)
MIN REQUIRED POS = 45m² per Unit (min dimension of 4.5m)	
PROPOSED CAR PARKING SPACES	
UNIT 1	= 2 Car spaces
UNIT 2	= 1 Car space
UNIT 3	= 1 Car space
UNIT 4	= 2 Car spaces
VISITORS	= 1 space
TOTAL CAR SPACES	= 7 spaces
MIN REQUIRED CAR PARKING SPACES	
= 1.5 Car spaces per Dwelling + 0.2 Visitors spaces per Dwelling	
= 6 Car spaces + 0.8 Visitors spaces (1 space rounded up)	
= Total 7 Car spaces	

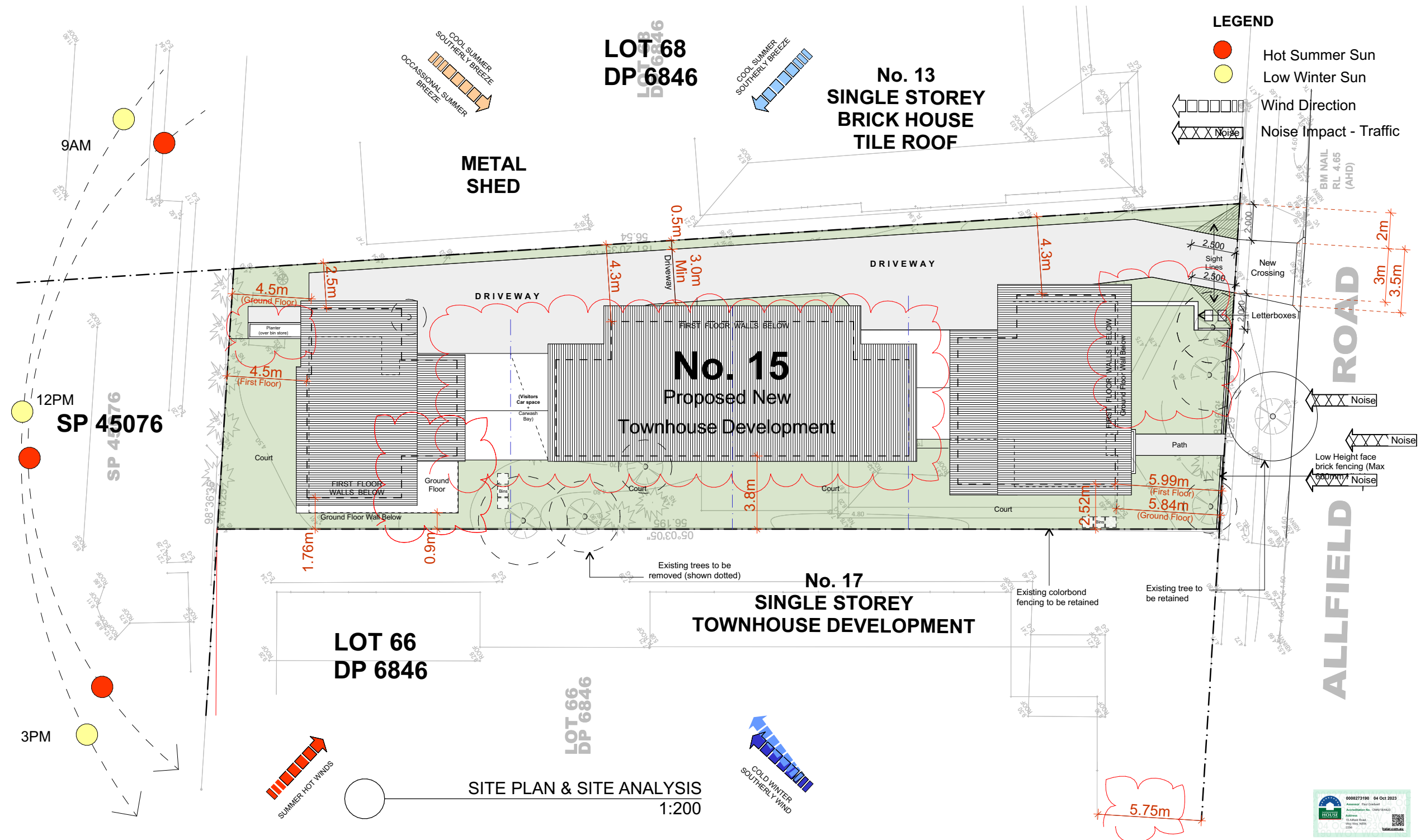
DRAWING No.	DESCRIPTION
	COVER SHEET
DA-01	SITE PLAN & SITE ANALYSIS
DA-02	GROUND FLOOR PLAN
DA-03	FIRST FLOOR PLAN
DA-04	ROOF PLAN
DA-05	ELEVATIONS
DA-06	ELEVATION & SECTION
DA-07	SHADOW DIAGRAMS
DA-08	SHADOW ANALYSIS
DA-09	SHADOW ANALYSIS
DA-10	SCHEDULE OF EXTERNAL FINISHES
DA-11	AREA CALCULATION DIAGRAMS
DA-12	DEMOLITION PLAN
DA-13	SOLAR ACCESS ANALYSIS - LIVING ...
DA-14	LANDSCAPE PLAN - 1
DA-15	LANDSCAPE PLAN - 2
DA-16	LANDSCAPE PLAN - 3




SUBJECT SITE

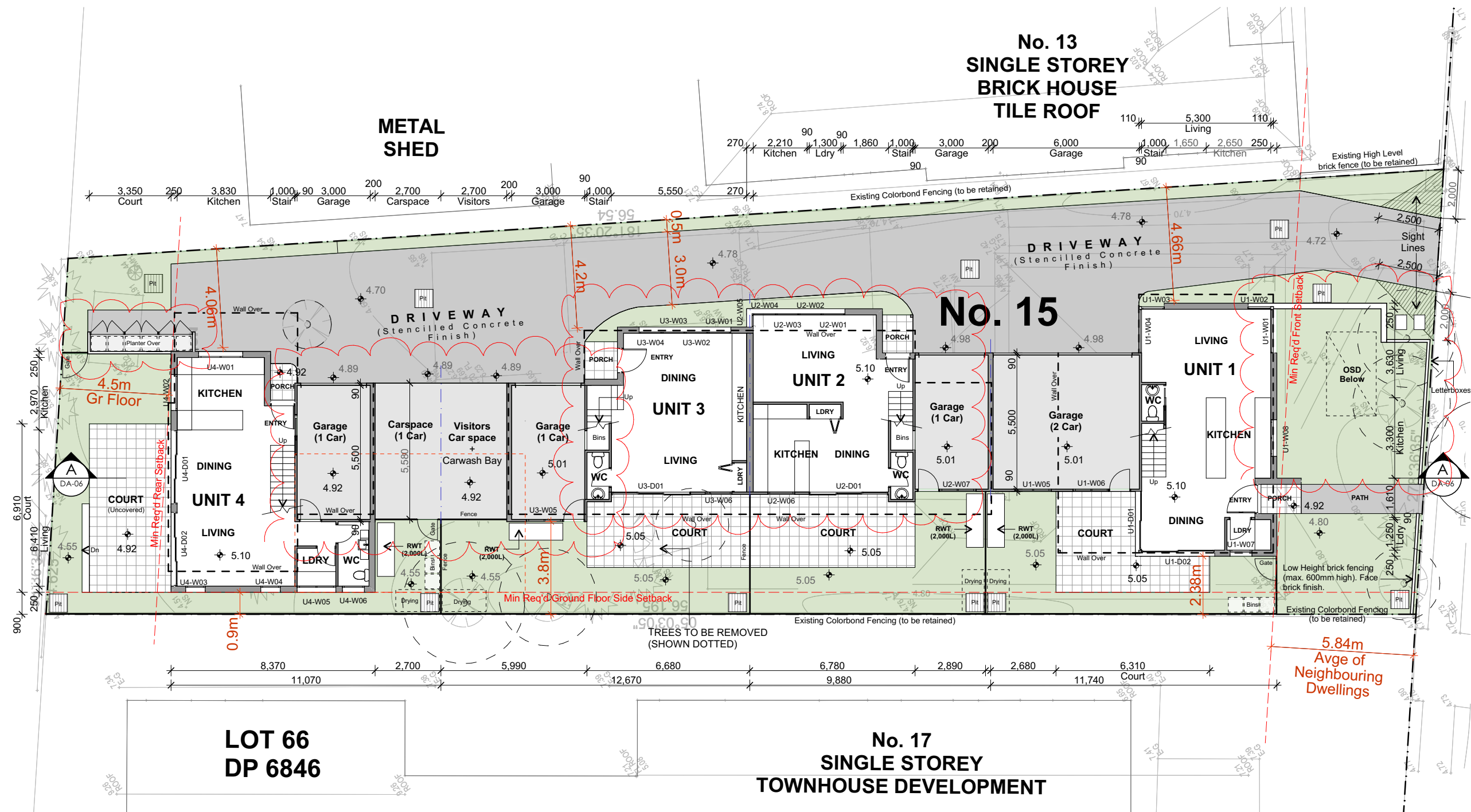
Locality Plan






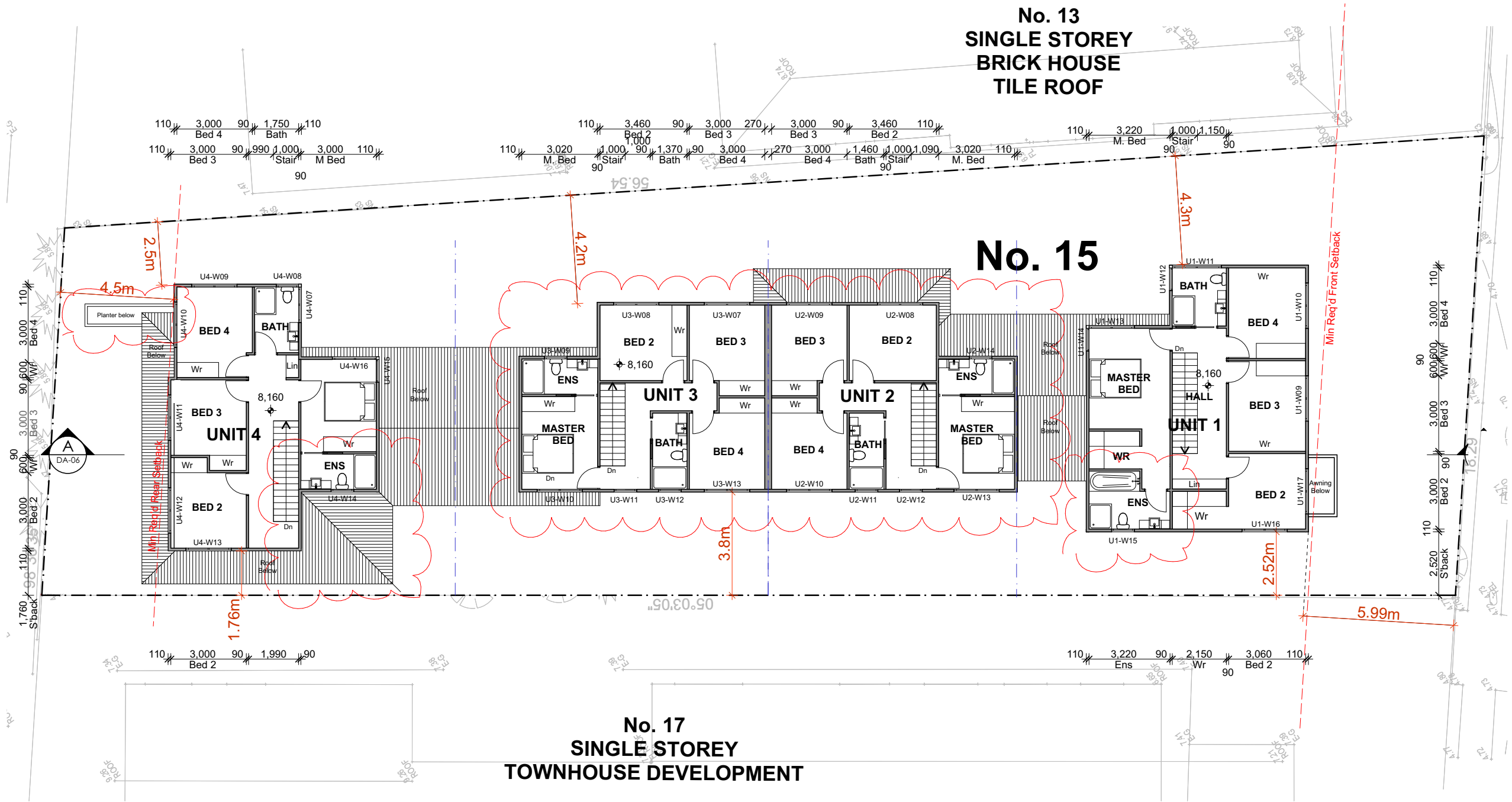
<div>Architects:</div> <div>SHOBHA DESIGNS</div> <div>ARCHITECTS &amp; URBAN DESIGNERS</div> <div><div>Suite 21, 1 - 7 Jordan St, Gladsville NSW 2111</div><div>PHONE : 02 98790020</div><div>MOBILE : 0418112677</div><div>EMAIL : nilesh@shobhadesigns.com.au</div></div> <div>shobha</div>	<div>PROJECT</div> <div>Proposed New Townhouse Development at 15 Allfield Road Woy Woy</div>	<div>Drawing Name</div> <div>SITE PLAN &amp; SITE ANALYSIS</div>	<table><tr><th colspan="4">Amendments</th><th>Date of Issue</th><th>5/10/2023</th></tr><tr><th>Transmittal Set ID</th><th>Transmittal Set Name</th><th>Checked by</th><th colspan="2">Date</th></tr><tr><td>A</td><td>DA Issue to Council</td><td>NM</td><td colspan="2">6/12/2022</td></tr><tr><td>B</td><td>Amendments as per Council Letter dated 1 May 23</td><td>NM</td><td colspan="2">09/05/2023</td></tr><tr><td>C</td><td>Amendments as per Council Letter dated 11 Aug 23</td><td>NM</td><td colspan="2">16/08/2023</td></tr><tr><td>D</td><td>Amendments as per Council Letter dated 25 Aug 23</td><td>NM</td><td colspan="2">5/10/2023</td></tr></table>	Amendments				Date of Issue	5/10/2023	Transmittal Set ID	Transmittal Set Name	Checked by	Date		A	DA Issue to Council	NM	6/12/2022		B	Amendments as per Council Letter dated 1 May 23	NM	09/05/2023		C	Amendments as per Council Letter dated 11 Aug 23	NM	16/08/2023		D	Amendments as per Council Letter dated 25 Aug 23	NM	5/10/2023		<div>Date of Issue</div> <div>5/10/2023</div>
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FIRST FLOOR PLAN  
1:150

Architects:

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ARCHITECTS & URBAN DESIGNERS

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PHONE : 02 98790020  
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**shobha**

**PROJECT**  
Proposed New Townhouse Development  
at 15 Allfield Road Woy Woy

**CLIENT**  
MARSS GLOBAL Pty Ltd

**Drawing Name**  
FIRST FLOOR PLAN

**General Notes**  
The Builder shall check all dimensions and levels on site prior to construction.  
Notify any errors, discrepancies or omissions to the architect.  
Drawings shall not be used for construction purposes until issued for construction.  
Do not scale drawings.  
All boundaries and contours subject to survey

**N**

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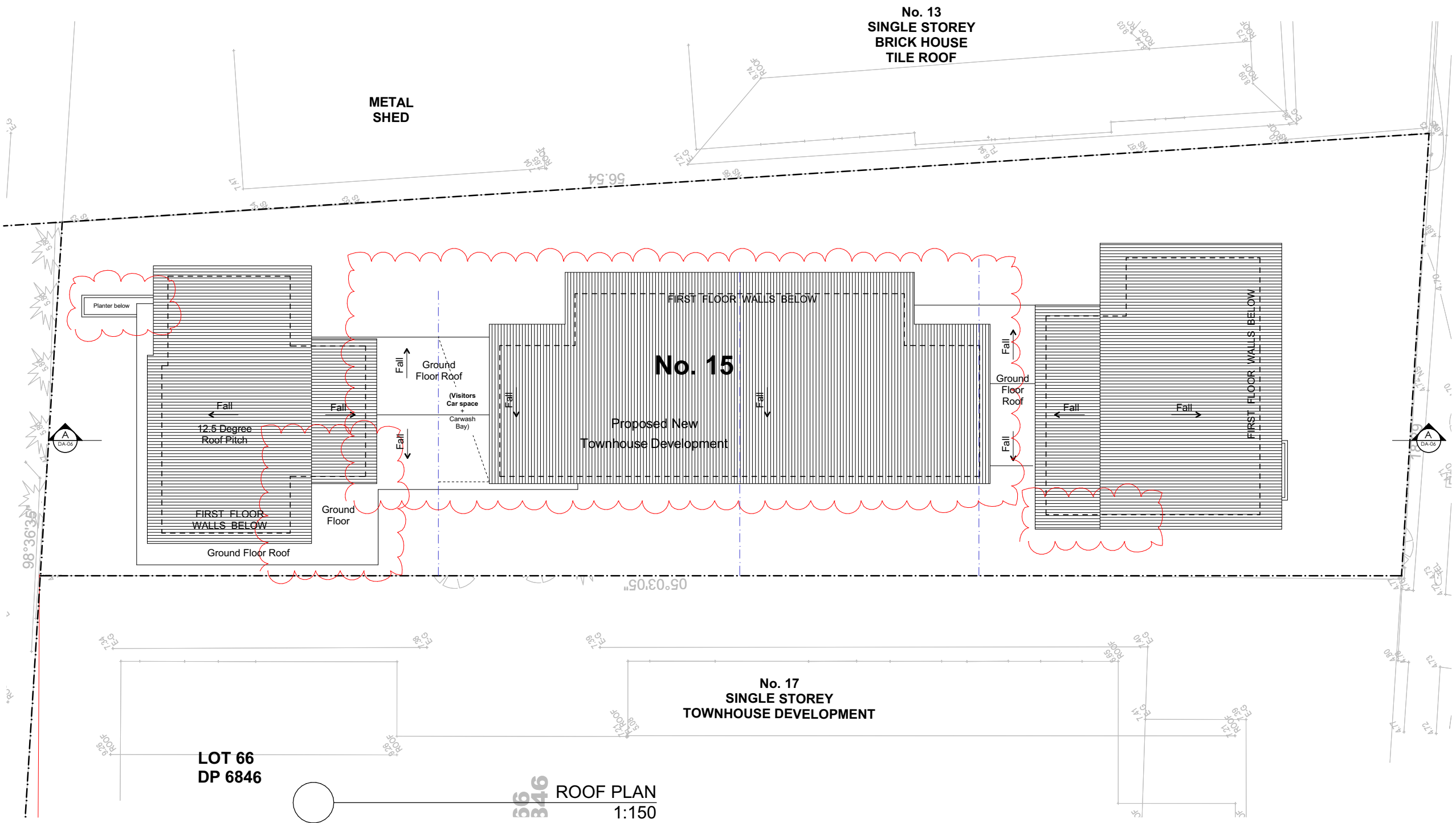
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DA-03

**Issue**  
D

**Drawn By** : Sandy Martikas  
**Checked By**: Nilesh Munot

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shobha

PROJECT

Proposed New Townhouse Development at 15 Allfield Road Woy Woy

CLIENT

MARSS GLOBAL Pty Ltd

Drawing Name

ROOF PLAN

General Notes

The Builder shall check all dimensions and levels on site prior to construction. Notify any errors, discrepancies or omissions to the architect. Drawings shall not be used for construction purposes until issued for construction. Do not scale drawings. All boundaries and contours subject to survey

N

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Date of Issue		5/10/2023
Drawing Scale	Drawn By : Sandy Martikas	1:150
Checked By: Nilesh Munot		
Layout ID	Issue	DA-04 D

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Architects:

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PHONE : 02 98790020  
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EMAIL : nilesh@shobhadesigns.com.au

**shobha**

**PROJECT**

Proposed New Townhouse Development  
at 15 Allfield Road Woy Woy

**CLIENT**

MARSS GLOBAL Pty Ltd

**Drawing Name**

ELEVATIONS

**General Notes**

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Amendments			
Transmittal Set ID	Transmittal Set Name	Checked by	Date
A	DA Issue to Council	NM	6/12/2022
B	Amendments as per Council Letter dated 1 May 23	NM	09/05/2023
C	Amendments as per Council Letter dated 11 Aug 23	NM	16/08/2023
D	Amendments as per Council Letter dated 25 Aug 23	NM	5/10/2023

**Date of Issue**

5/10/2023

**Drawing Scale**

1:150

**Layout ID**

DA-05

**Issue**

D

**Drawn By**

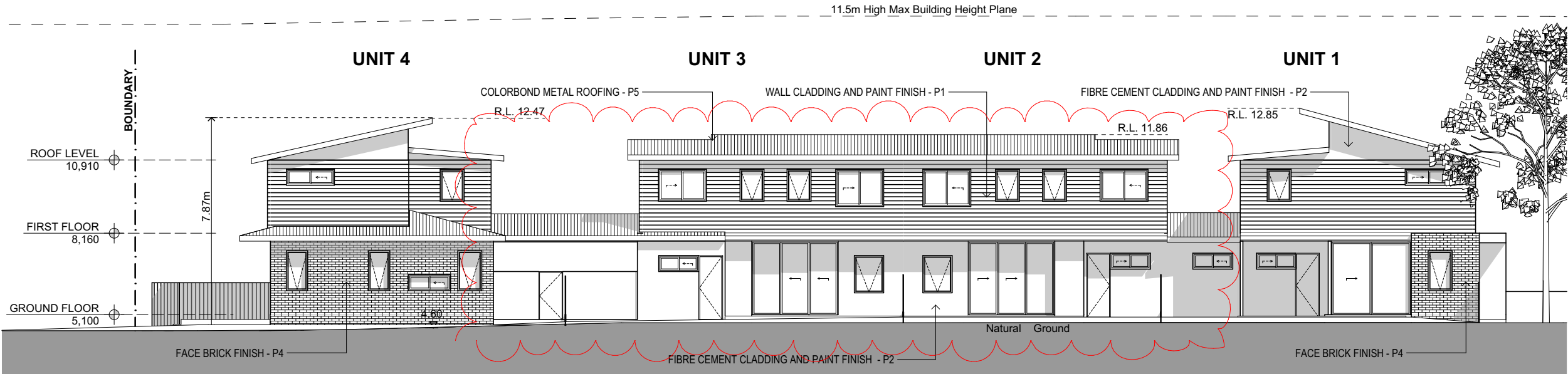
Sandy Martikas

**Checked By**

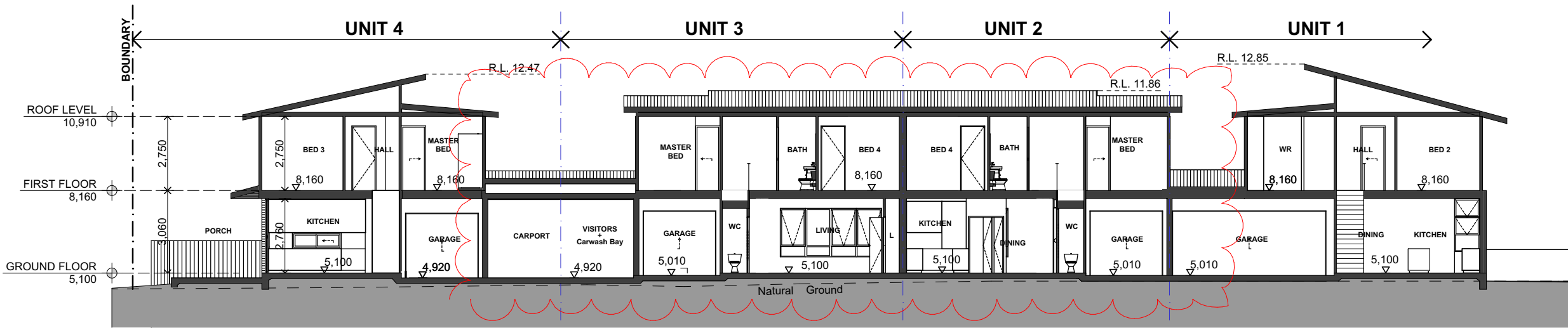
Nilesh Munot

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WEST ELEVATION  
1:150



SECTION A  
1:150

Architects:

SHOBHA DESIGNS

ARCHITECTS & URBAN DESIGNERS

Suite 21, 1 - 7 Jordan St, Gladesville NSW 2111

PHONE : 02 98790020

MOBILE : 0418112677

EMAIL : nilesh@shobhadesigns.com.au

shobha

PROJECT

Proposed New Townhouse Development  
at 15 Allfield Road Woy Woy

CLIENT

MARSS GLOBAL Pty Ltd

Drawing Name

ELEVATION & SECTION

General Notes

The Builder shall check all dimensions and levels on site prior to construction.  
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Amendments

Transmittal Set ID

Transmittal Set Name

Checked by

Date

A

DA Issue to Council

NM

6/12/2022

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NM

16/08/2023

D

Amendments as per Council Letter dated 25 Aug 23

NM

5/10/2023

Date of Issue

5/10/2023

Drawing Scale

Drawn By : **Sandy Martikas**

**1:150**

Checked By: **Nilesh Munot**

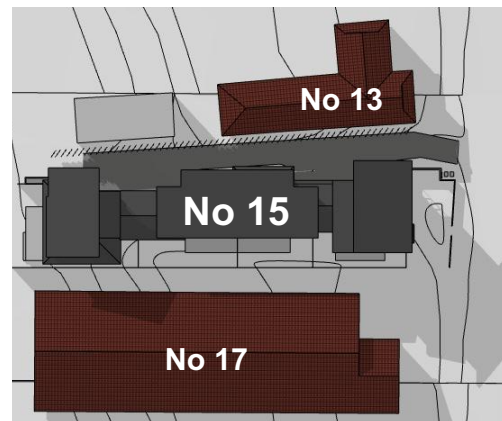
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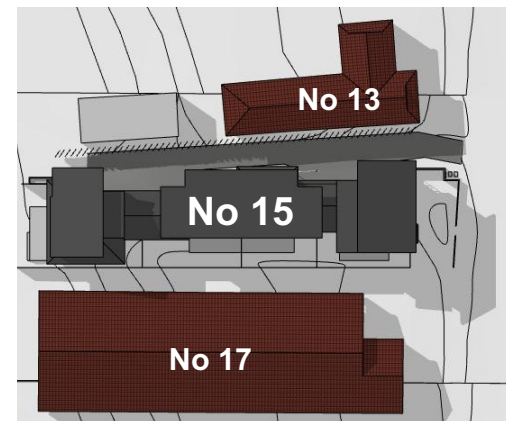
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**D**

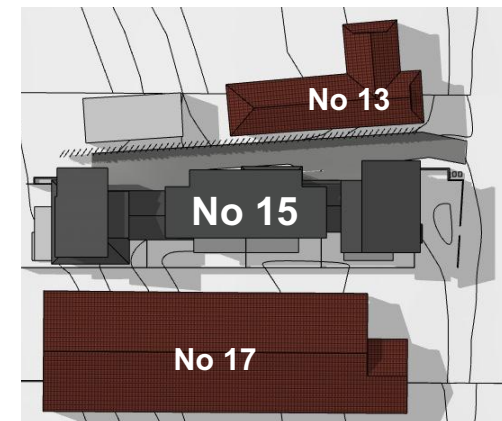
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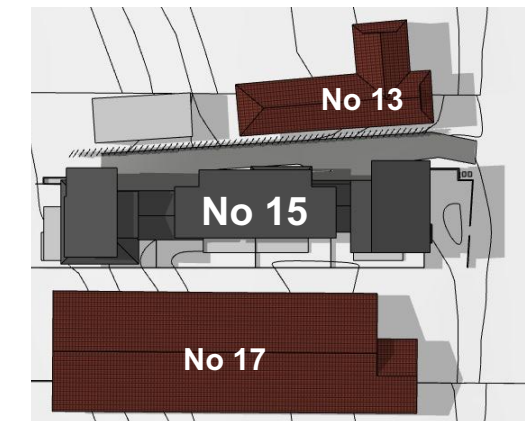
SHADOW DIAGRAM  
(June 21 - 9AM)



SHADOW DIAGRAM  
(June 21 - 10AM)



SHADOW DIAGRAM  
(June 21 - 11AM)



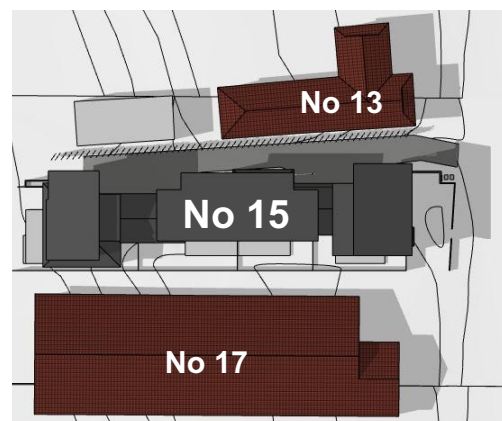
SHADOW DIAGRAM  
(June 21 - 12 Noon)

#### Solar Access to POS (12 Noon)

Unit No.	Solar access (m <sup>2</sup> )	Solar access (% of min required POS)
U1	30.21m <sup>2</sup>	67%
U2	30.98m <sup>2</sup>	69%
U3	23.31m <sup>2</sup>	52%
U4	68.79m <sup>2</sup>	153%

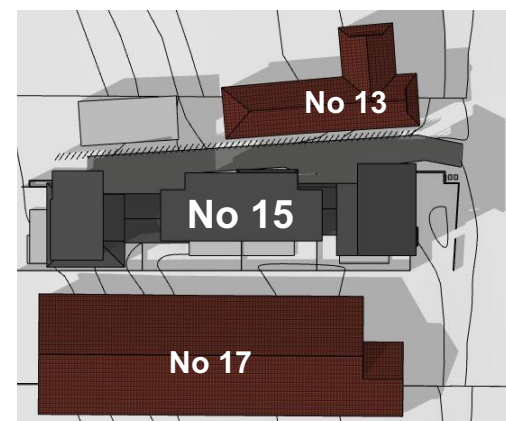
#### Solar Access to POS (Average)

Unit No.	Solar access (m <sup>2</sup> )	Solar access (% of min required POS)
U1	25.89m <sup>2</sup>	58%
U2	31.70m <sup>2</sup>	70%
U3	29.96m <sup>2</sup>	67%
U4	64.74m <sup>2</sup>	144%



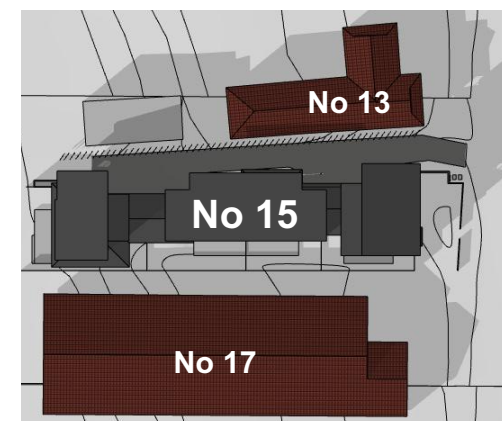
SHADOW DIAGRAM  
(June 21 - 1PM)

Solar Access to POS (1PM)		
Unit No.	Solar access (m <sup>2</sup> )	Solar access (% of min required POS)
U1	33.79m <sup>2</sup>	75%
U2	40.71m <sup>2</sup>	90%
U3	40.04m <sup>2</sup>	89%
U4	68.79m <sup>2</sup>	153%




SHADOW DIAGRAM  
(June 21 - 2PM)

Solar Access to POS (2PM)		
Unit No.	Solar access (m <sup>2</sup> )	Solar access (% of min required POS)
U1	26.09m <sup>2</sup>	58%
U2	31.46m <sup>2</sup>	70%
U3	33.35m <sup>2</sup>	74%
U4	62.83m <sup>2</sup>	140%



SHADOW DIAGRAM  
(June 21 - 3PM)

Solar Access to POS (3PM)		
Unit No.	Solar access (m <sup>2</sup> )	Solar access (% of min required POS)
U1	13.45m <sup>2</sup>	30%
U2	23.63m <sup>2</sup>	53%
U3	23.12m <sup>2</sup>	51%
U4	58.56m <sup>2</sup>	130%

<div>Architects:</div> <div>SHOBHA DESIGNS</div> <div>ARCHITECTS &amp; URBAN DESIGNERS</div> <div>Suite 21, 1 - 7 Jordan St, Gladesville NSW 2111</div> <div>PHONE : 02 98790020</div> <div>MOBILE : 0418112677</div> <div>EMAIL : nilesh@shobhadesigns.com.au</div> <div>shobha</div>	<div>PROJECT</div> <div>Proposed New Townhouse Development at 15 Allfield Road Woy Woy</div>	<div>Drawing Name</div> <div>SHADOW DIAGRAMS</div>	<div>Amendments</div> <table><tr><th>Transmittal Set ID</th><th>Transmittal Set Name</th><th>Checked by</th><th>Date</th></tr><tr><td>A</td><td>DA Issue to Council</td><td>NM</td><td>6/12/2022</td></tr><tr><td>B</td><td>Amendments as per Council Letter dated 1 May 23</td><td>NM</td><td>09/05/2023</td></tr><tr><td>C</td><td>Amendments as per Council Letter dated 11 Aug 23</td><td>NM</td><td>16/08/2023</td></tr><tr><td>D</td><td>Amendments as per Council Letter dated 25 Aug 23</td><td>NM</td><td>5/10/2023</td></tr></table>				Transmittal Set ID	Transmittal Set Name	Checked by	Date	A	DA Issue to Council	NM	6/12/2022	B	Amendments as per Council Letter dated 1 May 23	NM	09/05/2023	C	Amendments as per Council Letter dated 11 Aug 23	NM	16/08/2023	D	Amendments as per Council Letter dated 25 Aug 23	NM	5/10/2023	<div>Date of Issue</div> <div>5/10/2023</div>
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		<div>NTS</div> <div>Checked By: Nilesh Munot</div>																									
		<div>Layout ID</div> <div>Issue</div>																									
		<div>DA-07</div> <div>D</div>																									

