

Central Coast

Local Planning Panel

Central Coast
LOCAL PLANNING PANEL MEETING
Business Paper
20 August 2020



Meeting Notice

**The Local Planning Panel Meeting
of Central Coast
will be held remotely - online,
Thursday 20 August 2020 at 2.00 pm,
for the transaction of the business listed below:**

1 PROCEDURAL ITEMS

1.1 Disclosures of Interest 2

2 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 Confirmation of Minutes of Previous Meeting..... 4

3 PLANNING REPORTS

3.1 DA57231/2019 - 454 Ocean Beach Road
UMINA BEACH
Proposed 11 Room Boarding House Development with Caretakers
Residence.....20

3.2 DA 58092/2020 - 73 Caroline Street, East Gosford - 2 Lot
Subdivision/Demolition of Existing Swimming Pool.....76

Kara Krason
Chairperson

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

20 August 2020 Local Planning Panel Meeting

Reference: F2020/00812 - D14119675

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: Governance

Central Coast
Local Planning Panel

20 August 2020 Local Planning Panel Meeting

Reference: F2020/00812 - D14119720

Author: Rachel Callachor, Local Planning Panel Support Coordinator

Summary

Confirmation of minutes of the previous Local Planning Panel Meeting and Record of Briefing with Applicant held on 6 August 2020.

Confirmation of minutes of the Supplementary Local Planning Panel Meeting held 10 August 2020, to consider DA 54122/2018 - 34-36 Brisbane Water Drive, Koolewong - Residential Flat Building and Commercial Premises. As a Supplementary Report was provided to the Local Planning Panel on 29 July 2020, as per request at the Panel meeting of 9 July 2020 where the matter was deferred.

Recommendation

That the Local Planning Panel confirm the minutes of the previous Meeting held on 6 August 2020 and the Supplementary Local Planning Panel Meeting held on 10 August 2020.

Attachments

- | | | |
|----------|---|-----------|
| 1 | MINUTES - Local Planning Panel - 6 August 2020 | D14111710 |
| 2 | CCLPP - Record of Briefing with Applicant 6 August 2020 | D14119588 |
| 3 | Supplementary Meeting Minutes LPP 10 August 2020 | D14119593 |



Local Planning Panel

Minutes of the
LOCAL PLANNING PANEL MEETING
Held remotely - online
on 06 August 2020

Panel Members

Chairperson	Donna Rygate
Panel Experts	Grant Christmas Garry Fielding
Community Representative/s	Scott McGrath

Central Coast Council Staff Attendance

Ailsa Prendergast	Section Manager Development Assessment South
Robert Eyre	Principal Planner Development Assessment South
Susana Machuca	Senior Development Planner Development Assessment South
Chris Ross	Senior Development Planner Development Assessment South
Anthony Favetta	Senior Development Assessment Engineer Engineering Assessment South
Steve Green	Traffic and Transport Engineer, Engineering Assessment South
Guy Smith	Ecologist, Environmental Strategies
Rebecca Cardy	Heritage Officer Local Planning and Policy
Sherie Cheers	Environmental Protection Officer Environment and Public Health
Rachel Callachor	Local Planning Panel Support Coordinator

Public Forum Attendance

Vic Brown on behalf of the applicant for item 3.1

Louise Watts against the recommendation for item 3.2

Paul Jacka against the recommendation for item 3.2

Technical issues prevented Mike Mitchelmore on behalf of the applicant for item 3.2

Fiona Morrison for the recommendation for item 3.3

Craig McGaffin for the recommendation for item 3.3

Graham Murray Kincumber & Picketts Valley Community Action Group for the recommendation for item 3.3

Steve Fortey, President, Avoca Beach Community Association for the recommendation for item 3.3

Maree DelCasale for recommendation for item 3.3
Josh Abdurahman for recommendation for item 3.3

Pauline Wright on behalf of Kincumber & Picketts Valley Community Action Group for recommendation for item 3.3
Chris Smith ADW Johnson on behalf of the applicant for item 3.3
Philip Goodman PHL Solutions on behalf of the applicant for item 3.3

The Chair, Donna Rygate, declared the meeting open at 2.03pm 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.

1.1 Disclosures of Interest

The Panel noted that disclosure forms had been submitted and no conflicts of interest had been identified. The Chair noted that an approach had been made to Panel members on a site visit, by Mr Meehan, in relation to agenda item 3.1. Concerns expressed were mainly in relation to PCYC parking on the site and as per his prior written submission.

2.1 Confirmation of Minutes of Previous Meeting

The Panel confirmed the minutes of the previous Meeting held on 23 July.

Moved: Donna Rygate

Seconded: Grant Christmas

Public Forum

Vic Brown spoke on behalf of the applicant for item 3.1 and provided responses to enquiries from the Panel.

Louise Watts spoke against the recommendation for item 3.2

Paul Jacka spoke against the recommendation for item 3.2

Mike Mitchelmore was unable to address the Panel due to technical difficulties, however provided text of his prepared speech and additional information via email to the Panel, on behalf of the applicant for item 3.2 (see attachment 1)

Fiona Morrison spoke for the recommendation for item 3.3

Craig McGaffin spoke for the recommendation for item 3.3

Graham Murray Kincumber & Picketts Valley Community Action Group spoke for the recommendation for item 3.3

Steve Fortey, President, Avoca Beach Community Association spoke for the recommendation for item 3.3

Maree DelCasale spoke for recommendation for item 3.3

Josh Abdurahman spoke for recommendation for item 3.3

Pauline Wright spoke on behalf of Kincumber & Picketts Valley Community Action Group spoke for recommendation for item 3.3

Chris Smith ADW Johnson spoke on behalf of the applicant for item 3.3 and provided responses to enquiries from the Panel

Philip Goodman PHL Solutions spoke on behalf of the applicant for item 3.3 and provided responses to enquiries from the Panel.

The Local Planning Panel public meeting closed at 3:59pm. The Panel moved into deliberation from 4:11pm, which concluded 5:22pm.

3.1 DA 57593/2019 - 90 Osborne Avenue, Umina Beach - Community Facility Umina Men's Shed

Site Inspected Yes

Relevant Considerations As per Council assessment report

Material Considered

- Documentation with application
- Council assessment report
- Submission

Council Recommendation Approval subject to conditions

Panel Decision

1 *That the Local Planning Panel grant consent to the proposed development, subject to amendment of the conditions in the schedule attached to the report, and addition to conditions, as detailed below, and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979 and other relevant issues.*

2 *That draft Condition 1.4 be replaced with a new Condition 1.4 as follows:*

This consent shall lapse within ten (10) years of date of issue and in the manner prescribed by clause 97 of the Environmental Planning and Assessment Regulation 2000.

3 *That Draft Condition 6.18 be replaced with a new Condition 6.18 as follows:*

In the event that Council verifies two written complaints it has received of offensive noise as defined by the

Protection of the Environment Operations Act 1997 and/or measured noise levels from the activities conducted at the premises exceed 5dB (A) above background noise, an acoustic assessment prepared in accordance with the NSW EPA Noise Policy for Industry (2017) must be undertaken by an acoustic consultant, within 60 days. The acoustic consultant must have a current membership to the Association of Australasian Acoustical Consultants. The acoustic assessment / noise verification monitoring must be undertaken during hours of operation and identify any areas where further noise mitigation measures will be required. A copy of the Report shall be submitted to Council's Compliance and Health team within fourteen (14) days of the review being undertaken. Any recommendations must be completed within 30 days.

- 4** ***That Council advise those who made written submissions of the Panel's decision.***
- 5** ***That Council advise the relevant State Government Agencies of the Panel's decision.***

Reasons

- 1 The Proposal is of public benefit and is in the public interest.
- 2 Adjoining property owners were notified of the proposed development in accordance with Council's policy and concerns raised in the one submission have been considered and addressed where applicable.
- 3 Consent conditions are agreed subject to amendment in accordance with section 4.15 of the Environmental Planning and Assessment Act 1979.

Votes

Unanimous

3.2 DA 57206/2019 - 86A Copacabana Drive, Copacabana - Copacabana Community Men's Shed

Site Inspected	Yes
Relevant Considerations	As per Council assessment report
Material Considered	<ul style="list-style-type: none"> • Documentation with application • Council assessment report • Submissions
Council Recommendation	Approval subject to conditions
Panel Decision	<p>1 That the Local Planning Panel grant consent to the proposed development, subject to amendment of the conditions in the schedule attached to the report and addition to conditions detailed below, and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979 and other relevant issues.</p> <p>2 That condition 2.11 be amended as follows: Preparation of an Acoustic Report by a suitably qualified acoustic consultant that meets the technical eligibility criteria for membership with the Association of Australasian Acoustical Consultants. The report must be prepared in accordance with the NSW EPA's Industrial Noise Policy (2000). The acoustic report must include details of equipment, tools and material used at the proposed development, and must identify all rectification measures that will be required to ensure the development does not cause nuisance to adjoining properties as a result of the use of the building. The report is to specify, at a minimum:</p> <ol style="list-style-type: none"> a) the hours the roller door can be used, b) what measures are required to be implemented to ensure the acoustic integrity of the roller door and all other openings (windows and doors) of the building when the building is in use; c) Any limitations to use of machinery/power tools, including time limits on any specific pieces of equipment; d) Any required noise amelioration measures (such as insulation/building treatment); e) The hours of service access (deliveries, waste removal);

- f) Any recommended additional noise attenuation measures (fencing, acoustic barrier, landscaping, other external treatments, if required); and**
- g) Any other relevant matter which will assist in noise attenuation and limiting impacts on any adjoining lands.**

The report is to be submitted to Council's Environmental Health Unit for approval and its satisfaction that the rectification measures recommended have been incorporated in the design of the building, prior to release of the Construction Certificate.

3 That an additional condition be included as follows:

In the event that Council verifies two written complaints it has received of offensive noise as defined by the Protection of the Environment Operations Act 1997 and/or measured noise levels from the activities conducted at the premises exceed 5dB (A) above background noise, an acoustic assessment prepared in accordance with the NSW EPA Noise Policy for Industry (2017) must be undertaken by an acoustic consultant, within 60 days. The acoustic consultant must have a current membership to the Association of Australasian Acoustical Consultants. The acoustic assessment / noise verification monitoring must be undertaken during hours of operation and identify any areas where further noise mitigation measures will be required. A copy of the Report shall be submitted to Council's Compliance and Health team within fourteen (14) days of the review being undertaken.

Any recommendations must be completed within 30 days.

4 That condition 6.3 be amended as follows:

The hours of operation of the workshop area of the building are restricted to the following:

- 8:30am – 3:30pm Monday to Friday**

No workshop activity is to be undertaken on weekends, or outside of the hours specified.

The hours of operation of the social area of the building are restricted to the following hours:

- 8:30am – 10.00pm Monday to Saturday**
- 9:00am – 8:00pm Sunday**

No operation of any part of the building is to be undertaken on a public holiday.

This consent for the hours stated above in relation to the social area of the building is for a twelve (12) month period only and accordingly the use of the social area of the building outside of the workshop hours must cease at the expiration of twelve (12) months from the date of the commencement of the approved activity. Council must be informed in writing at the time of the commencement of the use, otherwise it will be determined that the approved use was commenced at the determination date of this consent. Any extension of the approved use beyond twelve (12) months will require the prior submission and approval of an application under section 4.55 of the Environmental Planning and Assessment Act 1979. In considering any application for the extension of this consent, Council would have regard for relevant matters under the Environmental Planning and Assessment Act 1979, including any submissions received during the period.

**4 That an additional condition regarding alcoholic beverages be included as follows:
No alcohol is to be sold, served or consumed on the premises at any time.**

5 That condition 2.3b regarding the landscape plan be revised as follows:-

b) Landscape Plan (sheet 13) drawn by 870-trend is to be amended to indicate a minimum of seven (7) trees such as Tuckeroo and Coastal Banksia for re planting around the building, though spaced far enough from the building so as not to cause future issues.

6 Deletion of proposed conditions 5.3 and 6.7 as the conditions have been duplicated.

Reasons

- 1 The Proposal is of public benefit and is in the public interest.
- 2 Adjoining property owners were notified of the proposed development in accordance with Council's policy and concerns raised in submissions have been considered and addressed where applicable.
- 3 Consent conditions are agreed subject to amendment in accordance with section 4.15 of the Environmental Planning and Assessment Act 1979.

Votes Unanimous

3.3 DA 57698/2019 - 255, 255A, 255B Avoca Drive, Kincumber and 19 Picketts Valley Road, Picketts Valley - Integrated Staged Residential Land Lease Community

Site Inspected Yes

Relevant Considerations As per Council assessment report

Material Considered

- Documentation with application
- Council assessment report
- Submissions plus petitions

Council Recommendation Refusal

Panel Decision **1** ***That, having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979, the Local Planning Panel refuses the application for the following reasons:***

a) The proposed development is not consistent with the objectives of the E4 Environmental Living zone under the provisions of the Gosford Local Environmental Plan 2014.

b) The proposed development would result in additional stormwater run-off and increased downstream flooding.

c) The proposed development would result in significant cut and fill, earthworks and removal of vegetation on the site which would impact the ecological values, visual and scenic quality of the area.

d) The site is not suitable for the proposed development due to its landscape, scenic and ecological qualities which should be preserved.

f) Insufficient information has been provided on potential contamination, road works within the site, ecology impacts, heritage impacts, waste impacts, soil and water management, emergency and

construction access, bush fire hazard, and tree retention.

g) The proposal is an overdevelopment of the site, inconsistent with the current and future desired character of the locality and approval is not in the public interest.

h) Pursuant to Draft Central Coast LEP (2018) the proposed development is prohibited within E4 Environmental Living zone.

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

3 That the Council advise external authorities of the Panel's decision.

Reasons See above

Votes Unanimous

Local Planning Panel

Record of Briefing with Applicant



Central
Coast
Council

Briefing date	6 August 2020
Location	<i>Remote - online</i>
Agenda item	3.3
Chair and panel members	Donna Rygate (Chair), Grant Christmas, Garry Fielding, Scott McGrath
Apologies	<i>Nil</i>
Declarations of interest	<i>Nil</i>
Other attendees	<p>Central Coast Council Staff Attendance</p> <p>Ailsa Prendergast Section Manager Development Assessment South Robert Eyre Principal Planner Development Assessment South Susana Machuca Senior Development Planner Development Assessment South Chris Ross Senior Development Planner Development Assessment South Anthony Favetta Senior Development Assessment Engineer Engineering Assessment South Steve Green Traffic and Transport Engineer, Engineering Assessment South Guy Smith Ecologist, Environmental Strategies Rebecca Cardy Heritage Officer Local Planning and Policy Sherie Cheers Environmental Protection Officer Environment and Public Health Rachel Callachor Local Planning Panel Support Coordinator</p> <p>Attendance on behalf of the applicant</p> <p>Chris Smith ADW Johnson Philip Goodman PHL Solutions Mark Sargent Aigis Group</p>

DA 57698/2019 - 255, 255A, 255B Avoca Drive, Kincumber and 19 Picketts Valley Road, Picketts Valley - Integrated Staged Residential Land Lease Community

Briefing held at Applicant's request, commenced at 12.30pm

The Chair advised that the purpose of the briefing was for the applicant's representatives to provide details which they considered to be of a sensitive and/or commercial in confidence nature, that would not be appropriate to be discussed at the public meeting, and that other matters should be held over for the public meeting.



Philip Goodman spoke about the Living Choice company and the site.
Provided Background re: caravan park type application.
Latitude One – Nelson Bay, an example of a similar site. Significant environment aspects, compliance throughout the project.
Community consultation process undertaken prior to submission of Development Application was detailed.
Referenced report pages 118,128,136 – Retirement village aspect.
Moveable homes and definition of caravan park, non-relocatable
Engagement by Council over the time in which application has been under assessment
Age/demographics. Over 65's, Target demographic is 59-64.
Designed product to meet expectation of the above group. Lifestyle communities, An alternative community living model.

Chris Smith spoke about legal viewpoint, definition of caravans.
Referenced page 191 of Report – based on legal advice upon what was a Complying Development.
SEPP36 aspects to be discussed in public meeting
Regarding Draft Local Environment Plan (LEP) – not imminent or certain. Precedent case, April 2019 LEC involving Central Coast Council where it was determined a consolidated LEP was not imminent.

Garry Fielding – While the Draft LEP doesn't have the status of being certain and imminent, and would not have determinative weight, it is still a matter for consideration.

Chris Smith – There will be different views regarding draft LSPS and future zones / land uses.
Population forecasts etc, restrictive clauses in the consolidated LEP.

Mark Sargent – Social impact and housing. Additional financial resources from prospective buyers.

Grant Christmas – Age has nothing to do with the legal sense of land use, does not exist in a town planning sense.

Philip Goodman – Manufactured home park. Started as caravan park and has evolved. Other states and jurisdictions: "These homes are like manufactured homes, like a caravan park. Over past 12 years they have expanded and evolved. A fixed cost of living, own their own house, creating communities. It will operate under residential land use Act. Is a caravan park".

Garry Fielding – Characterisation of "caravan park" under LEP an important consideration – how the proposal satisfies/doesn't satisfy the E4 Environmental Living zone. The merit test re: determination of this application, as well is a caravan park under the zoning.

Chris Smith acknowledged that in relation to Gosford LEP, SEPP - the style of this project is meeting a market need.
Style of grounds, target market. Difference between this and other developments is that it is targeted model. Prefer over 50's ,club house, other uses. Not children's playground, quite different and distinct.



Models also looked at, park rules.

Philip Goodman – Acknowledged that in NSW, it is unusual to have a rule to prevent under 50's living in these parks, Other jurisdictions such as QLD different, laws around discrimination. Provision in NSW introduced recently to change these aspects.

The Chair asked if the Rural Fire Service (RFS) issue is particularly sensitive.

Philip Goodman – couldn't get response from RFS regarding enquiries, believes the assessment was undertaken from photographs only, not site visit.

Chair called for any other questions

Scott McGrath noted his questions will be addressed in the public forum.

Meeting closed at 1:00pm



Central Coast
Local Planning Panel

Local Planning Panel

Minutes of the
**LOCAL PLANNING PANEL
SUPPLEMENTARY MEETING**

Held remotely - online
On 10 August 2020

Panel Members

Chairperson	Donna Rygate
Panel Experts	Garry Fielding Stephen Leathley
Community Representative/s	David Kitson

Central Coast Council Staff Attendance

Robert Eyre	Principal Development Planner Development Assessment South
Rachel Callachor	Local Planning Panel Support Coordinator

The Chairperson, Donna Rygate, declared the meeting open at 12:32pm.

This Supplementary meeting is to consider DA 54122/2018 - 34-36 Brisbane Water Drive, Koolewong - Residential Flat Building and Commercial Premises. As a Supplementary Report was provided to the Local Planning Panel on 29 July 2020, as per request at the Panel meeting of 9 July 2020 where the matter was deferred.

DA 54122/2018 - 34-36 Brisbane Water Drive, Koolewong - Residential Flat Building and Commercial Premises

Site Inspected	Yes
Relevant Considerations	As per Council assessment report, addenda and Supplementary report
Material Considered	<ul style="list-style-type: none"> • Council assessment report and addenda • Submissions • Three speakers at LPP meeting, 9 July 2020 • Supplementary report
Council Recommendation	Approval subject to conditions
Panel Decision	1 <i>The Panel is satisfied that the Applicant's amended clause 4.6 request has adequately</i>

addressed the matters required to be demonstrated by clause 4.6(3).

- 2 The Panel is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standards and the objectives for development within the zone in which the proposed development is to be carried out.**
- 3 The Panel assumes the concurrence of the Secretary of Planning for the use of Clause 4.6 to vary the height and floor space ratio development standards of Clauses 4.3 and 4.4 of Gosford Local Environmental Plan 2014 to permit the proposed development.**
- 4 Having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979, the Panel resolves to grant consent to the proposed development, subject to the recommended conditions and the additional condition, as detailed below.**
- 5 New Conditions are to be included, in both the 'Prior to Issue of Any Occupation Certificate' and 'Ongoing Operation' section of the Consent, as follows:**

"The allocation of two (2) car parking spaces for the shop, three (3) car parking spaces for visitors, and a minimum of one (1) space for each unit. These spaces shall be marked as such. The shop and visitor car parking spaces shall not be allocated to any residential units in the event of strata subdivision of the development."
- 6 That Council advise those who made written submissions of the Panel's decision.**
- 7 That Council advise the relevant external authorities of the Panel's decision.**

Reasons

1. The proposed development is permissible in the B1 Neighbourhood Centre zone under Gosford LEP 2012.

2. The proposed development is considered satisfactory having regard to the Design Principles under the Apartment Design Guide.
3. Adjoining property owners were notified of the proposed development in accordance with Council's policy and concerns raised in submissions have been considered and addressed where applicable.

Votes

Unanimous

The Local Planning Panel Supplementary Meeting closed at 1:00pm

Item No: 3.1
Title: DA57231/2019 - 454 Ocean Beach Road
UMINA BEACH
Proposed 11 Room Boarding House Development
with Caretakers Residence
Department: Environment and Planning

20 August 2020 Local Planning Panel Meeting

Reference: 011.2019.00057231.001 - D14113155
Author: Chris Ross, Senior Development Planner
Manager: Andrew Roach, Unit Manager, Development Assessment

Summary

An application has been received for the construction of a **Boarding House** development on land at 454 Ocean Beach Road, Umina Beach. The application was lodged on 17 September 2019.

The application has been examined having regard to the matters for consideration detailed in section 4.15 of the Environmental Planning and Assessment Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

The development application has been referred to the Local Planning Panel as a result of the number of unique submissions received during the notification of the application. The application received 43 submissions objecting to the proposal.

Applicant	Charles Raneri
Owner	Charles Raneri
Application No	DA57231/2019
Description of Land	Lot 32 DP 7807, 454 Ocean Beach Road, UMINA BEACH
Proposed Development	Boarding House
Site Area	834.7m ²
Zoning	R1 General Residential
Existing Use	Dual Occupancy Residential Development
Employment Generation	Yes
Estimated Value	\$1,199,137.50

Recommendation

- 1 That Central Coast Local Planning Panel grant consent 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 those who made written submissions of the Panel's decision.**

3.1 DA57231/2019 - 454 Ocean Beach Road
 UMINA BEACH
 Proposed 11 Room Boarding House Development with Caretakers
 Residence (contd)

3 That Council advise the relevant external authorities of the Panel's decision.

Precis:

Proposed Development	Construction of an eleven room, two storey Boarding House with attached managers residence and communal living room. The proposal includes seven carparking spaces inclusive of a disabled space, and two motorcycle parking spaces.
Permissibility and Zoning	The site is zoned <i>R1 General Residential</i> under <i>Gosford Local Environmental Plan 2014</i> (GLEP 2014). The proposed development is defined as a 'Boarding House' which is permissible in the zone with consent of Council.
Relevant Legislation	<ul style="list-style-type: none"> • <i>Environmental Planning and Assessment Act 1979 – s. 4.15</i> (EP&A Act) • <i>Boarding Houses Act 2012</i> • <i>State Environmental Planning Policy (Coastal Management) 2018</i> • <i>State Environmental Planning Policy No 55 - Remediation of Land</i> (SEPP 55) • <i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i> • <i>Gosford Local Environmental Plan 2014</i> (GLEP 2014) • <i>Draft Central Coast Local Environmental Plan 2018</i> (Draft CCLEP 2018) • <i>Gosford Development Control Plan 2013</i> (GDGP 2013) • <i>Central Coast Regional Plan 2036</i> (CCRP 2036)
Current Use	The site currently contains a detached dual occupancy residential development.
Integrated Development	No
External Referrals	NSW Police - NSW Police issued a set of recommendations that are to be addressed prior to the issue of a Construction Certificate.

The Site

The site consists of Lot 32 DP 7807, commonly known as 454 Ocean Beach Road, UMINA BEACH (refer figure 1). The subject land is located on the eastern side of Ocean Beach Road and has a secondary frontage to an unnamed rear laneway and currently has vehicle access

**3.1 DA57231/2019 - 454 Ocean Beach Road
UMINA BEACH
Proposed 11 Room Boarding House Development with Caretakers
Residence (contd)**

from both. The land is generally flat, with a fall of approximately 300 – 500mm measured over the 54.8m northern boundary, falling west to east.



Figure 1 - Aerial photograph of the site, (in blue)

The site is regular in shape, with:

- A northern frontage of 54.86m to adjoining residential properties,
- An eastern frontage of 15.24m to the unnamed rear lane,
- A southern boundary of 54.82m to adjoining residential properties, and
- A western boundary of 15.24m to Ocean Beach Road.

The site currently contains a detached dual occupancy residential development.

Surrounding development consists of:

- Single storey *Multi Dwelling Residential* comprising three dwellings adjoining the site to the north,
- Single Storey *Multi Dwelling Residential* comprising three dwellings across the unnamed rear laneway to the east,
- Single storey *Multi Dwelling Residential* comprising four dwellings adjoining the site to the south, and
- Residential dwellings located across Ocean Beach Road to the west.

**3.1 DA57231/2019 - 454 Ocean Beach Road
UMINA BEACH
Proposed 11 Room Boarding House Development with Caretakers
Residence (contd)**

Current Zoning

The subject site is zoned *R1 General Residential* under Gosford Local Environmental Plan 2014 (GLEP 2014), (refer to Figure 2). The proposed development is defined as a 'Boarding House' which is permissible in the zone with consent of Council, as detailed further within this report. All adjoining land is zoned *R1 General Residential*, with land diagonally to the north west zoned *B2 Local Centre*



Figure 2 - Zoning of the site, (in blue showing R1 General Residential, the entire site)

Site History

Council's records show that an application for the construction of a dual occupancy has been lodged and approved, as follows:

- DA1915/1996
Development Application – Detached Dual Occupancy.

No other applications of relevance are contained in Council records.

**3.1 DA57231/2019 - 454 Ocean Beach Road
UMINA BEACH
Proposed 11 Room Boarding House Development with Caretakers
Residence (contd)**

The Proposed Development

The proposal seeks approval for the construction and operation of a two-storey, eleven room **Boarding House** with attached managers residence. To accommodate the development, the applicant seeks to demolish the western dwelling and partially demolish the eastern dwelling on site, and undertake alterations and additions to the eastern dwelling to provide a managers residence. The two storey, eleven room boarding house will be constructed attached to, and in front of the managers residence. (refer Figures 3 - 6).

The boarding house will provide housing for up to 22 lodgers with a minimum stay of 6 months, as per the *Boarding House Plan of Management* supplied with the application. No less than one Onsite Manager will be on duty 24 hours per day, 7 days a week within the premises, with contact details of the Manager on Duty made available to residents.

On-site Manager's dwelling is located to the rear of the site.



Figure 3 – Proposed Ground Floor Plan

**3.1 DA57231/2019 - 454 Ocean Beach Road
 UMINA BEACH
 Proposed 11 Room Boarding House Development with Caretakers
 Residence (contd)**

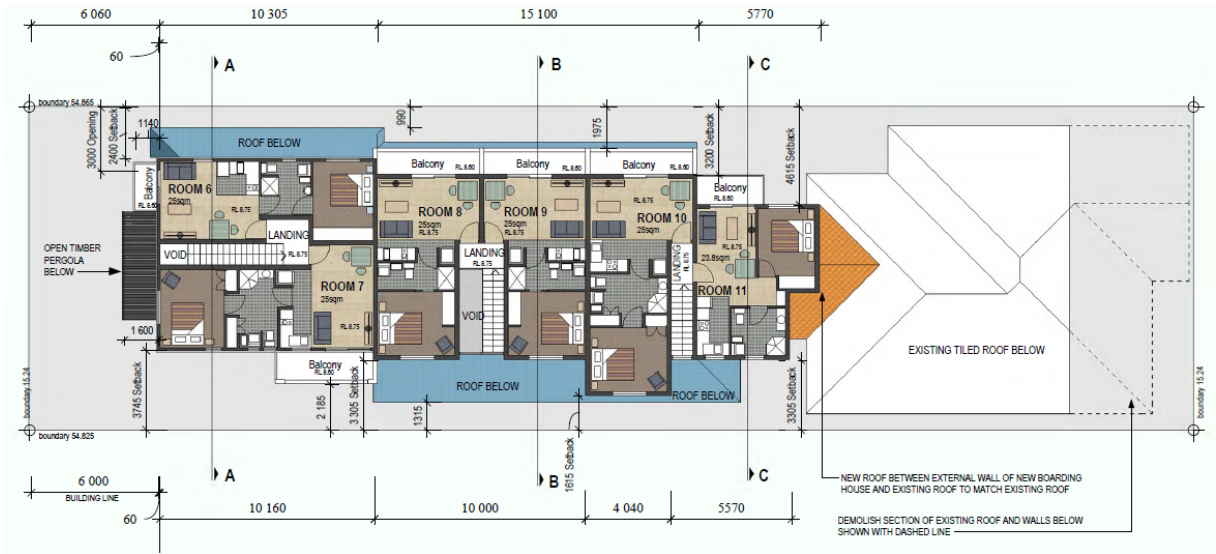


Figure 4 – Proposed First Floor Plan

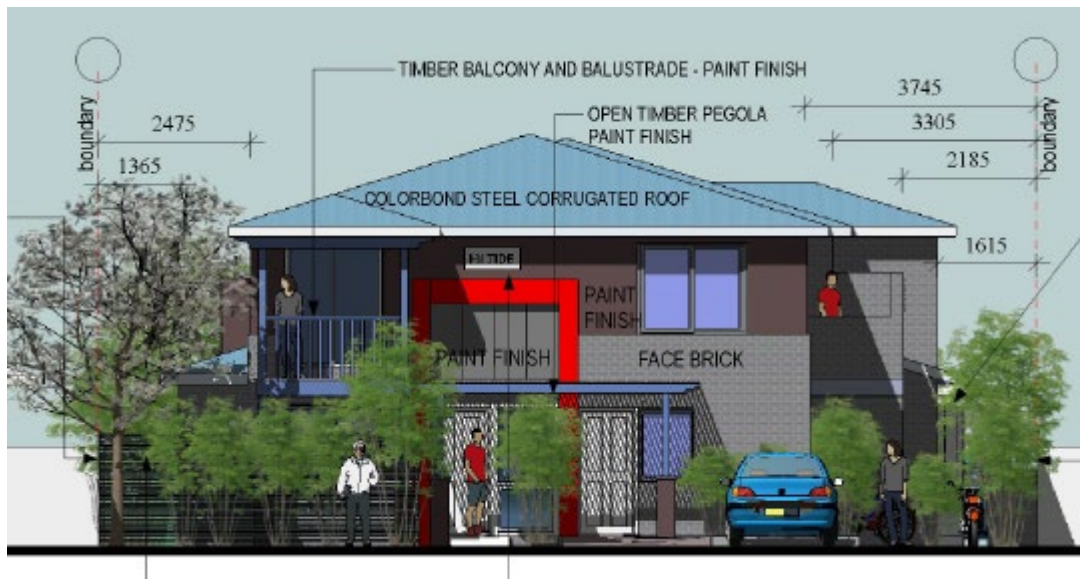


Figure 5 - Proposed Western Elevation

**3.1 DA57231/2019 - 454 Ocean Beach Road
UMINA BEACH
Proposed 11 Room Boarding House Development with Caretakers
Residence (contd)**

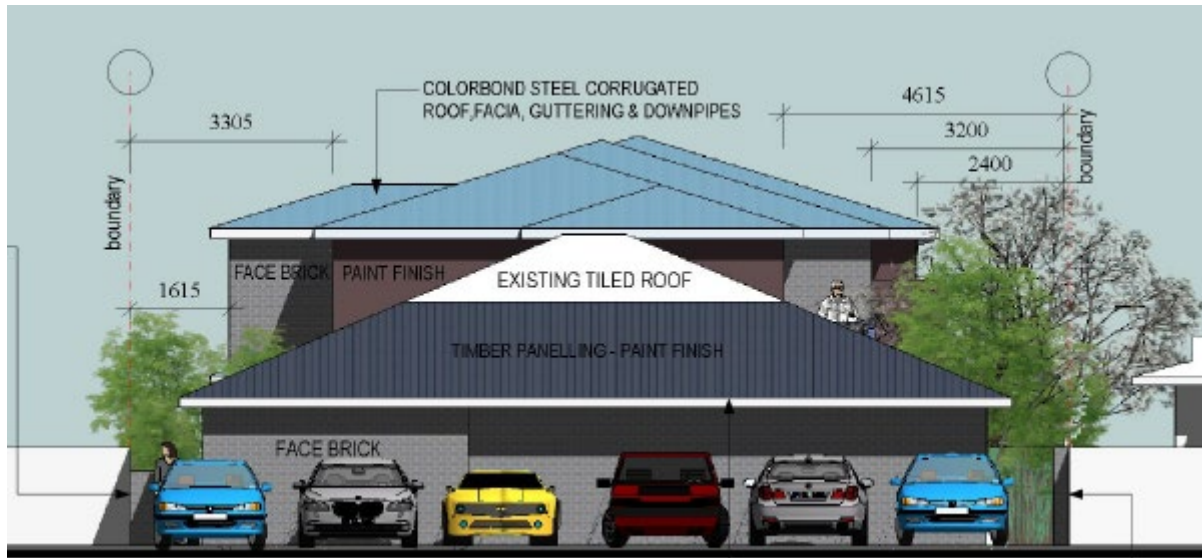


Figure 6 – Proposed Eastern Elevation

Assessment:

Having regard to the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements including Council's policies, the assessment has identified the following key issues, which are elaborated upon for the information of the Panel.

Central Coast Regional Plan 2036

The subject site is included in the Central Coast Regional Plan 2036 as an 'urban area'. (refer to Figure 7).

An assessment of all relevant provisions of the Central Coast Regional Plan 2036 has been carried out. The proposed development is consistent with Directions 19, 20, and 21 under the *Central Coast Regional Plan 2036*, with the proposed development offering a housing choice not commonly found in the area, and with the site being located near an existing town centre. The development is generally consistent with the village centre locality, provides for additional social and community connections, and will not adversely impact residential amenity.

**3.1 DA57231/2019 - 454 Ocean Beach Road
UMINA BEACH
Proposed 11 Room Boarding House Development with Caretakers
Residence (contd)**

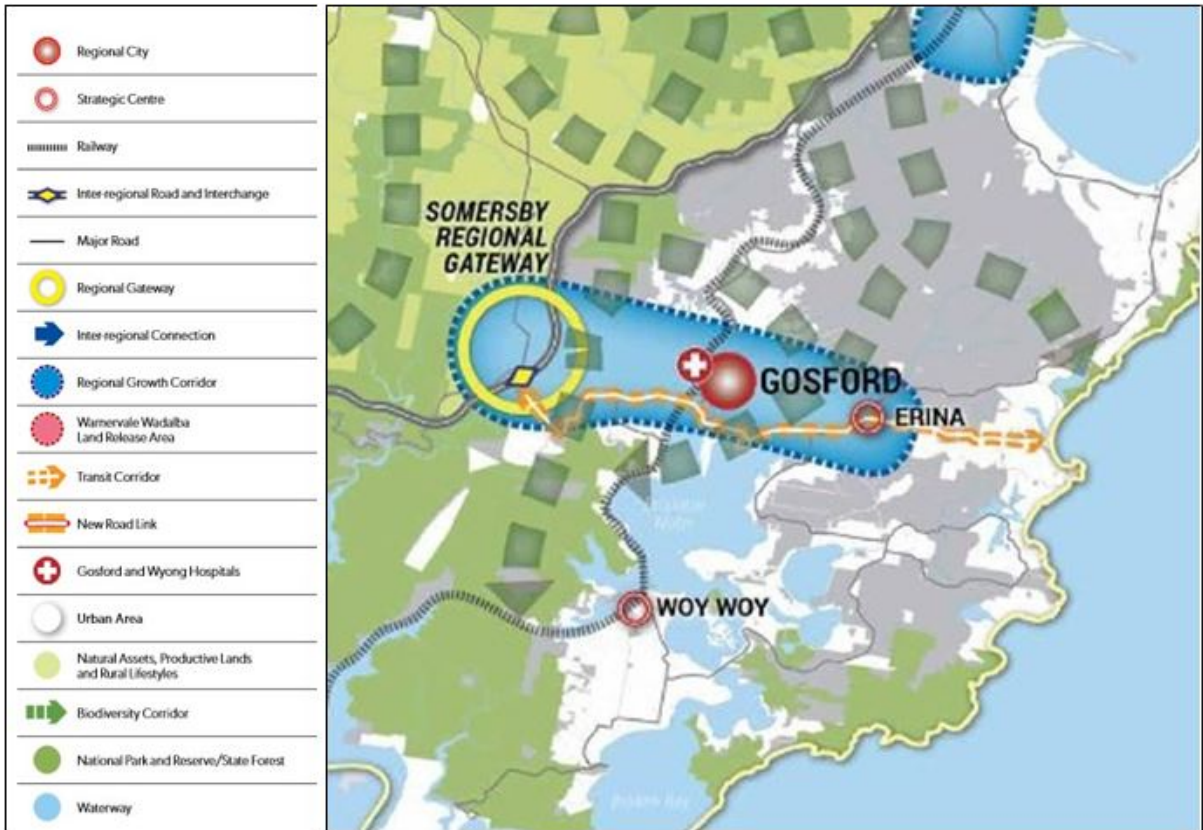


Figure 7 - Central Coast Regional Plan 2036

Central Coast Council's Community Strategic Plan 2018-2028 'One - Central Coast'

Central Coast Council's Community Strategic Plan 2018-2028 'One - Central Coast' is a 10-year plan developed by Council through engagement with the community to help set the strategies and activities that best achieve the community's desired outcomes for the future.

The proposed development is consistent with the relevant objectives in 'One- Central Coast' as once completed the Boarding House will provide new housing type to meet the diverse and changing needs of the community including adequate affordable housing.

Boarding Houses Act 2012

Under Division 2 of the *Boarding Houses Act 2012* it is required that a registerable Boarding House such as the subject development be registered to NSW Fair Trading within 28 days of operation. Appropriate conditions have been included requiring compliance with the Act.

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State Environmental Planning Policy (Coastal Management) 2018 (SEPP Coastal Management)

The provisions of *State Environmental Planning Policy (Coastal Management) 2018* require Council consider the aims and objectives of the SEPP when determining an application within the Coastal Management Area. The Coastal Management Area is an area defined on maps issued by the NSW Department of Planning Industry & Environment and the subject property falls outside of the mapped zones, (see figure 8).

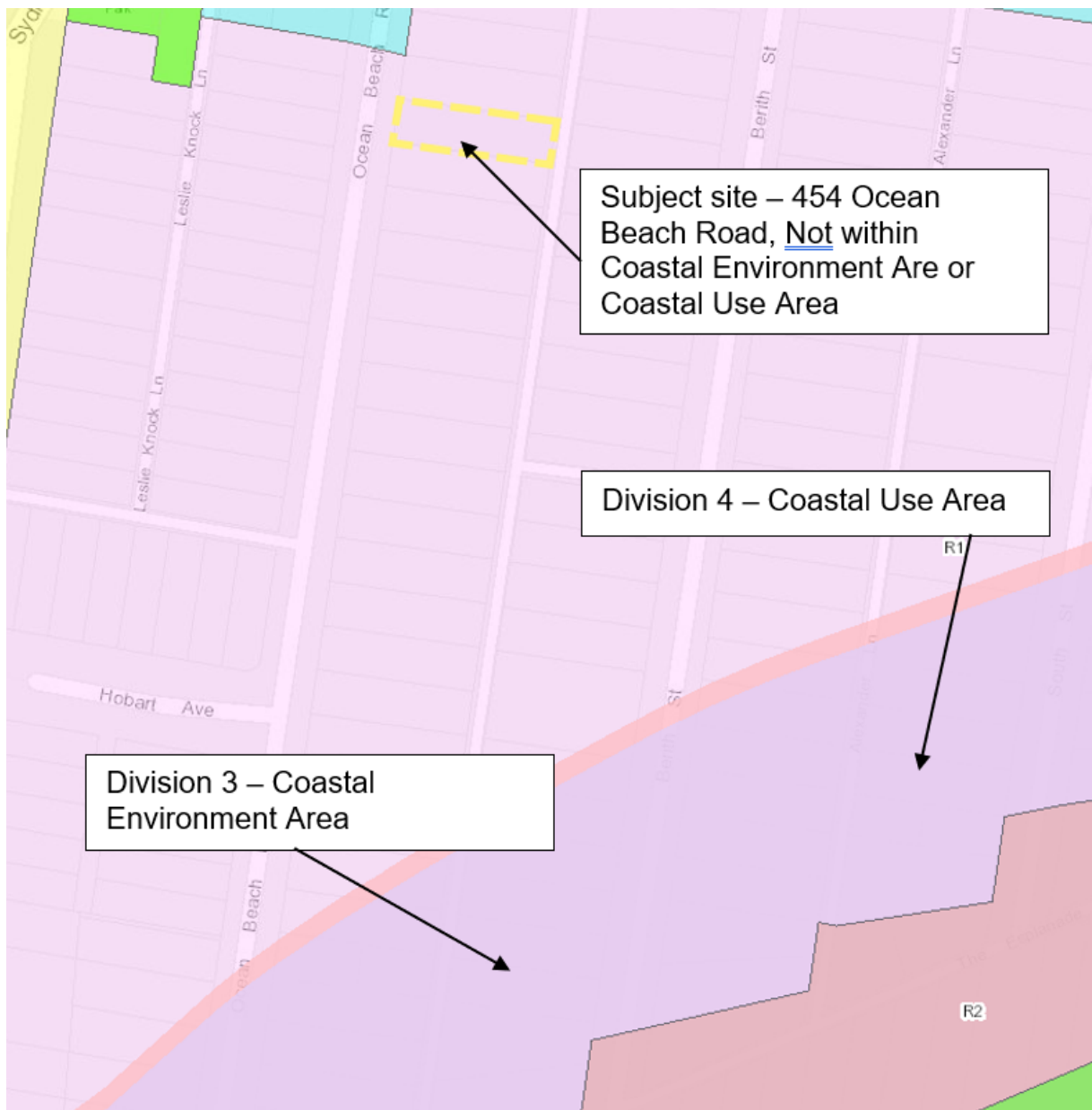


Figure 8 – Coastal Management Area

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State Environmental Planning Policy No 55 – Remediation of Land

The provisions of this *State Environmental Planning Policy No 55 – Remediation of Land* (SEPP 55) apply to the site.

The site has a history of being utilised as a residential lot since the time of subdivision. Contamination is therefore not likely to be present. In accordance with cl. 7(2) of the SEPP, no further consideration is required in this regard.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) regulates the clearing of native vegetation on urban land and land zoned for environmental conservation /management that does not require development consent and applies to the Sydney and Newcastle metropolitan areas. The aims of the policy are (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

Council will continue to regulate the clearing of vegetation (including native vegetation) below the Biodiversity Offset Scheme (BOS) thresholds through the DCP.

As such, the application has been referred to Council's Tree Officer, who provided the following comments:

- a. The site trees shown for removal consist of ornamentals such as Olive and Murraya. A Oleander (large shrub) located on the road reserve will also require removal due to its close proximity to the new driveway and will become a sight hazard.

Opportunities exist for tree replacement around the building with a number of small trees proposed including Lilly Pilly and Blueberry Ash. Council's Tree Officer has recommended two street trees be planted on the road reserve which will offset the removal of the existing street tree.

The approval of the subject development will not be contrary to the aims of the SEPP, and through conditions will result in the planting of an equivalent number of trees to those lost as a result of the development, a number of which were of poor health.

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State Environmental Planning Policy (Affordable Rental Housing) 2009

The subject development has been designed under the provisions of SEPP ARH, and requires assessment under the controls of Division 3 Boarding Houses. In particular, CI29 and CI 30 of SEPP ARH are of relevance, as CI29 details a set of standards that cannot be used to refuse consent by a consent authority, and CI30 provides a set of standards for Boarding Houses. The following table provides an assessment of the controls:

Clause/Provision	Proposed	Comply
Clause 26 – Land to which this policy applies		
<p>This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones.</p> <p>(a) Zone R1 General Residential,</p>	<p>The subject site is zoned R1 General Residential under <i>Gosford Local Environmental Plan 2014</i> (GLEP 2014).</p> <p>Division 3 applies to the R1 General Residential zone</p>	Yes
Clause 27 – Development to which Division applies		
27(2) – Within an Accessible Area	Not applicable. Subject site is zoned R1 General Residential.	N/A
Clause 29 - Standards that cannot be used to refuse consent		
<p>29(1) A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:</p> <p>(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus—</p> <p>(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less,</p>	<p>The maximum Floor Space Ratio (FSR) for the site as identified under <i>Gosford Local Environmental Plan 2014</i> (GLEP 2014) is 0.6:1.</p> <p>As per 29(1)(c)(i) the applicable FSR is 0.6:1 plus 0.5:1, resulting in an FSR of 1.1:1</p> <p>The proposal provides for an FSR of 0.77:1, which is below the maximum allowable FSR.</p>	Yes

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29(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:		
(a) Building height: if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land.	The maximum height for the site as identified under <i>Gosford Local Environmental Plan 2014</i> (GLEP 2014) is 8.5m. The application proposes a maximum height of 6.9m which is below the height limit requirement.	Yes
(b) landscaped area: if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located.	The proposed landscaped treatment of the front setback is compatible with adjoining developments. The submitted landscaping plans indicate that approximately 30% of the site is proposed to be landscaped.	Yes
(c) Solar access: where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.	The proposed communal room will receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter and therefore complies.	Yes
(d) Private open space: if at least the following private open space areas are provided (other than the front setback area): (i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers, (ii) If accommodation is provided on site for a boarding house manager – one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation.	The proposal provides a communal open space of 26.2m ² with a minimum dimension of 4m which exceeds the control. In addition, all ground floor rooms have private open space accessed directly from the rooms. The proposal provides for approximately 36.0m ² in conjunction with the caretaker's residence and satisfies the minimum dimension requirement. The proposal therefore satisfies the open space requirements.	Yes

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<p>(e) Parking if:</p> <p>(i) in the case of development in an accessible area—at least 0.5 parking spaces are provided for each boarding room, and</p> <p>(ii) In the case of any development – not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site.</p>	<p>Based on the provision of 11 boarding rooms, and a caretakers residence, the proposal requires the provision of 7 on site car parking spaces.</p> <p>The proposal provides for a row of 6 at grade car parks accessed from the rear unnamed laneway, and an additional at grade car parking space, plus two motorcycle parking spaces accessed from Ocean Beach Road.</p> <p>The proposal satisfies the numerical requirements associated with onsite car parking provisions.</p>	<p>Yes</p>
<p>(f) Accommodation size: if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</p> <p>(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or</p> <p>(ii) 16 square metres in any other case.</p>	<p>The proposal provides for boarding rooms greater than 12m² used by a single lodger or 16m² in any other case.</p> <p>All rooms are approximately 25.0m².</p>	<p>Yes</p>
<p>29(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.</p>	<p>Each boarding room is provided with its own private kitchen and bathroom facilities, as permitted.</p>	<p>Yes</p>
<p>Clause 30 - Standards for boarding houses</p>		
<p>30(1) A consent authority must not consent to development to which this division applies unless it is satisfied of each of the following:</p> <p>(a) If a boarding house has 5 or more boarding rooms, at least one communal living room will be provided.</p>	<p>The proposal provides for an indoor communal area of approximately 30.0m², including amenities.</p>	<p>Yes</p>
<p>(b) No boarding room will have a gross floor area (excluding any area used for the</p>	<p>No rooms exceed 25.0m² excluding kitchen and bathroom facilities.</p>	<p>Yes</p>

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purpose of private kitchen or bathroom facilities) of more than 25m ² .		
(d) No boarding room will be occupied by more than 2 adult lodgers.	All rooms are provided with one double bed. Plan of Management details that no more than two lodgers may reside in each room at any one time.	Yes
(d) Adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger.	All rooms are provided with bathroom kitchen and laundry facilities.	Yes
(e) If the boarding house has the capacity to accommodate 20 or more lodgers, a boarding room or on-site dwelling will be provided for a boarding house manager.	The proposal provides for 11 boarding rooms and provides for a three-bedroom attached house for a caretaker/manager.	Yes
(f) Repealed.	Not applicable	N/A
(g) If a boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use.	The proposed subject site is not located within a commercial zone therefore this is not applicable.	N/A
(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	There are two (2) motorcycle and two (2) bicycle parking spaces provided.	No, however considered acceptable based on site circumstance.
Clause 30A - Character of local area		
A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	The proposal is considered compatible with the character of the local area. Refer commentary in planning report.	Yes

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Gosford Local Environmental Plan 2014 (GLEP 2014) - Zoning and Permissibility

The subject site is zoned *R1 General Residential* under GLEP 2014. The proposed development is defined as a '*Boarding House*'.

The use is defined under the Gosford LEP 2014 as:

boarding house means a building that—

- (a) is wholly or partly let in lodgings, and*
- (b) provides lodgers with a principal place of residence for 3 months or more, and*
- (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and*
- (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.*

Note.

Boarding houses are a type of residential accommodation—see the definition of that term in this Dictionary.

Development for the purposes of a '*Boarding House*' is permissible in the *R1 General Residential* zone with development consent.

GLEP 2014 - Zone Objectives

The following represents the consideration of the proposed development with regard to the objectives of the control in accordance with the Clause 2.3(2) of Gosford LEP 2014.

- *To provide for the housing needs of the community.*

The proposed *Boarding House* development will provide a much-needed housing typology that caters for low to medium income households and offers high quality, safe, and managed living options. The rooms proposed are all single bedroom rooms with their own living rooms, bathrooms, and kitchens, as well as balconies or courtyards, and a communal living space. The development is located in close proximity to the services and day to day shopping needs provided within the Umina Beach main street.

- *To provide for a variety of housing types and densities.*

The proposal would provide eleven one-bedroom *Boarding House* rooms and a three-bedroom managers residence. All proposed boarding rooms meet the standards specified

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within SEPP ARH and provide a residential dwelling typology that is not readily found in the area.

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

The location proposed for the development is within proximity of the Umina Beach Town Centre. No aspect of the development proposed would impede the delivery of services or facilities that proposed the day to day needs of the community.

- *To ensure that development is compatible with the desired future character of the zone.*

The development proposed is defined as a *Boarding House* which is permissible within the R1 General Residential zone. The development meets all numerical controls of GLEP and is not considered contrary to the character of the zone. Further, site sits within the *Sandplain Medium Density* character area of Umina Beach as defined within Chapter 2.1 of GDCP 2013. The proposed development is considered to exhibit the desired qualities to ensure that the built form is compatible with the desired future character.

- *To promote best practice in the design of multi dwelling housing and other similar types of development*

The proposed *Boarding House* development meets all controls of SEPP ARH and displays best practice design for the rooms. All rooms have layouts that allow natural cross ventilation, and 9 of the 11 rooms have direct northern windows, allowing solar access in excess of the minimums specified through GDCP 2013. The remaining 2 have western windows and achieve adequate solar access. All rooms have access to private outdoor areas, be it a courtyard for ground floor rooms, or a balcony for first floor rooms.

The design proposed is therefore considered to display best practice design.

- *To ensure that non-residential uses do not adversely affect residential amenity or place demands on services beyond the level reasonably required for multi dwelling housing or other similar types of development.*

The development is not considered to be contrary to this objective.

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GLEP 2014 - Development Standards

An assessment of the proposed development against the relevant development standards is detailed below.

GLEP 2014 – Clause 4.3 Height of Buildings

The provisions of cl. 4.3 (Height of Buildings) within GLEP 2014 establish a maximum height limit for buildings, and the land is mapped as having a maximum Height of Building of 8.5m.

The proposed development would reach a maximum of 6.9m in height, within the 8.5m height limit applicable to the site.

GLEP 2014 – Clause 4.4 Floor Space Ratio

The provisions of cl. 4.4 (Floor Space Ratio) within GLEP 2014 establish a maximum floor space ratio for buildings and the land is mapped as having a maximum floor space ratio of 0.7:1. However CI4.4(2A)(e) details that a development for a *Boarding House* on R1 zoned land where the mapped FSR is 0.7:1 is to have a reduced FSR to 0.6:1.

In addition, SEPP ARH permits an additional 0.5:1 FSR on top of the mapped FSR as detailed within CI29(1)(c). Therefore, the FSR applicable to the development is 1.1:1.

The proposed development would result in an FSR of 0.77:1 which is within the maximum permitted under the applicable controls.

GLEP 2014 – Clause 7.1 Acid Sulfate Soils

This land has been identified as being affected by the Acid Sulfate Soils Map and the matters contained in Clause 7.1 of GLEP 2014 have been considered. The site is mapped to contain Class 4 Acid Sulfate Soils. No excavation is required at a greater depth than 2 metres AHD.

As such, no further concerns are raised in regard to Acid Sulfate Soils.

Draft Central Coast Local Environmental Plan 2018

Following a review of the *Draft Central Coast Local Environmental Plan 2018* (Draft CCLEP 2018) which finished exhibition on 27 February 2018, the zoning of the subject site retains the existing zoning and development controls. The proposed development is therefore not contrary to the draft instrument.

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Gosford Development Control Plan 2013

An assessment of the proposed development against the relevant chapters of *Gosford Development (DCP) 2013* has been undertaken. No variances to GDCP 2013 are found within the proposed development.