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SHADOW DIAGRAM  
(June 21-9AM)  
No 17 Allfield Road)



SHADOW DIAGRAM  
(June 21-10AM)  
No 17 Allfield Road)



SHADOW DIAGRAM  
(June 21-11AM)  
No 17 Allfield Road)



SHADOW DIAGRAM  
(June 21-12 Noon)  
No 17 Allfield Road)



SHADOW DIAGRAM  
(June 21-1PM)  
No 17 Allfield Road)



SHADOW DIAGRAM  
(June 21-2PM)  
No 17 Allfield Road)



SHADOW DIAGRAM  
(June 21-3PM)  
No 17 Allfield Road)

Architects:

SHOBHA DESIGNS

ARCHITECTS & URBAN DESIGNERS

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shobha

PROJECT

Proposed New Townhouse Development  
at 15 Allfield Road Woy Woy

CLIENT

MARSS GLOBAL Pty Ltd

Drawing Name

SHADOW ANALYSIS

General Notes

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Date of Issue

5/10/2023

Drawing Scale

Drawn By : Sandy Martikas

NTS

Checked By: Nilesh Munot

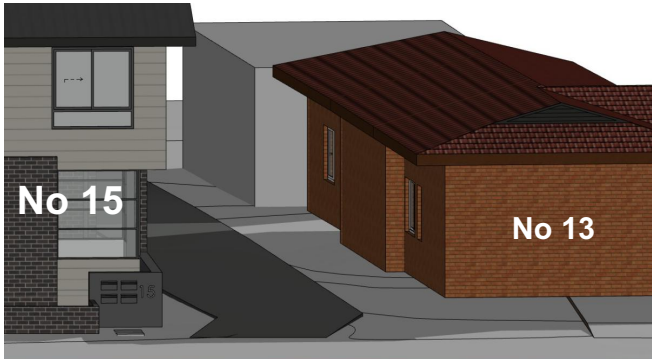
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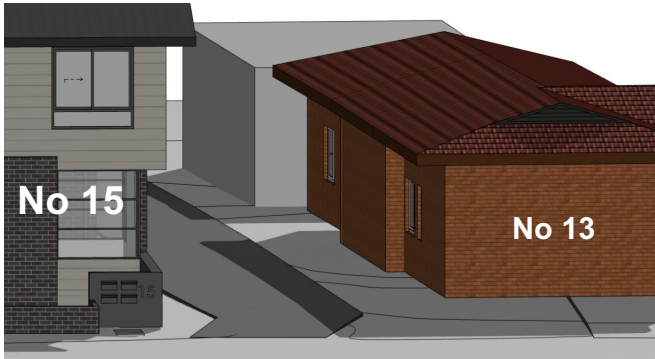
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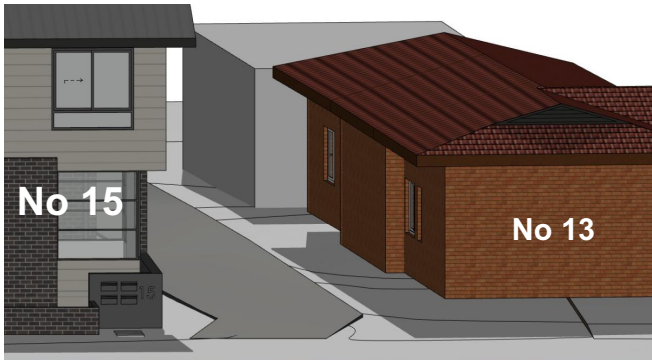
○ SHADOW ANALYSIS (June 21) - 9AM  
(No 13 Allfield Road)



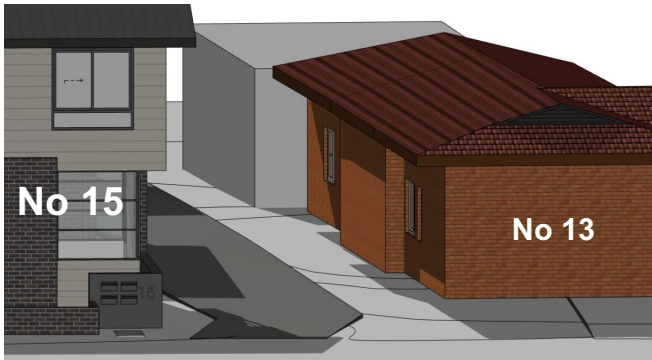
○ SHADOW ANALYSIS (June 21) - 10AM  
(No 13 Allfield Road)



○ SHADOW ANALYSIS (June 21) - 11AM  
(No 13 Allfield Road)



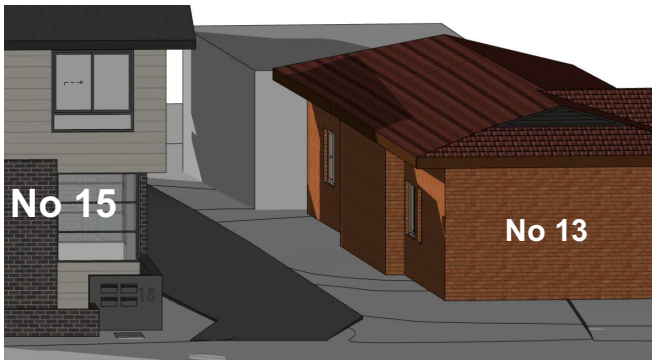
○ SHADOW ANALYSIS (June 21) - 12PM  
(No 13 Allfield Road)



○ SHADOW ANALYSIS (June 21) - 1PM  
(No 13 Allfield Road)



○ SHADOW ANALYSIS (June 21) - 2PM  
(No 13 Allfield Road)



○ SHADOW ANALYSIS (June 21) - 3PM  
(No 13 Allfield Road)

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			<div>Transmittal Set ID</div> <div>A</div>	<div>Transmittal Set Name</div> <div>DA Issue to Council</div>	<div>Checked by</div> <div>NM</div>	<div>Date</div> <div>6/12/2022</div>	<div>Drawing Scale</div> <div>NTS</div>	<div>Drawn By</div> <div>: Sandy Martikas</div>
		<div>B</div>	<div>Amendments as per Council Letter dated 1 May 23</div>	<div>NM</div>	<div>09/05/2023</div>	<div>Checked By:</div> <div>Nilesh Munot</div>		
		<div>C</div>	<div>Amendments as per Council Letter dated 11 Aug 23</div>	<div>NM</div>	<div>16/08/2023</div>	<div>Layout ID</div> <div>DA-09</div>	<div>Issue</div> <div>D</div>	
		<div>D</div>	<div>Amendments as per Council Letter dated 25 Aug 23</div>	<div>NM</div>	<div>5/10/2023</div>			
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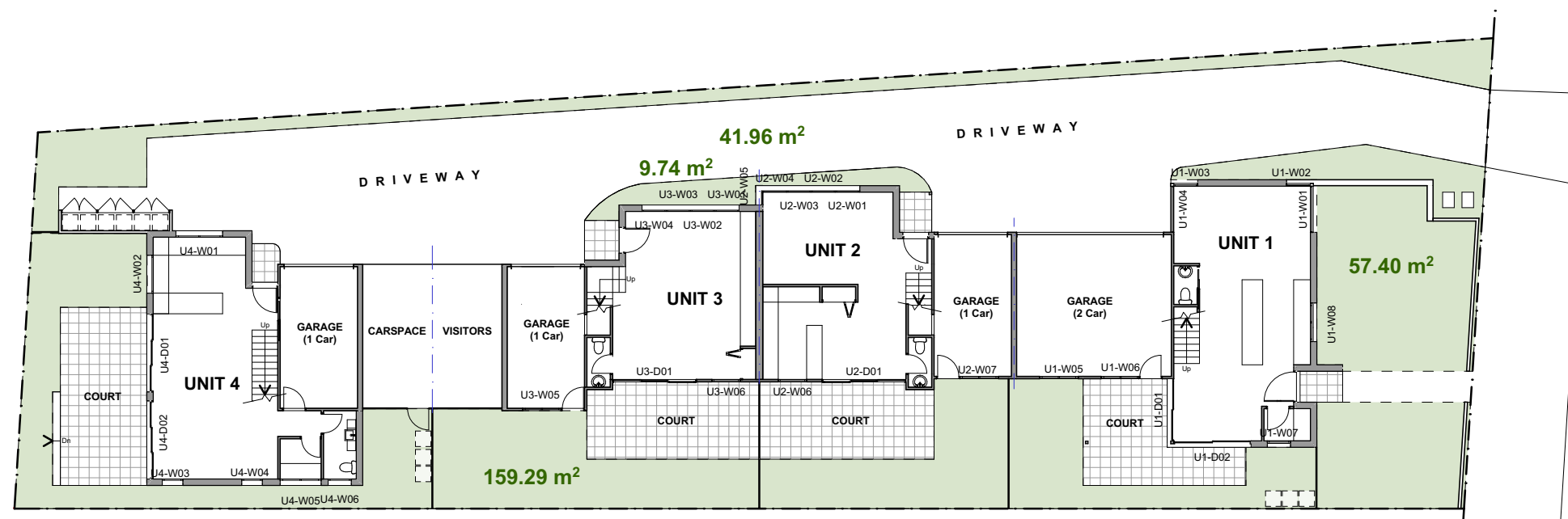




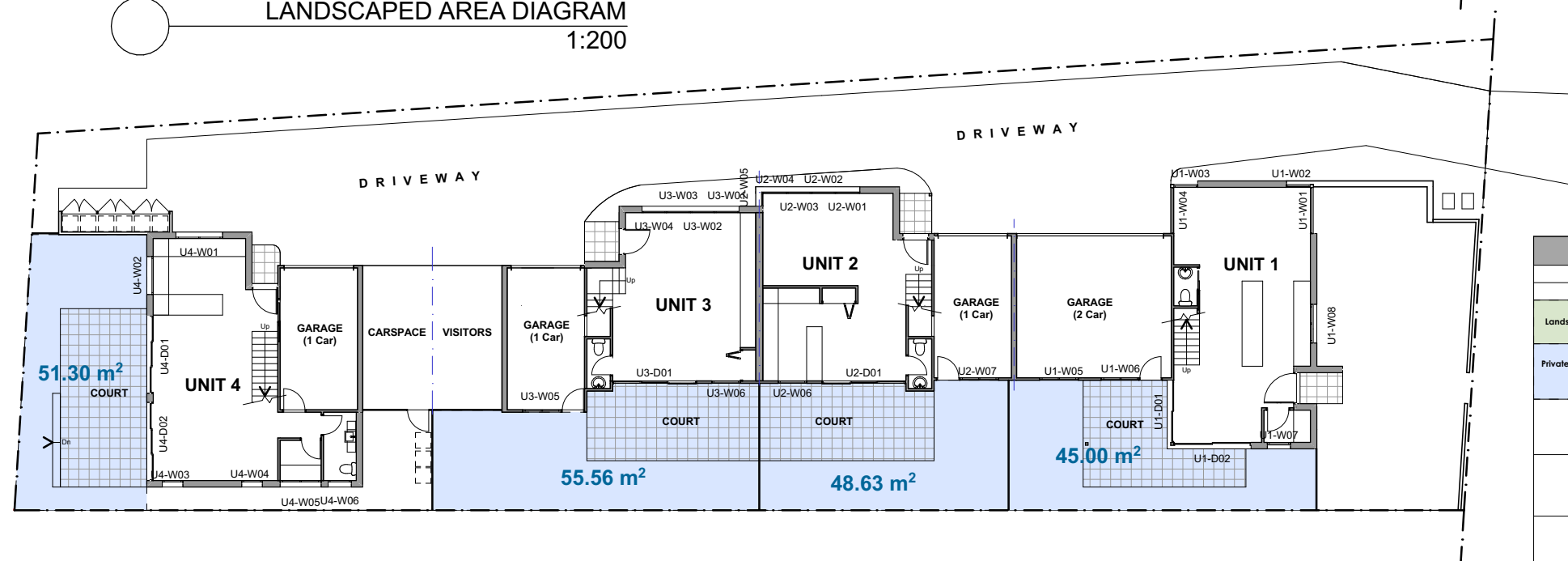
SCHEDULE OF EXTERNAL FINISHES

<div>Architects:</div> <div>SHOBHA DESIGNS</div> <div>ARCHITECTS &amp; URBAN DESIGNERS</div> <div>Suite 21, 1 - 7 Jordan St, Gladesville NSW 2111</div> <div>PHONE : 02 98790020</div> <div>MOBILE : 0418112677</div> <div>EMAIL : nilesh@shobhadesigns.com.au</div> <div>shobha</div>	<div>PROJECT</div> <div>Proposed New Townhouse Development at 15 Allfield Road Woy Woy</div> <div>CLIENT</div> <div>MARSS GLOBAL Pty Ltd</div>	<div>Drawing Name</div> <div>SCHEDULE OF EXTERNAL FINISHES</div> <div>General Notes</div> <div>The Builder shall check all dimensions and levels on site prior to construction.</div> <div>Notify any errors, discrepancies or omissions to the architect.</div> <div>Drawings shall not be used for construction purposes until issued for construction.</div> <div>Do not scale drawings.</div> <div>All boundaries and contours subject to survey</div>	Amendments				Date of Issue	
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			B	Amendments as per Council Letter dated 1 May 23	NM	09/05/2023		
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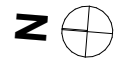


LANDSCAPED AREA DIAGRAM  
1:200




PRIVATE OPEN SPACE DIAGRAM  
1:200

Area Calculations		
Lot Area = 923 m²		
	Control	Provided
Landscaped Area	Min. 230.75 m² (25% of Site Area)	268.39m² (29% of Site Area)
Private Open Space	Min 45m² (Min 4.5m wide)	Unit 1 45m² (2.38m - 5.04m deep x 11.74m wide)  Unit 2 48.63m² (4.62m - 5.04m deep x 9.88m wide)  Unit 3 55.56m² (3.8m - 4.92m deep x 12.7m wide)  Unit 4 51.30m² (4.5m - 5.2m deep x 10.78m wide)

Architects:  <b>SHOBHA DESIGNS</b> ARCHITECTS & URBAN DESIGNERS  Suite 21, 1 - 7 Jordan St, Gladesville NSW 2111 PHONE : 02 98790020 MOBILE : 0418112677 EMAIL : nilesh@shobhadesigns.com.au  	<b>PROJECT</b> Proposed New Townhouse Development at 15 Allfield Road Woy Woy  <b>CLIENT</b> MARSS GLOBAL Pty Ltd	<b>Drawing Name</b> AREA CALCULATION DIAGRAMS  <b>General Notes</b> The Builder shall check all dimensions and levels on site prior to construction. Notify any errors, discrepancies or omissions to the architect. Drawings shall not be used for construction purposes until issued for construction. Do not scale drawings. All boundaries and contours subject to survey  	<b>Amendments</b>				<b>Date of Issue</b> 5/10/2023	
			Transmittal Set ID	Transmittal Set Name	Checked by	Date	<b>Drawing Scale</b> 1:200	
			A	DA Issue to Council	NM	6/12/2022	Drawn By : <b>Sandy Martikas</b> Checked By: <b>Nilesh Munot</b>	
			B	Amendments as per Council Letter dated 1 May 23	NM	09/05/2023	<b>Layout ID</b> DA-11	
			C	Amendments as per Council Letter dated 11 Aug 23	NM	16/08/2023	<b>Issue</b> D	
			D	Amendments as per Council Letter dated 25 Aug 23	NM	5/10/2023		

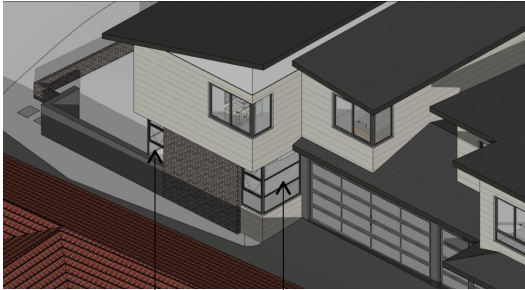
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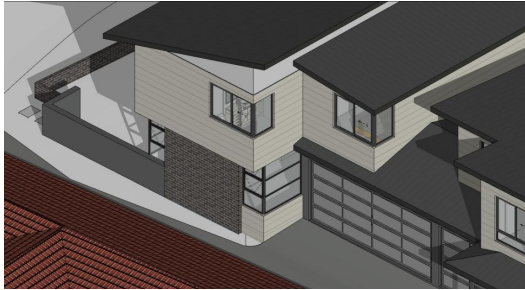




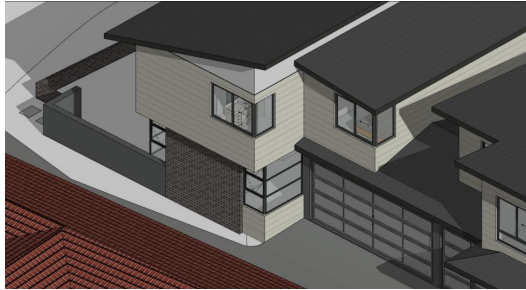
Living Room windows



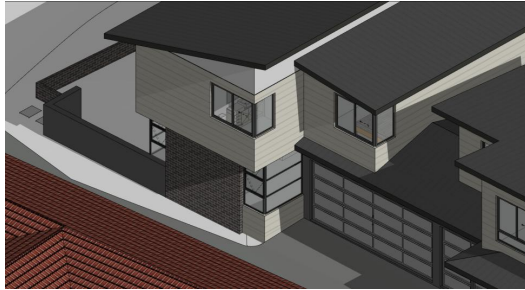
SOLAR ACCESS ANALYSIS  
(Unit 1 Living Room)  
June 21-9AM



SOLAR ACCESS ANALYSIS  
(Unit 1 Living Room)  
June 21-10AM



SOLAR ACCESS ANALYSIS  
(Unit 1 Living Room)  
June 21-11AM



SOLAR ACCESS ANALYSIS  
(Unit 1 Living Room)  
June 21-12 Noon



Living Room windows



SOLAR ACCESS ANALYSIS  
(Unit 2 & 3 Living Room)  
June 21-9AM



SOLAR ACCESS ANALYSIS  
(Unit 2 & 3 Living Room)  
June 21-10AM



SOLAR ACCESS ANALYSIS  
(Unit 2 & 3 Living Room)  
June 21-11AM



SOLAR ACCESS ANALYSIS  
(Unit 2 & 3 Living Room)  
June 21-12 Noon



Living Room windows



SOLAR ACCESS ANALYSIS  
(Unit 4 Living Room)  
June 21-9AM



SOLAR ACCESS ANALYSIS  
(Unit 4 Living Room)  
June 21-10AM



SOLAR ACCESS ANALYSIS  
(Unit 4 Living Room)  
June 21-11AM



SOLAR ACCESS ANALYSIS  
(Unit 4 Living Room)  
June 21-12 Noon

**Note: Living Rooms to all Units achieve a min of 3hrs  
of solar access between 9AM - 12 Noon on 21 June**

Architects:

**SHOBHA DESIGNS**  
ARCHITECTS & URBAN DESIGNERS

Suite 21, 1 - 7 Jordan St, Gladesville NSW 2111  
PHONE : 02 98790020  
MOBILE : 0418112677  
EMAIL : nilesh@shobhadesigns.com.au

**shobha**

**PROJECT**  
Proposed New Townhouse Development  
at 15 Allfield Road Woy Woy

**CLIENT**  
MARSS GLOBAL Pty Ltd

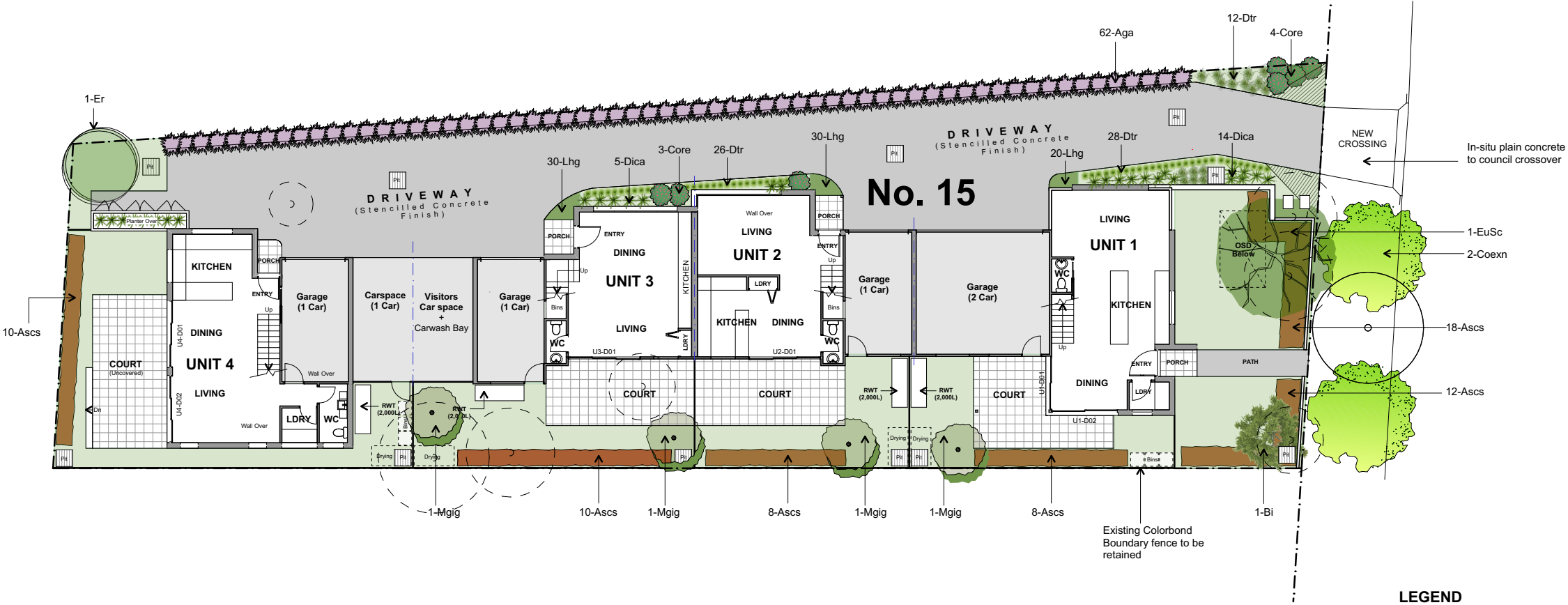
**Drawing Name**  
SOLAR ACCESS ANALYSIS - LIVING ROOMS

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All boundaries and contours subject to survey

Amendments			
Transmittal Set ID	Transmittal Set Name	Checked by	Date
A	DA Issue to Council	NM	6/12/2022
B	Amendments as per Council Letter dated 1 May 23	NM	09/05/2023
C	Amendments as per Council Letter dated 11 Aug 23	NM	16/08/2023
D	Amendments as per Council Letter dated 25 Aug 23	NM	5/10/2023

Date of Issue		5/10/2023	
Drawing Scale	1:666.67	Drawn By	Sandy Martikas
		Checked By:	Nilesh Munot
Layout ID	DA-13	Issue	D

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LANDSCAPE PLAN - 1  
1:200

LEGEND	
	Trees to be retained
	Trees to be removed
	Screening Plants
	Turfed Areas
	Low Height Turfed areas (Mondo grass)
	Planted Areas
	Stencilled Concrete Areas

Architects:

**SHOBHA DESIGNS**  
ARCHITECTS & URBAN DESIGNERS

Suite 21, 1 - 7 Jordan St, Gladesville NSW 2111  
PHONE : 02 98790020  
MOBILE : 0418112677  
EMAIL : nilesh@shobhadesigns.com.au

**shobha**

**PROJECT**  
Proposed New Townhouse Development  
at 15 Allfield Road Woy Woy

**CLIENT**  
MARSS GLOBAL Pty Ltd

Drawing Name  
LANDSCAPE PLAN - 1

**General Notes**  
The Builder shall check all dimensions and levels on site prior to construction.  
Notify any errors, discrepancies or omissions to the architect.  
Drawings shall not be used for construction purposes until issued for construction.  
Do not scale drawings.  
All boundaries and contours subject to survey

**N**

Amendments			
Transmittal Set ID	Transmittal Set Name	Checked by	Date
A	DA Issue to Council	NM	6/12/2022
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D	Amendments as per Council Letter dated 25 Aug 23	NM	5/10/2023

Date of Issue		5/10/2023
Drawing Scale		1:200
Drawn By		Sandy Martikas
Checked By		Nilesh Munot
Layout ID		DA-14
Issue		D

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LANDSCAPE SPECIFICATION

SITE ESTABLISHMENT

ALL RUBBISH, DEBRIS, FALLEN BRANCHES SHALL BE CLEARED FROM LANDSCAPED AREAS AND DISPOSED OF USING SKIP BINS ONSITE OR BY TRANSPORTING TO THE LOCAL WASTE MANANAGEMENT FACILITY. ANY UNUSED BRICKS, CONCRETE BLOCKS OR TIMBER SHOULD BE EITHER RE-USED ONSITE WHERE POSSIBLE OR RECYCLED AT THE LOCAL WASTE MANANAGEMENT FACILITY.

TREE PROTECTION

TREES TO BE RETAINED SHALL BE PROTECTED DURING SITE WORKS AND TREE PROTECTION BARRIERS INSTALLED ACCORDING TO TREE PROTECTION DETAILS. NO EXCAVATION OR CHANGE IN SOIL LEVEL SHOULD TAKE PLACE AROUND THE BASE OF SUCH TREES. ANY ARBORIST REPORT MUST BE ADHERED TO AND TREE PROTECTION ZONES MAINTAINED WHERE APPLICABLE.

WEED ERADICATION

AREAS TO BE LANDSCAPED ARE TO BE SPRAYED WITH GLYPHOSATE AT THE RECOMMENDED RATE AT LEAST 1 WEEK PRIOR TO ANY LANDSCAPE WORKS TAKING PLACE IN ORDER TO ALLOW WEEDS TO DIE OFF. CARE IS TO BE TAKEN TO PROTECT REMAINING VEGETATION FROM THE HERBICIDE APPLICATION AND SHOULD ONLY BE UNDERTAKEN IN STILL WEATHER. ALL WEEDS ARE THEN TO BE DISPOSED OF APPROPRIATELY AT THE LOCAL WASTE MANANAGEMENT FACILITY.

GARDEN BED PREPERATION

ENSURE ALL GARDEN BEDS HAVE BEEN EXCAVATED TO 250MM BELOW FINISHED LEVELS. RIP THE SUBGRADE A FURTHER 100MM IN DEPTH. INSTALL PREMIUM GARDEN SOIL OR MIX NATURAL TOP SOIL WITH IMPORTED SOIL TO A DEPTH OF 250MM. INSTALL 75MM DEPTH OF LEAF LITTER MULCH FROM ANL LANDSCAPE SUPPLIE S OR EQUIVALENT.

LAWN AREA PREPERATION

EXCAVATE LAWN AREAS TO A DEPTH OF 100MM BELOW REQUIRED FINISHED LEVELS. DO NOT EXCAVATE WITHIN WITHIN TREE PROTECTION ZONES WHERE APPLICABLE OR WITHIN 1500MM OF THE TRUNK OF ANY EXISTING TREES TO BE RETAINED. ENSURE THAT ALL SURFACE WATER IS DIRECTED TOWARD ANY DRAINAGE PITS, KERBS AND AWAY FROM ANY BUILDINGS. SUBGRADE IS TO BE RIPPED TO A DEPTH OF 150MM AND A 50MM DEEP LAYER OF TURF UNDERLAY INSTALLED ON TOP. LAWNS SHOULD HAVE AN EVEN GRADE SO THAT NO PONDING OR POOLING OCCURS. 'SIR LAUNCHER' FERTILISER OR EQUIVELANT SHOULD BE SPREAD OVER LAWN AREAS PRIOR TO LAYING TURF. LAY 'SIR WALTER BUFFALO' TURF ROLLS CLOSELY BUTTED ENSURING NO GAPS BETWEEN ARE PRESENT. ROLL AND WATER THOROUGHLY AFTER LAYING.

PLANTING

PLANTS ARE TO BE HEALTHY, FREE OF PEST/DISEASES AND TRUE TO TYPE & SPECIES. REFER TO LANDSCAPE PLAN FOR LOCATION AND SPACING. ALL PLANTS SHOULD BE PLACED IN A HOLE DUG TWICE THE SIZE OF THE POT. GENTLY TEESE THE ROOTS OF ANY POT BOUND PLANTS. THE BASE OF THE TRUNK SHOULD BE INSTALLED LEVEL WITH THE SURFACE OF THE GROUND AND DISH CREATED AROUND THE BASE OF EACH PLANT TO AID WITH WATER RETENTION. WATER THOROUGHLY AFTER PLANTING.

STAKING

ALL TREES AND TOP HEAVY SCREENING SHRUBS SHOULD BE STAKED WITH 2 X 25MM X 25MM LONG TIMBER STAKES PER PLANT. LENGTH OF STAKES IS DEPENDENT ON THE HEIGHT AND STABILITY OF THE TREE/SHRUB. STAKES SHOULD BE FIRMLY POSITIONED. HESSIAN TAPE IS TO BE PLACED AROUND THE TREE AND STAKES ALLOWING SOME MOVEMENT IN ORDER TO ALLOW THE TRUNK TO DEVELOP STRENGTH OVERTIME.

GARDEN EDGING

USE EITHER 'HAVEN' BRICK EDGING OR SIMILAR LAID ON A 50MM THICK BED OF MORTAR, OR TREATED TIMBER EDGING SECURED WITH INGROUND TIMBER STAKES. ALL GARDENS ARE TO HAVE EDGING INSTALLED AND BE INSTALLED AS PER PLAN.

RETAINING WALLS

REFER TO MANUFACTURERS INSTRUCTIONS FOR CONSTRUCTION OF RETAINING WALLS. DETAILS ON THIS PLAN ARE A GUIDE ONLY.

COMPLETION

SITE IS TO BE CLEARED OF ANY SURPLUS MATERIALS AND DEBRIS PRIOR TO PRACTICAL COMPLETION. WORK IS TO BE COMPLETED TO THE SATISFACTION OF COUNCILS GUIDELINES AND ANY DA CONDITIONS

MAINTENANCE PERIOD

A 12 MONTH MAINTENANCE PERIOD FROM THE DATE OF PRACTICAL COMPLETION WILL APPLY. DURING THIS TIME THE OWNER IS RESPONSIBLE FOR RECTIFYING ANY DEFECTIVE WORK. DURING THE MAINTENACE PERIOD THE FOLLOWING ACTIVITIES ARE TO BE UNDERTAKEN.

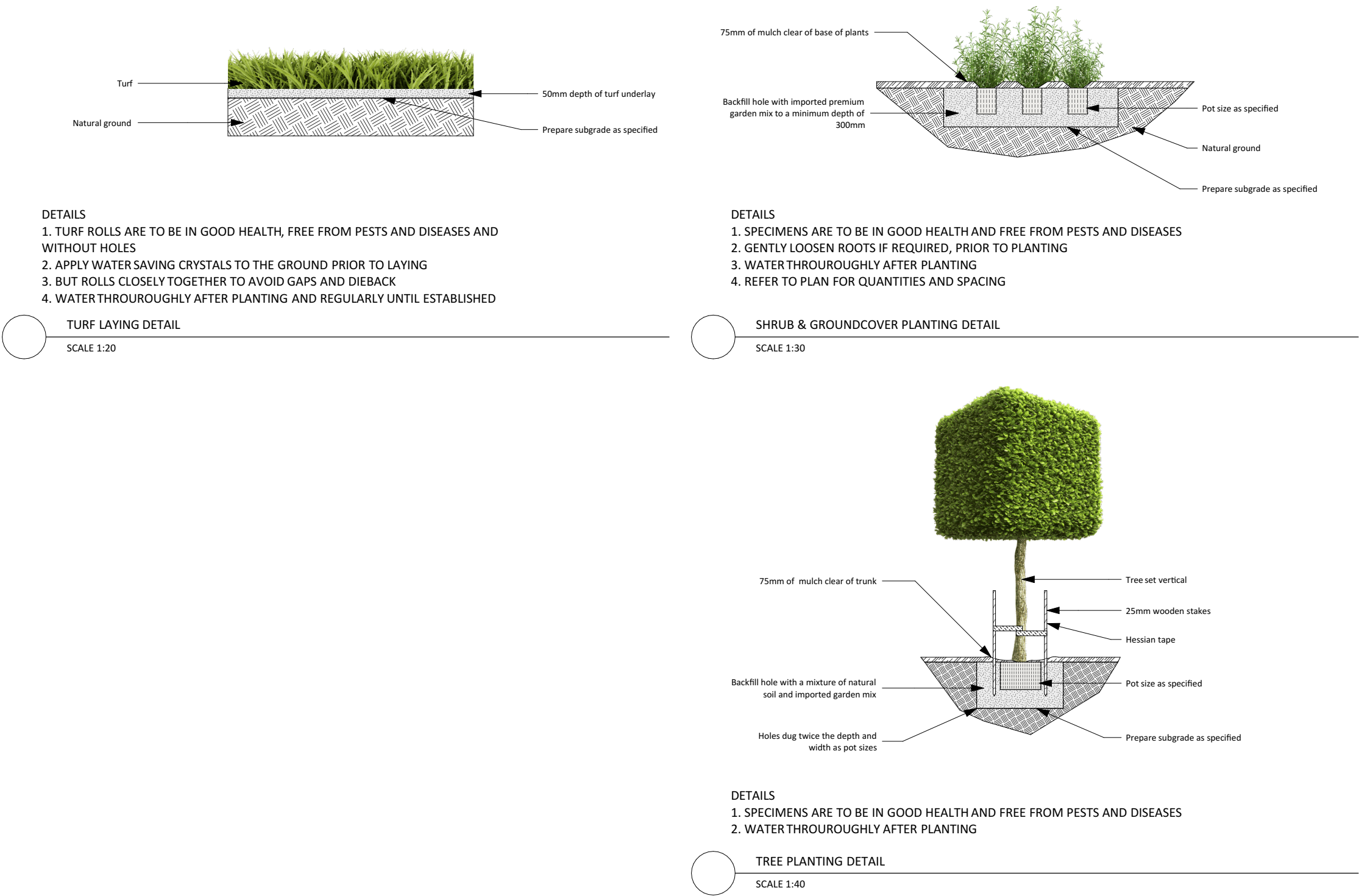
- a) **REPLACEMENTS:** ANY PLANTS/TREES THAT HAVE DIED SHALL BE REPLACED WITH THE SAME SPECIES AND SIZE AS INDICATED ON THIS PLAN. THE SPECIMENS MUST BE IN GOOD HEALTH AND FREE FROM PESTS AND DISEASES.
- b) **WATERING:** REGULAR WATERING OF PLANTS IS REQUIRED. PLANTS SHOULD BE WATERED TWICE A WEEK WITHIN THE FIRST 2 MONTHS OF PLANTING AND AND DURING DRY PERIODS. LESS FREQUENT WATERING IS REQUIRED ONCE PLANTS ARE ESTABLISHED AND DURING PERIODS OF RAIN. THE CONTRACTOR/OWNER SHOULD USE THEIR DISCRETION.
- c) **GARDEN BEDS:** GARDEN AREAS SHOULD BE REGULARLY WEEDED AND MULCH TOPPED UP IF REQUIRED. NO BARE SOIL IS TO BE PRESENT AND SPECIFIED DEPTHS MAINTAINED.
- d) **LAWN AREAS:** LAWN AREAS SHALL BE MOWN REGULARLY (AT LEAST ONCE A WEEK IN GROWING SEASON) IN ORDER TO PROMOTE A THICK LAWN THAT OUTCOMPETES ANY WEEDS. LAWN CLIPPINGS ARE NOT TO BE SPREAD OVER GARDEN AREAS. ANY DEAD AREAS OF LAWN OCCURING THE MAINTENANCE PERIOD, ARE TO BE REPLACE WITH THE TURF VARIETY SPECIFIED IN THE PLAN.
- e) **PRUNING:** ADEQUATE HORTICULTURAL PRUNING METHODS SHOULD BE USED ON PLANTS AS BECOMES NECESSARY. ANY HEDGES ARE TO BE TRIMMED REGULARLY, DEAD AND DANGEROUS TREE BRANCHES PRUNED AND LIGHT PRUNING OF SHRUBS TO PROMOTE THICK FOLIAGE COVER.
- f) **FERTILISING:** 'ORGANIC LIFE' FERTILISER OR EQUIVELANT SHALL BE APPLIED AS PER MANUFACTURERS INSTRUCTIONS TO ALL GARDEN BEDS ONCE PER MONTH. DYNAMIC LIFTER OR SIMILAR SHOULD BE APPLIED TO ALL LAWN AREAS TWICE A YEAR, ONCE IN MID SPRING AND ONCE IN EARLY SUMMER. WATER THOROUGHLY AFTER EACH APPLICATION OF FERTILISER.