2.1 Character

Chapter 2.1 - Character applies to the development application. The chapter sets out the 'existing' and 'desired' character for each precinct and requires that character be considered in the assessment of any development application.

The site is located within the *Sandplain Medium Density* character area of Umina Beach. The desired character statement for this locality (summarized) recommends that:

'This 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.

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.

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.'

The proposed development has been assessed against the above character statement and is found to not be in contravention to the desired future character of the area. The proposed development reflects the features of the traditional mid-Twentieth Century bungalows of the peninsula, and provides a traditional "street address" with visible verandahs, living rooms and front doors.

2.2 Scenic Quality

The proposal is subject to the provisions of Gosford Development Control Plan (DCP) 2013 Chapter 2.2 Scenic Quality and is located within the Peninsula Geographic Unit encompassing

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the Woy Woy, Umina and Woy Woy Bays Landscape Unit. The relevant – development objective of the landscape unit in question are summarised as follows:

- *On a visual quality basis, higher density development can be supported in more central areas of the Woy Woy/Umina landscape unit subject to other physical constraints being adequately addressed.*

The proposed development is considered to be compatible with the objective as the site is located central to the Umina Town Centre area, and the development would not interfere with the views to or from the Brisbane Water Escarpment.

The development is found to be compatible and proportionate in height, bulk, scale, site cover and floor area of developments envisaged for the local area.

6.3 Erosion and Sediment Control

The development application is accompanied by an erosion and sedimentation plan. Appropriate conditions have been included on the advice of Council's Environmental Health Unit.

6.4 Geotechnical Requirements for Development Applications

Earthworks are required to prepare the site for the proposed development and driveways. The objectives and requirements of Clause 6.4 of GDCP 2013 have been considered in the assessment of this application. It is considered that the proposed earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

6.6 Preservation of Trees or Vegetation

Council's Tree Officer has assessed the application and noted trees shown for removal consist of ornamentals including an olive and a Murraya. An Oleander (large shrub) located on the road reserve will also require removal due to its close proximity to the new driveway as it will become a sight hazard.

The Landscape Plan provided nominates the use of small trees suitable for the limited available area within the property such as Lilly Pilly, Flowering Gum and Blueberry Ash.

An opportunity exists for more substantial tree planting on the road reserve, which would contribute to the existing sporadic street planting of Brush Box and an appropriate condition requiring two street trees be planted has been included should an approval be granted.

As such, the proposed removal of trees is supported.

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6.7 Water Cycle Management

The site is not affected by flooding or flood planning controls. Water and sewer are available to the land. The development application is accompanied by concept drainage design plans prepared by Van Der Meer (Job No SY192031 Revision 3 dated 21/11/2019). Council's Development Engineer and Water and Sewer Officers have assessed the application and are supportive subject to conditions.

7.2 Waste Management

The Development Application is accompanied by a Waste Management Plan, prepared by Tandem Solutions. Conditions of consent will be imposed requiring the development to comply with Council's Technical Specification Waste Minimisation and Management regarding construction waste and on-going management of waste facilities.

External Consultation

NSW Police

The application was referred to NSW Police in line with the Crime Prevention Guidelines of the *New South Wales Environmental Planning and Assessment Act, 1979, Section 79C* for a *Safer by Design Crime Risk Evaluation* review of the development. NSW Police provided comments that generally support the design proposed and note that passive surveillance is sufficient to increase risk to potential offenders, and similarly, that the entry and access ways can be naturally supervised through the design. No further issues were raised.

Internal Consultation

The application was referred to the following internal officers and the following comments have been provided:

Engineering

Council's Development Assessment Engineer has reviewed the application and supports the proposal subject to conditions.

Waste Services (Garbage)

Council's Waste Services Officer reviewed the documentation supplied and required amendments to the waste storage enclosure originally proposed. The amendments were made and satisfy the concerns raised. Appropriate waste conditions have been included.

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Building Surveyor

Council's Building Surveyor has reviewed the application and supports the proposed development.

Environmental Health

Council's Environmental health officer has reviewed the application and supports the proposal subject to conditions.

Tree Assessment Officer

Council's Tree Assessment Officer has reviewed the application and supports the proposal subject to conditions.

Water and Sewer Assessment

Council's Water and Sewer Unit have reviewed the application and supports the proposed development subject to conditions.

Public Consultation

The Development Application was notified in accordance with Part 7.3 - Notification of Development Proposals of GDCP 2013 from Thursday, 26 September 2019 until close of business on Friday, 18 October 2019. A total of 43 submissions were received during the notification period.

The following is a summary of the issues raised in the notification period:

- ***A Boarding House will house criminals and lead to criminal activity in the area.***

Comment: The Boarding House proposed is of a high-quality residential layout, completely within both SEPP ARH and GLEP 2014 controls, and has a thorough Boarding House Plan of Management prepared to control unruly behavior. The management of the Boarding House will reside on site and have a hand on the day to day activities of the site. Further, a CCTV system is to be installed that will act as a deterrent for any antisocial behavior. NSW Police have reviewed the Plan of Management and the proposed floor plans and generally support the development.

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- ***Boarding Houses are not appropriate for a residential area or near a school.***

Comment: The site proposed for the *Boarding House* Zoned R1 General Residential under GLEP 2014 where *Boarding House* developments are permissible with consent. The siting of the building within the site is considered suitable in that there are adequate setbacks to residential dwellings and there will be no adverse impacts in terms of solar access, view loss, or privacy loss. In addition, the provisions of SEPP ARH permit the development of *Boarding House* within the R1 General Residential Zone statewide.

The implication that a *Boarding House* is unsuitable for a location near a school is misinformed. The future residents of this, or indeed many boarding house developments can be as varied as Doctors and Nurses on regional rotation, to people fleeing domestic violence situations. An onsite manager is at hand to monitor the activities of the residents, and all residents are to provide sufficient details to the manager upon commencement of their stay that would enable quick referral to any appropriate authorities should any issues arise.

The structure of modern boarding houses is such that the residents are more highly accounted for than those of private residential tenancies, noting that a great number of illegal secondary dwellings are located in the vicinity, many with no formal lease arrangements in place.

- ***A boarding House is better suited for a location with a train station, such as Woy Woy or Gosford***

Comment: The location of the subject development is considered suitable, with services in the form of shops and post offices nearby, and recreational activities such as the beach or numerous parks all a short walk from the site. Adequate public transport services are available from nearby the site. Whilst it may be ideal to locate Boarding House developments in Woy Woy or Gosford, or near a train station, the applicable planning controls permit the development on the subject site. • ***Lack of parking is going to cause congestion on the roadways.***

Comment: The proposed development includes on site car parking for seven cars, two motorcycles and two pushbikes. The parking proposed complies with the controls of SEPP ARH and is supported by Council's Development Engineer.

In addition, site is rated as "Very Walkable" (meaning that most errands can be accomplished on foot) and with a score of 85 out of 100 (obtained from the 'Walk Score' web tool), provides a distinctly higher ranking to the average Sydney metropolitan score of 63 out of 100, and is in an area with high levels of access to public transport facilities with several bus services located within walking distance of the site.

- ***The development is more closely aligned to a unit development, not a boarding House development, and should be assessed as such.***

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Comment: The proposed development has been lodged seeking approval for a Boarding House development and has been designed within the parameters of all applicable controls. The room sizes, amenities, communal living rooms, plans of management, parking arrangements, and on site management all indicate that the building is to be used as a boarding house, and not as residential apartments.

In addition, as per the Boarding Houses Act 2012, a Condition requiring the development be registered as a Boarding House with NSW Fair Trading is included, and an additional condition detailing the requirement that the building can only be used as a Boarding House for the lifetime of the consent.

- ***The development will lead to amenity impacts on the adjacent properties through partying and loud guests.***

Comment: The Plan of Management and on-site manager of the boarding house are both capable of monitoring the behaviour of guests of the building. To allow a better management of the potential impacts of noise and parties from the rooms, Council's Environmental Health Unit have recommended a condition that stipulates the times that the outdoor areas of each room can be used, reproduced below:

- Restrict the use of the outdoor private courtyards or balconies or any outdoor common part of the boarding house (including communal lounge) to:
 - Friday and Saturdays 7.00am to 10.00pm
 - Monday to Thursday 7.00am to 9.00pm
 - Sunday and Public Holidays 8.00am to 9.00pm

Any variation to these hours is subject to the prior consent of Council.

The ongoing use of the site is adequately controlled through conditions of consent and on site management so as not to cause amenity impacts to adjacent and adjoining dwellings.

- ***The upstairs rooms will cause a loss of privacy to adjoining dwellings.***

Comment: The design of the proposed boarding house locates four of the six first floor rooms with a north south orientation, which through the east to west arrangement of the allotment, could result in the living rooms and balcony areas overlooking the adjoining dwellings to the north or south. To mitigate this the applicant has provided privacy screens to the outer wall of the balconies of rooms 7, 8, 9, and 10, which are conditioned to remain fixed in place and to angle the horizontal slats such that no view in a downward manner is available to residents of the rooms from either within the room, or on the balcony.

Room 6 proposes three windows that face north, two of which are from a living room and bedroom respectively. To mitigate impacts to privacy that may occur from this room a

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condition requiring the windows be occluded to a height of 1500mm has been recommended.

Room 11 is the remaining first floor room and provides no physical mitigation measures to ensure privacy to adjoining dwellings. The room however is located with a minimum setback of 3.2m to the northern boundary, and 3.3m to the southern boundary. The location is such that minimal opportunities present themselves for overlooking neighbouring dwellings, and no issue is raised in relation to this room.

Likely Impacts of the Development

a) Built Environment

The proposed development complements the existing built form of the wider streetscape and is considered a good planning outcome for the site. The proposed development is consistent with the uses envisaged for the *R1 General Residential* zone. The building design is not detrimental to the amenity of the area, nor will it detract from the existing residential scale of development in the direct vicinity.

b) Natural Environment

The proposal is satisfactory in relation to impacts on the natural environment as identified throughout this report. The trees to be removed to accommodate the proposed development are to be replaced and Conditions requiring the planting and ongoing maintenance of the vegetation are proposed as part of any consent granted. No adverse impacts to the natural environment would manifest as a result of the proposed works.

c) Economic Impacts

No substantial economic impacts will arise from the approval of this Boarding House. A caretakers job will be created, and potentially ongoing cleaning jobs. Notwithstanding, there will be minor short-term economic benefits during construction.

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d) Social Impacts

As discussed throughout this report, it is not anticipated that any social impacts will arise from the approval of the proposed works. The new *Boarding House* will be conditioned to implement recommendation from NSW Police. The development has considered the principles of Crime Prevention Through Environmental Design (CPTED) and is found to not be inconsistent with the key principles and will incorporate CCTV to monitor public areas of the development.

Ecologically Sustainable Development 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 incorporates satisfactory stormwater and drainage outcomes and is not considered to result in any adverse impacts on the site. The proposal incorporates landscaping well in excess of that to be removed. The development is unlikely to have any significant adverse impacts on the environment.

The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments. As such, the proposed works will not decrease environmental quality for future generations.

Climate Change

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application.

This 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, withstand these potential impacts.

The proposed development is considered satisfactory in relation to climate change.

Suitability of the Site for the Development:

A review of Council's records has identified that there are no constraints that would render the site unsuitable for the development of the site.

**3.1 DA57231/2019 - 454 Ocean Beach Road
UMINA BEACH
Proposed 11 Room Boarding House Development with Caretakers
Residence (contd)**

Other Matters for Consideration

Development Contribution Plan

The site is subject to *Regional Section 7.12 Development Contributions Plan 2019*. The cost of works, being \$1,199,137.50. which results in a contribution fee, calculated at 1%, being \$11,991.37. Appropriate conditions have been included.

Water and Sewer Contributions

Water and sewer is available to the land. The payment of water and sewer contributions is applicable and imposed by the Water Authority. The proponent must obtain a section 307 certificate for the development of the land.

The Public Interest

The proposed new *Boarding House* on the *R1 General Residential* zoned land within Umina Beach is considered an appropriate use of the site. The site is centrally located and will provide a residential accommodation option that is not prevalent in the area.

Considered against the controls of SEPP ARH, the objectives of the zone and the controls within GLEP 2014 and GDCP 2013, the approval of the application is considered to be in the public interest.

Conclusion

The Development Application has been assessed against the heads of consideration of s4.15 of the EP&A Act and all other relevant instruments and polices and, on balance, the proposed development is considered reasonable. Therefore, it is recommended that the Local Planning Panel grant approval to DA57231/2019, subject to the draft conditions included in Attachments.

Attachments

- | | | |
|----------|--|----------------------------------|
| 1 | DA57231 - Proposed Conditions of Consent V1 | D14113115 |
| 2 | D14124555 Amended Plans DA57231 L32 DP7807
H454 Ocean Beach Rd UMINA BEACH (Redacted) | |
| 3 | D14124557 Place holder 454 Ocean Beach Rd
Umina Beach Boarding House Plans (Full set) | Provided Under
Separate Cover |

Attachment 1

DA57231/2019 – Boarding House with Managers residence
Description of Land - Lot 32 DP 7807, 454 Ocean Beach Road UMINA BEACH

1... PARAMETERS OF THIS CONSENT**1.1. Approved Plans and Supporting Documents**

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

Architectural Plans by CDR Design PTY LTD

Drawing	Description	Issue	Date
DA/02	Site Analysis	B	30.08.2019
DA/03	Site Plan	C	30.11.2019
DA/04	Ground Floor Plan	E	30.11.2019
DA/05	First Floor Plan	C	30.11.2019
DA/06	Roof Plan	C	30.11.2019
DA/07	Street Elevations	C	30.11.2019
DA/08	East and West Elevations	C	30.11.2019
DA/09	North and South Elevations	D	30.11.2019
DA/10	Sections AA and BB	C	30.11.2019
DA/11	Section CC	B	30.08.2019
DA/12	Context Sections	C	30.11.2019
DA/13	Landscape Area Plan	B	30.08.2019
DA/14	GFA Plans	B	30.08.2019
DA/15	Room Area Plans	B	30.08.2019
DA/31	Bin Enclosure Design	A	30.11.2019

Supporting Documentation

Document	Prepared by	Reference	Date
Survey Plan	RGM Property Surveys	171152-001	11.09.2017
Window Schedule	CDR Design Pty Ltd	-	-
Waste Management Plan	Tandem Solutions	-	November 2019
Boarding House Management Plan	CDR Design Pty Ltd	-	December 2019
Finishes Schedule	CDR Design Pty Ltd	-	September 2019
CPTED Report	CDR Design Pty Ltd	-	September 2019
Landscape Plan	The Landscape Company	0612/19 AA	06.12.2019

Statement of Environmental Effects	CDR Design Pty Ltd	-	September 2019
BCA Report	DPC	R2	11.09.2019
Access Report	Access-i	19095	December 2019
Section J Report	Sustainable Thermal Solutions	1	14.09.2019
Basix	Sustainable Thermal Solutions	1042528M	14.09.2019
Stormwater Management Report	van der meer	3	12.11.2019

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

2... PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

- 2.1. All conditions under this section must be met prior to the issue of any Construction Certificate.
- 2.2. 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
- 2.4. Submit a dilapidation report to Council with the Roads Act application and / or Construction Certificate application. The report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, street trees, street signs or any other Council assets in the vicinity of the development. The dilapidation report may be updated with the approval of the Principal Certifying Authority prior to the commencement of works.
- 2.5. Submit an application to Council under section 138 of the *Roads Act 1993* for the approval of required works to be carried out within the road reserve.

Submit to Council Engineering plans for the required works within a public road that have been designed by a suitably qualified professional in accordance with Council's *Civil Works Specification* and Chapter 6.3 *Erosion Sedimentation Control* of the Gosford Development

Control Plan 2013. The Engineering plans must be included with the Roads Act application for approval by Council.

Design the required works as follows:

- a. Footway formation across the frontage of the site in Ocean Beach Road graded at +2% from the kerb and gutter to the property boundary
- b. Removal of the existing concrete footpath and construction of new reinforced concrete footpath across the frontage of the site in Ocean Beach Road to the new footway levels, including tie in works as required within the frontage of the neighbouring properties.
- c. Removal of the redundant layback in Ocean Beach Road and replacement with new kerb & gutter.
- d. Construction of a new reinforced concrete vehicle access crossing in Ocean Beach Road with a minimum width of 3.5m at the kerb line & splayed to 3m at the property boundary.
- e. A new kerb inlet pit in Ocean Beach Road over the existing Council stormwater pipeline and connection of stormwater from the development site to the kerb inlet pit.
- f. Removal of the landscaped hedge in the laneway to facilitate turning movements into and out of the car parking areas.
- g. Widening of the pavement in the rear laneway to provide a full width pavement across the site frontage.
- h. Full width resurfacing of the pavement in the laneway across the full frontage of the site to the existing surface levels.

The Roads Act application must be approved by Council prior to the issue of a construction certificate

- 2.6 Submit an application to Council under Section 305 of the *Water Management Act 2000* to obtain a Section 307 Certificate of Compliance. The *Application for a 307 Certificate under Section 305 Water Management Act 2000* form can be found on Council's website www.centralcoast.nsw.gov.au. Early application is recommended.

A Section 307 Certificate must be obtained prior to the issue of any Construction Certificate.

- 2.7 Submit design details of the following engineering works within private property:
- a) driveways and car parking areas must be designed according to the requirements of Australian Standard AS 2890: Parking Facilities for the geometric designs, and industry Standards for pavement designs
 - b) a stormwater detention system must be designed in accordance with Chapter 6.7 - Water Cycle Management of the Gosford Development Control Plan 2013. and Council's Civil Works Specification. The stormwater detention system must limit post development flows from the proposed development to less than or equal to predevelopment flows for all storms up to and including the 1% Annual Exceedance Probability (AEP) storm event. A runoff routing 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. The on-site detention system shall be generally in accordance with the Stormwater (Water Cycle) Report prepared by Van Der Meer (Job No SY192-031 Revision 3 dated 21/11/2019).
- c) nutrient/pollution control measures must be designed in accordance with Chapter 6.7 - Water Cycle Management of the Gosford Development Control Plan 2013. A nutrient / pollution control report including an operation and maintenance plan must accompany the design. The nutrient/pollution control measures shall be generally in accordance with the Stormwater (Water Cycle) Report prepared by Van Der Meer (Job No SY192-031 Revision 3 dated 21/11/2019).
 - d) on-site stormwater retention measures must be designed in accordance with Chapter 6.7 - Water Cycle Management of the Gosford Development Control Plan 2013. 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. The on-site retention measures shall be generally in accordance with the Stormwater (Water Cycle) Report prepared by Van Der Meer (Job No SY192-031 Revision 3 dated 21/11/2019).
 - e) piping of all stormwater from impervious areas within the site via an on-site stormwater detention structure to Council's drainage system located in Ocean Beach Road, generally in accordance with the Stormwater (Water Cycle) Report prepared by Van Der Meer (Job No SY192-031 Revision 3 dated 21/11/2019).
 - f) A maximum height of 1m shall be required for fencing and landscaping within a 2m x 2.5m splay for sight distance to pedestrians as per section 3.2.4 and fig 3.3 of AS2890.1:2004.
- 2.8 Submit an application to Council under section 305 of the Water Management Act 2000 to obtain a section 307 Certificate of Compliance. The Application for a 307 Certificate under section 305 Water Management Act 2000 form can be found on Council's website www.centralcoast.nsw.gov. Early application is recommended.
- A section 307 Certificate must be obtained prior to the issue of any Construction Certificate.
- 2.9 Pay to Council a contribution amount of **\$11,991.37**, that may require adjustment at time of payment, in accordance with the Central Coast Regional Section 7.12 Development Contribution Plan 2019.

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

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

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

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

[Development Contributions - former Gosford LGA](#)

3... PRIOR TO COMMENCEMENT OF ANY WORKS

- 3.1. All conditions under this section must be met prior to the commencement of any works.
- 3.2. Appoint a Principal Certifying Authority for the building work:
 - a) The Principal Certifying Authority (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 Works or Notice of Commencement of Subdivision Works form giving at least two (2) days' notice of the intention to commence building or subdivision work. The forms can be found on Council's website: www.centralcoast.nsw.gov.au
- 3.3. Erect a sign in a prominent position on any work site on which building, subdivision or demolition work is being carried out. The sign must indicate:
 - a) The name, address and telephone number of the Principal Certifying Authority for the work; and
 - b) The name of the principal contractor and a telephone number at which that person can be contacted outside of working hours; and
 - c) That unauthorised entry to the work site is prohibited.
 - d) Remove the sign when the work has been completed.
- 3.4. Submit to the Principal Certifying Authority a Traffic and Pedestrian Management Plan prepared by a suitably qualified professional.

The Plan must be prepared in consultation with Council, and where required, the approval of Council's Traffic Committee obtained.

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

- ingress and egress of vehicles to the Subject Site

- loading and unloading, including construction zones
- predicted traffic volumes, types and routes
- pedestrian and traffic management methods, and
- other relevant matters

The Applicant must submit a copy of the final Plan to Council, prior to the commencement of work.

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

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

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

- 3.6 Provide and maintain a garbage receptacle at the work site until the works are completed. The garbage receptacle must have a tight fitting lid and be suitable for food scraps and papers.
- 3.7 Undertake demolition involving asbestos in accordance with the Work Health and Safety Act 2011.

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

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

The licensed asbestos removalist must give notice to the regulator before work commences in accordance with Clause 466 of the Work Health and Safety Regulation 2017

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

Each toilet must:

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

- 3.9 Other public authorities may have separate requirements and should be consulted prior to commencement of works in the following respects:
- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;
 - AGL Sydney Limited for any change or alteration to gas line infrastructure;
 - Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
 - Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure.

4... DURING WORKS

- 4.1. All conditions under this section must be met during works.
- 4.2. Carry out construction or demolition works during the construction phase of the development only between the hours as follows:
- 7.00am and 5.00pm Monday to Saturday
- No construction or demolition works associated with the development are permitted to be carried out at any time on a Sunday or a public holiday.
- 4.3. During the construction phase of the development, if any Aboriginal object (including evidence of habitation or remains), is discovered during the course of the work:
- a) All excavation or disturbance of the area must stop immediately in that area, and
 - b) The Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the *National Parks and Wildlife Act 1974*.
- Note:** If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the *National Parks and Wildlife Act 1974*.
- 4.4 Implement all erosion and sediment control measures and undertake works in accordance with the approved Erosion and Sediment Control Plan prepared by van der Meer Consulting, dated 24.04.2019. Update the plan as required during all stages of the construction or in accordance with the 'Blue Book' (Managing Urban Stormwater: Soils and Construction, Landcom, 2004).
- 4.5 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 Certifying Authority 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.
- 4.6 Re-use, recycle or dispose of all building materials during the demolition and construction phase of the development in accordance with the Waste Management Plan signed by Tandem Solutions, dated November 2019.
 - 4.7 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 Certifying Authority or an officer of Council.
 - 4.8 Notify Council when plumbing and drainage work will be ready for inspection(s) and make the work accessible for inspection in accordance with the *Plumbing and Drainage Act 2011*.
 - 4.9 Place all building materials, plant and equipment on the site of the development during the construction phase of the development so as to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure. Further, no construction work is permitted to be carried out within the road reserve unless the works are associated with a separate approval issued under the provisions of the Roads Act 1993.
 - 4.10 Undertake the removal of any tree located on Council managed land due to works approved by a Development Application at the full cost and responsibility of the developer using a Pre-qualified Tree Contractor. Contact Central Coast Council on 02 4325 8222 for the current list of relevant contractors.
 - 4.11 Arrange with the relevant service provider / Authority (eg. Ausgrid, Jemena, NBN or other communications provider) for the supply of services concurrently with the engineering works required by this consent. Arrangements must include, where required, any relocation of existing mains and services, and dedication of easements for mains and services.

5... PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE

- 5.1 All conditions under this section must be met prior to the issue of any Occupation Certificate.
- 5.2 Complete the building in accordance with the relevant provisions and requirements of the National Construction Code Series.
- 5.3 Provide any additional civil works required to ensure satisfactory transitions to existing work as a result of work conditioned for the development. Works are to be approved by Council as the Roads Authority.
- 5.4 Complete works within the road reserve in accordance with the approval under the Roads Act 1993. The works must be completed in accordance with Council's Civil Design Guide, Construction Specifications and Standard Drawings and Chapter 6.3 - Erosion

Sedimentation Control of the Gosford Development Control Plan 2013. Documentary evidence for the acceptance of such works must be obtained from the Roads Authority.

- 5.5 Construct the stormwater management system in accordance with the approved Stormwater Management Plan and Australian Standard AS 3500.3-2004: Stormwater drainage systems. Certification of the construction by a suitably qualified consultant must be provided to the Principal Certifying Authority.
 - 5.6 Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority. The Occupation Certificate application is to satisfy all of the requirements of the *Environmental Planning and Assessment Regulation 2000*.
 - 5.7 Rectify to the satisfaction of Council any damage not shown in the dilapidation report submitted to Council before site works had commenced. Any damage will be assumed to have been caused as a result of the site works undertaken and must be rectified at the developer's expense.
 - 5.8 Complete the internal engineering works within private property in accordance with the plans and details approved with the construction certificate.
 - 5.9 Amend the Deposited Plan (DP) to:
 - 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
 - a) create a Restriction as to 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
- And,
- 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. Contact Council for wording of the covenant(s)
 - 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 owners cost
 - iv. Council is indemnified against all claims of compensation caused by the facility

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

- 5.10 Prior to the issue of an Occupation Certificate, the required rainwater tank of at least 10,000L is to be provided in the location as detailed within the approved development plans with suitable plumbing connections provided to collect rainwater from the roof area of the entire roof.

The required rainwater tank is to be installed in accordance with the requirements of the National Plumbing and Drainage Code AS/NZS 3500 and shall be provided with first flow diversion devices fixed to all inflows and a functioning pressure pump plumbed to service all fixtures. The required tank must be controlled in order that supplemental flow from domestic mains does not take place until the capacity of the tank has been reduced to 20%.

- 5.11 The obtaining of a satisfactory final plumbing & drainage inspection advice or 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. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.
- 5.12 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*.
- 5.13 Complete the civil engineering works within the development site in accordance with the plans and details approved with the construction certificate.
- 5.14 Plant two (2) street trees on the road reserve.

Street tree species must be *Lophostemon confertus* (Brush Box).

Provide advanced specimens (minimum 45 litre pot size) that are to be evenly located and adequately staked / protected to prevent vandalism.

Do not locate trees within an authority's underground service easement nor be closer than 3m from a driveway or power pole.