PLANT LIST

TYPE	SYMBOL	BOTANIC NAME	COMMON NAME	MATURE HEIGHT X WIDTH	NATIVE?	QTY	POT SIZE
TREES							
	Bi	BANKSIA INTEGRIFOLIA	COASTAL BANKSIA	15M X 4M	YES	1	45LTR
	Coexn	CORYMBIA EXIMIA 'NANA'	DWARF YELLOW BLOODWOOD	8M X 5M	YES	2	45LTR
	EuSc	EUCALYPTUS SCLEROPHYLLA	SCRIBBLY GUM	18M X 5.5M	YES	1	45LTR
	Er	ELAEOCARPUS RETICULATUS	BLUEBERRY ASH	9M X 4M	YES	1	45LTR
	Mglg	MAGNOLIA 'LITTLE GEM'	LITTLE GEM MAGNOLIA	5M X 3M	NO	4	45LTR
SHRUBS							
	Core	CORREA REFLEXA	NATIVE FUSCHIA	1M X 1.2M	YES	7	200MM
GRASSES & STRAP LEAF PLANTS							
	Dica	DIANELLA CAERULEA	BLUE FLAX LILY	0.5M X 0.75M	YES	19	140MM
	Dtr	DIANELLA TASMANICA 'TAS RED'	TAS RED DIANELLA	0.45M X 0.45M	YES	66	140MM
HEDGES							
	Ascs	ACMENA SMITHII 'CHERRY SURPRISE'	CHERRY SURPRISE LILY PILLY	TRIMMED UP TO 1M	YES	66	200MM
	Aga	AGAPANTHUS AFRICANUS	AGAPANTHUS	0.6M X 0.6M	YES	62	3LTR
GROUND COVER							
	Lhg	GENERAL LOW HEIGHT GROUND COVER	MONDO GRASS/SCOTCH MOSS OR SIMILIAR	100mm MAX	YES	80	140MM

<div>Architects:</div> <div>SHOBHA DESIGNS</div> <div>ARCHITECTS &amp; URBAN DESIGNERS</div> <div>Suite 21, 1 - 7 Jordan St, Gladesville NSW 2111</div> <div>PHONE : 02 98790020</div> <div>MOBILE : 0418112677</div> <div>EMAIL : nilesh@shobhadesigns.com.au</div> <div>shobha</div>	<div>PROJECT</div> <div>Proposed New Townhouse Development at 15 Allfield Road Woy Woy</div>	<div>Drawing Name</div> <div>LANDSCAPE PLAN - 2</div>	Amendments				Date of Issue5/10/2023	
			Transmittal Set ID	Transmittal Set Name	Checked by	Date	Drawing Scale <b>1:1.18</b>	Drawn By : <b>Sandy Martikas</b>  Checked By: <b>Nilesh Munot</b>
			A	DA Issue to Council	NM	6/12/2022		
			B	Amendments as per Council Letter dated 1 May 23	NM	09/05/2023		
	C	Amendments as per Council Letter dated 11 Aug 23	NM	16/08/2023	Layout ID <b>DA-15</b>	Issue <b>D</b>		
	D	Amendments as per Council Letter dated 25 Aug 23	NM	5/10/2023				
<div>CLIENT</div> <div>MARSS GLOBAL Pty Ltd</div>		<div>General Notes</div> <div>The Builder shall check all dimensions and levels on site prior to construction.</div> <div>Notify any errors, discrepancies or omissions to the architect.</div> <div>Drawings shall not be used for construction purposes until issued for construction.</div> <div>Do not scale drawings.</div> <div>All boundaries and contours subject to survey</div>						

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<div>Architects:</div> <div>SHOBHA DESIGNS</div> <div>ARCHITECTS &amp; URBAN DESIGNERS</div> <div><div>Suite 21, 1 - 7 Jordan St, Gladesville NSW 2111</div><div>PHONE : 02 98790020</div><div>MOBILE : 0418112677</div><div>EMAIL : nilesh@shobhadesigns.com.au</div></div> <div>shobha</div>	<div>PROJECT</div> <div>Proposed New Townhouse Development at 15 Allfield Road Woy Woy</div>	<div>Drawing Name</div> <div>LANDSCAPE PLAN - 3</div>	<div>Amendments</div>				<div>Date of Issue</div> <div>5/10/2023</div>	
		<div>Transmittal Set ID</div> <div>DA Issue to Council</div>	<div>Transmittal Set Name</div> <div>NM</div>	<div>Checked by</div> <div>NM</div>	<div>Date</div> <div>6/12/2022</div>	<div>Drawing Scale</div>	<div>Drawn By : Sandy Martikas</div>	<div>Checked By: Nilesh Munot</div>
		<div>B</div>	<div>Amendments as per Council Letter dated 1 May 23</div>	<div>NM</div>	<div>09/05/2023</div>			
	<div>C</div>	<div>Amendments as per Council Letter dated 11 Aug 23</div>	<div>NM</div>	<div>16/08/2023</div>	<div>Layout ID</div> <div>DA-16</div>	<div>Issue</div> <div>D</div>		
	<div>D</div>	<div>Amendments as per Council Letter dated 25 Aug 23</div>	<div>NM</div>	<div>5/10/2023</div>				
	<div>CLIENT</div> <div>MARSS GLOBAL Pty Ltd</div>	<div>General Notes</div> <div>The Builder shall check all dimensions and levels on site prior to construction. Notify any errors, discrepancies or omissions to the architect. Drawings shall not be used for construction purposes until issued for construction. Do not scale drawings. All boundaries and contours subject to survey</div>						

**Item No:** 4.1

**Title:** Land and Environment Court Proceedings Class 1 -  
Case 2023/00065846 - Appeal of Deemed Refusal -  
Central Coast Council ats CCS Design Pty Ltd -  
DA/3337/2022 - 16 Sydney Avenue Umina Beach

**Central Coast**  
Local Planning Panel

**Department:** Corporate Services

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15 February 2024 Local Planning Panel Meeting

Reference: F2019/00883 - D15996507

Author: Michel Duval, Personal Assistant to Unit Manager Governance Risk and Legal

Manager: Edward Hock, Unit Manager Governance, Risk and Legal

Executive: Alice Howe, Director Environment and Planning

### **Recommendation**

- 1 That the Local Planning Panel note the receipt of a Class 1 appeal in the Land and Environment Court to the deemed refusal of Development Application DA/3337/2022.**
- 2 In accordance with Section 2.20(8) of the Environmental Planning and Assessment Act 1979, the Local Planning Panel delegate to appropriate Council officers the ability to give legal instruction to Council's external legal counsel at any upcoming proceedings relating to the appeal, including any conciliation conference in accordance with Section 34 of the Land and Environment Court Act 1979.**

### **Attachments**

- |          |  |                               |           |
|----------|--|-------------------------------|-----------|
| <b>1</b> | Briefing Note to LPP - CCC ats CCS Design Case 2023/00065846 - | Provided Under Separate Cover | D15995784 |
| <b>2</b> | Statement of Facts and Contentions Case 2023/00065846 -        | Provided Under Separate Cover | D15995798 |



**Item No:** 5.1  
**Title:** Supplementary Report - DA/60589/2020 -  
Dwelling House and Garage - 129 Alan Street,  
Niagara Park  
**Department:** Environment and Planning

**Central Coast**  
Local Planning Panel

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15 February 2024 Local Planning Panel Meeting

Reference: DA/60589/2020 - D15980351  
Author: Robert Eyre, Principal Development Planner. Residential Assessments  
Section Manager: Ailsa Prendergast, Section Manager. Residential Assessments  
Unit Manager: Andrew Roach, Unit Manager, Development Assessment  
Executive: Alice Howe, Director Environment and Planning

### Summary

An application has been received for construction of a new dwelling house at Lot 14 DP 2480, 129 Alan Street, Niagara Park.

The application is required to be referred to the Local Planning Panel for determination as the proposed development is classified as 'designated development' under *Interim Development Order No.122 - Gosford*.

The application was considered by the Local Planning Panel at its meeting of 16 December 2021. The matter was deferred at that meeting pending the submission of additional information, primarily in relation to legal matters pertaining to access (the land is accessed via a Right of Way (ROW)). The matter was again considered and deferred at the Panel meetings of 18 October 2022 and 28 February 2023, for the receipt of additional information.

The additional information, including further legal advice, has been obtained and the matter is referred back to the Panel for consideration. This report provides commentary in relation to the matters raised by the Panel.

The application is recommended for approval.

<b>Applicant</b>	J Kechagias
<b>Owner</b>	J Whyte and C Whyte
<b>Application No</b>	DA60589/2020
<b>Description of Land</b>	Lot 14 DP2480 No. 129 Alan Street Niagara Park
<b>Proposed Development</b>	New dwelling house
<b>Site Area</b>	20,160m <sup>2</sup>
<b>Zoning</b>	7(a) Conservation under IDO 122
<b>Existing Use</b>	Vacant
<b>Employment Generation</b>	No
<b>Estimated Value</b>	\$345,000.00

## **Recommendation**

- 1    *That the Local Planning Panel grant consent to DA/60589/2020 for the development of a dwelling house on lot 14 DP2480 No. 129 Alan Street, Niagara Park subject to the conditions 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.***
- 2    *That Council advise relevant external authorities of the Panel's decision.***

## **Relevant Background**

The proposed development was listed for determination at the Panel meeting of 30 June 2023 (a full copy of the report is included as Attachment 1), but withdrawn from the agenda prior to determination. The following points are relevant:

- The application for a dwelling house is classified as designated development as the site is subject to the common-ownership provisions of *Interim Development Order No.122 - Gosford*. Accordingly, an Environmental Impact Statement (EIS) is required to accompany the development application. An EIS was submitted.
- No public submissions were received to the exhibition of the proposal and associated EIS. No objections were received from the owner of the land, burdened by the right of way which provides access from the site to Alan Street.
- On 28 June 2023, (two days prior to the scheduled Panel meeting on 30 June 2023), a submission was received on behalf of the Central Coast Better Planning Group, which contended that the EIS did not comply with clause 71 of the *Environmental Planning and Assessment Regulation 2000*. In particular, that the EIS was not signed and did not contain certain statements including the name and address of the person who prepared the EIS.
- As a result of the very late submission, Council withdrew the report from the agenda and sought legal advice as to the adequacy of the EIS.

## **Legal Advice**

Legal advice was received on 23 November 2023 and states:

*As discussed below, the remaining matter is for the assessment of the EIS as against item 6 in Part 3 of Schedule 2 of the EP&A Regulation 2000 to be undertaken.*

*We set out a Table which contains each of the matters set out in item 6, and our comments against each of the requirements, for Council's assessment and consideration:*

<b>Item 6 requirement</b>	<b>Comments</b>
(a) the name, address and professional qualifications of the person by whom the statement is prepared,	The name and professional qualifications of John Kechagias is provided on page 2 of the EIS. The author is described on page 2 as John Kechagias. There is not an address detail, but we would assume when the EIS was lodged, or through various email communications with Mr Kechagias, the address of Apex Intelligent Design is provided.
(b) the name and address of the responsible person,	A "responsible person" is not designated in the document but by the detailing of Mr Kechagias as the author of the report and the provision of his details it is reasonable to assume he is the responsible person for the purposes of the Regulations.
(c) the address of the land— (i) in respect of which the development application is to be made, or (ii) on which the activity or infrastructure to which the statement relates is to be carried out,	The property description, being the land in respect the development application is made is detailed on page 6 of the EIS, and is No 129 Alan Street Niagara Park (Lot 14 in DP 2480). There is also a detailed description of the property provided on page 6 of the EIS.
(d) a description of the development, activity or infrastructure to which the statement relates,	The proposed development is detailed on page 6 to page 7 of the EIS. In summary the application seeks approval for the construction of a single storey dwelling house comprising 4 bedrooms and a study with a detached garage and new driveway on Lot 14, DP 2480 at 129 Alan Street Niagara Park.
(e) an assessment by the person by whom the statement is prepared of the environmental impact of the development, activity or infrastructure to which the statement relates, dealing with the matters referred to in this Schedule,  The matters referred to in the Schedule are contained in item 7 – which provides:  (1) An environmental impact statement must also include each of the following— (a) a summary of the environmental impact statement, (b) a statement of the objectives of the development, activity or infrastructure, (c) an analysis of any feasible alternatives to the carrying out of the development, activity or infrastructure, having regard to its objectives, including the consequences of not carrying out the development, activity or infrastructure, (d) an analysis of the development, activity or infrastructure, including—	The copy of the document we have been provided with does not attach the Appendix A which is titled "EIS Requirements", however, there are a number of details included within the primary document. <ul style="list-style-type: none"> <li>We have not located a "Summary" of the environmental impact statement, however section 6 does provide a summary of the environmental impact measures.</li> <li>The objectives of the development are not specifically addressed under any heading set out as "objectives of the development". We consider that this requirement may be met by the "Description of the proposal" which is detailed at pages 6, 7 and 8 in the EIS.</li> <li>The feasible alternatives to the carrying out of the development, having regard to the objectives, including consequences of no development are analysed over sections 5.1, 5.2, 5.3 and 5.4 of the EIS.</li> </ul>

<p>(i) a full description of the development, activity or infrastructure, and</p> <p>(ii) a general description of the environment likely to be affected by the development, activity or infrastructure, together with a detailed description of those aspects of the environment that are likely to be significantly affected, and</p> <p>(iii) the likely impact on the environment of the development, activity or infrastructure, and</p> <p>(iv) a full description of the measures proposed to mitigate any adverse effects of the development, activity or infrastructure on the environment, and</p> <p>(v) a list of any approvals that must be obtained under any other Act or law before the development, activity or infrastructure may lawfully be carried out,</p> <p>(e) a compilation (in a single section of the environmental impact statement) of the measures referred to in item (d)(iv),</p> <p>(f) the reasons justifying the carrying out of the development, activity or infrastructure in the manner proposed, having regard to biophysical, economic and social considerations, including the principles of ecologically sustainable development set out in subclause (4).</p>	<ul style="list-style-type: none"> <li>• The analysis of the development is undertaken in section 1.2. The description of the environment likely to be affected by the proposal is set out under sections 1.8, 1.9, and Part 2 of the EIS. An analysis of the environmental impacts of the development is undertaken in section 3 of the EIS. The description of the measures proposed to mitigate the impact of the development are addressed in section 6 of the EIS. No other approvals are needed to undertake the proposal on the site.</li> <li>• The section 6 in the EIS deals with the measures set out above, in a single section. The compilation is not detailed however, item 7(1)(e) does not request an analysis, rather just a "compilation" of the environmental impact measures proposed.</li> <li>• The reasons justifying the development are dealt with across the various sections set out above. There is an analysis of the biophysical, economic and social considerations that is dealt with in sections 2 and 3 of the EIS. We have been unable to locate an analysis of the principles of ecologically sustainable development, referable to the proposal, in the EIS. There is a reference to ESD on page 41 but no analysis referable to the proposal is undertaken.</li> </ul>
<p>(f) a declaration by the person by whom the statement is prepared to the effect that—</p> <p>(i) the statement has been prepared in accordance with this Schedule, and</p> <p>(ii) the statement contains all available information that is relevant to the environmental assessment of the development, activity or infrastructure to which the statement relates, and</p> <p>(iii) that the information contained in the statement is neither false nor misleading.</p>	<ul style="list-style-type: none"> <li>• There is a statement on page 41 of the EIS indicating that the document has been prepared in accordance with the Regulations. Notably, the EP &amp; A Regulation 1980 is referred to, although that is not considered to be a specific concern.</li> <li>• There does not appear to be a statement that the information contained in the statement is neither false nor misleading. That may have been provided separately to Council, but is required.</li> </ul>
<p>(2) The person preparing the statement must have regard to the following—</p> <p>(a) for State significant development—State Significant Development Guidelines,</p> <p>(b) for State significant infrastructure—State Significant Infrastructure Guidelines.</p>	<ul style="list-style-type: none"> <li>• The proposal is not in relation to state significant development or infrastructure so this clause is not relevant to this application.</li> </ul>

***Summary and Recommendations***

*The EIS largely addresses the criteria required in items 6 and 7 of Part 3 of Schedule 2 of the EP&A Regulation 2000.*

*However, we recommend that the EIS be supplemented with a statement that addresses ecologically sustainable development, and in that regard the applicant can be directed to item 7 (4) of Part 3 of Schedule 2 of the Regulation which addresses the particular principles of ESD that should be assessed in the EIS, having regard to the application. We also consider that there should be a clear statement that the information contained in the statement is neither false nor misleading. Both of these matters can be attended to by providing supplementary information. In addition, given these matters are to be addressed in supplementary information, it would also be prudent to obtain a "Summary" of the EIS.*

*Following the supplement to the EIS addressing the above matters we see no impediment on a legal basis for the grant of consent.'*

**Applicant's Submission**

The applicant has now submitted a supplement to the EIS addressing the above matters which includes:

1. Address and contact details of person who prepared EIS and their qualifications.
2. The document is signed.
3. It references the *Environmental Planning and Assessment Regulation 2000*.
4. There is a declaration that the material is neither false nor misleading
5. An executive summary has been provided.
6. A response towards the requirements to the *Environmental Planning and Assessment Regulation 2000* for ecologically sustainable development has been added in Section 7 of this EIS.
7. The conclusion has been expanded (refer to Attachment 2).

**Advertising/Renotification**

Chapter 1.2 of the *Central Coast Development Control Plan 2022* sets out in respect of applications where a development application has been amended prior to determination that:

*'... if in the opinion of Council or staff with the appropriate delegated authority the amendments are minor, or will result in no additional impacts, the amendments will not require readvertisement or re-notification.'*

Similar provisions existed in the previous iterations of the Development Control Plan (being the *Wyong Development Control Plan 2013* and the *Gosford Development Control Plan 2013*).

In this case, the amended information submitted (amended EIS with minor changes) are considered minor, they do not significantly change the development proposed and do not create any additional impacts.

## 5.1 **Supplementary Report - DA/60589/2020 - Dwelling House and Garage - 129 Alan Street, Niagara Park (contd)**



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As such, it is the view of assessing officers that renotification of the proposal is not warranted.

### **Conclusion**

The EIS has been reviewed, including independent legal review, and minor amendments made to satisfy the requirements of the legislation and the submission received in advance of the previous meeting. As such the application is presented to the Panel with a recommendation for approval as per the previous report. The previous report is included in Attachment 1 for consideration.

### **Attachments**

<b>1</b> 	DA/60589/2020 - 129 Alan Street, Niagara Park - Proposed Dwelling House & Garage	D15686103
<b>2</b> 	Environmental Impact Statement (Rev C) - PAN-52378 - 129 Alan Street, NIAGARA PARK - DA/60589/2020	D15972541

**Item No:** 2.1  
**Title:** DA/60589/2020 - 129 Alan Street, Niagara Park - Proposed Dwelling House & Garage  
**Department:** Environment and Planning

**Central Coast**  
Local Planning Panel

30 June 2023 Supplementary Local Planning Panel

Reference: DA/60589/2020 - D15686103  
 Author: Robert Eyre, Principal Development Planner.Residential Assessments  
 Manager: Ailsa Prendergast, Section Manager Development Assessment South  
 Executive: Alice Howe, Director Environment and Planning

### Summary

An application has been received for construction of a new dwelling house at Lot 14 DP 2480, 129 Alan Street, Niagara Park.

The application was considered by the Local Planning Panel at its meeting of 16 December 2021. The matter was deferred at that meeting pending the submission of additional information, primarily in relation to legal matters pertaining to access (the land is accessed via a Right of Way (ROW)).

The matter was again considered and deferred at the Panel meetings of 18 October 2022 and 28 February 2023, for the receipt of additional information. The additional information, including further legal advice, has been obtained and the matter is referred back to the Panel for consideration. This report provides commentary in relation to the matters raised by the Panel.

The application is recommended for approval.

The application is required to be referred to the Local Planning Panel for determination as the proposed development is classified as 'designated development' under *Interim Development Order No.122 - Gosford*.

<b>Applicant</b>	J Kechagias
<b>Owner</b>	J Whyte and C Whyte
<b>Application No</b>	DA60589/2020
<b>Description of Land</b>	Lot 14 DP2480 No. 129 Alan Street Niagara Park
<b>Proposed Development</b>	New dwelling house
<b>Site Area</b>	20,160m <sup>2</sup>
<b>Zoning</b>	7(a) Conservation under IDO 122
<b>Existing Use</b>	Vacant
<b>Employment Generation</b>	No
<b>Estimated Value</b>	\$345,000.00

**2.1      DA/60589/2020 - 129 Alan Street, Niagara Park - Proposed Dwelling House & Garage (contd)**

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**Recommendation**

- 1    *That the Local Planning Panel grant consent to DA60589/2020 for the development of a dwelling house on lot 14 DP2480 No. 129 Alan Street, Niagara Park subject to the conditions 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.***
- 2    *That Council advise relevant external authorities of the Panel's decision.***

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**Background**

The application for a Dwelling House and associated Garage at 129 Alan Street, Niagara Park was initially considered by the Local Planning Panel at its meeting of 16 December 2021. Supplementary reports were considered by the Panel on 18 October 2022 and 28 February 2023. The previous reports, draft conditions, plans and related documents previously considered by the Local Planning Panel are separately provided.

At the meeting of 28 February 2023, the matter was deferred by the Panel with the following resolution:

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*That the Local Planning Panel further defer consideration of this matter for electronic determination, to seek the following:*

- 1    Updated legal advice that addresses the further information provided by Council in the supplementary report advising that the proposed works on the adjoining property that do not form part of the application are not exempt development nor complying development, which alters the assumptions included in the currently provided legal advice. On the basis that such works are not exempt development, will the works beyond the site boundary require separate development approval either prior to any approval issued for the new dwelling becoming an operational consent (deferred commencement condition) or prior to commencement of works? How will the works be facilitated without development approval?*
- 2    Legal review of the draft conditions of consent in the context of the legal advice provided to the panel confirming that the works beyond the boundary are not currently part of the application. The draft conditions include several conditions relating to design and development details for the off-site works, in addition to conditions proposed by external authorities which cover works subject to the DA and works on the adjoining land that do not form part of the DA. What is the legal*



**2.1      DA/60589/2020 - 129 Alan Street, Niagara Park - Proposed Dwelling House & Garage (contd)**

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*mechanism for conditioning and carrying out works on an adjoining property where land owners consent and development approval for such works is not to be provided?*

- 3      *A further supplementary report that includes an assessment in response to the provision of legal advice that addresses the matters outlined above, including an updated set of draft conditions.*

**Report**

Further legal advice dated 18 May 2023 has been received (refer to Attachment 12). In summary the legal advice states:

1. Section 4.17(1)(f) of the *Environmental Planning and Assessment Act 1979* contains the power to impose a condition requiring the carrying out of works whether or not being works on land to which the application relates. The fact that the works off site are not exempt development does not impact the power available under Section 4.17(1)(f). Council (and the Local Planning Panel) has the power to impose condition 2.4 of the proposed conditions of consent.
2. Condition 2.4 provides development consent for the proposed works in the right of carriageway. The fact that the works in the right of carriageway are not exempt development does not change the previous advice. No separate consent for the works in the right of carriageway is required as the works have been considered and are required under this consent.
3. Works can be carried out in a right of carriageway where the terms of the easement permit upgrade and maintenance of the right of carriageway. The applicant has provided legal advice in relation to the terms of the right of carriageway which confirms upgrade and maintenance works are permitted (refer to Attachment 9). The legal advice submitted by the Applicant's solicitor has been reviewed by Council's Solicitor and is considered correct.
4. It is a separate matter for the applicant on the DA to make arrangements for permission to be obtained to carry out the works on the land not the subject of the DA. That is in the right of carriageway.
5. Condition 2.4 and the balance of conditions are reasonable and appropriate. It is recommended that in addition to condition 5.5 that compliance with the Vegetation Management Plan be required at all times (refer amended condition 6.4).

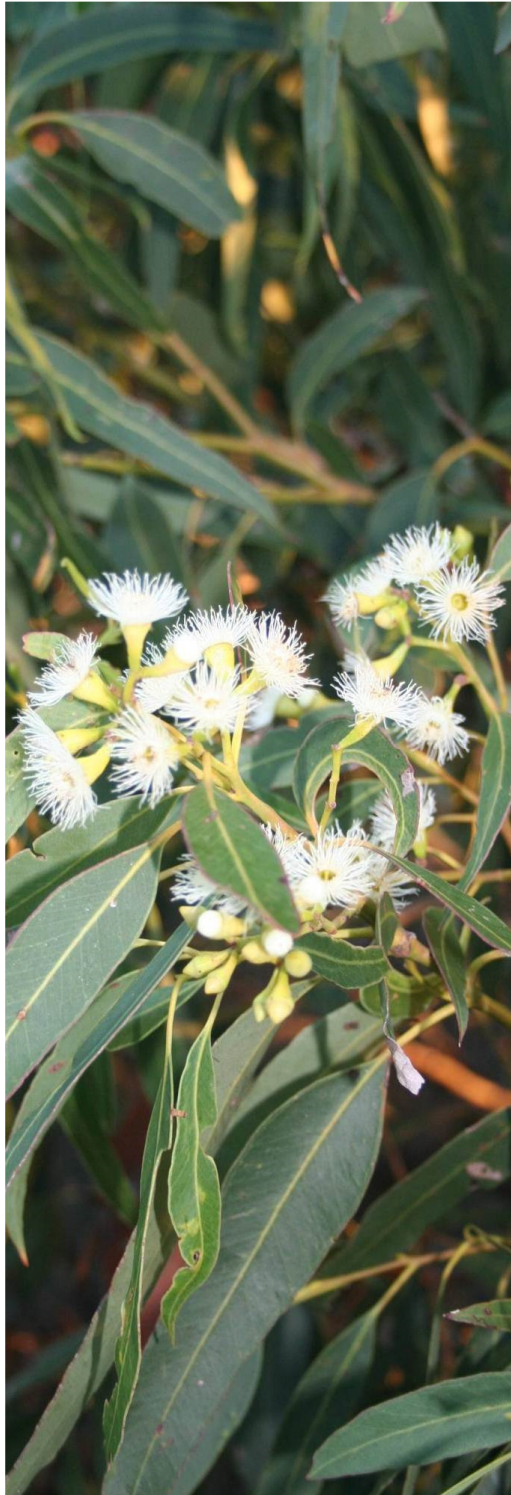
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**2.1      DA/60589/2020 - 129 Alan Street, Niagara Park - Proposed Dwelling House & Garage (contd)**

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**Attachments**

<b>1</b>	DA60589/2020 Draft Conditions of Consent	D14943925
<b>2</b>	Redacted Architectural Plans 129 Alan Street, Niagara Park DA/60589/2020	D14971905
<b>3</b>	Revised Plans 129 Alan Street NIAGARA PARK DA/60589/2020	D15105043
<b>4</b>	DA/2020/60589 - 129 Alan Street, Niagara Park - Proposed Dwelling House	D14943625
<b>5</b>	Supplementary Report DA/60589/2020 - 129 Alan Street Niagara Park - Dwelling House and Detached Garage.	D15124258
<b>6</b>	DA 60589/2020 - 129 Alan St Niagara Park - Supplementary Report and Legal Advice - Dwelling House & Garage	D15546182
<b>7</b>	Ecological Report - Appendix C - PAN-52378 DA/60589/2020	D15076275
<b>8</b>	Easement/Restriction Letter - Appendix A - PAN-52378 DA/60589/2020	D15076278
<b>9</b>	Owner's additional legal opinion for the LPP - 129 Alan Street, Niagara Park - DA/60589/2020	D15160936
<b>10</b>	Updated Letter to Central Coast Council - re Right of Way   DA/60589/2020   129 Alan Street, Niagara Park (WWSB 222179)	D15346843
<b>11</b>	222179 Advice on ROW Final Version - 129 Alan Street NIAGARA PARK - DA/60589/2020	D15452822
<b>12</b>	Advice on Right of Way - 129 Alan Street NIAGARA PARK - DA/60589/2020	D15682185
<b>13</b>	PUBLIC - Environmental Impact Statement 129 Alan Street, Niagara Park DA/60589/2020	D14421884
<b>14</b>	Updated Flora and Fauna Report FINAL Sept 2021 - 129 Alan Street, NIAGARA PARK DA/60589/2020	D14841113
<b>15</b>	Schedule of External Finishes 129 Alan Street, Niagara Park DA/60589/2020	D14421900



**Environmental Impact  
Statement for No 129 (Lot  
14 DP 2480) Alan Street,  
Niagara Park NSW**

Environmental Impact Statement for No 129 (Lot 14 DP 2480) Alan Street, Niagara Park

Revision	Details	Date	Amended By
A	EIS	24/11/2020	John Kechagias
B	EIS	10/07/2023	John Kechagias
C	EIS	29/11/2023	John Kechagias

This environmental impact statement has been prepared in accordance with Schedule 2 of the Environmental Planning and Assessment Regulation 2000.

This statement contains all available information that is relevant to the environmental assessment of the development, that of a proposed dwelling, detached garaged and civil and site works to support the dwelling and garage.