- 5.15 Install a system of Closed Circuit Television (CCTV) of a type and in locations on the site that will provide high-quality images of all public areas within the site.
- 5.16 The privacy screens located atop the outer wall of the balconies of rooms 7, 8, 9, and 10 as shown on First Floor Plan DA/05, Revision C, dated 30.11.2019, and on North & South Elevations DA09, Revision D, dated 30.11.2019, both prepared by CDR Design Pty Ltd, are to be permanently fixed in place to a minimum height of 1800mm above RL8.60m with the horizontal slats angled such that no view in a downward manner is available to residents of the rooms from either within the room, or on the balcony.

- 5.17 Northern windows to Room 6 as shown on First Floor Plan DA/05, Revision C, dated 30.11.2019, and on North & South Elevations DA09, Revision D, dated 30.11.2019, both prepared by CDR Design Pty Ltd are to be finished in an opaque coating to a height of 1500mm above RL 8.75m.

6.. ONGOING OPERATION

- 6.1 Do not give rise to water pollution as defined in the *Protection of the Environment Operation Act 1997*.
- 6.2 Maintain a maximum height of 1m for fencing and landscaping within a 2m x 2.5m splay for sight distance to pedestrians as per section 3.2.4 and fig 3.3 of AS2890.1:2004.
- 6.3 Register the Boarding House with Fair Trading within 28 days of commencing operations.
- 6.4 Restrict the number of occupants to 2 adult per room (maximum occupancy 22 adults in the boarding house at any one time).
- 6.5 Restrict the use of the outdoor private courtyards or balconies or any outdoor common part of the boarding house (including communal lounge) to:

Friday and Saturdays 7.00am to 10.00pm
Monday to Thursday 7.00am to 9.00pm
Sunday and Public Holidays 8.00am to 9.00pm

Any variation to these hours is subject to the prior consent of Council.

- 6.6 Maintain an accommodation register with details of renter's names, address / contact details, and receipt for daily or weekly accommodation. The register must be made available for inspection by Council on request.
- 6.7 Restrict the hours of operation of amplified sound devices from the property to the following hours:

Fridays and Saturdays 8.00am to 10.00pm
Monday to Thursday, Sunday and Public Holidays 8.00am to 9.00pm

The noise level must not exceed 5dBA above the ambient noise level as heard at the boundary of the property.

Any variation to these hours is subject to the prior consent of Council.

- 6.8 The property is not permitted to be used for functions and/or parties.
- 6.9 Operate in accordance with the approval Boarding House Management Plan, dated December 2019.

- 6.10 Maintain all works associated with the approved Landscape Plans for a period of thirty six (36) months from the date of the issue of any Occupation Certificate to ensure the survival and establishment of the landscaping.
- 6.11 Replace all damaged, dead or missing areas of lawn and plantings at the completion of the landscaping maintenance period, including adjoining road reserve areas that are in a state of decline, to a healthy and vigorous condition in accordance with the approved detailed Landscape Plans and Development Consent Conditions.
- 6.12 Maintain the on-site detention and nutrient / pollution control facilities in accordance with the operation and maintenance plan.
- 6.13 Place the mobile garbage / recycling / green waste containers at a suitable location at the kerbside no earlier than the evening prior to the collection day and return to the location of the approved waste storage area as soon as possible after service, no later than the evening on collection day. The Boarding House Manager is responsible for the placement and return of the mobile waste containers.
- 6.14 Locate the approved waste storage areas as indicated on Ground Floor Plan DA/04, Revision E, dated 30.11.2019, prepared by CDR Design Pty Ltd.
- 6.15 Maintain the installed system of Closed Circuit Television (CCTV) that monitors / records all public areas within the site.
- 6.16 Privacy screens as described in Condition 5.16 of this consent are to be maintained in locations stipulated for the lifetime of the development.
- 6.17 Northern windows to Room 6 are to remain coated in an opaque finish to the height specified in Condition 5.17 of this consent for the lifetime of the development.

7.. 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

- The inspection fee for works associated with approvals under the Roads Act 1993 is calculated in accordance with Council's current fees and charges policy.
- Payment of a maintenance bond may be required for civil engineering works associated with this development. This fee is calculated in accordance with Council's fees and charges.
- 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 or telephone on 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property

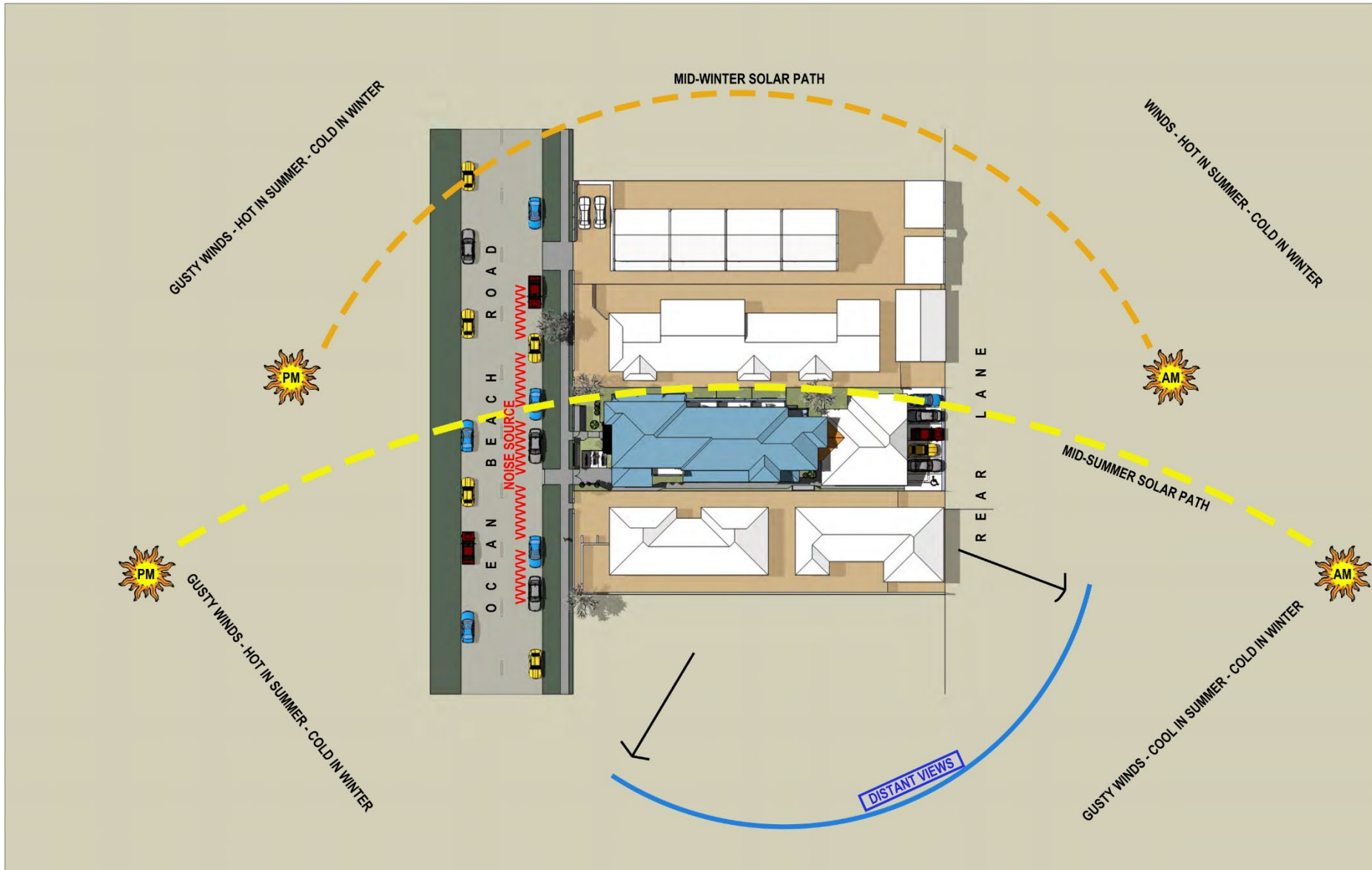
via contacting the Dial Before You Dig service in advance of any construction or planning activities.

- Telecommunications Act 1997 (Commonwealth)

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

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

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



CDR DESIGN PTY LTD
 TOWN PLANNERS ABN 70 003 329 584
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 EMAIL: Charles.raner@optusnet.com.au

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NOTES:
 This drawing is to be used for council development consent purposes only. This drawing must not be used for construction purposes of any kind nor for the purpose of, or part of, a construction certificate.
 All dimensions are in mm and layouts are indicative where both not prescriptive and both are subject to + or - 10% tolerance.

PROJECT
HiTide BOARDING HOUSE

LOCATION
**454 OCEAN BEACH ROAD
 UMINA BEACH NSW**

Drawing Title
SITE ANALYSIS

Drawn
 CDR

Checked
 CDR

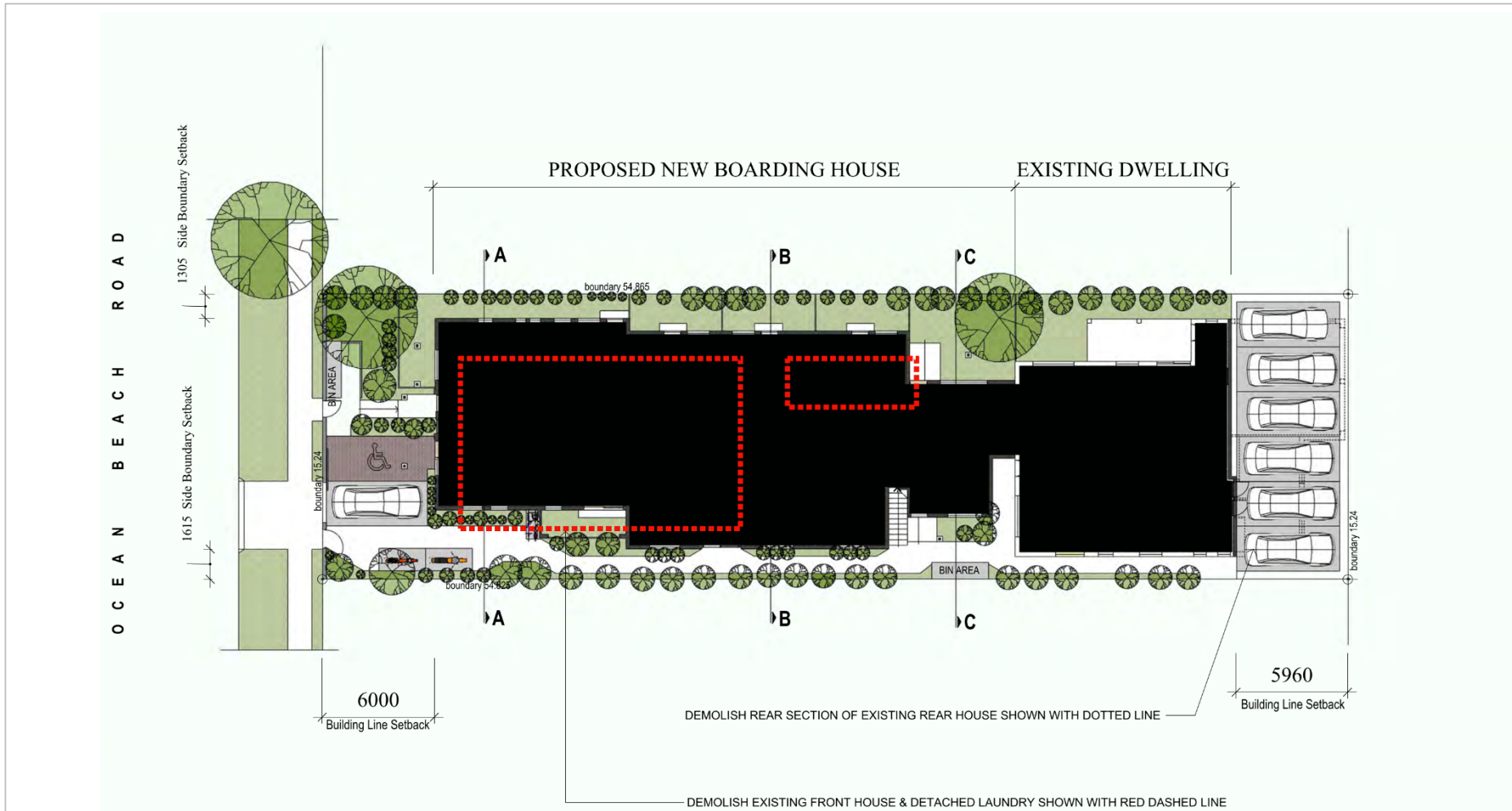
SCALE
 1:500
 @ A3

Number
DA/02

Issue
B

REVISIONS	
ISSUE	DATE
A	20 / 03 / 19
B	30 / 08 / 19
C	
D	
E	

For Development Application
 For 2nd Development Application



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PROJECT
HiTide BOARDING HOUSE

LOCATION
**454 OCEAN BEACH ROAD
 UMINA BEACH NSW**

Drawing Title
SITE PLAN

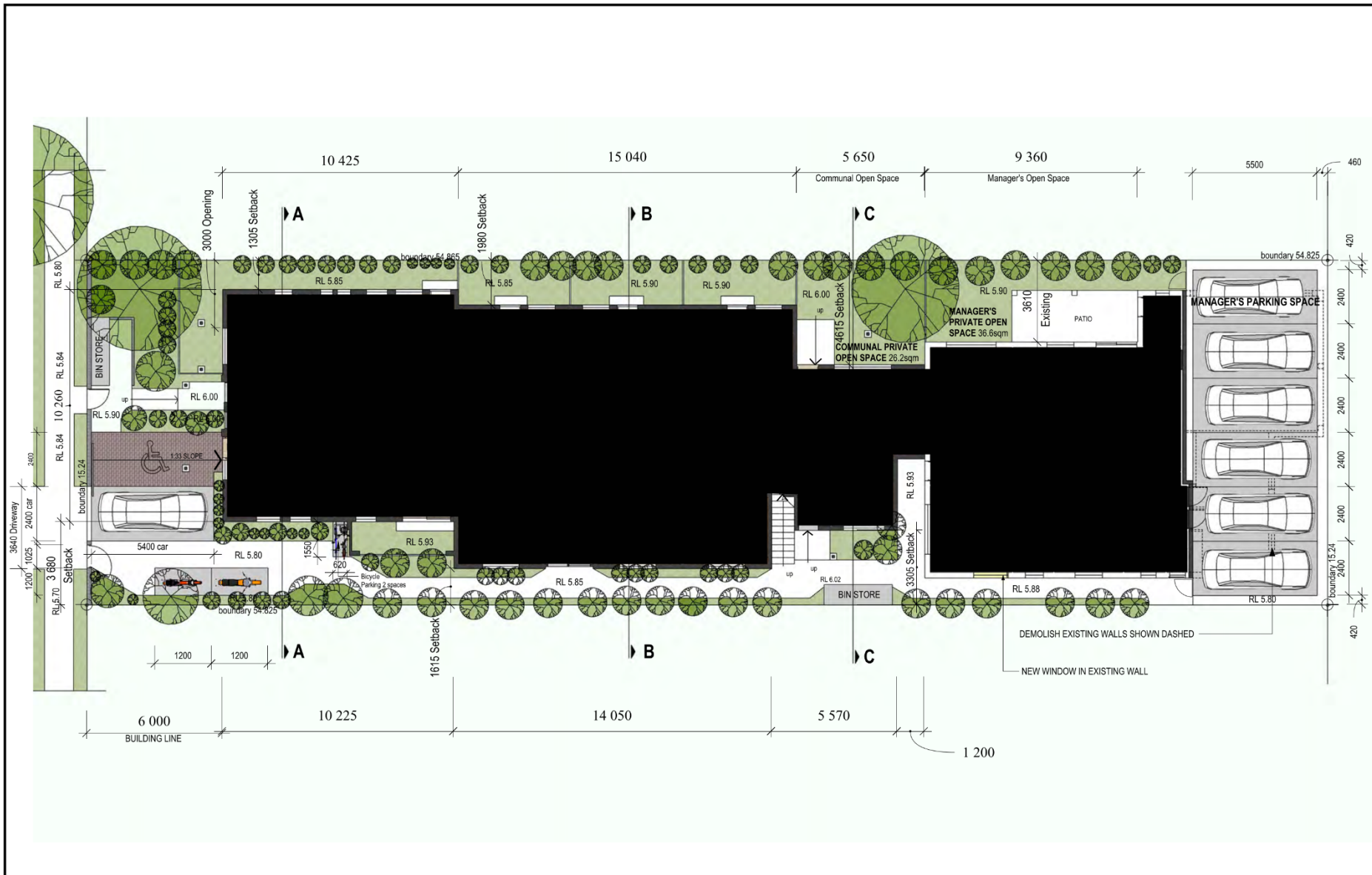
Drawn
 CDR

Checked
 CDR

SCALE
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 @ A3

Number	DA/03	
ISSUE	DATE	
A	20 / 03 / 19	For Development Application
B	30 / 08 / 19	For 2nd Development Application
C	30 / 11 / 19	Amendment of 2nd Development Application
D		
E		

REVISIONS		




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PROJECT
HiTide BOARDING HOUSE

LOCATION
**454 OCEAN BEACH ROAD
 UMINA BEACH NSW**

Drawing Title
GROUND FLOOR PLAN

Drawn
 CDR

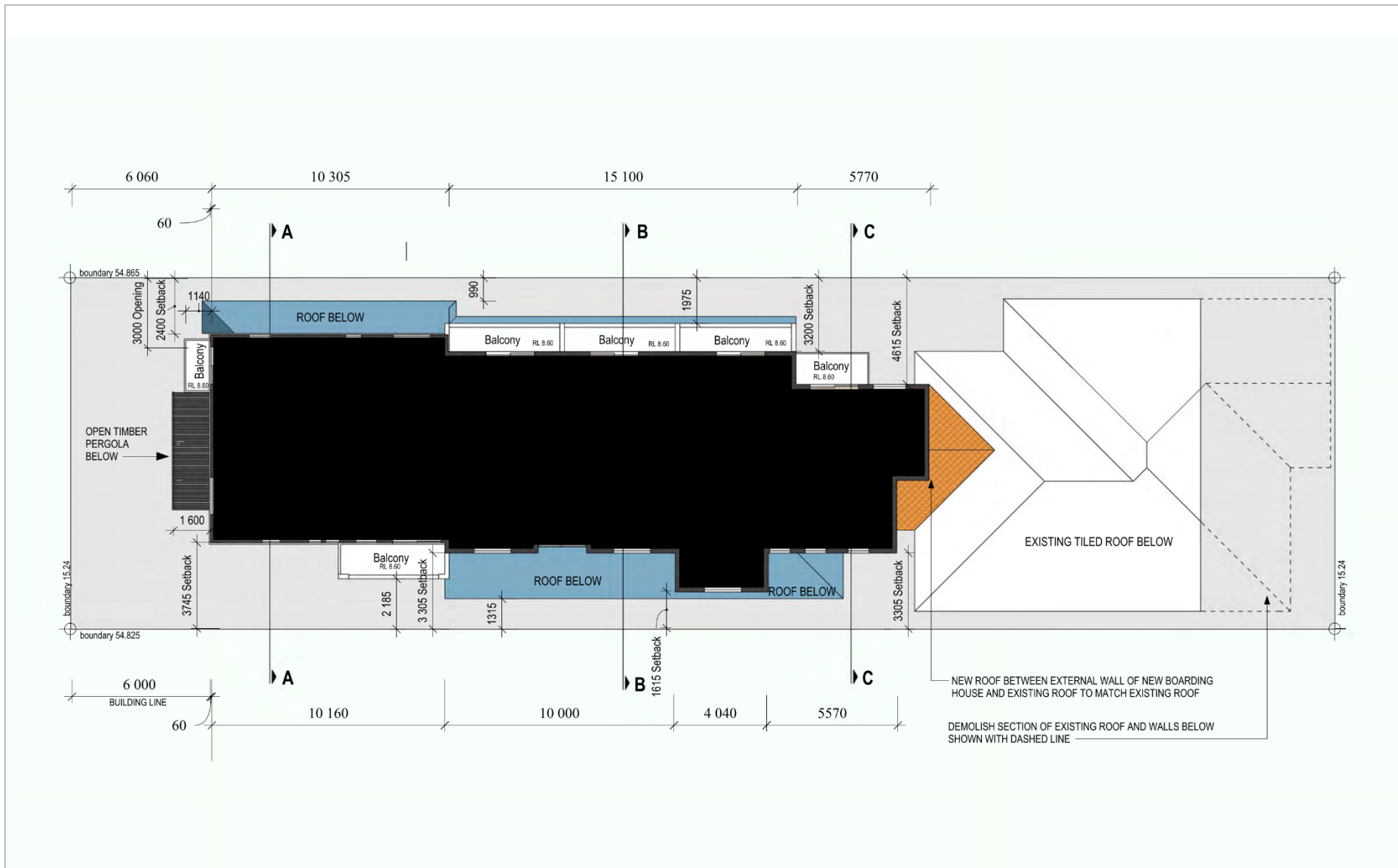
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SCALE
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Number
DA/04

Issue
E

REVISIONS		
ISSUE	DATE	
A	20 / 03 / 19	For Development Application
B	30 / 04 / 19	Various Amendments
C	30 / 07 / 19	Issued as Draft
D	30 / 08 / 19	For 2nd Development Application
E	30 / 11 / 19	Amendment of 2nd Development Application



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PROJECT
HiTide BOARDING HOUSE

LOCATION
**454 OCEAN BEACH ROAD
 UMINA BEACH NSW**

Drawing Title
FIRST FLOOR PLAN

Drawn
 CDR

Checked
 CDR

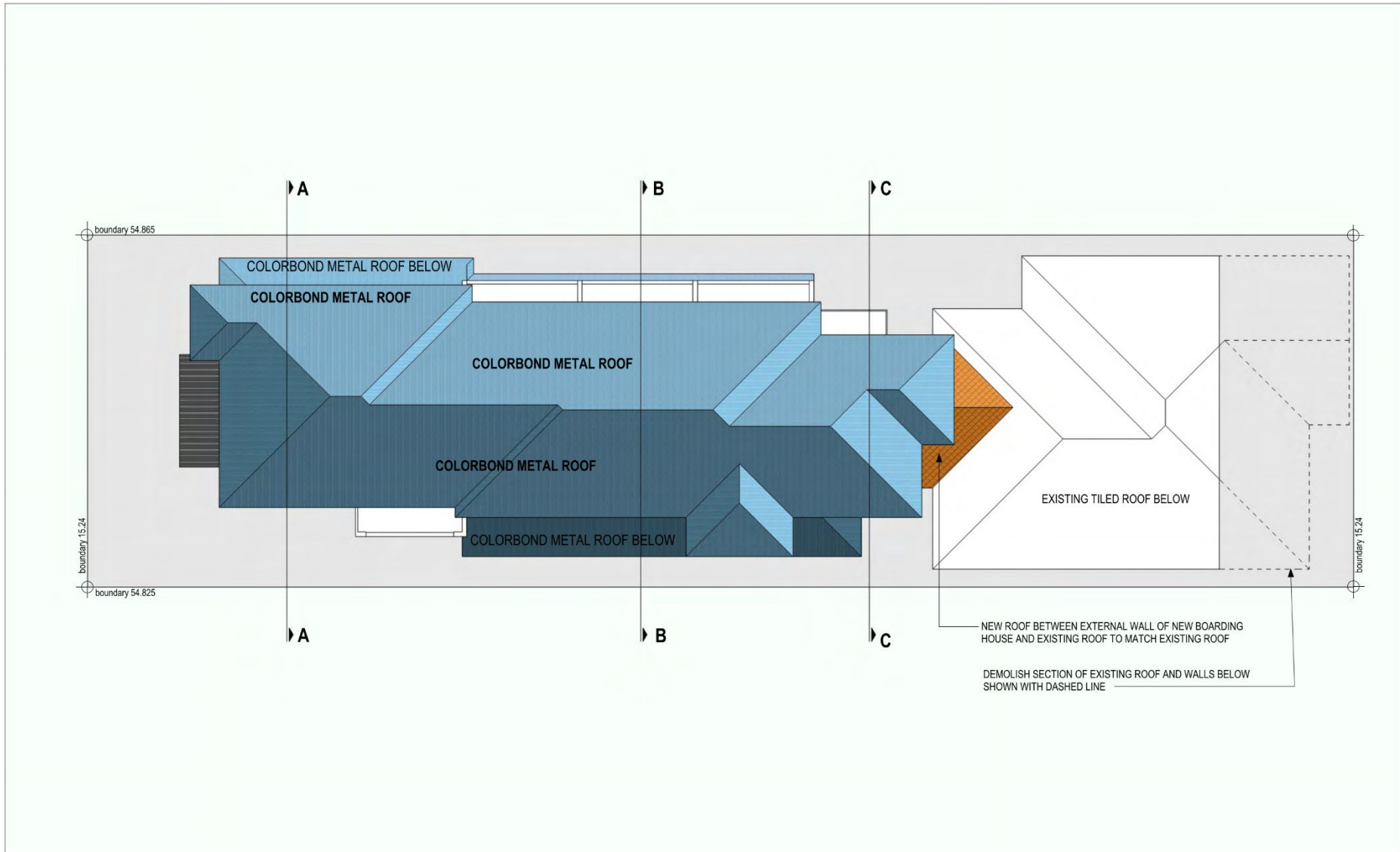
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Number
DA/05

Issue
C

REVISIONS	
ISSUE	DATE
A	20 / 03 / 19
B	30 / 08 / 19
C	30 / 11 / 19
D	
E	

For Development Application
 For 2nd Development Application
 Amendment of 2nd Development Application



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PROJECT
HiTide BOARDING HOUSE

LOCATION
**454 OCEAN BEACH ROAD
 UMINA BEACH NSW**

Drawing Title
ROOF PLAN

Drawn
 CDR

Checked
 CDR

SCALE
 1:150
 @ A3

Number
DA/06

ISSUE	DATE
A	20 / 03 / 19
B	30 / 08 / 19
C	30 / 11 / 19
D	- / - / -
E	- / - / -

Issue
C

REVISIONS	
	For Development Application
	For 2nd Development Application
	Amendment of 2nd Development Application