The information contained in this statement is neither false or misleading

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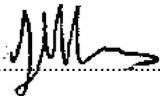
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Author: ..... Mr John Kechagias

Architect registration 9138, M.Arch B.Arch (studies) B.Sc. Applied Physics honours

Signed:

Date: ..... 29<sup>th</sup> November 2023



## Contents

	Page Number
1.....	<b>Executive Summary5</b>
2.....	<b>Introduction6</b>
2.1 Property description	6
2.2 Description of the proposal	6
2.3 Current and Adjacent Land Uses	8
2.3.1 Gosford Local Environment Plan 2014	8
2.3.2 Gosford Interim Development Order 122	8
2.4 Statutory planning consideration	10
2.4.1 Environmental Planning and Assessment Act, 1979 (EP&A Act)	10
2.5 The Provision of Environmental Planning Instruments	10
2.5.1 State Environmental Planning Policy No. 71 – Coastal Protection:	10
2.5.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004:	11
2.5.3 Gosford Interim Development Order 122	11
2.6 Relevant Development Control Plans (DCPs)	12
2.7 Environmental Assessment	12
2.7.1 Overview	12
2.7.2 Context and Setting	12
2.7.3 Building and Construction	13
2.7.4 Interim Development Order No 122	13
2.7.5 Character	14
2.7.6 Designated Development – Clause 22(5)	14
2.7.7 Rural Conservation Zone: Building Materials - Clause 28	14
2.7.8 Rural Conservation Zone: Height – Clause 29	14
2.7.9 Rural Conservation Zone: Ridge Line – Clause 30	15
2.7.10 Climate Change and Sea Level Rise	15
2.7.11 Section 94 Contributions	15
2.7.12 Gosford DCP 2018 Chapter 3.1 – Dwelling Houses and Ancillary Structures	15
2.7.13 Building Lines in Rural & Environmental Zones	19
2.7.14 Cut and Fill	20
2.7.15 Visual Impact /Scenic Quality	20
2.7.16 Water Cycle Management	20
2.7.17 Bushfire	20
2.8 Natural Environment	21
2.8.1 Flora and Fauna	21
2.8.2 Tree Removal	21
2.8.3 Water Management	22
2.8.4 Noise	22
2.8.5 Waste	22
2.9 Site Suitability	22
2.9.1 Bushfire	22
2.9.2 Flooding	22
2.9.3 Acid Sulphate Soils	23
2.9.4 Hazards (Other)	23
2.9.5 Social and Economic Effects	23
2.9.6 Conclusion	23
3.....	<b>Description of the environment27</b>
3.1 Physical, Environment	27
3.1.1 Topography-	27
3.1.2 Geology/ Hydrology	27
3.1.3 Geotechnical	27
3.1.4 Infrastructure	27
3.1.5 Aesthetics/Scenic Visual	28
3.1.6 Natural Hazards	28
3.1.7 Climate meteorology	28
3.2 Natural Environment	30
3.2.1 Flora & Fauna	30
3.3 Social Environment	30
3.4 Aboriginal/European Heritage	31
3.5 Economic Environment	32
4.....	<b>Analysis of environmental impacts36</b>
5.....	<b>Contact with relevant Government authorities38</b>
7.. Ecological Sustainable Development (Environmental Planning and Assessment Regulation 2000).....	<b>38</b>
7.1 Principles of ecological sustainable development (section 7(4) of part 3 of schedule 2)	38

Environmental Impact Statement for No 129 (Lot 14 DP 2480) Alan Street, Niagara Park

7.1.1	Precautionary principle	39
7.1.2	Inter-generational equity	39
7.1.3	Conservation of Biological Diversity and Ecological Integrity	39
7.1.4	Improved valuation and pricing	40

▪ 8	Environmental Impact Mitigation Measures	40
▪ 9	Justification	40
9.1	The "do nothing" Option	40
9.2	Other locations within the site;	41
9.3	Other feasible locations	41
9.4	Leave the site undeveloped (option 1)	42
▪ 10	Conclusion	42

### List of tables

Table 1-1 Assessment of the proposal against the provisions of the GIDO 122	12
Table 1-2 Assessment of the proposal against the provisions of the GDCP 2013	<b>Error! Bookmark not defined.</b>
Table 1-3 Minimum Information in Geotechnical Report (Source Chapter 6.4 Gosford DCP 2013)	<b>Error! Bookmark not defined.</b>
Table 2-1 Regional temperature ranges	28
Table 2-2 Precipitation data Niagara Park	28
Table 2-3 Wind direction, wind speed, mean rainfall & temperature	29
Table 2-4 Industry	33

### List of figures

Figure 1-1 Proposed development	24
Figure 1-2 Proposed development	25
Figure 1-3 Topographic Map	26
Figure 2-1 AHIMS Web Service 1000 metres	31

### List of appendices

Appendix A
EIS Requirements
Appendix B
Site Survey
Appendix C
BASIX Report
Appendix D
Waste Management Plan
Appendix E
Bushfire Assessment
Appendix F
Flora & Fauna Assessment
Appendix G
Arboricultural Impact Assessment
Appendix H
Aboriginal AHIMS Web Services (AWS)
Appendix I
Site Classification and On-Site Effluent Disposal Assessment
Appendix J
Water Cycle Management Plan
Appendix K
Architectural Plans
Appendix L
Schedule of External Finishes

## Terminology

This report uses the following terminology:

- EIS      Environmental Impact Statement
- AIA      Arboricultural Impact Assessment
- FFA      Flora & Fauna Assessment
- APZ      Asset Protection Zone;
- BMP      Bushland Management Plan;
- TSC Act      *Threatened Species Conservation Act 1995*;
- EPBC Act      *Environment Protection and Biodiversity Conservation Act 1999*;
- EP&A Act      *Environmental Planning and Assessment Act 1979*;
- OEHS      Office of Environment & Heritage (NSW);
- LGA      Local Government Area;
- NOW      NSW Office of Water
- EEC      Endangered Ecological Community;
- WSUD      Water Sensitive Urban Design; and
- Threatened species refers to those flora and fauna species listed as vulnerable, endangered or critically endangered under the TSC Act or EPBC Act

## 1. Executive Summary

In this environmental impact assessment (EIS) we will go on to discuss the environmental impact and mitigation measures proposed by the development.

The proposed development is for a 4-bedroom dwelling with a study and a detached garage. To support that development, it is proposed to; create an asset protection zone (APZ) to mitigate the effects of bushfires, make upgrades to the access road/accessway to the site, establish a waste water irrigation area, and manage weeds and vegetation on site through a vegetation management plan (VMP).

The proposed location of the dwelling is carefully selected in the following ways;

- 1      It is to be located adjacent to an existing power line easement which has several benefits. It reduces the need for clearing to create the APZ, the cleared area of the power easement can be employed as a waste water irrigation area without disturbing the vegetated areas. Access to the dwelling can through that established easement in part.
- 2      The proposal is to be placed in the location of what was an orchid. That location is now infested with weeds that are spreading into the bushland. The proposal will remove the worst area of weeds and in combination of the VMP improve the condition of native vegetation.
- 3      The proposed location is on the upper part of the site on a relatively level part of the site which means the majority of the site remains undisturbed.

We will go on to discuss in this EIS how the combination of siting, proposed supporting infrastructure and on-going management will result in minimal environmental impact.

## 2. Introduction

*Apex Intelligent Design* has been engaged by the property owner to prepare an Environmental Impact Statement (EIS) for No 129 (Lot 14 DP 2480) Alan Street, Niagara Park NSW within Central Coast LGA, hereafter referred to as the study area (Figure 1-1).

This EIS has been prepared specifically to address the requirements for preparation of an Environmental Impact Statement for a dwelling house on Lot 14 DP 2480 No 129 formerly No 103 Alan Street Niagara Park (Gosford City Council Ref: 130113) dated 4<sup>th</sup> of February 2015 see (Attachment A).

### 2.1 Property description

The site is a regular shaped allotment with an area of 2.1 ha and is identified as Lot 14 DP 2480, No. 129 Alan Street, Niagara Park. The site is located within a rural residential area. The site contains an easement for electricity supply 15.24m wide and an easement for railway purposes 20.115m wide located in the western area of the site and trend approximately northeast to southwest.

The site is currently vacant and identified as bushfire prone land. The site slopes down from the northeast to the southwest with an average slope of approximately 10-14°, is heavily vegetated with an intermittent watercourse located upon the adjoining allotment Lot 15 DP 2480. Access is available directly from Alan Street. Council's reticulated water mains supply and sewage system is not available to the site. The site is identified within the Coastal Open Space System as being desirable for future voluntary acquisition.

The land subject to this application is known as No 129 (Lot 14 DP 2480) Alan Street, Niagara Park.

- The site is located within an established rural locality and is adjoined by rural dwellings, vacant bushland, residential and associated ancillary structures and the local road network. The said allotment is vacant and dominated by naturally occurring local native vegetation species within Open Forest vegetation.
- The top of an escarpment is located greater than 180 metres from the proposed dwelling footprint. An ephemeral/intermittent watercourse is located downslope, greater than 40 metres to the west.
- The site is bound to the north by unformed Ilbery Road, south by residential and to the east and west by bushland. The site is regular in shape and maintains an area of approximately 2.1 hectares.
- Access is available via right of way over No 107 (Lot 16 DP 2480) which has direct access to Alan Street.
- Council's reticulated water mains supply and sewage system is not available to the site.
- Arrangements will be made with relevant Service Authorities to ensure all essential utility services (electricity, telephone etc) are available to the site.
- Site slopes primarily extend toward the south-western property boundary adjoining Ilbery Road at an average grade of approximately 10-14 degrees. Supplementary details may be obtained from the Detail Survey Plan prepared by Beveridge William, attached as Appendix B to this Report.
- The site is zoned 7(a) – Conservation and Scenic Protection (Conservation) under the provisions of Gosford City Council's Interim Development Order (IDO) No. 122.
- Council's mapping indicates the allotment is bushfire prone.

### 2.2 Description of the proposal

The application seeks approval for the construction of a single storey dwelling house comprising four (4) bedrooms and a study with a detached double garage & new driveway on Lot 14 DP 2480, No. 129 Alan Street, Niagara Park.



The proposed dwelling house is to be located within the northern portion of the site and constructed as a pole home with colorbond walls & roof. Works require removal of trees generally for the building footprint and asset protection zones, installation of an on-site sewage management system and water supply via rainwater tanks with a capacity of 27,000 litres for house hold use and 20,000 litres for fire fighting. The proposed development is shown on (Figure 1-1). The proposed driveway, building footprint and associated asset protection zones are shown on (Figure 1-2).

The development proposes the construction of a single storey residence as per the design shown on the Architectural Plans prepared by Apex Intelligent Design, Sheets 1 to 7 dated November 2020 attached (Appendix K) The associated construction will require tree clearing and the installation of an on-site wastewater treatment system.

The proposed residence is single storey, above ground construction with fibre cement walls and colorbond metal roof sheeting. The configuration comprises 4 bedrooms, study, kitchen and living areas, bathroom, laundry, double garage and a veranda within the western portion of the building.

The proposed residence is to be sited within the northern half of the site being an area considered most suitable for development purposes in terms of minimising potential environmental impacts.

Proposed tree clearing will be limited to those trees and vegetation located within the development footprint and Asset Protection Zone. In total, 119 trees have been assessed within the development area, 40 of which have been identified for removal to accommodate the proposed development. A comprehensive Flora and Fauna Assessment together with an Arboricultural Impact Assessment (AIA) prepared by Mr Stephen McKay accompany this submission as Appendix F and Appendix G respectively. Section 4.2 of the AIA nominates specific trees for removal and presents the findings of the Safe Useful Life Expectancy (SULE) Assessment. Trees and vegetation proposed for retention will be protected in accordance with Council requirements prior to, during and post construction works. Section 5 of the AIA specifies tree protection measures to minimise potential impacts that may arise during the construction phase and clearing of native vegetation.

Individual trees within and in close proximity to the development area of the site have been numbered and shown on the Site Plan Prepared by Apex Intelligent Design (Appendix L). These Plans should be read in conjunction with the Flora and Fauna Assessment prepared Fraser Ecological Consulting and the AIA prepared by Mr Stephen McKay together with the Bushfire Hazard Assessment prepared by Building Code Bushfire Solutions, dated 9<sup>th</sup> of November 2020 attached as Appendix E.

The proposed development seeks to remove only those trees within and immediately adjacent to the development footprint. Tree removal is also associated with the establishment of Asset Protection Zones (APZ's) in order to comply with the requirements of Planning for Bushfire Protection (PBP 2019) and is detailed in the AIA (Appendix G).

The proposed dwelling is proposed as pole construction to avoid extensive cut and fill works, minimal cut will be required for the construction of the garage floor and the rear of the dwelling.

Access to the proposed residence will be gained directly from Alan Street via an existing driveway approximately 4 metres wide.

Stormwater disposal from the proposed dwelling house will be captured and directed to a series of rainwater tanks located beneath the rear of the dwelling with a total capacity of approximately 27,000 litres. 20,000 litres, adjacent to the garage, is dedicated for the exclusive use by NSW Rural Fire Services in the event of an emergency as per the recommendations in the Bushfire Hazard Assessment (Appendix E). The proposed rainwater tank capacity far exceeds the minimum 20,000 litre requirement of BASIX and 10,000 litre requirement of Chapter 6.5 *Water Cycle Management*. The roof area catchment including the provision of appropriately sized rainwater tanks together with non-built upon areas, consisting of soft landscape will, in

combination, substantially manage stormwater reuse and runoff from this site. Overflow from the rainwater tank will be piped to a turf stabilised level spreader located on the south-western side of proposed dwelling.

Runoff across the slope will generally not be impeded by the proposed development due to the suspended nature of the dwelling.

Utilities are currently available to the land and where necessary, arrangements with the relevant service authorities will be undertaken to ensure availability to the proposed new dwelling.

Council's reticulated water main supply or sewage system is not available to the site. Water supply will be provided via a series of rainwater tanks with a combined capacity of 22,000 litres as described above. An adequately sized sewage treatment system is proposed to be installed onsite to service the proposed dwelling. The Onsite Effluent Disposal Assessment prepared by Douglas Partners Pty Ltd (Appendix I) illustrates that adequate area for the installation of a suitable wastewater treatment system is available onsite to cater for the needs of future occupants. Based on the findings of the Onsite Effluent Disposal Assessment and identified limitations, it is concluded that the site and soil characteristics are conducive to support onsite effluent disposal in accordance with the NSW Environment and Health Protection Guidelines subject to recommendations contained within the assessment. The proposed effluent application area of 375m<sup>2</sup> is based on a nitrogen concentration of as detailed within Table 7 of the assessment. The nominated application area is also shown on the Architectural Plans (Appendix K).

The proposed dwelling has been designed to ensure integration with existing rural development within the immediate locality and designed to address the requirements of Gosford City Council's *Development Control Plan 2013 (DCP) Dwelling Houses*. Specific details relating to the proposed development are discussed in detail under "Section 1.6 below – Relevant Development Control Plans" within this report.

The proposal is likely to maintain and enhance the existing and desired character of the immediate locality with the proposed built form being sympathetic to the rural built form.

All works associated with the proposed development will be carried out in accordance with relevant Australian Standards and the current edition of the Building Code of Australia.

## **2.3 Current and Adjacent Land Uses**

### **2.3.1 Gosford Local Environment Plan 2014**

The subject site is identified as "Deferred Matter" on the Land Application Map and as such Gosford LEP 2014 does not apply to the site in accordance with Clause 1.3(1A). The assessment and determination of this application has been made under Interim Development Order No. 122 (IDO 122).

### **2.3.2 Gosford Interim Development Order 122**

The site is zoned 7(a) – *Conservation and Scenic Protection (Conservation)* under the provisions of *Gosford City Council's Interim Development Order (IDO) No. 122* and is located within a well-established rural area adjoined and surrounded by local road networks, existing dwellings and associated ancillary structures.

Lands immediately to the north, east & west are also zoned 7(a).

Properties within the general locality of the subject site have benefited from Gosford City Council's approval to erect a dwelling house on land with similar characteristics in past years.

The objectives of zone no 7(a) are:

- a) *the conservation and rehabilitation of areas of high environmental value;*
- b) *the preservation and rehabilitation of areas of high visual and scenic quality in the natural landscape;*

Environmental Impact Statement for No 129 (Lot 14 DP 2480) Alan Street, Niagara Park

- c) *the provision and retention of suitable habitats for flora and fauna;*
- d) *the prohibition of development on or within proximity to significant ecosystems, including rainforests and estuarine wetlands;*
- e) *the provision and retention of areas of visual contrast within the City, particularly the "backdrop" created by the retention of the ridgelines in their natural state;*
- f) *the provision of opportunities for informal recreational pursuits, such as bushwalking and picnics, in appropriate locations;*
- g) *the minimisation or prohibition of development so that the environmental and visual qualities of the natural areas are not eroded by the cumulative impact of incremental, individually minor developments;*
- h) *the minimisation or prohibition of development in areas that are unsuitable for development by virtue of soil erosion, land slip, slope instability, coastal erosion or bushfire hazard.*

The proposed development satisfies the objectives of the 7(a) zone and is permissible with Council consent. The development merely proposes the construction of a single storey quality designed residence, being a low scale and low impact form of development that:

The proposal is considered to be consistent with the objectives of the zone in that it:

- provides an appropriate land use which is compatible with the objectives of the zone and with neighbouring properties;
- proposes construction of a dwelling type and scale that is compatible with the character of existing and future development;
- does not detract from the amenity or potential recreational pursuits enjoyed by nearby residents;
- has been designed with consideration of the slope and topography of the site and follows the form of the hillside;
- preserves the existing rural amenity together with the aesthetic and scenic values of the land;
- retains suitable and significant habitats for flora and fauna;
- provides for opportunities to enable informal recreational pursuits;
- seeks to locate the proposed residence within an area of the site considered to be most suitable for development purposes and which will result in the least environmental impact;
- sites the dwelling in areas of the site already disturbed and aims to reduce vegetation removal where possible and retain suitable habitats for flora and fauna.

*Clause 22* permits the erection of one (1) dwelling house on an allotment of land zoned 7(a) having an area of not less than 40 hectares OR were not held in common ownership with adjoining parcels of land as at 18<sup>th</sup> February 1977.

As the said land is below the aforementioned minimum allotment size, it was necessary to establish whether or not this land was held in common ownership as at 18 February 1977 in accordance with the provisions of sub-clause (3). It is understood that where the land was held in common ownership as at 18 February 1977, application may be considered by Council under the provisions of Designated Development.

Following an extensive search of applicable property records, it has been identified that the said land was held in common ownership with an adjoining allotment as at 18 February 1977 and as such application to erect a dwelling house may only be made under the preparation of an Environmental Impact Statement (EIS). As such, lodgement of a DA for a dwelling constitutes Designated Development.

*Clause 27* simply states that Clauses 28, 29 and 30 apply to land zoned 7(a).

*Clause 28* provides specific requirements for building materials used in the construction of dwelling houses on land zoned 7(a). It requires that consideration be given to the use of materials and colours that have a low reflectivity and which blend with the landscape of the site and surrounding natural environment on which they are to be used. In this instance, external materials and finishes have been selectively chosen to reflect and

9

integrate with the changing streetscape and which ensure light, glare and reflection is minimised to adjoining residences. The proposed dwelling will be a metal clad pole construction with colorbond metal roof sheeting. The garage will be metal clad construction on a concrete slab with colorbond metal roof sheeting.

Proposed building materials have been assessed according to the requirements of BASIX to ensure compliance with the standards for thermal comfort, solar access and energy efficiency.

*Clause 29* prescribes that the height of a building constructed on land zoned 7(a) shall not exceed 8 metres. The proposed residence is single storey and is below the stipulated 8 metre maximum height control.

*Clause 30* relates to ridgelines and outlines Council's desire to restrict development from being constructed within 50 metres of a prominent ridgeline or prominent visible brow. As Council will note during the assessment of this application, the proposed residence will not be located on or within 50 metres of a prominent ridgeline or visible brow.

*Clause 34* relates to the Preservation of Trees and in conjunction with Council's Chapter 6.6 – Preservation of Trees or Vegetation DCP 2013 requires that consent be granted prior to the removal of trees on an allotment of land within the Gosford City Local Government Area. As previously stated in this report, Council consent is sought for the removal of existing trees as listed in the AIA (Appendix G).

The native bushland setting will be preserved and a leafy green environment maintained. Landscaping that resembles a typical residential setting in a suburban environment is not suitable for this site.

## **2.4 Statutory planning consideration**

### **2.4.1 Environmental Planning and Assessment Act, 1979 (EP&A Act)**

Under the EP&A Act, a development is Integrated if, in order for it to be carried out, it requires development consent and one or more approvals from other authorities. In accordance with Section 4.46, the application does not constitute Integrated Development.

The site is located within bushfire prone land and as per the requirements of Section 4.14, a Bushfire Hazard Assessment has been prepared for the proposed development by Building Code Bushfire Hazard Solutions, dated 9<sup>th</sup> of November 2020 (Appendix E).

For the purposes of Section 1.7 of the EP&A Act and, in particular, the administration of Sections 4.12, 4.15 and 5.17, certain factors must be considered in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats as a result of the proposed development. As the development proposes the removal of existing native vegetation, a Flora and Fauna Assessment prepared by Fraser Ecological Consulting and AIA have been prepared by Mr Stephen McKay (Appendix F and Appendix G respectively). Subject to the implementation of recommended ameliorative measures, both assessments concluded that the proposed development will not result in a significant impact on the environment.

Section 4.15 of the Act relates to the management of development in an environmentally responsible way. The section outlines heads of consideration that may be relevant to a development proposal. In this instance, we believe the following matters are of relevance, and have been taken into consideration during the preparation of this proposal.

## **2.5 The Provision of Environmental Planning Instruments**

### **2.5.1 State Environmental Planning Policy No. 71 – Coastal Protection:**

This SEPP applies to the Gosford City Council Local Government Area. The objective of this policy is to manage the coast of NSW in an ecologically sustainable way.

Matters for consideration by a consent authority are outlined under Clause 2 and 8 of this SEPP. However, due to the location of the site, minor nature of the development and negligible impacts created, the considerations outlined under Clause 2 and 8 are not regarded as relevant in this instance.

During all construction works associated with the proposed development, ameliorative soil erosion and nutrient control measures will be used to reduce the potential of polluting local waterways. If necessary, the Applicant

will provide further details at Construction Certificate stage. The proposed development is not located within a sensitive coastal location.

### **2.5.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004:**

The proposed development is subject to the provisions and requirements contained within this SEPP. A BASIX Assessment has been undertaken and a BASIX Certificate issued, Certificate No. 1030876S. A copy of the BASIX Certificate is attached (Appendix C). If Development Consent is granted, Council will impose relevant conditions to ensure BASIX commitments are incorporated into the dwelling design.

### **2.5.3 Gosford Interim Development Order 122**

Under the Gosford Interim Development Order 122, the subject site is zoned 7(a) Conservation and Scenic Protection (Conservation). The objectives of zone 7(a) are:

- (a) *the conservation and rehabilitation of areas of high environmental value;*
- (b) *the preservation and rehabilitation of areas of high visual and scenic quality in the natural landscape;*
- (c) *the provision and retention of suitable habitats for flora and fauna;*
- (d) *the prohibition of development on or within proximity to significant ecosystems, including rainforests and estuarine wetlands;*
- (e) *the provision and retention of areas of visual contrast within the City, particularly the "backdrop" created by the retention of the ridgelines in their natural state;*
- (f) *the provision of opportunities for informal recreational pursuits, such as bushwalking and picnics, in appropriate locations;*
- (g) *the minimisation or prohibition of development so that the environmental and visual qualities of the natural areas are not eroded by the cumulative impact of incremental, individually minor developments;*
- (h) *the minimisation or prohibition of development in areas that are unsuitable for development by virtue of soil erosion, land slip, slope instability, coastal erosion or bushfire hazard.*

The proposal is considered to be consistent with the objectives of the zone in that:

The proposal provides an appropriate land use which is compatible with the objectives of the zone and with neighbouring properties;

The proposed location of the dwelling considers the already disturbed character of the existing vegetation and aims to reduce vegetation removal where possible and retain suitable habitats for flora and fauna.

The proposal considers the nearby ridgeline and has, where possible, sited the dwelling in such a way that there are minimal significant impacts to the visual amenity of the ridgeline.

The proposal ensures dwelling of a type and scale compatible with the character of existing and future development and does not detract from the amenity or potential recreational pursuits enjoyed by nearby residents.

The dwelling design has considered the slope and topography of the site and has incorporated a design that follows the form of the hillside.

Consideration of the provisions within GIDO 122 that are relevant to this project are addressed in the following table.

Table 0-1 Assessment of the proposal against the provisions of the GIDO 122

Relevant Clause	Comment	Comply
<b>22 (2)</b>  Restriction of the erection of dwelling-houses in Zone No. 7(a)	The subject site is <40ha and has been in existence prior to 18 February 1977. Council has confirmed that a building entitlement does not exist on the site.  Pursuant to section 3.17 of the EP&A Act 1979, the erecting of a dwelling house on this site, under Section 22 of the IDO, is declared as designated development for the purposes of the Act.	No
<b>28(1)</b>  Rural Conservation Zone-Building Materials	The proposal incorporates 'prescribed materials' into the external finishing on the dwelling including, fibre cement cladding (of low reflectivity) rendered, logs walls for the retaining walls and Colourbond roof.	Yes
<b>29(1)</b>  Rural Conservation Zone-Height	The building height will not exceed 6m above the NGL.	Yes
<b>30(1)</b>  Rural Conservation Zone-Ridge Lines	The subject site does not incorporate a visible ridgeline (as marked on the survey plan and also identified in Gosford GEMS mapping). The proposed dwelling is not located within 50m of a ridgeline.	Yes
<b>34</b>  Tree Preservation	Some vegetation removal is proposed to accommodate the proposed dwelling, driveway and Asset Protection Zone (APZ). The attached Flora and Fauna Report deems the proposal is not likely to significantly affect any threatened species, populations of ecological communities or detract from the scenic amenity of the area.	Yes

## 2.6 Relevant Development Control Plans (DCPs)

## 2.7 Environmental Assessment

### 2.7.1 Overview

This section identifies and assesses the impacts of the development with specific reference to the heads of consideration under section 4.15 of the Act.

### 2.7.2 Context and Setting

The context and setting of the development site is described in **Section 1.1** of this Statement.

The proposal consists of a single storey residential dwelling which is considered to positively contribute to the quality and transitioning identity of the locality. The proposed development is compatible with the existing built form, as well as the future built form of the neighbouring sites which are zoned "7(a) *Conservation and Scenic Protection*".

The immediate locality comprises a mix of single and double storey residential dwellings on residential allotments. Existing development and the proposed development is representative of the desired future character of the area.

### 2.7.3 Building and Construction

Compliance with the BCA will be demonstrated with the Construction Certificate documentation.

### 2.7.4 Interim Development Order No 122

#### Permissibility

The proposal is permissible with the consent of Council, pursuant to the statutory provisions of clause 5(2) (b) and clause 22 (5) - designated development provisions of IDO No. 122 in relation to the erection of a dwelling house on land zoned 7(a) - Conservation and Scenic Protection (Conservation).

#### Objectives of Zone

Clause 5(3) of Interim Development Order No 122 stipulates that consent must not be granted for development of land within the prescribed zone, unless the objectives of the zone have been taken into consideration in conjunction with the objectives of the Local Government Act 1993, pertaining to Ecologically Sustainable Development.

The objectives of the 7(a) Conservation zone are:

- a. the conservation and rehabilitation of areas of high environmental value;
- b. the preservation and rehabilitation of areas of high visual and scenic quality in the natural landscape;
- c. the provision and retention of suitable habitats for flora and fauna;
- d. the prohibition of development on or within proximity to significant ecosystems, including rainforests and estuarine wetlands;
- e. the provision and retention of areas of visual contrast within the City, particularly the "backdrop" created by the retention of the ridgelines in their natural state;
- f. the provision of opportunities for informal recreational pursuits, such as bushwalking and picnics, in appropriate locations;
- g. the minimisation or prohibition of development so that the environmental and visual qualities of the natural areas are not eroded by the cumulative impact of incremental, individually minor developments;
- h. the minimisation or prohibition of development in areas that are unsuitable for development by virtue of soil erosion, land slip, slope instability, coastal erosion or bushfire hazard.

In this instance, it is considered that the proposal is consistent with the stated objectives of the 7(a) Conservation - IDO122 Zone for the following reasons:

- The proposal is a modest-scaled single storey dwelling. Consideration has been given to the slope and topography of the site with a building design that follows the form of the hillside to avoid cut and fill works and tree removal generally within the building footprint and asset protection zones to reduce disturbance of the natural bushland setting.
- The location of the dwelling within already disturbed existing vegetation reduces removal of significant vegetation to retain habitats for flora and fauna. Consideration has been given to the design of on-site wastewater and stormwater management to minimise environmental impacts.
- The proposal is compatible with the future character of the area and the zone and does not impact on the amenity of adjoining residential development.

The proposal is also consistent with the principles of Ecologically Sustainable Development, as specified within the Local Government Act 1993.

### **2.7.5 Character**

Clause 5(4) of Interim Development Order No 122 stipulates that the Council must not grant consent for development unless it has taken into consideration the character of the development site and the surrounding area, where, for the purpose of this provision, character means the qualities that distinguish each area and the individual properties located within that area.

The site is located within Character Area: Niagara Park 10: Scenic Buffers of Gosford DCP 2013 Chapter 2.1 - Character. The area is characterised by medium to large scale residential dwellings, on large allotments situated on gentle to moderate slopes, these areas are elevated and they contribute to the scenically-distinctive buffers that separate neighbouring valley suburbs.

The proposal addresses the desired character as follows:

- Site characteristics require tree removal for the building footprint and asset protection zones. These works are proposed for a small portion of the site, the dwelling is proposed to be located towards the northern boundary at the unformed Ilbery Road street frontage and the natural bushland setting over the majority of the site is retained.
- Appropriate measures will be undertaken to mitigate bushfire risk to the development.
- The development is of an appropriate bulk and scale for the locality as it is single storey and reflects the modest character and simple articulation of traditional farm buildings. The visual impact of the building to the street frontage is reduced by its east/west orientation as it moves away from the road in a westerly direction and the retention of vegetation along the street frontage and proposed driveway.

In this instance, the proposal does not detract from the character of the immediate locality.

### **2.7.6 Designated Development – Clause 22(5)**

The property is less than 40 ha and has been identified as held in common ownership with an adjoining allotment as at 18 February 1977. In accordance with clause 22(5), the erection of a dwelling house on the land is designated development. The proposal has been submitted in accordance with the designated development provisions and an Environmental Impact Statement prepared.

### **2.7.7 Rural Conservation Zone: Building Materials - Clause 28**

The external materials are required to be of prescribed materials (i.e. dark tones and non-reflective) to blend with natural bushland setting. The applicant has submitted a colour scheme, the schedule of external finishes indicates the external materials and finishes are of low reflectivity; materials will comprise colorbond cladding with colorbond roof sheeting. Therefore, a condition of the consent is imposed for prescribed materials, for dark tones to walls and roof materials ensure compliance with this requirement.

### **2.7.8 Rural Conservation Zone: Height – Clause 29**

Clause 29 stipulates the maximum height of a building or structure shall not exceed 8 metres (i.e. measured from the topmost point of a building and natural ground level below).

The proposal is single storey with a maximum height of 8.0m and complies with this requirement.



### 2.7.9 Rural Conservation Zone: Ridge Line – Clause 30

Clause 30(1) stipulates that a building shall not be erected within 50m of any ridge line or prominent visible brow.

The proposal is not located on or within 50m of any ridge line or prominent visible brow and complies with this requirement.

### 2.7.10 Climate Change and Sea Level Rise

Climate change and sea level rise have been considered in the assessment of this application.

Climate change and sea level rise will be felt through:

- increases in intensity and frequency of storms, storm surges and coastal flooding;
- increased salinity of rivers, bays and coastal aquifers resulting from saline intrusion;
- increased coastal erosion;
- inundation of low-lying coastal communities and critical infrastructure;
- loss of important mangroves and other wetlands (the exact response will depend on the balance between sedimentation and sea level change); and
- impacts on marine ecosystems.

Government action may mitigate the impact of climate change and the question of sea-level rise may be able to be addressed through the construction of containment works or through Council's policies that may be developed over time.

In the absence of any detailed information at the present however, refusal of this application is not warranted.

### 2.7.11 Section 94 Contributions

The land zoned 7(a) Conservation and Scenic Protection (Conservation) - IDO 122 is not subject to a Contribution Plan.

### 2.7.12 Gosford DCP 2018 Chapter 3.1 – Dwelling Houses and Ancillary Structures

The proposed dwelling has been assessed in accordance with the relevant provisions of Gosford Development Control Plan 2018 (Gosford DCP 2013) Chapter 3.1 –Dwelling Houses and Ancillary Structures as summarised in the table below.

Table 1-2 Assessment of the proposal against the provisions of the GDCP 2018

Relevant Clause	Comment	Comply
<b>Part 2 - Scenic Quality &amp; Character</b>		
	The vegetation lining the driveway provides an effective buffer to retain the ecological and scenic qualities of the subject land. Clearing has been minimised in order to preserve the long term diversity of the site and general locality. The dwelling design is sympathetic to the topography of the site and blends in with	Yes

Environmental Impact Statement for No 129 (Lot 14 DP 2480) Alan Street, Niagara Park

	development in the area. The bulk and scale of the proposal is disguised by moving away from the road in a westerly direction, low-reflectivity finishing materials for the facade, and facades that do not incorporate large expanses of bland, unbroken walls.	
<b>Part 3 - Specific Controls &amp; Development Types – Residential</b>		
<b>3.1.5 Site Occupancy</b>	The site coverage for the proposed dwelling is less than 1.3%	Yes
<b>3.1.1.1 Objectives</b>	<p>The proposed dwelling maintains a setback from The Ridgeway of &gt;50m. The development has been sited to consider the impacts of vegetation removal. Approximately half of the proposed vegetation removal is dominated by weeds. The accompanying Flora and Fauna report concludes that the proposal is unlikely to have any significant effects on any threatened species, population of communities. The proposal also considers the impact that earthworks may have on the environment, and hence has been designed as a pole house design that is sympathetic to the topography and amenity of the site can be built. The on-site stormwater detention and sewage management system will not be located within 40m of a lagoon, watercourse or body of water.</p> <p>The proposal meets the objectives of the DCP</p>	Yes
<b>3.1.2.1 Building Height</b>	The dwelling does not exceed 8m in height and is significantly setback from boundaries such that it is well within any boundary enveloped	Yes
<b>3.1.2.3 Floor Space Ratio</b>		N/A
<b>3.1.3 Setbacks</b>	<p>The proposal has no defined front, side or rear setbacks, being accessed from a right of way. There is an unformed road to the north which acts in effect to separate the site further from the northerly neighbour. Setbacks are from 16 (+20)m* to 120 m from any boundary for the dwelling and 2.1 m for the outbuilding</p> <p>* An unformed road effectively increase the setback to the north by 20 m</p>	Yes
<b>3.1.3.2g Ridgelines Setback</b>	The proposal is greater than 50 metres from the crest of any ridgeline	Yes
<b>3.1.3.3.2 Garage Door Articulation</b>	The garage door is not facing any boundary or street, even the unformed road	Yes
<b>3.1.4.1 Views</b>	The proposal does not block any views being isolated and is not readily view from any property	Yes
<b>3.1.4.2 Visual Privacy</b>	The proposal does not overlook any neighbouring properties nor is the proposed dwelling visible from any neighbouring dwelling	Yes
<b>3.1.4.3 Private Open Space Areas</b>	The proposal has a 59 m <sup>2</sup> deck adjacent to the living area that has a minimum dimension of 5 m. The proposal meets the minimum requirement of 24 m <sup>2</sup> and 3 m width	Yes
<b>3.1.4.4 Sunlight Access</b>	The proposal has no restriction on solar access to its Private open space and no nearby neighbours	Yes
<b>3.1.5 Car Parking and Access</b>	The proposal affords 4 or more parking spaces with two being covered meeting the DCP requirement of 2 parking spots for 4 or more bedroom dwellings.	Yes
<b>3.1.6 Earthworks</b>	The house design on poles aims to follow the contours of the land, minimising the need for cut and fill. maximum cut 1.2 m for garage greater than 2 m from boundary complying with DCP maximum cut of 3 m	Yes
<b>3.1.6.2 Retaining Walls and Structural Support</b>	Any retaining walls greater than 600 mm in height will be designed by a professional engineer	Yes
<b>3.1.6.3 Drainage</b>	Drainage is dispersed on site via a water dispersion system. The concept of discharging to the council system is not applicable in this instance	Yes
<b>3.1.7 Outbuilding and Other Ancillary Development</b>	The proposed garage is appropriately sited in that it reduces the need for roadway while having no significant environmental affects to the neighbouring properties	Yes

Environmental Impact Statement for No 129 (Lot 14 DP 2480) Alan Street, Niagara Park

<b>3.1.7.2 Outbuildings</b>	The outbuilding is 53.5 m2 and complies with the max requirement of 100 m2	Yes
<b>3.1.7.5 Fencing</b>	No fencing proposed with this application	N/A
<b>External Colours and Reflectivity of Building Materials</b>	In accordance with the provisions of the GIDO 122, finishing materials have been selected to blend in with the surrounding environment and are of low reflectivity.	Yes
<b>Driveways</b>	The grade of the proposed driveway will not exceed 25%. Vehicular access to and from the site is designed so that reverse egress to Ilbery Road will be avoided. Adequate space is provided on site for turning and parking.	Yes
<b>Part 6 Environmental Controls</b>		Yes
<b>6.3.5 Erosion and Sediment Control Plans</b>	Erosion and sediment control measures have been indicated on the plans that accompany this Development Application.	Yes
<b>6.4 Geotechnical Requirements</b>	<p>No detailed geotechnical report is considered to be necessary in accordance with the requirements of Chapters 6.4 of DCP 2013.</p> <p>The Site Classification and On-Site Effluent Disposal Assessment prepared by Douglas Partners (Appendix I) has identified the soil type upon the subject property as Rnt Terrigal Formation. Therefore landslip Hazard Assessment Matrix has been undertaken.</p> <p>A slopes assessment has been undertaken using the site survey (Appendix B) which identifies the dwelling position at RL 68.18-65.28 a rise of 2.9m over the development run of 22.795m, therefore the slope has been calculated as 7.25 Degrees.</p> <p>Under the landslip Hazard Assessment Matrix the site falls within a category 1 "Low Hazard Area" as the slope is between 0 degrees &amp; &lt;12.5 degrees. The site is also located greater than 100m from a prominent cliff line.</p> <p>Table R1 states that geotechnical report is not required for category 1 "Not required unless the development is of extensive proportions and/or a major structure is proposed."</p> <p>The Site Classification and On-Site Effluent Disposal Assessment prepared by Douglas Partners (Appendix I) addresses Table R2 of Chapter 6.4 see Table 1-2 below.</p>	Yes
<b>6.5.4 On-Site Effluent and Greywater Disposal</b>	<p>A Site Classification and On-Site Effluent Disposal Assessment (Appendix I) has been prepared by Douglas Partners which has been prepared in accordance with Chapter 6.5 of the DCP 2013.</p> <p>Conclusion of the assessment, a characteristic surface movement in the order of 20-45 mm has been calculated for this site based on the results of the field work. Therefore residential structures founded on natural sandy clay at the site should be designed based on a 'Class P' classification in accordance with AS 2870 – 2011: Residential Slabs and Footings (Ref 1).</p> <p>In accordance with Environment and Health Protection Guidelines (Ref 2) and AS 1547 – 2012 (Ref 3), the site is considered suitable for the disposal of domestic effluent provided that the limitations raised in Section 5.2.6 are addressed and recommended site and soil improvements contained within this report are implemented. Primarily this includes:</p> <ul style="list-style-type: none"> <li>· Blending lime into the site soils to improve the pH within the application areas;</li> </ul>	Yes

Environmental Impact Statement for No 129 (Lot 14 DP 2480) Alan Street, Niagara Park

	<ul style="list-style-type: none"> <li>· Blending gypsum into the site soils to improve the ECe and Sodicity within the application areas;</li> <li>· Raising of the application area with 0.2 – 0.3 m of good quality topsoil;</li> <li>· Terracing the application area to &lt;10% slope for ETA/EST systems or increasing application areas accordingly;</li> <li>· Construction of a clay bund upslope of the effluent disposal area to reduce surface runoff entering the application area;</li> <li>· Improving the sun and wind exposure of the application area to promote evapotranspiration by removal of trees; and</li> <li>· Construction of clay bund upslope of the effluent disposal area to reduce surface runoff entering the application area.</li> </ul> <p><b>Based on the constraints outlined above, and the buffer distances recommended in Table 6, it is suggested that sufficient room is available for the proposed on-site effluent disposal.</b></p> <p>Disposal of treated effluent could be carried out via subsurface drip irrigation or ETA/ETS. Treatment of the effluent should be undertaken using either an AWTs or an AWTs with nutrient removal</p>	
<b>6.6</b> Preservation of Trees or Vegetation	Vegetation removal is proposed to accommodate the proposed dwelling and Asset Protection Zone (APZ). The attached Flora and Fauna Report (Appendix F), the proposal is deemed to not significantly affect any threatened species, populations of ecological communities or detract from the scenic amenity of the area.	Yes
<b>6.7.7.4</b> On-Site Detention Targets for Stormwater	The proposal does not require onsite detention	N/A
<b>Part 7 General Controls</b>		Yes
<b>7.1.3</b> Car parking requirements for specific land uses	Adequate car parking has been incorporated into the design of the proposed dwelling. Covered car parking for 2 vehicles has is proposed	Yes
<b>7.1.4.2</b> Parking	The proposed garage has internal dimensions 5.8m x 9m and provides parking for two vehicles. The driveway is >3m wide.	yes
<b>7.2.9</b> Waste Management	A Waste management Plan has been submitted with this development application (Appendix I).	Yes

Table 1-3 Minimum Information in Geotechnical Report (Source Chapter 6.4 Gosford DCP 2018)

ITEM	DESCRIPTION	REPORT
		Class 1
1	A description of the Assessment process adopted and the work undertaken to provide the assessment	Yes
2	A site description, including vegetation, bedrock outcrops, site	Yes



Environmental Impact Statement for No 129 (Lot 14 DP 2480) Alan Street, Niagara Park

	seepage & groundwater, existing development, etc.	
3	Description of site substrata and identification of the geological formations present in accordance with standard geological practice [e.g. Terrigal Formation (Rnt) of the Narrabeen Group]	Yes
4	The depth to weathered bedrock over the site generally and within the building area in particular.	Yes
5	The site slopes observed [expressed in degrees] and maximum site slope. Delineation of site into areas of common slope and measured slope angles in the various areas.	Yes
6	A site plan indicating relevant geological features & location of proposed development on the land relative to those features [preferably at a scale of 1:200].	Yes
7	At least one geological section through the site and proposed development [preferably at a scale of 1:200]	Yes
8	Logs of boreholes put down to determine depth of soil/weathered rock strata. The borehole to penetrate the site strata to bedrock and at least one borehole to be within the building area of the site.	Yes
9	A "Risk Assessment" of the various parts of the land in accordance with the Australian Geomechanics Society Guidelines – March 2000 or as subsequently amended, delineation of the land into areas where different degrees of risk are determined, together with a site classification in accordance with As 2870-1996 [or latest amended edition].	Yes
10	A statement of the effect of the proposed site development on the site, and adjoining land, stability. (EIS)	Yes
11	An assessment of the stability of the land immediately surrounding and above/below the site and possible effects of instability [e.g. a rock fall] on the adjoining/nearby land on the site.	Yes
12	A descriptive Report which includes: Sufficient detailed information and recommendations for a structural engineer and/or civil engineer to provide a design for the development to accommodate any instability, or potential instability, considered to affect the land and/or related land. Any items that are required to be inspected by the Geotechnical Engineer during the course of construction together with details of any further geotechnical studies required at the site.	Yes

The proposal is generally in accordance with the objectives of Chapter 3.1 – Dwellings Houses and Ancillary Structures of Gosford DCP 2018 with the exception of the following:

### 2.7.13 Building Lines in Rural & Environmental Zones

Clause 3.1.6.3 requires:

- A setback of 30m to a public road unless environmental considerations warrant a lesser distance.
- A setback of 40m to a permanent or intermittent watercourse as defined under the Water Management Act 2000.

In this instance, environmental considerations warrant a reduced setback to the public road. The western portion of the site contains utility easements for Energy Australia and State Rail Authority. The dwelling house is proposed to be located toward the northern boundary of the site to avoid these site constraints.

The building footprint is proposed within an area of disturbed vegetation and topography and follows the form of the hillside. The dwelling is articulated and therefore a variable building line occurs with a minimum 2.1m setback to the garage and a maximum setback of 14m to the northern portion of the dwelling house from the unformed public road. Visual impact of the proposed building on the streetscape is minimised as existing vegetation is generally retained along the northern boundary; tree removal proposed is generally within and immediately adjacent to the development footprint. The development including stormwater detention and sewage management is not located within 40m of the intermittent watercourse.

In this instance, the proposal is considered to be consistent with the objectives for setbacks to ensure that buildings, particularly dwelling houses, constructed in environmental zones are so located and designed so as to minimise any adverse effect on the existing natural environment.

#### **2.7.14 Cut and Fill**

The dwelling house is designed as pole construction to avoid extensive cut and fill works with a finished floor level of RL 66.8 & RL 67.4m AHD. Site classification for onsite effluent disposal assessment indicates variable depth of soil and rock over the site and the building footprint.

In this instance, the extent of the excavation work is variable from 0.5m to 1.2m and is considered appropriate for site conditions and does not exceed maximum cut and fill under the DCP requirements. Works in excess of 1 metre in height and 3 m in depth are permitted providing the excavations are adequately retained and drained in accordance with engineering details. The excavation works are not considered to adversely affect adjoining properties, achieves the objectives for cut and fill works and are generally in accordance with the requirements of Clause 3.1.6 of Gosford DCP 2018.

#### **2.7.15 Visual Impact /Scenic Quality**

Tree removal required with the construction of the building and bushfire protection zones have the potential to detract from the scenic quality of the land.

The proposal is a single storey dwelling which proposes a building design that is set into and follows the form of the hillside. The native bushland setting/backdrop will be preserved and the choice of external materials (i.e. dark toned non reflective) will lessen the visual impact of the proposal when viewed from the street and downslope of the site. Landscape management will be carried out as described by the Bushland Management Plan which is to be conditioned with the Development consent.

As such the proposal is not considered to be detrimental to the landscape amenity and scenic quality of the locality.

#### **2.7.16 Water Cycle Management**

The proposal is subject to the requirements of Gosford DCP 2013 Chapter 6.7 - Water Cycle Management for smaller scale developments in excess of 50m<sup>2</sup>. The proposal is considered to satisfy the requirements of the DCP as follows:

- Water conservation is achieved in accordance with BASIX Certificate No 1030876S.
- Stormwater quality is achieved through sediment and erosion control measures found on plan S-01 prepared by Apex Intelligent Design.
- The BASIX Certificate requires rainwater retention of 27,000L which is in excess of Deemed to Comply criteria in clause 6.7.7 Retention Targets. The condition contained in the recommendation reflects minimum requirement in accordance with BASIX in this instance. Site topography necessitates overflow from the rainwater tank directed to the infiltration trench.

#### **2.7.17 Bushfire**

The proposed land is classified as "Bushfire Prone Land" under Council's bushfire maps. The proposal requires assessment under Section 4.13 of the Environmental Planning and Assessment Act 1979 and Planning for Bushfire Protection 2019.

Apex Intelligent Design 38 Ligar Street Fairfield Heights 2165 NSW

20

The application is accompanied by a Bushfire Hazard Assessment Report, prepared by Building Code & Bushfire Hazard Solutions Pty Limited, Ref No 151190, dated 9 November 2020. The report determined the Bushfire Attack Level BAL-40 for north, east/south, southwest and west aspect of the proposal.

Asset Protection Zones are to be maintained as an Inner Protection Area from the proposed dwelling to the east/south and southwest boundary to a distance of 36m and 14m to the north and 23m to the west as outlined in section 7.2 'Planning for Bush Fire Protection 2019' and NSW Rural Fire Services document "Standards for Asset Protection Zones". A 20,000 litre static water supply is required for firefighting purposes.

Appropriate conditions of consent are included in the recommendation for bushfire requirements.

## 2.8 Natural Environment

### 2.8.1 Flora and Fauna

The accompanying Flora and Fauna assessment compiled by Fraser Ecological Consulting concludes the following:

- No endangered populations, threatened flora or endangered ecological communities were identified within the study area during the current surveys that would be directly or indirectly affected by the proposal.
- Habitats within the study area are considered likely to support twenty-two threatened species of animal including eleven species of bird, two reptile & nine mammals.
- Significance assessments in accordance with section 1.7 of the *Environmental Planning and Assessment Act 1979* and *EPBC Act - Principal Significant Impact Guidelines 1.1. Matters of National Environmental Significance* (Department of Environment 2013) determined that the project was unlikely to result in a significant impact to any threatened biodiversity listed under the *Biodiversity Conservation Act 2016* or *Environment Protection and Biodiversity Conservation Act 1999*
- Potential impacts to biodiversity associated with the proposed action have been largely avoided through the construction footprint selection process avoiding sensitive habitats e.g. intermittent watercourse vegetation, hollow-bearing trees, significant mature canopy trees, feed trees, ground habitat (logs for small mammals).

### 2.8.2 Tree Removal

A detailed arboricultural impact assessment report has been prepared by Mr Stephen McKay (Appendix G). of the one hundred & nineteen (119) trees that were assessed within the proposal area seventy-nine (79) have been identified as a priority for retention with three (3) of these nominated as priority for protection by tree protection fencing.

In addition to the above, forty (40) trees have been identified as recommended for removal, due to declining health, structural issues or unsuitability to the site.

The proposed dwelling footprint will result in the direct removal of fourteen (14) trees with a further two (2) trees to be removed due to major encroachments within the TPZ.

Fifteen (15) trees have been either nominated for removal in order to establish the APZ with an additional nine (9) trees identified for removal within the APZ due to being hazardous due to structural defects resulting in these trees being unsafe or were in poor health and therefore prioritised for removal over healthy trees.

General protection measures are recommended in Section 4 of this report to minimise potential impacts to the trees to be retained.

Inspections of retained trees should be conducted at 3, 6, 9, and 12 months and annually for 3 years after development completion. Other maintenance activities deemed necessary are to be undertaken over the same time period, and undertake management of trees (predominantly pruning following *Australian Standard (AS 4373)* by a suitably qualified person when required.

### **2.8.3 Water Management**

Proposed drainage design and relevant impacts associated with the development are contained in the Site Stormwater Drainage measures and are indicated on the plans that are included with this development application.

### **2.8.4 Noise**

The proposed works have been assessed against criteria for resultant noise from construction which are aimed at maintaining comfort levels within the surrounding residential dwellings. The construction site will adhere to the noise control and regulation measures in accordance with AS 2436:2010 *"Guide to noise control on construction, maintenance and demolition sites."* Furthermore, the works will adhere to the EPA Construction Noise Guidelines which require the proponent to take into consideration and employ all reasonable and feasible measures to ensure that the impact on noise receivers is minimised.

### **2.8.5 Waste**

#### **Construction Waste**

During construction works there will be a range of waste products associated with the building activities. Arrangements will be made for these products to be collected by a recognised building waste product recycler for subsequent sorting and recycling in order to minimise the amount of waste products going to Council's landfill operation. A detailed waste management plan (Appendix D) has been included as part of the development application.

#### **Operational waste**

Wastes generated by the residents of the dwelling are likely to fall within the two main categories of:

- Solid recyclable products, such as glass plastics and newsprint;
- Other wastes.

Such wastes will be sorted by residents into the waste bins provided by Council for collection by Council's contractor.

## **2.9 Site Suitability**

### **2.9.1 Bushfire**

The site is identified by Gosford City Council as being 'Bushfire Prone'. The accompanying Bushfire Threat and Protection Assessment prepared by Building Code Bushfire Hazard Solutions concludes that the proposed dwelling will be subject to a BAL 40 rating and the proposal will comply with the requirements of *Planning for Bushfire Protection 2019*. The required APZ's are as follows:

- 36m to the East/South
- 36m to the South-west
- 23m to the West

The Flora and Fauna assessment concludes that there will be no significant impact to the threatened species, endangered populations or endangered ecological communities as a result of implementation of the prescribed bushfire APZ's.

### **2.9.2 Flooding**

The site is not flood affected.



### 2.9.3 Acid Sulphate Soils

The property is not affected by Acid Sulfate Soils

### 2.9.4 Hazards (Other)

#### Natural Hazards

The subject site has not been identified as being subject to land slip and as such only a Site Classification and On-Site Effluent Disposal Assessment was undertaken by Douglas Partners in accordance with Table 1-2 above and Chapter 6.4 and 6.5 of the Gosford DCP 2013. Recommendations for footings for the proposed residence have been included within the report. An effluent disposal area of 396m<sup>2</sup> is required, and this area has been marked on the accompanying site plan.

### 2.9.5 Social and Economic Effects

The proposed development will have neither positive or negative impacts on the social and economic environment of the locality. This occurs through the growth of the population at a rate and scale that is in keeping with the desired character of the area. The site and locality have adequate infrastructure and services in place and the zoning controls permit the proposed land use. The proposed development falls within the social, environmental and economic capacity of the land.

### 2.9.6 Conclusion

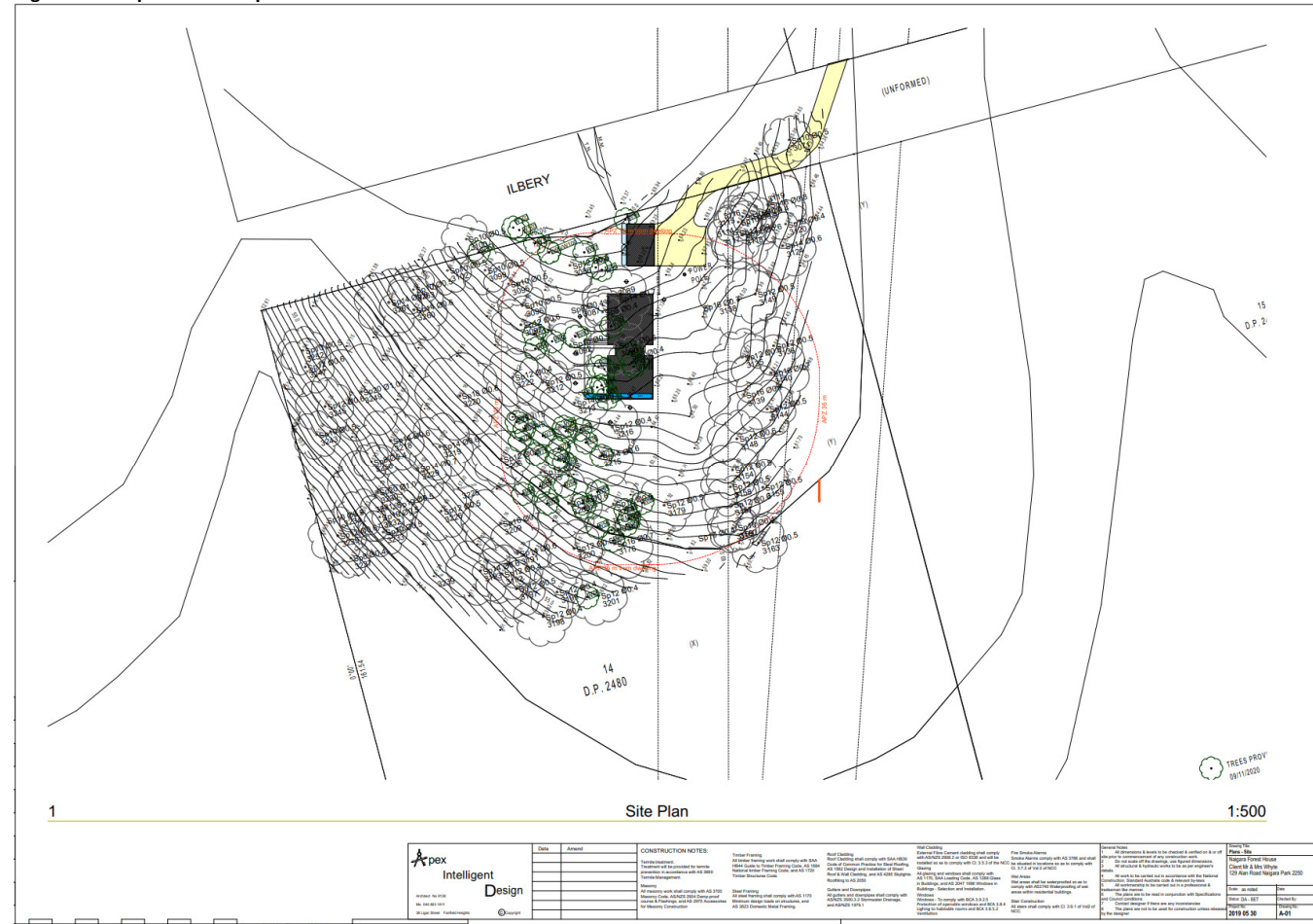
The suitability of the land to accommodate a development of this type and scale has been established by the above analysis. The subject site is not affected by any policy that restricts development because of the likelihood of tidal inundation or subsidence. The accompanying Bushfire Threat and Protection Assessment concludes that the proposed dwelling will be subject to a BAL 40 rating and the proposal may comply with the requirements of *Planning for Bushfire Protection 2019* should the recommended APZ's and construction standards be considered. The accompanying Flora and Fauna Assessment (Appendix F) concludes that the proposal is unlikely to have any significant impacts on the environmental values of the area and no threatened species, endangered populations or endangered species will be significantly affected by the proposal. The Geotechnical investigation also concluded that the site is capable of supporting this proposal and on-site effluent disposal can be accommodated by the site in accordance with Council's preferences for shallow sub-surface irrigation. The site is appropriate for this form of land use.

The proposal is considered to be consistent with the objectives of the 7(a) zone and is generally compliant with the relevant provisions of IDO 122 and Gosford DCP 2013 relating to requirements for dwelling houses on land zoned for conservation purposes. Despite reduced building line, the proposal raises no significant visual or amenity impacts. The proposal will not detract from the character or scenic qualities of the area or have unreasonable impacts on the environment.

All relevant matters under Section 4.15 of the Environmental Planning and Assessment Act 1979, section 89 of the Local Government Act 1993, the objectives of the zone and the principles of ecologically sustainable development have been considered and the proposal is recommended for **approval** subject to conditions.

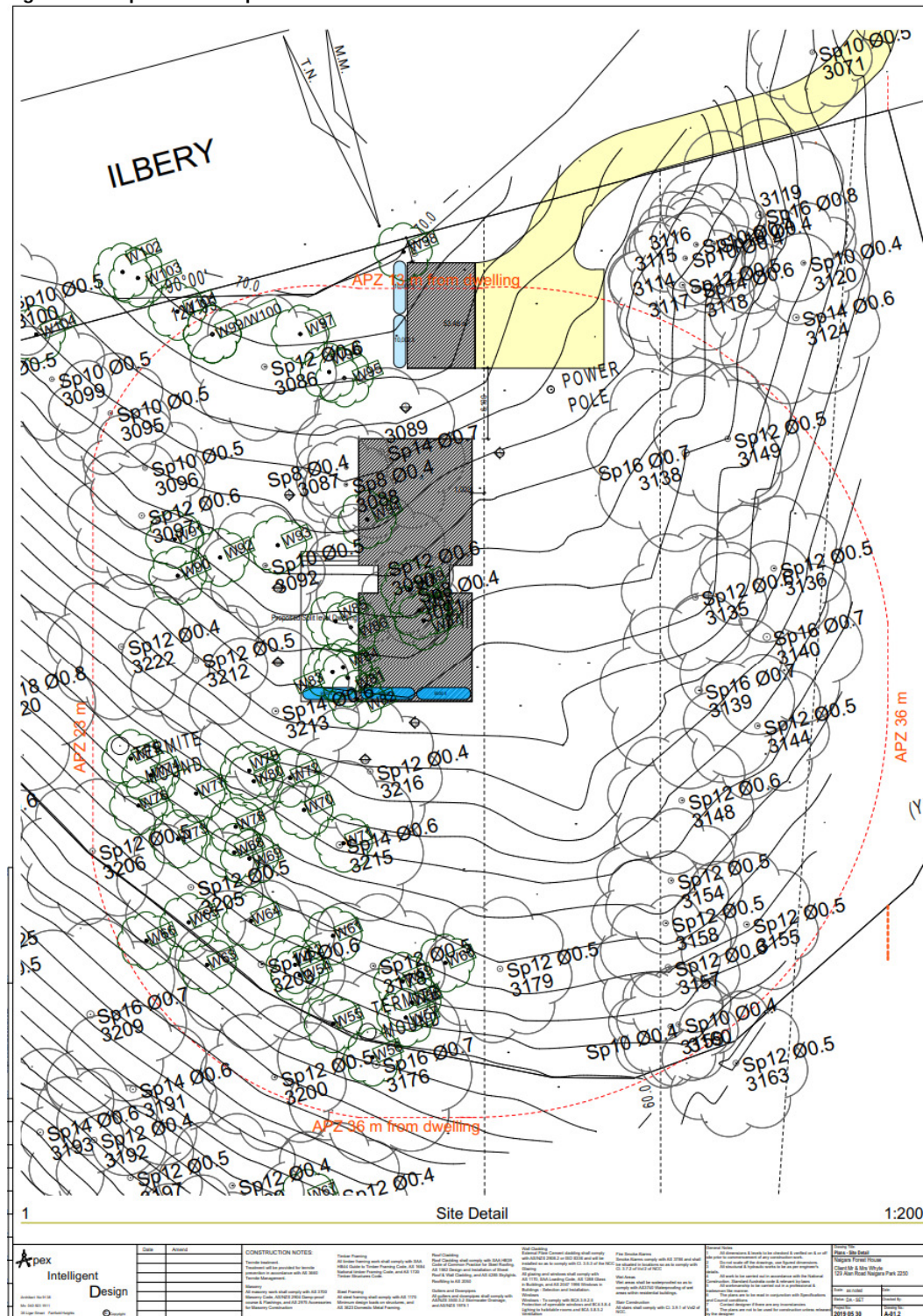
Environmental Impact Statement for No 129 (Lot 14 DP 2480) Alan Street, Niagara Park

Figure 0-1 Proposed development



Apex Intelligent Design 38 Ligar Street Fairfield Heights 2165 NSW

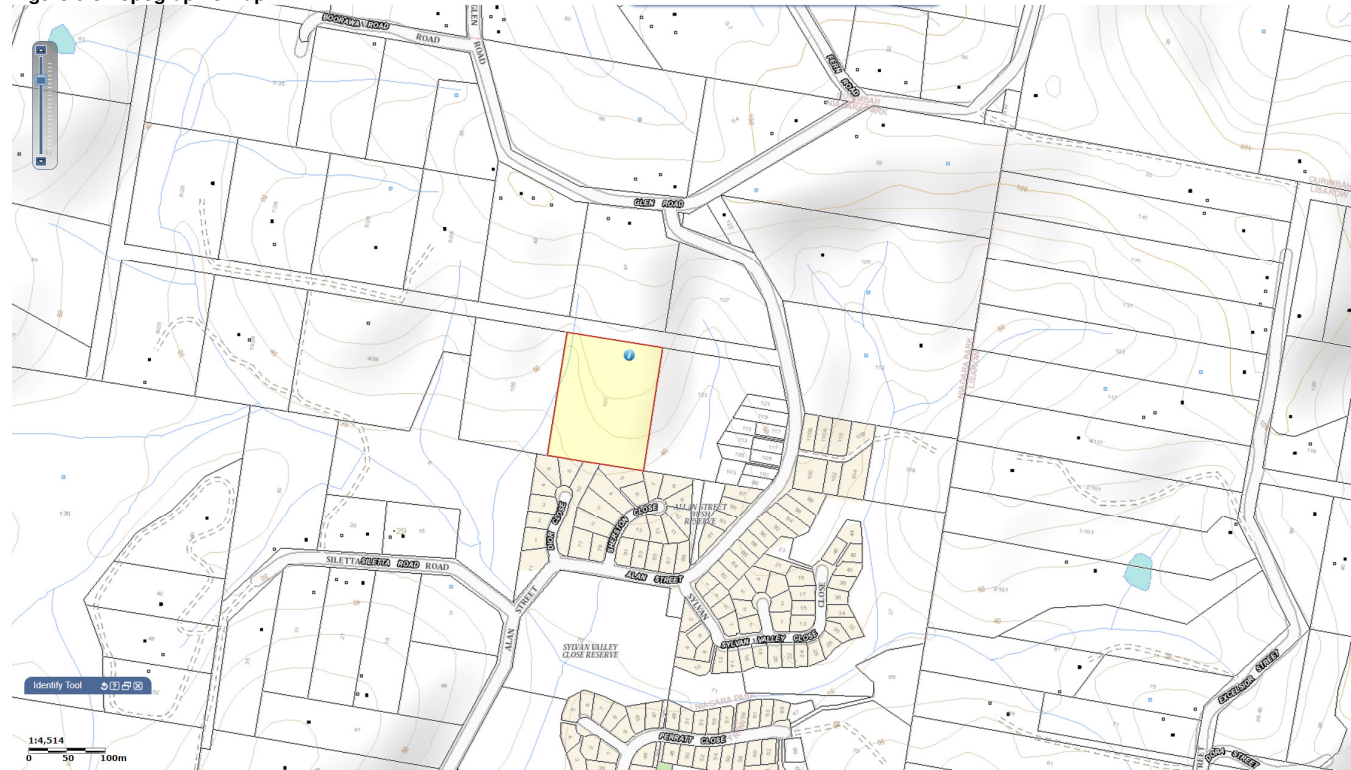
Figure 0-2 Proposed development





Environmental Impact Statement for No 129 (Lot 14 DP 2480) Alan Street, Niagara Park

Figure 0-3 Topographic Map



### 3 Description of the environment

*This should provide details of the environment in the vicinity of the development site and also of affected by aspects of the environment likely to be a facet of the proposal. In this regard, physical, natural, social, heritage and economic aspects of the environment should be described to the extent necessary for assessment of the environmental impact of the proposed development.*

#### 3.1 Physical, Environment

##### 3.1.1 Topography-

- Aspect
- Steepness of slopes
- Relationship of site to its natural water catchment
- Identification of previously cleared or disturbed areas

A Geotechnical Assessment that was prepared by Douglas Partners (Appendix I). This reporting remains current and addresses the aforementioned points.

##### 3.1.2 Geology/ Hydrology

- Soil geology
- Soil morphology
- Site drainage (including aquifers, water table and surface water etc)

A Site Classification and On-Site Effluent Disposal Assessment that was prepared by Douglas Partners (Appendix I). This reporting remains current and addresses the aforementioned points.

##### 3.1.3 Geotechnical

- Geotechnical assessment of site stability
- Capacity of soil to absorb liquid and solid Wastes
- Erodibility of the site

A Site Classification and On-Site Effluent Disposal Assessment that was prepared by Douglas Partners (Appendix I). This reporting remains current and addresses the aforementioned points.

The Douglas Partners report identified technical parameters associated with excavations, Site Preparation, Engineered Filling, Material Quality and Compaction Requirements and sub grade preparation.

##### 3.1.4 Infrastructure

Vehicular access to the site is made via Alan Street. Alan Street is quiet and is free of congestion.

Alan Street is a 50km an hour & existing road conditions are good.

Niagara Park Station is located 1.7km to the south and takes approximately 19 mins to walk from the subject property and 3mins via car. The Bus station is located at Niagara Park (Narooma Rd & Narara Valley Dr).

There is no town water or sewer services to the subject property, town water and sewer is located 200m to the south (Dior Close). Onsite effluent and reticulated water is proposed to supply dwelling.

Electricity mains are located within the site frontage with the subject property with a power pole located 10m from the proposed dwelling.

Telstra line is located within the frontage of Alan Street.

The site drains to the south and south-west. The house is proposed on poles so no drainage issues are considered to arise. No site specific drainage measures/recommendations were considered to be relevant.

to the proposed development as noted in the Geotechnical Assessment that was prepared by Douglas Partners (Appendix I).

Garbage collection is proposed from Alan Street.

### 3.1.5 Aesthetics/Scenic Visual

*Appearance of the land and subject development site when viewed from any waterway road, railway, public area or reserved or zoned land and any nearby development*

The proposal is for a single dwelling. The dwelling has been set back off the road in a north-westerly direction to address environmental site constraints. Notwithstanding the development follows the existing contours of the site in a north-westerly direction and is situated below the scarp of the ridgeline. The dwelling is considered to be in keeping with the existing dwelling character within the streetscape and will be less prominent than other houses due to its slender form that moves away from Alan Street. The Bushland Management Plan which has been prepared ensures the retention of numerous trees and vegetation which will buffer the visual bulk and scale of the development proposed.

### 3.1.6 Natural Hazards

#### Bushfire hazard

The site is mapped as bushfire prone land. A Bushfire Assessment that was prepared by Building Code Bushfire Solutions (Appendix E). This reporting remains current and addresses fire related issues with development of the site.

#### Flood liability

**N/A** The subject property is not susceptible to flooding nor has it been mapped as flood affected.

#### Slip areas

**N/A** The subject property has not been identified as being a slip area. A Site Classification and On-Site Effluent Disposal Assessment that was prepared by Douglas Partners (Appendix I) which has identified that there are no site stability issues with the site.

Further consideration to site stability has been made in Section 1.6 above.

#### Coastal erosion or inundation zones

**N/A** The subject property is not affected by Coastal erosion or Inundation zones.

### 3.1.7 Climate meteorology

**Table 3-1 Regional temperature ranges**

Statistic	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
Lowest	27.8	26.6	26.3	23.5	22.4	17.7	18.4	17.7	21.3	24.8	24.3	26.6	
Highest	27.8	27.0	26.5	23.5	22.4	18.8	18.8	20.9	25.0	26.4	26.4	27.1	

**Table 3-2 Precipitation data Niagara Park**

Statistic	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
Mean	137.0	190.3	165.1	118.4	113.0	127.8	63.0	75.8	64.3	91.2	110.7	106.2	1399.8
Lowest	9.2	17.8	4.6	6.0	3.6	0.8	0.0	1.2	0.0	0.0	10.7	6.0	838.3
5th %ile	23.0	36.6	30.1	12.8	12.1	11.8	8.3	4.2	4.9	10.9	16.2	16.4	884.1
10th %ile	36.5	44.4	42.5	21.9	19.5	22.7	9.6	6.5	13.4	19.7	28.2	24.9	921.6
Median	119.8	154.3	159.0	84.7	90.2	88.2	44.8	41.0	48.4	75.4	99.8	87.8	1366.7

Environmental Impact Statement for No 129 (Lot 14 DP 2480) Alan Street, Niagara Park

Statistic	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
90th %ile	273.1	398.6	321.9	253.4	252.9	287.8	127.9	210.6	161.8	192.6	218.1	217.0	1925.3
95th %ile	345.0	545.5	345.1	302.3	318.7	344.7	166.0	222.3	181.4	237.0	280.0	251.5	1999.7
Highest	414.2	671.0	385.8	609.4	356.0	624.9	207.2	357.6	201.4	343.0	330.0	300.2	2163.6

Data within the table which are in *italics* represent observations which have not been fully quality controlled, a process which may take a number of months to complete. While these data may be correct, you should exercise caution in their use.