01. STREET ELEVATION FROM OCEAN BEACH ROAD scale 1:200



02. STREET ELEVATION FROM REAR LANE scale 1:200



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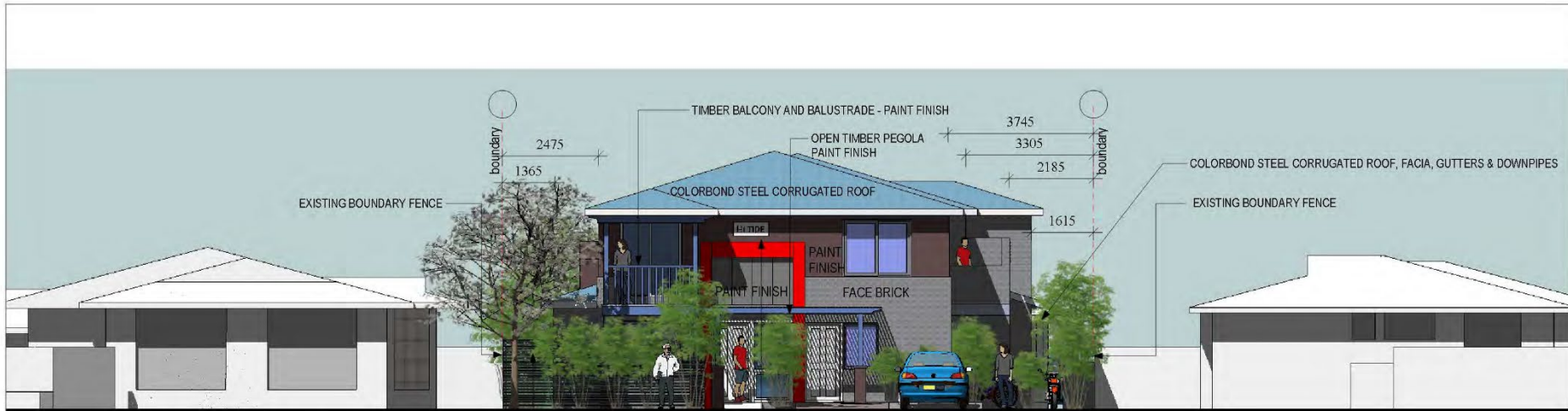
NOTES:
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PROJECT
HiTide BOARDING HOUSE

LOCATION
**454 OCEAN BEACH ROAD
 UMINA BEACH NSW**

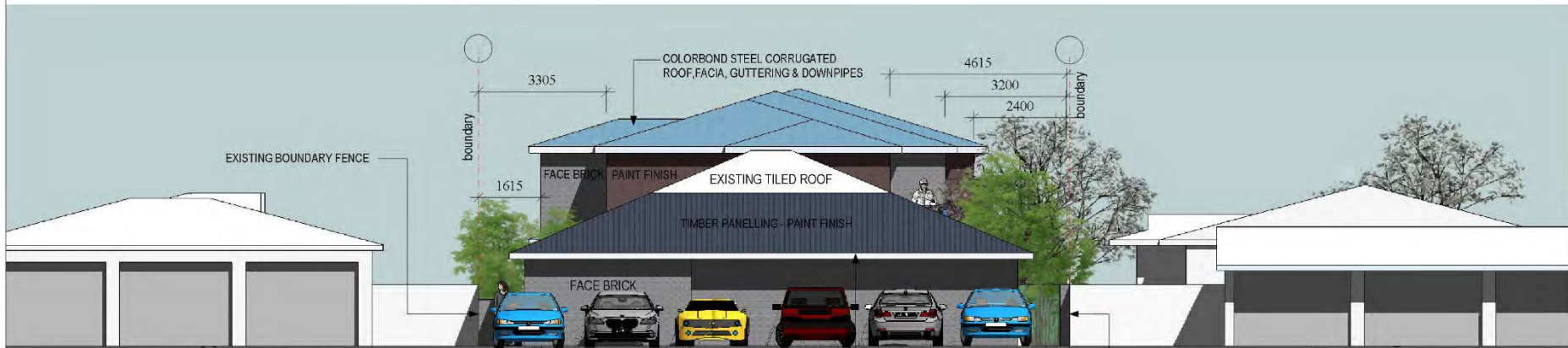
Drawing Title STREET ELEVATIONS		SCALE 1:200 & 1:100 @ A3	Number DA/07
Drawn CDR	Checked CDR	ISSUE C	REVISIONS
		ISSUE	DATE
		A	20 / 03 / 19
		B	30 / 06 / 19
		C	30 / 11 / 19
		D	/ /
		E	/ /

ISSUE	DATE	REVISIONS
A	20 / 03 / 19	For Development Application
B	30 / 06 / 19	For 2nd Development Application
C	30 / 11 / 19	Amendment of 2nd Development Application
D	/ /	
E	/ /	



01. WEST ELEVATION - FROM OCEAN BEACH ROAD

920 x 370 BUILDING SIGN
ALUMINIUM POWDERCOATED 1700 HIGH BATTEN SCREEN



02. EAST ELEVATION - FROM REAR LANE

1200 COLORBOND STEEL FACIA 1330 EXISTING BOUNDARY FENCE



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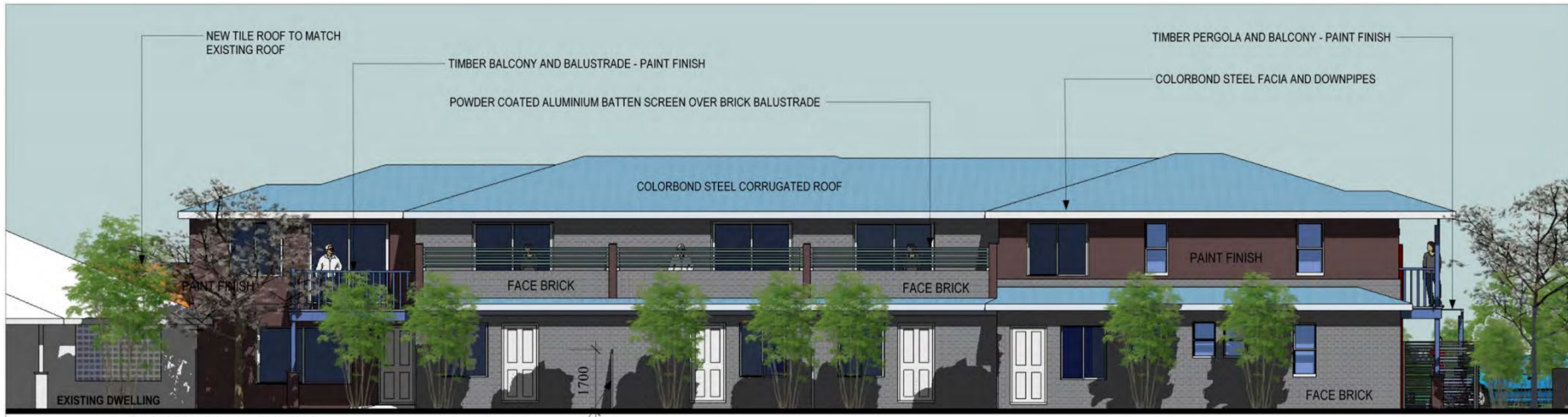
PROJECT
HiTide BOARDING HOUSE
LOCATION:
454 OCEAN BEACH ROAD
UMINA BEACH NSW

Drawing Title
EAST & WEST ELEVATIONS
Drawn CDR
Checked CDR

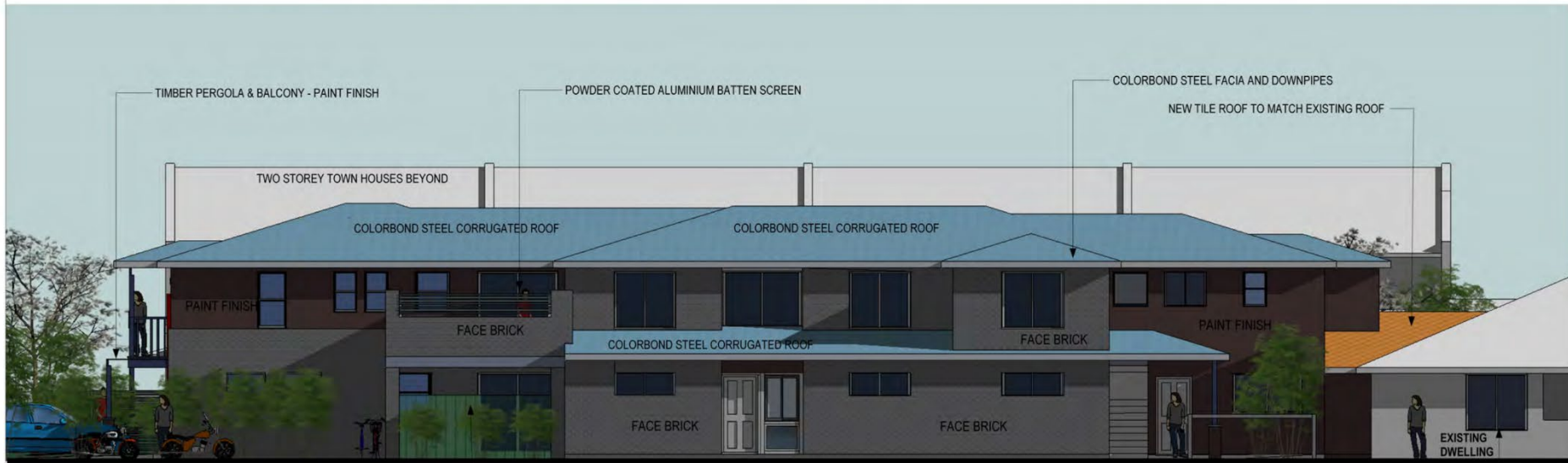
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Number
DA/02
Issue
C


ISSUE		DATE	REVISIONS
A	20 / 03 / 19		For Development Application
B	30 / 06 / 19		For 2nd Development Application
C	30 / 11 / 19		Amendment of 2nd Development Application
D	/ /		
E	/ /		

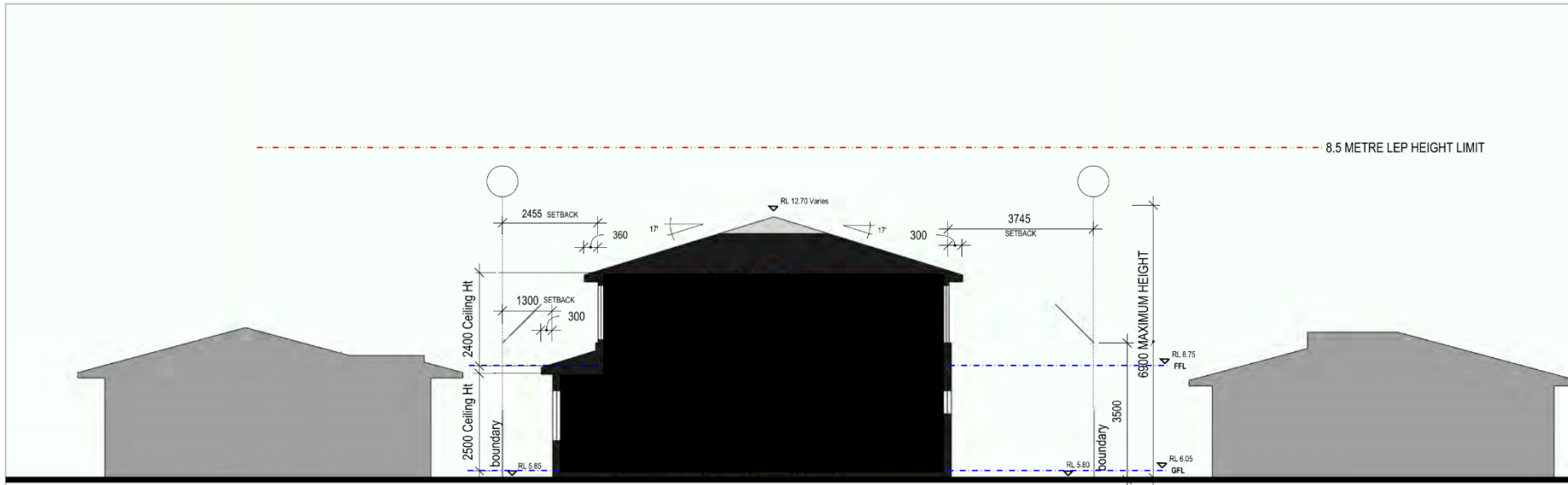


01. NORTH ELEVATION

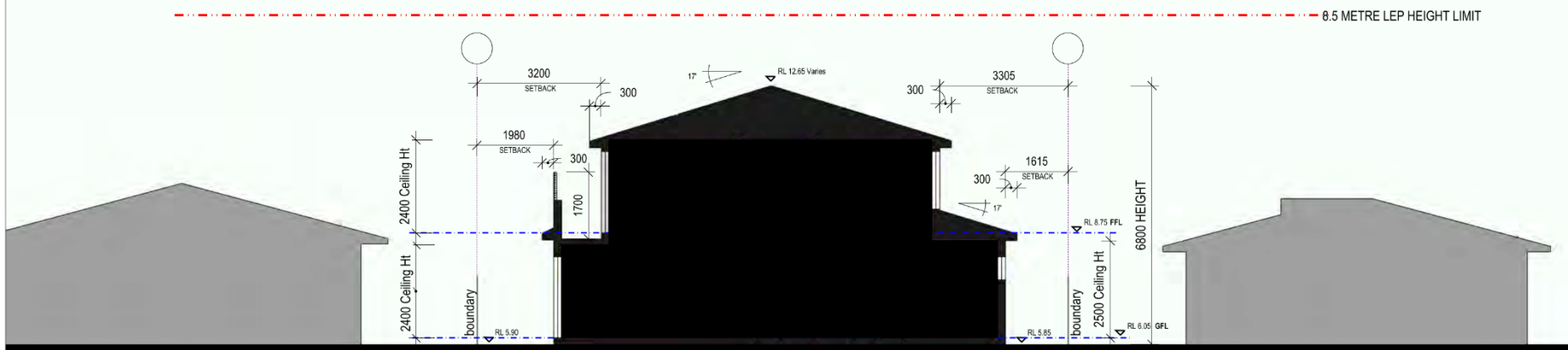


02. SOUTH ELEVATION

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						A	20 / 03 / 19	For Development Application
						B	30 / 04 / 19	Various Amendments
						C	30 / 08 / 19	For 2nd Development Application
						D	30 / 11 / 19	Amendment of 2nd Development Application
E								

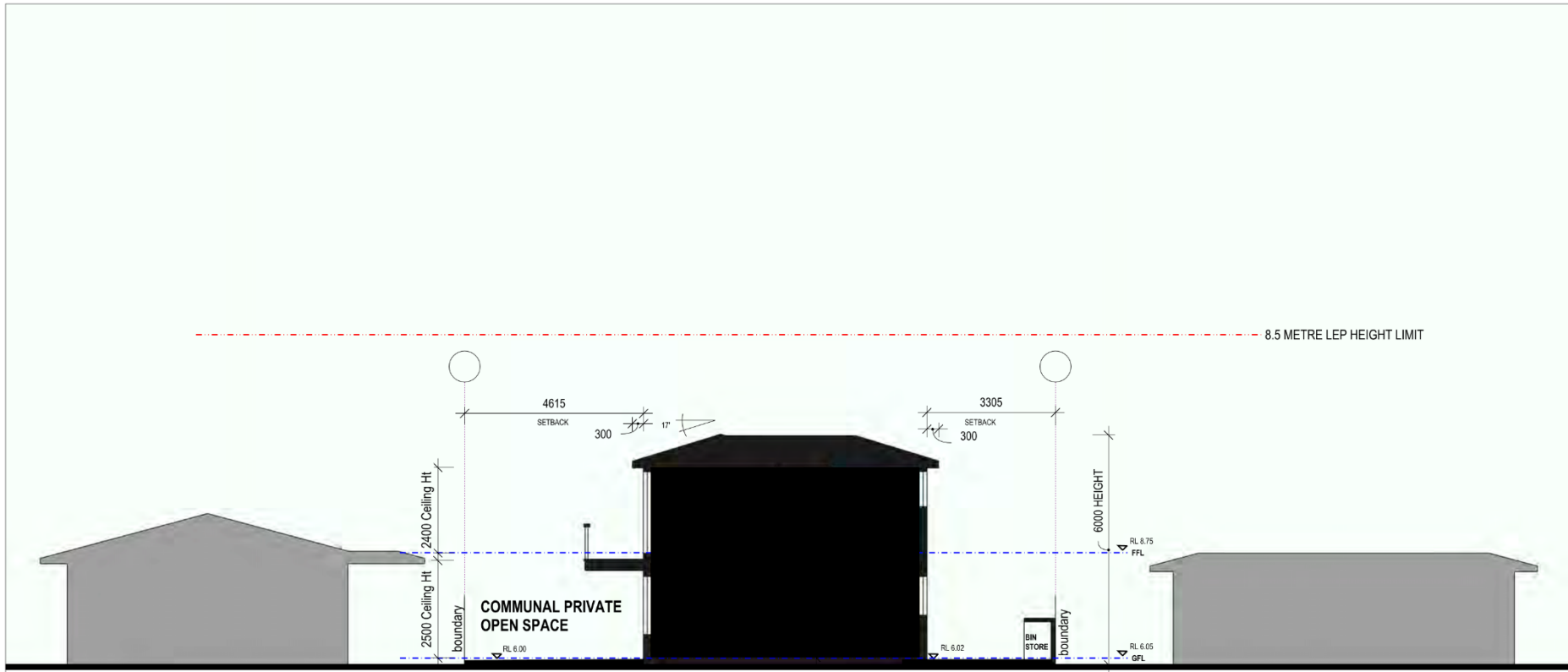


01. SECTION A : A



02. SECTION B : B

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	<p>NOTES: This drawing is to be used for council development consent purposes only. This drawing must not be used for construction purposes of any kind nor for the purpose of, or part of, a construction certificate. All dimensions are in mm and layouts are indicative where both not prescriptive and both are subject to + or - 10% tolerance.</p>	<p>LOCATION 454 OCEAN BEACH ROAD UMINA BEACH NSW</p>	<p>Drawn CDR</p>	<p>Checked CDR</p>	<p>Issue C</p>	<table border="1"> <thead> <tr> <th>ISSUE</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>20 / 03 / 19</td> <td>For Development Application</td> </tr> <tr> <td>B</td> <td>30 / 08 / 19</td> <td>For 2nd Development Application</td> </tr> <tr> <td>C</td> <td>30 / 11 / 19</td> <td>Amendment of 2nd Development Application</td> </tr> <tr> <td>D</td> <td>- / - / -</td> <td></td> </tr> <tr> <td>E</td> <td>- / - / -</td> <td></td> </tr> </tbody> </table>	ISSUE	DATE	DESCRIPTION	A	20 / 03 / 19	For Development Application	B	30 / 08 / 19	For 2nd Development Application	C	30 / 11 / 19	Amendment of 2nd Development Application	D	- / - / -		E	- / - / -		
	ISSUE	DATE	DESCRIPTION																						
	A	20 / 03 / 19	For Development Application																						
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C	30 / 11 / 19	Amendment of 2nd Development Application																							
D	- / - / -																								
E	- / - / -																								



01. SECTION C : C

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PROJECT
 HiTide BOARDING HOUSE

LOCATION
 454 OCEAN BEACH ROAD
 UMINA BEACH NSW

Drawing Title
 SECTION C:C

Drawn: CDR
 Checked: CDR

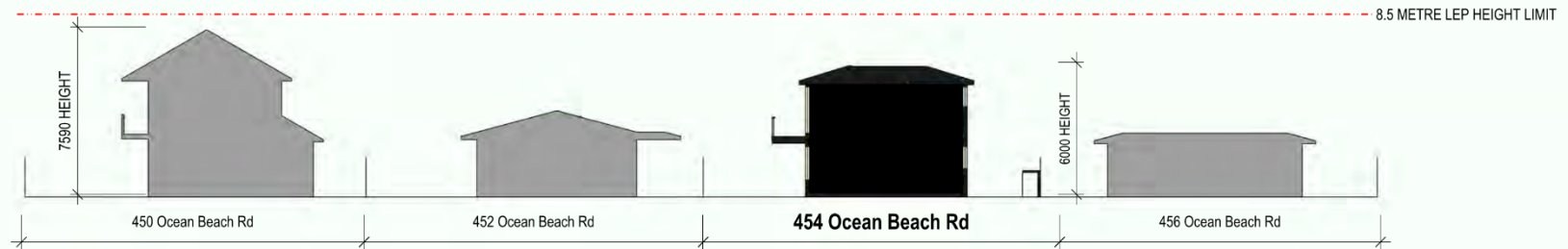
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Number
 DA/11

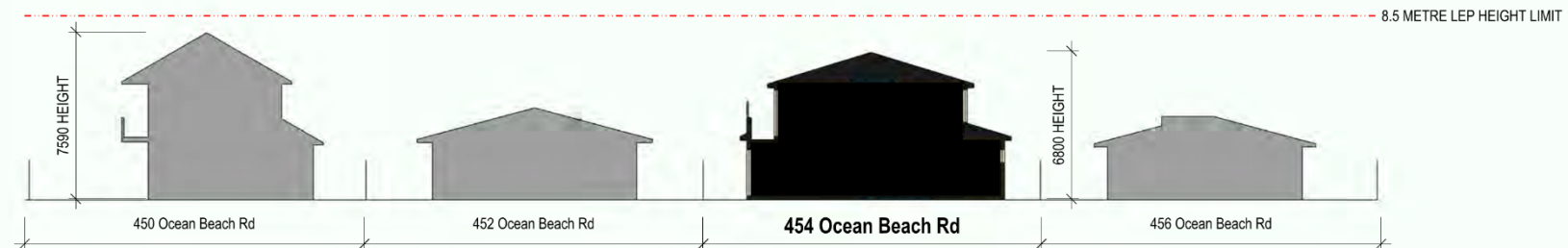
Issue
 B

REVISIONS	
ISSUE	DATE
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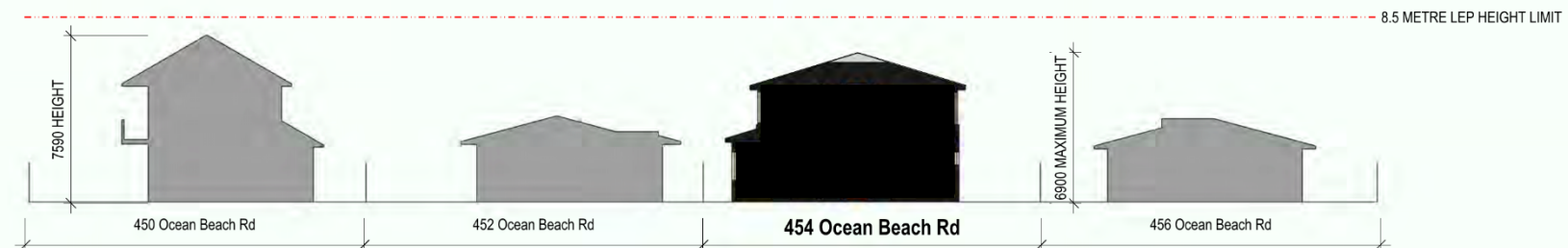
For Development Application
 For 2nd Development Application



01. SECTION C : C



02. SECTION B : B



03. SECTION A : A



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PROJECT
HiTide BOARDING HOUSE

LOCATION
**454 OCEAN BEACH ROAD
UMINA BEACH NSW**

Drawing Title
CONTEXT SECTIONS

Drawn
CDR

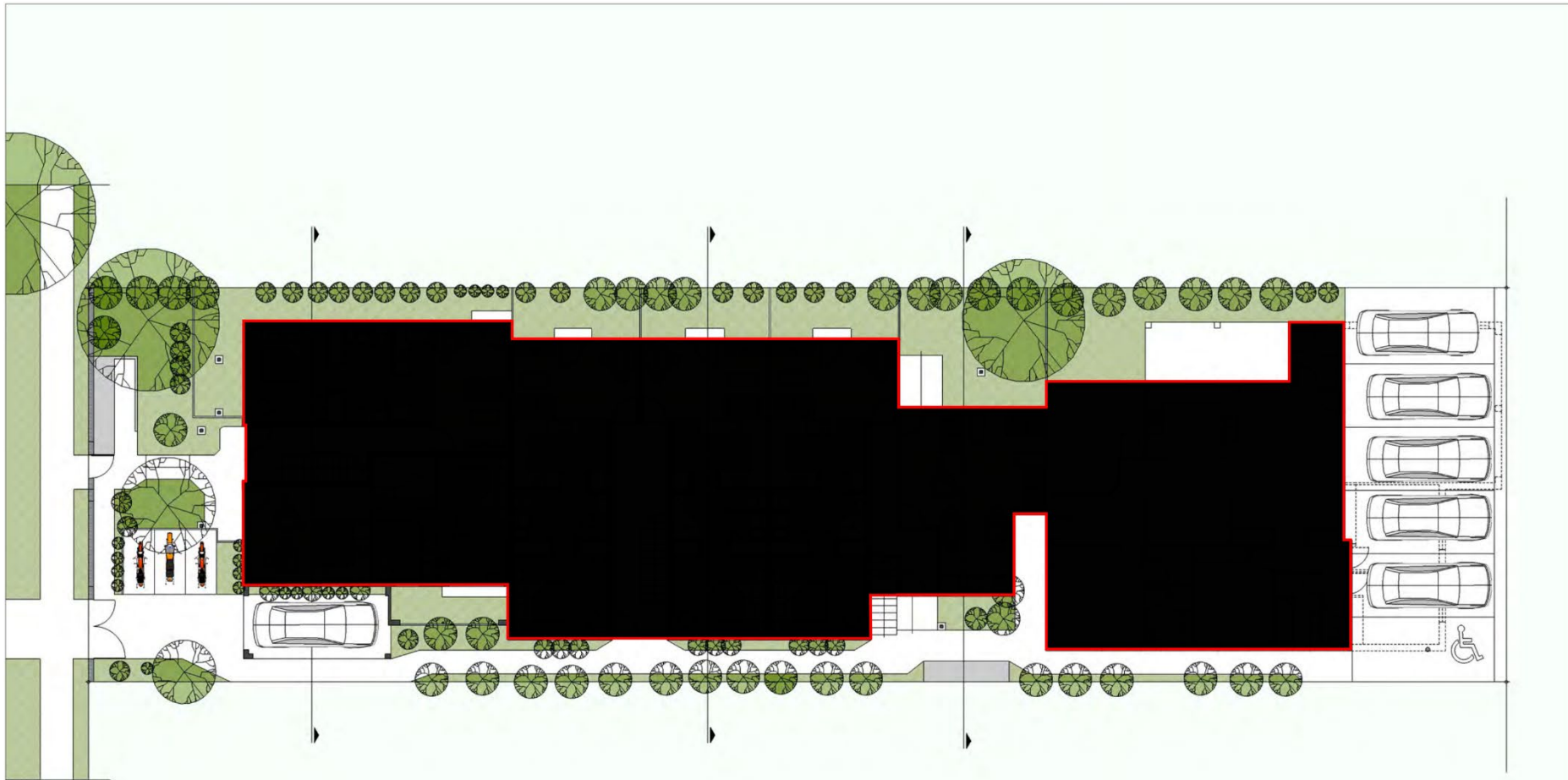
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SCALE
1:200
@ A3