**Table 3-3 Wind direction, wind speed, mean rainfall & temperature**

Statistics	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	Years	Plot	Map
<b>Temperature</b>																
Mean maximum temperature (°C)	27.0	26.4	24.6	22.0	19.1	16.4	15.8	17.7	20.5	22.8	24.1	25.8	21.8	31	1981 2012	
Mean minimum temperature (°C)	16.3	16.4	14.6	12.0	9.5	7.2	6.1	6.6	8.7	10.9	13.0	14.8	11.3	31	1981 2012	
<b>Rainfall</b>																
Mean rainfall (mm)	117.0	159.3	140.3	127.0	95.9	105.9	66.7	78.8	73.6	90.6	107.0	95.2	1256.7	31	1981 2012	
Decile 5 (median) rainfall (mm)	103.6	129.4	132.4	118.2	85.2	74.2	46.0	44.4	57.2	62.8	97.6	87.5	1226.4	31	1981 2012	
Mean number of days of rain ≥ 1 mm	10.7	11.1	10.7	9.1	8.7	8.3	7.2	6.4	6.4	8.3	10.0	9.7	106.6	31	1981 2012	
<b>Other daily elements</b>																
Mean daily sunshine (hours)																
Mean number of clear days	6.0	5.2	6.3	7.6	8.2	9.0	10.0	12.4	10.2	7.8	5.3	4.8	92.8	29	1981 2011	
Mean number of cloudy days	11.4	11.9	10.4	8.7	8.9	8.0	6.9	5.8	6.3	8.4	11.1	10.6	108.4	29	1981 2011	
<b>9 am conditions</b>																
Mean 9am temperature (°C)	21.1	20.5	19.0	17.2	14.1	11.3	10.5	12.1	15.2	17.6	18.4	20.2	16.4	29	1981 2011	
Mean 9am relative humidity (%)	78	82	82	78	79	78	75	69	65	65	72	74	75	29	1981 2010	
Mean 9am wind speed (km/h)	4.9	4.6	5.0	5.3	5.8	6.3	6.6	7.3	7.1	6.8	6.0	5.2	5.9	28	1981 2011	
9am wind speed vs direction plot																
<b>3 pm conditions</b>																

Environmental Impact Statement for No 129 (Lot 14 DP 2480) Alan Street, Niagara Park

Statistics	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	Years	Plot	Map
Mean 3pm temperature (°C)	25.3	24.8	23.1	20.4	17.5	15.0	14.4	16.3	18.7	20.8	22.1	24.1	20.2	29	1981 2011	
Mean 3pm relative humidity (%)	64	66	66	66	67	66	60	55	54	58	61	63	62	29	1981 2010	
Mean 3pm wind speed (km/h)	7.3	6.8	6.2	5.6	5.5	5.8	6.6	7.1	8.0	7.7	7.8	7.3	6.8	25	1981 2011	
3pm wind speed vs direction plot																

### 3.2 Natural Environment

#### 3.2.1 Flora & Fauna

A detailed Flora and Fauna assessment has been prepared by Alex Fraser Consulting (Appendix F).

### 3.3 Social Environment

#### Population

Narara - Niagara Park	2011			2006			Change
Population	Number	%	Gosford City %	Number	%	Gosford City %	2006 to 2011
Population (excluding O/S visitors)	10,592	100.0	100.0	10,536	100.0	100.0	+56
Males	5,210	49.2	48.2	5,144	48.8	48.3	+66
Females	5,382	50.8	51.8	5,392	51.2	51.7	-10
Australian citizens	9,656	91.2	89.1	9,530	90.5	87.8	+126
Eligible voters (citizens aged 18+)	7,055	66.6	68.3	6,817	64.7	66.3	+238
Overseas visitors	--			--			--

**Source:** Australian Bureau of Statistics, Census of Population and Housing 2006 and 2011. Compiled and presented in profile.id by .id, the population experts. (Usual residence data).

#### Community facilities, (schools, child care centre etc)

Communities facilities of the area include Niagara Park Shopping Centre, Strickland State Forest, Central Coast Youth Club, Canning Park, Carrington Street Oval, Gavenlock Oval, Karina Drive Playground, Mitchell Park, Narara Crescent Playground, Paddy Clifton Oval, The Duck Pond, Treeline Park, Washington Avenue Playground, Willari Avenue Playground, Wyunda Court Playground, Narara Community Centre and a number of schools.



### 3.4 Aboriginal/European Heritage

*Aboriginal - identify any sites or relics*

*European - identify any items on the property or land which have historic, social, archaeological architectural or aesthetic values.*

An AHIMS Web Service search was conducted for the following area at Lot 14 DP2480 with a Buffer of 1000 meters, conducted on 12<sup>th</sup> of November 2020 to identify any known aboriginal sites, no results were returned.

A search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

0 Aboriginal sites are recorded in or near the above location.

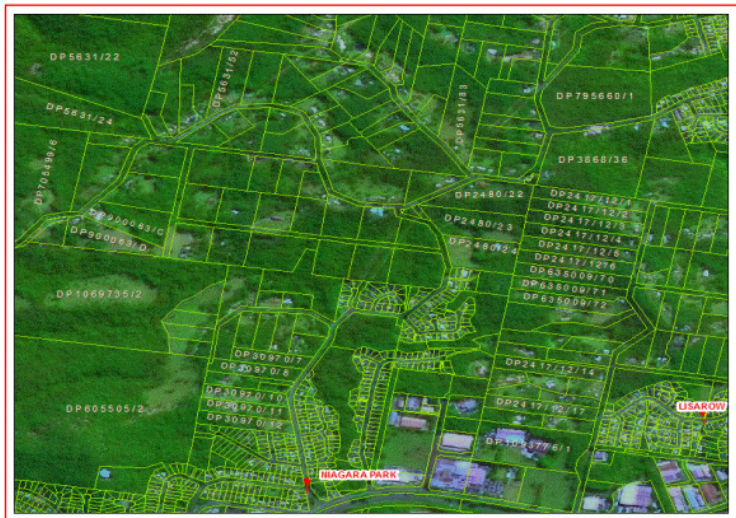
0 Aboriginal places have been declared in or near the above location.

AHIMS Report Attached (Appendix H)

The site is vacant bushland with cleared areas associated with the existing power supply easements to the west. There are no items on the property or the subject land that have historic, social, archaeological architectural or aesthetic value.

#### Figure 3-1 AHIMS Web Service 1000 metres

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

0	Aboriginal sites are recorded in or near the above location.
0	Aboriginal places have been declared in or near the above location. *

No European Heritage has been identified from a search of historical land uses and walk over of the site.

Environmental Impact Statement for No 129 (Lot 14 DP 2480) Alan Street, Niagara Park

### 3.5 Economic Environment

#### Land values

The Land & Property Information NSW was consulted to determine current land values with data presented below.

11/11/2020



#### NEW SOUTH WALES VALUER GENERAL - LAND VALUE SEARCH

PROPERTY NO: 4005283

LGA: CENTRAL COAST

ADDRESS OF PROPERTY: 107 ALAN ST,  
NIAGARA PARK NSW 2250

DESCRIPTION OF LAND: 14/2480

PROPERTY AREA: 2.016 HECTARES (FROM PLAN)

PROPERTY DIMENSIONS: NOT AVAILABLE

VALUING YEAR: 01/07/2019 DATE VALUATION WAS MADE: 07/08/2019

ZONING USED FOR VALUATION: PROTECTION

LAND VALUE AUTHORITY: 14A(1) - ANNUAL REVALUATION

GROSS LAND VALUE: \$273,000

DIVISION 3 AND 4 ALLOWANCES: NOT APPLICABLE

NET LAND VALUE: \$273,000

LAND VALUE BASIS: 6A(1) - THE LAND VALUE IS THE FREEHOLD VALUE OF  
THE LAND EXCLUDING ANY STRUCTURAL IMPROVEMENTS

OTHER ALLOWANCES/CONCESSIONS: NOT APPLICABLE

THE CURRENT LAND VALUE FOR RATING PURPOSES IN THE LOCAL GOVERNMENT AREA  
OF CENTRAL COAST IS THE VALUE AT 1 JULY 2019.

PRODUCED: 11 NOVEMBER 2020 16:42:16 PROPERTY STATUS AT THIS DATE: CURRENT

THIS LAND VALUE SEARCH DOES NOT CONVEY A RIGHT OF OBJECTION TO THE LAND VALUE.

THE VALUES SHOWN ARE CURRENT FOR THE VALUING YEAR AS AT TODAY'S DATE.  
THE VALUER GENERAL CONDUCTS ONGOING REVIEWS OF LAND VALUES  
AND THEREFORE THE VALUES SHOWN MAY CHANGE.

THE LAND VALUE RECORDED ON THIS LAND VALUE SEARCH HAS BEEN DETERMINED  
UNDER THE VALUATION OF LAND ACT 1916 (AND THE HERITAGE ACT 1977, WHERE  
APPLICABLE) FOR RATING AND TAXING PURPOSES. LAND VALUES HAVE REGARD TO  
THE REQUIREMENTS OF RATING AND TAXING LEGISLATION AND SHOULD NOT BE USED  
FOR ANY OTHER PURPOSE WITHOUT THE SPECIFIC AGREEMENT OF THE VALUER GENERAL.

\*\*\* END OF SEARCH \*\*\*

Councils use the Valuer General's land values in setting their rates. Land values are issued to councils for rating at least every three years.

Properties that are subject to Land Tax are generally taxed based on the average of the last three years' land valuation.

1/1

Environmental Impact Statement for No 129 (Lot 14 DP 2480) Alan Street, Niagara Park

### Other proposed developments

Developments surrounding the subject property include rural residential dwelling within Dior Close 168m to the south and rural residential dwelling located 165m to the north. 12 Residential vacant lots are located within 200m of the proposed dwelling footprint.

### Industries within the area

Located within the central area of Niagara Park are the following industries Manufacturing, Electricity, gas, water and waste services, Construction, Wholesale trade, Retail trade, Accommodation and food services, Transport, postal and warehousing, Information media and telecommunications, Financial and insurance services, Rental, hiring and real estate services, Professional, scientific and technical Services, Administrative and support services, Public administration and safety, Education and training, Health care and social assistance & Arts and recreation services.

### Commercial facilities; shops etc

The subject property is located within 2km of SPAR store, Family Deli & Takeaway, Sara Lee Bakery Shop and the Niagara Valley Tavern. Niagara Park sports and recreation & community centre.

Resources, eg extractive industries, mining leases etc (See Table 2-4 below)

Agricultural ratings (See Table 2-4 below)

**Table 3-4 Industry**

	2014	2015	2016	2017	2018	2019
<b>Number of Businesses - As at 30 June</b>						
Number of non-employing businesses (no.)	--	276	256	255	246	266
Number of employing businesses: 1-4 employees (no.)	--	156	161	180	184	164
Number of employing businesses: 5-19 employees (no.)	--	37	41	36	34	39
Number of employing businesses: 20 or more employees (no.)	--	8	5	8	5	7
Total number of businesses (no.)	--	477	463	478	474	482
<b>Business Entries - Year ended 30 June</b>						
Number of non employing business entries (no.)	--	--	33	39	46	54
Number of employing business entries: 1-4 employees (no.)	--	--	21	27	18	18
Number of employing business entries: 5-19 employees (no.)	--	--	--	5	3	--
Total number of business entries (no.)	--	--	52	68	64	67
<b>Business Exits - Year ended 30 June</b>						
Number of non employing business exits (no.)	--	--	50	38	40	39
Number of employing business exits: 1-4 employees (no.)	--	--	14	11	11	25
Number of employing business exits: 5-19 employees (no.)	--	--	3	--	--	3
Total number of business exits (no.)	--	--	66	48	51	66
<b>Number of Businesses by Industry - As at 30 June</b>						
Agriculture, forestry and fishing (no.)	--	5	3	3	3	3
Mining (no.)	--	--	3	--	--	--
Manufacturing (no.)	--	21	17	14	19	20
Electricity, gas water and waste services (no.)	--	--	--	3	--	--

Environmental Impact Statement for No 129 (Lot 14 DP 2480) Alan Street, Niagara Park

Construction (no.)	--	114	115	124	131	132
Wholesale trade (no.)	--	17	21	24	21	26
Retail trade (no.)	--	24	28	25	18	22
Accommodation and food services (no.)	--	7	9	17	11	11
Transport, postal and warehousing (no.)	--	22	24	27	29	30
Information media and telecommunications (no.)	--	12	7	8	8	11
Financial and insurance services (no.)	--	29	34	39	37	31
Rental, hiring and real estate services (no.)	--	42	42	39	38	34
Professional, scientific and technical services (no.)	--	75	68	75	69	68
Administrative and support services (no.)	--	28	25	26	25	28
Public administration and safety (no.)	--	--	--	3	3	3
Education and training (no.)	--	16	11	10	4	10
Health care and social assistance (no.)	--	31	29	22	27	25
Arts and recreation services (no.)	--	5	5	3	3	3
Other services (no.)	--	26	20	23	19	18
Currently unknown (no.)	--	5	3	3	--	--
Number of Businesses by Industry - Total (no.)	--	477	463	478	474	482

#### Building Approvals - Year ended 30 June

Private sector houses (no.)	6	10	13	11	28	11
Private sector dwellings excluding houses (no.)	--	2	1	--	--	--
Total private sector dwelling units (no.)	6	12	14	11	28	11
Total dwelling units (no.)	6	12	14	11	28	11
Value of private sector houses (\$m)	2	3	6	5	12	4
Total value of private sector dwelling units (\$m)	2	3	6	5	12	4
Value of residential building (\$m)	2	3	6	5	12	4
Value of non-residential building (\$m)	5	1	14	--	1	3
Value of total building (\$m)	7	4	20	6	13	7

#### Residential Property Prices - Year ended 30 June

Houses - number of transfers (no.)	--	--	--	127	111	84
Houses - median sale price (\$)	--	--	--	656 000	687 000	695 000
Attached Dwellings - number of transfers (no.)	--	--	--	17	19	29
Attached Dwellings - median sale price (\$)	--	--	--	459 500	492 500	500 000

#### Registered Motor Vehicles - Type of vehicle - As at 31 January

Passenger vehicles (no.)	5 003	5 148	5 227	5 243	5 141	5 215
Campervans (no.)	14	15	18	18	18	20
Light commercial vehicles (no.)	808	856	893	930	951	1 059
Light rigid trucks (no.)	58	61	61	62	64	79
Heavy rigid trucks (no.)	101	106	110	116	121	165
Articulated trucks (no.)	15	18	19	20	21	25
Non-freight carrying trucks (no.)	4	4	--	--	--	4
Buses (no.)	24	24	27	25	25	30
Motorcycles (no.)	263	289	296	312	316	325
Total Registered Motor Vehicles (no.)	6 159	6 385	6 512	6 590	6 657	6 921

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34

Environmental Impact Statement for No 129 (Lot 14 DP 2480) Alan Street, Niagara Park

**Registered Motor Vehicles - Type of fuel - As at 31 January**

Petrol (no.)	5 084	5 208	5 229	5 197	5 142	5 191
Diesel (no.)	911	1 024	1 143	1 266	1 400	1 609
LPG/Dual/Other (no.)	163	152	136	124	111	112

**Registered Motor Vehicles - Year of Manufacture - As at 31 January**

Less than 5 years (no.)	1 975	2 118	2 177	2 212	2 199	2 391
5 to 10 years (no.)	1 719	1 726	1 736	1 746	1 785	1 836
Over 10 years (no.)	2 465	2 540	2 598	2 632	2 673	2 694
	<b>2011</b>	<b>2016</b>				

**Industry of Employment - Proportion of Employed Persons - Census**

Agriculture, forestry and fishing (%)	0.5	0.6
Mining (%)	0.4	0.3
Manufacturing (%)	10.1	7
Electricity, gas water and waste services (%)	1.5	1.3
Construction (%)	7.6	9
Wholesale trade (%)	4.2	2.8
Retail trade (%)	11.2	10.8
Accommodation and food services (%)	5.5	7.5
Transport, postal and warehousing (%)	4	3.1
Information media and telecommunications (%)	2.6	2.6
Financial and insurance services (%)	4.3	3.6
Rental, hiring and real estate services (%)	1.5	1.2
Professional, scientific and technical services (%)	6.9	6.6
Administrative and support services (%)	3.3	2.9
Public administration and safety (%)	7.3	6.8
Education and training (%)	7.4	9
Health care and social assistance (%)	14.1	15
Arts and recreation services (%)	1.3	1.4
Other services (%)	4.6	4.5
Total persons employed (no.)	3 926	3 910
Industry of Employment - Inadequately described or not stated (%)	2	3.7

\* Agricultural commodities and value of production data is subject to relative standard error (RSE) - for further information see ABS cat no. 7125.0

[https://itt.abs.gov.au/itt/r.jsp?RegionSummary&region=102011036&geoconcept=ASGS\\_2016&dataset=ABS\\_REGIONAL\\_ASGS2016&datasetLGA=ABS\\_REGIONAL\\_LGA2019&datasetASGS=ABS\\_REGIONAL\\_ASGS2016&regionLGA=LGA\\_2019&regionASGS=ASGS\\_2016](https://itt.abs.gov.au/itt/r.jsp?RegionSummary&region=102011036&geoconcept=ASGS_2016&dataset=ABS_REGIONAL_ASGS2016&datasetLGA=ABS_REGIONAL_LGA2019&datasetASGS=ABS_REGIONAL_ASGS2016&regionLGA=LGA_2019&regionASGS=ASGS_2016)

## 4 Analysis of environmental impacts

*Environmental impacts usually associated with a dwelling house in a 7(a) zone are listed below. Where relevant to the specific proposal, these should be addressed in the EIS, taking into account the adequacy of safeguards proposed; to minimise them.*

*Water management: including water requirements and the effects on the existing water supply system, proposals for separating clean and contaminated runoff before discharge, water treatment, quality and Quantity of effluent for disposal; effects on groundwater supplies.*

### **Management and disposal of wastes.**

A Site Classification and On-Site Effluent Disposal Assessment was prepared by Douglas Partners (Appendix I). This report advises that appropriate effluent disposal can be carried out on the site. Solid waste associated with the use of the proposed dwelling will be disposed of in the Council provided waste bins.

### **Effect on native vegetation and details of measures proposed to preserve trees and prevent the introduction of or invasion by exotic vegetation.**

A Flora and Fauna Assessment was prepared by Alex Fraser Consulting (Appendix F). The effect of the proposal upon native vegetation is considered to be minimal. Detailed of measures proposed to preserve trees and prevent the introduction of or invasion by exotic vegetation are to be detailed in a Bushland Management Plan to be prepared as a condition of consent.

### **Impact on fauna including details of wildlife corridors and effect on animal movements effect on the habitat of native fauna, effect of any domestic animals and measures proposed to prevent them from becoming feral.**

A Flora and Fauna Assessment was prepared by Alex Fraser Consulting (Appendix F). The report concludes that the proposal will have minimal impact on locally occurring upon fauna. The report has considered the presence of wildlife corridors and effect on animal movements, habitat of native fauna, the effect of any domestic animals and measures proposed to prevent them from becoming feral.

### **Measures to Preserve/retain/replant/recreate native fauna habitats**

A Bushland Management Plan is to be prepared as a condition of consent to ensure that the property is maintained in a manner suitable to its natural setting. This plan remains current and provides measures to preserve/retain/replant/recreate native fauna habitats.

### **An assessment of the impact of the development on waterways, creeks, wetlands and the vegetation and fauna of those areas.**

A Flora and Fauna Assessment was prepared by Alex Fraser Consulting (Appendix F). This reporting considers the effect of the proposed development upon on waterways, creeks, wetlands and the vegetation and fauna of those areas. A water cycle management plan has been prepared (Appendix J).

### **Visual Impact of the proposed development having regard to the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of the proposed development.**

Table 1-1 Section 1.6 above addresses the developments compliance with the prevailing LEP and DCP controls. The proposed development has been designed and sited to ensure that it does not have a negative effect upon the visual character of the area. The dwelling is sited in a location that ensures adequate setback from the primary street (Alan) while also reducing the impact of the developments footprint within the natural vegetation onsite. Siting of the development and its design will ensure that it does not present as a bulky structure in terms of its scale, shape, size, height and density.

### **In addition, any proposals to monitor and reduce environmental impacts should be included and the following assessments, if relevant, included**

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36

**Assessment of the likelihood and severity of bushfires and their impact on the natural environment and assessment of measures proposed to reduce the bushfire hazard and to minimise demand on emergency services**

The accompanying Bushfire Threat and Protection Assessment prepared by Building Code Bushfire Hazard Solutions (Appendix E) concludes that the proposed dwelling will be subject to a BAL 40 rating and the proposal will comply with the requirements of *Planning for Bushfire Protection 2019*.

**Assessment of measure proposed to preserve items of European or Aboriginal Heritage**

Relevant searches with respect to Aboriginal and European heritage indicate that there is no known artefacts that would be impacted by the proposed development.

**Impact on service and physical infrastructure and identification of costs to parties other than the proponent associated with the demands placed on infrastructure by the proposed development**

A single dwelling is not considered to impact upon service and physical infrastructure. Costs associated with the connection of electricity to the new dwelling are borne by the property owner. Costs for connection to electrical and phone services are likely to be minimal due to the close proximity of mains services. No town water/sewer connections are proposed.

Assessment of measures proposed to conserve energy including discussion of dwelling orientation, relationship and use of glass, mass and insulation in the construction are considered in the BASIX assessment.

**Assessment of the impact on the environment of any infrastructure Supplied to the site eg gas, water, roads, electricity or telephone lines**

The proposed dwelling will connect to existing electricity infrastructure (Power Pole) located within the existing easement within 10-15 of the proposed dwelling. Alan Street provides direct access to the site via an existing Right of Way.

**An assessment of the impact of the proposal on adjoining land including identification of the loss off any environmental values**

Provided in Appendix F of this EIS is a Flora and Fauna Assessment. This reporting remains current and addresses the proposal on adjoining land including identification of the loss off any environmental values. The proposed development will not significantly affect threatened species of flora and fauna, endangered populations or endangered ecological communities listed under the *Biodiversity Conservation Act 2016* or under the *Environmental Protection & Biodiversity Conservation Act 1999*.

**An assessment of the effectiveness of measures proposed to prevent erosion.**

A site sedimentation control plan has been prepared and is included in the Architectural Plan set (Appendix K)

## 5 Contact with relevant Government authorities

*In preparing the EIS all relevant government authorities should be consulted and their comments taken into account in the EIS, where advice from such authority is relevant to the application.*

*The Department of Water 'Resources where proposed development is either directly or indirectly affecting wetlands areas, non-tidal dams, bores and wells, streams, ground water, water quality or involves construction of pumping water and clearing of vegetation within 40m of streams or rivers (as provided for under the Rivers Improvement Act, 1948).*

The proposed development has been sited to avoid impacting directly or indirectly upon wetlands areas, non-tidal dams, bores and wells, streams, ground water, water quality or involves construction of pumping water and clearing of vegetation within 40m of streams or rivers.

The proposed development has considered the Water Management Act 2000 more specifically the NSW Office of Water Guidelines. A 1<sup>st</sup> order stream has been mapped within the western portion of the subject property (Figure 1-3). A detailed survey was undertaken by Beveridge Williams to the western boundary from the proposed building footprint, the 1<sup>st</sup> order watercourse is inaccurately mapped and is not located within the subject property it is located within Lot 15 DP 2480.

In accordance with the NSW Office of Water (NOW) guidelines and Water Management Regulation (2010) more specifically the Strahler System the watercourse has been classified as a 1<sup>st</sup> order watercourse. In accordance with setback is detailed in the regulation a 10m setback from the top of the bank has been given. The proposed development has been sited greater than 40m from the TOB.

No fire asset protection zones (APZ) associated with the development occur within the NOW watercourse setbacks.

A vegetation management plan is proposed as a condition of consent for the subject property which will ensure that the vegetation within the subject property will be managed via weed removal and enhancement of the vegetation through assisted regeneration to enhance the ecological attributes.

## 7. Ecological Sustainable Development (Environmental Planning and Assessment Regulation 2000)

### 7.1 Principles of ecological sustainable development (section 7(4) of part 3 of schedule 2)

The proposal is consistent with section 7(4) of part 3 of schedule 2 of the regulation. The dwelling has been sited to avoid serious and irreversible environmental damage. The dwelling footprint has been sited within an area of the site that was previously disturbed through land clearing for the establishment of an orchard. The proposed asset protection zone overlaps with land that is subject to regular slashing maintenance by the utility providers within the power easement. The bushfire attack level (BAL) has been increased to 40 to reduce the extent of asset protection zone thus reducing the extent of native vegetation clearing. The relocation of the dwelling footprint would result in the removal of more native vegetation and habitat for native flora and fauna. The proposal is supported with a vegetation management plan (VMP) that seeks to retain and enhance the onsite vegetation via targeted weed removal program which will remove "high threat weeds". The proposal is consistent with principles of ESD and should be supported with the conditions.

Alternatives to the proposed development footprint are limited, relocation of the dwelling to other areas of the site would result in greater environmental impact due. Relocation of the dwelling to the south would result in larger impacts upon native vegetation to establish access within the lot. Moving the dwelling downslope would result increased APZ's which in turn would remove more native vegetation. The dwelling has been strategically placed within the disturbed section of the lot, relocation of the dwelling footprint would impact upon a greater diversity of native flora. The dwelling has been sited within an area of the site that has the highest level of weed occurrence thus avoiding the removal of better-quality habitat for native fauna.



### **7.1.1 Precautionary principle**

As this principle is relevant to "serious or irreversible damage" it would not appear to have a strong application to this particular development "a dwelling house". As discussed above the development has been specifically located within a former disturbed area of the site which was previously occupied by an orchard. The rehabilitation measures identified in the vegetation management plan specifically aim to mitigate environmental damage. The cooperation between the proponent and the Council will be important in achieving successful retention and protection of the onsite biodiversity values within the site.

### **7.1.2 Inter-generational equity**

As this principle is relevant to "serious or irreversible damage" it would not appear to have a strong application to this particular development "a dwelling house". As discussed above the development has been specifically located within a former disturbed area of the site which was previously occupied by an orchard. The rehabilitation measures identified in the vegetation management plan specifically aim to mitigate environmental damage. The cooperation between the proponent and the Council will be important in achieving successful retention and protection of the onsite biodiversity values within the site.

Under the EP&A Regulation, the principle of intergenerational equity requires:

- that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.

The principle of intergenerational equity identifies a need to ensure that the requirements of the present generation can be met without precluding options for future generations. The proposal will not prejudice future development or local planning in the area.

Mitigation measures are proposed under the flora and fauna assessment report to ensure that the environmental impacts associated with the development are minimised consistent with the principle of intergenerational equity. Protection of the air, water, biological and noise environment of the area will contribute to meeting the requirements of intergenerational equity, protecting the quality of the environment for both the existing and future generations. Such mitigation measures will help ensure that the land following development will be left in a manner that enables other land uses to be carried out. In terms of the natural environment, future generations are expected to benefit from the conserved areas of bushland which are to be retained and protected under the vegetation management plan. These benefits include the retention of majority of the onsite site vegetation which is contiguous with surrounding bushland which provides habitat for native flora and fauna.

### **7.1.3 Conservation of Biological Diversity and Ecological Integrity**

Although the proposed dwelling will result in disturbance of the biophysical environment (top soil and vegetation), the proposed measures, described in the vegetation management plan aim to conserve the biological diversity of the site.

There is a need to maintain the biological diversity and ecological integrity of the region within which the development is located. Conservation of ecological integrity requires that natural processes in the area continue to function. The proposed development incorporates measures under the vegetation management plan to minimise potential impacts on vegetation communities and habitat value. Rehabilitation initiatives under the VMP which form part of the project will also assist in maintaining the biological diversity and ecological integrity of the area. A range of specific management actions have been proposed to minimise the disturbance to existing natural resources of the site. These and other measures discussed in the EIS will assist in conservation of ecological integrity.

#### 7.1.4 Improved valuation and pricing

Given the nature of the proposal "dwelling house", the minor impacts arising from the proposal and the low level of community concern about the project, it was not considered appropriate to carry out a valuation of physical impacts.

## 8 Environmental Impact Mitigation Measures

*The EIS should also include the consideration of the type and extent of any impacts that will occur as a result of the analysis of these in terms of:-*

- The application documentation as prepared has considered the immediate, short term and long term impacts of developing the site.
- An arbicultural impact assessment was carried out to assess the impact of the proposed development on trees located on the site. Consideration was given to the location of the house site to reduce its impact on locally occurring trees.
- A Bushfire assessment was carried out to establish where asset protection zones are required to be located to ensure the long term protection of the dwelling house and its occupants.
- A fauna and flora assessment was carried out and provides mitigation measures to ensure the protection of locally occurring fauna / flora species and their habitats.
- An erosion sedimentation control plan has been prepared to reduce impacts of receiving waters from sediment during the construction phase of the development.
- A water cycle management plan is provided detailing the appropriate management stormwater onsite.
- A BASIX Certificate is provided detailing the building improvements required to ensure that the dwelling house is sustainable with respect to energy consumption.
- A bushland management plan is to be prepared as a condition of consent to ensure that appropriate management of the sites vegetation is undertaken to ensure that the development remains environmentally sustainable.

## 9 Justification

The justification for the proposed development in terms of the alternatives should include:

*the "do nothing" Option;  
Other locations within the site;  
other feasible locations.  
other feasible uses Of the land.  
Leave the site undeveloped (option 1)*

### 9.1 The "do nothing" Option

Should the proposed development not proceed the site will remain as vacant bushland. In the absence of weed management, existing weed of national significance *Lanarana camara* (Lantana) will continue to spread and environmental weeds such as , *Ligustrum sinense* (Small-leaved Privet), *Ochna serrulate* (Mickey Mouse Plan), *Nephrolepis cordifolia* (Fish-bone Fern) & *Cinnamom camphora* (Camphor Laurel) will become more prevalent. In the absence of weed management floral species will continue to decline

which in turn will decrease the quality of fauna habitats within the subject property for fauna species to utilise.

## 9.2 Other locations within the site;

The proposed development has been sited with the following environmental considerations;

- The development footprint has been sited within the area of the site which was previously cleared for an old orchard and is now occupied by regrowth and weed species as detailed above
- Contains low species ground and shrub understorey species diversity
- NSW Office of Water setback requirement of 10m from the TOB for the 1<sup>st</sup> order watercourse located within the western portion of the subject property.
- Dwelling sited to avoid fauna habitats logs & deep leaf litter and naturally hollow-bearing trees
- The Rural Fire Service (RFS) Planning for Bushfire Protection 2019 requires fire protection asset protection zones (APZ) to be provide a separation between the dwelling and vegetation. In order to safely place a dwelling within the subject property, the dwelling was sited to avoid clearing steep land which increases the likelihood of erosion and reduces fire intensity in the event of a bushfire. The dwelling was also sited adjacent to the existing easement to avoid clearing of native bushland by overlapping proposed APZ within the existing managed land.
- The placement of the dwelling within the northern portion of the subject property also facilitated the retention of large intact stands of trees and vegetation ensuring habitats for flora and species were not detrimentally affected.
- Dwelling placement within the northern portion of the subject property also ensured that wildlife corridors were maintained across the subject property to facilitate the movement of wildlife.

## 9.3 Other feasible locations

Other feasible locations were considered but resulted in conflicts with NSW Office of Water setbacks from the 1<sup>st</sup> order watercourse and non-compliances with the Rural Fire Services APZ requirements.

For example the placement of the dwelling to the west of that which is proposed would result in APZ's encroaching towards the 1<sup>st</sup> order watercourse and result in a greater area of vegetation clearing surrounding the dwelling.

## 9.4 Leave the site undeveloped (option 1)

There will be no economic or social merit to leaving the site undeveloped. Given the moderate condition of the ecological communities on the site, the presence of weed of national significance Lantana will reduce the quality of habitats for flora and fauna. The proposed development allows the opportunity to manage all weeds within the subject property and facilitate the spread and control of environmental weeds into other bushland areas.

## 10 Conclusion

The site is not just bushland. It is traversed by 2 easements. The power Easement and the rail easement. These have the effect of bringing light into the area of tree canopy. The area adjacent to the power easement having been previously an orchard has had introduced plant species that now generate a weed problem. The site needs to be occupied to manage the species of plants. Without management the infestation of weeds will spread into the forested areas.

The proposal of introducing a modest dwelling into this site on the part that is disturbed and sited to minimise effects deep into the tree canopy area, while being supported by a WMP would have the effect of eliminating the weeds from this site. All this while having minimal effect on the part of the site that has significant ecological values, that is the temperate rain forest in the gullies to the south side of the site.

The proposal will result in the removal of weeds and the protection of ecologically significant species. The servicing of the site is designed so that the waste water ends up on the easement and the stormwater flows are only marginally affected by the proposal. The dwelling is sited so that only marginal clearing is required to create an APZ and no clearing is required for site access.

The proposal has minimal environmental impact and many positive outcomes.

### EXTRACT FROM ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (AS AMENDED)

#### Statutory requirements for Environmental Impact Statements

In accordance with Part IV of the Environmental Planning and Assessment Act, 1979, an environmental impact statement: (EIS) must meet the following requirements.

Pursuant to clause 34 of the Environmental Planning & Assessment Act Regulation 1980, as amended, the contents of an EIS *shall* include the following matters:-

- a. full description of the designated development proposed by the development application;
- b. a statement of the objectives of the proposed designated development;
- c. a full description of the existing environment likely to be affected by the proposed designated development, if carried out;
- d. identification and analysis of the likely environmental interactions between, the proposed designated development and the environment;
- e. analysis of the likely environmental impacts or consequences of carrying out the proposed designated development (including implications for use and conservation of energy);
- f. of the proposed designated development in terms of environmental, economic and social considerations;
- g. measures to be taken in conjunction with the proposed designated development to protect the environment and an assessment of the likely effectiveness of those measures;
- h. details of energy requirements of the proposed development and
- i. measures to be taken to conserve energy;
- j. any feasible alternatives to the carrying out of the proposed designated development and reason for choosing the latter; and consequences of not carrying the proposed development

The EIS must take into account any matters required by the Director of Planning pursuant to Clause 35 of the Regulation.

\_\_\_\_\_

This document has been prepared in accordance with the requirements of Clause 29 of the EP&A Act as reproduced above. All reports prepared conclude that minimal environmental impact is likely to occur from the development proceeding in accordance to the requirements and recommendations contained within each report. The proposed development is considered to meet the objectives of the EP&A Act and is considered to constitute ecological sustainable development.

## Appendix A

### EIS Requirements

## Appendix B

### Site Survey

Appendix C

BASIX Report



## Appendix D

### Waste Management Plan

## Appendix E

### Bushfire Assessment

## Appendix F

### Flora & Fauna Assessment

## Appendix G

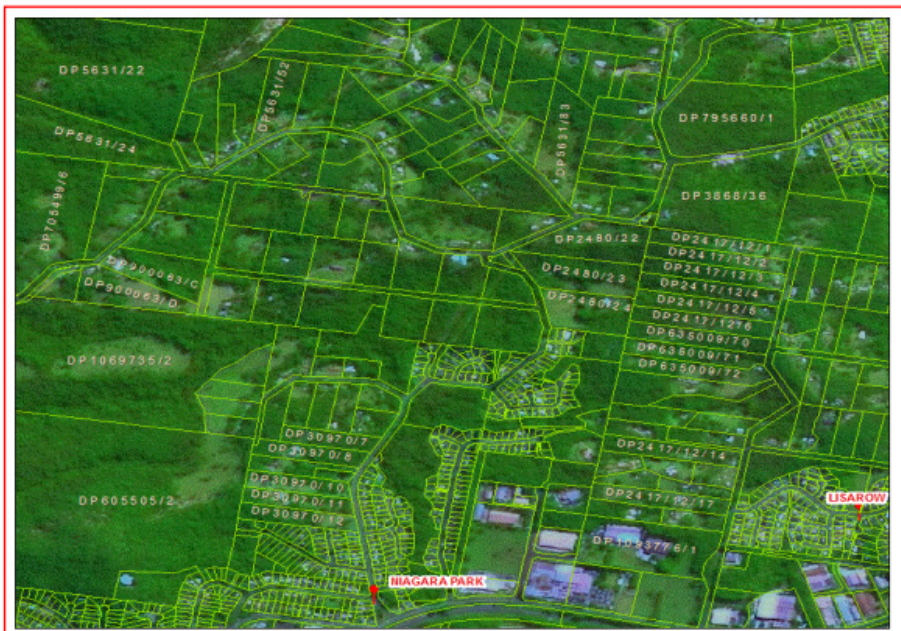
### Arboricultural Impact Assessment

## Appendix H

### Aboriginal AHIMS Web Services (AWS)

Environmental Impact Statement for No 129 (Lot 14 DP 2480) Alan Street, Niagara Park

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

0	Aboriginal sites are recorded in or near the above location.
0	Aboriginal places have been declared in or near the above location. *

Environmental Impact Statement for No 129 (Lot 14 DP 2480) Alan Street, Niagara Park

**If your search shows Aboriginal sites or places what should you do?**

- You must do an extensive search if AHIMS has shown that there are Aboriginal sites or places recorded in the search area.
- If you are checking AHIMS as a part of your due diligence, refer to the next steps of the Due Diligence Code of practice.
- You can get further information about Aboriginal places by looking at the gazettal notice that declared it. Aboriginal places gazetted after 2001 are available on the [NSW Government Gazette](http://www.nsw.gov.au/gazette) (<http://www.nsw.gov.au/gazette>) website. Gazettal notices published prior to 2001 can be obtained from Office of Environment and Heritage's Aboriginal Heritage Information Unit upon request

**Important information about your AHIMS search**

- The information derived from the AHIMS search is only to be used for the purpose for which it was requested. It is not to be made available to the public.
- AHIMS records information about Aboriginal sites that have been provided to Office of Environment and Heritage and Aboriginal places that have been declared by the Minister;
- Information recorded on AHIMS may vary in its accuracy and may not be up to date. Location details are recorded as grid references and it is important to note that there may be errors or omissions in these recordings,
- Some parts of New South Wales have not been investigated in detail and there may be fewer records of Aboriginal sites in those areas. These areas may contain Aboriginal sites which are not recorded on AHIMS.
- Aboriginal objects are protected under the National Parks and Wildlife Act 1974 even if they are not recorded as a site on AHIMS.
- This search can form part of your due diligence and remains valid for 12 months.

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 Web: [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

## Appendix I

### Site Classification and On-Site Effluent Disposal Assessment



## Appendix J

### Water Cycle Management Plan

## Appendix K

### Architectural Plans

## Appendix L

### Schedule of External Finishes

**Item No:** 5.2  
**Title:** DA/1436/2023 - 52-54 Fishermans Parade, Daleys Point - Alterations & Additions  
**Department:** Environment and Planning

**Central Coast**  
Local Planning Panel

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15 February 2024 Local Planning Panel Meeting

Reference: DA/1436/2023 - D15995101  
Author: Paul Davies, Senior Health and Building Surveyor  
Manager: Wayne Herd, Section Manager Building Assessment and Certification  
Executive: Alice Howe, Director Environment and Planning

## Summary

An application has been received for the alterations and additions of an existing dwelling at 52-54 Fishermans Parade, Daleys Point. 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* with the issues requiring attention and consideration being addressed in this report.

This development application is required to be reported to Local Planning Panel due to the development exceeding the '*Height of Buildings*' development standard specified within clause 4.3 of *Central Coast Local Environment Plan 2022* (CCLEP 2022) by more than 10%. The maximum building height, as set under CCLEP 2014, is 8.5m. The application proposes a maximum height of 10.5m (this represents a variation of 2.0m, or 23.53%).

(Note: the existing dwelling on the site has a height of approximately 12.5m (or 4m over the maximum permitted building height) to the roof ridge. The proposed development itself is for a lift installation that finishes closely in line with the height of the existing eaves, well below the existing building ridge-line).

No submissions have been received.

The application is recommended for approval, subject to conditions.

<b>Applicant</b>	LAW Building Design
<b>Owner</b>	Mr John Reibelt
<b>Application No</b>	1436/2023
<b>Description of Land</b>	Lot 1 DP 1089125 – 52-54 Fishermans Parade, Daleys Point
<b>Proposed Development</b>	Alterations and Additions
<b>Site Area</b>	667.3m <sup>2</sup>
<b>Zoning</b>	R2 Low Density Residential
<b>Existing Use</b>	Residential Dwelling
<b>Employment Generation</b>	N/A
<b>Estimated Value</b>	\$85,000

**Recommendation**

- 1     *The consent authority is satisfied that the applicant's clause 4.6 written request adequately 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 the noncompliance with the Height of Buildings standard.***

***Compliance with the Height of Buildings development standard would be unreasonable in the circumstances of this application because of the steep sloping nature of the block, and that there are sufficient environmental planning grounds to justify contravening the development standard.***

***Further, the consent authority considers 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 grant development consent to DA/1436/2023 – 52-54 Fishermans Parade, Daleys Point to construct the alterations and additions 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 and other relevant issues.***
- 3.    *The Local Planning Panel assume 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 Central Coast Local Environmental Plan 2022 in accordance with the provisions of clause 55 of the Environmental Planning and Assessment Regulation 2001.***

**Precis:**

<b>Proposed Development</b>	Alterations and Additions to Existing Dwelling (primarily external alterations southern side, with installation of a lift).
<b>Permissibility and Zoning</b>	<p>The subject site is zoned <i>R2 - Low Density Residential</i> under the provisions of <i>Central Coast Local Environmental Plan 2022 (CCLEP 2022)</i>.</p> <p>The land contains an existing 'dwelling house' which is defined under the <i>Central Coast LEP 2022</i> as;</p> <p>'dwelling house' means – a building containing only one dwelling.</p> <p>The proposed development is best defined as alterations and additions to an existing dwelling house, and is permissible with consent in the current zone.</p>
<b>Current Use</b>	Dwelling House
<b>Integrated</b>	No
<b>Submissions</b>	<p>The development application was notified (in accordance with the provisions of the <i>Central Coast Development Control Plan 2022 (CCDCP 2022)</i>) from 21 July 2023 until 4 August 2023.</p> <p>No submissions were received.</p>

**Proposed Variations to Plans and Policies**Proposed Variations to Central Coast Local Environmental Plan 2022

<b>Clause</b>	4.3 (2)
<b>Standard</b>	Height limit of 8.5m.
<b>Departure basis</b>	The proposal seeks a maximum height of 10.5m. This represents a variation of 2m or 23.53% at the highest point.

Proposed Variations to Central Coast Development Control Plan 2022 (Chapter 2.1. Dwelling Houses, Secondary Dwellings and Ancillary Structures)

<b>Clause</b>	2.1.2.1(a)
<b>Planning Control</b>	Height limit of 8.5m (mapped)
<b>Departure basis</b>	The proposal seeks a maximum height of 10.5m. This represents a variation of 2m or 23.53% at the highest point.

<b>Clause</b>	2.1.2.1(c)
<b>Planning Control</b>	Height exceeds 3 storeys
<b>Departure basis</b>	The proposal seeks a maximum construction that is 4 storeys. This represents a variation of 1 storey 33.33% at the highest point.

<b>Clause</b>	2.1.2.2
<b>Planning Control</b>	Site Coverage 52.8% (previously approved)
<b>Departure basis</b>	The proposal seeks a minor increase to the site coverage maximum 2.8m <sup>2</sup> for the lift. This represents an increase variation of 0.4% to 53.2%

### **The Site**

The site (Figures 1-3) is a single lot identified as Lot 1 DP 1089125 (52-52 Fishermans Parade, Daleys Point). The site is located on the western side of Fishermans Parade, falling steeply from the road and having a total area of 667.3m<sup>2</sup>. The site contains an existing residential dwelling.

The subject site is zoned R2 - Low Density Residential under the provisions of CCLEP 2022 (Figure 4).

The site is mapped as bushfire prone land and the application is supported by a Bushfire Assessment Report.

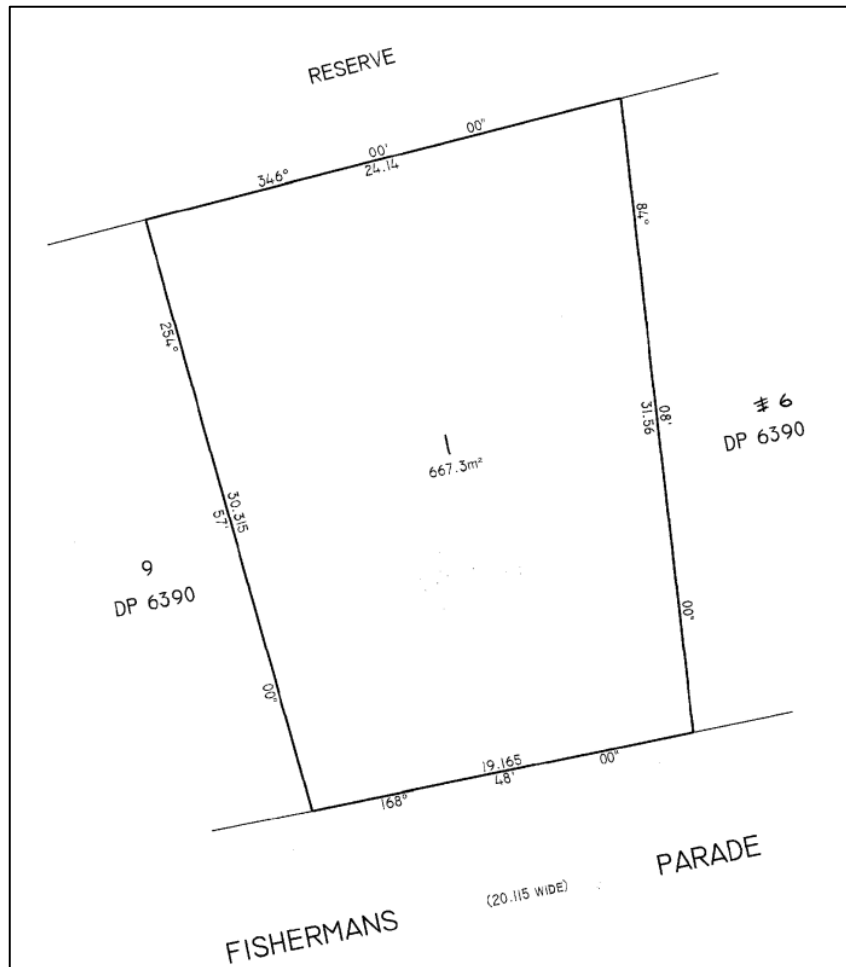
### **Surrounding Development**

The subject site is surrounded by residential lots also zoned as R2 – Low Density Residential, these generally contain a mixture of older style multi storey dwellings interspersed with newer (and renovated) dwellings of mainly two or three-storeys. Surrounding residential lands are similarly steeply sloping sites and this is reflected in the design and siting of the residential development contained on those lots.

Due to the steepness/sloping nature of land in the locality, dwellings along Fishermans Parade and nearby roadways often utilise building height variations in one form or another in order to accommodate residential development.



**Figure 1 - Aerial photograph of subject site with the site etched in blue**

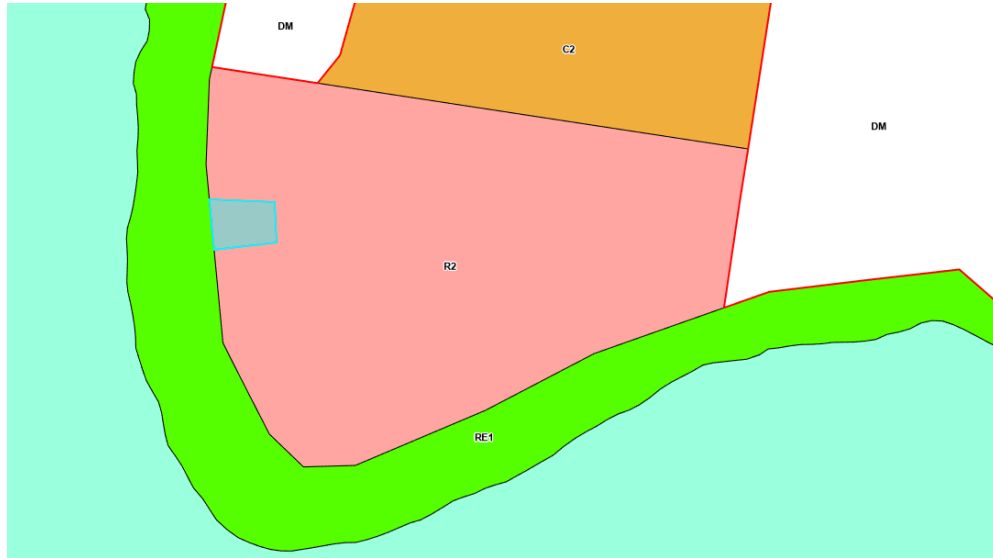


**Figure 2 - Deposited Plan extract showing lot 1**



**Figure 3 - Dwelling view from Fishermans Parade**

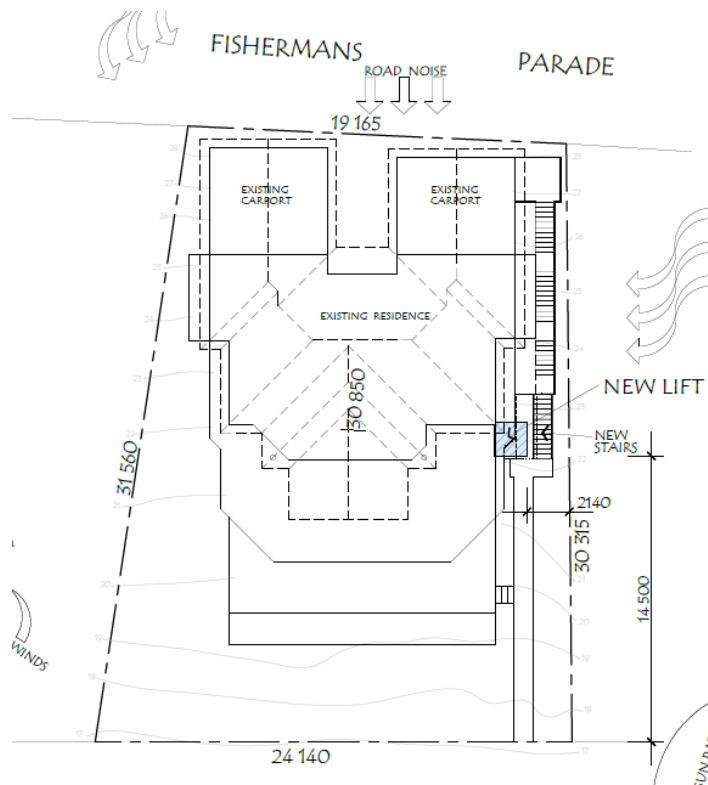




**Figure 4 - Aerial photograph of subject site with zoning overlay**

### The Proposed Development

The application seeks development consent for alterations and additions of the existing dwelling, generally consisting of external alterations to enable the installation of a lift to the southern elevation to enable access to each floor. This necessitates a building height variation to service all floors with the eave height of the upper floor at 10.5m (Figures 5-9).



**Figure 5 - Site plan**



***Figure 6 - Image of lift location showing existing stairs and associated ground levels***

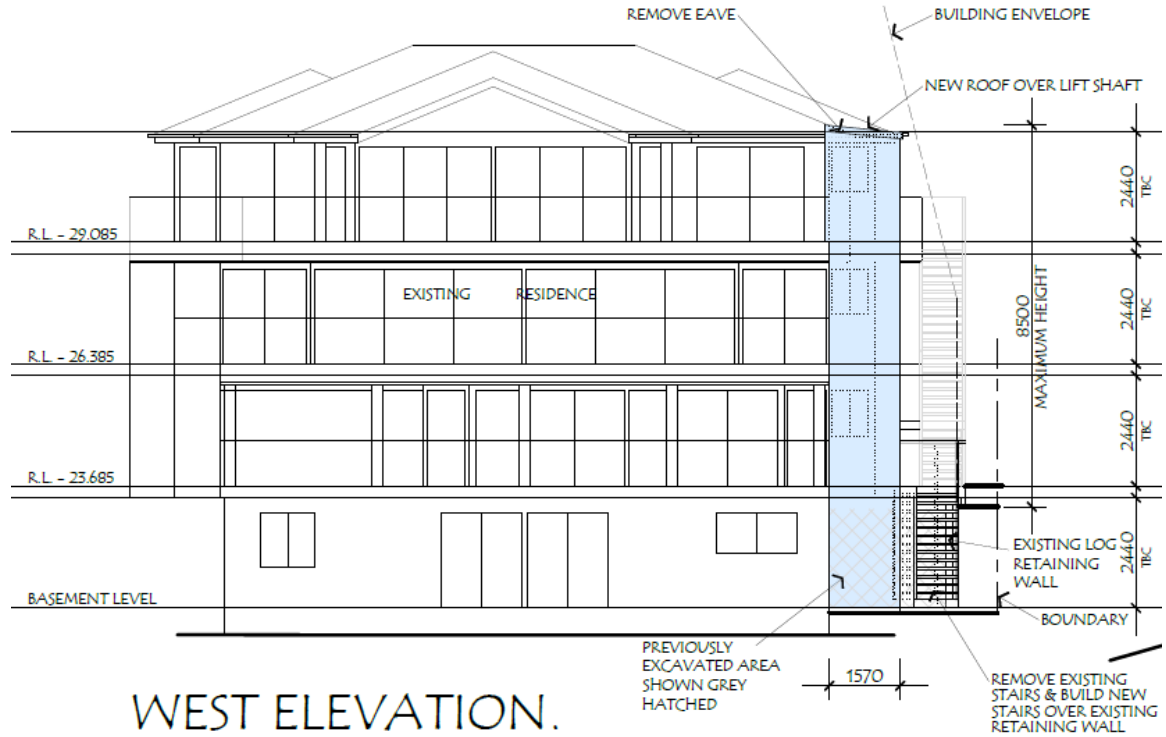


Figure 7 - Detailing the western elevation

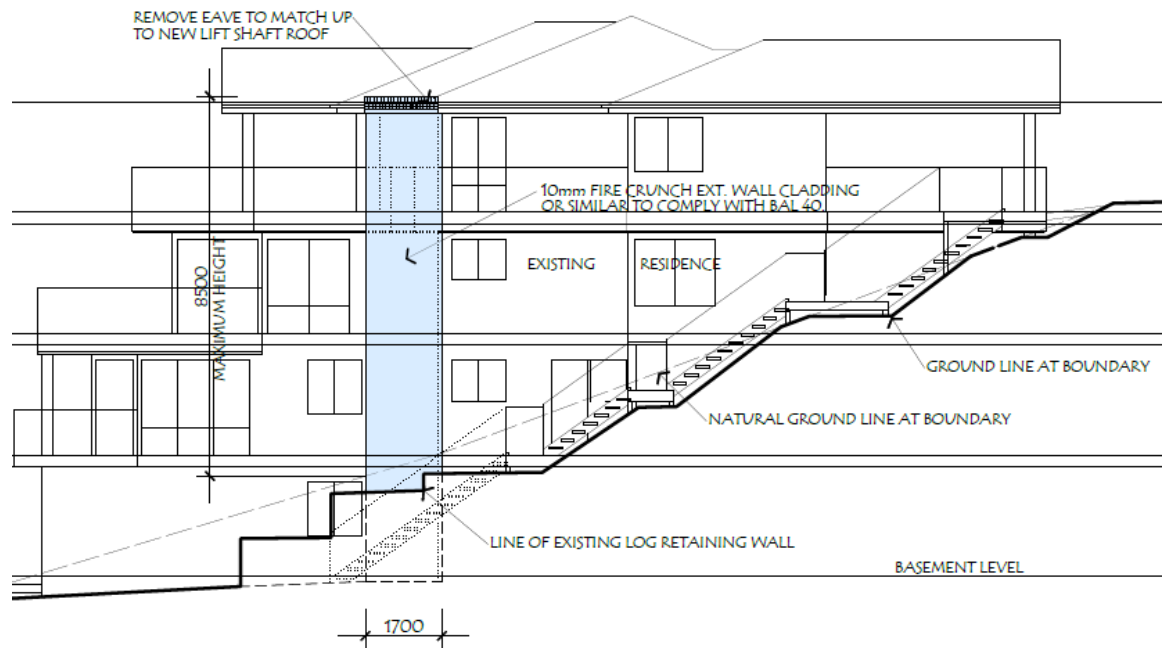
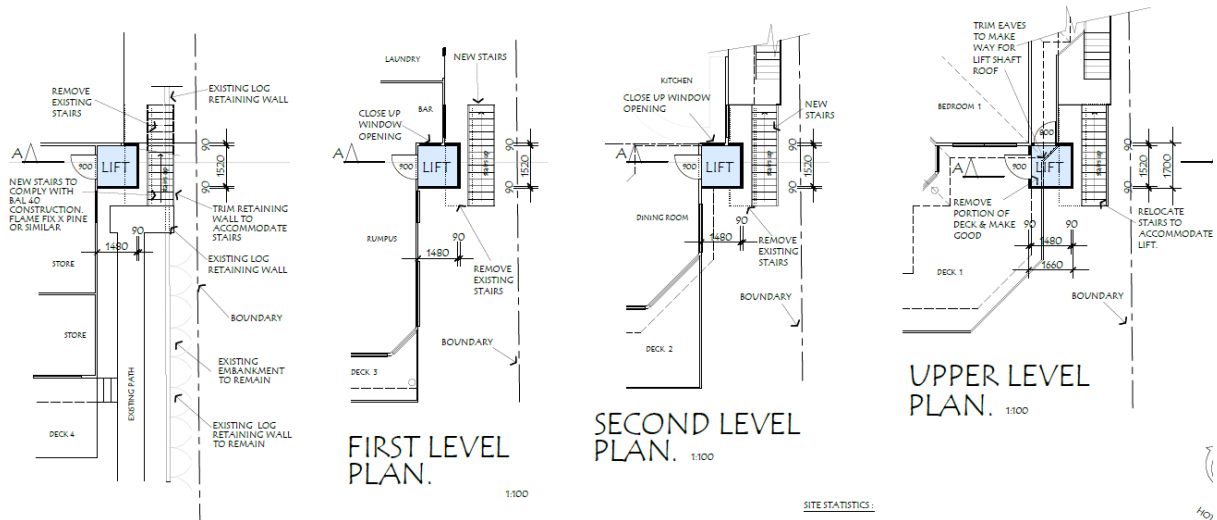


Figure 8 - Detailing the proposed southern elevation



**Figure 9 - Detailing the proposed floor plans**

## 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, which are elaborated upon for the information of the Panel.

### Environmental Planning and Assessment Regulation 2021 (Demolition)

With regard to demolition of works as part of a Development Application, clause 61 of the *Environmental Planning and Assessment Regulation 2021* provides additional matters that the consent authority must consider:

- (1) *In determining a development application for the demolition of a building, the consent authority must consider the Australian Standard AS 2601—2001: The Demolition of Structures.*

Comment: The works will be covered by the Australian Standard As 2601-2001 and is conditioned for compliance as per draft conditions (proposed condition 4.11).

A waste management plan has been submitted and accepted. Council is satisfied the necessary demolition works required to facilitate the addition of the proposed lift will occur in accordance with AS2601-2001.

### State Environmental Planning Policy (Resilience and Hazards) 2021

The relevant provisions of the SEPP are addressed as follows:

#### Chapter 2 Coastal Management

The aims of Chapter 2 are to be considered when determining an application within the Coastal Management Areas. The Coastal Management Areas are defined on maps issued by the NSW Department of Planning and Environment.

The site is located within the Coastal Environment Area as identified on these maps and subject to the provisions of Section 2.10 of the SEPP.

The development is not likely to have an adverse impact on the matters referred to in clause 2.10. The development is not considered likely to cause increased risk of coastal hazards on the site or other land and the site is not subject to the coastal management program for the purposes of Division.5. A summary of considerations is included below.

#### *Section 2.10 - Development on land within the coastal environment area*

In accordance with clause 2.10(1) development consent must not be granted unless the consent authority has considered whether the proposed development is likely to cause an adverse impact (see table on following page for considerations).

Matters for Consideration	Compliance
(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment	The proposal is not likely to cause adverse impacts on the biophysical, hydrological, or ecological environment.
(b) coastal environmental values and natural coastal processes	The proposal will not impact on the geological and geomorphological coastal processes.
(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014, in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1	The proposal will not result in an adverse impact on the water quality of the marine estate and does not drain to a sensitive lake contained in Schedule 1.
(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms	The proposal will not result in an adverse impact on native vegetation or fauna, undeveloped headlands, and rock platforms.
(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	The site does not have frontage to any foreshore, beach, headland or waterways.
(f) Aboriginal cultural heritage, practices and places	There are no identified aboriginal cultural heritage items on the site.
(g) the use of the surf zone.	Not applicable. No frontage to any beach/surf zone.

There have been no adverse impacts identified in the consideration of Section 2.10(1) that would engage the further considerations under Section 2.10(2).

Chapter 4 – Remediation of Land

The provisions of SEPP (Resilience & Hazards), Chapter 4 (Remediation of Land) have been considered in the assessment of the development application.

Section 4.6 of the SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

A review of the land use history, aerial photographs and an inspection of the site has not revealed any evidence of potentially contaminating land uses being carried out on the site.

The development and the land is not otherwise mentioned in Subsection 4.6(4) and accordingly the provisions of Subsection 4.6(2) are not engaged by the proposal and consent may be granted.

The proposal is considered consistent with the provisions of Chapter 4 of the SEPP.

The Panel can be satisfied that proposed development under DA/1436/2023 complies with the provisions of Chapter 2 Coastal Management and Chapter 4 Remediation of Land of the *State Environmental Planning Policy (Resilience and Hazards) 2021*.

**Central Coast Local Environmental Plan 2022 (CCLEP 2022) - Permissibility**

The subject site is zoned *R2 - Low Density Residential* under the provisions of CCLEP 2022.

The proposed development is best defined as alterations and additions to a 'dwelling house' which is defined under CCLEP 2022 as:

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

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

**Central Coast Local Environmental Plan 2022 (CCLEP 2022) - 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 encourage best practice in the design of low-density residential development.

## 5.2 DA/1436/2023 - 52-54 Fishermans Parade, Daleys Point - Alterations & Additions (contd)

- To ensure that non-residential uses do not adversely affect residential amenity or place unreasonable demands on services.
- To maintain and enhance the residential amenity and character of the surrounding area.

Following a detailed assessment of the proposed development and with the applicants written request to vary a development standard within CCLEP 2022, it is considered that the proposal is consistent with the stated objectives of the zone, providing housing consistent with the emerging character of the area and does not have adverse impacts on the locality.

### Central Coast Local Environmental Plan 2022 (CCLEP 2022) - Principal Development Standards

The proposal has been assessed in accordance with the relevant development standards of CCLEP 2022.

Development Standard	Required	Proposed	Compliance with Controls	Variation %	Compliance with Objectives
Clause 4.3 Height of Buildings	8.5m	The proposal seeks a maximum height of 10.5m.	No	23.53%	Yes
Clause 4.4 Floor Space Ratio	Not mapped	0.63:1	N/A	-	Yes

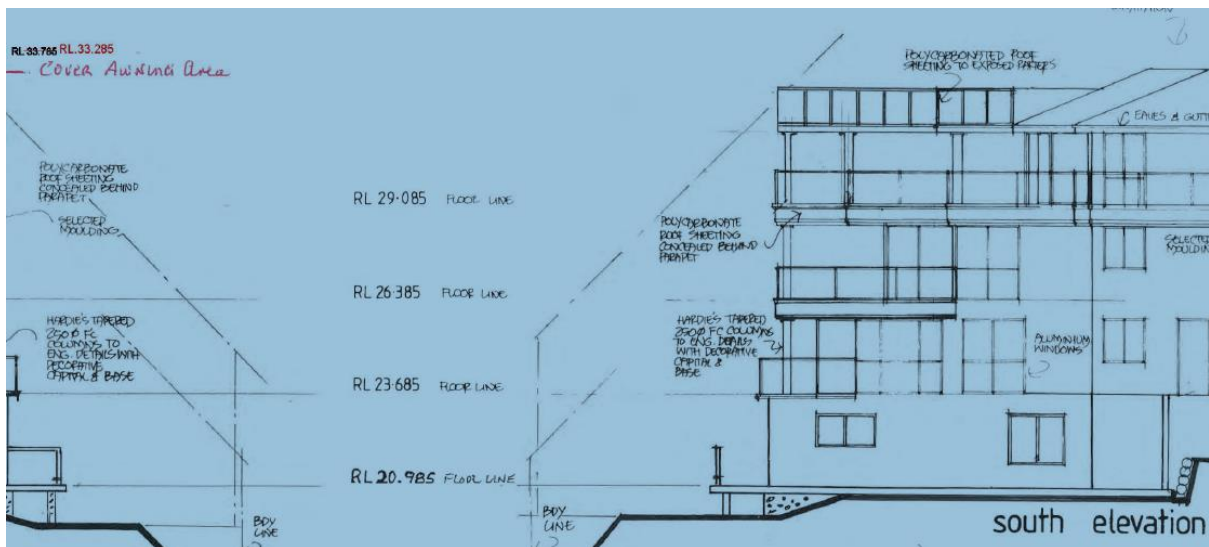
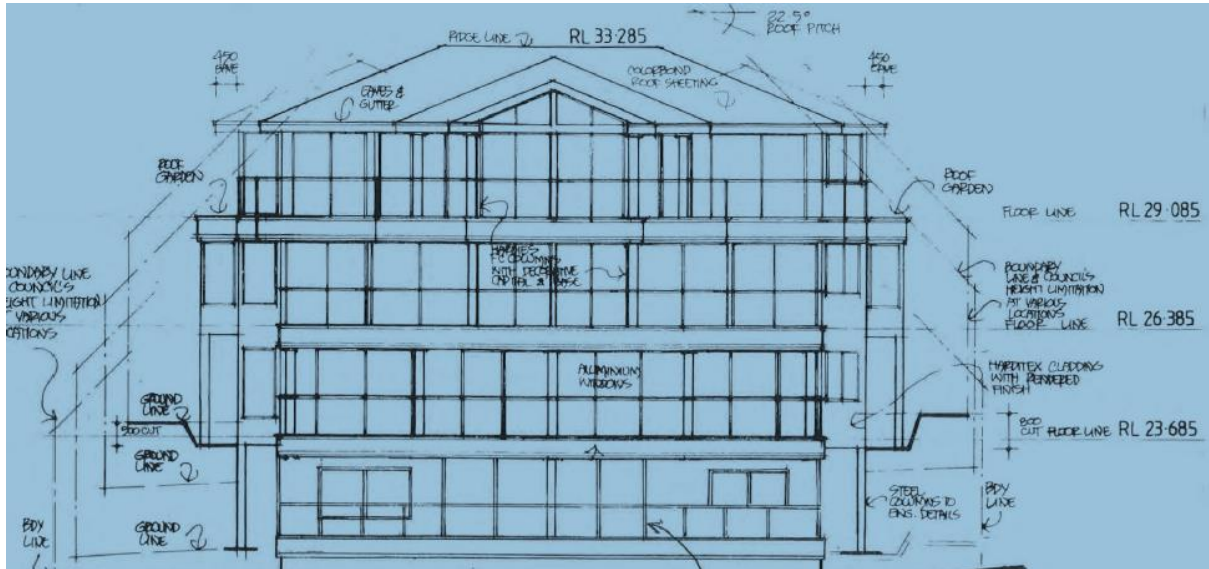
### Central Coast Local Environmental Plan 2022 Clause 4.3 - Height of buildings

The development proposes a variation to the maximum permitted height set out under clause 4.3 of CCLEP 2022 and is accompanied by a clause 4.6 written request to vary the development standard.