Number
DA/12

Issue
C

REVISIONS	
ISSUE	DATE
A	20 / 03 / 19
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E	



BUILT UPON AREA = 441sqm
SITE AREA = 835.84sqm
SITE COVERAGE = 53%

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PROJECT
HiTide BOARDING HOUSE

Drawing Title
LANDSCAPE AREA PLAN

LOCATION
**454 OCEAN BEACH ROAD
 UMINA BEACH NSW**

Drawn
 CDR

Checked
 CDR

SCALE
 1:150
 @ A3

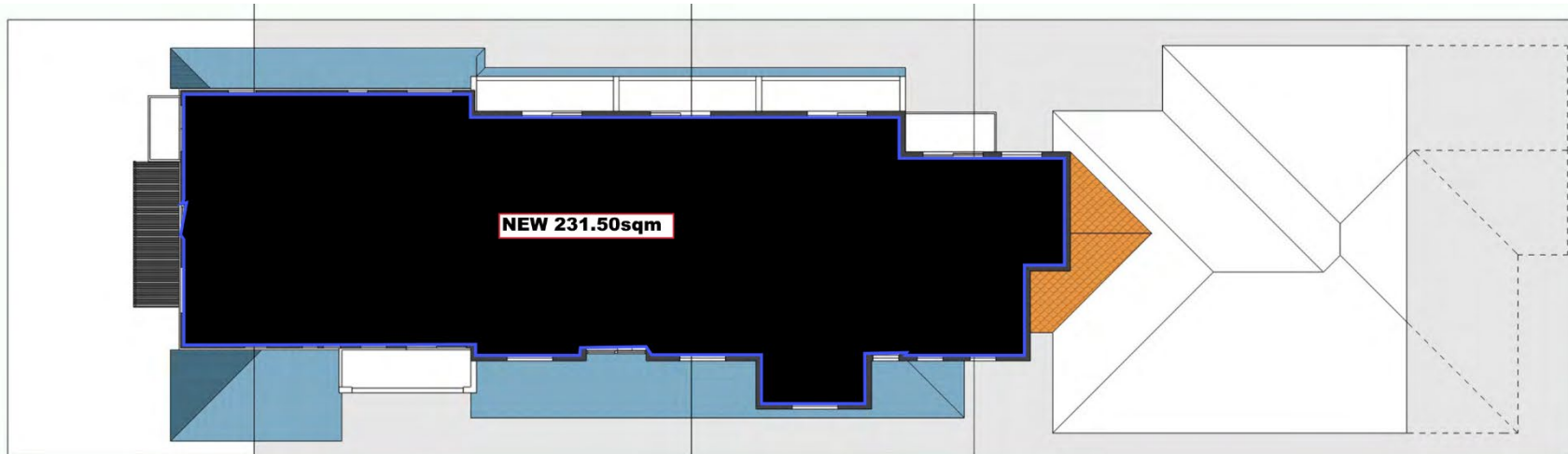
Number
DA/13

ISSUE	DATE
A	20 / 03 / 19
B	30 / 08 / 19
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REVISIONS	
	For Development Application
	For 2nd Development Application



GROUND FLOOR PLAN **New: 297.95 + Existing: 115.10 = 413.05sqm**



FIRST FLOOR PLAN **NEW: 231.50**

GFL GFA @ 413.05 + FFL GFA @ 231.50 = 644.55sqm Total GFA
Site Area @ 834.7 = 0.77:1 FSR

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PROJECT
HiTide BOARDING HOUSE

LOCATION
454 OCEAN BEACH ROAD
UMINA BEACH NSW

Drawing Title
GROSS FLOOR AREA PLANS

Drawn
 CDR

Checked
 CDR

SCALE
 1:150 @ A3

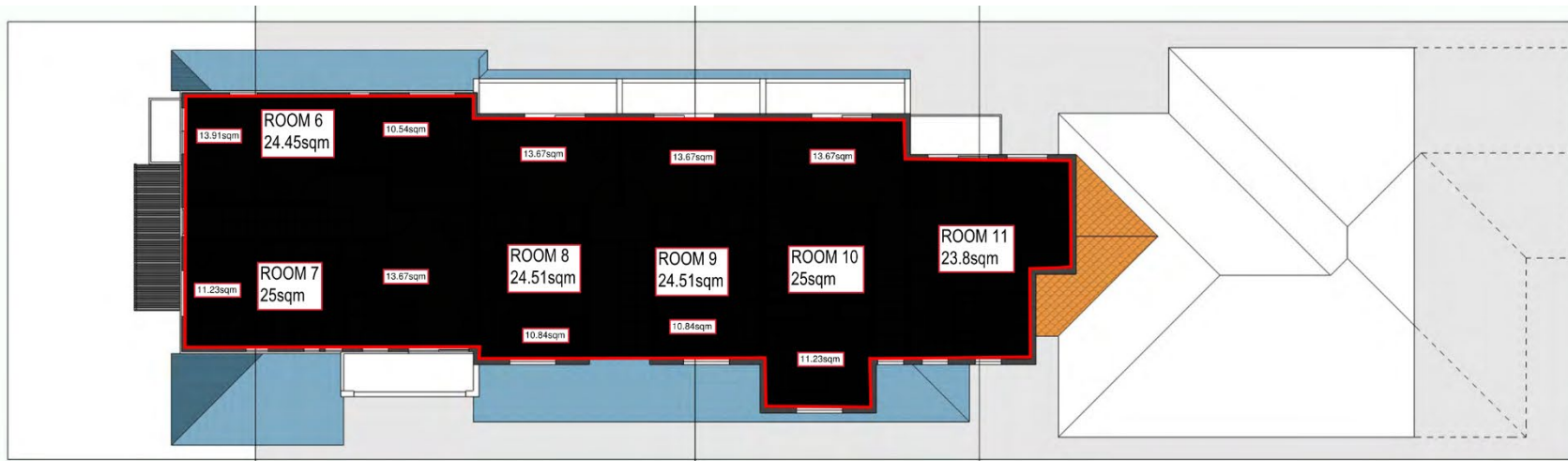
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DA/14

ISSUE	DATE	REVISIONS
A	20 / 03 / 19	For Development Application
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REVISIONS		
ISSUE	DATE	REVISIONS
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B	30 / 08 / 19	For 2nd Development Application
C		
D		
E		
B		



GROUND FLOOR PLAN



FIRST FLOOR PLAN

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PROJECT
HiTide BOARDING HOUSE

LOCATION
**454 OCEAN BEACH ROAD
 UMINA BEACH NSW**

Drawing Title
ROOM AREA PLANS

Drawn
 CDR

Checked
 CDR

SCALE
 1:150 @ A3

Number
DA/15

ISSUE	DATE
A	20 / 03 / 19
B	30 / 08 / 19
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D	
E	
F	

Issue
B

REVISIONS	
	For Development Application
	For 2nd Development Application

Item No: 3.2
Title: DA 58092/2020 - 73 Caroline Street, East Gosford -
2 Lot Subdivision/Demolition of Existing Swimming
Pool

Department: Environment and Planning

20 August 2020 Local Planning Panel Meeting

Reference: 011.2020.00058092.001 - D14117218
Author: Brian McCourt, Development Planner
Manager: Ailsa Prendergast, Section Manager, Development Assessment South
Approver: Andrew Roach, Unit Manager, Development Assessment

Summary

An application has been received for a two (2) lot subdivision and associated demolition of an existing swimming pool at 73 Caroline Street East Gosford.

The application has been examined having regard to the matters for consideration detailed in section 4.15 of the Environmental Planning and Assessment Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

The application is required to be reported to the Local Planning Panel due to the variation in the proposed lot size which is greater than 10%.

Applicant	Progressive Property Solutions
Owner	Jonathon Hodgins/Rebecca Thorogood
Application No	DA 58092/ 2020
Description of Land	Lot D DP 162659 No. 73 Caroline Street East Gosford
Proposed Development	Two (2) Lot Subdivision/ Demolition of Existing Swimming Pool
Site Area	906 m ²
Zoning	R2 Low Density Residential
Existing Use	Residential Dwelling
Employment Generation	Nil
Estimated Value	\$20,000

Recommendation

- 1 That Central Coast Local Planning Panel grant consent 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 the Panel accepts that the Clause 4.6 request to vary the minimum lot size standard in Clause 4.3 of Gosford Local Environmental Plan 2014 has demonstrated that there are sufficient environmental planning grounds to justify***

**3.2 DA 58092/2020 - 73 Caroline Street, East Gosford - 2 Lot
Subdivision/Demolition of Existing Swimming Pool (contd)**

the non-compliance with the development standard and that it is unreasonable and unnecessary to require compliance in this instance as the proposed development will be consistent with the objectives of the clause, the R2 – Low Density Residential zone and the Environmental Planning and Assessment Act 1979.

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

Precis:

Proposed Development	Two lot subdivision/demolition of existing swimming pool.
Permissibility and Zoning	The subject site is zoned R2 – <i>Low Density Residential</i> under the provisions of <i>Gosford Local Environmental Plan 2014 (Gosford LEP 2014)</i> . The proposed development is defined as ‘ <i>Subdivision</i> ’ and ‘ <i>Demolition</i> ’
Relevant Legislation	The following planning policies and control documents are relevant to the development and were considered as part of the assessment <ul style="list-style-type: none"> • <i>Environment Planning and Assessment Act 1979 - section 4.15 (EP&A Act)</i> • <i>State Environmental Planning Policy (Coastal Management) 2018</i> • <i>State Environmental Planning Policy No 55 Remediation of Land</i> • <i>Gosford Local Environmental Plan 2014 (GLEP 2014)</i> • <i>Draft Central Coast Local Environmental Plan 2018 (Draft CCLEP 2018)</i> • <i>Central Coast Regional Plan 2036 (CCRP 2036)</i> • <i>Central Coast Council Community Strategic Plan 2018-2028</i>
Current Use	Detached Dwelling House and associated improvements (fencing, landscaping, in-ground swimming pool)
Integrated Development	No

**3.2 DA 58092/2020 - 73 Caroline Street, East Gosford - 2 Lot
Subdivision/Demolition of Existing Swimming Pool (contd)**

Submissions	The development application was notified (in accordance with the provisions of the <i>Gosford Development Control Plan 2014</i>) from 25 March 2020 to 8 April 2020. Two (2) written submissions were received.
--------------------	--

Variations to Policies

Clause	GLEP (2014) Clause 4.1 – Minimum lot size (proposed Lot 1 and 2) GDCP (2013) Clause 3.5.3.2 – Allotment Size (proposed Lot 1 and Lot 2)
Standard	GLEP (2014) (Proposed Lot 1 and 2) - 550 m ² . GDCP (2013) (Proposed Lot 1) – 550 m ² . GDCP (2013) (Proposed Lot 2) – 18m/650 m ² .
Departure basis	see discussion below

The Site

The subject land is identified as Lot D DP 162659 (No. 73 Caroline Street East Gosford). The site has an area of 906 m². with a primary frontage to Caroline Street (northern frontage) and a secondary frontage to Wharf Street at the rear (southern frontage). The land is rectangular in shape and falls some 8 metres from Caroline Street to Wharf Street with an overall slope of 15.7%. The land has a frontage of 17.98m to Caroline Street and the same width to Wharf Street. The site has a length of 50.43m.

Improvements on the land consist of an older part one /two storey weatherboard and tile detached dwelling and associated improvements including an inground swimming pool.

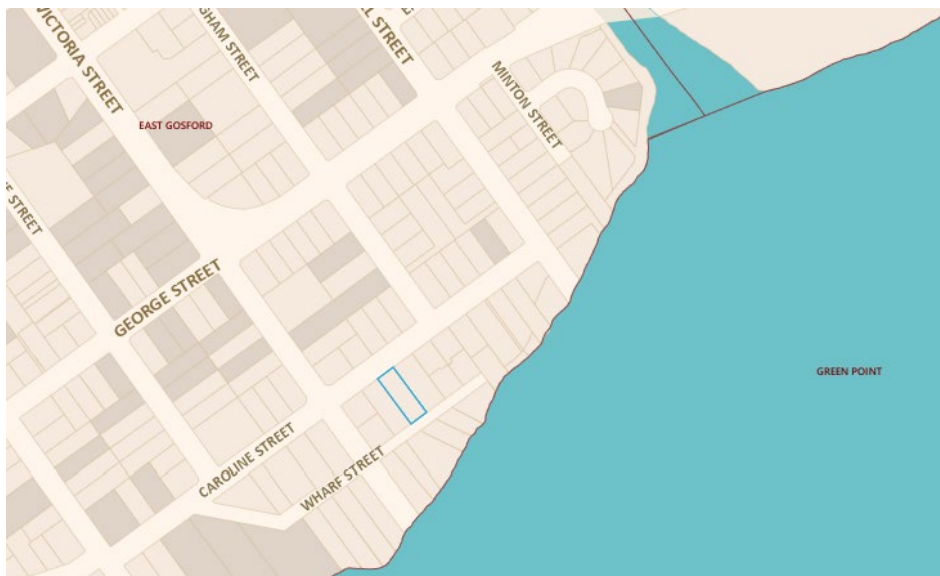


Figure 1 – Location of Subject Site

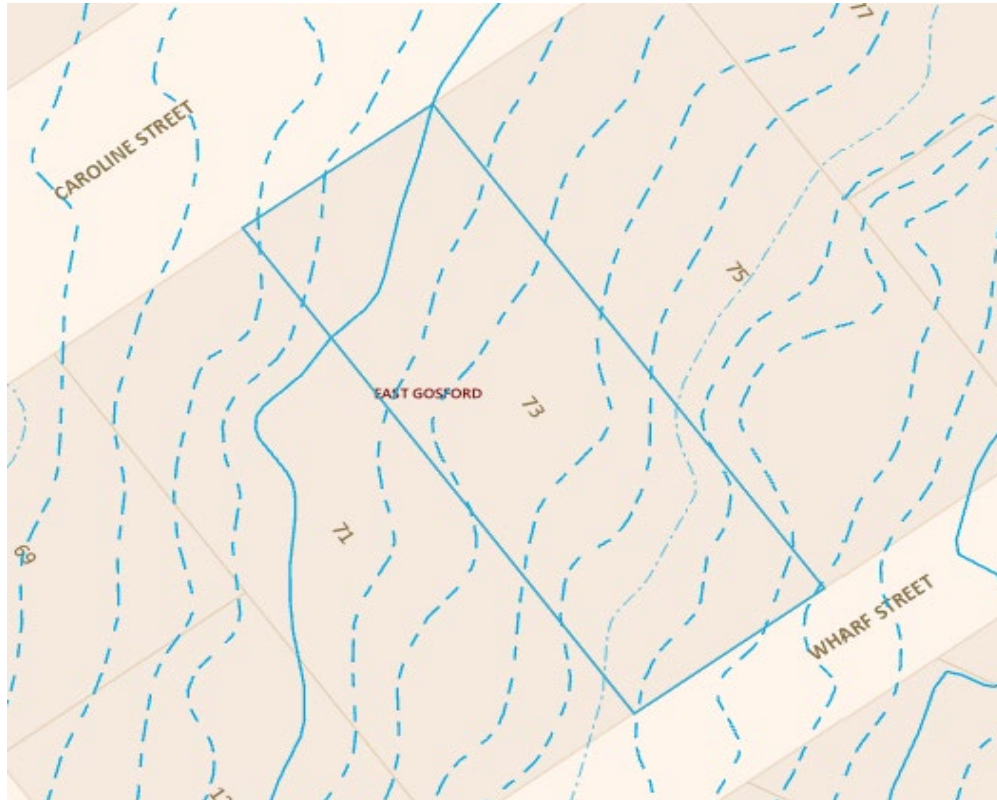


Figure 2 – Subject Site and Topography



Figure 3 – Aerial Photograph of Subject Site

3.2 DA 58092/2020 - 73 Caroline Street, East Gosford - 2 Lot Subdivision/Demolition of Existing Swimming Pool (contd)

Surrounding Development

Surrounding land is zoned *R2 – Low Density Residential* under the Gosford LEP 2014. The land to the immediate east and west of the subject site extend from Caroline Street (northern frontage) falling towards the south, with detached dwellings orientated to gain water views of Brisbane Water.

The development in this area is generally detached dwelling to two-storeys. There has been a general tendency for redevelopment of some sites in the locality, either through redevelopment as existing dwellings, some dual occupancies residential units as well as re-subdivision of some lots. A subdivision of an adjoining property, No.75 Caroline Street, to the immediate east of the subject land, was approved in 2019. This subdivision enabled the creation of two lots with an area of 507m² each. Similar subdivisions have previously been undertaken at No's 77 and 79 Caroline Street.



Figure 4- Lot layout overlaid with aerial photograph to give indication of previous nearby subdivision. Noting the approved subdivision on adjoining land (75 Caroline Street) as well as 77, 79 and 81 Caroline Street.



Figure 5 – Topography of surrounding area



Figure 6 – Aerial Photograph of Surrounding Area.

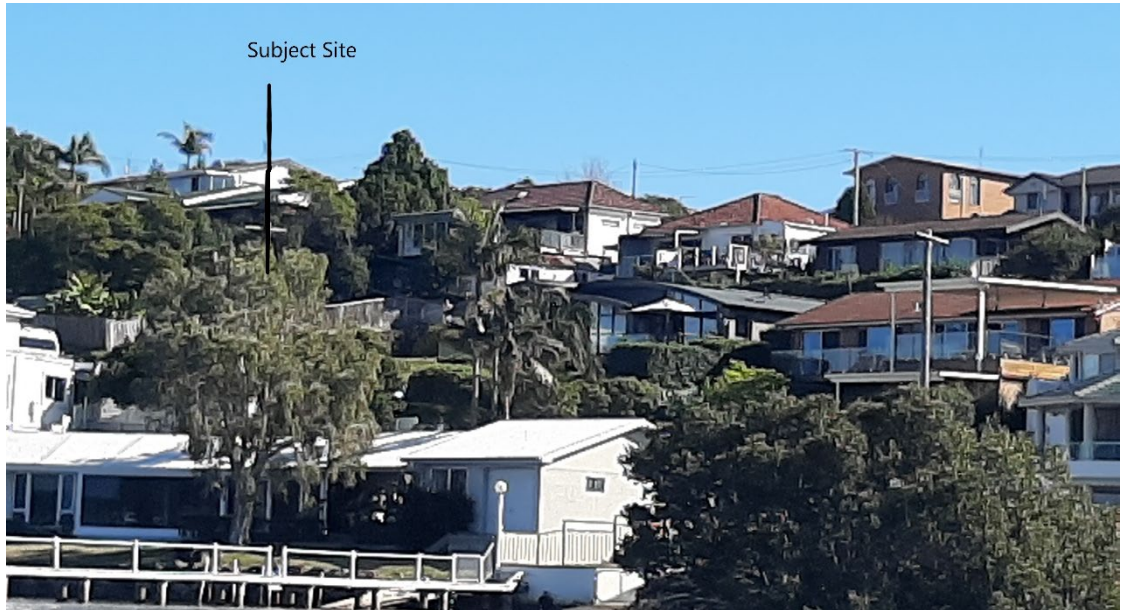


Figure 7 -View of Surrounding Area from Brisbane Water



Figure 8 – View of Surrounding Area from Brisbane Water

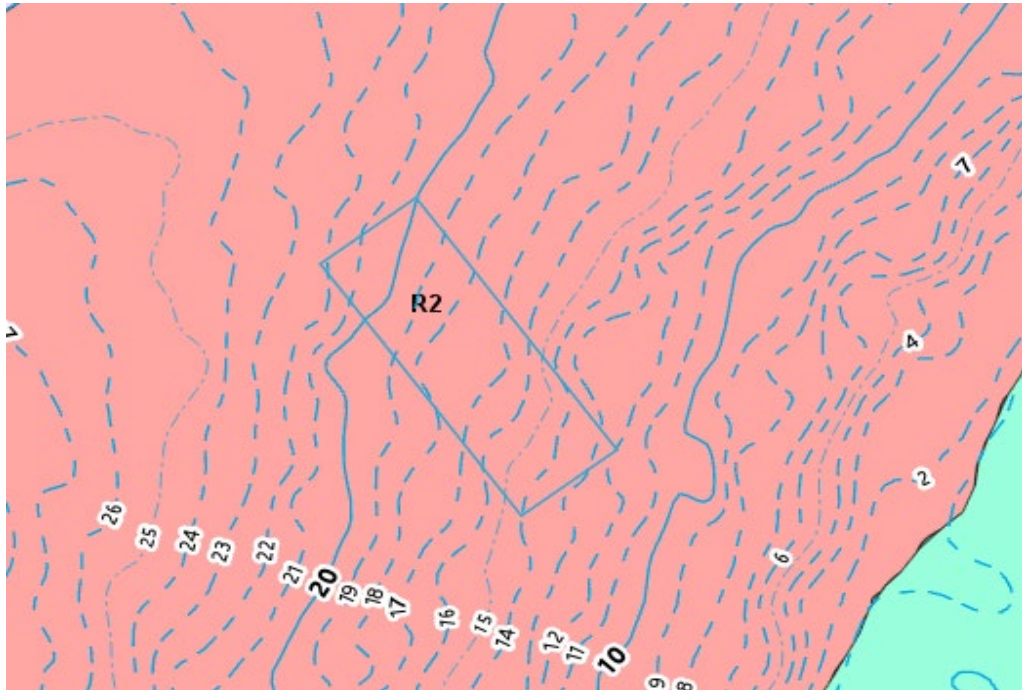


Figure 9- Land Zoning

The Proposed Development

The development application involves the subdivision of the 906 m². lot into two lots consisting of:

Lot 1

- Area – 453 m².
- Width – 17.98 m
- Length – 25.15m
- Access to – Caroline Street

Lot 2;

- Area – 453 m².
- Width – 17.98m
- Length – 25.27m
- Access to – Wharf Street

The demolition of the existing swimming pool on parent lot.

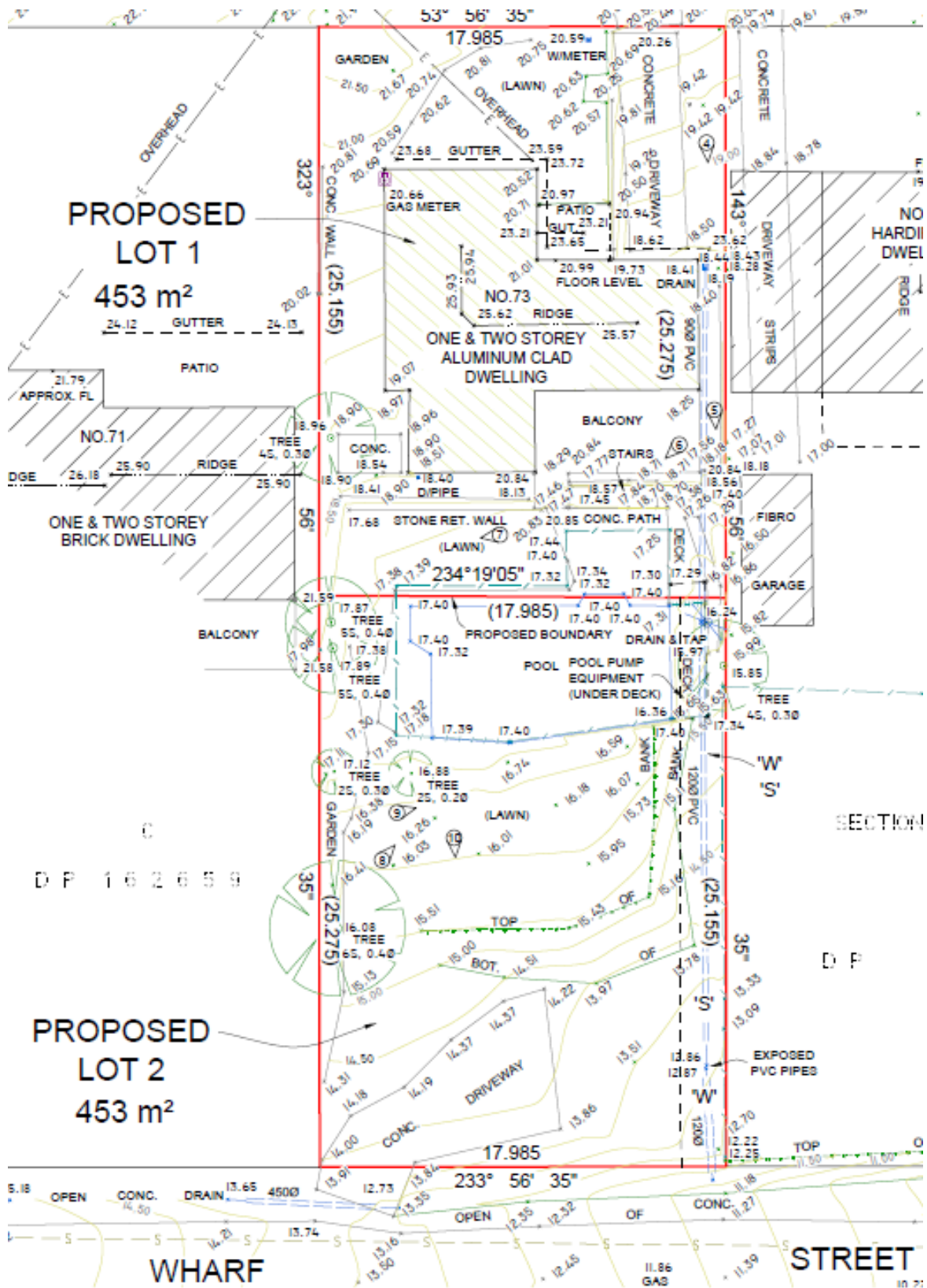


Figure 10 – Proposed Subdivision

History

The subject site contains an existing weatherboard/tile part one/two storey dwelling built in the 1960's.

A development application was considered and refused on the site for a two (2) lot subdivision in 2003 to create two (2) lots each with the same area as that proposed in the subject application (453 m²) for the following reasons;

- 1 Pursuant to Section 79C(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposal is inconsistent with the objectives of the Residential 2(a) Zone, as specified by Clause 10(3) of the Gosford Planning Scheme Ordinance. [Refer Clause b(ii), as set out in the table to this Clause in relation to the zone concerned.]
- 2 Pursuant to Section 79C(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal does not comply with the minimum site area requirement, specified by Clause 30AAA(1) of the Gosford Planning Scheme Ordinance.
- 3 The variation proposed to Clause 30AAA(1) of the Gosford Planning Scheme Ordinance in relation to site area is deemed to be excessive.
- 4 The proposal is not in keeping with the aims and objectives of State Environmental Planning Policy No 1 - Development Standards and Circular B1.
- 5 The proposal will create an undesirable precedence, and undermine the planning objectives of the immediate locality.
- 6 The proposal does not comply with the requirements of Clause 3.2.2(a) of Development Control Plan No 112 - Residential Subdivision, as it relate to minimum site area and width.
- 7 The proposal does not have regard to the requirements of Development Control Plan No 89 - Scenic Quality.
- 8 Pursuant to Section 79C(b) of the *Environmental Planning and Assessment Act 1979*, the excision of the allotment concerned as a result of the proposed subdivision, does not provide a satisfactory level of residential amenity associated with proposed Lot 1, particularly with respect to private recreation and garden space and the siting and construction of future ancillary and appurtenant structures.
- 9 Pursuant to Section 79C(b) of the *Environmental Planning and Assessment Act 1979*, the additional increase in traffic on Wharf Street, including the cumulative effect of other similar applications, would have an adverse impact on traffic conditions within this street, with a corresponding increase in accident potential which would otherwise not exist.