The proposed development seeks a variation to the height of the building of 2m or 23.53%. The existing dwelling has a height at the ridge of 12.3m (or 3.8m over the maximum permitted building height) (Figures 10a and b). The proposed development includes installation of a lift along the southern elevations, finishing at the eave height, being 10.5m, necessitating the variation.

The proposed area of non-compliance is minor. The non-compliance does not result in any adverse amenity impacts to surrounding development. Given the context and characteristics of the subject site, and the nature of the existing development, strict compliance with the maximum building height control is considered unreasonable and unnecessary in this instance. See comments below in relation to the applicant's clause 4.6 submission.





**Figure 10a/b - heights of existing building obtained from previously approved plans (DA/49938/2016/A)**

### Central Coast Local Environmental Plan 2022 Clause 4.6 - Exceptions to Development Standards for Height

The applicant seeks a variation to clause 4.3(2) of CCLEP 2022 in relation to the proposed maximum height of the dwelling (lift shaft). In this regard, the proposal seeks a maximum overall height of 10.5m in lieu of the 8.5m mapped maximum height limit applicable to the allotment. This represents a variation of 23.53%.

Clause 4.6 of CCLEP 2022 provides the ability to grant consent to a development application where the variation to a development standard can be adequately justified and where the objectives of clause 4.6 are satisfied, being:



- (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.*

Clause 4.6(2) provides permissive power to grant development consent for a development that contravenes the development standard.

Clause 4.6 (3) of CCLEP 2022 requires consideration of the following:

*Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*

- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
- (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

In reviewing whether the proposed variation is unreasonable or unnecessary, and whether there are sufficient environmental planning grounds to justify contravening the variation, consideration of the objectives for maximum building height controls are relevant.

Clause 4.3(1) of CCLEP 2022 sets out two objectives pertaining to the building height development standard. The objectives and commentary in respect to compliance in relation to the proposed development:

- a) to establish maximum height limits for buildings to enable appropriate development density*

Comment: The proposed height of the development whilst exceeding the numerical height limit, is necessary for functionality and consistent with the existing building and numerous other dwellings within the vicinity on this steep locality.

- b) to ensure that the height of buildings is compatible with the character of the locality*

Comment: The height exceedance relates to the necessity for the lift to travel to all floors, including the top. The lift well will cease at the eave line. It is consistent with the height of the subject building and other buildings on the hillside within this locality.

Clause 4.6 (4) of CCLEP 2022 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.'*

#### Applicant's Written Clause 4.6 Request

Clause 4.6 (3) of CCLEP 2022 also notes that *"The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b)"*

The applicant has provided a detailed request to vary the mapped height development standard by the proposed 23.53%. In requesting the variation, the applicant has provided the following matters in support of the proposal.

- The proposed development meets all objectives of the DCP and does not impact the amenity of the adjacent neighbours.
- The proposed development is compatible with the height, bulk and scale of the existing character of the area, does not create visual impact, disruption of views, loss of privacy and loss of solar access to existing surrounding development. There is no impact on the streetscape.
- There is no significant overshadowing or visual impact or loss of privacy or impact on open space, nor any impact on the adjoining property.

The applicant's submission is in accordance with the regulations and council assessment considers it to adequately addresses the provisions of clause 4.6(3)(a) and (b), as set out above.

The applicant's full clause 4.6 document request is included in Attachment 3.

#### Zone Objectives

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

The 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 encourage best practice in the design of low-density residential development.
- To ensure that non-residential uses do not adversely affect residential amenity or place unreasonable demands on services.
- To maintain and enhance the residential amenity and character of the surrounding area.

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 proposal meets the relevant zone objectives and does not cause view loss or overshadowing impacts to the adjoining properties. The proposal is consistent with the objectives of the development standard, as noted above, and approval of the development is therefore in the public interest.

In accordance with clause 4.6 (4):

- (i) The consent authority can be satisfied the applicant's written submission has adequately addressed the matters required to be demonstrated under clause 4.6 (3), and
- (ii) The consent authority can be satisfied the proposal is in the public interest as it is consistent with the zone objectives and does not cause view loss or overshadowing impacts to the adjoining properties. The proposal is consistent with the objectives of the particular standard (as noted above).

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 building height development standard is considered reasonable and therefore supported.

#### **Central Coast Local Environmental Plan 2022 – Clause 5.21 Flood Planning**

The site is not subject to flood planning controls.

#### **Central Coast Local Environmental Plan 2022 – Clause 7.1 Acid Sulfate Soils**

The site is mapped as containing Class 5 acid sulfate soils.

In accordance with clause 7.1 (3), an Acid Sulfate Soils Management Plan is required for works on land containing Class 5 acid sulfate soils where there are:

- Works within 500m of land in classes 1, 2, 3 or 4 that is less than 5m above the Australian Height Datum (m AHD) and by which the watertable is likely to be lowered below 1m AHD on adjacent class 1, 2, 3 or 4 land.

In accordance with clause 7.1 (6) the development will result in a minor amount of excavation (less than 1 tonne) and no impact on the water table. An Acid Sulfate Soils Management Plan is not required and the provision of clause 7.1 are satisfied.

### **Central Coast Local Environmental Plan 2022 – Clause 7.6 Essential Services**

Development consent must not be granted to development unless the consent authority is satisfied that all of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- a) the supply of water
- b) the supply of electricity
- c) the disposal and management of sewage
- d) stormwater drainage or on-site conservation
- e) suitable vehicular access
- f) the collection and management of waste

The Panel can be satisfied that the proposed development complies with the provisions of clause 7.6 and adequate servicing arrangements have been made for the proposed development.

### **Central Coast Development Control Plan 2022**

#### Chapter 2.1 – Dwelling Houses, Secondary Dwellings and Ancillary Development

An assessment against the provisions of Chapter 2.1 of CCDCP 2022 is included in the table below:

<b>Chapter 2.1</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Compliance</b>
Clause 2.1.2.1(a) Building Height	8.5m building height	10.5m	<b>No</b> – see comments elsewhere in this report
Clause 2.1.2.1(c) Building Height	2 Storeys / 3 Storeys Steeply Sloping	4 Storeys	<b>No</b> – see comments elsewhere in this report
Clause 2.1.2.2 Site Coverage	Maximum 52.8% site coverage. (Previously approved)	53.2% site coverage is proposed (0.4% increase)	<b>No</b> – see comments elsewhere in this report
Clause 2.1.2.3 Floor Space Ratio	0.63:1 floor space ratio (previously approved)	0.63:1 no change (vertical circulation spaces are excluded from FSR)	Yes
Clause 2.1.3.1a – Front Setback	The current is not changing with the proposed development	N/A	Yes

<b>Chapter 2.1</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Compliance</b>
Clause 2.1.3.1b – Rear Setback	The current is not changing with the proposed development	N/A	Yes
Clause 2.1.3.1c – Side Setback	Side boundary setback of 1.4m to south elevation	2.14m	Yes
Clause 2.1.4.1	To encourage view sharing between properties	No impact on views	Yes
Clause 2.1.4.2 Visual Privacy	To minimise direct overlooking between main living areas and areas of principle private open space within the site and adjoining sites	Given steep topography and screening, the proposal is considered to meet the requirements of this clause.	Yes
Clause 2.1.5 – Car Parking and Access	2 car spaces	2+ car spaces	Yes

#### DCP Chapter 2.1.2.1(a) 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 10.5m. The variation proposed is 23.53%.

An assessment of the building height has been carried out under CCLEP 2002 and CCDCP 2022. The proposed development is required for functionality, will be consistent with the heights of the existing building and with heights of other buildings on the hillside. The proposal meets the relevant zone objectives and does not cause view loss impacts or 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 immediate 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 height of the existing dwelling makes it impossible to comply with the height controls while satisfying necessary functionality. Comparisons to the height and scale of other dwellings along the hillside provide justification to vary them.

#### DCP Chapter 2.1.2.1(c) Building Height (Storeys)

The applicant seeks a variation to the number of storeys, requiring 4 storey construction. The clause permits 3 storeys construction on steeply sloping sites, such as this, thus the variation to 4 storeys is a 33.3% variation.

An assessment of the building height has been carried out under CCDCP 2022. The existing development is 4 storeys and the proposed lift development is required for access to the

4 storeys, thus it must also be 4 storeys. The proposal meets the relevant zone objectives and does not cause view loss impacts or overshadowing to the adjoining properties.

It is considered the applicants request to vary the development standard would not impose any unreasonable level of detrimental impact on the amenity of residents in nearby dwellings. It has been concluded the height of the existing dwelling makes it impossible to comply with the height and storey controls while achieving the necessary functionality.

#### DCP Chapter 2.1.2.2 Site Coverage

The applicant seeks a variation to the site coverage, requiring an additional 2.8m<sup>2</sup> or 0.4% to enable the lift install.

A minor variation of site coverage already exists with existing site coverage at 52.8% approved under previous development consents. The proposed 0.4% increase will make site coverage 53.2%

The location of the lift is tucked into the south side's elevation articulation of the existing dwelling where hard surface landscaping currently exists. There is vegetation that screens it from the boundary, with all setbacks remaining compliant. The location of the lift is not visible from the street and as it is located on the side of the dwelling, in an internally articulated corner, it has no noticeable change to rear.

The lift's location and small size mean the environmental impact on the site coverage increase is zero and is a numerical increase only.

#### DCP Chapter 2.14 Waste Management

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

The proposal has demonstrated compliance with this chapter of the CCDCP 2022 and associated Waste Control Guidelines. Appropriate conditions are included in the development consent.

#### DCP Chapter 2.17 – Character and Scenic Quality

The site is located within the Daleys Point 1: Woodland Foreshores precinct of Daleys Point. The desired character of this precinct suggests, amongst other things, buildings to minimize the scale and bulk of buildings by strongly articulated forms that sit beneath the canopy, with floor-levels that step to follow natural slopes and irregular floorplans, such as linked pavilions that are separated by courtyards and capped by individual roofs. Front or rear facades that are taller than neighbouring dwellings should be screened by balconies, verandahs, stepped forms or extra setbacks.

The proposed dwelling design incorporates these desired character features. The proposed dwelling design is considered to be consistent with the desired character of the precinct.

#### DCP Chapter 6.3 Erosion Sedimentation Control

Appropriate siltation control to proposed to be conditioned within the issued development consent.

### **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.

A thorough assessment of the proposed development's impact on the built environment has been undertaken in terms of the CCLEP 2022 and CCDCP 2022 compliance. It is considered on balance that the potential impacts are considered reasonable.

#### Natural Environment

The proposal involves some minor site excavation given the site's sloping topography. Whilst there is some impact upon the natural environment, this is considered to be reasonable as the main bulk development is on the existing dwelling. Accordingly, the proposal is considered satisfactory in relation to impacts on the natural environment.

#### Context and Setting

The proposal is located within the R2 Low Density Residential land under CCLEP 2022 and the Daleys Point character area under Chapter 2.17 of the CCDCP 2022. The proposal provides an alteration to an existing residential dwelling in a residential zone and is consistent with the objectives of the R2 land use. In addition, the proposal is considered to be consistent with the desired character for future development within the Daleys Point 1: Woodland Foreshores precinct of CCDCP 2022.

#### Economic and Social Impacts

The proposal will provide minor economic benefit through the provision of temporary employment during demolition and construction. Socially, the proposal does not give rise to any adverse environmental impacts in respect to overshadowing or view impacts within either the public or private domain. There is no public benefit in maintaining strict compliance with the development standard given that there are no unreasonable impacts that will result from the variation to the maximum Height of building development standard.

### The Suitability of the Site for the Development

#### Bushfire Considerations

Section 4.14 of the *Environmental Planning and Assessment Act 1979* requires consultation with NSW Rural Fire Service and/or compliance with bushfire requirements from *NSW Planning for Bushfire Protection 2019* in relation to some types of development of residential land, as follows:

*(1) Development consent cannot be granted for the carrying out of development for any purpose (other than a subdivision of land that could lawfully be used for residential or rural residential purposes or development for a special fire protection purpose) on bush fire prone land (being land for the time being recorded as bush fire prone land on a relevant map certified under section 10.3(2)) unless the consent authority—*

*(a) is satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled *Planning for Bush Fire Protection* prepared by the NSW Rural Fire Service in co-operation with the Department (or, if another document is prescribed by the regulations for the purposes of this paragraph, that document) that are relevant to the development (the relevant specifications and requirements)*

Comment: The site is mapped as bushfire prone land. The application is supported by a Bushfire Assessment Report, reference GO: 11820, prepared by Clarke Dowdle & Associates, dated July 2023.

The report concludes the bushfire attack level (BAL) design specification for the development to be BAL 40, 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. Further, Council conducted its own parallel assessment of the proposal for bushfire and after consideration of the document entitled *Planning for Bush Fire Protection 2019* prepared by the NSW Rural Fire Service in co-operation with the Department has concluded the proposal is compliant with *Planning for Bushfire Protection 2019*.

In accordance with Section 4.14 (1)(a), the Panel can be satisfied the development is compliant with *Planning for Bushfire Protection 2019*.



### **Submissions**

The development application was notified (in accordance with the provisions of the *Central Coast Development Control Plan 2022*) from 21 July 2023 until 4 August 2023.

No submissions were received.

### **Contributions**

The proposed development is not a development type that is subject to Section 7.11 or Section 7.12 development contributions. Therefore, no contributions are applicable.

The proposed development is not subject to water and sewer contributions.

### **Planning Agreements**

The proposal is not subject to a Planning Agreement or draft Planning Agreement.

### **Political Donations**

During assessment of the application no political donations were declared by the applicant, applicant's consultant, owner, objectors or residents.

### **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 and 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.

### **Climate Change**

The potential impacts of climate change on the proposal have been considered by Council as part of the assessment of the application.

The assessment has included consideration of such matters as potential rise in sea level; potential for more intense and / or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope, combat and withstand any resultant impacts. The proposed development is considered satisfactory in relation to climate change.

### **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 having regard for the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979* and all relevant instruments, plans and policies. Following a thorough assessment of the relevant planning controls and the key issues identified in this report it is considered that the application can be supported because:

1. The Panel can be satisfied the application has been assessed against the requirements of Section 4.14 of the *Environmental Planning and Assessment Act 1979* in relation to bushfire prone land.
2. The Panel can be satisfied that the proposed development is considered satisfactory having regard to the matters for consideration provided in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
3. The application has been assessed against the requirements of clause 61 of the *Environmental Planning and Assessment Regulation 2021* in respect of demolition.
4. The Panel can be satisfied that the provisions of *State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 2 Coastal Management, sections 2.10, 2.11 and 2.15 have been considered and satisfied.
5. The Panel can be satisfied that the proposed development is consistent with the zone objectives as set out in the *Central Coast Local Environmental Plan 2022*.
6. The Panel can be satisfied the proposed development meets the objectives related to the building height development standard contained in *Central Coast Local Environmental Plan 2022*.
7. The Panel can be satisfied the requirements of clause 4.6 (3) and (4) of *Central Coast Local Environmental Plan 2022* have been satisfied and that variation to the maximum building height provisions of the *Central Coast Local Environmental Plan 2022* is warranted.
8. The Panel can be satisfied the assessment of the application has concluded that:
  - a. The applicant's written request for a variation to development standards (height) adequately addresses the matters required to be addressed under clause 4.6 (3) of the *Central Coast Local Environmental Plan 2022*; and







**5.2 DA/1436/2023 - 52-54 Fishermans Parade, Daleys Point - Alterations & Additions (contd)**

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- b. The development is in the public interest because it is consistent with the objectives for the particular standard and objectives for development in the zone; and
  - c. The concurrence of the Secretary can be assumed.
9. The Panel can be satisfied that the provisions of clause 7.1 Acid Sulfate Soils and 7.6 Essential Services of *Central Coast Local Environmental Plan 2022* have been considered and satisfied.
10. The Panel can be satisfied that the relevant provisions of the environmental planning instruments, plans and policies that apply to the development have been considered in the assessment of the application.
11. Subject to the imposition of appropriate conditions, the proposed development is not expected to have any adverse environmental, social or economic impact.

As such, the application is recommended for approval in accordance with Section 4.16 of the *Environmental Planning and Assessment Act, 1979*, subject to recommended conditions detailed in the Attachment 1.

**Attachments**

<b>1</b> 	Draft conditions/reasons - 52-54 Fishermans Parade, DALEYS POINT	D15948382
	NSW 2257 - DA/1436/2023 - Central Coast Council	
<b>2</b> 	Plans - PAN-350280 - DA/1436/2023 - 52-54 Fishermans Parade,	D15765157
	DALEYS POINT	
<b>3</b> 	Revised Clause 4.6 Request Variation to Development Standard	D15948218
		

**Date:** 14 November 2023  
**Responsible Officer:** Paul Davies  
**Location:** 52-54 Fishermans Parade, DALEYS POINT NSW 2257  
Lot 1 DP 1089125  
**Owner:** J K Reibelt  
**Applicant:** J K Reibelt  
**Date of Application:** 11 July 2023  
**Application No:** DA/1436/2023  
**Proposed Development:** Alterations and Additions  
**Land Area:** 667.30  
**Existing Use:** Residential

#### PROPOSED CONDITIONS

The development taking place in accordance with the approved development plans reference number DA/1436/2023 except as modified by any conditions of this consent, and any amendments in red.

#### 1.PARAMETERS OF THIS CONSENT

##### Approved Plans and Supporting Documentation

- 1.1 Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Rev	Plan Title	Drawn By	Dated
231011 Sheet 1/1	-	Site/Floor Plan, Elevations and Sections	LAW Building Design	April 2023

##### Supporting Documents

Reference	Rev	Report	Prepared By	Dated
GO: 11820A	-	Bushfire Assessment Report	Clarke Dowdle	July 2023

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

**Note:** an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

- 1.1. Carry out all building works in accordance with the National Construction Code Series, Building Code of Australia, Volume 1 and 2 as appropriate.

## 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. No activity is to be carried out on-site until the Construction Certificate has been issued, other than:
  - 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.
- 2.3. Assessment of the development against the provisions of Planning for Bush Fire Protection (2019) (NSW) has determined a Bush Fire Attack level (BAL) of 40.

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).*

No Conditions

## 3. PRIOR TO ISSUE OF ANY SUBDIVISION WORKS CERTIFICATE

- 3.1. All conditions under this section must be met prior to the issue of any Subdivision Works Certificate.

No Conditions

## 4. PRIOR TO COMMENCEMENT OF ANY WORKS

- 4.1. All conditions under this section must be met prior to the commencement of any works.
- 4.2. 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](http://www.centralcoast.nsw.gov.au)
- 4.3. 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:
- 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.
- 4.4. 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.
- 4.5. Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:
- 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
  - diverting uncontaminated run-off around cleared or disturbed areas, and
  - preventing the tracking of sediment by vehicles onto roads, and
  - stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.
- 4.6. Notify the intention to commence works by giving written notice to the owner of the adjoining property affected by the proposed excavation and/or structural protective works. The required notice must be accompanied by details of the proposed work at least seven (7) days prior to the commencement of proposed excavation and/or structural protection works.
- 4.7. 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 10m<sup>2</sup> 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*.

## 5.DURING WORKS

- 5.1. All conditions under this section must be met during works.
- 5.2. The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

7.00 am and 5.00 pm on Monday to Saturday.

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

- 5.3. While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

"relic" means any deposit, artefact, object or material evidence that:

- (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
- (b) is of State or local heritage significance; and

"Aboriginal object" means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains. To ensure the protection of objects of potential significance

- 5.4. 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.

- 5.5. 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.
- 5.6. 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*.
- 5.7. Connect downpipes and the associated stormwater disposal system to the site stormwater connection point immediately after the roof materials are positioned in order to prevent erosion of the site from roof water run-off. The Principal Certifier for the development must not issue a mandatory critical stage Compliance Certificate for framing unless connection of the site stormwater (or temporary system) has occurred.
- 5.8. Re-use, recycle or dispose of all building materials in accordance with the Waste Management Plan submitted with the subject application.
- 5.9. No fill other than that as indicated within the approved plans is permitted to be placed upon the site.
- 5.10. Do not access the development site through a public reserve unless approval for temporary access over the public reserve is obtained from Council as the Land Manager. A copy of the approval must be available for viewing on-site at all times during work.

#### 6. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE

- 6.1. All conditions under this section must be met prior to the issue of any Occupation Certificate.
- 6.2. Complete the building in accordance with the relevant provisions and requirements of the National Construction Code Series.
- 6.3. Complete the building in accordance with the provisions of *Planning for Bush Fire Protection 2019 (NSW)* and the requirements of Australian Standard AS 3959-2018 - *Construction of Buildings in Bush Fire Prone Areas* and additional measures contained within section 7.5.2 – 'NSW State variations to AS3959' of *Planning for Bush Fire Protection (2019) (NSW)* for a Bush Fire Attack Level of BAL 40.

#### 7. PRIOR TO ISSUE OF ANY SUBDIVISION CERTIFICATE

- 7.1. All conditions under this section must be met prior to the issue of any Subdivision Certificate.

No Conditions

No Conditions



## 8. PRIOR TO OCCUPATION OF THE MANUFACTURED HOME

- 8.1. All conditions under this section must be met prior to Occupation of the Manufactured Home.  
No Conditions

## 9. ONGOING

- 9.1. Do not let, adapt or use the dwelling for separate occupation in two or more parts.

## 10. PENALTIES

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
- 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](http://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.

The staff responsible for the preparation of the report, recommendation or advice to any person with delegated authority to deal with the application have no pecuniary interest to disclose in respect of the application.

Paul Davies  
Reporting Officer

XXXXX  
Reviewing Officer

The staff authorised to determine the application have no pecuniary interest to disclose in respect of the application. The report is endorsed and the recommendation contained therein.

Approved/Refused:

Date:



## CLAUSE 4.6 VARIATION

52-54 Fishermans Parade, Daleys Point, NSW 2257

LOT 1 DP 1089125



Proposed new external passenger lift to existing residence.

**DA 1436/2023- PAN 350 230**

REF: 231011

01/11/2023



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**CONTENTS**

Introduction	4
Development Standard and Proposed Variation	
Development Standard Unreasonable and Unnecessary	6
Environmental Planning Grounds	
Compliance with the Objective of Clause 4.3	8
Conclusion	9

**FIGURES**

Figure 1: Diagram of the Variation to the Development Standard clause 4.3	5
Figure 2: Aerial mapping of Height of buildings	9

## **INTRODUCTION**

### **DEVELOPMENT STANDARD AND PROPOSED VARIATION**

#### **(1) Written request under Clause 4.6 of Central Coast Council LEP 2022 (CCC LEP 2022)**

This written request is submitted in relation to a proposed new passenger lift to an existing dwelling.

The architectural plans prepared by LAW Building design show a proposed new lift adjacent to the south wall of the dwelling.

The lift has been designed to accommodate an elderly man in his late 70's who has experienced debilitating health issues. The proposed lift is required urgently due to his failing health, to assist his day-to-day living and enable him to remain in his house independently.

The design of the lift has been located on the external façade of the dwelling running alongside the existing structure of the dwelling. There is no provision for the lift to be placed internally or in any other suitable location.

The proposed development requires a written request to justify a variation and addresses the legislative requirements of Clause 4.3 of Central Coast Council LEP 2022 (CCC LEP 2022) and the associated 'Height of building map' establishes a maximum height of buildings of 8.5 metres for the property located at 52-54 Fishermans Pde, Daleys Point

Clause 4.3 of the CCCLEP 2022 is not excluded from the operation of clause 4.6 as it is not listed within subclause (8) of clause 4.6

The proposed development (lift shaft) has a maximum "Building Height" of 10.5m. The height is thus 2m or 23.5% above the 8.5m height limit.

Note: The area for the lift shaft is 2.8 sqm.

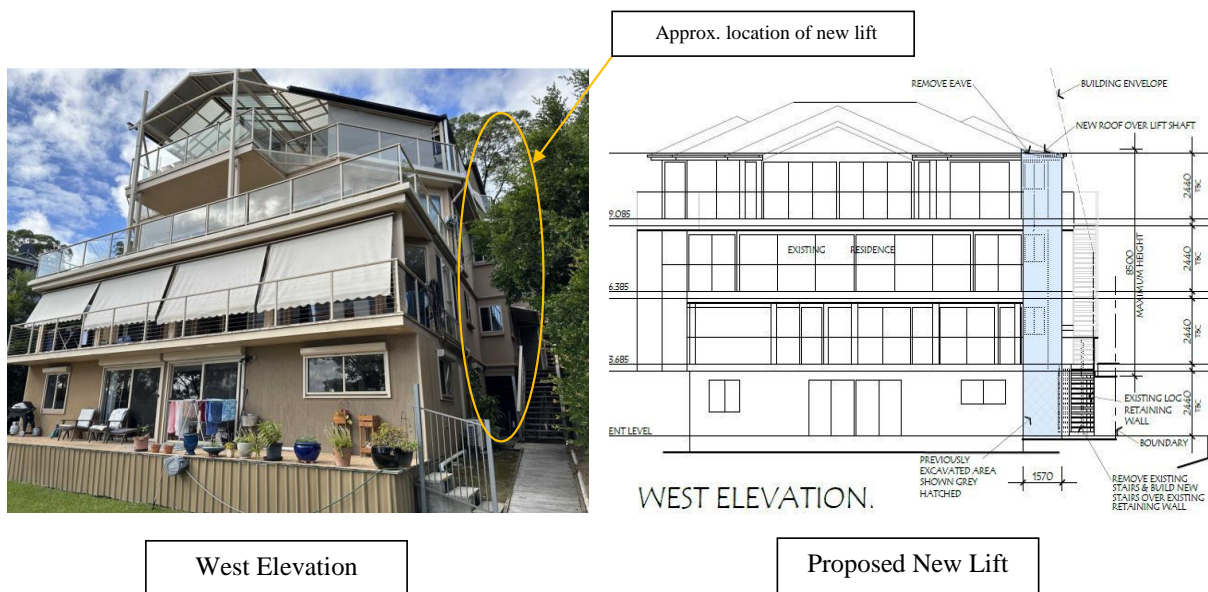
#### **4.6 Exceptions to development standards**

- (1) *The objectives of this clause are as follows:*
  - (a) *To provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *To achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*



- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:
- (a) the consent authority is satisfied that;
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
  - (b) the concurrence of the Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Secretary must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

**Figure 1** Diagram of the Variation to the Development Standard clause 4.3



**DEVELOPMENT STANDARD UNREASONABLE AND UNNECESARY****2): Compliance with the development standard is unreasonable and unnecessary (cl 4.6(3)a and cl4.6(4)(a)(i):**

Due to the extreme slope and constraints of the land and the result of considerable previous excavation, the proposed lift structure now sits above the 8.5m height limit.

The height is thus 2m.or approx. 23% above the 8.5m. Height limit. While this would normally be unacceptable, it is submitted that under the particular circumstances it is not unreasonable. In addition, if the previous natural ground level is adopted the structure would comply with the 8.5 m height limitation.

Also, the top of the lift structure is level with the existing roof eaves and complies with the building height plane relevant to the side boundary on the south side.

No neighbour objections have been submitted and we have obtained a letter of support from the neighbour directly adjoining the property where the proposed lift will be positioned.

The development standard is unreasonable and unnecessary as the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

**ENVIRONMENTAL PLANNING GROUNDS****b) Adequately establishes sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b) and cl4.6(4)(a)(i)**

With regards to the question as to whether there are sufficient environmental planning grounds to justify contravening the development standard, it should be noted that the subject site has circumstances in relation to the topography of the site.

The extreme topography where gradient measures 1:4 (25%) which is considered very steep.

In this instance the natural ground line has been altered and benched to enable the dwelling to be constructed back in the year 2000 when the height limitation for the dwelling was 10m. The dwelling fully complied with Councils rules and regulations of the day. The lift shaft does not interfere with existing ground lines and the height encroachment is well below the ridge line of the dwelling.

Refer to figure 1: - demonstrating the proposed lift shaft location adjacent to the existing dwelling.

By accommodating the height variation results in a more efficient and orderly use of the land and will produce a better outcome than would otherwise be the case if strict compliance or strict adherence to the standard were observed. In relation to this clause, it is considered that the objection to the height of building standard is well founded.

## c) Development will be consistent with the objectives of the standard (cl 4.6(4)(a)(ii))

## R2 Low Density Zone Objectives

Development Standard Objectives	Assessment
a) <i>Provide for the housing needs of the community within a low-density environment</i>	<p>The Proposed development is for an external lift to service an existing dwelling. This lift provides for the needs of the occupant to assist with his day-to-day living and enable him to remain in his house independently.</p> <p>The lift shaft occupies a 2.8sqm space which is very minor without impact to the minimum lot size or setbacks. There is a no addition to the FSR.</p> <p>The proposed development is consistent in size and scale to similar developments in the area, therefore objective (a) is satisfied.</p>
b) <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents</i>	<p>The proposed lift provides a service to the elderly occupant to assist with day to day living, maintaining his quality of life and is consistent with this objective, therefore objective (b) is satisfied.</p>
c) <i>To encourage best practice in design of low-density residential development</i>	<p>The proposed external lift is a suitable response to the constraints of the site which include topography and parameters of the existing dwelling. The shaft column is no higher than the existing eave line, is only 2.8sqm and small in context to the size of the existing dwelling and is not visibly intrusive as it is not visible from the street or waterfront façade. It also retaining the amenity for adjoining residents, this being consistent with this objective (c), therefore this objective is satisfied.</p>
d) <i>To ensure that non- residential uses do not adversely affect residential amenity or place unreasonable demands on services</i>	Not Applicable
e) <i>To maintain and enhance the residential amenity and character of the surrounding area.</i>	<p>The proposed external lift has been strategically designed to tuck into the side of the dwelling, whilst enhancing the existing façade of the building and achieving best outcome within the site constraints.</p>

## COMPLIANCE WITH THE OBJECTIVE OF CLAUSE 4.3

d) The development will be consistent with the standard in question (cl.4.6(4)(a)(ii) - Clause 4.3  
Height of buildings

(1) Development Standard Objectives	Assessment
<p><i>a) to establish a maximum height of buildings to enable appropriate development density,</i></p>	<p>The top of the proposed lift structure is at a height of 10.5m. above the existing ground level as shown on the South Elevation drawing on the submitted documents.</p> <p>This drawing also shows the natural ground based on the original survey. The existing ground level is the result of considerable previous excavation as evidenced by the ground level at the boundary of the adjoining residence and the top of the log retaining wall.</p> <p>The top of the lift shaft is also approximately level with the existing roof eaves and complies with the building height plane relevant to the side boundary located on the south side of the dwelling.</p> <p>The proposed height is thus 2m. or 23.5% above the required 8.5m. height limit. This is due to the proposed lift structure being located on a steeply sloping lot where gradient measures 1:4 (25%) which is considered very steep.</p> <p>It is submitted that due to the extreme topography and constraints of the existing dwelling, the design and location of the proposed lift shaft is the best and only outcome to achieve a lift to the property, ensuring amenity is retained and the clients' serviceability requirements are met. In addition, there is no other possible location as the lift cannot be located internally nor is not possible to be located within the existing floor plan.</p> <p>If the previous natural ground level is adopted the structure would comply.</p>
<p><i>b) to ensure that the height of buildings is compatible with the character of the locality</i></p>	<p>The new lift shaft has been strategically designed to be tucked into the side of the dwelling to further enhance the articulated façade of the building and not detract from the building form. The position of the shaft is not visible from the street or waterfront facade, ensuring the building remains compatible with the local character. The proposed lift shaft is also located on the southern side of the building, well away from the side boundary to the adjoining property.</p>

	There is no significant overshadowing or visual impact or loss of privacy or impact on open space, nor any impact on the adjoining property.
<b>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map</b>	
The subject lands currently have a maximum building height of 8.5 meters under the Central Coast Local Environmental Plan 2022 as shown in <b>Figure 2</b>	When the house was first approved and constructed back in 2000 when the height limitation for the dwelling was 10m. The dwelling fully complied with Councils rules and regulations of the day. The lift shaft does not interfere with existing ground lines and the height encroachment is well below the ridge line of the dwelling.

**Figure 2**

*Aerial mapping of Height of buildings (Central Coast council Mapping, 2023)*

## CONCLUSION

In conclusion and referring to Clause 4.6, the following points are relevant:

- 4.6 (1) A degree of flexibility is appropriate in this case.
- (2) The written assessment adequately addresses the issues.
- (3) There is no issue contrary to the public interest.
- (4) The matter is local and of no relevance to state or regional planning.
- (5) There is no perceived public interest in maintaining the standard in this case.
- (6) There are no other relevant matters

Referring to Clause 4.6 (3) (a)

As outlined earlier it is clear that compliance with the standard would be unreasonable and unnecessary.

There is no impact on the streetscape.

There is no significant overshadowing or visual impact or loss of privacy or impact on open space, nor any impact on the adjoining property.

#### OTHER RELEVANT INFORMATION TO BE CONSIDERED

As demonstrated in the planning report architectural plans and supporting documentation the increase of building height does not result in any adverse impact on the built or natural environment.

Development density is compatible with the existing urban context and built form. The proposed lift shaft is consistent with the desired future character of the area and there is no impact on the adjoining properties.

The proposed lift shaft design provides for a better outcome for accessibility to all levels of the dwelling and respectfully responds to the steep sloping nature of the site. The scale of the lift shaft forms part of the facade running alongside the existing dwelling and is in keeping with the scale and built form in the locality.

The lift has been designed to assist his day-to-day living and enable the occupant to remain in his house and live independently.

Decisions should be not just based on the process but rather the merits of the case which would reflect the best planning outcomes.

As outlined earlier it is clear that compliance with the standard would be unreasonable and unnecessary

The proposed departure from the maximum building height development standard will achieve the positive outcome for and from the proposed development (lift shaft), will not raise any matter of significance for State or regional environmental planning and there would be no public benefit served by maintaining the standard.

The justification provided to Clause 4.3 of CCLEP 2022 is considered reasonable, well founded, and warrants Councils support.

Kind Regards



Louise A. Williams

**L.A.W. BUILDING DESIGN**