Further discussion is provided in relation to this application and the current application in the Other Matters section of this report.

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.

Central Coast Regional Plan 2036 (CCRP 2036)

East Gosford is located in Southern Growth Corridor of the Regional Plan. The related directions/actions are:

- Direction 2 – Focus development in the Southern and Northern Growth corridor.
- Action 20.1 – Improve housing choice by supporting housing delivery in and near the growth corridors and local centres
- Action 21.1 – Provide greater housing choice by delivering diverse housing, lot types and sizes including small lot housing in infill and greenfield housing locations.

The proposed development is consistent with the Vision, Goals or Actions contained within the *Central Coast Regional Plan 2036*.

Central Coast Council Community Strategic Plan 2018-2028

The development application complies with the *Central Coast Council Community Strategic Plan 2018-2028*, in particular Themes and Focus area – *Balanced and Sustainable Development -14 - Provide a range of housing options to meet the community including adequate affordable housing*.

The proposed subdivision provides housing options for the community and achieves the objectives of the Community Strategic Plan.

State Environmental Planning Policy (Coastal Management) 2018

The provisions of State Environmental Planning Policy (Coastal Management) 2018 require Council consider the aims and objectives of the SEPP when determining an application within the Coastal Management Areas. The Coastal Management Areas are areas defined on maps issued by the NSW Department of Planning & Environment and the subject property falls within the mapped coastal management areas.

The provisions of *State Environmental Planning Policy (Coastal Management) 2018* requires Council consider the aims and objectives of the SEPP when determining an application within the Coastal Management Area. The Coastal Management Area is an area defined on maps

issued by the NSW Department of Planning Industry & Environment and the subject property falls within this zone (see figure 11). The site falls within Division 4- Coastal Use Area.



Figure 11 – Coastal Environment and Coastal Use Area

Division 4 'Coastal use area' of State Environmental Planning Policy (Coastal Management) 2018 states:

'14 Development on land within the coastal use area

(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—

(a) has considered whether the proposed development is likely to cause an adverse impact on the following—

- (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
- (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*
- (iv) Aboriginal cultural heritage, practices and places,*
- (v) cultural and built environment heritage, and*

(b) is satisfied that—

(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or

(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or

(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and

(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

(2) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of [Sydney Regional Environmental Plan \(Sydney Harbour Catchment\) 2005](#).

Assessment: The proposed development does not cause adverse impact on the matters required to be considered under Clause 14 (1) (a) – (b) or clause 2 of *SEPP (Coastal Management) 2018*, as follows:

- The proposed development will not cause an adverse impact to access along the foreshore and public reserve;
- The proposed development will not cause overshadowing, wind funneling or loss of view from a public place;
- The proposal has been designed and located to minimize visual amenity and scenic qualities to the most maximum extent possible; and
- The proposal will not cause an adverse impact to and known Aboriginal cultural heritage or cultural and built environment heritage

The following provisions of Division 5 of *SEPP (Coastal Management) 2018* apply to the consent authority's consideration of a development application on the subject land:

'15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.'

And:

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'16 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.'

Assessment: Due to its location which is not in close proximity to the coastal foreshore, the subject land is not subject to increased risk of coastal hazards and is not subject to any certified coastal management program. The proposed development will not therefore cause increased risk of coastal erosion.

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

The proposed development does not impact on coastal wetlands of littoral rainforests as identified within the SEPP, nor does it involve works in an area subject to coastal vulnerability or in a coastal use area

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

State Environmental Planning Policy No. 55 Remediation of Land

(SEPP 55) applies to the site. However, the site has a history of being utilised as a residence and so contamination is not likely to be present. In accordance with cl. 7(2) of the SEPP, no further consideration is required in this regard.

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

The Draft Central Coast Local Environmental Plan 2018 (Draft CCLEP 2018) was exhibited until 27 February 2018. The draft plan is being considered by Council before being sent to the State Government for its notification. The zoning of the subject site remains.

The draft plan though provides that minimum lot size for the site would be reduced from the 550 m². currently applicable under GLEP 2014 to 450 m². Under the draft plan based on site area the subdivision could be permissible subject to consent.

Gosford Local Environmental Plan 2014 - Zoning and Zone Objectives

The subject site is located within the R2 – Low Density Residential under the provisions of the Gosford Local Environmental Plan 2014.

The objectives of the R2 zone are:

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

The proposed subdivision is consistent with the zone objectives, provides for low density residential development and is consistent with the character of the locality.

Gosford Local Environmental Plan 2014 – Clause 4.1: Minimum Subdivision Lot Size

Clause 4.1 of the Gosford LEP 2014 set out the required minimum lot size, as indicated in the lot size map. In this instance is 550 m²

The development application provides for lot sizes of 453 m² for each lot. The variation to the minimum lot size is 47m² (which equates to a variation of 17.6 %).

The objectives of Clause 4.1 of the Gosford LEP 2014 are:

(1) The objectives of this clause are as follows:

- (a) to reflect State, regional and local planning strategies relating to the provision of various sizes of land,*
- (b) to ensure that the subdivision of land is compatible with the desired future character of the area,*
- (c) to promote the ecologically, socially and economically sustainable subdivision of land,*
- (d) to ensure that the creation of parcels of land for development occurs in a manner that protects the physical characteristics of the land, does not create potential physical hazard or amenity issues for neighbours, can be satisfactorily serviced and will, through its potential cumulative effects, not create capacity problems for existing infrastructure.*

(2) This clause applies to a subdivision of any land shown on the [Lot Size Map](#) that requires development consent and that is carried out after the commencement of this Plan.

(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.'

In assessing whether this variation is acceptable an assessment of the proposal has been made against the relevant zone objectives. In addition, the provisions of *draft Central Coast Local Environmental Plan 2018* are also of relevance and is discussed below.

A written request under clause 4.6 of GLEP 2014 to vary the development standard has been submitted by the Applicant (see Attachment 2). This submission is dealt with specifically later in this report. The Applicant's submission demonstrates the proposed development is of a satisfactory density and scale and does not have adverse impact on adjoining development. In summary, the objection is well founded as the proposal is considered to achieve the objectives of the standard and the development is recommended for support.

In relation to the objectives of Clause 4.1 of GLEP 2014 relating to minimum lot size the following comments are made;

(a) to reflect State, regional and local planning strategies relating to the provision of various sizes of land,

Comment: As discussed under the section of this report dealing with the Central Coast Regional Plan the site is located as part of the strategically important Southern Corridor from Somersby to Erina. The achievement of the most efficient use of land (subject to environmental and servicing constraints) is a key aim of the plan. The proposed subdivision in this broad context is then considered to meet this objective of the zone.

(b) to ensure that the subdivision of land is compatible with the desired future character of the area,

Comment: Being a subdivision this form of development is not specifically addressed in the desired character statement. Development subsequent to the subdivision is discussed in the statement. The issue relating to the nature of the development on lots of the size proposed has been addressed in the provision by the applicant at Council's request of a building footprint for each lot. The site benefits from two street frontages which will allow for the continuation of street pattern with the proposed second lot on. Further discussion, and detail are provided in later sections of this report in relation to the potential subsequent development

(c) *to promote the ecologically, socially and economically sustainable subdivision of land,*

Comment: The proposed subdivision has no impact on any natural features and can occur in a manner which is socially and economically sustainable and therefore the proposal is seen as being in accordance with this objective.

(d) *to ensure that the creation of parcels of land for development occurs in a manner that protects the physical characteristics of the land, does not create potential physical hazard or amenity issues for neighbours, can be satisfactorily serviced and will, through its potential cumulative effects, not create capacity problems for existing infrastructure.*

Comment: The issue relating to the nature of the development on lots of the size proposed has been addressed in the provision by the applicant at Council's request of a building footprint for each lot. Further discussion and detail are provided in later sections of this report in relation to the potential subsequent development.

Clause 4.6- Exceptions to Development Standards

Clause 4.6 of GLEP 2014 provides the Local Planning Panel 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.

In accordance with clause 4.6(3) the Applicant has submitted a written request seeking variation to the minimum lot size development standard of 550m² for subdivision contained within clause 4.1B(2) minimum lot sizes for attached dwellings, dual occupancies, multi dwelling housing and residential flat buildings of GLEP 2014. The area of the site is 906m²; with each lot having an area of 453 sq.m or a 47m² (or 17.6%) variation to the development standard.

The Applicant's written request to vary the development standard is summarised as follows:

- *The proposal is consistent with the objectives of the development standard and the zone notwithstanding the variation sought to the minimum lot size for multi dwelling housing developments.*

- *it represents a reasonable variation to the established residential lot sizes for buildings as anticipated under Part 4 – Principal Development Standards of the Gosford Local Environmental Plan 2014;*
- *The development standard is unreasonable and unnecessary and the request seeks flexibility in applying the standard because of the limited environmental impacts.*
 - *The proposal provides an appropriate correlation between the size of a site and the extent of any development on that site in line with the anticipated outcomes of the Central Coast Regional Plan;*
 - *The proposal facilitates design excellence by ensuring the extent of future building envelopes leaves space for the the construction of dwellings in accordance with Council's DCP.*
 - *The variation will not adversely affect the amenity of the immediate locality.*
 - *The subject site has particular circumstances in relation to the precedents that have taken place in the area for this type of development.*
- *The proposal is in the public interest as it is generally consistent with both the objectives of the standard and for development within the zone.*

In accordance with clause 4.6(4), development consent must not grant consent for a development that contravenes a development standard unless:

1. The consent authority is satisfied that the Applicant's written request has adequately addressed the matters required to be demonstrated in clause 4.6(3).

Comment: The clause 4.6 submitted by the Applicant has addressed how strict compliance with the development standards is unreasonable or unnecessary and how there are sufficient environmental planning grounds to justify the contravention. Council is satisfied that the matters required to be demonstrated in subclause 4.6(3) have been adequately addressed for the variation to the minimum lot size for the subdivision standard.

2. The consent authority is satisfied that 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.

Comment: The objective of the clause is to achieve efficient use of land in certain zones and localities. This is achieved allowing the subdivision to take place in the strategically important Southern Corridor area.

The proposal is consistent with objectives in *GLEP 2014* as follows:

- Notwithstanding the size of the lot is below the development standard, the proposal will allow for residential development which will not unduly impact on the characteristics of the land nor the amenity enjoyed by adjoining landowners

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The proposed development is consistent with the objectives for the *R2 Residential zone* as follows:

- The proposal provides for additional housing for the local community and will increase housing choice in the area.
- The development is consistent with the future character of the area.
- The development will not adversely impact upon the provision of services to the area
- The proposed development is of a satisfactory nature given the pattern of development and redevelopment taking place in the area.
- The proposal will result in future development having a positive contribution to the streetscape .

The assessment of the proposal against the objective of the development standard and the R2 Residential zone confirms that the proposal complies with these objectives.

3. The concurrence of the Secretary has been obtained.

Comment: Planning Circular PS 18-003 issued 21 February 2018 states that Council may assume the concurrence of the Secretary of the NSW Department of Planning Industry & Environment when considering exceptions to development standards under clause 4.6. The Council (through the Local Planning Panel) is therefore empowered to determine the application.

Council is satisfied that the Applicant has demonstrated compliance with the development standard and the zone objectives such that the proposal is in the public interest.

This assessment has been carried out having regard to the relevant principles identified in the following case law:

1. *Wehbe v Pittwater Council [2007] NSWLEC 827*
2. *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009*
3. *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90*
4. *Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248*

This assessment concludes that the clause 4.6 variation of GLEP 2014 provided having regard to clause 4.1B of GLEP 2014 is well founded and worthy of support.

Comment on Previously Refused Application for Subdivision

The refusal of Development Application 17875/2004 for the subdivision of the land into two lots of 453m² was made in summary on the basis of:

- Non compliance with the lot size development standard of then planning instrument.

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- Non compliance with lot size/slope requirements of the then development control plan.
- Non compliance with scenic quality requirements of the then development control plan.
- Potential precedent.

The development standards used in the assessment for the development application have not altered since the 2004 assessment.

The key changes since the 2004 assessment have been with regard to the following:

- The draft *Central Coast Local Environmental Plan 2018* is currently proposing a minimum lot size of 450m².
- Subdivision has been permitted in 2019 for lots less than the minimum lot size development standard on the adjoining land, and on nearby lands.
- Gradual redevelopment involving the construction of larger dwellings has been taking place in the visual sub catchment that site is located within.
- The lack of opportunity for more than one additional lot for subdivision in the Caroline St/Wharf St area.
- Preparation of character statements for the locality which the proposal complies with.

In addition the applicant has provided modelling indicating that dwellings can be constructed on the lots that meet the primary standards for single occupancy dwellings (provided later in this report). This modelling was not provided for the 2004 development application.

Given the statutory and developmental changes that are proposed or have taken place it is considered that the 2004 refusal has no relevance on the assessment of the current application.

Gosford Development Control Plan 2013

An assessment of the proposed development against the relevant chapters of the Gosford Development Control Plan 2013 (GDGP 2013) is provided below.

Clause 2.1 - Character

Chapter 2.1 - Character applies to the development application. The chapter sets out the 'existing' and 'desired' character for each precinct and requires that character be considered in the assessment of any development application. The site falls within the East Gosford 2: Open Parkland Hillsides Character area. The relevant sections of the desired character statement that can be reasonably related to a subdivision and the subsequent general form of a subsequent development with a comment is provided below;

Minimise disturbance to natural slopes and any existing trees that are visually-prominent. Retain existing ground levels along all boundaries, and on the steeper slopes, use low-impact construction such as suspended floors and decks rather than extensive cut-and-fill.

Comment: No existing significant vegetation exists on the site. The slope of the lots created will necessitate a stepped pattern of development. The desire to gain waterviews from most rooms in the dwelling houses constructed on the lots will further encourage a stepping up the sites and minimize extensive cut and fill.

Avoid the appearance of a continuous wall of development along any street or hillside. Locate new buildings behind front setbacks that are similar to their surrounding properties. Provide at least one wide side setback or step the shape of front and rear facades, and plant clusters of trees and shrubs throughout each garden to screen buildings and driveways, as well as to provide shady backdrops to the roadway. Facing the street, emphasise a leafy garden character by gardens and street verges planted with taller trees that are indigenous plus hedges of shrubs, and avoid wide driveways, tall fences or multiple retaining walls.

Comment: Figures contained in this report particularly, Figures 7 and 8 show the pattern of development existing in the area immediately surrounding the site. The development subsequent to the subdivision will fit within the existing form of development as seen on this land as it slopes towards Brisbane Water. The development subsequent to the subdivision will then be of a type that fits the character identified as being appropriate for this character unit.

Clause 2.2 Scenic Quality

The development application has been assessed against the Development Objectives for the Gosford Central Unit and there are no conflicts between the subdivision/subsequent development and the objectives.

Clause - 3.5 Residential Subdivision

3.5.3 Arrangement of Lots

The objectives of this clause as stated below are relevant to this development application. The specific provisions of this section of the GDCP 2013 are provided below;

3.5.3.2.b The minimum allotment sizes as indicated are increased in respect to sites having the following characteristics or locations, to provide sufficient area to accommodate the additional requirement for batters, retaining walls, cut/fill, setbacks etc.

- 1. The minimum allotment sizes as indicated are increased in respect to sites having the following characteristics or locations, to provide*

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sufficient area to accommodate the additional requirement for batters, retaining walls, cut/fill, setbacks etc.

Table 1: Slope Percentages

Zone	Slope	Minimum Area	Minimum Width
R2	less than 15%	550m ²	15m
	15% or greater, but less than 20%	650m ²	18m
	20% or greater	800m ²	20m
R1	Less than 8%	600m ²	18m
	8% or greater	750m ²	25m

Comment: The applicant was requested to provide a plan showing the slopes of the proposed lots (see Figure 12).

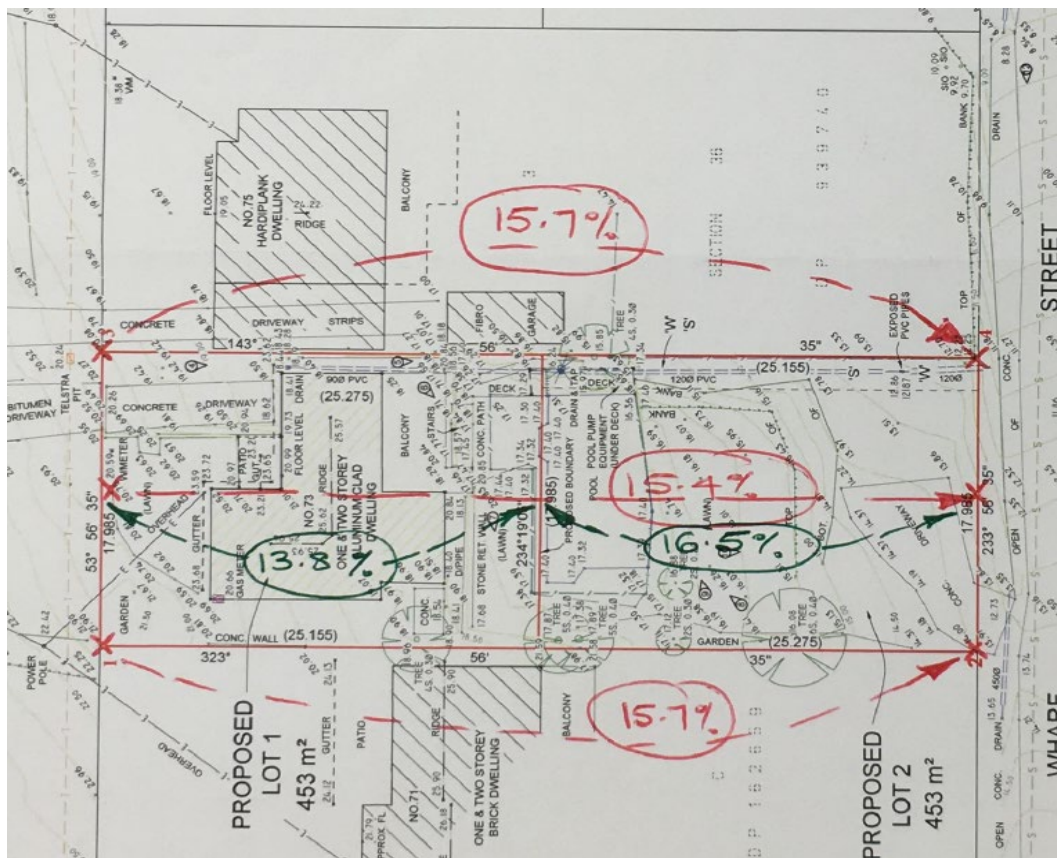


Figure 12 - Slopes of Existing Lot and Proposed Lots

Comparison of the proposal with the requirements contained in the above table indicates;

- Proposed Lot 1 – does not comply with the minimum site area (453 m² proposed/550 m² required) but complies with minimum width requirements (17.98m proposed/ 15m required)

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- Proposed Lot 2 – does not comply with the minimum site area (453m² proposed/650m² required and does not comply with minimum width requirements (17.98 m² proposed/18m required).

It is noted that in terms of the minimum site area requirements the proposed site areas comply with the minimum site area development standards proposed currently under the draft Central Coast Local Environmental Plan.

The development application was assessed against the objectives of the clause.

3.5.3.1 Objectives

- 1. To provide sufficient area and dimensions to enable the construction of dwellings, ancillary outbuildings, private open space, vehicle access and parking.*

Comment: In relation to the above objective it was identified to the applicant that additional information was required. To this end the applicant was advised that the "small size of the lots and the relatively steep slope necessitates a need for an integration between subdivision and subsequent dwelling. In relation to the information being requested it is considered necessary that you demonstrate to Council officers and the L.P.P. that the lots proposed can accommodate a dwelling on each lot that can meet the numerical provisions of Council's LEP and DCP as they relate to single occupancy detached dwellings."

The information provided by the applicant is shown in *Figure 13A and 13B*. The design for each lot complies with the primary controls relating to creating a building footprint for single occupancy detached dwellings in the GDCP 2013. It is therefore considered that the development application complies with this objective.

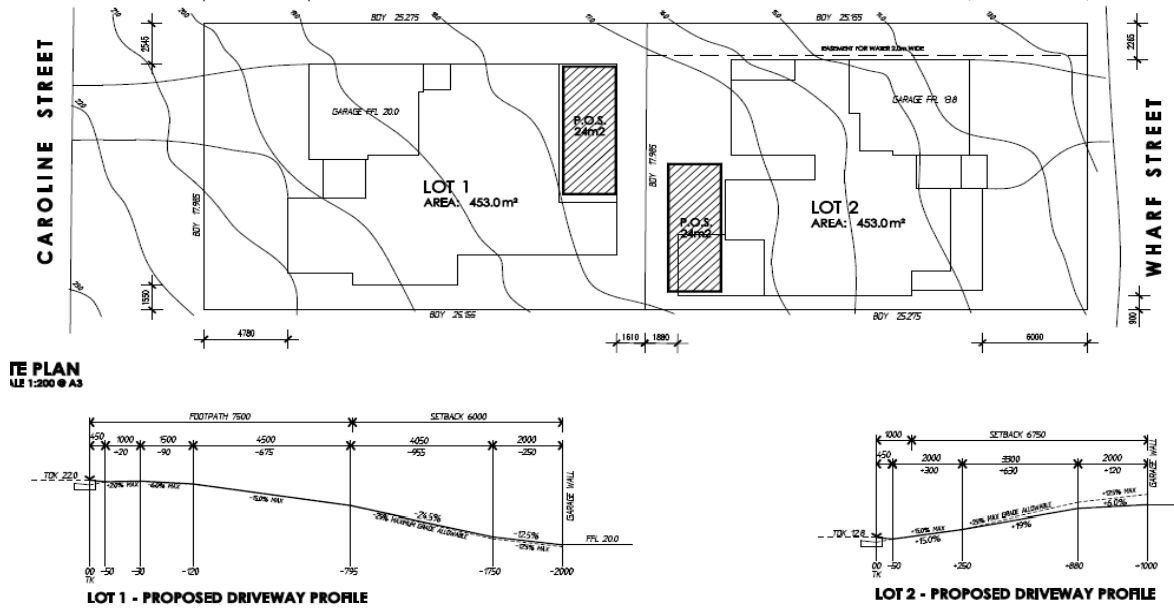
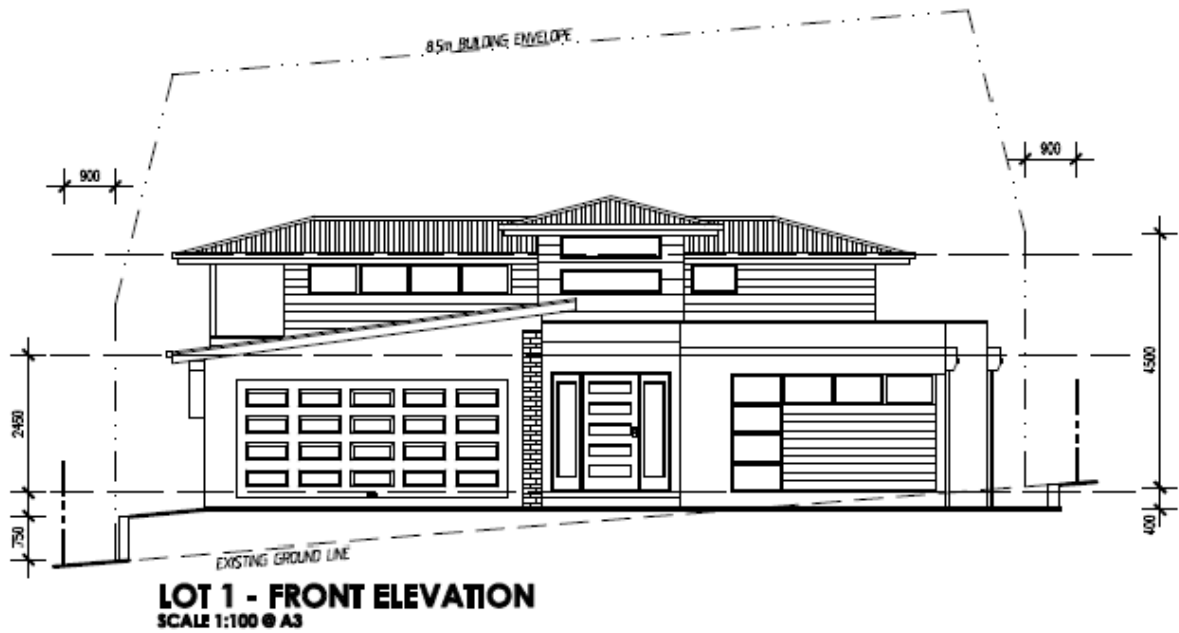
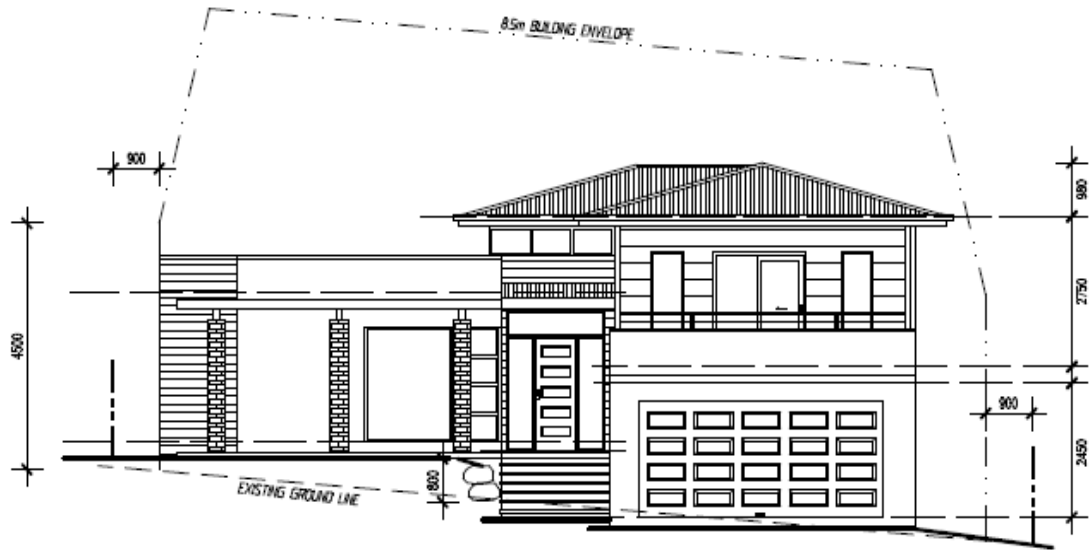


Figure 13A – Possible Dwelling Designs (A – Building Footprints/Driveway Grades)





LOT 2 - FRONT ELEVATION
 SCALE 1:100 @ A3

Figure 13B – Possible Dwelling Designs (B – Building Elevations)

1. *To ensure that allotments and the resulting residential development is in character with the locality and specific landform features of the site such as slope, aspect, vegetation, and position in relation to adjacent building.*

Comment: Figure 7 and 8 depict the visual sub catchment that the site sits within. It can be seen that due to the slope of the land and the desire for owners to gain benefit from obtaining views of Brisbane Water the visual sub catchment is highly developed and visually dominated by dwellings.

Development on 453 m² lots as depicted by the applicant in Figure 13 would not be out of character with the nature of development that already exists in this area and therefore the development application is considered to comply with this objective.

2. *To ensure that elements of the site including size, slope, orientation, etc. provide maximum opportunities for future building design, privacy, orientation, solar access and useable outdoor living space on site.*

Comment: The developments depicted in Figure 13 show that dwellings can be constructed on the proposed lots that comply with the primary controls of Council's DCP for single occupancy detached dwellings and therefore the development application is considered to comply with this objective.

3. *To encourage a variety of allotments to cater for the different housing needs within the community.*

Comment: This objective is not considered relevant to the development application as the range of lot sizes are constrained by the existing R2 zone that applies in this area. Despite the development application not complying with provisions of GDCP 2013 in relation to site, widths and site areas it is considered that the proposal meets the objectives of the GDCP 2013 as identified in the above discussion.

Likely Impacts of the Development:

Built Environment

The proposed subdivision and the possible resultant development form is considered acceptable for the site and for the local visual sub catchment.

Access and Transport

The site is located in an area within walking distance of local bus services that run to and through the East Gosford Commercial Centre. The proposed subdivision has been assessed by way of modelling of a possible future development to determine whether driveway access can be provided to meet Council's Engineering requirements (see Figure 12).

Context and Setting

The site is located in an area which has been undergoing gradual renewal and redevelopment. The approval of a similar subdivision on adjoining property, No.75 Caroline Street in 2019 is the latest example of the change that is occurring in this section of East Gosford. As previously discussed, the resultant development form will be similar to what has been occurring through the redevelopment of this area.

Natural Environment

The subject site does not contain any threatened species or habitat and will have no impact on the conservation of fish and marine vegetation. The site is completely void of any vegetation

The proposal will not affect any identified wildlife corridor. The proposal is considered satisfactory in relation to impacts on the natural environment as identified throughout this report.

Suitability of the Site for the Development

The site has been assessed against the objectives of Council's various LEP and DCP controls and has been found to be an acceptable development of the land despite non compliance with some numerical standards.

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Whether the proposal fits in the locality

As seen from Figures showing the nature of existing development and modelling of possible development on the proposed lots the development application will result in development that fits in the locality.

Any Submission made in Accordance with this Act or Regulations

The development application was notified from 29 January 2020 until 12 February 2020 in accordance with Chapter 7.3 - Notification of Development Proposals of Gosford Development Control Plan 2013 (GDPC 2013).

Two(2) submissions were received during notification period. The issues raised in the public submissions are detailed below:

Submissions

The subdivision is supported based on the land usage is used for low density residential housing that fits in with the streetscape of Wharf St and council and community expectations.

Comment: The site is zoned R2 – Low Density Residential and primarily single occupancy dwellings are the predominant development type.

I wish to object to the application based on the access from Wharf street as there is already a problem with people parking and turning around in the street. Access to the back off this street is Wharf st and having a driveway onto this half block would limit the parking for the exciting residents

Comment: The subdivision proposed is expected to be one of the last that would have access to Wharf Street. The additional on street parking demand has therefore reached its near full potential in the street. The lot with access to Wharf Street will have little additional impact on the problem identified in the submission

The size of the block will be only 453m² smaller than lot requirement and one of the reasons it was declined in 2002 DA 17875. Apparently there were further reasons for the decline which of course I'd like to put forward but I'm not understanding of these legislations.

Comment: Discussion under Other Matters section of this report addresses the issue of the previous development application relating to subdivision of the land. Although the planning controls have not changed under the current GLEP 2014, the draft CCLEP currently proposes smaller lots and the applicant has provided proposal that shows that a dwelling house can be built on the proposed lots.

Submissions from Public Authorities

No public authorities were required to be consulted in respect of the application

Internal Consultation

Council's Development Engineer and Water/Sewer Engineer has reviewed the development application and has raised no objection 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 the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control 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

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 proposed development have been considered by Council as part of its assessment of the development application having regard to Council's Climate Change Policy and the following policy commitment statement:

'Prepare, implement and review plans and strategies inclusive of consideration of risk from future sea level rise, and address the issue of, how to beneficially use coastal areas while recognising the long term need to protect, redesign, rebuild, elevate, relocate or retreat as sea levels rise.'

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application.

This 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

**3.2 DA 58092/2020 - 73 Caroline Street, East Gosford - 2 Lot
Subdivision/Demolition of Existing Swimming Pool (contd)**

development may cope, combat, withstand these potential impacts. The proposed development is considered satisfactory in relation to climate change.

Development Contributions

The proposed development is a development type that is subject to section 7.11 development contributions under the Contribution Plan. Therefore, development contributions are applicable (see condition number 4.7).

Water and Sewer Contributions

Contributions for Water/Sewer have been requested as part of the conditions of consent (condition number 2.1).

The Public Interest

The approval of the application is considered to be in the public interest as it will provide for the provision of further housing supply in area identified in strategic planning documents as being appropriate for this type of development.

The public interest is best served by approval of the application

Conclusion:

This application has been assessed under the heads of consideration of section 4.15 of the *Environmental Planning & Assessment Act 1979* and all relevant instruments and polices. The potential constraints of the site have been assessed and it is considered that the site is suitable for the proposed development. Subject to the imposition of appropriate conditions, the proposed development is not expected to have any adverse social or economic impact.

Accordingly, it is recommended that development consent be granted to DA 58092/2020.

Attachments

- | | | |
|----------|---|-----------|
| 1 | Draft Conditions of Consent - 73 Caroline St East Gosford DA 58092 | D14081846 |
| 2 | PUBLIC Subdivision 73 Caroline Street, EAST GOSFORD DA58092 Part 1
D13881666 | |
| 3 | Clause 4.6 submission - 73 Caroline Street East Gosford | D14076870 |

Attachment 1 - CONDITIONS**1... PARAMETERS OF THIS CONSENT****1.1. Approved Plans and Supporting Documents**

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

Subdivision Plan by Bannister and Hunter

Drawing	Description	Sheets	Issue	Date
	Plan of Subdivision	1	A	15/1/20

Supporting Documentation

Document	Title	Date
W.M.P.	Waste Management Plan	28/1/20
	Erosion Control and Stormwater	6/3/20
S.E.E.	Statement of Environmental Effects Version 2	March 2020

2... PARAMETERS OF THIS CONSENT

- 2.1. 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: 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.

- 2.2. 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.

- 2.3. Submit engineering plans for the following subdivision works within the private property designed by a suitably qualified professional, in accordance with Council's *Civil Works Specification* and Chapter 6.3 *Erosion Sedimentation Control* of the Gosford Development Control Plan 2013.

Design drawings, reports and documentation will be required to address the following works and any related works: The engineering plans and any associated reports for the above requirements must form part of the Construction Certificate

Replacement of the existing access crossing to service the existing dwelling house with a new residential vehicle access crossing that has a minimum width of 4.5metres at the road crossing and 3.0 metres at the property boundary. Note: The access crossing shall be constructed with a 40mm thick asphaltic concrete on a 225mm thick layer of base course material. The extension the interallotment stormwater drainage system from within the site to connect into Council's drainage system (concrete lined open channel) located in Wharf Street.

The preparation of an erosion and sedimentation control plan.

3.. DURING WORKS

- 3.1. All conditions under this section must be met during works.
- 3.2. Carry out construction or demolition works during the construction phase of the development only between the hours as follows:
- 7.00am and 5.00pm Monday to Saturday
- No construction or demolition works associated with the development are permitted to be carried out at any time on a Sunday or a public holiday.
- 3.3. 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.
- 3.4. 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 Certifying Authority or an officer of Council.
- 3.5. Arrange with the relevant service provider / Authority (eg. Ausgrid, Jemena, NBN or other communications provider) for the supply of services concurrently with the engineering works

required by this consent. Arrangements must include, where required, any relocation of existing mains and services, and dedication of easements for mains and services..

4.. PRIOR TO ISSUE OF ANY SUBDIVISION CERTIFICATE

- 4.1. Complete construction of all subdivision works covered by the Subdivision Works Certificate(s). 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 adopted fees and charges.
- 4.2. Submit to the Council / Principal Certifier certification prepared by a Registered Surveyor certifying that all construction has been affected within the appropriate property, easement boundaries and rights of carriageway. The certification must be accompanied by a copy of the proposed subdivision plan, with the distances from the boundaries to the edges of these structures endorsed in red and signed by the surveyor.
- 4.3. Repair any damage to Council's infrastructure and the 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.
- 4.4. Achieve a minimum of 95% standard compaction in accordance with Australian Standard AS 1289: *Methods of testing soils for engineering purposes*, for the area associated with the filling in of the removed pool, The compaction must be supervised and certified by a practising Geotechnical engineer.
- 4.5. 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.
- 4.6. Submit an application to Council under Section 305 of the *Water Management Act 2000* to obtain a Section 307 Certificate of Compliance. The *Application for a 307 Certificate under Section 305 Water Management Act 2000* form can be found on Council's website www.centralcoast.nsw.gov.au. Early application is recommended.

A Section 307 Certificate must be obtained prior to the issue of any Subdivision Certificate.

- 4.7. Pay to Council a total contribution amount of \$2494, that may require adjustment at the time of payment, in accordance with the relevant Council Contribution Plans No. 43A & 43B - East Gosford.

Open Space - Embellishment	A	(Key No 742)	\$777
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Roadworks - Capital	B	(Key No 741)	\$681
Footpaths - Capital	B	(Key No 743)	\$1036
TOTAL AMOUNT			\$2494

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 Tel 1300 463 954 for an up-to-date contribution payment amount.

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

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

[Development Contributions - former Gosford LGA](#)

Pay to Council a total contribution amount of \$6661, that may require adjustment at the time of payment, in accordance with the relevant Contribution Plan No. 164 - Gosford Regional Centre.

Recreation Facilities - Embellishment	A	(Key No 851)	\$1826
Roadworks - Capital	A	(Key No 850)	\$2574
Community Facilities - Capital	A	(Key No 852)	\$1501
Environmental Protection	A	(Key No 853)	\$760
TOTAL AMOUNT			\$6661

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 Tel 1300 463 954 for an up-to-date contribution payment amount.

- 4.8. Submit to Council written confirmation from the relevant service authorities that satisfactory arrangements have been made for the provision of the following services to each lot where available: Telecommunications / national broadband network (NBN) electricity supply gas supply national broadband network water supply water supply sewerage.
- 4.9. Include on the Deposited Plan (DP) 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:

- a) The creation of an "Easement to Drain Water" 2.0 metres wide to service the subdivision as indicated on the approved plans.

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

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

5. 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

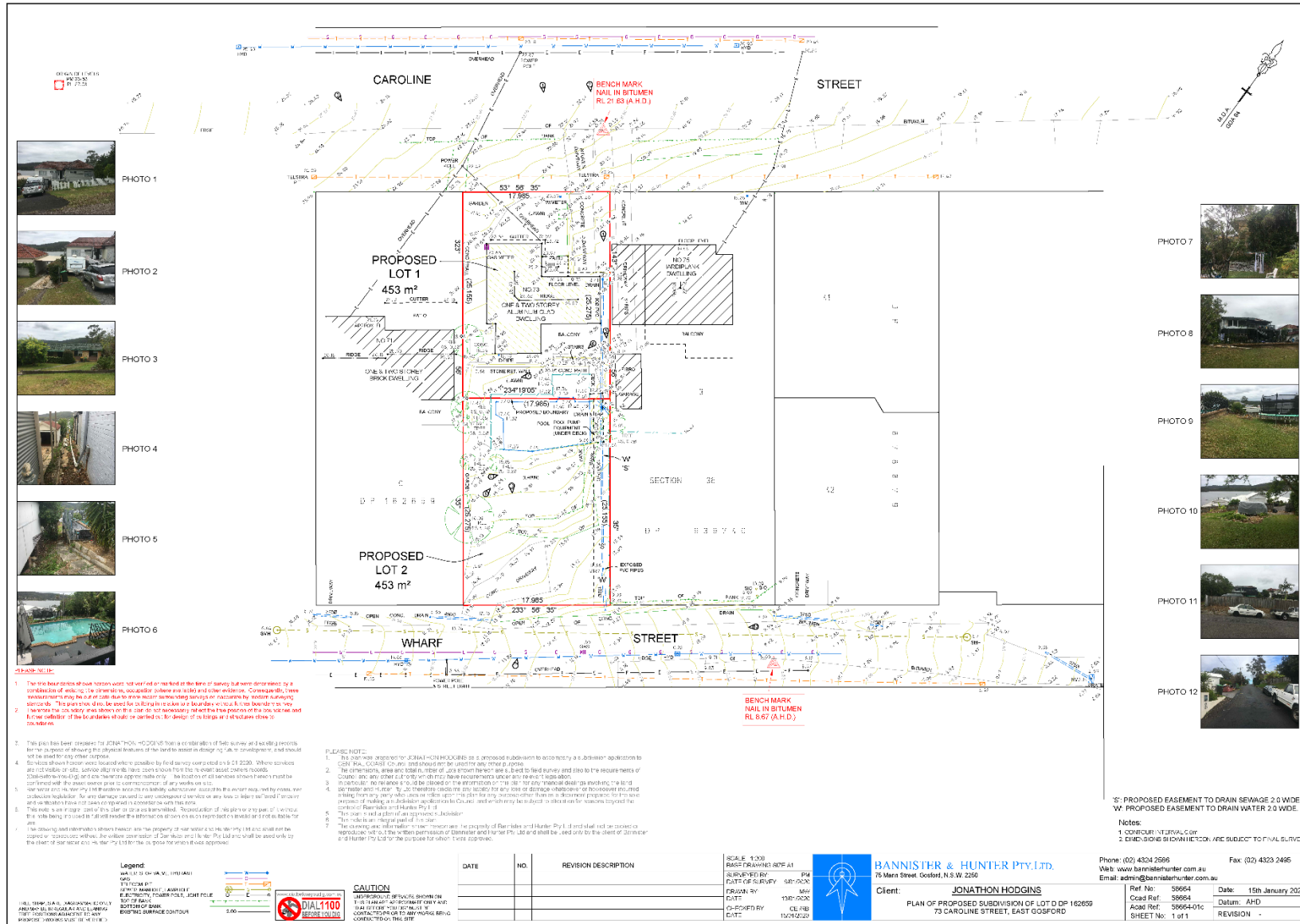
Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

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 or telephone on 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.
- **Telecommunications Act 1997 (Commonwealth)**
Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the *Criminal Code Act 1995 (Cth)* and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.
- Install and maintain backflow prevention device(s) in accordance with Council's WS4.0 [Backflow Prevention Containment](#) Policy. This policy can be found on Council's website at: www.centralcoast.nsw.gov.au

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



Clause 4.6 Submission – Variation to the Minimum Subdivision Lot Size Development Standard

Introduction

The following submission has been prepared to support a request to vary the minimum lot size development standard for the proposed residential subdivision at No. 73 Caroline Street East Gosford.

The submission references the NSW Planning and Infrastructure document – Varying Development Standards: A Guide – August 2011. The submission also has regard for the decision in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC90 and *Wehbe v Pittwater Council* [2007] NSWLEC827.

1. What is the name of the environmental planning instrument that applies to the land?

Gosford Local Environmental Plan 2014 (GLEP 2014).

2. What is the zoning of the land?

R2 Low Density Residential.

3. What are the objectives of the zone?

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

4. What is the development standard being varied?

Minimum lot size.

5. Under what clause is the development standard listed in the environmental planning instrument?

Clause 4.1 Minimum subdivision lot size.

6. What are the objectives of the development standard?

- (a) to reflect State, regional and local planning strategies relating to the provision of various sizes of land,*
- (b) to ensure that the subdivision of land is compatible with the desired future character of the area,*
- (c) to promote the ecologically, socially and economically sustainable subdivision of land,*
- (d) to ensure that the creation of parcels of land for development occurs in a manner that protects the physical characteristics of the land, does not create potential physical hazard or amenity issues for neighbours, can be satisfactorily serviced and will, through its potential cumulative effects, not create capacity problems for existing infrastructure.*

7. What is the numeric value of the development standard in the environmental planning instrument?

The minimum subdivision lot size is 550m².

8. What is proposed numeric value of the development standard in your development application?

Each of the proposed allotments will have a land area of 453m².

9. What is the percentage variation (between your proposal and the environmental planning instrument)?

The percentage variation of the minimum lot size is 17.6%.

10. GLEP 2014 Clause 4.6 Considerations

Clause 4.6 of GLEP 2014 states:

- (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.*

Response:

This application to vary the minimum subdivision lot size demonstrates that the proposal has merit and meets the objectives of this clause and other relevant clauses in GLEP 2014. Council's flexibility is sought in its application of the minimum lot size development standard in this instance.

(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.

Response:

Regardless of the contravention of the minimum subdivision lot size development standard, Council can grant consent for the proposal. There is no numerical limit to the extent of variation that a consent authority may approve and there are many examples of Council, the Joint Regional Planning Panel and the NSW Land and Environment Court approving developments with variations much greater than that requested by this application. There is also nothing in Clause 4.1 of GLEP 2014 that excludes the operation of Clause 4.6 in this instance.

(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.

Response:

An assessment of the minimum subdivision lot size variation is contained within this document in accordance with the requirement of Clause 4.6 and this application has also been prepared in accordance with the Guide published by the NSW Government. This application addresses the relevant test established by the NSW Land & Environment Court to determine whether compliance with a development standard is unreasonable or unnecessary.

Planning Circular PS18-003 issued on 21 February 2018 states that concurrence may be assumed under Clause 64 of the Environmental Planning & Assessment Regulation 2000.

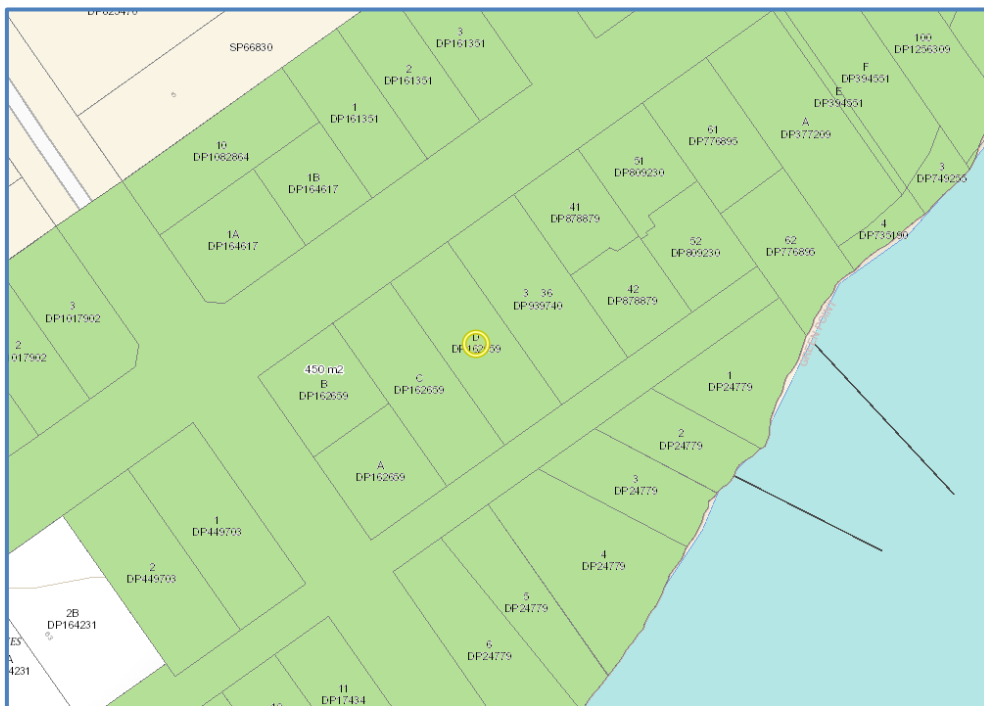
11. How is strict compliance with the development standard unreasonable or unnecessary in this case?

In the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827, Justice Preston said that the most commonly invoked way to establish that compliance with a development standard is unreasonable or unnecessary is to

demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the standard. The proposal is consistent with the objectives of Clause 4.1 (see the five-part test below).

The reasons why strict compliance with the development standard is unreasonable and unnecessary in this particular case for the following reasons:

- a) The proposed development is in keeping with the character, scale and density of the surrounding developments within the immediate vicinity.
- b) The proposal is consistent with the objective of Clause 4.1 of GLEP 2014 (see responses in the “five part test” below).
- c) The proposal is consistent with the objectives of the R2 Low Density Residential Zone contained in GLEP 2014.
- d) The proposal complies with the minimum lot size designated in the exhibited draft Central Coast Local Environmental Plan – which shows a minimum lot size of 450m² for the subject property. See the map extract below.



Source: Draft Central Coast Local Environmental Plan Maps – Lot Size layer

- e) The proposal is consistent with the established pattern of subdivision in the street.
- f) The proposed new allotment will have sufficient land area and topography to accommodate a future dwelling.
- g) The proposal generally complies with the requirements of Gosford Development Control Plan 2013.
- h) The proposal will address the high demand for housing in this area.
- i) The proposal will ultimately contribute to the variety of housing choice in the area.
- j) The proposal will make a positive contribution to the streetscape.
- k) The lack of adverse amenity impacts on adjoining properties.

12. How would strict compliance hinder the attainment of the objects specified in Section 1.3 of the Environmental Planning & Assessment Act 1979.

The objects of the Act are:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

Strict compliance with the development standard would result in the land subdivision not proceeding. This hinders the attainment of:

- The orderly and economic use and development of land.
- The future delivery and maintenance of affordable housing.

13. Is the development standard a performance-based control?

No – the development standard which is the subject to this application is a numerical control.

14. Would strict compliance with the standard, in your case, be unreasonable or unnecessary? Why?

Yes - Strict compliance with the minimum subdivision lot size development standard in this particular case is unreasonable and unnecessary primarily because the development still achieves the objectives of the development standard – see the “five part test” below. See also the reasons given under Point 11 above.

15. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.

There are sufficient environmental grounds to justify the contravention of this development standard in this particular case. These include:

- The shortfall of 97m² in each allotment does not result in an undevelopable site. There are examples of allotments of similar size accommodating modern contemporary dwelling house designs.
- The shortfall in site area does not result in an unacceptable impact on any adjoining property.
- The shortfall will not weaken the objective of this development standard.

16. Is the variation well founded?

Having regard to the nature of the variation, the existing subdivision pattern in the street and the exhibited draft Central Coast Local Environmental Plan, the variation is considered to be well founded and worthy of Council’s support.

17. Is the development in the public interest?

Given that the proposed development is consistent with the relevant objectives of Clause 4.1 and the R2 Low Density Residential Zone, approval of the development is considered to be in the public interest.

The ‘five-part test’

Written applications to vary development standards must not only address the above matters but may also address matters set out in the ‘five-part test’ established by the NSW Land and Environment Court. Councils may choose to not only use the principles of Clause 4.6 but also this five-part test.

Court cases dealing with applications to vary development standards resulted in the Land and Environment Court setting out a five-part test for consent authorities to consider when assessing an application to vary a standard to determine whether the objection to the development standards is well founded:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard.

Objective of the Standard	Comment
To reflect State, regional and local planning strategies relating to the provision of various sizes of land	The Central Coast Regional Plan identifies a requirement for a further 41,500 new homes by 2036. The proposed subdivision directly addresses Actions 20.1 and 21.1 of the Plan which seek to support the delivery of housing in and near the growth corridors and local centres and provide greater housing choice by delivering diverse housing, lot types and sizes.
To ensure that the subdivision of land is compatible with the desired future character of the area	See the comment above responding to the requirements of Chapter 2.1 of GDCP 2013. The proposal is compatible with the desired future character of the area as reflected in the draft CCLEP which proposes to reduce the minimum lot size from 550m ² to 450m ² .
To promote the ecologically, socially and economically sustainable subdivision of land	The proposed subdivision will have no adverse ecological impacts and will provide an increase in the

	land available for future dwellings in the area. Given the close proximity to the East Gosford town centre, public transport and other public services, the proposed development represents a socially, environmentally and economically sustainable form of land subdivision.
To ensure that the creation of parcels of land for development occurs in a manner that protects the physical characteristics of the land, does not create potential physical hazard or amenity issues for neighbours, can be satisfactorily serviced and will, through its potential cumulative effects, not create capacity problems for existing infrastructure.	The proposed subdivision represents a standard infill residential subdivision that reflects a pattern of subdivision that is already well established within the street. The proposed new lot to be created will have sufficient land area to accommodate a future dwelling without having an adverse impact on the amenity of the area. It is understood that the existing infrastructure has capacity to accommodate an additional housing lot.

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

The inclusion of a minimum subdivision lot size as a development standard has merit. However, full compliance with the standard is considered to be unnecessary in this instance due to the relative minor nature of the non-compliance and the fact that the objectives of the development standard are still met.

3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.

The underlying object of purpose would be defeated or thwarted if compliance was required as this would result in the development not proceeding until such time as the draft CCLEP is finalised at which point the development would comply with the minimum lot size requirement.

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

There are several examples of allotments in the immediate vicinity of the subject site that are less than 550m². Nevertheless, Council’s own actions in proposing to reduce this minimum lot size from 550m² to 450m² as illustrated in the draft CCLEP make compliance with the current standard unnecessary and unreasonable.

5. The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

The subject property should remain in the existing R2 Low Density Residential zone.

Conclusion

The proposed development has been designed to minimise any impacts on the amenity of the neighbouring properties and to match the established subdivision pattern in the street. It is considered that the request to vary the development standard relating to minimum subdivision lot size has merit. It is therefore recommended that Council support this request.